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CONGRESSIONAL GLOBE AND APPENDIX

THIRD SESSION FORTIETH CONGRESS:

IN THREE PARTS.

PART I,

CONGRESSIONAL GLOBE.

IN THE SENATE OF THE UNITED STATES,

THURSDAY, *February* 21, 1867.

Mr. ANTHONY submitted the following resolution ; which was considered by unanimous consent, and agreed to :

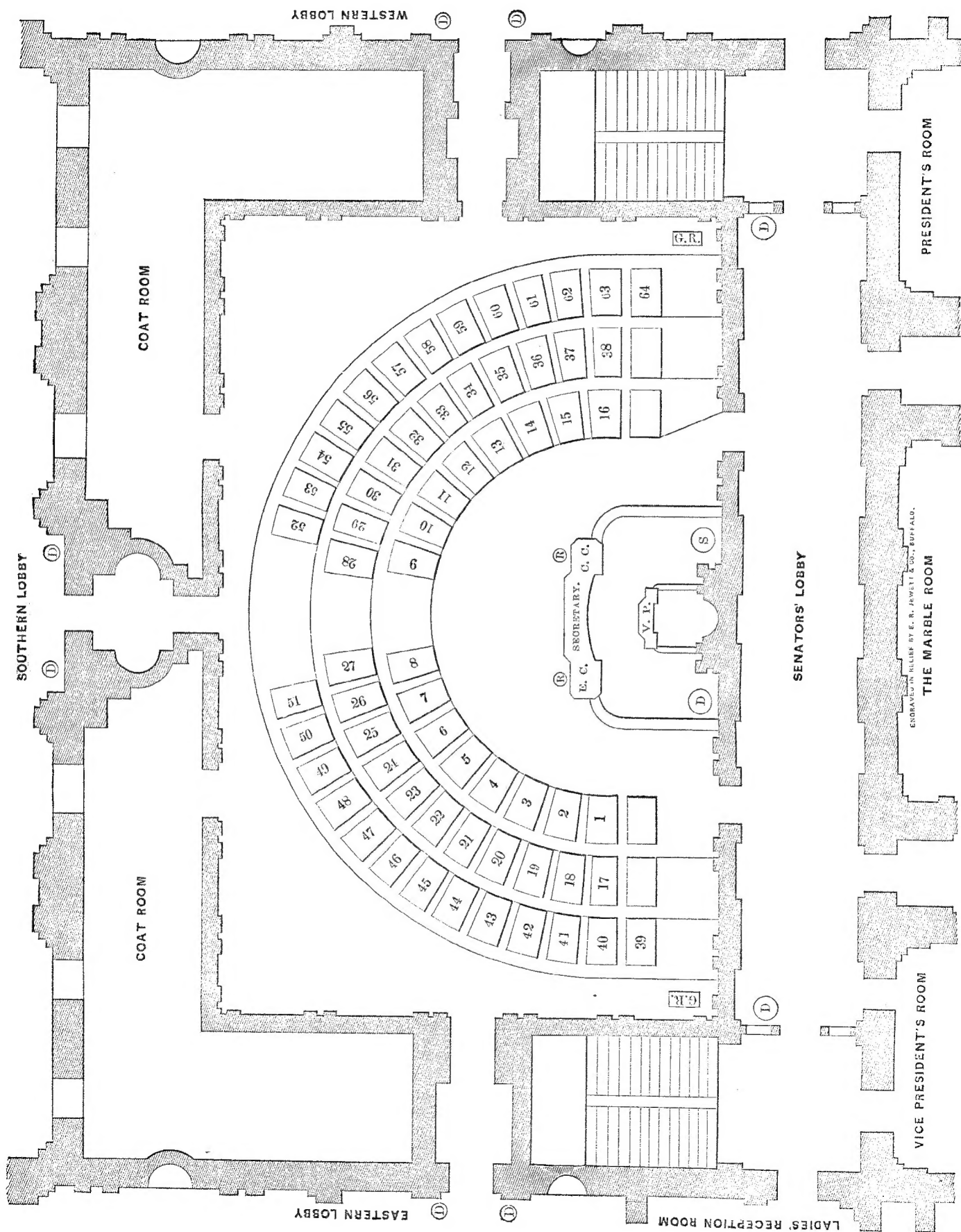
Resolved, That the Secretary of the Senate is hereby directed to furnish to the official publishers of the Debates in Congress, to be inserted therein at the close of each session, the name and post office address of each Senator, and of each officer of the Senate, with a diagram of the Senate Chamber showing the seats of Senators.

IN THE HOUSE OF REPRESENTATIVES,

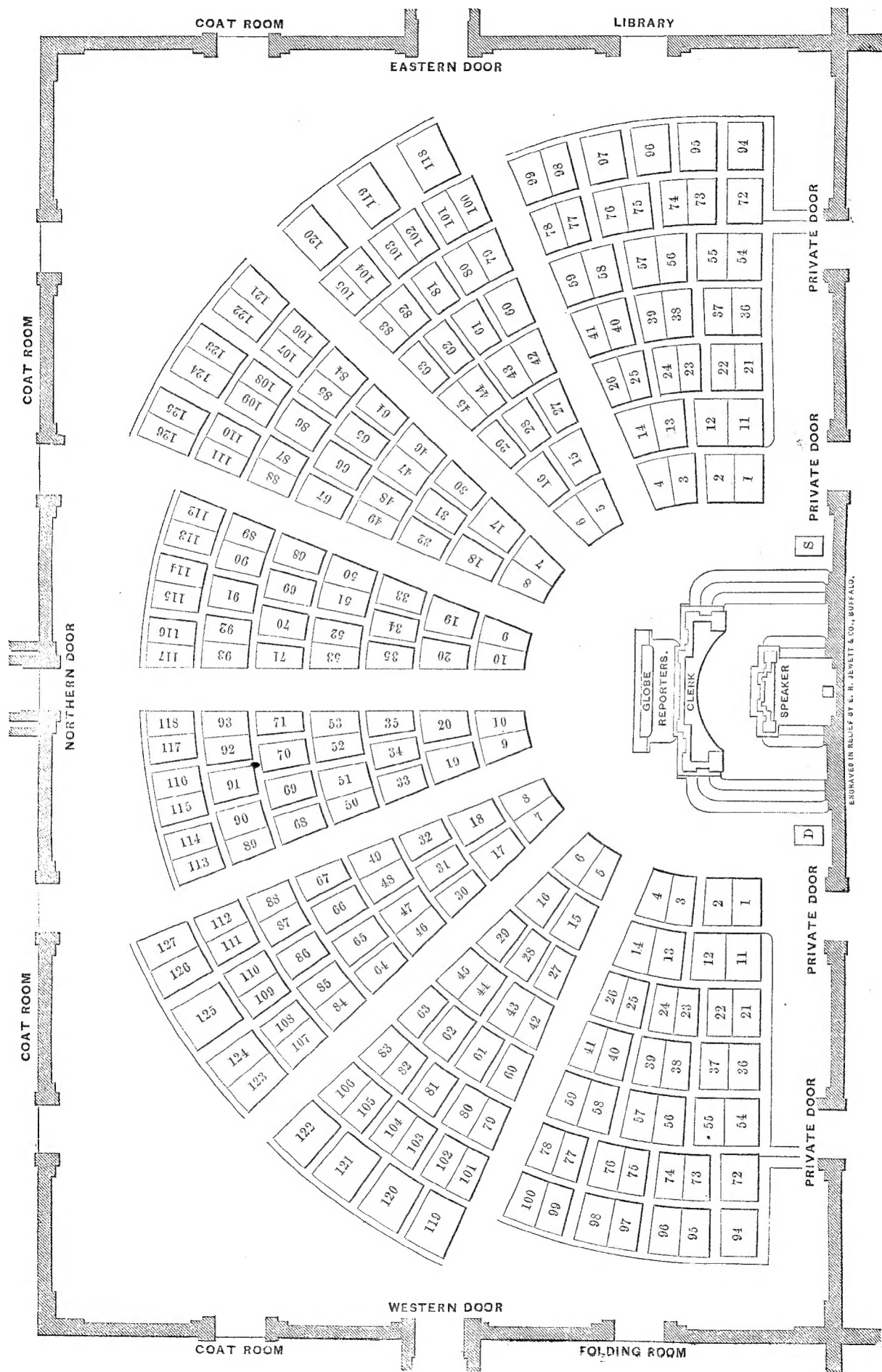
SATURDAY, *February* 16, 1867.

Mr. LAFLIN, from the Committee on Printing, reported the following resolution ; which was read, considered, and agreed to :

Resolved, That the Clerk of the House be directed to furnish to the publishers of the Globe at each session of Congress a list of the members of the House of Representatives, with their post office address, and the number of the seats occupied by the same.



- S. No. 249—
To extend the provisions of an act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits to the State of Nebraska.—[*By Mr. Thayer.*]
Committee discharged, 1620.
- S. No. 254—
To change the terms of the district court of the United States for the district of Maine.—[*By Mr. Fessenden.*]
Reported adversely, 378.
- S. No. 255—
To reorganize the Treasury Department.—[*By Mr. Fessenden.*]
Concurrent resolution reported as substitute, 589.
- S. No. 256—
Relating to the Central Branch Union Pacific Railroad Company.—[*By Mr. Howard.*]
Motion to take up, 451, 467; discussed, 547, 571, 593, 633; rejected, 635; motion to reconsider, 664; not agreed to, 851, 852.
- S. No. 257—
For the relief of Clement T. Rice and Chauncey N. Noteware, late register and receiver at Carson City, Nevada.—[*By Mr. Stewart.*]
Indefinitely postponed, 1594.
- S. No. 263—
To facilitate the administration of justice.—[*By Mr. Stewart.*]
Reported adversely, 813.
- S. No. 264—
For the relief of Henry C. Noyes.—[*By Mr. Cragin.*]
Reported, 851; discussed, 1071; passed, 1072; passed House, 1798; enrolled, 1834; approved, 1866.
In House: Received from Senate, 1098; passed, 1824; enrolled, 1872.
- S. No. 277—
Amendatory of the homestead act.—[*By Mr. Pomeroy.*]
Committee discharged, 1620.
- S. No. 281—
Granting a pension to Anne Dycher, widow of Matthew D. Dycher.—[*By Mr. Van Winkle.*]
Passed House, 1126; enrolled, 1127; approved, 1411.
In House: Reported and passed, 1113; enrolled, 1149.
- S. No. 287—
Granting the right of way and lands to the Pecos and Placer Mining and Ditch Company of New Mexico.—[*By Mr. Pomeroy.*]
Motion to take up, 1644.
- S. No. 289—
Granting lands to aid in the construction of a railroad and telegraph line from Fort Scott, Kansas, in the direction of Santa Fé, New Mexico.—[*By Mr. Ross.*]
Committee discharged, 1619.
- S. No. 290—
Respecting the even-numbered sections of the public lands along the lines of the Pacific railroads.—[*By Mr. Thayer.*]
Committee discharged, 1620.
- S. No. 293—
To grant lands and aid to the Port Royal Railroad Company in the States of South Carolina and Georgia.—[*By Mr. Pomeroy.*]
Committee discharged, 1620.
- S. No. 294—
To regulate procedure in cases of impeachment, and to enforce the orders and judgments of the Senate in such cases.—[*By Mr. Edmunds.*]
Reported adversely, 378.
- S. No. 298—
Granting lands to aid in the construction of a railroad from Brownsville, in the State of Nebraska, to intersect the Union Pacific railroad at or near the one hundredth meridian west longitude.—[*By Mr. Tipton.*]
Committee discharged, 1619.
- S. No. 305—
Granting aid in the construction of a railroad and telegraph line from the Union Pacific railroad to Idaho, Portland, (Oregon,) Montana, and Puget sound.—[*By Mr. Harlan.*]
Committee discharged, 1863.
- S. No. 309—
To promote the efficiency of the Indian department.—[*By Mr. Nye.*]
Reported adversely, 1579.
- S. No. 327—
To extend the preëemption and homestead laws of the United States over certain lands therein named.—[*By Mr. Pomeroy.*]
Committee discharged, 1620.
- S. No. 328—
Amendatory of an act entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862.—[*By Mr. Henderson.*]
Committee discharged, 1620.
- S. No. 346—
To set apart a territory for the Indians now inhabiting the State of Nevada and the Territories of Utah, Colorado, New Mexico, and Arizona.—[*By Mr. Henderson.*]
Reported adversely and indefinitely postponed, 754.
- S. No. 349—
Granting lands to the State of California to aid in the construction of a railroad and telegraph line from the town of Vallejo to Humboldt bay, in the State of California.—[*By Mr. Conness.*]
In House: Reported, 89.
- S. No. 356—
For the relief of Messrs. Gellatt and Moore.—[*By Mr. Stewart.*]
Indefinitely postponed, 1362.
- S. No. 372—
Granting lands to aid in the construction of a railroad from Brownsville, Nebraska, and for aiding other railroads in the State of Nebraska to intersect the Union Pacific railroad.—[*By Mr. Tipton.*]
Committee discharged, 1619.
- S. No. 385—
In part execution of section four of article four of the Constitution.—[*By Mr. Williams.*]
Reported adversely and indefinitely postponed, 225.
- S. No. 387—
Concerning the liability of ship-owners, maritime liens, salvage, and the jurisdiction in admiralty.—[*By Mr. Sumner.*]
Reported adversely, 1507.
- S. No. 390—
To create a superintendency of Indian affairs for Montana and Idaho Territories.—[*By Mr. Henderson.*]
Reported adversely and indefinitely postponed, 754.
- S. No. 393—
To authorize the construction of a bridge over the Mississippi river, in Madison county, State of Illinois.—[*By Mr. Trumbull.*]
Indefinitely postponed, 1362.
- S. No. 395—
For the relief of the heirs of persons in the military or naval service of the United States who may have initiated claims to the public lands under the provisions of the homestead laws of the United States.—[*By Mr. Ramsey.*]
Committee discharged, 1619.
- S. No. 397—
To dissolve the Indian peace commission erected by act of Congress of July 20, 1867.—[*By Mr. Thayer.*]
Reported adversely and indefinitely postponed, 754.
- S. No. 405—
Granting lands to the State of Wisconsin to aid in the construction of the Green Bay and Lake Pepin railway.—[*By Mr. Howe.*]
Reported, 248; passed, 1239.
In House: Received from Senate, 1275.
- S. No. 423—
Granting a pension to James Jackson.—[*By Mr. Van Winkle.*]
In House: Reported adversely and tabled, 1108.
- S. No. 440—
Supplementary to an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864.—[*By Mr. Cattell.*]
Passed House with amendment, 1409; printed, 1412; discussed, 1429, 1430; disagreed to, 1435; conference, 1436, 1822.
In House: Reported, 1180; discussed, 1181, 1221, 1269, 1819, 1825, 1826, 1830, 1832; passed with amendments, 1833; motion to reconsider tabled, 1833; conference, 1466, 1539, 1816; conference report, 1897; no agreement, committee discharged, 1897.
- S. No. 443—
For the relief of Hiram C. Lillie.—[*By Mr. Stewart.*]
Reported and indefinitely postponed, 754.
- S. No. 457—
Granting a pension to Elizabeth J. Miller, widow of General John Miller.—[*By Mr. Van Winkle.*]
Passed House, 1126; enrolled, 1127; approved, 1411.
In House: Reported and passed, 1108; enrolled, 1149.
- S. No. 458—
To abolish the office of superintendent of exports and drawback.—[*By Mr. Morgan.*]
Discussed and passed, 1430.
In House: Received from Senate, 1466.
- S. No. 460—
To reorganize the circuit courts of the United States.—[*By Mr. Cole.*]
Reported adversely, 813.
- S. No. 467—
To confirm an entry of land by Moses F. Shinn.—[*By Mr. Tipton.*]
Passed House, 1592; enrolled, 1621; approved, 1714.
In House: Reported and passed, 1567; enrolled, 1805.



Name and Post Office Address

OF THE

Members of the House of Representatives, Third Session Fortieth Congress.

SCHUYLER COLFAX, Speaker, South Bend, Indiana.

Name.	Post Office Address.	Occupation.	Seat.
Adams, George M.....	Barboursville, Kentucky	Gentleman.....	86 east.
Allison, William B.....	Dubuque, Iowa.....	Lawyer.....	48 west.
Ames, Oakes.....	North Easton, Massachusetts	Manufacturer.....	5 east.
Anderson, George W.....	Louisiana, Missouri.....	Lawyer.....	89 east.
Archer, Stevenson.....	Belair, Maryland.....	Lawyer.....	7 east.
Arnell, Samuel M.....	Columbia, Tennessee.....	Lawyer.....	87 west.
Ashley, Delos R.....	Austin, Nevada.....	Lawyer.....	123 west.
Ashley, James M.....	Toledo, Ohio.....	Lawyer.....	106 west.
Axtell, Samuel B.....	San Francisco, California.....	Lawyer.....	88 east.
Bailey, Alexander H.....	Rome, New York.....	Lawyer.....	16 west.
Baker, Jehu.....	Belleville, Illinois	Lawyer.....	115 east.
Baldwin, John D.....	Worcester, Massachusetts.....	Editor.....	69 east.
Banks, Nathaniel P.....	Waltham, Massachusetts.....	Lawyer.....	122 west.
Barnes, Demas.....	Brooklyn, New York.....	Merchant.....	15 east.
Barnum, William H.....	Lakeville, Connecticut.....	Manufacturer.....	47 east.
Beaman, Fernando C.....	Adrian, Michigan.....	Lawyer.....	-
Beatty, John.....	Cardington, Ohio.....	Farmer.....	10 east.
Beck, James B.....	Lexington, Kentucky.....	Lawyer.....	64 east.
Benjamin, John F.....	Shelbyville, Missouri.....	Lawyer.....	91 east.
Benton, Jacob.....	Lancaster, New Hampshire.....	Lawyer.....	72 west.
Bingham, John A.....	Cadiz, Ohio.....	Lawyer.....	16 east.
Blackburn, W. Jasper.....	Homer, Louisiana.....	Journalist.....	126 west.
Blaine, James G.....	Augusta, Maine.....	Editor.....	41 west.
Blair, Austin.....	Jackson, Michigan.....	Lawyer.....	51 west.
Boles, Thomas.....	Dardanelle, Arkansas.....	Lawyer.....	73 west.
Boutwell, George S.....	Groton, Massachusetts.....	Lawyer.....	104 west.
Bowen, C. C.....	Charleston, South Carolina.....	Lawyer.....	65 west.
Boyden, Nathaniel.....	Salisbury, North Carolina.....	Lawyer.....	20 east.
Boyer, Benjamin M.....	Norristown, Pennsylvania.....	Lawyer.....	78 east.
Bromwell, Henry P. H.....	Charleston, Illinois.....	Lawyer.....	36 west.
Brooks, James.....	New York, New York.....	Editor.....	46 east.
Broomall, John M.....	Media, Pennsylvania.....	Lawyer.....	124 west.
Buckland, Ralph P.....	Fremont, Ohio.....	Lawyer.....	119 west.
Buckley, Charles W.....	Montgomery, Alabama.....	113 east.
Burr, Albert G.....	Winchester, Illinois.....	Lawyer.....	105 east.
Butler, Benjamin F.....	Lowell, Massachusetts.....	Lawyer.....	46 west.
Butler, Roderick R.....	Taylorsville, Tennessee.....	Lawyer.....	40 west.
Cake, Henry L.....	Tamaqua, Pennsylvania.....	Coal Operator.....	11 west.
Callis, John B.....	Huntsville, Alabama.....	53 east.
Cary, Samuel F.....	Cincinnati, Ohio.....	Farmer.....	83 east.
Chanler, John W.....	New York, New York.....	Lawyer.....	45 east.
Churchill, John C.....	Oswego, New York.....	Lawyer.....	62 west.
Clarke, Reader W.....	Batavia, Ohio.....	Lawyer.....	121 west.
Clarke, Sidney.....	Lawrence, Kansas.....	General Business.....	57 west.
Clift, J. W.....	Savannah, Georgia.....	Physician.....	9 west.
Cobb, Amasa.....	Mineral Point, Wisconsin.....	Lawyer.....	3 west.
Coburn, John.....	Indianapolis, Indiana.....	Lawyer.....	112 west.
Cook, Burton C.....	Ottawa, Illinois.....	Lawyer.....	23 west.
Corley, Simeon.....	Lexington, South Carolina.....	Tailor.....	51 east.
Cornell, Thomas.....	Rondout, New York.....	Banker.....	114 west.
Covode, John.....	Lockport, Pennsylvania.....	Farmer and Manufacturer.....	6 west.
Cullom, Shelby M.....	Springfield, Illinois.....	Lawyer.....	33 west.
Dawes, Henry L.....	Pittsfield, Massachusetts.....	Lawyer.....	60 west.
Delano, Columbus.....	Mount Vernon, Ohio.....	Lawyer.....	120 west.
Deweese, John T.....	Raleigh, North Carolina.....	Lawyer.....	70 east.
Dickey, Oliver J.....	Lancaster, Pennsylvania.....	Lawyer.....	60 east.
Dixon, Nathan F.....	Providence, Rhode Island.....	Lawyer.....	81 west.
Dockery, Oliver H.....	Mangum, North Carolina.....	Planter.....	106 east.
Dodge, Grenville M.....	Council Bluffs, Iowa.....	Civil Engineer.....	127 west.
Donnelly, Ignatius.....	Hastings, Minnesota.....	Lawyer.....	27 west.
Driggs, John F.....	East Saginaw, Michigan.....	General Business.....	92 west.

LIST OF MEMBERS OF THE HOUSE OF REPRESENTATIVES—Continued.

Name.	Post Office Address.	Occupation.	Seat.
Eckley, Ephraim R.	Carrollton, Ohio	Lawyer	2 west.
Edwards, W. P.	Butler, Georgia		77 east.
Eggleston, Benjamin	Cincinnati, Ohio	Merchant	53 west.
Ela, Jacob H.	Rochester, New Hampshire	Printer	97 west.
Eldridge, Charles A.	Fond du Lac, Wisconsin	Lawyer	84 east.
Eliot, Thomas D.	New Bedford, Massachusetts	Lawyer	108 west.
Elliott, James T.	Camden, Arkansas	Lawyer	97 west.
Farnsworth, John F.	St. Charles, Illinois	Lawyer	79 west.
Ferriss, Orange	Glenn's Falls, New York	Lawyer	54 west.
Ferry, Thomas W.	Grand Haven, Michigan	Lumberman and Banker	82 west.
Fields, William C.	Laurens, New York	Manufacturer and Merchant	120 west.
Fox, John	New York, New York	Real Estate Agent	103 east.
French, John R.	Edenton, North Carolina	Editor and Printer	68 west.
Garfield, James A.	Hiram, Ohio	Lawyer	49 west.
Getz, J. Lawrence	Reading, Pennsylvania	Editor	13 east.
Glossbrenner, Adam J.	York, Pennsylvania	Editor and Printer	26 east.
Golladay, Jacob S.	Allensville, Kentucky	Lawyer and Planter	31 east.
Goss, James H.	Union Court House, South Carolina	Merchant	100 east.
Gove, Samuel F.	Griswoldville, Georgia	Planter	75 east.
Gravelly, Joseph J.	Stockton, Missouri	Lawyer	93 east.
Griswold, John A.	Troy, New York	Banker	4 west.
Grover, Asa P.	Owenton, Kentucky	Lawyer	38 east.
Haight, Charles	Freehold, New Jersey	Lawyer	104 east.
Halsey, George A.	Newark, New Jersey	Manufacturer	25 west.
Hamilton, Charles M.	Marysville, Ohio	Lawyer	110 east.
Harding, Abner C.	Monmouth, Illinois	Lawyer	102 east.
Haughey, Thomas	Decatur, Alabama	Doctor	52 east.
Hawkins, Isaac R.	Huntington, Tennessee	Farmer	100 west.
Heaton, David	Newbern, North Carolina		35 east.
Higby, William	Calaveras, California	Lawyer	35 west.
Hill, John	Boonton, New Jersey	Merchant	113 west.
Holman, William S.	Aurora, Indiana	Lawyer	12 east.
Hooper, Samuel	Boston, Massachusetts	Merchant	81 east.
Hopkins, Benjamin F.	Madison, Wisconsin	General Business	28 west.
Hotchkiss, Julius	Middletown, Connecticut	Manufacturer	27 east.
Hubbard, Asahel W.	Sioux City, Iowa	Lawyer	55 east.
Hubbard, Chester D.	Wheeling, West Virginia	Banker	78 west.
Hubbard, Richard D.	Hartford, Connecticut	Lawyer	41 east.
Hulburd, Calvin T.	Brasher Falls, New York	Farmer	42 west.
Humphrey, James M.	Buffalo, New York	Lawyer	82 east.
Hunter, Morton C.	Bloomington, Indiana	Lawyer	102 west.
Ingersoll, Ebon C.	Peoria, Illinois	Lawyer	125 west.
Jenckes, Thomas A.	Westerley, Rhode Island	Lawyer	61 east.
Johnson, James A.	Downieville, California	Lawyer	8 east.
Jones, Alexander H.	Ashville, North Carolina	Editor	34 east.
Jones, Thomas L.	Newport, Kentucky	Lawyer	32 east.
Judd, Norman B.	Chicago, Illinois	Lawyer	70 west.
Julian, George W.	Centreville, Indiana	Lawyer	26 west.
Kelley, William D.	Philadelphia, Pennsylvania	Lawyer	110 west.
Kellogg, Francis W.	Mobile, Alabama		16 west.
Kelsey, William H.	Geneseo, New York	Lawyer	57 east.
Kerr, Michael C.	New Albany, Indiana	Lawyer	29 east.
Ketcham, John H.	Dover, New York	Farmer	29 west.
Kitchen, Bethuel M.	Martinsburg, West Virginia	Farmer	2 east.
Knott, J. Procter	Lebanon, Kentucky	Lawyer	65 east.
Koontz, William H.	Somerset, Pennsylvania	Lawyer	36 west.
Lafin, Addison H.	Herkimer, New York	Manufacturer	103 west.
Lash, Israel G.	Salem, North Carolina	Banker	107 east.
Lawrence, George V.	Monongahela City, Pennsylvania	Farmer	19 west.
Lawrence, William	Bellefontaine, Ohio	Lawyer	71 west.
Lincoln, William S.	Owego, New York	Merchant and Manufacturer	58 west.
Loan, Benjamin F.	St. Joseph, Missouri	Lawyer	43 west.
Logan, John A.	Carbondale, Illinois	Lawyer	
Loughridge, William	Oskaloosa, Iowa	Lawyer	44 west.
Lynch, John	Portland, Maine	Merchant	111 east.
Mallory, Rufus	Salem, Oregon	Lawyer	68 east.
Marshall, Samuel S.	McLeansboro, Illinois	Lawyer	87 east.
Marvin, James M.	Saratoga Springs, New York	Hotel-keeper	40 east.
Maynard, Horace	Knoxville, Tennessee	Lawyer	5 west.
McCarthy, Dennis	Syracuse, New York	Merchant	34 west.
McCormick, James R.	Ironton, Missouri	Physician and Surgeon	18 east.
McCullough, Hiram	Elkton, Maryland	Lawyer	56 east.
McKee, Samuel	Mt. Sterling, Kentucky	Lawyer	90 west.
Mercur, Ulysses	Towanda, Pennsylvania	Lawyer	77 west.
Miller, George F.	Louisburg, Pennsylvania	Lawyer	37 west.
Moore, William	May's Landing, New Jersey	Farmer	93 west.
Moorhead, James K.	Pittsburg, Pennsylvania	Manufacturer	59 west.
Morrell, Daniel J.	Johnstown, Pennsylvania	Manufacturer	75 west.
Morrissey, John	New York, New York	Banker	76 east.
Mullins, James	Shelbyville, Tennessee	Farmer	10 west.
Mungen, William	Findlay, Ohio	Lawyer	71 east.
Myers, Leonard	Philadelphia, Pennsylvania	Lawyer	91 west.
Newcomb, Carman A.	Tunnel, Missouri	Horticulturist	92 east.
Newsham, Joseph P.	Francesville, Louisiana	Lawyer	66 east.
Niblack, William E.	Vincennes, Indiana	Lawyer	8 east.
Nicholson, John A.	Dover, Delaware	Lawyer	80 east.

LIST OF MEMBERS OF THE HOUSE OF REPRESENTATIVES—Continued.

Name.	Post Office Address.	Occupation.	Seat.
Norris, Benjamin W.	Montgomery, Alabama		50 east.
Nunn, David A.	Brownsville, Tennessee	Lawyer	99 west.
O'Neill, Charles	Philadelphia, Pennsylvania	Lawyer	89 west.
Orth, Godlove S.	Lafayette, Indiana	Lawyer	8 west.
Paine, Halbert E.	Milwaukee, Wisconsin	Lawyer	111 west.
Perham, Sidney	Paris, Maine	Farmer and Teacher	58 east.
Peters, John A.	Bangor, Maine	Lawyer	14 west.
Pettis, S. Newton	Meadville, Pennsylvania	Lawyer	107 west.
Phelps, Charles E.	Baltimore, Maryland	Lawyer	67 east.
Pierce, Charles W.	Demopolis, Alabama		114 east.
Pike, Frederic A.	Calais, Maine	Lawyer	105 west.
Pile, William A.	St. Louis, Missouri	Clergyman	85 west.
Plants, Tobias A.	Pomeroy, Ohio	Lawyer	14 east.
Poland, Luke P.	St. Johnsbury, Vermont	Lawyer	16 east.
Polsley, Daniel	Point Pleasant, West Virginia	Lawyer	12 west.
Pomeroy, Theodore M.	Anburn, New York	Lawyer	99 east.
Price, Hiram	Davenport, Iowa	Banker	24 west.
Prince, C. H.	Augusta, Georgia	Banker	18 west.
Pruyn, John V. L.	Albany, New York	Lawyer	9 east.
Randall, Samuel J.	Philadelphia, Pennsylvania	Merchant	25 east.
Raum, Green B.	Harrisburg, Illinois	Lawyer	22 east.
Robertson, William H.	Katonah, New York	Lawyer	76 west.
Robinson, William E.	Brooklyn, New York	Lawyer	44 east.
Roots, Logan H.	De Vall's Bluff, Arkansas	Farmer and general business	74 west.
Ross, Lewis W.	Lewiston, Illinois	Lawyer	1 east.
Sawyer, Philetus	Oshkosh, Wisconsin	Lumberman	17 west.
Schenck, Robert C.	Dayton, Ohio	Lawyer	50 west.
Scofield, Glenni W.	Warren, Pennsylvania	Lawyer	30 west.
Selye, Lewis	Rochester, New York	Manufacturer	22 west.
Shanks, John P. C.	Jay, Jay county, Indiana	Lawyer	32 west.
Shellabarger, Samuel	Springfield, Ohio	Lawyer	1 west.
Sitgreaves, Charles	Philipsburg, New Jersey	Lawyer	36 east.
Smith, Worthington C.	St. Albans, Vermont	Manufacturer	55 west.
Spalding, Rufus P.	Cleveland, Ohio	Lawyer	88 east.
Starkweather, Henry H.	Norwich, Connecticut	Lawyer	101 west.
Stevens, Aaron F.	Nashua, New Hampshire	Lawyer	84 west.
Stewart, Thomas E.	New York, New York	Lawyer	80 west.
Stokes, William B.	Liberty, Tennessee	Farmer	67 west.
Stone, Frederick	Port Tobacco, Maryland	Farmer	43 east.
Stover, John H.	Versailles, Missouri	Attorney	20 west.
Sypher, J. Hale	New Orleans, Louisiana	Lawyer	47 west.
Taber, Stephen	Roslyn, New York	Farmer	48 east.
Taffe, John	Omaha, Nebraska	Lawyer	38 west.
Taylor, Caleb N.	Bristol, Pennsylvania	Farmer	24 east.
Thomas, Francis	Frankville, Maryland	Lawyer	19 east.
Tift, Nelson	Albany, Georgia	Planter	63 east.
Trimble, John	Nashville, Tennessee	Lawyer	88 west.
Trimble, Lawrence S.	Paducah, Kentucky	Lawyer	30 east.
Trowbridge, Rowland E.	Birmingham, Michigan	Farmer	13 west.
Twichell, Ginery	Brookline, Massachusetts	Railroad Manager	79 west.
Upson, Charles	Coldwater, Michigan	Lawyer	39 east.
Van Aernam, Henry	Franklinville, New York	Surgeon and Physician	39 west.
Van Auken, Daniel M.	Milford, Pennsylvania	Lawyer	21 east.
Van Horn, Burt	Lockport, New York	Manufacturer and Farmer	61 west.
Van Horn, Robert T.	Kansas City, Missouri	Printer	23 east.
Van Trump, Philadelphia	Lancaster, Ohio	Lawyer	49 east.
Van Wyck, Charles H.	Middletown, New York	Lawyer	21 west.
Vidal, Michel	Napoleonville, Louisiana	Journalist	31 west.
Ward, Hamilton	Belmont, New York	Lawyer	56 west.
Washburn, Cadwalader C.	La Crosse, Wisconsin	Lawyer	94 west.
Washburne, Elihu B.	Galena, Illinois	Lawyer	45 west.
Washburn, Henry D.	Clinton, Indiana	Lawyer	7 west.
Washburn, William B.	Greenfield, Massachusetts	Manufacturer	63 west.
Welker, Martin	Wooster, Ohio	Lawyer	52 west.
Whittemore, B. F.	Darlington, South Carolina	Clergyman	59 east.
Williams, Thomas	Pittsburg, Pennsylvania	Lawyer	115 west.
Williams, William	Warsaw, Indiana	Lawyer	83 west.
Wilson, James F.	Fairfield, Iowa	Lawyer	109 west.
Wilson, John T.	Tranquillity, Ohio	Farmer	66 west.
Wilson, Stephen F.	Wellsboro', Pennsylvania	Lawyer	42 east.
Windom, William	Winona, Minnesota	Lawyer	37 east.
Wood, Fernando	New York, New York	Merchant	85 east.
Woodbridge, Frederick E.	Vergennes, Vermont	Lawyer	64 west.
Woodward, George W.	Wilkesbarre, Pennsylvania	Lawyer	17 east.
Young, P. M. B.	Cartersville, Georgia		28 east.

THE CONGRESSIONAL GLOBE:

CONTAINING

THE DEBATES AND PROCEEDINGS

OF THE

THIRD SESSION FORTIETH CONGRESS;

TOGETHER WITH

AN APPENDIX,

COMPRISING THE LAWS PASSED AT THAT SESSION.

BY F. & J. RIVES & GEORGE A. BAILEY.

CITY OF WASHINGTON:
OFFICE OF THE CONGRESSIONAL GLOBE.
1869.

Entered according to Act of Congress, in the year 1869, by
F. & J. RIVES & GEO. A. BAILEY,
In the Clerk's office of the Supreme Court of the District of Columbia.

THE CONGRESSIONAL GLOBE.

FORTIETH CONGRESS. THIRD SESSION.

IN SENATE,

MONDAY, December 7, 1868.

This being the day designated by the Constitution for the meeting of Congress, the Senate assembled in its Chamber at twelve o'clock m.

The PRESIDENT *pro tempore* of the Senate (Hon. BENJAMIN F. WADE, of Ohio) called the Senate to order.

SENATORS PRESENT.

The following Senators were present: From the State of

Maine—Hon. William Pitt Fessenden and Hon. Lot M. Morrill.

New Hampshire—Hon. Aaron H. Cragin and Hon. James W. Patterson.

Vermont—Hon. George F. Edmunds and Hon. Justin S. Morrill.

Massachusetts—Hon. Charles Sumner and Hon. Henry Wilson.

Rhode Island—Hon. Henry B. Anthony.

Connecticut—Hon. James Dixon.

New York—Hon. Roscoe Conkling and Hon. Edwin D. Morgan.

New Jersey—Hon. Alexander G. Cattell and Hon. Frederick T. Frelinghuysen.

Pennsylvania—Hon. Simon Cameron.

Maryland—Hon. William P. Whyte.

Ohio—Hon. John Sherman and Hon. Benjamin F. Wade.

Indiana—Hon. Thomas A. Hendricks and Hon. Oliver P. Morton.

Illinois—Hon. Lyman Trumbull and Hon. Richard Yates.

Kentucky—Hon. Garrett Davis and Hon. Thomas C. McCreery.

Tennessee—Hon. Joseph S. Fowler and Hon. David T. Patterson.

Missouri—Hon. Charles D. Drake.

Michigan—Hon. Zachariah Chandler.

Wisconsin—Hon. Timothy O. Howe.

Iowa—Hon. James W. Grimes and Hon. James Harlan.

Minnesota—Hon. Daniel S. Norton and Hon. Alexander Ramsey.

California—Hon. John Conness.

Oregon—Hon. Henry W. Corbett and Hon. George H. Williams.

Kansas—Hon. Samuel C. Pomeroy and Hon. Edmund G. Ross.

West Virginia—Hon. Peter G. Van Winkle and Hon. Waitman T. Willey.

Nevada—Hon. James W. Nye and Hon. William M. Stewart.

Nebraska—Hon. John M. Thayer.

Louisiana—Hon. John S. Harris and Hon. William Pitt Kellogg.

Florida—Hon. Thomas W. Osborn and Hon. Adonijah S. Welch.

Arkansas—Hon. Benjamin F. Rice.

South Carolina—Hon. Thomas J. Robert-son.

Alabama—Hon. George E. Spencer and Hon. Willard Warner.

PRAYER.

Rev. E. H. GRAY, D. D., offered the following prayer:

Glory, and honor, and power, and might, and dominion be unto Thee, O God, Ruler Supreme! We thank Thee for the distinguished blessings of Thy providence which have been conferred upon us; for the abundant harvests that have been garnered all over our land; for health prevailing in our borders, restraining the hand of the destroying angel from raining down pestilence and plague upon our cities and our coasts; and for carrying our country safely through another exciting ordeal at the ballot-box; and that we have peace!

We thank Thee, also, for the blessings of the Gospel; for a throne of grace, which is ever accessible; for an open Bible, the charter of liberty and the word of Life; and for the preaching of the glorious Gospel of the ever-blessed God, with none to molest or make us afraid.

We thank Thee that Thy servants, the Senators and members of the House of Representatives, have been protected and preserved in their life and health, and now, by the ordering of Thy good providence, have been convened to answer to the roll-call of their country. O Lord, we pray that they may bring clear minds and true hearts to the great questions that may come before them for consideration, and that they may be eminently endowed with wisdom from on high, so that the conclusions they reach, and the enactments they make, may be such as to secure the approval of God and the acquiescence of the people.

We pray, O Lord, that thou wilt grant that the affecting dispensations of Thy providence and the public bereavements experienced during the recess may be sanctified to the good of us all, and we ask that though the workmen die the work may go on; though men die God lives; and may Thy servants remember that however high in official station they may be man is mortal and death is no respecter of persons.

We ask that Thy blessing may rest upon us in all of our interests and relations to each other and to the Government and to the world. Grant, we pray Thee, to bless the President of the United States and his constitutional advisers. May they so execute the laws of the land that peace and quiet and order may ensue.

And now we ask that the divine benediction may descend upon all of our institutions and interests as a people and a nation, and that God will guide and direct all the affairs appertaining to this great people, that they may be

ordered in wisdom and in goodness, so as to secure the welfare of the nation and promote the glory of God.

Hear our prayer, forgive our sins, accept our persons and our service; and when we have accomplished our work, and fulfilled our mission here upon the earth, save us with an everlasting salvation, through Jesus Christ, our Lord. Amen.

ORGANIZATION.

The PRESIDENT *pro tempore*. The time for the assembling of the third session of the Fortieth Congress having arrived, the Senate will please come to order.

On motion of Mr. MORGAN, it was Ordered, That the Secretary inform the House of Representatives that a quorum of the Senate has assembled, and that the Senate is ready to proceed to business.

HOOR OF MEETING.

On motion of Mr. ANTHONY, it was Ordered, That the hour of the daily meeting of the Senate be twelve o'clock meridian until otherwise ordered.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that a quorum of the House had assembled and was ready to proceed to business.

The message also announced that the House had appointed Mr. E. B. WASHBURN of Illinois, Mr. J. A. GARFIELD of Ohio, and Mr. JAMES BROOKS of New York, a committee to join such committee as may be appointed on the part of the Senate to wait on the President of the United States and inform him that a quorum of the two Houses is in session and ready to receive any communication he may be pleased to make.

NOTIFICATION TO THE PRESIDENT.

Mr. DIXON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That a committee consisting of two members be appointed, to join such committee as may be appointed by the House of Representatives, to wait upon the President of the United States and inform him that a quorum of each House has assembled, and that Congress is ready to receive any communication he may be pleased to make.

The PRESIDENT *pro tempore* being authorized to appoint the committee, Messrs. DIXON and HENDRICKS were appointed.

CREDENTIALS.

The PRESIDENT *pro tempore* presented the credentials of Hon. GEORGE F. EDMUNDS, elected by the Legislature of Vermont a Senator from that State for the term of six years, beginning March 4, 1869; which were read, and ordered to be filed.

SENATOR FROM GEORGIA.

The PRESIDENT *pro tempore*. The Chair will also lay before the Senate a communication from the Governor of Georgia.

Mr. SHERMAN. Mr. President—

Mr. SUMNER. What is the communication?

The PRESIDENT *pro tempore*. A communication from the Governor of Georgia on the relations of that State to the General Government. I have had no time to read it, and hardly know what it is. It will be read if there be no objection.

Mr. SHERMAN. I move that it lie on the table for the present.

The PRESIDENT *pro tempore*. It will lie on the table if there be no objection.

Mr. SHERMAN. I present the credentials of Hon. JOSHUA HILL as a Senator from the State of Georgia. I ask that they may be read and the oath administered.

The Secretary read the following credentials: STATE OF GEORGIA.

By his Excellency RUFUS B. BULLOCK,
Governor of said State:

To Hon. JOSHUA HILL, greeting:

Whereas by the third section of the first article of the Constitution of the United States of America it is ordered and established that the Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof for the term of six years:

And whereas the General Assembly of the State of Georgia did, *vis voce* vote thereof, on the 23th day of July, 1868, elect you, the said Joshua Hill, to be one of the Senators from this State in the Congress of the United States, to serve the unexpired term ending 4th of March, 1873:

These are, therefore, to authorize and commission you, the said Joshua Hill, to take session in the Senate of the United States, forthwith, to use and exercise all and every the privilege and powers which you may or can do by virtue of the said commission in behalf of this State.

Given under my hand and the great seal of the State, at the capitol, in the city of Atlanta, this 10th day of September, in the year of our Lord 1868, and of the independence of the United States of America the ninety-third.

[L. s.] RUFUS B. BULLOCK,
Governor.

By the Governor: DAVID G. COTTING,
Secretary of State.

Mr. DRAKE. Mr. President, I move that the credentials of the Senator-elect from Georgia be laid upon the table for the present, until the committees of the Senate are organized.

Mr. SHERMAN. I hope the Senator will withdraw the motion to lay on the table, which perhaps is not debatable, and I will make a statement in regard to this matter. If the motion to lay on the table is insisted upon, I suppose it is not debatable.

Mr. DRAKE. I will state, Mr. President, that I made the motion to lay on the table on the supposition that the committees of the Senate were not in existence at this time; but gentlemen around me say that they are in existence until changed, and therefore I withdraw the motion to lay upon the table.

Mr. TRUMBULL. They are not in existence.

Mr. DRAKE. Now, the chairman of the Judiciary Committee, the Senator from Illinois, says I was right originally, that the committees are not in existence. I do not know which is right; but there are those who know much better than I do. But, sir, I withdraw for the present the motion to lay upon the table.

I state now that I do not think that the Senator-elect from Georgia should be sworn in and allowed to take his seat in the Senate at this time. A very grave question comes up in connection with the reconstruction of the government of the State of Georgia, a question which in my opinion the Senate of the United States is bound to take notice of, bound to investigate, bound to pass upon. If I understand the position of matters correctly, after a loyal Legislature had been elected in that State under the reconstruction act of Congress, the white men of the Legislature combined and expelled from their seats all the colored members of the Legislature, thereby placing that body under rebel control. If this be true, then I claim that we should not recognize the reconstruction of Georgia as complete. Therefore, sir, I move that the credentials of the Senator-elect from Georgia be referred to the Committee on the Judiciary.

Mr. SHERMAN. Mr. President—
The PRESIDENT *pro tempore*. The Chair

will state that by his understanding of the rules of the Senate there are no committees at this time.

Mr. WILSON, (to Mr. DRAKE.) Withdraw your motion. Let the Senator from Ohio make his statement, and renew it afterward.

Mr. DRAKE. I have withdrawn the motion to lay upon the table.

Mr. SHERMAN. I trust the unusual course of referring the credentials of a Senator-elect will not be adopted unless for good reason. If there is any objection to the person-elect for want of loyalty or for any other reason, there is no objection by me or by any one to a reference. But no ground has been laid for a reference. It is unusual unless some allegation is made affecting the status of the State or affecting the status of the person. Now, a few facts and a few dates are all that it is necessary to state in regard to this matter.

There can be no objection to the person, because Hon. Joshua Hill is well known to have been a Union man throughout the war, to be now able to take the oath, and to be one of the very few of those living in the South through the war who were not forced or who were not willingly in a condition to give aid to the rebels in arms. He is now prepared to take the oath of office, having been faithful and true during the whole war, and having been duly elected by the Legislature of the State of Georgia.

Now, a word in regard to the condition of the State of Georgia. Georgia has been recognized by this Senate and by the House of Representatives as a State in the Union, having complied with the reconstruction laws, having adopted the constitutional amendment, and her compliance with the reconstruction acts having been approved and sanctioned both by the Senate and House. It seems that on the 18th day of July, 1868, the Governor was inaugurated. On the 20th of July, 1868, members of the House of Representatives from the State of Georgia, elected according to our acts, presented themselves at the bar of the House of Representatives and were admitted and sworn into office, and now sit there as members of the House. On the 28th of July, 1868, as is shown by the record here, Mr. Hill was elected Senator from the State of Georgia. That was at a time when all the members of the Legislature were in their seats before the question as to the eligibility of certain members arose in the Legislature at all. He was elected by a very large majority of all, including those who have since been ejected. Subsequently to that time a portion of the members of the Legislature were ejected from the senate and house of the State of Georgia. This conduct of the majority is as much disapproved by the Senator-elect as by any one of us. It was a gross outrage; a violation, in my judgment, of the constitutional amendment, and a violation of the reconstruction acts. It is an outrage which ought to be corrected; but it seems to me it would be very hard indeed to make a gentleman duly elected by the whole Legislature, and a Union man, entitled to his seat here, who disapproves the action of the Legislature, suffer for conduct which he does not approve, and which he hopes, by having a seat here among us, to be able in part to correct.

This is the view which is presented to me, and I trust, therefore, the Senator from Missouri will not press this question. If this case goes to the Judiciary Committee, it leaves this gentleman in suspense on a reference to the committee, when there is no ground for such a reference. In my judgment we ought never to make such a reference unless facts are stated, on the responsibility of a member, which are sufficient to exclude the Senator-elect from his seat. Now, if the fact as stated by the Senator from Missouri be admitted, it lays no ground whatever for the exclusion of the Senator-elect from the State of Georgia, because that fact transpired days after he was duly elected by the whole Legislature; after he received his certificate of election from the Governor of that State, when his right to his seat here was

complete; after his colleagues in the other House had taken their seats. That action of the Legislature is disapproved by him, and he hopes by having a seat in the Senate to be able, in some degree, to correct it. That will be one of the first acts of his senatorial service. He believes that duty to the people of the State of Georgia requires him to endeavor to correct, so far as possible, that gross outrage of the majority of the Legislature of Georgia. I trust, therefore, that the Senator-elect will be allowed to take the usual oath and enter upon the discharge of his duties.

Mr. DRAKE. Mr. President, the question that is involved in the matter now before us is whether the power of the Senate over a reconstructed rebel State ends with the moment that that State may have been recognized in one or the other House of Congress as being a State restored to her position in the Union. I contend not, sir; else it would be in the power of any one of those States, the day or the moment after it had been recognized as a State in the Union, again to undo everything that it had done, to place itself in a condition of *quasi* revolt against the authority of the General Government again, and to restore the power of rebels there, and still Congress be utterly unable to do anything for the protection of the loyal men of the State. I do not believe in any such doctrine. I intend to resist any such doctrine in the Senate. I hold, sir, that Congress has a continuing and undiminished power over those States, to preserve what was built up there in their reconstruction, and I do not intend to vote for the admission of any Senator from any one of those States that has attempted to undo the ascendancy there of loyal men and put rebels there into the ascendancy.

It is for this reason that I object to the State of Georgia being now represented upon this floor. Of course I can have no personal objection to the honorable gentleman who is the Senator-elect from that State. I have no doubt that all that has been said of him by the Senator from Ohio is perfectly true. But the question is not a personal one. The question is as to the supremacy of the Congress of the United States over the reconstruction of the rebel States, the power of Congress to secure loyal ascendancy in those States and to put down rebel ascendancy, the continuing power, not the power ended when we passed the laws we did here at the last session, but the power abiding to secure the results which we then attempted to establish.

I wish this matter to be investigated. I wish the facts to go before the country. I wish that we should know what ground we are going upon in giving a seat here to a Senator from a State that has thrown off loyal supremacy in its Legislature, by banishing from its halls of legislation the colored men who were elected by the people and admitting white rebels to hold that State in subjection to rebel dictation and control. That is my object, sir. I state it frankly. If it be the will of the Senate that this matter shall have no attention at all at this time, but that the Senator-elect from Georgia shall be admitted, of course I bow with respect and submission to their decision; but it cannot be done with my vote.

Mr. THAYER. Mr. President, it seems to me that the Senator from Missouri and the Senator from Ohio have not touched the primary ground on which objection should be made to the admission of these Senators. As I understand the case the reconstruction laws have not been complied with. The prior ground of objection is that a portion of the members of that Legislature were expressly disqualified by the reconstruction laws, and therefore were not legal members of that Legislature. In connection with this subject, I ask for the reading to the Senate of the communication from the Governor of Georgia which has been received this morning and laid on the table.

The PRESIDENT *pro tempore*. If there be no objection the paper will be read.

The Secretary read as follows:

To the Congress of the United States:

Having, as provisional governor-elect, under the reconstruction acts, been authorized by an act to admit the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida to representation in Congress, which act became a law June 25, 1868, to convene the provisional Legislature of Georgia; and having by proclamation, under date June 25, 1868, acted upon that authority; and having, on the fourth day of July, 1868, been appointed provisional governor of Georgia by Major General George G. Meade, commanding the third military district, under and by virtue of the power vested in him by the reconstruction acts, I deem it my official duty to represent to your honorable body that the laws under which the State of Georgia was to have been admitted to representation in Congress have not been fully executed, and to present for your consideration the reasons which lead me to this conclusion.

By section six of an act for the more efficient government of the rebel States, among which States is enumerated the State of Georgia, it is provided that "until the people of said rebellious States shall be by law admitted to representation in Congress, any civil government which may exist therein shall be deemed provisional only." The government of the State has therefore been, and must continue to be, provisional until the conditions required by the act which became a law June 25, 1868, shall have been complied with by a Legislature organized in accordance with the reconstruction acts previously adopted.

By section ten of the supplementary reconstruction act passed July 19, 1867, it is required that "all persons hereafter elected" * * * "to office in said military districts" * * * "shall be required to take and subscribe the oath of office prescribed by law for officers of the United States."

The government having been provisional at the time of the assembling of the Legislature referred to, the law therefore required that such persons only as were eligible under the reconstruction acts should be permitted to participate in the necessary provisional legislation precedent to recognition as a State. The fact, however, is that all the candidates for the General Assembly who had received the highest number of votes were, without regard to their eligibility under the law, permitted to take seats in the provisional legislative body, and to participate in the organization and the legislation thereof, having first been simply invited to take an oath prescribed in the new constitution, which constitution had not at that time become, and under the law could not then be, of force.

The result of this failure to execute the law has been a defeat of the purposes which Congress had in view when passing the acts, these purposes having been the establishment of a loyal and republican State government affording adequate protection for life and property, the maintenance of peace and good order, and the free expression of political opinion.

The wise discernment displayed by Congress, in requiring by its legislation that none but those who were loyal should participate in the establishment of a provisional government which was thereafter to be clothed with the rights and immunities of a State in the Union, charged with the care and protection of the lives and property and the civil and political rights of its citizens, is made the more apparent by the consequences which have ensued from this failure in the enforcement of that legislation.

I would, therefore, respectfully invite the attention of your honorable body to this subject, and ask that such steps be taken as may to you seem wise and proper for the obtaining of full information in relation thereto, and to the end that loyalty may be protected and promoted by the enforcement of the laws enacted by the Representatives of the American people.

RUFUS B. BULLOCK.

By the Governor: EUGENE DAVIS,
Executive Secretary.

Mr. SHERMAN. Mr. President, the communication of Governor Bullock does not really raise any question as to the eligibility of Mr. Hill. The Senator-elect appears here with a commission issued by Governor Bullock in the ordinary form, showing his election by the Legislature; and he was elected before any of the questions arose about which this controversy occurs. Senators ought to remember the dates. Mr. Hill was unquestionably elected by a majority of all the members of the Legislature when every one claiming a seat was present and no one was excluded from among those elected. They took the oath prescribed by the constitution of the State. Congress had previously sanctioned the constitution of the State of Georgia by a joint resolution which was passed at the closing period of the session in July. So that every act, every condition, every qualification, every restriction imposed and demanded by Congress was complied with by the Legislature of Georgia until after they elected Senators of the United States. Then it was that the controversy arose as to the right of the colored senators and members of that Legislature to hold their seats. Then it was that in violation of the constitution of the

State of Georgia, in violation of the amendment to the Constitution of the United States, the majority of that Legislature excluded from their body a portion of the senators and representatives; but this conduct was subsequent to the complete election of the Senator-elect. As I am authorized to say by him, for he is not allowed to speak for himself, he disapproves of this highly, and hopes through the powers conferred by the constitutional amendment itself to be able to prescribe a remedy that will not only prevent Georgia but any other State from adopting a like course in violation of the constitutional amendment. I trust, therefore, that the Senator under the circumstances will be allowed to take the oath of office, and that if any question be made his credentials may be referred afterwards. That is the usual course.

I have said that the members of the Legislature elected took the oath of office prescribed by the constitution of the State. Whether they committed perjury or not is hardly proper for us in the Senate to examine or inquire into. Certainly it would be a very extraordinary thing for the Senate to inquire into the action of members of the State Legislature in that respect, especially when all who were elected and claimed to be elected were sworn into office, and when a controversy as to the eligibility of three or four Senators or members would not have affected this election in the least.

Mr. WILSON. Mr. President, I desire to present and have read to the Senate a memorial of a convention of the colored citizens of Georgia assembled in that State at Macon, on the 6th, 7th, and 8th of October, which is signed by Mr. H. M. Turner, the president of the convention, and James Porter, secretary, and is submitted by a committee appointed by the convention, consisting of James M. Simms, Henry M. Turner, and John T. Costin. I ask that this memorial be received and read for the information of the Senate.

The PRESIDENT *pro tempore*. The memorial will be read if there be no objection?

The Chief Clerk read as follows:

A memorial addressed to the Congress of the United States of America in behalf of the colored population of the State of Georgia by their representatives assembled in convention at Macon, October 6, 7, and 8, A. D. 1868:

To the Senate and House of Representatives of the United States of America in Congress assembled:

We, the representatives of nearly one hundred thousand of the legal voters of the State of Georgia, and nearly five hundred thousand inhabitants thereof, assembled in a convention called to consider our condition as a people in view of the late action of the General Assembly of said State, in expelling therefrom twenty-nine colored members of that body who had been duly elected to their seats by legal majorities of their respective districts and counties, and after taking the same into due and solemn consideration, beg leave most humbly and respectfully to submit this our memorial to your honorable body:

Your memorialists beg leave most respectfully to show that the colored members of the Legislature of this State were not expelled therefrom for any fault of theirs, for any illegality or fraud in their election, or for any alleged incompetency according to the constitution and laws, but solely on the ground that they were free persons of color, and as such not eligible to their seats.

Your memorialists would further show that their expulsion for the cause alleged is utterly repugnant to the constitution and laws of this State, inconsistent with the whole series of acts under which the State has been permitted to resume her place in the Federal Union, subversive of all the rights which have been guaranteed to us under the Constitution and laws of the United States, and of this State, and so revolutionary in its character as to demand additional legislation on the part of Congress in order to maintain the integrity of the reconstructed State government, and save our race from oppression and ruin.

First. It is utterly repugnant to the constitution and laws of this State.

1. The words "white" and "colored" do not occur in the new constitution of the State of Georgia. The instrument was framed with cautious reference to this subject of race and color so as to avoid any distinctions on that ground and secure equal civil and political rights to all classes of persons accordingly.

2. The convention which framed the constitution defined the term "citizens" in the following manner: "All persons born or naturalized in the United States and resident in this State are hereby declared citizens of this State." (Art. I, sec. 2.)

3. The rights of such are guaranteed in the following clauses:

"And no laws shall be made or enforced which shall abridge the privileges or immunities of citizens of the United States, or of this State, or deny to any person within its jurisdiction the equal protection of its laws." (Art. I, sec. 2.)

We hold that the expulsion of any member of the Legislature duly elected, and otherwise properly qualified, solely on the ground of race or color, is an abridgment of the privileges and immunities of the citizen.

4. The Legislature is bound to go further and enact adequate laws for our protection:

"And it shall be the duty of the General Assembly, by appropriate legislation, to protect every person in the due enjoyment of the rights, privileges, and immunities guaranteed in this section." (Art. I, sec. 2.)

This section did not constitute us citizens of the United States. We were made such by the "civil rights bill" passed by the Thirty-Ninth Congress. But as soon as our new constitution was ratified and the General Assembly adopted the constitutional amendment known as the fourteenth article, we became citizens of the State of Georgia, and as such entitled to the same "rights," privileges, and immunities belonging to other citizens, for the constitution makes no difference on the score of color.

5. The electoral right is expressed as follows:

"Every male person born in the United States, and every male person who has been naturalized or who has legally declared his intention to become a citizen of the United States, twenty-one years or upwards, who shall have resided in this State six months preceding the election, and shall have resided thirty days in the county in which he offers to vote, and shall have paid all taxes which may have been required of him, and which he may have had an opportunity of paying agreeably to law for the year next preceding the election (except as hereinafter provided) shall be deemed an elector; and every male citizen of the United States, of the age aforesaid, (except as hereinafter provided,) who may be resident of the State at the time of the adoption of this constitution, shall be deemed an elector as aforesaid." (Art. II, Sec. 2.)

The exceptions provided for in the article relate to soldiers and sailors in the military and naval service of the United States who may be stationed on duty in this State, to persons convicted of certain offenses, and to idiots and insane persons. No one is disqualified on the ground of race, color, or previous condition.

6. The same may be said of the members of the General Assembly. They are not ineligible on account of race, color, or previous condition. They are required, in the case of senators, to be twenty-five years of age, citizens of the United States; and after the first election under the new constitution citizens of this State for two years, and of the districts from which elected one year; and in the case of Representatives twenty-one years of age, who, after the first election, must be citizens of the State one year, and for six months residents of the counties from which elected. (See art. III, sec. 2, par. 2. Also, sec. 3 and par. 3.)

7. Neither senators nor representatives were required to be citizens of this State at the first election, for it was supposed the colored voters were not citizens of Georgia at that time, that they could not be citizens of the State until the constitution which made them such was adopted. It became necessary, therefore, to provide for their eligibility to membership in the first General Assembly held under the new constitution. This was done in an ordinance adopted by the convention. That ordinance provided that the members should be "inhabitants" of the State six months, and of the district and counties from which elected three months. The word "inhabitants" was used purposely instead of "citizens." When the resolution instructing the Committee on the Judiciary to bring in the ordinance was under discussion a motion was made to strike out "inhabitants" and insert "citizens," but the motion was lost by a vote of forty-four for and sixty-three against it. (See Journal of the convention, pp. 331, 383, 473.)

8. The eleventh article of the constitution adopted, as a part of the general laws in force in this State, the new code called "Irwin's code." This code contains the following definition of the rights of citizens:

"Sec. 1648. Among the rights of citizens are the enjoyment of personal security, of personal liberty, private property and the disposition thereof, the elective franchise, the right to hold office, to appeal to the courts, to testify as a witness, to perform any civil function, and to keep and bear arms."

"Sec. 1649. All citizens are entitled to exercise all their rights as such unless specially prohibited by law."

The laws prohibit persons who may be convicted of certain offenses, and insane persons and idiots, from holding office or performing any civil function; but they do not prohibit any one on account of his color. All laws which are inconsistent with the new constitution are repealed in the eleventh article.

These references to the different parts of the new constitution and to the laws now in force in this State are sufficient, we trust, to satisfy your honorable body that the expulsion of the colored members was entirely repugnant to our constitution and laws.

Second. It is inconsistent with the entire series of acts under the operation of which the State has been permitted to resume her place in the national Union.

The colored men of this State did not at first aspire to political positions. They were content with the liberty which God, a beneficent Government, and a loyal Army had bestowed upon them, and with the protection to person and property which had been guaranteed them in the civil rights bill. Depressed by long continued servitude and degraded by ignorance, they knew they were not in the aggregate fitted for official stations; but their former owners were obstinate, resisting every movement which tended to the elevation and improvement of our race,

opposing the establishment of schools for our benefit, and rejecting all the plans of restoration proposed by a loyal Congress. Major General John Pope, who was appointed to the command of the third military district and intrusted with the duty of executing the reconstruction laws therein, appointed one colored with two white registrars for each senatorial district in the State. He thereby gave practical force to the idea that under the reconstruction acts of Congress colored persons were entitled to hold office. Accordingly, about thirty-six colored men became candidates and were elected as delegates to the constitutional convention. They did so with the full knowledge and implied consent of the commanding general and his superintendent of registration, and when elected they were officially notified from headquarters of their election and of the time and place for the assembling of the convention. They obeyed the official summons, were allowed to take their seats, and did assist in framing the constitution. When that constitution was submitted to the people for ratification a number of colored men became candidates for the Legislature and various civil offices at the election provided for by it, and twenty-nine were accordingly elected by legal majorities to the house of representatives, and three to the senate.

At both elections they desired to run white persons for office; but in some counties they could not find such as they could trust as faithful representatives of their views and interests. Besides, they were persuaded to offer themselves as candidates by many white men who were opposed to the convention and to the ratification of the constitution on the ground, ostensibly, that they were preferred to white Union men. Pending the canvass for the ratification all of our political opponents spoke and voted against the constitution, because, as they contended, it gave colored persons the right to hold office. On this ground they made earnest efforts to defeat the constitution in all those counties embraced in what is called "the white belt," that is, wherever the number of white voters was largely in excess of the colored. Such was the course taken then by the very men who in the Legislature argued that colored persons are ineligible to office under our constitution. The colored members-elect were duly notified by a general order from the headquarters of Major General Meade, and summoned by the proclamation of the Governor-elect, who had been appointed provisional governor, to meet in the city of Atlanta on the 4th of July, 1868. They obeyed the summons, and were duly qualified by Judge Erskine, of the United States court, in the presence of the Governor-elect, General Meade, the superintendent of registration, and those members who afterward voted to exclude them. They were admitted to their seats under these circumstances, no one objecting on account of their color, and no one ever questioning their right to be seated.

Shortly after the organization of the General Assembly as a provisional legislature, the provisional governor transmitted to both houses a communication from General Meade, in which he declared that he would recognize no act of the Legislature as valid, or allow the same to be executed, until all persons excluded by the fourteenth article were deprived of their seats or offices in both houses. Each house appointed a committee to investigate the eligibility of members according to this requisition, and more than a week was spent in that investigation. The result was the adoption by each house of resolutions declaring all the members eligible to their seats. The following is the resolution adopted by the house of representatives:

"Whereas under the instruction of the general commanding this military district, communicated to this house by his excellency the provisional governor, the house proceeded to examine into and investigate the question of the eligibility of its members under the reconstruction acts of Congress, and, after a full and thorough investigation thereof, have found all persons occupying seats eligible thereto:

Resolved, That a committee of three be appointed by the speaker to wait upon his excellency and notify him of the result of said investigation."

This resolution expressly declared "all members occupying seats eligible thereto," and General Meade thereupon recognized the General Assembly as legally organized. In all these and subsequent proceedings, until the 3d day of September following, the colored members participated without any one questioning their right to do so. The constitutional amendment was adopted, United States Senators and State house officers elected, and many other acts performed by the body, all of which must be invalid, unless the colored members, through whose votes many of these measures were adopted, were entitled to the seats which they were allowed to hold. As nearly all the members who were opposed to us politically, who opposed the calling of the constitutional convention and the ratification of the constitution framed by it, who have persistently opposed the whole policy of reconstruction adopted by Congress, voted against the adoption of the fourteenth article, that measure could not have been carried by the Legislature of Georgia without the votes of the colored members of that body. It is therefore for your honorable body to determine whether it was legally adopted, if the colored members were ineligible; or, if eligible, whether they should be restored to their seats, notwithstanding the act of the enemies of reconstruction? If the colored members were eligible for one purpose, were they not eligible for all purposes of legitimate legislation? Their opponents were seemingly willing, very willing, that the constitutional amendment should be adopted; but they left it to the friends of reconstruction to adopt it. They were unwilling, after their stubborn resistance to it, to put themselves upon the record in favor of it; but they saw ahead of them a time when they meant to take advantage of the power which it would give

them; a time when the State would be free from military government; when it would no longer be subject to the interference of Congress; a time, in short, when they might do as they pleased in spite of constitutional restrictions. Will your honorable body suffer them to reap those advantages now at our expense—advantages which they have gained by the practice of a deception unparalleled in the history of legislation in this country? The expulsion of the colored members was inconsistent with the acts of reconstruction, inconsistent with the acts of the military in enforcing the laws of Congress, and inconsistent with the acts of the Legislature in settling the question of the eligibility of its members, organizing the government permanently, and electing the various officers of the government and United States Senators.

Third. It is subversive of all the rights conferred upon us by the Constitution and laws of the United States and of this State.

By this act of the General Assembly nearly one half of the inhabitants of this State are denied the right of representation. We are required to pay our proportion of the taxes necessary to support the Government, but can have no voice in that Government. We can take no part in shaping the policy nor in the making or enforcing of the laws which involve the happiness, if not the very existence, of half a million of our race. All these vast interests are to be henceforth entirely in the hands of those who held us as chattels, who made merchandise of us, who kept us in profound ignorance, and forbade by civil law the development of our manhood, and whose education and hereditary prejudices of caste incline them to regard us as having "no rights that a white man is bound to respect." Their bitter opposition to the reconstruction acts was caused by their invincible hatred of political equality among the races, and especially the enfranchisement of ours. It is certain, therefore, that with the power in their hands to go on without rebuke, without a sense of responsibility to some power which they know they must respect, they will continue their aggressions upon our rights until they have stripped us of our right to vote, and reduce us to a state of degradation and misery, little if any better than that slavery from which we have been delivered.

This spirit toward us has been manifested by the present Legislature in many ways, particularly in refusing to let the excluded members have their protest recorded upon the journal of the house, and in utter violation of the spirit of our constitution, refusing to allow our people to sit on juries, even when their dearest rights are involved. In fact, when they expelled the colored members they exhibited that arbitrary temper which smote down the whole fabric of our constitutional rights at a single blow. We had no redress. There was no power on earth to which we could appeal for help, with the hope of any degree of success, but to your honorable body. In vain did our representatives argue the principles of our constitution. In vain did they appeal to the sympathies, the generosity, the sense of justice of our oppressors. In vain did they appeal to their consciences, and beseech them to desist from their mad attempt to destroy a constitution which they had sworn to support. They had the power, for when the charge of ineligibility was presented the Speaker ruled that none of the persons involved in the charge had the right to vote upon the question, and they were all expelled in a body from the House. They were expelled not because they had no rights under the constitution, not because they had committed any offense against the State, the laws, or the good order of the body, but because they were "free persons of color." Their color disqualified them. No virtue, no patriotism, no degree of intelligence, no constitutional guaranties could avail to check the deep-rooted prejudice of caste, the inveterate hatred of our race, or save our representatives from the vengeance of their oppressors in the hour of their weakness and distress. We must submit to law as enacted and enforced by those who, though they might love us as their property, as they love their sheep and oxen, hate us as freemen. They must be our legislators, our judges, our jurors, and, in spite of our constitution, in spite of all that a loyal Congress has done for us, they must be our masters. Life, liberty, and the pursuit of happiness may be guaranteed to all by fundamental laws, but practically they are of no value to us or our children.

The temper displayed by the members of the Legislature who were opposed to us and our rights is that which pervades the whole mass of society, except a comparatively few loyal whites. The class opposed to us do not favor our education or improvement in any particular. They have founded no schools for us, erected no school-houses, given and supported no teachers for our benefit; but they have persecuted and ostracised the teachers sent to us from the sympathizing northern friends and those native teachers who have been employed by the Government or by benevolent societies. They have, in many instances, burnt our school-houses and churches and driven our teachers away from hotels and respectable boarding-houses. They have heaped all manner of reproaches, abuse, and slanders upon all who have befriended us or who have endeavored to improve our condition, and especially those who have been friendly to our political advancement. Their leaders have, in some instances, recommended the slaughter of leading white men who favor our cause, and many of our kindred have been murdered for the part they have taken in political affairs, as well as for trifling causes of any other character. Bodies of armed men hostile to our rights have assailed and dispersed assemblies of our colored citizens who peaceably met for the decision of political questions, murdering, in some instances, not a few of them in a most brutal manner. The act of the Legislature tends, therefore, to subvert all the rights which we have under the laws of our country.

Fourth. Hence our only hope of deliverance is in Congress.

The State is indebted to us for its restoration. There were nearly eighty thousand colored and less than forty thousand whites who voted for a convention, and the relative numbers voting for the ratification of the constitution were about the same. Without the colored votes, the fourteenth article would not have been adopted, and the State would still be under the disabilities which involved it when the confederate armies surrendered. We feel that as we were thus instrumental in saving or attempting to save it from the anarchy into which the rebellion plunged it, we ought to have our full share in the administration of its future government. This is all we claim. We could ask for nothing less. We ask that no disabilities be imposed on our opponents except such as in your judgment are necessary to secure our rights, our constitution, and the welfare of both races. Confiding in your sense of justice, in the generous policy which gave us our liberty and invested us with political rights, we commit ourselves, our lives, our liberties, and all we hold most dear on earth, with the interests of the hundreds of thousands whom we represent and their unborn posterity into the hands of your august body, and humbly pray that this our petition may move your hearts and this great American nation to grant unto us and our children all the rights, privileges, and immunities set forth in the Declaration of Independence and in the Constitution and laws of the United States and the State of Georgia.

For we are satisfied that our oppressors, whom we have faithfully served for two hundred and fifty years, have combined for the avowed purpose of exterminating our race in America for no fault of our own, but for being loyal to our country in war and obedient to her laws in peace. Had we arrayed ourselves against the laws of the land and with them defied the Government, then it might have been better with us to-day. Thus we have borne more than any people ever did in the history of nations, not because we could not have repeatedly retaliated in a measure, but because we desired to keep peace and harmony in this our country which we love. And now we again appeal to your august body to know whether we shall look to you in the future for justice and protection, or must we protect ourselves?

True extract from the minutes of the convention:
H. M. TURNER, President.

Most respectfully submitted by the undersigned, a committee delegated to present the same to the Congress of the United States.

JAMES M. SIMMS,
HENRY M. TURNER,
JOHN T. COSTIN.

The PRESIDENT pro tempore. Shall the Senator-elect from Georgia be permitted to take the oath with a view to his admission to his seat in the Senate? That is the question.

Mr. SHERMAN. I did not object to the reading of that paper, because I thought, as it bore upon the condition of affairs in Georgia, it was right enough to place it on the record; but it not only does not conflict with the right of Mr. Hill to be sworn, but it rather, if Senators will consider the question, shows his right. All the matters that have been complained of by the excluded members of the Legislature occurred after Mr. Hill was elected; and I may further say that it is the desire of the Senator-elect to participate with us in protecting these very people in the enjoyment of their clear right to hold office in the State of Georgia and throughout the United States, when they are duly elected by the qualified electors of a State. It is, therefore, rather hard to read this memorial and file it upon this application to be sworn in by Mr. Hill when really his desire is to secure these people against the very indictments which have been put upon them by the majority of the Legislature of Georgia.

But I rose mainly to ask the Secretary to read, as bearing upon this question, a portion of the report of General Meade. It has not been communicated to us officially, but it is published in the journals, and it shows precisely the mode and manner in which this question arose. I may state, in brief, that the very question of the power of General Meade to pass upon the eligibility of the members of the Legislature was presented to him and he applied to the War Department for instructions and the War Department telegraphed him, substantially, that he had no power to pass upon the eligibility of members. The Secretary of War, then the General-in-Chief of the Army, consulted the Reconstruction Committee, or a portion of them, and I have here in General Meade's report a telegram signed by Mr. WILSON, Chairman of the Judiciary Committee of the House of Representatives, and also by Messrs. BOUTWELL, FARNSWORTH, and

PAYNE, of the Reconstruction Committee of the House, in which they state what I think is the law:

WASHINGTON, June 30, 1868.

To Governor WARMOTH, *New Orleans*:

We think that persons disqualified under the fourteenth article of the amendments to the Constitution of the United States are not eligible to your Legislature. This is to be determined by the respective Houses, and no oath can be imposed except the oath prescribed by the State constitution.

In precise conformity to this dispatch General Meade declined to pass upon the eligibility of members, there being two or three, as I understand, perhaps more, in each house of the Legislature of Georgia as to whom there was some doubt as to their ability to take the test-oath. The question arose as to whether General Meade had power to exclude them by withholding from them their certificates of election. In pursuance of the decision made by the Secretary of War, and in compliance with this telegram, and in compliance with the law, I think, he refused to act on the subject, and referred it to the Legislature. There was no objection made to the eligibility of either a Senator or member prior to the election of Mr. Hill. All the members elected to the Legislature contributed to that election, those who were ineligible probably voting against Mr. Hill, so that he received a majority of all the persons elected to that Legislature, including or excluding those who were claimed to be ineligible on account of incapacity to take the oath of office. These members did take the oath prescribed by the constitution of Georgia, and were, upon taking that oath, admitted to their seats. In justice to Mr. Hill, I will ask that a portion of the report of General Meade be read and placed on the record; and after that is done, after a conference with the Senator-elect, and with his consent, I am perfectly willing that this matter shall lie over for a day or two to allow Senators to look into it. I hope that then there will be no objection.

The PRESIDENT *pro tempore*. The document will be read if there be no objection. None being made, it will be read.

The Chief Clerk read as follows:

"The convention in Georgia, after being in session several months, in March adopted a constitution which, together with a State ticket, was submitted to the people in April, and ratified by a very handsome majority of the registered vote, all parties taking part in the election. This constitution, with some modifications, was adopted by Congress, and the Legislature which convened in July making these modifications and otherwise complying with the requirements of the reconstruction law, the State, together with Alabama and Florida, were, by act of Congress, formally admitted to representation. There is one point in regard to the admission of the State of Georgia to which I feel called upon to make special allusion. When the Legislature was convened by the provisional governor and Governor-elect, the question arose whether, as military commander, I was called to inquire into the eligibility of the members, either under the United States laws or the constitution of Georgia. The convention of Georgia has in its ordinance calling an election directed that all returns should be sent to the military commander of the district, who was requested to issue the necessary certificates of election. In carrying out this request of the convention I deemed my duty simply required that I should give the member having the greatest number of votes the ordinary certificate of election, and that it would be for each house to decide on the eligibility of those members whose seats were on any grounds contested; while I admitted as district commander executing the law I was to see that no one ineligible to office under the fourteenth article of the constitutional amendment should be allowed to take office. I did not see that in the case of a parliamentary body that I was called on to decide in the qualifications of the members. In this view I was sustained by a telegram sent to me for my information to the War Department, which had been sent to the Governor of Louisiana and the military commander of the fifth district, and which I quote:

WASHINGTON, June 30, 1868.

To Governor WARMOTH, *New Orleans*:

We think that persons disqualified under the fourteenth article of the amendment to the Constitution of the United States are not eligible to your Legislature. This is to be determined by the respective Houses, and no oath can be imposed except the oath prescribed by the State constitution.

JAMES WILSON,
Chairman of the Judiciary Committee.
GEORGE S. BOUTWELL,
J. F. FARNSWORTH,
H. E. PAINE,
Reconstruction Committee.

"It will be seen by the above telegram that the distinguished gentlemen whose names were attached

were of the opinion that no one ineligible to office under the fourteenth article could take a seat in the Legislature; second, that the respective houses were to judge of the question; third, that no oath testing this eligibility could or should be prescribed in advance of the meeting of the Legislature. These views being in accordance with my own, I acted on them and was present at the organization of the two houses of the Georgia Legislature, to the members declared in my order as having the highest number of votes there being administered only the oath prescribed by the State constitution. After these houses were organized, the provisional governor informing me officially of their organization, but that as far as he could learn no steps had been taken to test the question of the eligibility of members under the fourteenth article, I replied to the Governor that until the State was admitted to representation the Legislature and all the officers were only provisional and subject to the paramount authority of the district commander, and that in the exercise of this power I should consider all acts of the Legislature null and void until satisfactory evidence was presented to me that each house had purged itself of ineligible members under the fourteenth article, provided there were any such in either house; and I desired the provisional governor to communicate these views to each house. On the receipt of this letter each house at once ordered an investigation and inquired into the qualifications of each member, and duly reported this fact through the provisional governor, stating at the same time that neither house had found any member ineligible.

"The provisional governor, on transmitting these communications, expressed the opinion, founded on evidence presented to him, that several members in both houses were ineligible, and called on me to exercise my power and require said members to vacate their seats. On reflecting upon this subject I could not see how I was to take the individual judgment of the provisional governor in the face of a solemn act of a parliamentary body, especially as, from the testimony presented, I did not in several cases agree with the judgment of the provisional governor. The question was simply whether, in the construction of a law and in considering the facts of individual cases, I should make myself the judge, or take the opinion of the provisional governor in the face of the official information that a parliamentary body had gravely and formally, through a committee, examined, reported, and acted on these cases. My judgment was decidedly that I had fulfilled my duty in compelling the houses to take the action they had, and that having thus acted I had neither authority, nor was it politic or expedient, to overrule their action and set up my individual judgment in opposition. By an inspection of the telegrams sent July 13, and the reply of the General-in-Chief, July 21, it will be seen that my views and action were approved. I allude thus *in extenso* to this subject because his Excellency, the Governor of Georgia, in a public speech recently delivered at Albion, New York, is pleased to attribute the failure of Georgia to be properly reconstructed to my action in failing to purge the Legislature of his political opponents, he having advised me, when he urged such action, that his friends had been relieved of their disability by Congress."

Mr. SHERMAN. I now move that the credentials lie on the table for the present.

Mr. THAYER. I desire to add a few words now in connection with the report of General Meade which has been read.

The PRESIDENT *pro tempore*. Does the Senator from Ohio withdraw the motion to lay on the table?

Mr. SHERMAN. Certainly.

Mr. THAYER. Neither the Senator from Ohio nor the report of General Meade touches the real question at issue. It is not that the members of that Legislature took the oath prescribed by the State constitution. The point which I made in my former remarks was this: that everything was provisional until the final act of completion of the work of reconstruction. The election of that Legislature was provisional; its meeting and its organization were provisional; and they were required to take the oath prescribed by the reconstruction laws. They had nothing to do with any oath provided for in the State constitution; because the State constitution had not been submitted to the Congress, had not been approved, and the act declaring Georgia restored to the Union had not been passed. I called for the reading of the communication from the Governor in order to bring out this point in support of the objection which I have made; and it is in these words, as set forth by the Governor of Georgia:

"The fact, however, is that all the candidates for the General Assembly who had received the highest number of votes were, without regard to their eligibility under the law?"

There is the point—

"permitted to take seats in the provisional legislative body, and to participate in the organization and the legislation thereof, having first been simply invited to take the oath prescribed in the new consti-

tution, which constitution had not at that time become, and under the law could not then be, of force."

The objection is that that Legislature was composed in part of men who had been expressly disqualified and disfranchised, and who could not become members of the Legislature; and yet, notwithstanding that clear provision of the law, they were permitted to take their seats in the Legislature, and to become legislators and help to elect these Senators. I propose now to inquire whether that action was legal, whether the reconstruction acts have been fully complied with.

The honorable Senator from Ohio says that the Senator-elect from Georgia will be kept in suspense. Human life is in suspense in Georgia; civil order is in suspense in Georgia; loyalty is in suspense in Georgia; human liberty is in suspense in Georgia. I propose, for one, now to inquire whether this state of things is to continue or not; whether there are governments there which can afford protection to human life or not; and if not, why not? There is no necessity for pressing this question now.

Mr. SHERMAN. I renew the motion to lay the matter on the table for the present, and I shall call it up again, perhaps on Wednesday.

The motion was agreed to.

PETITIONS AND MEMORIALS.

Mr. WILSON. I present the petition of H. H. Wells, Governor of Virginia, and several other citizens of that State, asking that the Freedmen's Bureau may be continued in that and the other unreconstructed States. I will not ask for the reading of this petition, but simply move that it lie on the table.

The motion was agreed to.

Mr. POMEROY. I am charged with several petitions on the subject of suffrage, reading as follows:

The undersigned respectfully petition that in your revision of the government of the District of Columbia you will protect the women of the district from being debarred the exercise of the right of suffrage.

These petitions are numerously signed from the State of Missouri, from Watertown, New York, from Waterloo, Indiana, from Neogo, Illinois, from Rockland, Maine, from Mount Vernon, New York, from the State of Massachusetts, from Portage, Wisconsin, from Ellsworth, Maine, and from Faribault, Minnesota, the petitioners being sixteen hundred and fifty-five in number.

The PRESIDENT *pro tempore*. The petitions will be received and lie on the table.

Mr. RAMSEY presented the petition of Frank C. Dowling, of Douglas county, Minnesota, praying to be compensated for destruction of property by Indians in 1862; which was ordered to lie on the table.

He also presented a petition of citizens of Minnesota, praying for the establishment of a mail route from Yellow Medicine to some point in township No. 114 of range No. 41 of the fifth principal meridian; which was ordered to lie on the table.

BILLS INTRODUCED.

Mr. SUMNER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 649) to provide for the resumption of specie payments on the 4th of July, 1869; which was read twice by its title, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 650) to enforce the several provisions of the Constitution abolishing slavery, declaring the immunities of citizens, and guarantying a republican form of government, by securing the elective franchise to citizens deprived of it by reason of race, color, or previous condition; which was read twice by its title, and ordered to be printed.

Mr. SUMNER. I give notice that at the proper time I shall call up the bill for reference.

Mr. YATES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 651) to establish a uniform rule of naturaliza-

tion, and repeal certain acts heretofore passed on that subject; which was read twice by its title, and ordered to be printed.

Mr. RICE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 652) to provide for the issue of arms for the use of the militia in certain States lately in rebellion; which was read twice by its title and ordered to be printed.

Mr. MORRILL, of Maine, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 653) to amend an act entitled "An act to establish a uniform system of naturalization," approved April 14, 1802, and to repeal all acts inconsistent therewith; which was read twice by its title and ordered to be printed.

Mr. FRELINGHUYSEN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 654) to regulate proceedings for the naturalization of aliens; which was read twice by its title, and ordered to be printed.

Mr. SUMNER asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 178) tendering the sympathy and best wishes to the people of Spain; which was read twice by its title, and ordered to be printed.

Mr. CRAGIN asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 179) proposing an amendment to the Constitution of the United States; which was read twice by its title.

Mr. MORTON. Let that resolution be read at length.

Mr. SUMNER. Simply the amendment. The Secretary read the amendment proposed to be submitted to the State Legislatures as follows:

ARTICLE —. No State shall deny the right of suffrage or abridge the same to any male citizens of the United States twenty-one years of age and upwards, except for participation in rebellion or other crime, and excepting also Indians not taxed; but any State may exact of such citizen a specific term of residence as a condition of voting therein, the condition being the same for all classes.

The joint resolution was ordered to be printed.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 180) proposing an amendment to the Constitution of the United States; which was read twice by its title, and ordered to be printed.

Mr. POMEROY. I ask to have the amendment read at length.

The Secretary read as follows:

ART. 15. The basis of suffrage in the United States shall be that of citizenship, and all native or naturalized citizens shall enjoy the same rights and privileges of the elective franchise; but each State shall determine by law the age of the citizen and the time of residence required for the exercise of the right of suffrage, which shall apply equally to all citizens, and also shall make all laws concerning the time, places, and manner of holding elections.

Mr. DRAKE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 181) in relation to the grades of General and Lieutenant General in the Army, and Admiral and Vice Admiral in the Navy; which was read twice by its title, and ordered to be printed.

CHEAP OCEAN POSTAGE.

Mr. SUMNER submitted the following resolution; which was ordered to lie on the table and be printed:

A resolution in favor of cheap ocean postage. Whereas the inland postage on a letter throughout the United States is three cents, while the ocean postage on a similar letter to Great Britain, under a recent convention, is twelve cents, and on a letter to France is thirty cents, being a burdensome tax, amounting often to a prohibition of foreign correspondence; yet letters can be carried at less cost on sea than on land; and whereas by increasing correspondence, and also by bringing into the mails mailable matters, often now clandestinely conveyed, cheap ocean postage would tend to quicken commerce, to diffuse knowledge, to promote the intercourse of families and friends separated by the ocean, to multiply the bonds of peace and good will among men and nations, to advance the progress of liberal ideas; and thus, while important to every citizen, it would become the active ally of the mer-

chant, the emigrant, the philanthropist, and the friend of liberty: Therefore,

Be it resolved, That the President of the United States be requested to open negotiations with the European Powers, particularly with Great Britain, France, and Germany, for the establishment of cheap ocean postage.

NOTIFICATION TO THE PRESIDENT.

Mr. SHERMAN. I move that the Senate do now adjourn.

Mr. ANTHONY. I suggest to the Senator to move a recess instead of an adjournment. We have not yet heard from the committee appointed to wait upon the President.

Mr. SHERMAN. I have no objection, if the Senator desires to wait for the message.

The PRESIDENT *pro tempore*. Does the Senator from Ohio withdraw his motion?

Mr. SHERMAN. Yes, sir.

Mr. ANTHONY. I move that the Senate take a recess for half an hour.

The motion was agreed to.

At the expiration of the recess, the President *pro tempore* resumed the chair.

Mr. DIXON, from the committee appointed to wait upon the President of the United States and inform him that a quorum of each House had assembled, and that Congress was ready to receive any communication he might be pleased to make, reported that they had discharged the duty assigned them, and that the President instructed them to reply that he would make a communication on Wednesday next at one o'clock by a message in writing.

Mr. HARLAN. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, December 7, 1868.

In conformity to the Constitution and laws, the Fortieth Congress of the United States of America convened this day in its third session. At twelve o'clock m. Hon. SCHUYLER COLFAX, Speaker of the House of Representatives, a member from the State of Indiana, called the House to order.

Rev. C. B. BOYNTON, the Chaplain, offered prayer as follows:

Almighty and most merciful God, our Father who art in Heaven! We give Thee most hearty thanks for Thy preserving care, through which all of us here present have been kept during the time when we have been absent from each other and this place, and through which we are permitted once more to gather here and enter upon the duties that belong to our several stations. We bless Thee, O God, that the Congress of the United States assembles now under circumstances that seem to promise so much for the future of this country after the strife and the agitation of the political contest is over, and when men can address themselves to promote the highest interests of the country untrammelled, as they were not before. And while we look round us upon some vacant seats we are reminded especially that it is through Thy care that any of us are here alive. And we pray Thee, O God, that those who have been written down as mourners may be comforted of God.

And now we desire to commend, in faith on the Lord Jesus Christ, these legislators to Thy holy keeping; and we beseech Thee to impart unto them a wisdom that shall enable them to plan and execute all such measures as may tend to produce universal and stable prosperity and peace. So far as law can do it may they restrain all violence and disorder; and do Thou add, O God, a force greater than human law—the teachings of Thy Holy Spirit, the power of Thy truth, so that men's hearts shall incline them to do right without the restraining influence of a statute. Bless all who are engaged in governing the land. May the benediction of God rest on the whole population, and we be prepared at length for that "rest that remaineth for the people of God," for Jesus sake. Amen.

CALL OF THE ROLL.

The SPEAKER. This being the time fixed by law for the opening of the third session of the Fortieth Congress of the United States, the Clerk of the House will call the roll of members to ascertain whether a quorum is in attendance, and also, at the conclusion of the roll-call, will call the Delegates from the various Territories.

The Clerk called the roll; and the following-named Members and Delegates answered to their names:

MAINE.

John Lynch,	John A. Peters,
Sidney Perham,	Frederick A. Pike.
James G. Blaine,	

NEW HAMPSHIRE.

Jacob H. Ela,	Aaron F. Stevens.
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VERMONT.

Luke P. Poland,	Worthington C. Smith.
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MASSACHUSETTS.

Thomas D. Eliot,	Nathaniel P. Banks,
Oakes Ames,	George S. Boutwell,
Ginery Twichell,	John D. Baldwin,
Samuel Hooper,	William B. Washburn,
Benjamin F. Butler,	Henry L. Dawes.

RHODE ISLAND.

Thomas A. Jenckes,	Nathan F. Dixon.
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CONNECTICUT.

Julius Hotchkiss,	Henry H. Starkweather.
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NEW YORK.

Stephen Taber,	Calvin T. Hulburd,
Demas Barnes,	James M. Marvin,
William E. Robinson,	William C. Fields,
John Fox,	Addison H. Laffin,
Thomas E. Stewart,	John C. Churchill,
James Brooks,	Dennis McCarthy,
Fernando Wood,	Theodore M. Pomeroy,
William H. Robertson,	William H. Kelsey,
John H. Ketcham,	William S. Lincoln,
Orange Ferriss,	Henry Van Aernam.

NEW JERSEY.

William Moore,	John Hill.
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PENNSYLVANIA.

Samuel J. Randall,	George F. Miller,
Charles O'Neill,	Adam J. Glosbrenner,
Leonard Myers,	William H. Koontz,
William D. Kelley,	Daniel J. Morrell,
Benjamin M. Boyer,	Stephen F. Wilson,
John M. Broomall,	Glenn W. Scofield,
Henry L. Oake,	John Covode,
Daniel M. Van Auken,	James K. Moorhead,
George W. Woodward,	George V. Lawrence.
Ulysses Mercur,	

MARYLAND.

Hiram McCullough,	Francis Thomas.
Stevenson Archer,	

NORTH CAROLINA.

John R. French,	Nathaniel Boyden,
David Heaton,	Alexander H. Jones.
Israel G. Lash,	

SOUTH CAROLINA.

B. F. Whittemore,	Simeon Corley,
C. C. Bowen,	James H. Goss.

GEORGIA.

J. W. Clift,	Samuel F. Gove,
Nelson Tift,	C. H. Prince,
W. P. Edwards,	P. M. B. Young.

ALABAMA.

Francis W. Kellogg,	Thomas Haughey,
Benjamin W. Norris,	John B. Callis.

LOUISIANA.

J. Hale Sypher,	Michael Vidal.
Joseph P. Newsham,	

OHIO.

Benjamin Eggleston,	Philadelph Van Trump,
Samuel F. Cary,	Columbus Delano,
Robert C. Schenck,	Martin Welker,
William Lawrence,	Tobias A. Plants,
William Mungen,	John A. Bingham,
Reader W. Clarke,	Ephraim R. Eekley,
John Beatty,	Rufus P. Spalding,
Ralph P. Buckland,	James A. Garfield.
James M. Ashley,	

KENTUCKY.

Lawrence S. Trimble,	Thomas L. Jones,
J. S. Golladay,	James B. Beck,
J. Proctor Knott,	Samuel McKee.

TENNESSEE.

Roderick R. Butler, James Mullins,
Horace Maynard, John Trimble,
William B. Stokes, Samuel M. Arnell.

INDIANA.

William E. Niblack, Henry D. Washburn,
Michael C. Kerr, Godlove S. Orth,
Morton C. Hunter, Schuyler Colfax,
George W. Julian, William Williams,
John Coburn, John P. C. Shanks.

ILLINOIS.

Norman B. Judd, Shelby M. Cullom,
John F. Farnsworth, Lewis W. Ross,
Elihu B. Washburne, Albert G. Burr,
Abner C. Harding, Samuel S. Marshall,
Ebon C. Ingersoll, Jehu Baker,
Burton C. Cook,

MISSOURI.

James R. McCormick, Benjamin F. Loan,
Joseph J. Gravelly, George W. Anderson,
Robert T. Van Horn,

MICHIGAN.

Fernando C. Beaman, Thomas W. Ferry,
Charles Upson, John F. Driggs,
Austin Blair,

IOWA.

James F. Wilson, William B. Allison,
Hiram Price, William Loughridge.

WISCONSIN.

Halbert E. Paine, Charles A. Eldridge,
Benjamin F. Hopkins, C. C. Washburn,
Amasa Cobb,

CALIFORNIA.

Samuel B. Axtell, William Higby.

MINNESOTA.

William Windom, Ignatius Donnelly.

OREGON.

Rufus Mallory, Sidney Clarke.

WEST VIRGINIA.

Chester D. Hubbard, Daniel Polsley,
Bethuel M. Kitchen,

NEBRASKA.

John Taffe, George M. Chilcoat.

COLORADO.

NEW MEXICO. ARIZONA.

Charles P. Clever, Coles Bashford.

WASHINGTON. MONTANA.

Alvan Flanders, James M. Cavanaugh.

The SPEAKER. One hundred and sixty-eight members have answered to their names, and a quorum is now in attendance.

Mr. CULLOM. I desire to state that General LOGAN is absent on account of sickness.

ORGANIZATION OF CONGRESS.

Mr. WASHBURN, of Illinois, offered the following resolution; which was agreed to:

Resolved, That the Clerk acquaint the Senate that a quorum of the House of Representatives has assembled, and is now ready to proceed to business.

Mr. WASHBURN, of Illinois, also offered the following resolution; which was agreed to:

Resolved, That a committee of three be appointed on the part of the House, to join such committee as may be appointed on the part of the Senate, to wait on the President of the United States, and to inform him that a quorum of the two Houses is now in session, and that Congress is ready to receive any communication he may be pleased to make.

The SPEAKER appointed as the committee on the part of the House of Representatives Messrs. WASHBURN of Illinois, SCHENCK of Ohio, and BROOKS of New York.

Mr. SCHENCK. I ask to be excused from service on that committee.

By unanimous consent, Mr. SCHENCK was excused, and the Speaker appointed in his place Mr. GARFIELD, of Ohio.

MEMBERS SWORN IN.

The SPEAKER. The Chair lays before the House credentials from the Governor of Pennsylvania, in regard to two seats where vacancies have occurred since the last session of Congress, by the death of Mr. Stevens and Mr. Finney. If there is no objection the members-elect will present themselves to the Speaker's desk and take the oath of office.

Mr. LOAN. I suggest that the successor of Mr. McClurg, elected from the State of Missouri, who is present and presents his credentials, be also sworn in.

The following members accordingly appeared, and were duly qualified by taking the oath prescribed by law:

S. NEWTON PETTIS, from the twentieth congressional district of Pennsylvania;

OLIVER J. DICKEY, from the ninth congressional district of Pennsylvania; and

JOHN H. STOVER, from the fifth congressional district of Missouri.

REPRESENTATIVE FROM GEORGIA.

The SPEAKER. The Chair also lays before the House, as a question of privilege, the following credentials from the Governor of the State of Georgia, which will be reported in full by the Clerk.

The Clerk read as follows:

STATE OF GEORGIA.

By his Excellency RUFUS B. BULLOCK,
Governor of said State:

To Hon. JOHN A. WIMPY, greeting:
Whereas the convention of the people of this State held under the reconstruction acts of Congress passed an ordinance dated March 10, 1868, which ordained that an election be held beginning on the 20th day of April, 1868, for Representatives to the Congress of the United States; and whereas the returns made agreeably to said ordinance show that John H. Christy received the highest number of votes for Representative from the sixth congressional district of this State; and whereas I am satisfied, from the evidence in my possession, that said Christy is, under the fourteenth amendment to the Constitution of the United States, ineligible to office; and whereas section one hundred and twenty-one of the code of Georgia declares that if at any popular election to fill any office the person elected is ineligible the person receiving the next highest number of votes who is eligible, whenever a plurality elects, shall be declared elected and be qualified and commissioned to such office; and whereas you, the said John A. Wimpy, have received the next highest number of votes in said sixth congressional district at said election, and are not ineligible; and whereas it is my duty, under the laws of Georgia, to commission persons legally elected: these are, therefore, to commission you, the said John A. Wimpy, to take session in the House of Representatives of the United States in accordance with said election under said ordinance, a copy of which is herewith annexed, and to use and exercise all and every privilege and power which of right you may or can do in and by virtue of the constitution in behalf of this State.

Given under my hand and the great seal of the State at the capital in Atlanta, this 24th day of November, A. D. 1868, and of the independence of the United States of America the ninety-third.

By the Governor:

DAVID G. COLTING,
Secretary of State.

Mr. BROOKS. Mr. Speaker, I hold in my hand a certificate from Major General Meade, commanding in the military district in which Georgia is situated—a certificate of election under the reconstruction acts of Congress—giving the seat to John H. Christy. I send it to the Clerk's desk and ask that it be read; after which I propose to make a few remarks in reply to the statements in the certificate which has just been read.

The Clerk read as follows:

HEADQUARTERS THIRD MILITARY DISTRICT,
(GEORGIA, FLORIDA, AND ALABAMA.)

From returns made to these headquarters by boards of registration of the election held in the State of Georgia for civil officers of said State and for members of Congress, under the provisions of General Order No. 40, issued from these headquarters, which election commenced on the 20th day of April and continued four days, it is hereby certified that it appears that in said election John H. Christy received a majority of the votes cast for a Representative to the Congress of the United States from the sixth congressional district in said State of Georgia.

GEORGE G. MEADE,

Major General United States Army, Commanding.

Mr. BROOKS resumed the floor.

Mr. DAWES. Mr. Speaker—

Mr. BROOKS. I will yield the floor temporarily to the gentleman from Massachusetts.

Mr. DAWES. I rose to make a motion that both these papers be referred to the Committee of Elections.

Mr. BROOKS. That is a proper motion, and I propose to make the same motion; but in order to obviate any wrong impression that may go abroad from the certificate of the Governor of Georgia I wish to state that this gentleman from the State of Georgia, Mr. Christy, holds the same certificate that all the other members from Georgia on this floor hold—a certificate from Major General Meade, commanding in the district of Georgia. I wish also

to state that no proceedings whatsoever have been taken in the State of Georgia which exhibit any disqualification against Mr. Christy, certainly none which does not equally apply to the gentleman who holds the certificate from the Governor of the State of Georgia in opposition to that of the military commander of the State of Georgia. Mr. Wimpy, who holds the certificate from the Governor of the State of Georgia, was, I understand, during the rebellion a subordinate officer in the rebel army of Georgia in the employ of the Confederate States, and would be utterly disqualified from taking the oath or any oath whatsoever qualifying him as a member of this House, provided he had not been exempted by a special act of Congress from all disqualifications at the last session of Congress. After his exemption from those disqualifications by a special act of Congress, he goes to the Governor of Georgia and claims that Mr. Christy is disqualified. Mr. Christy was always a Union man prior to the war, a Whig editor, who only yielded to the overwhelming impulse of the State of Georgia. Unable to receive protection from the Federal Government, the *de jure* Government of the United States, as well as of the State of Georgia, he yielded obedience to the *de facto* government of the State of Georgia. He was a Union man, and voted against secession, and exerted his whole influence as a Whig editor against secession; but when it was discovered that he was elected Mr. Wimpy came here to Washington and received an exemption among the three or four or six thousand—I know not how many there were—exemptions by Congress which were suddenly enacted by Congress. He then went to the Governor of the State of Georgia and claimed the certificate from the Governor, not because he had received the highest number of votes, but a secondary number. On that certificate he presents himself here to this House and claims the right to occupy a seat here.

I do not propose to make any extended remarks upon this subject. I suppose the whole subject properly goes to the Committee of Elections, by whom it will be fully considered. I therefore move that these papers be referred to the Committee of Elections, and on that motion I call the previous question.

Mr. DAWES. Will the gentleman from New York [Mr. Brooks] withdraw that motion, and yield to me for a single moment?

Mr. BROOKS. Certainly, I will do so.

Mr. DAWES. I understand the position of this case to be this—I did not hear very distinctly the gentleman from New York—but a paper is read at the Clerk's desk which makes a charge of disloyalty against one of these gentlemen, and I understand the gentleman from New York to make a similar charge against the other. It has been the rule of this House whenever a charge is made in apparent good faith against the loyalty of any man presenting himself for a seat in this House to refer that question to the Committee of Elections for examination before an applicant is sworn in. These two men, it seems, come here each claiming the seat, and a charge is made against each that he is ineligible to office. I think, therefore, that, without any further delay, it would be proper that this matter be referred to the Committee of Elections, so that that committee may investigate these charges. I accordingly renew the motion of the gentleman from New York.

The previous question was then seconded and the main question ordered; and under the operation thereof the motion to refer was agreed to.

Mr. BROOKS moved to reconsider the vote by which the motion to refer was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, informed the House that a quorum of the Senate had assembled, and the

Senate was ready to proceed to business; also that the Senate had appointed Mr. Dixon and Mr. HENDRICKS as a committee on the part of the Senate, to join such committee as may be appointed by the House of Representatives, to wait upon the President of the United States and inform him that a quorum of each House has assembled, and that Congress is ready to receive any communication he may be pleased to make to them.

ORDER OF BUSINESS.

Mr. MAYNARD. I rise to a question of privilege.

Mr. WASHBURN, of Illinois. Will the gentleman yield to me to offer a resolution of inquiry?

Mr. MAYNARD. Certainly.

Mr. WASHBURN, of Illinois. I desire to offer a resolution calling upon the Department for information.

The SPEAKER. The Chair cannot entertain any resolution calling for executive information until the morning hour shall have concluded.

Mr. WASHBURN, of Illinois. Has not the morning hour now commenced?

The SPEAKER. It has not; but it will as soon as the preliminary questions of privilege, such as the swearing in of members, &c., shall have been concluded.

ADDITIONAL MEMBER FROM TENNESSEE.

Mr. MAYNARD. Tennessee believes that by reason of her voluntary and unenforced emancipation of her colored population she is entitled to an additional member of this House. She has, therefore, elected Thomas A. Hamilton, whose credentials I now present, and move that they be referred to the Committee of Elections, and that during the pendency of the matter before that committee Mr. Hamilton be accorded the usual privileges of the floor.

Mr. SPALDING. I do not object to the reference, but I object to giving the privileges of the floor to this applicant.

The SPEAKER. The uniform usage of the House is to allow any person who claims a seat here upon an apparent paper title to have the privilege of the floor.

Mr. SPALDING. We doubt whether this is an apparent paper title. As the gentleman from Tennessee [Mr. MAYNARD] discloses the case it is an entirely new apportionment of the State of Tennessee.

The SPEAKER. The paper will be referred to the Committee of Elections if there be no objection, after which the Chair will submit to the House the question upon the motion to extend to the claimant the privilege of the floor.

No objection was made; and the motion to refer was accordingly agreed to.

The question recurred upon the motion to extend to Mr. Thomas A. Hamilton, of Tennessee, the privilege of the floor of the House, pending the consideration of his case by the Committee of Elections.

Mr. MAYNARD. I ask that the credentials of Mr. Hamilton be read.

The Clerk read as follows:

STATE OF TENNESSEE.

To all who shall see these presents, greeting:

I, William G. Brownlow, Governor of the State of Tennessee, do hereby certify that at a general election opened and held in said State on the first Tuesday of November, 1868, for the purpose of electing a President and Vice President and Representatives of the State of Tennessee in the Fortieth Congress of the United States, Thomas A. Hamilton, in the county of Shelby, was regularly elected, in accordance with the laws of the State of Tennessee and of the United States, Representative in said Congress for the State at large, and I do, therefore, by virtue of the statute in that case made and provided, commission the said Thomas A. Hamilton, Representative in Congress as aforesaid, during the term and with all the powers, privileges, and emoluments pertaining.

In testimony whereof I have hereunto subscribed my name and caused the great seal of the State of Tennessee to be affixed, at the executive department, in the city of Nashville, at the 28th day of November, 1868.

WILLIAM G. BROWNLOW.

By the Governor:

A. J. FLETCHER,
Secretary of State.

Mr. SPALDING. If the act of Congress provides for the election of a Representative at large from the State of Tennessee then I yield the question; otherwise I say it is an incongruity.

Mr. MAYNARD. I desire to say that this application is made in the very best of faith, bottomed upon a solemn enactment of the Legislature of Tennessee and the action of her entire voting population at the ballot-box; and I trust that the courtesy which is ordinarily extended will be extended to this gentleman.

The SPEAKER. The motion of the gentleman from Tennessee is that this gentleman shall be entitled to the privilege of the floor of the House during the pendency of this investigation.

Mr. POLAND. Mr. Speaker, I quite agree that when a gentleman comes here with proper credentials duly certified from any district in the United States the usual course is for the House to allow him to take a seat upon the floor until the validity of his election, if any question be made about it, be determined by the House. But by the law of Congress the number of members to which each State is entitled is fixed; and when a gentleman comes here as a supernumerary from a State, there being no district for him to represent, there is no law by which he can be entitled to a seat upon this floor. I suppose it to be true, Mr. Speaker, that many of the States would, by the ratio established under the last census, be entitled to a considerable additional number of Representatives; but it would, I think, be very strange if Indiana or Illinois, or any of the States whose population has so largely increased, should, taking the ratio fixed by the last census, elect so many more members at large as the State would be entitled to in consequence of the increase of population. And although the general principle is that when a man comes here claiming to represent a district, and shows credentials proper upon their face, he should be allowed to take his seat while the question of his title is being considered, yet here there is no district; we have no legal knowledge that there is any population in Tennessee that entitles the State to more than the number of Representatives that it already has upon this floor.

Mr. NIBLACK. Will the gentleman from Vermont [Mr. POLAND] yield to me for a single suggestion?

Mr. POLAND. Yes, sir.

Mr. NIBLACK. I beg to remind the gentleman and the House that it has not been the uniform practice to admit to the privileges of the floor every gentleman coming here with a certificate claiming a seat. It will be remembered that three years ago, when persons claiming to be elected from the various southern States recently in rebellion, and holding certificates from the acting Governors of those States, presented those certificates and asked to be admitted to seats in this House, they were all denied the courtesy of the floor pending the consideration of their claims to seats, although they held, as I have remarked, regular certificates. Such having been the policy adopted by the House in reference to the gentlemen then claiming seats, I beg to know why a different policy should be adopted in reference to this particular case from the State of Tennessee.

Mr. POLAND. I did not say, Mr. Speaker, that such had been the uniform course.

Mr. NIBLACK. My remark was called out by the remark which fell incidentally from the Chair, to the effect that it had been the uniform practice to extend this courtesy.

Mr. POLAND. I have said, Mr. Speaker, that the usual course—not the uniform course—where a man has presented himself with credentials regular upon their face, has been to allow him to take his seat, although there might be a question as to whether he had been legally elected. I am aware that an exception has been made—whether properly or improperly I have no occasion to give an opinion—

where a question was raised in relation to the loyalty, the personal qualifications, of the men presenting credentials; but those cases, whether the decision of the House was wise or unwise, have no application to the question presented here. We might with the same propriety come and claim that Vermont by an increase of population was entitled to an additional member, and elect one by the State at large. I say there is no legal information before the House that Tennessee, under a new apportionment, would be entitled to any more members than she has already on the floor, and no law whatever in existence that I know of by which, until a new census is taken and a new apportionment made for the State of Tennessee, she can be entitled to any more members than now represent that State.

Mr. MAYNARD. Mr. Speaker, I did not propose to argue the question of right at this time. It would be entirely premature; it would anticipate the action of the committee and the province of the committee-room. The question now seems to be one addressed to the courtesy of the House. I will remind my friend from Indiana that the action taken in the case to which he refers had no applicability to the gentlemen themselves. It was not an appeal to our courtesy toward individual gentlemen that came here. The action of the House was based on the attitude of the alleged State government under which they came. The action had reference to those alleged governments, and not to the gentlemen themselves. But I will refer the gentleman from Vermont [Mr. POLAND] to a precedent in the Thirty-Seventh Congress which may possibly have escaped his notice, as I believe he was not a member of the House in that Congress. Under the general apportionment law the State of California was entitled to two members, and only two. She however believed that she should be entitled in that Congress to an additional member, and elected such a member, Hon. Mr. Lowe, from that State. He came here; his credentials were referred to the Committee of Elections; they examined his claim, reported in favor of it, and he was admitted to his seat; and my recollection is that pending the examination the House of Representatives extended to him the same courtesy that is now asked.

Mr. DAWES. If my friend will allow me. So far as the precise question before the House is concerned, granting to this gentleman leave to come upon the floor, he is correct. Mr. Lowe was admitted to a seat on the floor pending the question, but my friend is mistaken as to the action of the Committee of Elections. It was just the reverse of what he stated. But after the report of the Committee of Elections, which was adopted by the House, a bill was brought into the House, and a law passed Congress allowing to California an additional member; and then, after the passage of that law, Mr. Lowe was admitted. It was passed upon the allegation on the part of California that there had been a great mistake in the census, some of the census returns having been burned up in a fire that took place somewhere in the State, and the House became satisfied in that case that, had all her returns been made, California would have been entitled to a third Representative. But the action of the Committee of Elections was against the applicant under existing law, though they recommended, if I mistake not, the passage of such a law as was passed, and under it Mr. Lowe became a member of the House.

Mr. MAYNARD. The gentleman is correct. Inasmuch as the first application on the part of Mr. Lowe was under the census of 1860, the apportionment under which did not go into operation till the next succeeding Congress, they reported against him, basing his claim on that ground. They, however, as the chairman of the Committee of Elections correctly states, reported a bill in his favor predicated upon the grounds which the gentleman has suggested. The bill passed, and Mr. Lowe was admitted to a seat; but pending that application he was allowed the ordinary privilege of

coming upon the floor and holding conference with members if he chose to do so. I trust the same courtesy—and the main question is one of courtesy—will be extended to the case of the gentleman from Tennessee.

Mr. SPALDING. If this is only a question of courtesy, I have nothing further to say. I withdraw my objection. I only objected to its being made a precedent.

Mr. MAYNARD. That is all it can be—an appeal to the courtesy of the House.

Mr. MUGEN. Mr. Speaker, I would not say a word on this matter were it not for settling a question of precedent in this Congress, anticipating that the question would come up from another State. I beg leave to call the attention of gentlemen to the fact that this question of the privilege of the floor is no new one; that on the motion of Mr. Stevens, of Pennsylvania, in the Thirty-Eighth Congress, the House did admit to the privilege of the floor the members elected from Tennessee; and in the Thirty-Ninth Congress, when Colonel Johnson, who had been a colonel in the Federal Army and had served three years, came here claiming a seat from the third district of the State of Arkansas, he was denied the privileges of this floor. On motion of Hon. Green Clay Smith, then a member from the State of Kentucky, on the 13th of February, 1866, the question was brought directly before the House. There was no question as to the status of Colonel Johnson as to loyalty, and Mr. Stevens admitted (Congressional Globe, page 812) that Tennessee, the State from which the gentleman hails, at that time was in the same condition as the State of Arkansas, from which Colonel Johnson claimed his seat. Now, I say that if a colonel of a Federal regiment who had served for three years in the Army could not get in here at all for two years, I do not think we ought to let this gentleman have the privileges of the floor in this case. I say this only as a question of precedent. I know nothing about this gentleman, but I do not want the precedent set, and I shall vote against the motion of the gentleman from Tennessee.

Mr. MAYNARD. I move the previous question.

The previous question was seconded and the main question ordered.

The question was put on Mr. MAYNARD's motion; and there were—ayes 45. noes 85.

Mr. MAYNARD called for tellers.

Tellers were not ordered.

The motion was disagreed to.

The SPEAKER. The morning hour has now commenced. The business first in order is calling the States in their regular order for resolutions, during which call bills may be presented for reference also. The call commences with the State of Maine.

EXPANSION AND CONTRACTION OF CURRENCY.

Mr. LYNCH introduced a bill (H. R. No. 1461) to provide against undue expansions and contractions of the currency; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

DRAWBACK ON VESSELS.

Mr. LYNCH also introduced a bill (H. R. No. 1462) to allow a drawback upon articles used in the construction of vessels; which was read a first and second time.

Mr. LYNCH moved that the bill be referred to the Committee on Commerce.

Mr. ALLISON. That bill ought to go to the Committee of Ways and Means. I move that it be so referred.

Mr. LYNCH. I have no objection to that reference.

The bill was referred to the Committee of Ways and Means.

ELECTION OF FEDERAL OFFICERS.

Mr. BOUTWELL introduced a bill (H. R. No. 1463) declaring who may vote for electors of President and Vice President and for Representatives in Congress; which was read a

first and second time, and referred to the Committee on the Judiciary.

EIGHT-HOUR LAW.

Mr. DAWES offered the following resolution; upon which he demanded the previous question:

Resolved, That the Committee on the Judiciary be instructed to inquire whether any legislation is necessary to secure to Government employes uniformity of compensation under the eight-hour law and an administration of the same according to its true intent, and that they be authorized to report by bill or otherwise.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. DAWES moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

UNRECONSTRUCTED STATES.

Mr. BOUTWELL submitted the following resolution; upon which he demanded the previous question:

Resolved, That the Committee on Reconstruction be directed to examine into the condition of public affairs in Virginia, Mississippi, and Texas, and to report as soon as practicable what measures, if any, are necessary for the better protection of life, liberty, and property.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. BOUTWELL moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REDEMPTION OF GREENBACKS.

Mr. PIKE offered the following resolution; upon which he demanded the previous question:

Resolved, That in the judgment of this House justice to the public creditor and sound policy demand there should be no further delay in the payment in gold of the United States notes commonly called greenbacks; and the Committee of Ways and Means are hereby directed to report a bill providing that measures be taken at once to effect that purpose.

Mr. FARNSWORTH. Is not that resolution mandatory?

The SPEAKER. It is.

Mr. FARNSWORTH. Well, I think it had better be referred, and not adopted.

Mr. PIKE. Let us have a vote in the House on it.

Mr. SCHENCK. I hope the previous question will not be sustained, and the resolution will be referred.

Mr. KELLEY. I propose to discuss the resolution.

The SPEAKER. The gentleman from Maine has a right to demand the previous question. If the previous question shall not be sustained the gentleman can rise to debate the resolution, when it will go over under the rule.

The question was put; and the House refused to second the previous question.

Mr. PIKE. I move that the resolution be referred to the Committee of Ways and Means. The motion was agreed to.

FREEDMEN'S BUREAU.

Mr. ELIOT introduced a bill (H. R. No. 1464) continuing the Freedmen's Bureau in Virginia, Mississippi, and Texas; which was read a first and second time, and referred to the Committee on Freedmen's Affairs.

Mr. ELIOT. I have here a memorial upon this subject from the Governor and other citizens of Virginia, which I ask may be referred to the same committee by unanimous consent.

The SPEAKER. The Chair cannot, during the morning hour of Monday, ask unanimous consent for anything. The paper referred to by the gentleman can be presented as a paper accompanying the bill, and will be referred with the bill.

Mr. ELIOT. Very well; I ask that that course be taken.

The paper was accordingly referred.

TONNAGE DUTY ON SPANISH VESSELS.

Mr. ELIOT submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of repealing the acts of July 13, 1832, and June 30, 1834, concerning tonnage duty on Spanish vessels.

ALABAMA CLAIMS.

Mr. WOOD submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the President be requested to communicate to this House, if not incompatible with the public interest, copies of the letters of instruction to the American minister at London, relating to the settlement of the so-called "Alabama claims," and any subsequent correspondence with him or the British Government on that subject.

Mr. WOOD moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SUFFRAGE.

Mr. KELLEY introduced a joint resolution (H. R. No. 363) proposing an amendment to the Constitution of the United States; which was read a first and second time.

Mr. ROBINSON. I ask that the joint resolution be read at length.

The joint resolution was read. It provides that the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be valid as part of said Constitution, namely:

ARTICLE —. No State shall deny to or exclude from the exercise of any of the rights or privileges of an elector any citizen of the United States by reason of race or color.

Mr. KELLEY. I move that the joint resolution be referred to the Committee on the Judiciary, and that it be printed.

The motion was agreed to.

Mr. BROOMALL introduced a joint resolution (H. R. No. 364) proposing an amendment to the Constitution of the United States so as to prohibit qualification of suffrage based upon race or parentage; which was read a first and second time.

Mr. ELDRIDGE. I ask that the joint resolution be read at length.

The joint resolution was read. It provides that the following amendment to the Constitution of the United States be proposed to the Legislatures of the several States:

ARTICLE XV.—Neither Congress nor any State by its constitution or laws shall deny or restrict the right of suffrage to citizens of the United States on account of race or parentage of such citizens; and all qualifications or limitations of the right of suffrage in the constitution or laws of any State, based upon race or parentage, are, and are hereby, declared to be void.

Mr. BROOMALL. I move that the joint resolution be referred to the Committee on the Judiciary, and ordered to be printed.

The motion was agreed to.

NATURALIZATION OF ALIENS.

Mr. BROOMALL introduced a bill (H. R. No. 1465) amending the laws providing for the naturalization of aliens; which was read a first and second time.

The bill was read at length. The first section provides that no certificate of naturalization shall be issued to any alien except by a competent court held in the county or parish in which such alien has actually resided for thirty days immediately preceding, and that the proof of residence shall be made to the satisfaction of said court by the testimony of at least one competent witness besides the applicant, who shall also be a *bona fide* resident of the county or parish.

The second section provides that no certificate of naturalization shall be issued by any court in any State within three months immediately preceding the time fixed for holding an election for State or United States officers in such State.

Mr. BROOMALL. I understand that there is a Committee on Revision of the Laws.

The SPEAKER. There was a select committee of that kind, which has been made a standing committee of the House.

Mr. BROOMALL. I move that this bill be referred to that committee.

The motion was agreed to.

RECALL OF REVERDY JOHNSON.

Mr. MORRELL introduced a joint resolution (H. R. No. 365) requesting the President to recall Reverdy Johnson, minister to England; which was read a first and second time.

Mr. MORRELL. I desire the consideration of this resolution at the present time, and call the previous question.

The SPEAKER. The question is on ordering the joint resolution to be engrossed and read the third time, on which the gentleman from Pennsylvania [Mr. MORRELL] demands the previous question.

The joint resolution was read, as follows:

Resolved, by the Senate and House of Representatives, &c., That the conduct of Reverdy Johnson, minister to England, is prejudicial to the interests and dignity of this nation, and the President is hereby requested to immediately order his recall.

Mr. RANDALL. I move that the joint resolution be laid on the table.

The SPEAKER. The motion to lay on the table takes precedence of the demand for the previous question.

Mr. RANDALL. Is it in order now to make any remarks?

The SPEAKER. It is not.

Mr. MORRELL. I withdraw the call for the previous question, and move the reference of the joint resolution to the Committee on Foreign Affairs.

The SPEAKER. Does the gentleman from Pennsylvania [Mr. RANDALL] withdraw the motion to lay on the table?

Mr. RANDALL. No, sir. We are without any facts to justify the assertion contained in the resolution.

The motion of Mr. RANDALL was not agreed to.

The SPEAKER. The question recurs on the motion to refer the joint resolution to the Committee on Foreign Affairs.

Mr. BANKS. I call for the previous question.

The previous question was seconded and the main question ordered.

Mr. SCOTFIELD. Mr. Speaker, if we vote down the motion to refer, can we not afterward have a square vote on the resolution?

The SPEAKER. If the motion to refer be voted down, the previous question, under the rules, will not exhaust itself until the vote on the third reading of the joint resolution.

On the motion to refer the joint resolution to the Committee on Foreign Affairs there were—yeas 94, noes 41.

Mr. SCOTFIELD. I call for the yeas and nays.

The yeas and nays were not ordered.

So the joint resolution was referred to the Committee on Foreign Affairs.

Mr. BANKS moved to reconsider the vote by which the joint resolution was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

INTERNAL REVENUE ASSESSORS.

Mr. MILLER introduced a bill (H. R. No. 1466) to reduce the number of assessors of United States revenue; which was read a first and second time, and referred to the Committee of Ways and Means.

AMENDMENT OF BANKRUPT LAW.

Mr. MILLER also introduced a bill (H. R. No. 1467) repealing so much of the third section of the general bankrupt law, approved March 2, 1867, as directs the Chief Justice of the Supreme Court of the United States to nominate and recommend registers in bankruptcy, and to vest that appointing power in the President of the United States; which was

read a first and second time, and referred to the Committee on the Judiciary.

POWERS OF CONFERENCE COMMITTEES.

Mr. RANDALL submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Rules be requested to inquire into the expediency of introducing an amendment to the joint rules taking from all committees of conference the power of increasing in amount any item of appropriation bills in which the two Houses have concurred, or of introducing any new item of appropriation not previously considered by the House or the Senate.

PUBLIC AFFAIRS IN GEORGIA.

Mr. SCOTFIELD submitted the following resolution; on which he demanded the previous question:

Resolved, That the Committee on Reconstruction examine into the condition of public affairs in Georgia, and that the committee have power to send for persons and papers.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. SCOTFIELD moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BENJAMIN W. PERKINS.

Mr. BANKS. Mr. Speaker, I was not present when the State of Massachusetts was called, and I ask leave to offer a resolution which I promised the House last session should be presented, but which I was prevented from offering by an accident at the close of the session. It is in pursuance of a promise I made to the House.

The Clerk read the resolution, as follows:

Resolved, That the President be requested to use the good offices of this Government for the purpose of obtaining from the Russian Government a prompt and just consideration and settlement of the claims of Benjamin W. Perkins, and other citizens of the United States, arising under contracts with said Russian Government, made pending the Crimean war.

Mr. BANKS. I demand the previous question.

Mr. RANDALL. I should like to have some explanation of that resolution.

Mr. BANKS. I hope the House will agree to it.

The resolution was again read.

Mr. CULLOM. I hope that resolution will be referred to the Committee on Foreign Affairs.

Mr. BANKS. I have no objection. Let it be so modified. I now demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was referred to the Committee on Foreign Affairs.

Mr. BANKS moved to reconsider the vote by which the resolution was referred; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

PRESIDENT'S IMPEACHMENT EXPENSES.

Mr. ARCHER submitted the following resolution; on which he demanded the previous question:

Resolved, That the Committee on the Judiciary be requested to report a bill appropriating the sum of \$50,000, or so much thereof as may be necessary, to reimburse President Johnson for the expenses incurred by him in defending himself in the impeachment trial.

The previous question was seconded, and the main question ordered.

Mr. KELSEY. I move that the resolution be laid upon the table.

Mr. SCOTFIELD. Does the gentleman think that \$50,000 will reimburse all of the President's expenses?

Mr. ARCHER. I do, sir.

The SPEAKER. If the resolution gives rise to debate it must, under the rule, lie over.

The resolution was laid on the table.

F. J. MOSES, OF SOUTH CAROLINA.

Mr. WHITEMORE introduced a bill (H. R. No. 1468) to remove the disabilities of F. J. Moses, a citizen of South Carolina; which was read a first and second time, and referred to the Committee on Reconstruction.

ANDREW RAMSAY, OF SOUTH CAROLINA.

Mr. WHITEMORE, also introduced a bill (H. R. No. 1469) to remove the disability of Andrew Ramsay, a citizen of South Carolina; which was read a first and second time, and referred to the Committee on Reconstruction.

REMOVAL OF POLITICAL DISABILITIES.

Mr. TIFT submitted a joint resolution of the Legislature of Georgia petitioning Congress to remove from every citizen of Georgia, irrespective of party associations, all disabilities imposed by the third section of the proposed amendment to the Constitution of the United States known as "Article XIV," which was referred to the Committee on the Judiciary, and ordered to be printed.

IMPROVEMENT OF MOBILE BAY AND HARBOR.

Mr. KELLOGG introduced a bill (H. R. No. 1470) to provide for the improvement of the bay and harbor of Mobile; which was read a first and second time, and referred to the Committee on Commerce.

NATURALIZATION LAWS.

Mr. SCHENCK submitted the following resolution; on which he demanded the previous question:

Resolved, That the Committee on the Judiciary be instructed to inquire what amendments to the laws relating to naturalization are needed to give greater security and purity to elections, and particularly whether there ought not to be such provisions enacted as—

1. To confine the power of receiving declarations of intention to become citizens and of issuing letters or certificates of naturalization to the courts of the United States and the higher courts of record of the several States.

2. To require uniformity of proceedings in all such cases in the several courts so authorized.

3. To require that each such certificate of declaration or letter of naturalization shall be signed by the judge presiding in the court from which the same may be issued, as well as attested by the seal of the court and signature of its clerk.

4. To require, under proper penalties, a complete record to be kept of all the steps and proceedings had in the case of each such application, including a full copy of the certificate of declaration issued or letter of naturalization granted, and the testimony in full on which any such letter was granted; and also a full and convenient index of the names of persons naturalized.

5. To authorize letters of naturalization hereafter to be issued in four years after arrival in the United States, but conditioned only to take effect so as to confer rights of citizenship one year after the date of such issue;

And that the said committee be instructed to report at as early a day as practicable by bill or otherwise.

Mr. SPALDING. I move to amend the resolution by inserting the Committee on Revision of Laws of the United States, instead of the Committee on the Judiciary.

Mr. SCHENCK. I prefer to have it go to the Committee on the Judiciary.

Mr. WOOD. I move that the resolution be laid on the table.

Mr. ELDRIDGE. I demand the yeas and nays on the latter motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 32, nays 125, not voting 63; as follows:

YEAS—Messrs. Adams, Archer, Axtell, Barnes, Beck, Boyer, Burr, Chandler, Ela, Eldridge, Fox, Glossbrenner, Hotchkiss, Thomas L. Jones, Kerr, Knott, Marshall, McCormick, McCullough, Mungen, Niblack, Phelps, Randall, Robinson, Ross, Taber, Lawrence S. Trimble, Van Auker, Van Trump, Wood, Woodard, and Young—32.

NAYS—Messrs. Allison, Anderson, Arnell, James M. Ashley, Baker, Baldwin, Banks, Beaman, Beatty, Benjamin, Bingham, Blaine, Blair, Boutwell, Boyden, Broomall, Benjamin F. Butler, Roderick R. Butler, Cake, Callis, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Corley, Cullom, Dawes, Delano, Dickey, Dixon, Donnelly, Eckley, Edwards, Eggleston, Eliot, Farnsworth, Ferriss, Ferry, Fields, French, Goss, Gove, Gravely, Haughey, Heaton, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jonckes, Alexander H. Jones, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchin, Koontz, Laffin, Lash, George V. Lawrence, Lincoln, Loan, Lynch, Mallory, Marvin, Maynard, McCarthy, McKee, Mercur,

Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newsham, Norris, O'Neill, Orth, Paine, Perham, Peters, Pettis, Pike, Plants, Poland, Polsley, Pomeroy, Price, Robertson, Schenck, Scofield, Shanks, Smith, Spalding, Starkweather, Stewart, Stokes, Stover, Sypher, Taffe, Thomas, Tift, John Trimble, Twichell, Upson, Van Aernam, Vidal, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Whittemore, James F. Wilson, Stephen F. Wilson, and Windom—125.

NOT VOTING—Messrs. Ames, Delos R. Ashley, Bailey, Barnum, Benton, Blackburn, Boies, Bowen, Bromwell, Brooks, Buckland, Buckley, Clift, Cornell, Covode, Deweese, Dockery, Dodge, Driggs, Garfield, Getz, Golladay, Griswold, Grover, Haight, Halsey, Hamilton, Harding, Hawkins, Holman, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Johnson, Kellogg, William Lawrence, Logan, Loughridge, Morrissey, Newcomb, Nicholson, Nunn, Pierce, Pike, Prince, Pruyn, Raun, Roots, Sawyer, Selye, Shellabarger, Sigreaves, Stevens, Stone, Taylor, Trowbridge, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Thomas Williams, William Williams, John T. Wilson, and Woodbridge—63.

So the resolution was not laid on the table.

Mr. SCHENCK. I withdraw the demand for the previous question for the purpose of saying that as one bill on the same subject has gone to the Committee on Revision of Laws of the United States, and as I understand from the chairman of that committee they are anxious to dispose of this subject at an early day if referred to them, I will modify the resolution so as to refer it to the Committee on Revision of Laws of the United States. I now renew the demand for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution, as modified, was adopted.

Mr. SCHENCK moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REGULATION OF BREVETS.

Mr. SCHENCK also introduced a bill (H. R. No. 1471) to further regulate brevets in the Army; which was read a first and second time, and referred to the Committee on Military Affairs, and ordered to be printed.

ELECTION IN VIRGINIA.

Mr. BINGHAM introduced a bill (H. R. No. 1472) to provide for an election in Virginia; which was read a first and second time, and referred to the Committee on Reconstruction.

SALE OF SURPLUS GOLD.

Mr. LAWRENCE, of Ohio, submitted the following resolution; on which he demanded the previous question:

Resolved, That the Committee of Ways and Means be directed to inquire into the expediency of providing by law that it shall be the duty of the Secretary of the Treasury to sell from time to time the surplus gold in the Treasury not required for paying the interest on the public debt, and to apply the proceeds, with any surplus money in the Treasury, in liquidation of portions of the public debt in such manner as may be authorized by law.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. LAWRENCE, of Ohio, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RESUMPTION OF SPECIE PAYMENTS.

Mr. SPALDING submitted the following resolution; on which he demanded the previous question:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of providing by law for the speedy resumption of specie payments by the Government of the United States; and that said committee be requested to report on this subject at as early a day in the present session as may be practicable.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. SPALDING moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ALEXANDER M'CONNELL.

Mr. SPALDING also introduced a bill (H. R. No. 1473) for the relief of Alexander M'Connell; which was read a first and second time, and referred to the Committee of Claims.

CIVIL-TENURE LAW.

Mr. CARY submitted the following resolution; on which he demanded the previous question:

Whereas the symmetry and strength of our republican form of government consist in its wise distribution of powers between the executive, judicial, and legislative departments; and whereas the Thirty-Ninth Congress by the enactment of the "law regulating the tenure of certain civil offices" transcended the limits of its jurisdiction by taking from the President one of his most essential prerogatives and making him a mere recording secretary of the Senate; and whereas infringements upon the constitutional rights of the Chief Magistrate ought not to be continued:

Resolved by the Senate and House of Representatives, That the act regulating the tenure of certain civil offices, passed March 2, 1867, be, and the same is hereby, repealed.

Mr. MAYNARD. That is an important subject; and I think we should consider it a little; and I therefore move that it be laid on the table in order that we may be enabled to do so.

The motion was agreed to.

Mr. SCOTFIELD moved to reconsider the vote by which the resolution was laid on the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NATURALIZATION LAWS—AGAIN.

Mr. McKEE submitted the following resolution; on which he demanded the previous question:

Whereas experience has demonstrated that the naturalization laws of the United States are not such as to advance and promote the best interests of the nation; and whereas whatever may have been necessary in the early days of the Republic, in the way of strict naturalization laws and stringent rules and regulations for the admission of aliens to citizenship of the United States, and for long periods of residence previous to such admission, such necessity now no longer exists; and whereas the best interests of the country and our whole people demand that the avenues to citizenship be made plain, short, and simple, to the end that, by a liberal policy, we encourage and invite men of culture, of industry, and enterprise to our land, encourage migration of foreign-born persons, and thereby more rapidly increase, build up, and develop the vast resources of our country: Therefore,

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of reporting a bill repealing all the existing naturalization laws, and providing that in future naturalization shall only be made in United States courts, upon the oath or affirmation alone of the alien desiring to become a citizen, without any previous period of residence being required; and that such persons upon taking an oath to support the Constitution of the United States and the laws made in pursuance thereof, and renouncing all allegiance to any foreign Power, shall have a certificate of citizenship issued to him by the clerk of said court, and said person shall thereafter be entitled to all the rights and privileges of citizens of the United States, and of the several States in which they may reside, as defined by the Constitution of the United States and the constitutions of the States in which they may reside.

Mr. SPALDING. I hope the gentleman will modify his resolution so as to refer it to the Committee on Revision of Laws of the United States.

Mr. McKEE. I agree to that modification.

Mr. ROBINSON. I suggest that it be referred to the Committee on Foreign Affairs. Some time ago I offered a bill, which has been printed, on which this whole subject will come up.

Mr. McKEE. I do not accept that modification.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution, as modified, was adopted.

Mr. McKEE moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. McKEE also introduced a bill (H. R. No. 1474) to establish a uniform rule of naturalization; which was read a first and second time, referred to the Committee on Revision

of Laws of the United States, and ordered to be printed.

Mr. ROBINSON. I ask to have the bill read. The SPEAKER. The bill has already been referred. Is there objection to its being read? Several members objected.

Mr. McKEE. I desire to offer another resolution.

The SPEAKER. It requires unanimous consent.

Mr. ROSS objected.

Mr. RANDALL moved to reconsider the votes by which the various bills and resolutions had been referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PRESIDENT'S MESSAGE.

Mr. WASHBURN, of Illinois. The joint committee of both Houses, appointed to wait on the President of the United States and inform him that a quorum of the two Houses has assembled, have attended to that duty, and ask leave to report that the President will communicate to Congress on Wednesday next, in writing, at one o'clock.

NATURALIZATION LAWS.

Mr. BROOKS. I was absent when the vote was taken on the subject of the naturalization laws. I desire to have my vote recorded in the affirmative on the motion to lay the resolution on the table.

The SPEAKER. That cannot be done in the morning hour of Monday.

CONSTITUTIONAL AMENDMENT.

Mr. STOKES introduced a joint resolution (H. R. No. 366) proposing an amendment to the Constitution of the United States; which was read a first and second time.

Mr. ELDRIDGE. I desire to have it reported in full.

The joint resolution was read in full. It proposes to submit to the Legislatures of the several States the following amendment to the Constitution of the United States:

ARTICLE XV.

SEC. 1. No State shall make or enforce any law which shall deprive any citizen of the right of the elective franchise on account of race or color.

The joint resolution was referred to the Committee on the Judiciary.

Mr. MAYNARD introduced a joint resolution on the same subject, (H. R. No. 367), proposing an amendment to the Constitution of the United States; which was read a first and second time, referred to the same committee, and ordered to be printed.

UNIFORM CURRENCY.

Mr. MAYNARD also introduced a bill (H. R. No. 1475) to give uniformity to the currency; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

RELIEF FROM DISABILITIES.

Mr. MAYNARD. I hold in my hand a bill for the relief of people from disabilities imposed by the fourteenth amendment to the Constitution, upon which I would like, some time in the course of the day, to make a statement of facts, and I am just as ready now as I shall be at any time.

The SPEAKER. It must be referred if now offered.

Mr. MAYNARD. Suppose I offer it at a future time, and move to suspend the rules?

The SPEAKER. That may be in order after the morning hour.

Mr. MULLINS introduced a joint resolution (H. R. No. 368) requiring all applicants for pardon or relief from certain disabilities to give ninety days' notice previous to their application to Congress; which was read a first and second time, and referred to the Committee on Reconstruction.

KU-KLUX KLAN.

Mr. MULLINS also offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Judiciary Committee be, and are hereby, instructed to investigate and report to

this House the propriety of the passage of an act to suppress by national authority any and all combinations of persons who belong to or are in collusion with any secret league, or wicked and common enemies to the peace and good order of society, known and designated by the name of Ku-Klux Klan, or by whatever name the said marauders or common enemies of peace and order may be known or designated; and that said combination of persons be declared outlaws and common enemies to good order and civil government, and upon conviction thereof before any court of competent jurisdiction, that the property of such persons be confiscated to the use of the United States, and that the persons thus convicted, be declared infamous, and incompetent to hold any office within the limits of the United States.

DOORKEEPER OF THE HOUSE.

The SPEAKER. The morning hour has expired. The Chair lays before the House the following communication:

CHANDLERVILLE, CASS COUNTY, ILLINOIS,
November 20, 1868.

Hon. SCHUYLER COLFAX,

Speaker of the House of Representatives:

Permit me through you respectfully to resign my position as Doorkeeper of the House of Representatives, to take effect on the day of the meeting of Congress.

Very respectfully, your obedient servant,

C. E. LIPPINCOTT.

Mr. KELSEY. I offer the following resolution as a privileged resolution, and demand the previous question:

Resolved, That this House now proceed to the election of a Doorkeeper in place of Charles E. Lippincott, resigned.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. MULLINS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. KELSEY. If nominations are now in order I nominate Otis S. Buxton, of New York, the present assistant doorkeeper, as candidate for Doorkeeper.

Mr. HILL. I nominate General Edward Jardine, of New Jersey.

Mr. WHITTEMORE. I nominate W. T. Collius, of Minnesota.

Mr. RANDALL. I nominate Owen Thorn, of the District of Columbia.

The Speaker appointed as tellers to count the votes Messrs. KELSEY, HILL, WHITTEMORE, and RANDALL.

The House proceeded to vote *viva voce* for Doorkeeper, with the following result, which was announced by Mr. KELSEY on behalf of the tellers: whole number of votes cast, 157; necessary to a choice, 79; of which—

Mr. Buxton received	141
Mr. Collins	14
General Jardine	2

The following is the vote in detail:

For Mr. Buxton.—Messrs. Adams, Allison, Ames, Archer, Arnell, James M. Ashley, Astell, Baker, Baldwin, Banks, Barnes, Bannan, Beck, Benjamin, Binham, Blaine, Blair, Boutwell, Boyden, Boyer, Brooks, Broomall, Buckland, Burr, Roderick R., Butler, Cary, Chanler, Churchill, Reader W. Clarke, Sidney Clarke, Coburn, Cook, Covode, Cullom, Dawes, Delano, Dickey, Dixon, Driggs, Eckley, Edwards, Eggleston, Ela, Eldridge, Eliot, Farnsworth, Ferriss, Ferry, Fields, Fox, Garfield, Glossbrenner, Goss, Gravelly, Higby, Hooper, Hopkins, Hotchkiss, Chester D. Hubbard, Hulbard, Ingersoll, Jenckes, Alexander H. Jones, Thomas L. Jones, Judd, Julian, Kelley, Kellogg, Kelsey, Kerr, Ketcham, Kitchon, Knott, Koontz, Ladin, George V. Lawrence, William Lawrence, Lincoln, Loughridge, Lynch, Mallory, Marshall, Marvin, Maynard, McCarthy, McCormick, McCullough, McKee, Mercer, Miller, Morrill, Mullins, Mungen, Myers, Niblack, O'Neill, Orth, Paine, Perham, Peters, Pettis, Phelps, Pike, Plants, Poland, Polsey, Pomeroy, Price, Prince, Randall, Robertson, Robinson, Ross, Scofield, Smith, Spalding, Stewart, Stokes, Stover, Sypher, Taber, Thomas, John Trimble, Lawrence S. Trimble, Twichell, Upson, Van Aernam, Van Auken, Van Trump, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, William Williams, James F. Wilson, Stephen F. Wilson, Windom, Wood, Woodward, and Young—141.

For Mr. Collins.—Messrs. Boaty, Bowen, Cake, Callis, Cobb, Corley, Donnelly, French, Haughey, Hunter, Norris, Shanks, Taffe, and Whittemore—14.

For General Jardine.—Messrs. Hill and Moore—2.

During the vote Mr. RANDALL withdrew the name of Mr. Thorn.

The SPEAKER announced that Otis S. Buxton, of New York, having received a majority of the votes cast, was duly elected to fill the

vacancy occasioned by the resignation of Charles E. Lippincott as Doorkeeper of the Fortieth Congress.

Mr. Buxton then appeared, and was qualified by taking the oath prescribed by law.

NEW MEXICO CONTESTED ELECTION.

The SPEAKER laid before the House papers in the contested-election case from New Mexico, *Chaves vs. Clever*; which were referred to the Committee of Elections.

MISSOURI CONTESTED ELECTION.

The SPEAKER also laid before the House papers in the contested-election case of Switzler *vs. Anderson*; which were referred to the Committee of Elections.

SABINE PASS A PORT OF ENTRY.

The SPEAKER also laid before the House resolutions of the constitutional convention of Texas, requesting Congress to make Sabine Pass a port of entry; which were referred to the Committee on Commerce.

CONDITION OF TEXAS.

The SPEAKER also laid before the House resolutions of the constitutional convention of Texas, requesting the Congress of the United States to appoint a committee to inquire into the condition of that State; which were referred to the Committee on Reconstruction.

ENFORCEMENT OF LAWS IN GEORGIA.

The SPEAKER also laid before the House a communication from the Governor of the State of Georgia, relative to the inability of the legal State government of that State to carry out the laws of Congress; which was referred to the Committee on Reconstruction.

LAWS OF DAKOTA.

The SPEAKER also laid before the House the laws of the Territory of Dakota; which were referred to the Committee on the Territories.

DUTY ON COPPER.

The SPEAKER. The next business in order is the consideration of House bill No. 1460, regulating the duties on imported copper and copper ores, being the unfinished business at the adjournment of the House in July last. The previous question having been seconded and the main question ordered, the question is now upon the passage of the bill, upon which the gentleman from Ohio [Mr. SCHENCK] is entitled to the floor for one hour, he having reported the bill from the Committee of Ways and Means.

Mr. PHELPS. As this bill embraces a subject-matter taken out of the general tax bill, I would ask the gentleman from Ohio if he is not willing to allow it to go into the general bill, which I understand will be brought forward hereafter?

Mr. SCHENCK. The Committee of Ways and Means will meet to-morrow morning and consider this and other subjects. I do not propose to speak upon it now, but will move an adjournment after gentlemen have submitted such bills and resolutions as they may desire to have referred at this time.

OVERLAND MAIL CONTRACTS.

Mr. WASHBURN, of Illinois, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Postmaster General be directed to communicate to this House a copy of any contract or agreement he may have made with Wells, Fargo & Co. for carrying the mails between the termini of the Union Pacific and the Central Pacific railroads, at the rate of \$1,750,000 per annum, together with all correspondence on that subject in the Department; and also all the correspondence, proposed agreements, or contracts in the Department in regard to the carrying of said mails; and further, all information in the Department and all the complaints made in regard to the manner in which said Wells, Fargo & Co. have performed the said mail service.

NIAGARA SHIP-CANAL.

Mr. JUDD. I ask unanimous consent for the consideration and adoption by the House at this time of the following resolution:

Resolved, That the bill providing for the construction of a ship-canal around the falls of Niagara, now

in the Committee of the Whole, be postponed until the 15th December instant, and made the special order immediately after the morning hour of that day.

Mr. RANDALL. I object.

Mr. JUDD. Then I move to suspend the rules for the purpose of offering this resolution for consideration at this time.

The SPEAKER. The motion to suspend the rules cannot be entertained, because the House is now acting under the operation of the previous question, ordered in July last, upon the bill in relation to the duty on copper and copper ores. The gentleman from Ohio [Mr. SCHENCK] is entitled to the floor on that bill, but the Chair understands that he yields the floor now for the introduction of such matters as may give rise to no debate.

RECOGNITION OF CRETE.

Mr. SHANKS. I ask unanimous consent to introduce a joint resolution, which I ask may be read at length, and ordered to be printed in full in the Globe.

No objection being made, the joint resolution (H. R. No. 339) declaring it to be the duty of the United States Government to acknowledge the provisional government of Crete as an independent political State, and to treat with it as such, was received, and read a first and second time.

The preamble and joint resolution were read at length, as follows:

Whereas the American people have on many occasions expressed and at all times feel a sympathy with the progress of liberty and Christian civilization among the people of the East; and whereas the people of Crete have successfully sustained their independence, having organized and maintained a provisional government, which, encouraged by and consequent upon the support given to the cause of Crete by the American people, has accredited a diplomatic agent in the United States: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the duty of the Government of the United States to acknowledge the existence of the provisional government of Crete as an independent political State, and to treat with it as such.

Mr. SHANKS. I move that the preamble and joint resolution be referred to the Committee on Foreign Affairs.

The motion was agreed to.

HARBOR IMPROVEMENTS IN MICHIGAN.

Mr. FERRY, by unanimous consent, introduced a bill (H. R. No. 1476) making appropriations for certain harbors in the State of Michigan; which was read a first and second time, and referred to the Committee on Appropriations.

REDEMPTION OF LEGAL-TENDER NOTES.

Mr. INGERSOLL, by unanimous consent, introduced a bill (H. R. No. 1477) to prohibit the sale of coin on behalf of the United States, and to provide for the redemption of the United States legal-tender notes in coin at par; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

Mr. RANDALL moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DE WITT C. SENTER.

Mr. MAYNARD. I ask unanimous consent to introduce a bill for action at the present time, to relieve De Witt C. Senter, of Tennessee, from disability.

Mr. BROOKS. Let that bill go to the Committee on Reconstruction.

Mr. MAYNARD. I can explain the bill in a moment.

Mr. SCHENCK. I do not yield for the purpose of having any matter introduced which will give rise to any discussion.

Mr. MAYNARD. Very well; let it be referred to the Committee on Reconstruction, with leave to report at any time.

Mr. FARNSWORTH. The committee have that right now.

The bill (H. R. No. 1478) was received, read a first and second time, and referred to the Committee on Reconstruction.

AMERICAN CITIZENS ABROAD.

Mr. ROBINSON. I ask consent to submit the following resolution:

Be it resolved by this House, That the President of the United States be requested to inform this House what correspondence, if any, in addition to the dispatch of the Secretary of State to Mr. Moran, our acting chargé d'affaires in London, furnished by him June 22, 1868, in answer to the resolution of this House of June 15, 1868, and to furnish to this House copies of any such correspondence for the immediate action of Congress.

I ask consent to be heard a few minutes upon this resolution. As this is an early hour I trust the House will not now adjourn, but will hear an important statement I have to make in reference to a letter published by Lord Stanley, in relation to a subject which involves a high question of privilege for our citizens now suffering imprisonment abroad.

Mr. BANKS. I hope the gentleman from New York [Mr. ROBINSON] will allow the resolution to go to the Committee on Foreign Affairs.

Mr. ROBINSON. If I cannot be heard on it now I will withdraw the resolution.

The SPEAKER. The gentleman from New York asks consent to be heard now on the resolution.

Several members objected.

Mr. FARNSWORTH. I call for the regular order.

Mr. ROBINSON. Then I withdraw the resolution for the present; but I shall get it in very soon as a question of privilege.

Mr. SCHENCK. I move that the House adjourn.

The motion was agreed to; and the House (at two o'clock and thirty-five minutes p. m.) adjourned.

PETITIONS.

The following petitions were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of Commodore Junius Boyle, United States Navy, for compensation due his late father for services as Acting Secretary of the Navy, while chief clerk of said Department.

Also, the petition of J. F. Decker, Wile & Kramer, and others, of Laporte, Indiana, asking an amendment in the tax law relative to cigars and tobacco.

Also, the petition of Mrs. James Hinds, of Arkansas, asking that the salary of her murdered husband, till the end of this Congress, may be paid to her for the support of his family.

By Mr. BINGHAM: Petitions for removal of disabilities from William C. Wickham, J. W. McKinsey, Thomas M. Kimbaugh, S. B. Wright, John W. Benton, R. S. Burton, R. H. Smith, and Robert Bolling, of Virginia.

By Mr. CAVANAUGH: The petition of Thomas Thoroughman and others, for the relief of William M. Stafford, late acting United States district attorney for the Territory of Montana.

By Mr. ELIOT: The petition of L. E. Dudley and W. H. Samuel, of the State of Virginia, praying for the continuance of the Freedmen's Bureau in that State.

By Mr. FERRY: The petition of Abraham Jacobs, for compensation for conveying the mail tri-weekly between Preble and Trinidad, Colorado, from 1st April, 1867, to 30th June, 1868.

By Mr. HULBURD: The petition of Messrs. Smithers and others, citizens of Lisbon, St. Lawrence county, New York, to erect a dam across one of the channels of the St. Lawrence river.

By Mr. JULIAN: The petition of 50 women of the District of Columbia, praying Congress to protect them from being debarred the exercise of their right of suffrage.

Also, the petition of 139 men of the District to the same effect.

Also, the petition of 133 men and 78 women of Ionia, Michigan, to the same effect.

By Mr. MAYNARD: The petition of William H. Burns, H. W. Holdway, L. P. McConnell, and Charles R. Vance, citizens of Scott

county, Virginia, praying relief from certain disabilities.

By Mr. MORRELL: The petition of John Goodman and Elizabeth Goodman, asking for an amendment to the pension laws.

By Mr. PERHAM: The petition of Clarissa K. Grant, for pension.

By Mr. SCHENCK: The petition of certain officers of the Army, asking for the passage of bill introduced by General SCHENCK "to fix and equalize the pay of officers, and to establish the pay of enlisted soldiers of the Army."

Also, the petition of Arthur W. Irving, bugler company C, one hundred and fourth regiment New York volunteer infantry, for invalid pension.

By Mr. WASHBURN, of Illinois: The petition of citizens, cigar dealers, and manufacturers, of Freeport Illinois, for the repeal of so much of sections seventy-eight and ninety-four of the act imposing taxes on distilled spirits, tobacco, &c., approved July 20, 1868, which provide that after January 1, 1869, all smoking and chewing tobacco and snuff; after the 1st of July, 1869, all other manufactured tobacco of every description; after April 1, 1869, all cigars shall be taken to have been either manufactured or imported after the passage of the said act, and shall be stamped accordingly, the petitioners claiming that the time given to dispose of and consume the stocks manufactured before the passage of the act, and now on hand, is insufficient.

Also, the petition of the New York and Virginia Steamship Company, to refund certain tonnage duties paid twice, once at the port of New York and once at the port of New Orleans.

NOTICE OF A BILL.

The following notice for leave to introduce a bill was given under the rule:

By Mr. SPALDING: A bill for the relief of Alexander W. W. Connell.

Also, a bill providing for the speedy resumption of specie payments by the United States Government.

IN SENATE.

TUESDAY, December 8, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

Hon. ORRIS S. FERRY, of Connecticut; Hon. JAMES A. BAYARD, of Delaware; Hon. JAMES R. DOOLITTLE, of Wisconsin, and Hon. THOMAS W. TIPTON, of Nebraska, appeared in their seats to-day.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of the Interior, communicating correspondence in relation to the destitute condition of the Yankton Sioux Indians in Dakota; which was ordered to lie on the table.

He also laid before the Senate a letter from the chief clerk of the Court of Claims, communicating, in obedience to law, a statement of the judgments of the Court of Claims rendered by the court for the past year; which was ordered to lie on the table.

He also laid before the Senate a letter from the Commissioner of Patents, communicating, in obedience to law, a statement showing the amount of expenditures in the United States Patent Office from the 20th of July to the 30th of November, 1868, inclusive, and a statement of moneys received from the 1st day of July to the 30th day of November, 1868, inclusive; which was ordered to lie on the table.

PETITIONS AND MEMORIALS.

Mr. RAMSEY presented a petition of citizens of Minnesota, praying for the establishment of a mail route from Glencoe, McLeod county, via Silver Lake, to a point near Lake Howard, on the St. Paul and Pacific railroad,

near Norway Lake; which was ordered to lie on the table.

Mr. FESSENDEN presented the petition of S. C. Mayberry, praying for the passage of a law providing for the election of President and Vice President of the United States by ballot; which was ordered to lie on the table.

Mr. WILSON presented a petition of officers of the Army, praying for the passage of the bill to equalize and fix the pay of officers, and to establish the pay of enlisted soldiers in the Army; which was ordered to lie on the table.

Mr. PATTERSON, of Tennessee. I present a memorial, signed by a large number of citizens of Tennessee, praying for an appropriation for the improvement of the Tennessee river, which I ask may be laid on the table for the present, until the committees are appointed. I also desire to have it printed, as it is very short.

The PRESIDENT *pro tempore*. The order to print requires unanimous consent. Is there any objection?

Mr. WILLIAMS. What is the petition about?

The PRESIDENT *pro tempore*. It is in regard to the improvement of the Tennessee river. If there be no objection the petition will be ordered to be printed. No objection being made, the order to print will be entered.

WITHDRAWAL OF PAPERS.

On motion of Mr. HARLAN, it was

Ordered, That M. N. Radovich have leave to withdraw his petition and papers from the files of the Senate.

BILLS INTRODUCED.

Mr. PATTERSON, of Tennessee, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 656) granting a pension to Paulina Jones, of Greene county, Tennessee; which was read twice by its title, and ordered to lie on the table and be printed.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 182) extending the operation of the Freedmen's Bureau for a limited period in certain States; which was read twice by its title, and ordered to lie on the table and be printed.

Mr. FERRY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 184) for the removal of political disabilities; which was read twice by its title, and ordered to lie on the table and be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 656) to remove political disabilities; which was read twice by its title, and ordered to lie on the table and be printed.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 657) to abolish the franking privilege; which was read twice by its title, and ordered to lie on the table and be printed.

Mr. KELLOGG asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 659) to relieve from legal and political disabilities certain persons engaged in the late rebellion; which was read twice by its title, and ordered to lie on the table and be printed.

He also asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 183) to extend the provisions of the act of July 4, 1864, limiting the jurisdiction of the Court of Claims to the loyal citizens of the States of Louisiana and Arkansas; which was read twice by its title, and ordered to lie on the table and be printed.

Mr. ROBERTSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 658) to relieve from disabilities Franklin J. Moses, a citizen of South Carolina; which was read twice by its title.

Mr. SUMNER. I ask if there is any objection to the consideration of that bill now? The Senator from Nevada [Mr. STEWART] has usually had charge of such matters, and I desire to call his attention to this bill. It is a bill to relieve the disabilities of the chief jus-

tice of South Carolina, recently chosen by the Legislature. I beg to inquire whether the bill may not be proceeded with to-day?

Mr. STEWART. I know no reason why it should not. The Legislature has extended the time for his taking the oath, and I understand has extended it five months, which will expire on the 29th of this month, I think. It is important that the bill should be passed soon.

Mr. SUMNER. There is no objection to it.

Mr. POMEROY. Let the bill be considered now if there be no objection.

Mr. SUMNER. I ask that the bill be considered.

Mr. STEWART. There is no objection.

The PRESIDENT *pro tempore*. The bill can only be considered at this time by unanimous consent.

Mr. EDMUNDS. I object.

The PRESIDENT *pro tempore*. Objection being made, the bill must go over under the rule.

RELATIONS WITH SOUTH AMERICAN POWERS.

Mr. SUMNER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States, if in his opinion it shall not be incompatible with the public interest, be requested to communicate to the Senate any information possessed by the Department of State concerning recent transactions in the region of the La Platte affecting the political relations of the United States with the republic of Paraguay, the Argentine republic, the Oriental republic, and the empire of Brazil.

PROMOTION OF NAVAL OFFICERS.

Mr. YATES submitted the following resolution:

Resolved by the Senate of the United States, That the Secretary of the Navy is hereby requested to furnish the Senate, if not incompatible with public interests, a copy of the proceedings of the board of admirals which assembled in Washington under the act of January 24, 1865, to examine and recommend for promotion officers of the Navy who distinguished themselves by gallant and meritorious conduct during the rebellion, together with a list of all officers recommended for promotion by said board, and the names of those who were promoted upon such recommendation.

Mr. GRIMES. Let that resolution lie over.

The PRESIDENT *pro tempore*. Objection being made to its present consideration, the resolution will lie over.

CONSIDERATION OF INDIAN TREATIES.

Mr. DRAKE. Is it in order now to call up a resolution amending the rules of the Senate which was offered last July and has been lying on the table ever since?

The PRESIDENT *pro tempore*. I suppose it is in order.

Mr. DRAKE. I ask that the resolution be taken up.

Mr. ANTHONY. Let it be read for information.

Mr. DRAKE. It is a resolution that I offered last July amending the rules of the Senate so as to require all Indian treaties to be considered in open session of the Senate.

The PRESIDENT *pro tempore*. By the statement of the Senator, the Senate understand what it is that he proposes to take up. Is there any objection to taking up the resolution for consideration at this time?

Mr. SUMNER. It can be taken up on motion.

Mr. DRAKE. I do not understand that it rests on a solitary objection, but the resolution can be taken up on motion.

The PRESIDENT *pro tempore*. Certainly.

The motion was agreed to; and the Senate proceeded to consider the following resolution:

Resolved, That rule thirty-eight be amended by adding thereto the following: "Treaties with Indian tribes or parts of tribes shall be considered and passed upon in open session."

Mr. DRAKE. I do not know that it is necessary to make any debate upon that proposition. I have spoken conversationally with many Senators upon the subject since the resolution was introduced. I am under the impression that there is a general feeling in the

Senate in favor of the proposition. I think that the treaties with the Indian tribes belong in no sense to that class of treaties which require any secrecy in the consideration of them or require the Senate to sit with closed doors when they are considered. I am of the opinion that a great many things have been done through the Indian treaties here in secret session to the detriment of the country which never would have been done if the treaties had been considered in open session. Guided by these views I desire to see that amendment to the rules made.

Mr. MORRILL, of Maine. The chairman of the Committee on Indian Affairs [Mr. HENDERSON] does not appear to be in his seat this morning; and as he might have some objection to the proposition, or might desire to say something on the subject, I suggest to the Senator from Missouri to allow the resolution to lie over until the chairman of the committee is in.

I am by no means certain that upon the consideration of this question it would be thought desirable at the present time to continue making treaties with the Indian tribes. I am not certain that it is not best to dispense entirely with that mode of communication or dealing with them. There may have been in the earlier period of the history of the country a necessity for it. I am inclined to think that both the sentiments and the circumstances under which these treaties originated have changed materially. I doubt exceedingly whether it is necessary to continue this system with these tribes, and I suggest to the consideration of the Senator whether he will not reach his object as well by allowing this resolution to pass over, and in the end referring the whole subject to the Committee on Indian Affairs with instructions to report whether it is not expedient to dispense entirely with this method of dealing with these tribes. I content myself, however, for the present with the suggestion that the subject be laid over until the chairman of the Committee on Indian Affairs is in his seat.

Mr. DRAKE. I have no objection to the matter being passed over until the chairman of the Committee on Indian Affairs shall be present.

The PRESIDENT *pro tempore*. It will be postponed unless there be objection?

Mr. POMEROY. I was about to observe that this change of the rule would involve a change in two or three other rules of the Senate; and as the Senate had a committee at the last session, of which the Senator from Rhode Island [Mr. ANTHONY] was chairman, to revise the rules, I think this resolution and all resolutions relating to the rules should be referred to that committee. Let any one Senator propose to amend any one rule, and then it may be in conflict with several other rules. We have tried to revise the rules so that all of them shall be in harmony with each other. We had various conflicting rules until the last session. I should like to have this resolution go to the committee of which the Senator from Rhode Island is chairman, and let them report it by amending one or two other rules, and then we shall have our system of rules so that we can understand them. But we have got several rules relating to treaties, and they are new rules adopted at the last session.

The PRESIDENT *pro tempore*. The question is on postponing the further consideration of the resolution until to-morrow?

Mr. POMEROY. I move that it be referred to the committee of which the honorable Senator from Rhode Island is chairman.

The PRESIDENT *pro tempore*. There are no committees at present.

Mr. POMEROY. That was not a standing committee, but a special committee.

Mr. MORRILL, of Maine. Let it go over.

Mr. POMEROY. I do not know that special committees expire with the session; I am not sure. However, I have no objection to its lying over.

The PRESIDENT *pro tempore*. The res-

olution will be postponed, unless objection be made.

Mr. MORRILL, of Maine. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, December 8, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BORTON.

The Journal of yesterday was read and approved.

DUTY ON COPPER.

The SPEAKER. The first question before the House is the unfinished business pending at the adjournment last evening, which is House bill No. 1460, regulating the duties on imported copper and copper ores. The question is, under the operation of the previous question, Shall the bill pass?

Mr. BROOKS. I rise to a question of order. As I understand the facts on the record, it was in July last that this bill was before the House, and pending action upon it at that time, under the previous question, the House adjourned. I believe I am correct in that statement of fact. Since that time there has been what the House calls a session in September, and another in November. At the September session a considerable amount of business was transacted, as the record of the House shows. At the November session I was not present; but certain action was taken on the part of the House indicating the transaction of business. Yesterday there was a large amount of business done, not only during the morning hour, but subsequently to the morning hour. The question of order which I wish to suggest, without any particular desire to press it, but rather for the purpose of being informed by the Chair, is that this bill cannot be considered as unfinished business now, having precedence over all other business, because under the ruling of the Chair at the September session, at the November session, and at this session other business has been transacted by the House, thus superseding the unfinished business of the July session. That is the point which I desired to suggest to the Chair.

The SPEAKER. The Chair overrules the point of order suggested by the gentleman from New York, [Mr. Brooks,] and will state the grounds of his ruling. By a concurrent resolution adopted by the two Houses in regard to the adjourned session of the Fortieth Congress it was provided that at the meeting of the two Houses in September, October, and November, certain transactions, and only such, should then be in order. Those proceedings were in their nature highly privileged, everything relating to the adjournment of Congress having always been held by presiding officers to be of a highly privileged character. Nothing, therefore, transpired during the sessions of Congress held in September, October, and November except the business which had been contemplated by the concurrent resolution of adjournment adopted by the two branches of Congress. If, however, other business had been transacted, that circumstance would not sustain the point of order raised by the gentleman from New York; for the House is familiar with the fact that even during the operation of the previous question propositions are often entertained by unanimous consent, no objection being made to their introduction.

In regard to the most vital branch of the point of order stated by the gentleman from New York, which is as to the business transacted yesterday, the uniform usage has been that unfinished business pending at the close of a week should be taken up at the conclusion of the morning hour on the succeeding Monday. Old members, like the gentleman from New York, are familiar with the fact that since the adoption of the rule in regard to the morning hour on Mondays, which has been in operation some seven or eight years, no busi-

ness, whether unfinished business or business of any other character, has been allowed to interfere with that morning hour; and the only interference yesterday arose from business appurtenant to the opening of the session of Congress—the call of the roll and the swearing in of members whose seats were uncontested, that they might have the privilege of voting on questions arising during the morning hour. As soon as the morning hour was ended, and the other question of privilege that the Chair then laid before the House was disposed of, the resignation of the Doorkeeper taking effect on Monday, and the office being necessarily to be filled for the convenience of the House, as well as the transaction of business, the Chair called up the unfinished business pending at the adjournment in July.

Mr. BROOKS. I suggest as a matter of fact, according to my recollection of the record, that in the September session a resolution for the appointment of a special committee for the investigation of whisky or revenue frauds was moved by the gentleman from Ohio, [Mr. SCHENCK,] upon which a large amount of action was taken, pending which I came into the House and disclosed to it the fact that there was no quorum present, upon which there was a call of the House ordered, and subsequently a repeal of the order for the call of the House, showing, as I understand, the fact that the Chair entertained the motion of the gentleman from Ohio for the appointment of a special committee to investigate the revenue frauds.

The SPEAKER. The gentleman from New York is correct. But if he will examine the Globe of the following day he will see in the proceedings that the Chair stated to him, or to some gentleman on the right of the Chair, that business had been transacted during that entire day by unanimous consent, no person objecting, a quorum being therefore presumed to be in attendance. And last evening also, when the copper bill was pending, members on both sides by common consent allowed various other matters to be acted upon until they were cut off by the objection of the gentleman from Illinois, [Mr. FARNSWORTH,] which arrested all business.

Mr. BROOKS. I bow to the decision of the Chair; but so long a time has intervened since July, and we have forgotten so much about this copper bill, that I suggest by general consent that the bill be read.

The SPEAKER. Any member has a right to call for the reading of the bill.

Mr. GARFIELD. The roll was being called at the adjournment in July. Can it be interrupted by the reading of the bill?

The SPEAKER. The roll was called down to the letter H, when that was interrupted by the adjournment of the session. It must be resumed, if at all, in full. That is the uniform usage. Therefore, so far as the final calling of the roll is concerned, the order is null and void.

Mr. GARFIELD. Suppose some person had died whose name appears on the upper part of the roll, would it be counted?

The SPEAKER. It would not be counted, as the roll-call would have to be resumed from letter A.

The bill was read at length. It provides that from and after the passage of this act, in lieu of the duties heretofore imposed by law on the articles hereinafter mentioned, there shall be levied, collected, and paid on the articles herein enumerated and provided for, imported from foreign countries, the following specified duties and rates of duty, that is to say: On all copper imported in the form of ores, three cents on each pound of fine copper contained therein; on all regulus of copper, and on all black or coarse copper, four cents on each pound of fine copper contained therein; on all old copper fit only for remanufacture, four cents per pound; on all copper in plates, bars, ingots, pigs, and in other forms not manufactured or herein enumerated, five cents per pound.

Mr. MOORHEAD. Is the bill open to amendment?

The SPEAKER. It is not.

Mr. WASHBURNE, of Illinois. I move to reconsider the vote by which the main question was ordered.

The SPEAKER. That is not in order. This is not the next parliamentary day after the vote ordering the main question was taken.

Mr. PIKE. Has the bill received its first consideration in Committee of the Whole?

The SPEAKER. It has been reported by the Committee of Ways and Means without objection. That point was raised by the gentleman from Massachusetts [Mr. BANKS] on the last day of the session in July.

Mr. BROOKS. One further question of order. This is an appropriation bill, doubling and trebling the duty on some articles of copper for the purpose of raising money, and if the bill has not been considered in Committee of the Whole it must go there.

The SPEAKER. It is a bill in the nature of a tax bill. If the point had been made when it was reported by the Committee of Ways and Means in July last it would have been in order, and a single objection would have sent it to the Committee of the Whole. It was received, however, by unanimous consent. Afterward the gentleman from Massachusetts [Mr. BANKS] suggested that had he at the time noticed the character of the bill he should have objected.

Mr. BANKS. I understood this should have its first consideration in Committee of the Whole.

The SPEAKER. That question is not now pending. The yeas and nays are ordered, and the Clerk will call the roll.

The question was taken; and it was decided in the affirmative—yeas 107, nays 51, not voting 63; as follows:

YEAS—Messrs. Ames, Anderson, Arnell, James M. Ashley, Axtell, Banks, Beaman, Beatty, Benjamin, Benton, Bingham, Blair, Boles, Bowen, Boyden, Broomall, Benjamin F. Butler, Roderick B. Butler, Cake, Callis, Cary, Reader W. Clarke, Sidney Clarke, Clift, Cobb, Coburn, Corley, Corvode, Dawes, Delano, Deweese, Dickey, Dixon, Donnelly, Driggs, Eckley, Eggleston, Farnsworth, Ferriss, Ferry, French, Garfield, Goss, Gravely, Haughey, Heaton, Higby, Hill, Hopkins, Chester D. Hubbard, Hunter, Jenckes, Alexander H. Jones, Kelley, Ketcham, Kitchen, Koons, Lash, George V. Lawrence, William Lawrence, Lincoln, Loan, Mallory, Marvin, Maynard, McCarthy, McKee, Mercer, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newsham, Norris, O'Neill, Paine, Pettis, Poland, Polesie, Pomeroy, Price, Prince, Robertson, Schenck, Scofield, Shanks, Smith, Spalding, Starkweather, Stevens, Stokes, Stover, Sypher, Twichell, Upton, Van Aernam, Bart Van Horn, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Walker, Whittemore, William Williams, Stephen F. Wilson, and Windom—106.

NAYS—Messrs. Adams, Allison, Archer, Baker, Baldwin, Beck, Coyer, Brooks, Burr, Chanler, Churchill, Cook, Cullom, Eldridge, Fields, Fox, Glossbrenner, Hotchkiss, Thomas L. Jones, Judd, Julian, Kerr, Knott, Lynch, Marshall, McCormick, Mungen, Nibbel, Nicholson, Orth, Perham, Peters, Phelps, Pike, Randall, Robinson, Sitgreaves, Stewart, Taber, Taffe, Thomas, Tift, John Trimble, Lawrence S. Trimble, Van Auken, Van Trump, Elihu B. Washburne, James F. Wilson, Wood, Woodward, and Young—51.

NOT VOTING—Messrs. Delos R. Ashley, Bailey, Barnes, Barnum, Blackburn, Blaine, Boutwell, Bromwell, Buckland, Buckley, Cornell, Dockery, Dodge, Edwards, Ela, Eliot, Getz, Golladay, Gove, Griswold, Grover, Haight, Halsey, Hamilton, Harding, Hawkins, Holman, Hooper, Asabel W. Hubbard, Richard D. Hubbard, Hulbard, Humphrey, Ingersoll, Johnson, Kellogg, Kelsey, Ladin, Logan, Loughridge, McCullough, Morrissey, Newcomb, Nunn, Pile, Plants, Pruyn, Raun, Roots, Ross, Sawyer, Selye, Shellabarger, Stone, Taylor, Trowbridge, Robert T. Van Horn, Van Wyck, Vidal, Ward, Thomas Williams, John T. Wilson, and Woodbridge—63.

So the bill was passed.

During the roll-call,

Mr. ELDRIDGE said: I vote "No" on this bill because I look upon it as a tax on "copperheads." [Laughter.]

Mr. WILSON, of Iowa, stated that his colleague [Mr. DODGE] was detained at his room by sickness.

The result of the vote having been announced as above recorded,

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REPORT OF SECRETARY OF THE TREASURY.

The SPEAKER laid before the House the annual report of the Secretary of the Treasury for 1868; which was referred to the Committee of Ways and Means, and ordered to be printed.

JUDGMENTS OF COURT OF CLAIMS.

The SPEAKER also laid before the House a communication from the chief clerk of the Court of Claims, transmitting, in compliance with the act of June 25, 1868, a statement of the judgments rendered by that court during the past year; which was referred to the Committee on Appropriations, and ordered to be printed.

PAUPERS IN THE DISTRICT OF COLUMBIA.

The SPEAKER also laid before the House a communication from the Surgeon General of the United States Army, reporting the contracts made by him for the care, support, and treatment of sixty transient paupers in the city of Washington, in accordance with the act of July 27, 1868; which was referred to the Committee on Military Affairs, and ordered to be printed.

PATENT OFFICE.

The SPEAKER also laid before the House a communication from the Commissioner of Patents, transmitting a detailed account of the receipts and expenditures of his office from July 20, 1868, to December 1, 1868, in compliance with the act of July 20, 1868; which was referred to the Committee on Appropriations, and ordered to be printed.

DESTITUTE INDIANS.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of Indian Affairs, with a letter from P. H. Conger, agent for the Yankton Sioux Indians of Dakota, relative to the destitute condition of the tribes of the Upper Missouri; which was referred to the Committee on Indian Affairs.

LOUISIANA CONTESTED ELECTION.

The SPEAKER also laid before the House testimony in the contested-election case of Jones vs. Mann; which was referred to the Committee of Elections.

GEORGIA LEGISLATURE.

The SPEAKER also laid before the House the memorial of members of the Legislature of Georgia and others, relative to the illegal organization of that body under the reconstruction laws; which was referred to the Committee on Reconstruction, and ordered to be printed.

SENATORS FROM OREGON.

The SPEAKER. The Chair has had sent to him, by the presiding officers of the two branches of the Oregon Legislature, the resolutions of that Legislature relative to their Senators in Congress. He lays them before this body because the State Legislature has requested him so to do. The title will be read.

The Clerk read as follows:

Resolutions of the Legislative Assembly of Oregon instructing their Senators in Congress to resign, having voted for measures plainly and palpably unconstitutional, which have overthrown civil liberty and free government, and consigned the citizens of eleven States to odious and despotic military dictatorship, &c.

Mr. WASHBURNE, of Illinois. The title is enough. I move that the paper be returned to the source from which it came.

Mr. MULLINS. I second that motion.

Mr. WOOD. Let the resolutions be read.

Mr. WASHBURNE, of Illinois. I demand the previous question on my motion.

The SPEAKER. The Chair stated that he presented the paper because it came from a State Legislature.

Mr. GARFIELD. I hope the gentleman from Illinois [Mr. WASHBURNE] will add to his motion, "because it is indecorous."

Mr. WOOD. How can we tell whether it is indecorous or not until we hear it read?

Mr. GARFIELD. The title is enough.

Mr. WASHBURN, of Indiana. Let the paper be read.

The SPEAKER. The gentleman from Illinois [Mr. WASHBURN] moves that the paper be returned, and upon that motion calls the previous question. The gentleman from New York [Mr. WOOD] asks that the paper be read. Under the rule he has a right to have it read; and it will be read by the Clerk.

The Clerk read as follows:

STATE OF OREGON, DEPARTMENT OF STATE.

To all to whom these presents shall come, greeting:

I, Samuel E. May, secretary of state for the State of Oregon, do hereby certify that annexed is a true copy of "house joint resolution No. 13," the original of which is now on file in this department.

In witness whereof I have hereunto signed my name and affixed the seal of State, Done at Salem, L. S. this 16th day of October, A. D. 1868.

SAMUEL E. MAY,

Secretary of State.

Whereas GEORGE H. WILLIAMS and HENRY W. CORBETT, now holding seats in the Senate of the United States from the State of Oregon, have misrepresented the people thereof in this: that among many other grievous wrongs they have supported and voted for measures in the Senate which were in plain and palpable violation of the Constitution of the United States, among which measures are those known as the reconstruction acts of Congress, which acts in their enforcement have overthrown and subverted civil liberty and free government within eleven States of this Union, and consigned the citizens thereof to odious and despotic military dictatorship, unknown to our Constitution and in derogation of its most sacred guarantees, depriving the citizens of those States, without trial or conviction, of the sacred rights of trial by jury and the elective franchise; consigning their lives, their liberties, and their property to the mercies of those who are without responsibility to the people over whom they exercise their authority, and obedient only to those who hold the power to command them for their oppressive acts. Said pretended reconstruction acts give the people of those States the alternative of a perpetual wearing of the galling yoke of military power and oppression or submission to the more dreary fate of being governed by hordes of ignorant, deluded negroes. The said WILLIAMS and CORBETT have betrayed and misrepresented the people of this State in their support of measures calculated to destroy the constitutional powers and prerogatives of the Supreme Court of the United States, and to usurp the constitutional functions of the Executive. They have been actuated by unworthy partisan motives in their efforts to impeach and remove the President of the United States for pretended high crimes and misdemeanors. In the case of Senator WILLIAMS, comparing his speeches in the Senate upon the tenure-of-office bill with his subsequent votes for the impeachment of the President for a pretended violation of that act, we are constrained to believe that he acted from improper and unworthy motives: Therefore,

Be it resolved by the Legislative Assembly of the State of Oregon, That GEORGE H. WILLIAMS and HENRY W. CORBETT, now holding the offices of United States Senators from the State of Oregon, be, and hereby are, instructed to resign the same, to the end that persons may be selected as their successors who will fairly and honestly represent the State of Oregon in the United States Senate.

2. Resolved, That copies of the foregoing preamble and resolution, signed by the president of the senate and speaker of the house of representatives, be forwarded by the president of the senate to said GEORGE H. WILLIAMS and HENRY W. CORBETT, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States of America at as early a day as practicable.

Adopted by the house of representatives, September 29, 1868.

JOHN WILKENR,

Speaker of the House.

Adopted by the Senate October 1, 1868.

B. F. BURCH,

President of the Senate.

Mr. WASHBURN, of Illinois. If I had known the character of this paper I should have objected to its being read. I will withdraw my call for the previous question for the purpose of offering a resolution characterizing the paper just read as scandalous, impertinent, and indecorous. And upon that resolution I call the previous question.

Mr. WOOD. Mr. Speaker—

The SPEAKER. No debate is in order. The resolution of the gentleman from Illinois will be now read:

The resolution was read, as follows:

Resolved, That the paper just read be returned to the presiding officers of both houses of the Oregon Legislature, the same being scandalous, impertinent, and indecorous.

Mr. WOOD. I desire to say—

The SPEAKER. The gentleman is not in order, the previous question having been called.

Mr. WOOD. I will only say that this communication is from a sovereign State, a loyal State. [Cries of "Order," "Order."]]

The SPEAKER. The gentleman from New York [Mr. WOOD] is not in order, and must resume his seat.

The question was upon seconding the previous question; and being taken the previous question was seconded—ayes 113, noes 31.

The next question was: "Shall the main question be now put?"

Mr. BOYER. Upon that question I call for the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and it was decided in the affirmative—yeas 126, nays 35, not voting 60; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, James M. Ashley, Baker, Banks, Beaman, Beatty, Benjamin, Benton, Bingham, Blair, Boies, Bowen, Boyden, Broomall, Buckland, Benjamin F. Butler, Roderick B. Butler, Calkins, Churchill, Reader W. Clarke, Sidney Clarke, Clift, Cobb, Coburn, Cook, Corley, Covode, Dawes, Delano, Deweese, Dickey, Dixon, Donnelly, Driggs, Eckley, Edwards, Eggleston, Eliot, Farnsworth, Ferriss, Fields, French, Garfield, Goss, Gove, Gravelly, Haughey, Heaton, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hunter, Ingersoll, Jencks, Alexander H. Jones, Judd, Julian, Kelley, Ketcham, Kitchen, Koontz, Lash, George V. Lawrence, William Lawrence, Lincoln, Loan, Loughridge, Mallory, Marvin, McCarthy, Mercer, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newsham, Norris, O'Neill, Orth, Paine, Perham, Peters, Pettis, Pike, Poland, Polsley, Pomeroy, Price, Prince, Robertson, Schenck, Scofield, Smith, Spalding, Starkweather, Stevens, Stewart, Stokes, Stover, Sypher, Taffe, Thomas, Twichell, Upson, Van Aernam, Burt Van Horn, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Whittemore, William Williams, James F. Wilson, Stephen F. Wilson, and Windom—126.

NAYS—Messrs. Adams, Archer, Axtell, Barnes, Beek, Boyer, Brooks, Burr, Cary, Chanler, Eldridge, Fox, Glossbrenner, Hotchkiss, Thomas L. Jones, Kerr, Knott, Marshall, McCormick, Mungen, Niblack, Nicholson, Phelps, Randall, Robinson, Ross, Sitgreaves, Taber, Tift, Lawrence S. Trimble, Van Auker, Van Trump, Wood, Woodward, and Young—35.

NOT VOTING—Messrs. Delos R. Ashley, Bailey, Baldwin, Barnum, Blackburn, Blaine, Boutwell, Brownell, Buckley, Cornell, Cullom, Dockery, Dodge, Ferry, Getz, Golladay, Griswold, Grover, Haight, Halsey, Hamilton, Harding, Hawkins, Holman, Asabel H. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Johnson, Kellogg, Kelsey, Laffin, Logan, Lynch, Maynard, McCullough, McKee, Morrissey, Newcomb, Nunn, Pierce, Pile, Plants, Pruyn, Raum, Root, Sawyer, Selye, Shanks, Shel-labarger, Stone, Taylor, John Trimble, Trowbridge, Robert T. Van Horn, Vidal, Ward, Thomas Williams, John T. Wilson, and Woodbridge—60.

So the main question was ordered.

The question was then taken upon agreeing to the resolution; and it was agreed to.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REPORT OF COMPTROLLER OF CURRENCY.

The SPEAKER, by unanimous consent, laid before the House a communication from the Comptroller of the Currency, transmitting his annual report; which was referred to the Committee on Banking and Currency, and ordered to be printed.

RECEIPTS AND EXPENDITURES, 1865-66.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Treasurer of the United States, transmitting his report of receipts and expenditures for the years 1865 and 1866; which was referred to the Committee of Ways and Means, and ordered to be printed.

ORDER OF BUSINESS.

The SPEAKER. The next business in order is the call of committees for reports, commencing with the Committee on Indian Affairs, which has one morning hour remaining, its first morning hour having been on the 8th day of July last.

SUPPRESSION OF INDIAN HOSTILITIES.

Mr. WINDOM. I desire to submit a resolution.

The SPEAKER. Is it a resolution reported from the Committee on Indian Affairs?

Mr. WINDOM. No, sir; I ask unanimous consent to offer the following resolution:

Resolved, That the Secretary of War be instructed to inform this House, if not incompatible with the public service, what amount of money has been expended for the suppression of Indian hostilities

during the years 1866 and 1867, stating as particularly as may be practicable the sums expended in each military district or State or Territory respectively.

Mr. BROOKS. Why not include the year 1868 also?

Mr. WINDOM. I have no objection to including the expenditures for 1868, so far as it may be practicable to give them. I make that modification.

There being no objection, the resolution, as modified, was considered and adopted.

REPEAL OF TENURE-OF-OFFICE ACT.

Mr. BUTLER, of Massachusetts, by unanimous consent, introduced a bill (H. R. No. 1481) to repeal an act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867; which was read a first and second time, and referred to the Committee on the Judiciary.

E. G. PENDLETON.

Mr. MILLER, by unanimous consent, asked and obtained leave to withdraw the petition and accompanying papers of E. G. Pendleton, of West Virginia, asking for a pension.

JOHN WEBB.

Mr. BUTLER, of Tennessee, by unanimous consent, introduced a bill (H. R. No. 1479) for the relief of John Webb, of Tennessee; which was read a first and second time, and referred to the Committee on Invalid Pensions.

TARLTON A. MIDDLETON.

Mr. BUTLER, of Tennessee, also, by unanimous consent, introduced a bill (H. R. No. 1480) for the relief of Tarlton A. Middleton, late a lieutenant in company B, fourth Tennessee infantry; which was read a first and second time, and referred to the Committee on Military Affairs.

REDEMPTION OF NATIONAL CURRENCY, ETC.

Mr. CLARKE, of Kansas. I have some reports to make from the Committee on Indian Affairs; but before doing so I will yield for a moment to the gentleman from Illinois, [Mr. INGERSOLL,] who desires to introduce a bill.

Mr. INGERSOLL. I ask unanimous consent to introduce a bill supplementary to an act entitled "An act to provide a national currency secured by pledge of United States bonds and to provide for the circulation and redemption thereof, and for other purposes," approved June 3, 1864.

Mr. RANDALL. Does the gentleman from Illinois propose to have that bill printed?

Mr. INGERSOLL. Yes, sir; I wish to have it printed; and I would like to have it referred to the Committee of Ways and Means in preference to the Committee on Banking and Currency.

Mr. RANDALL. The appropriate committee is the Committee on Banking and Currency.

Mr. WASHBURN, of Illinois. I call for the reading of the bill.

Mr. CLARKE, of Kansas. As the reading of the bill is called for I must resume the floor. I did not yield for the purpose of allowing the bill to be read.

The SPEAKER. The gentleman from Kansas resumes the floor, and the bill of the gentleman from Illinois [Mr. INGERSOLL] is not before the House.

CHOCTAW AND CHICKASAW INDIANS.

Mr. CLARKE, of Kansas. The Committee on Indian Affairs, to whom was referred the joint resolution (S. R. No. 18) for the sale of certain stocks held in trust for the Choctaw and Chickasaw Indians, have directed me to report it back, accompanied with a report in writing and a substitute, which the committee recommend for the joint resolution. I move that the report and the proposed substitute be printed, and that the joint resolution be recommitted.

The motion was agreed to.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the joint resolution was recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

INDIAN COMMISSION.

Mr. CLARKE, of Kansas, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Interior is hereby directed to report to this House the whole amount of the expenses incurred by the last commission appointed to treat with the Great and Little Osage Indians, the value of all presents presented to said Indians, with an itemized account of all expenses, showing all articles and objects for which expenditures were made; also whether or not any persons attending the councils held with said Indians were transported and subsisted at the expense of the United States; and if so, to give the names of all such persons and the amount of expense incurred for this purpose.

WAR DEPARTMENT—INDIAN BUREAU.

Mr. GARFIELD, from the Committee on Military Affairs, reported a bill (H. R. No. 1482) to restore the Bureau of Indian Affairs to the Department of War; which was read a first and second time.

The bill, which was read in full, provides that from and after the 1st day of January, 1869, the Secretary of War shall exercise the supervisory and appellate powers, and possess the jurisdiction now exercised and possessed by the Secretary of the Interior in relation to all the acts of the Commissioner of Indian Affairs, and shall sign all requisitions for the advance or payment of money out of the Treasury on estimates or accounts, subject to the same adjustment or control now exercised on similar estimates or accounts by the Auditors and Comptrollers of the Treasury, or either of them.

Section two authorizes the Secretary of War, whenever in his opinion it shall promote the economy and efficiency of the Indian service, to establish convenient departments and districts for the proper administration of the duties now imposed by law on the superintendents of Indian affairs and upon agents and sub-agents, and to substitute for such superintendents and agents officers of the Army of the United States, who shall be designated for that purpose, and who shall then become charged with all the duties now imposed by law upon the superintendents and agents thus superseded, and without additional compensation therefor. The Secretary of War shall also detail an officer not below the rank of colonel to fill the office and discharge the duties of Commissioner of Indian Affairs. Officers of the Army designated to perform the duties of commissioner, superintendent, agent, or sub-agent shall not be required to give the bonds now required of civil appointees, but shall be responsible for any neglect or maladministration, according to the Rules and Articles of War.

The third section provides that all contracts for transportation connected with the Indian service shall hereafter be made in the same manner and at the same time provided for transportation for the use of the Army, and the accounts of all appropriations, expenditures, and payments of money in the management of Indian affairs, except the pay of officers and enlisted men detailed for service under the provisions of this act, shall be kept separate and exhibited under the head of "Expenditure on account of the Indians."

Section four authorizes the Secretary of War to withhold all special licenses from traders, and under regulations to be by him prescribed to provide the times and places at which all traders complying therewith may present themselves for bargain, barter, and exchange with the several Indian tribes, according to the laws of the United States regulating the same.

Section five repeals all laws and parts of laws inconsistent with the provisions of this act.

Mr. GARFIELD. I call the previous question.

Mr. WINDOM. I hardly think the gentleman will call the previous question on a bill of this importance without allowing any discussion.

Mr. GARFIELD. I desire to say that whatever time is allowed me I will give largely to those who wish to speak after the previous question is sustained. The Committee on Military

Affairs have many other matters which they will not be able to get through unless the consideration of this bill is restricted to one hour.

Mr. HIGBY. Is the bill printed?

Mr. GARFIELD. Oh, yes, sir; it is printed and was before the House for half the last session.

Mr. WINDOM. Is it in order to move the reference of this bill to the Committee on Indian Affairs?

The SPEAKER. It is not. If the previous question should not be seconded it will be.

Mr. WINDOM. I hope it will not be seconded, because I assure the House that there are many defects in the bill which they ought to be made aware of.

On seconding the previous question there were—ayes 41, noes 39; no quorum voting.

Tellers were ordered; and Messrs. GARFIELD and WINDOM were appointed.

The House divided; and the tellers reported—ayes 70, noes 49.

So the previous question was seconded.

The main question was then ordered.

Mr. GARFIELD. I do not wish to take the time of the House but for a few moments. I wish to keep my promise to several gentlemen to allow them to be heard. I will state briefly the purpose of the bill and how much it accomplishes, and will then yield some time to the gentleman from Minnesota, [Mr. WINDOM,] chairman of the Committee on Indian Affairs.

It will be noticed, in the first place, as the title of the bill indicates, that it is proposed to restore the Bureau of Indian Affairs to the Department of War, where all that class of business was originally transacted. When the Department of the Interior was formed in 1849 the management of Indian affairs was taken from the War Department and placed in the hands of the Secretary of the Interior. This bill does not raise the question of our policy at all. It does not propose to settle any theory of tribal relations or the relation of the Government to the Indian tribes, nor to determine whether we shall continue to treat them as separate nations, subject to treaty stipulations; nor does it touch the establishment or management of reservations. It affects directly no one of these questions. It provides merely that the Interior Department shall surrender the management of Indian affairs to the War Department; and, in order that there may be no sudden shock in the transfer, it is provided that all the duties now enjoined by law upon the Secretary of the Interior in relation to Indians shall be discharged by the Secretary of War, and that without a change of system or policy.

Then the bill provides further in the second section that the Secretary of War shall be authorized, whenever in his opinion it will promote economy and the efficiency of the Indian service, to detail officers of the Army to perform all the duties now enjoined by law upon Indian agents, sub-agents, and other persons employed in the Indian service. It does not immediately abolish all the offices in connection with the Indian department, but it leaves it to the discretion of the Secretary of War to replace them by officers of the Army when the interests of the service require it. I have no doubt it will ultimately result in putting officers of the Army in the places of the civilians now employed in that department. But it was thought best not to say that all civilians shall at once be dismissed the service and military officers substituted. It is left for the present at the discretion of the Secretary of War.

The third section provides that all contracts for transportation in connection with the Indian service shall hereafter be made in the same manner as contracts for supplies or transportation of the Army; and in the amendment which I have added—which is the only material change in the bill, as I introduced it last June—it is provided that all expenditures of money, all appropriations, and all payments made on account of Indian affairs, shall hereafter be

kept separately and exhibited under the head of "Expenditures on account of Indians." Hitherto these expenses have not been thus separated, and it is unjust to the Army to charge as a part of its ordinary cost all the expenses of an Indian war; and moreover, we ought always to be able to classify our expenses, and know definitely what is done with the money. I have therefore added to the third section a clause requiring that the accounts, except for pay of officers and soldiers, shall be kept separately. It was thought that the monthly pay of officers and enlisted men employed in the Indian service could not be kept separate from the pay of the rest of the Army without complicating too much the accounts of the Department.

The fourth section authorizes the Secretary of War to withhold all special licenses for traders, and otherwise to regulate the business of Indian trading.

Now, without going at all into the general question of what ought to be done with the Indians, I am satisfied that we shall make a successful beginning of the whole business by putting all this work into the hands of the War Department, where all the officers are subject to military law and to the jurisdiction of courts-martial. The great advantage of the measure will be that we shall abolish a bureau and all its appendages, and at the same time, without additional cost for salaries, secure for the work efficient agents who are subject to a much stricter accountability than civilians can be. We shall thus remove one of the most tempting opportunities for corruption known to our Government. I do not, however, desire to go into the debate. The developments of the last year, it seems to me, have been amply sufficient to bring the subject fully to the attention of the people.

I will add that two years ago this bill, in almost the very words of the print before us, passed the House of Representatives by a large majority, but failed in the Senate. Last session we were not able to reach it, or I believe it would have passed again. But then there were some prominent officers connected with the Indian commission who were not in favor of the transfer of the department. Now, I understand that since the developments of the last fall nearly all of those officers have come to believe that the transfer is necessary. General Grant, General Sherman, and General Sheridan, and nearly all the leading officers of the Army connected with the Indian service, recommend this as the initial step. We therefore propose this measure by itself, making the transfer simply to begin with, and opening the way for any discussion of the Indian problem which it may be thought hereafter best to enter upon.

I give way to the gentleman from Minnesota, [Mr. WINDOM;] for how long?

Mr. WINDOM. Say ten minutes; probably I shall not want more than five minutes.

Mr. GARFIELD. Very well. I will yield to the gentleman for ten minutes.

Mr. WINDOM. Mr. Speaker, this is in one respect an old question before the House; and yet I now venture the assertion here that there are not five members on this floor who know anything of the provisions of the bill the gentleman from Ohio [Mr. GARFIELD] has introduced. It is true it was introduced and printed at the last session of Congress, and placed upon our files, where probably no one has examined it. But now, on the second day of the session, without a single moment's time being given for discussion, the previous question is ordered upon it, and the gentleman doles out the little time he chooses for discussing its merits. I do not know, Mr. Speaker, but it may become expedient to transfer the Indian Bureau to the War Department; but it does seem to me that when we make that transfer it should not be upon the principle stated by the gentleman from Ohio, but that it should be when some system is devised whereby we may hope to improve in our management of Indian affairs. But the gentleman states that all it is hoped we

may now accomplish by this proposed change is simply this, to abolish a bureau and to put the Indians under the charge of some other individuals. For one I think we have had experience enough of the treatment of Indians by the War Department to know that true economy forbids that this transfer should be made.

According to the provisions of this bill we are to have hereafter all our Indian affairs managed by the War Department. I believe if there is any Department of this Government in which we find the great maelstrom of the Treasury, where money is sunk by millions and never accounted for, it is the War Department. I have shown heretofore on this floor, when this question was under discussion, that to take care of seven thousand Indians in New Mexico, under the War Department, cost the sum of \$1,500,000, while the whole three hundred thousand Indians in the nation cost, under the Indian department, less than four million dollars a year. Now, sir, with such facts as these, which cannot be controverted, I believe the House ought, at least, to have this bill printed, and to read carefully all its provisions before we rush headlong into a transfer of this kind. We should be prepared for a more thorough system in reference to Indian affairs than is now proposed. All that seems to be proposed by this bill is simply a little victory in this old contest as to whether the War Department or the Interior Department shall have the control of Indian affairs. The gentleman from Ohio has nothing digested; he has no reasons to give to show that we shall save money or shall be benefited in any respect by the proposed transfer. He says that our military authorities approve of this bill. Now, I should like to see the report upon that subject which will confirm the statement of the gentleman. Two or three years ago we appointed a peace commission, composed of some of the most prominent military men of the nation, among whom were Lieutenant General Sherman, Brevet Major General Harney, Brevet Major General Terry, Brevet Major General C. C. Augur, and General John B. Sanborn. Those gentlemen have devoted some two years to the investigation of this question, and I will read from the report they submitted on this very point, signed by all the generals to whom I have referred, together with the balance of the peace commission. I read from Executive Document No. 97, of last session, page 20, as follows:

"This brings us to consider the much mooted question whether the bureau should belong to the civil or military department of the Government. To determine this properly we must first know what is to be the future treatment of the Indians. If we intend to have war with them, the bureau should go to the Secretary of War. If we intend to have peace, it should be in the civil department."

I will pause right here (as my time is limited, and as I may not have an opportunity to recur to the point) to ask this House whether it is peace or war they propose to have hereafter with the Indian tribes. This commission, composed of General Sherman and the other eminent officers I have named, says, "If you want war turn the Indians over to the military authorities."

Now, let me give you a specimen of Indian war. I introduced this morning a resolution inquiring what have been the expenses incurred for the suppression of Indian hostilities during the last three years. I have an official report of the amount expended during 1864 and 1865, but the hurry of this discussion has not allowed me to put my hand on the document, which is now on file in the document-room. That report shows that for those years there were expended in the quartermaster's department alone for Indian hostilities \$28,000,000; and I believe a careful estimate was made in regard to a military expedition that started from my own State, showing that it cost \$6,000,000, and that it killed two Indians! Now, Mr. Speaker, at the rate of \$3,000,000 for every Indian killed, you can readily estimate the expense which those gentlemen who, as General Sherman says, propose war, expect to

impose upon the Government in killing three hundred thousand Indians.

General Grant estimated, in 1866, that the weekly cost of our then Indian war was \$1,000,000. I learn from the newspapers that there are now some five thousand cavalry under the command of General Sheridan engaged in the pursuit of Indians upon the Plains. This, with those on duty at the various posts, is a larger military force than we had engaged in the suppression of Indian hostilities in 1866, when General Grant made his estimate. We may then safely estimate that the cost of our Indian war to-day is not less than \$1,000,000 per week. If gentlemen desire, when our Treasury is in its present condition, to declare war against all these Indian tribes, as General Sherman and these other officers say you will do if you transfer the control of Indian affairs to the War Department, thereby continuing this expense of \$1,000,000 per week, let them say so.

But, sir, we have now in the field a commission composed of the gentlemen I have named, a commission that challenges the confidence, I think, of every member present. When that commission shall, upon a careful examination of the question, make a report advising that this transfer should be made, and when a system shall have been prepared for the management of our Indian affairs, I shall offer no further opposition to this proposition. But I think it is altogether premature that a measure of this kind should, under the operation of the previous question, a large portion of the bill not having been printed, be forced through the House while such a commission is in the field and before we have any report from it on the subject, except a report advising us not to adopt this measure. I read further from the same report:

"In our judgment such wars are wholly unnecessary, and hoping that the Government and the country will agree with us, we cannot now advise the change. It is possible, however, that, despite our efforts to maintain peace, war may be forced on us by some tribe or tribes of Indians. In the event of such occurrence it may be well to provide, in the revision of the intercourse laws or elsewhere, at what time the civil jurisdiction shall cease and the military jurisdiction begin. If thought advisable, also, Congress may authorize the President to turn over to the military the exclusive control of such tribes as may be continually hostile or unmanageable."

"But," say the gentlemen composing this commission, "we cannot now advise this change." Let us, then, Mr. Speaker, wait until the commission that is investigating this subject shall have time to report. Let us check our hot haste until the bill can be printed and members can have an opportunity to read it.

[Here the hammer fell.]

Mr. GARFIELD. I yield eight minutes to the gentleman from Kansas.

Mr. CLARKE, of Kansas. Although this bill now reported by the Committee on Military Affairs is not in its details all that I think it ought to be, I nevertheless entirely agree with the chairman of the committee in the necessity of its passage. This Indian question, so far as relates to the western frontier, has become one of great importance, as I know from personal observation. It is becoming a practical question upon which it is necessary for Congress to act. It is not, if I may so express myself, a question of philanthropy. It is not even a question whether or not the white race or the Indian race are the aggressors, but it has become a question of practical administration. The Government of the United States has inaugurated a great system of internal improvement by which we are constructing at this moment two great lines of railway across the interior of this continent. Now, whatever may be the policy pursued by this Congress; whatever may be the action of the Interior or the War Department, the fact remains that every day the civilization of this country is coming in contact with the Indian tribes; that every day new aggressions are being committed on the one hand or the other, and under any system or any principle of administration which may be inaugurated by Congress or by either the War or the Interior Department our civilization will march forward

in spite of all opposition. Representing, as I do, a State on the western frontier, and knowing something of what is going on there at this moment, I am very far from agreeing with the declaration made by General Sherman; that our western frontiers are stretched out two hundred miles too far, and that our frontier settlers must live in block-houses and forts, as was done in the early times in Ohio and Indiana. On the contrary, I believe that our civilization will go on, and that it ought to go on, and that it is not within the power of Congress or of any department of this Government to arrest in any way or to any extent this tide of civilization which is marching on irresistibly until it will meet from the east and from the west on the very summit of the Rocky mountains.

What, then, Mr. Speaker, does this bill propose to do under these circumstances? Why, sir, I think the gentleman from Minnesota [Mr. WINDOM] is mistaken. I do not know from what report he read, but I believe it was from the report of the peace commission of last year; and if I am rightly apprised of the fact, I think that these very gentlemen, from whose report he read, had a meeting in the city of Chicago not many weeks since, at which they adopted, by a majority vote, a resolution in favor of transferring the Indian Bureau from the Interior to the War Department.

Mr. WINDOM. The gentleman is entirely mistaken. I was there at the time, and I read the report afterward, and never saw any such thing.

Mr. CLARKE, of Kansas. I speak from the published report in the newspapers.

Mr. WINDOM. Have they ever made to Congress any report since that from which I read changing their recommendation?

Mr. CLARKE, of Kansas. Probably not. But this whole question was before the commission, as the gentleman well knows; for he says he was at the meeting at Chicago not many weeks ago, and that peace commission divided in the views they expressed; and the present Commissioner of Indian Affairs has taken the trouble to send to members of this and the other branch of Congress a protest against the transfer of this bureau to the War Department, manifesting a very extraordinary interest in the preservation of the present status of the Indian Bureau, which, I hesitate not to say here, has been for some time past, and is to-day, in its administration a standing disgrace to this Government. Why, sir, if I had time I could detail in the hearing of this House the operation of this Indian Bureau in my own State, exhibiting a system of corruption and of aggression upon the rights of the Indians and the people, and a system of public plunder under the present administration of the Interior Department, such as I believe has never existed before in the history of this Government. It was only last winter that the President of the United States appointed the present head of the Indian Bureau as chairman of a commission to go to Kansas for the purpose of making a treaty with the Osage Indians. And, sir, what was the result? Why, the present Commissioner of Indian Affairs, attended, as I may say, by a retinue of speculators and of public plunderers, went and got a treaty signed, and brought it back to this capital, by which eight million acres of the public domain of the State, which belongs to the people of this country, was attempted to be stolen, and the Indians divested of the title at a nominal price, and the land passed into the hands of men whose reputation, as you well know, sir, and as this House well knows, is not above suspicion. On this very day I have deemed it my duty to offer a resolution to this House calling upon the Secretary of the Interior for information as to the manner in which these results were accomplished. And, sir, I might go on and show to this House and the country that not only in reference to these Osage Indians, but in the case of nearly every tribe of Indians in Kansas and elsewhere, the funds appropriated by your Indian bills, the funds annually appropriated here for the benefit of these Indians, instead of passing into the

hands of the Indians, under the present administration of the Indian Bureau, pass into the hands of men who to-day, if not sitting in your Interior Department and Indian Bureau, surround and control those men in the administration of Indian affairs. Sir, I have no hope of any reform by which the Indian question in this country will be settled, and by which a system of economy founded upon just principles as connected with this question may be established, except by transferring this bureau from the Interior Department to the control of the War Department, as provided in this bill.

Mr. WINDOM. Will the gentleman allow me to ask him a question?

Mr. CLARKE, of Kansas. Certainly.

Mr. WINDOM. I desire to ask him whether General Grant cannot appoint an honest Commissioner of Indian Affairs as well as detail an honest military officer, or do shoulder-straps insure honesty always?

Mr. CLARKE, of Kansas. Well, in reference to the question of appointments, I have watched it quite attentively during the last three or four years, and I will say in reply to my friend from Minnesota that I have about given up all hope of reform in reference to that question; and my experience is that I have known but very few men under this Administration obtain an appointment as an Indian agent or under the Indian Bureau simply for the purpose of receiving the salary connected with the office.

Mr. WINDOM. The gentleman does not answer my question. Are we any more likely to get honest men with shoulder-straps than honest men without them?

Mr. CLARKE, of Kansas. The difference is this: our military officers are under the restraints of military law. They are appointed for life; they have reputations to maintain as officers of the Army, whereas your civil appointees may be men who obtain these offices because they desire to make money out of the Government and to plunder the Government, and when their plundering is over drop out of sight without any punishment whatever.

[Here the hammer fell.]

Mr. GARFIELD. I now yield five minutes to the gentleman from Wisconsin, [Mr. PAINE.]

Mr. PAINE. Mr. Speaker, I am in favor of the transfer of the Indian department to the Department of War, but there is in this bill one feature to which I wish to call the attention of the chairman of the Committee on Military Affairs, suggesting to him a change. By the second section of his bill he provides that officers of the Army who shall be intrusted with those duties which have hitherto been conferred upon the officers of the Indian Bureau as such shall not be required to give the bonds which have hitherto been required of officers performing corresponding duties who belong to the Indian Bureau, or who are appointees of the Interior Department. It is provided, however, in this bill that these officers shall be held responsible under the Articles of War. Now, I can see no reason why in this bill we should deviate from the usage which has uniformly prevailed in the Army of requiring a bond from those officers whose duty it has been to disburse money, to purchase supplies, or to handle or manage property. We have hitherto required bonds from officers of the quartermaster's department, and bonds from officers of the commissary department, and bonds from officers of the pay department. And now, why in this bill should we intrust the disposition of large sums of money to officers who give no bonds, deviating from the rule which has always obtained in this Government, so far as the War Department is concerned? Why should not the officer who is required by this bill to disburse large sums to the Indians be required to give bonds just as the officer of the pay department, or the officer of the commissary department, or the officer of the quartermaster's department has hitherto been required, and is now required, to give bonds to cover a like responsi-

bility? I would suggest to the gentleman, then, that in the seventeenth line of the second section he strike out the word "not." The sentence provides that—

Officers of the Army designated to perform the duties of commissioner, superintendent, agent, or sub-agent shall not be required to give the bonds now required of civil appointees, but shall be responsible for any neglect or maladministration according to the Rules and Articles of War.

I would suggest that the word "not" be stricken out, so that these officers may be required to give bonds. I am aware that the bill is not in such a position now that I can myself offer the amendment I have suggested; but I will yield the floor, making this request of the gentleman in charge of this bill: that he shall explain to the House the reason, if he has a good reason, why these officers are not to be required to give bonds as other Army officers in like circumstances have hitherto been required to do.

Mr. GARFIELD. I now yield for ten minutes to my colleague from Ohio, [Mr. SCHENCK,] the chairman of the Committee of Ways and Means.

Mr. SCHENCK. The gentleman from Minnesota [Mr. WINDOM] is very much mistaken, so far at least as some of us are concerned, including himself, of course, when he states that this is a new question, for the discussion of which gentlemen here are not prepared. He remembers, as I do, that this is an old question.

Mr. WINDOM. I said it was an old question.

Mr. SCHENCK. In the Thirty-Ninth Congress this very bill, with slight alterations, if any, was passed twice by the House of Representatives; once as a substitute for a bill reported by the gentleman from Minnesota, [Mr. WINDOM,] as chairman of the Committee on Indian Affairs, and at another time upon its own merits, as a distinct bill upon the Calendar. And it failed to become a law only because of the opposition it met with in the other branch of the national Legislature. It is therefore not a new question to members to propose to restore to the War Department a bureau which was formerly connected with that Department—this Bureau of Indian Affairs; and I shall support this bill now, as I did a similar bill upon a former occasion, because I believe there is no reform proposed to this House so effective to break up a foul nest of thieves as the passage of a law of this kind would be.

I do not know why it is, but it seems almost impossible for Indian affairs to be touched without soiling as with pitch those who lay hold of the subject. But the fact, at least, is incontestible, and it appears to me that the whole country is now prepared to conclude that we have tried this system of civil administration long enough. It is true, as the gentleman from Minnesota [Mr. WINDOM] has said, that a report was made by a committee, or a commission rather, of which General Sherman was one member, hesitating upon the question of throwing back into the War Department the whole administration of this subject. But the quotation made by the gentleman, as well as the text in connection with that quotation from that report, will show him that it was a compromise of opinion between General Sherman and others on the commission with him and some civilians who were also engaged on that same commission. But even the quotation the gentleman makes does not sustain him. He says General Sherman states that if you want war, then the administration of the Indian Bureau should be thrown into the War Department. That is not the statement made by that commission. It is: "If we are to have war, then by all means the Indian Bureau should be transferred to the War Department." But if everything is to go along and be lovely and of good report, and there is to be no difficulty, then, perhaps, you may succeed—"with a great deal of stealing" ought to be interjected—by continuing it under the civil administration. If we are to have war, however, then by all

means let the Indian Bureau go back to the War Department.

Now, sir, the Indians have settled that question for us. We are not only to have war, but we now have war. And instead of killing two Indians I think a great many have been killed as a consequence of these hostilities. The gentleman's remarks made to-day precisely resemble those he made in the last Congress. But the facts have changed, and his present remarks do not fit the new history.

Mr. WINDOM. Will the gentleman tell me how many Indians have been killed?

Mr. SCHENCK. I cannot tell how many, because I have not the statistics. But from recent information which has been received I believe that one hundred and fifty or more Indians have been killed, at one time, and in one engagement.

Mr. WINDOM. And that will prove, I have no doubt, another Sand Creek massacre, when the facts of the case are known.

Mr. SCHENCK. Now, sir, I wish to state what to my mind is a strong inducement for restoring this bureau to the War Department. Your Indian agents are interested in getting up war, and the history of the Indian department shows that in about nine cases out of ten where we have had Indian hostilities they have been either provoked or encouraged or connived at, for the sake of contracts, by these Indian agents and sub-agents and their friends. When we get into war, then the Army is called upon to settle the difficulty by fighting it out. The officers of the Army will not, of course, desire to have war, if they are to undergo the exposure and peril and suffering and death consequent upon a state of hostilities. Let those, then, who have to fight the matter out, and who are interested in keeping the peace, be charged with the administration of this department, and we shall not have a parcel of corrupt civilians getting up the wars which give no peril to them after they have been commenced, but which are to be left to others to fight out to the end. Let the Army officers, who must fight out these wars with the Indians, know in advance that they can prevent them if they will, and we shall not be so likely to have war.

Now, sir, my friend from Wisconsin [Mr. PAINE] objects to one particular section of this bill, the section which provides that the officers of the Army designated to perform the duties of commissioner, superintendent, &c., shall not be required to give bond. Referring to the first part of the section, it will be found that it is left within the power of the Secretary of War to give up gradually, or abruptly if he will, all employment of civilians in these different offices and to substitute by detail for this purpose officers of the Army of the United States. If he shall thus discontinue the employment of civilians who give bonds—and whose bonds do not appear to have done us any very great degree of good, either in maintaining peace or in securing a wise and honest administration of Indian affairs—and shall employ by detail officers of the Army, it seems to me appropriate that these colonels, majors, captains, lieutenants, &c., shall be left to that responsibility which is imposed upon them as officers of the Army.

Mr. Speaker, I have very little faith in official bonds at any time. I am not quite certain, so far at any rate as elective officers are concerned, but that the system of official bonds is all wrong, and that the people, or their agents who select other agents, should suffer if the agents are corrupt, so that the people and those who serve them might take warning and employ only good men. But if you want security in this case, this bill proposes a very much better security than any ever derived from any bond given by anybody. Under the present system who are appointed Indian agents? Broken-down lawyers, physicians who cannot get practice, men who have been busy at the polls in our several districts and who come to us and beg us to solicit for them from the Department of the Interior an appointment of that kind,

that they may go out and take care of themselves and their families. I do not say it is uniformly the case that such are the appointments; but as a general rule that is the way in which men are rewarded for political services. When thus appointed Indian agents, they run a career long or brief as the case may be, picking up some money by collusion with contractors or cheating the Indians or getting up wars; and they retire from office with or without much in their pockets, according to the chances they may have had. Whenever they are ready to retire, they retire by resignation; nobody can prevent their retirement; and there is an end of the matter. If you seek to hold them responsible upon their bonds for any malfeasance, you are not likely often to collect anything either from them or their securities. But when an officer of the Army is detailed for this service and enters upon the duty, he puts at stake his commission, which is his support for life. He puts at stake his reputation. He is liable to summary trial and punishment by a court-martial for misconduct in connection with Indian affairs as he would be for any other misconduct in the field or in the garrison; and I would not give the security derived by holding a court-martial over the heads of one of these officers, and the danger of his losing his commission by sentence of court-martial for any misbehavior, for all other securities that by bonds or otherwise you can require of any of these agents you may send to do this work. I hope, therefore, this principle will be preserved.

Mr. WINDOM. I desire to ask the gentleman a question. He says you cannot touch Indian affairs without being contaminated. Is that the particular reason why he would send a military officer to take charge of these people in future? And why does he wish to vary the ordinary rule? Had you not better take all the security you can? Why should you dispense with the present security and require another?

Mr. SCHENCK. Because we substitute a better security in its place.

Mr. WINDOM. Why not take both?

Mr. SCHENCK. I do not see the necessity of taking one which is inefficient when we can substitute another which we think perhaps will be efficient.

Mr. RANDALL. I desire to ask the gentleman whether he proposes to increase the pay of regular Army officers employed under this bill?

Mr. SCHENCK. No, sir; and for that reason the gentleman will find, if he considers that point in the case, that it runs right into a question of great economy, to be effected by adopting this bill.

[Here the hammer fell.]

Mr. GARFIELD. I have agreed to yield five minutes to the gentleman from California.

Mr. HIGBY. Mr. Speaker, if we are to give credit to the argument in favor of this bill it amounts to about this: that there is no virtue in this nation except it be in the Army of the United States. There is a great outcry against the present system of administering our Indian affairs through the civil department. But, Mr. Speaker, the grand difficulty is that we have no system at all, and are seeking a remedy for the want of one by transferring the Indian Bureau from the Interior to the War Department, simply changing its administration from one class of men to another. Now, sir, in my judgment this attempted remedy will prove a failure. This nation will find itself in as bad a condition, if not a worse one, after you have made the change than it is now. Until we devise some system by which the department shall be administered, and have its checks and balances, we shall find ourselves in just as much trouble as we are now and have been for years.

Sir, I do not believe in the doctrine that men in one department of life are more honest than they are in another; and when I am told that because these men are in the Army during their lives that will be a check upon them and an inducement to perform their duties hon-

estly, I do not believe it. I do not believe we have more honest men there than in other departments of life. I think there are just as good men there as elsewhere, and no better.

The chairman of the committee tells us that it is not the object of this bill to give power or to increase the military force. I think I see in it that there is to be a direct connection between the War Department and the administration of Indian affairs—that is, a war power is to be exercised over the Indians. Sir, we have got to return, in our manner of dealing with the three hundred thousand Indians in this country, to some system of honesty and integrity like that carried out by William Penn, who came single-handed and alone into this continent and dealt successfully with the Indian tribes around him.

Mr. WOODWARD. By deeds of peace.

Mr. HIGBY. Yes, sir, by deeds of peace, as my friend well says. He came among them with no weapon of war, and he secured a lasting peace. Let this nation profit by his example.

But, sir, it is not from the Indian Bureau that the trouble comes; it comes from other sources. There is no power in that department to check the evil, because there is no system in the administration of Indian affairs, and you do not create a system by simply transferring it to the War Department. I differ from the gentleman from Ohio [Mr. SCHENCK] in reference to that question. He says it was before the Thirty-Ninth Congress. It was more or less, but it has not been before the Fortieth Congress for its investigation. There are many members here now who were not in the Thirty-Ninth Congress, and I think it would be well for them to have an opportunity to consider this subject. It is now only the second day of the session, and this bill, which is one of great importance, is brought forward to be passed here simply on an hour's debate. I hope it will not pass.

Mr. GARFIELD. How much time have I remaining?

The SPEAKER. The gentleman has eleven minutes.

Mr. GARFIELD. Mr. Speaker, I will conclude this debate by calling attention to two or three points that have been made. And first, let me correct my friend from Minnesota in regard to the decision of the Indian commission which sat last year and made a report in reference to Indian affairs. That commission was divided on the question of transferring the bureau to the War Department, and they finally, in the hope of maintaining peace with the Indians, recommended first, that for the present the bureau should not be transferred to the War Department, but should be made a separate, independent department; and, in the next place, that Congress be asked to pass an act fixing a day not later than the 1st of February, 1869, when all subordinate officers, superintendents, and agents of Indian affairs should be dismissed from their positions because they had become so mixed up with frauds that they could not be trusted. All this, however, was based on the hope that peace might be maintained with the Indians. But the commission very distinctly say that if we are to have war the bureau ought to be transferred to the War Department.

Now, what are the facts? The commissioners concluded several treaties with the Indians. And here let me say that it seems to me a sort of mockery for the representatives of the great Government of the United States to sit down in a wigwam and make treaties with a lot of painted and half naked savages, only to have those treaties trampled under foot the very moment our officers are out of sight. This whole matter of making treaties with our wards is ridiculous. Still, I will not enter upon that subject.

Mr. INGERSOLL. I would ask the gentleman if the peace commission itself did not state that in a great majority of cases the first infraction of the treaty came from the whites instead of the Indians?

Mr. GARFIELD. I happen to hold in my

hand a much later document than the report of the peace commission, and I will read from it. It is the official report of Lieutenant General Sherman, dated November 1, 1868, in which he gives a detailed and elaborate account of what has transpired in the Indian country since the peace commission sat, and he tells the reasons why the peace commission took the course it did. He says that soon after the conclusion of the treaties, without any new provocation on the part of the whites, the Indians by a concerted action began this terrible war upon the frontier. This report very fully answers the suggestion of the gentleman from Illinois, [Mr. INGERSOLL,] that all aggressions are made by the whites. After giving a detailed account of the Indian hostilities and what has been done to repress them, he argues the subject elaborately, and says:

"I have to recommend that the Bureau of Indian Affairs should be transferred back to the War Department, where it belonged prior to 1849."

That is General Sherman's official report of November 1, 1868.

Mr. WINDOM. What paper was it printed in?

Mr. GARFIELD. It has been printed in the papers generally. I am now reading it as printed in the National Intelligencer, a file of which is kept in the Clerk's office.

Mr. WINDOM. I have never seen the report.

Mr. CAVANAUGH. I would ask the gentleman from Ohio if the peace commission was not divided upon this question at Chicago?

Mr. GARFIELD. I do not know how it was divided at Chicago. I know it was divided last year, and that the majority was against the transfer of the bureau. It may have been divided this year, but the commission report in favor of the transfer now.

Mr. MUNGEN. Did not General Sherman state, when he was before the Committee on Indian Affairs of this House and the joint Committee of the two Houses last session, that if the appropriation for the annuities, or rather the advancement of the annuities, was not made last May, according to the arrangement, it would bring on a war, and did not the failure to make the appropriations produce the war?

Mr. GARFIELD. I cannot say whether he did or did not. If he did I am not aware of that fact. I know that General Sherman says in his recent official report that this war was brought on, not by any fault of the whites, but by the faithlessness and wickedness of the Indians themselves.

Now, General Grant sends his annual report to the Secretary of War under date of November 24, 1868, only two weeks ago, and in it uses this language:

"I would earnestly renew my recommendation of last year that the control of the Indians be transferred to the War Department. I call special attention to the recommendation of General Sherman on the subject. It has my earnest approval. It is unnecessary that the arguments in favor of the transfer should be restated. The necessity for it becomes stronger and more evident every day."

Thus it will be seen that the General of the Army approves the reports of General Sherman and General Sheridan. All this is really in accordance with the report of the peace commission; for they say if we are to have war the bureau had better go to the War Department. And in the same report, from which my friend from Minnesota [Mr. WINDOM] read, there is a description of the constant difficulty we are now in. It is in these words:

"As things now are, it is difficult to fix responsibility. When errors are committed the civil department blames the military; the military retort by the charge of inefficiency or corruption against the officers of the bureau. The Commissioner of Indian Affairs escapes responsibility by pointing to the Secretary of the Interior, while the Secretary may well respond that, though in theory he may be responsible, practically he is governed by the head of the bureau. We therefore recommend that Indian affairs be committed to an independent bureau or department. Whether the head of the department should be made a member of the President's Cabinet is a matter for the discretion of Congress and yourself, and may be as well settled without any suggestions from us."

That report was made a year ago. With this

triple-headed monster managing Indian affairs, neither one knowing how much he has to do, each one throwing the blame of every failure on the other; with the events of the past season and the war we are now suffering, and with the recommendation of all those most intimately acquainted with the subject; with all these facts before us, I hardly think the case needs further argument.

I desire, however, to say a word in reply to my friend from California, [Mr. HIGBY.] He says we should have an Indian policy first and make the transfer afterwards. I think not, Mr. Speaker. Let us meet the present necessities of the case by making one department of the Government wholly responsible, and call to the work officers who are amenable to military laws, and we shall have taken a great step toward reforming abuses. After that we can go forward and determine what shall be done with the Indians; whether they shall be confined to reservations and not have any rights which white men are bound to respect when they leave their reservations, or whether we shall make a rule that no white man who enters an Indian reservation without authority shall have any rights which an Indian is bound to respect. Whatever we do ought to be the result of deliberation and examination.

I will now yield to the gentleman from Minnesota for a question.

Mr. WINDOM. I wish to make a single remark. I wish to say that I have never seen the report of General Sherman which the gentleman has read. I did not know there was any such thing in existence. But, sir, I do not feel any sort of interest in this matter. I never had a friend of any kind in the Indian Bureau. And I will ask the gentleman from Ohio a question. What was the motive of relieving these Indian officers from bonds? Why discriminate in their favor in that respect?

Mr. GARFIELD. I am glad that my friend has called my attention to that point, and I will take up the minute and a half left to me in replying to it. It is a mistake to suppose that the bill makes any discrimination between military officers employed in the Indian service and those on other duty. There is a class of officers of the Army charged with the disbursement of public money or the safe-keeping of public property who are required to give bonds for the faithful performance of their duties. If they do any duty under the provisions of this bill, they will be under bonds, as now provided by law. But if an unbonded officer be sent to the Indian country in command of troops or on other duty, I do not think he ought to be required to give bonds, unless the same duty performed elsewhere required bonds also. The rule for army officers should be uniform.

Mr. WINDOM. Does not the agent pay out money, and yet he is not required to be a bonded officer?

Mr. GARFIELD. The bill does not require any addition to the bonds the officer gives as an officer of the Army. He will give the same bond wherever he may serve.

Mr. WINDOM. You expressly provide that this officer shall give bonds for other duties, but when he comes to do this duty he shall not give bonds.

Mr. GARFIELD. Not at all; but that he shall not be compelled to give additional bonds because he goes into the Indian country. It seems to me that we should find great difficulty in carrying out the bonded system now in use in the Indian department after the transfer. Officers of the Army are bonded under very different regulations. Moreover, I have more faith in courts-martial than bonds to secure faithful conduct. I now demand the previous question.

Mr. WINDOM. Is it in order to move that the bill be referred to the Committee on Indian Affairs?

The SPEAKER. It is not, pending the demand for the previous question.

Mr. WINDOM. I move that the bill be laid on the table.

The motion was not agreed to.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. GARFIELD demanded the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. WINDOM demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 116, nays 33, not voting 72; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Archer, Arnell, Axtell, Baldwin, Banks, Beaman, Beatty, Benton, Bingham, Blaine, Blair, Boyden, Boyer, Broomall, Buckland, Roderick R. Butler, Callis, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Corley, Covode, Callom, Dawes, Dickey, Dixon, Donnelly, Driggs, Eckley, Edwards, Eggleston, Ella, Eliot, Farnsworth, Ferriss, Fields, Garfield, Gravelly, Haughey, Heaton, Hill, Hooper, Hopkins, Hotchkiss, Chester D. Hubbard, Hulburd, Hunter, Alexander H. Jones, Judd, Julian, Kelley, Kellogg, Kelsey, Ketcham, Koontz, Lash, George V. Lawrence, William Lawrence, Lincoln, Loan, Loughridge, Lynch, Marvin, McCarthy, McKee, Miller, Moore, Moorhead, Morrell, Myers, O'Neill, Orth, Paine, Perham, Peters, Pettis, Phelps, Plants, Poland, Polesky, Pomeroy, Robertson, Schenck, Scofield, Sitgreaves, Smith, Spalding, Starkweather, Stevens, Stewart, Stokes, Stover, Sypher, Thomas, Tift, John Trimble, Upton, Van Aernam, Burt Van Horn, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Whittemore, William Williams, James F. Wilson, Wood, and Young—116.

NAYS—Messrs. Baker, Barnes, Brooks, Burr, Benjamin F. Butler, Calk, Cary, Chanler, Deweese, Eldridge, Ferry, Fox, French, Glossbrenner, Higby, Ingersoll, Jenckes, Thomas L. Jones, Kerr, Marshall, McCormick, Mungen, Niblack, Nicholson, Norris, Ross, Taber, Taffe, Lawrence S. Trimble, Van Auker, Van Trump, Windom, and Woodward—33.

NOT VOTING—Messrs. Adams, Delos R. Ashley, James M. Ashley, Bailey, Barnum, Beck, Benjamin, Blackburn, Boles, Boutwell, Bowen, Bromwell, Buckley, Clift, Cornell, Delano, Dockery, Dodge, Getz, Golladay, Goss, Gove, Griswold, Grover, Haight, Halsey, Hamilton, Harding, Hawkins, Holman, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Johnson, Kitchen, Knott, Ladin, Logan, Mallory, Maynard, McCullough, Mercer, Morrissey, Mullins, Newcomb, Newsham, Nunn, Pierce, Pike, Price, Prince, Pruyn, Randall, Raun, Robinson, Roots, Sawyer, Selye, Shanks, Shellabarger, Stone, Taylor, Trowbridge, Twichell, Robert T. Van Horn, Vidal, Ward, Thomas Williams, John T. Wilson, Stephen F. Wilson, and Woodbridge—72.

So the bill was passed.

Mr. GARFIELD moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

The SPEAKER stated that the morning hour had expired.

Mr. ROBINSON took the floor, and yielded to

Mr. SCHENCK, who said: Mr. Speaker, I wish to state to gentlemen of the House who have business upon the Speaker's table that I propose on Thursday morning, after the morning hour, to move to proceed to the business upon the Speaker's table, so as to dispose of the bills which have accumulated there.

Mr. WASHBURN, of Illinois. I wish to get to the Speaker's table at once, so as to take up and pass a Senate joint resolution canceling a contract with Messrs. Dempsey & O'Toole, which is a fraud upon the Government.

AMENDMENT OF THE CONSTITUTION.

Mr. JULIAN, by unanimous consent, introduced a joint resolution (H. R. No. 371) proposing an amendment to the Constitution of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

SWAMP LANDS.

Mr. ORTH, by unanimous consent, introduced a bill (H. R. No. 1483) in reference to swamp lands; which was read a first and second time, and referred to the Committee on the Public Lands.

DEMPEY AND O'TOOLE.

Mr. WASHBURN, of Illinois. If it is in order I now move to go to the business upon

the Speaker's table, so that we may take up and act upon the joint resolution to which I have referred.

Mr. GARFIELD. I hope that will be done. The SPEAKER. The gentleman from New York [Mr. ROBINSON] is upon the floor; but the Digest says that any member can be taken from the floor at the expiration of the morning hour by the motion to go to the business upon the Speaker's table.

Mr. WASHBURN, of Illinois. I move, then, that we go to the business upon the Speaker's table.

The SPEAKER. The Chair recognized the gentleman from New York, [Mr. ROBINSON,] but he does not know for what purpose he rose.

Mr. ROBINSON. I rise for the purpose of offering a resolution concerning citizens imprisoned in Great Britain. The Committee on Foreign Affairs, whom I intend "to walk into gently," pledged us ten months ago to report on the subject, and they have not done so. I wish to show such a state of facts as will demand the attention of this House and the country.

The SPEAKER. That is not now in order.

Mr. ROBINSON. I will rise every five minutes between this and the next 4th of March to get the floor on this subject.

The SPEAKER. The State of New York was called for resolutions yesterday.

Mr. ROBINSON. I wished to be heard on it, and therefore I withdrew the resolution at that time, as debate was not then allowable.

The SPEAKER. The gentleman from Illinois moves that the House proceed to business upon the Speaker's table, which is first in order.

Mr. WASHBURN, of Illinois. I ask unanimous consent to take up that joint resolution to which I have referred, and pass it now.

Mr. ROBINSON. My friend will excuse me, but I rise to a parliamentary question. Can I move that the gentleman from Illinois be censured as one of the Representatives of the people who are putting off the question I have referred to and thereby bringing disgrace upon this country?

The SPEAKER. The remarks about members "bringing disgrace" is not parliamentary.

Mr. ROBINSON. I do not mean it with regard to any individual member. I say that if we delay longer to do justice to our imprisoned citizens, to protect them when they need protection, we will be disgraced.

The SPEAKER. The rule is as follows:

"It is an invariable practice to permit a member, upon the expiration of the morning hour, to take the floor even though another may be occupying it, to make the motion to proceed to business on the Speaker's table."

Mr. ROBINSON. I ask unanimous consent to be allowed to take the floor.

The SPEAKER. It is not debatable.

Mr. ROBINSON. I ask the gentleman from Illinois to withdraw his motion. I ask it as a favor to American citizens who are suffering abroad.

Mr. WASHBURN, of Illinois. How long does the gentleman desire?

Mr. ROBINSON. I will take any time from ten minutes up.

Mr. WASHBURN, of Illinois. How much time do you want?

Mr. ROBINSON. Perhaps thirty or forty minutes. I will take any time that you may allow to those who are suffering abroad.

Mr. WASHBURN, of Illinois. Does the gentleman object, or does any gentleman object, to taking up the joint resolution to which I have referred?

Mr. ROBINSON. I have never objected to anything. If the gentleman had asked me to yield to him the floor to take up a resolution I would have done so.

Mr. WASHBURN, of Illinois. I ask unanimous consent to take from the Speaker's table Senate joint resolution No. 175, relative to the recent contract for stationery for the Department of the Interior.

Mr. MUGEN. I object.

Mr. WASHBURN, of Illinois. I move to go to the business upon the Speaker's table.

Mr. SCHENCK. I understood the gentleman from New York had the floor and was about to proceed with his remarks when I made the announcement I did. I was aware it was proper we should before long clear the Speaker's table, and not wishing to disturb the gentleman from New York in making his remarks at a time when business was not pressing, I thought it due to the House and to the members interested in bills upon the Speaker's table to give notice of the time when the motion would be made to proceed to business upon the Speaker's table. It was a mere matter of courtesy to gentlemen all round the House, so that they should have notice of this motion.

The SPEAKER. Does the gentleman from Illinois insist on his motion?

Mr. WASHBURN, of Illinois. I do. I wish to get at this joint resolution and to pass it.

Mr. INGERSOLL. What is the relative position of that joint resolution; how many are there before it?

The SPEAKER. There are twelve in advance of it.

The House divided; and there were—ayes 50, noes 60.

Mr. FARNSWORTH demanded the yeas and nays.

The yeas and nays were not ordered.

So the House refused to proceed to the business upon the Speaker's table.

RIGHTS OF AMERICAN CITIZENS ABROAD.

Mr. ROBINSON. I ask leave to submit my remarks now.

Mr. WASHBURN, of Illinois. How long?

Mr. ROBINSON. I do not think I ought to be restricted.

Mr. WASHBURN, of Illinois. I give notice after the gentleman from New York concludes I will renew my motion.

Mr. FARNSWORTH. I hope it will be the understanding that no further business is to be done this evening.

There was no objection, and it was so ordered.

Mr. ROBINSON. Mr. Speaker, I propose to renew the following resolution which I submitted yesterday:

Be it resolved by this House, That the President of the United States be requested to inform this House what correspondence, if any, in addition to the dispatch of the Secretary of State to Mr. Moran, our acting chargé d'affaires in London, furnished by him June 22, 1868, in answer to the resolution of this House of June 15, 1868, has taken place, and to furnish to this House copies of any such correspondence for the immediate action of Congress.

Mr. Speaker, on the 15th of June, 1868, I had the honor of offering a resolution, which was adopted by this House, "requesting the President to take such measures as shall appear proper to secure the release from imprisonment of Messrs. Warren and Costello, convicted and sentenced in Great Britain for words and acts spoken and done in this country, by ignoring our naturalization laws, and to take such other measures as will secure their return to our flag with such ceremonies as are appropriate to the occasion." The President referred the resolution to the Secretary of State, and Mr. Seward wrote a dispatch to Mr. Moran, our acting chargé d'affaires at the English Court, which was on the 22d of June, 1868, transmitted by the President to this House, and which was communicated to Lord Stanley by Mr. Moran on the 9th of July, 1868. This dispatch states that the correspondence of the legation of the United States at London is full of remonstrances and expostulations, which by the President's direction he had addressed to her majesty's Government, against the imprisonment of Messrs. Warren and Costello. Mark you, Mr. Speaker, our legation at London was full of correspondence ten months ago on this subject, and England was as undisturbed over them as a summer morning, and we seemed then, and seem now, perfectly contented with the situation, though a whole legation full of correspondence lay unnoticed and despised in the waste baskets of British diplomacy.

Mr. Seward, in this dispatch, also calls attention to the resolution of this House of the 16th of June, and also to the passage through this House of the bill for the protection of American citizens, including the wholesome reprisal clause so unfortunately struck out by the Senate. To this dispatch Lord Stanley, on the 28th of July, 1868, writes an answer, which the Daily Chronicle of this city, of the date of September 4, 1868, copies from the English papers, addressed to Mr. Thornton, the English minister here, to be read to Mr. Seward, with whom a copy is ordered to be left, in which answer Lord Stanley takes exception to the allegations in our resolution, and denies that Messrs. Warren and Costello were sentenced for words spoken and acts committed in the United States.

Now, then, either this House, misled by me in the wording of the resolution which I offered, and which this House unanimously adopted, or my Lord Stanley is—to use the mildest phrase—in error. We assert, and he denies that these two men were convicted and are now suffering imprisonment for words and acts uttered and done in the United States; and I contend here that every day that outrage continues to be perpetrated on two of our most worthy citizens, whose blood is on our battle fields, without demand for their liberation, we suffer ineffable disgrace in the eyes of mankind.

It so happens that we have the official report of the trial of Warren, obtained from the British authorities in Ireland, and forwarded to our State Department by our minister, Mr. Adams, and published in the voluminous correspondence sent to this House by the President February 10, 1868, in answer to another resolution which I had previously offered, and which was adopted November 25, 1867. It will be found in part one of that correspondence, commencing at page 217, and is entitled "Report of the trial of John Warren for treason-felony, at the county Dublin commission held at the court-house, Green street, Dublin, commencing the 30th October, 1867, reported for the Crown by William G. Chamney, esq., barrister at law."

I shall quote from this official copy facts which will settle the question of veracity between this House and Lord Stanley, and will give the original official pages of the British report, preserved in the correspondence published by this House.

On arraignment the prisoner the clerk of the Crown said:

"You stand indicted that you on the 1st day of March" * * * "feloniously and wickedly did compass and intend to deprive and depose our lady the queen," &c.—Page 6.

Now, the entire evidence given in this official report of the trial shows that at that date, and until April 12, 1867, John Warren was in the United States.

From page 6 to page 19, both inclusive, the report is taken up with a lengthened argument between the court and the lawyers on both sides, whether Warren, being a naturalized citizen of the United States, was an alien in Great Britain, and therefore entitled to a jury *de medietate linguæ*, or whether he still owed allegiance to the queen (wherever he might be) in defiance of our naturalization laws declaring otherwise, and therefore liable to be tried for his acts and words done or said abroad when he returned to the jurisdiction of his original ruler or sovereign. After numerous technical objections the able counsel of Mr. Warren finally put in the following plea:

"And thereupon the said John Warren says that he was born in Cork, in Ireland, of Irish parents, and under the allegiance of his late majesty King William IV. and that he is a citizen of the United States of America and has been such citizen of the United States of America from the 1st day of October, in the year of our Lord 1866, and still is a citizen of the said United States of America. And he says by reason of the premises, and not otherwise, that he is an alien, and he prays the writ of our said lady, the queen, to cause to come here twelve good and lawful men of said country by whom the truth of the matter may be better known, and who are of no affinity to the said John Warren, to recognize upon their oaths and inquire whether the said John Warren be guilty of the felonies in the said indictment above specified,

or either or any of them, or not guilty, and so forth, whereof one half to be of natives and the other half to be of aliens, to wit, born in the said United States of America, under the allegiance of the said United States of America, to try the issue of said plea."—Page 15.

This plea, that he had thrown off his allegiance to Great Britain by being naturalized here, was instantly and almost insolently denied by Chief Baron Pigot, Justice Keogh concurring, quoting Blackstone where that writer says that a British subject removing to foreign countries—

"Owes the same allegiance to the king of England there as at home, and twenty years hence as well as now; for it is a principle of universal law that the natural born subject of one prince cannot by any act of his own, no, not by swearing allegiance to another, put off or discharge his natural allegiance to the former."—Page 17.

And the chief baron, after further quoting from Story and Kent to sustain this doctrine as laid down by Blackstone, concludes in these words:

"I think it is desirable that they who in America formed views—I will say no more now than that—with respect to what is passing or what is expected to pass within the dominions of the Crown of England should be aware of the obligations imposed on them if they have ever been under the allegiance of the Crown of England; and how, according to the laws of England, they may be dealt with when they are found here."—Page 19.

Italicising cannot sufficiently emphasize the declaration. Had Lord Stanley read the decision of his own chief baron, who presided at Warren's trial, when he dared to question the veracity of this House in declaring in its resolution that Warren was tried for his acts done here? I might add here, further, that Warren and Nagle were prisoners together, both in every respect alike guilty or otherwise, both being off the bay of Sligo and both landing in the county of Waterford, and only that Colonel Warren's American citizenship, proved by his naturalization papers, produced in court under the seal of a court of Massachusetts, was held of no avail, and that he was liable as a British subject for acts done by others in Ireland, which, by words spoken here, he had seemed to approve, and thereby became liable immediately on his return, he could not have been tried in Dublin, but must have been sent to Sligo for trial, as Colonel Nagle was, or to Waterford, the only spot they touched, and where alone the venue lay. If my Lord Stanley had thought it worth his while to look into the trial, as officially reported for her Majesty, before questioning the veracity of this House, he would have seen that no crime was committed by Warren or any one else in the county of Dublin after his arrival there; that he had not been in the county of Dublin at all for years before his trial, except as a prisoner, and that it was only by ignoring and trampling upon our laws conferring citizenship, and holding him as still a British subject, liable at all times and in all places for his words and acts; that he was tried and convicted in Dublin for participating in an *emeute* in that county which occurred while he was in the United States, because, in Boston, he had expressed sentiments consonant with those uttered by parties supposed to be guilty of creating the disturbance in Dublin.

The right to a jury, in part foreigners, being denied him on the ground that he could not divest himself of allegiance to the queen, the prisoner protested as a citizen of the United States against being tried as a British subject, and added:

"I instruct my counsel to withdraw from the case, and I place it in the hands of the United States Government, which Government has now become the principal."

Noble sentiment! but misplaced confidence. That sentiment was uttered by a gallant soldier of this Republic who had a right to expect that the flag for which in so many battles he had fought and received honorable wounds would protect him from foreign trespass upon its jurisdiction. It was uttered over the trampled seal of American nationality on the 30th of October, 1867. Day by day through those four hundred days and upwards since then,

from the prison gloom and felon's cell this gallant American soldier strains his eyes to see the light of those stars on his beloved flag flash through the bars of his dungeon, but all is doubt and darkness and despair. No American at home seems jealous of American rights abroad.

Again, the clerk of the Crown reads the heads of the indictment, and the only two counts of that indictment given in the report are the first, which charges some felonious acts done by the prisoner on the 1st of March, 1867, and a second, which charges some similar acts done on the 12th of April, 1867, (page 20;) and the evidence throughout the official report shows that the prisoner on both those days was thousands of miles away from Ireland, and actually in the United States.

Will my Lord Stanley please inform us why he was indicted for acts done while in the United States if they did not mean to convict and punish him therefor? And if they claim that they tried him for something done in Ireland, why did they not, as they certainly did not, mention in the indictment any act or word done or spoken by him after landing in that island?

The attorney general and the chief baron having failed to shake the prisoner from the noble stand he had taken on his American citizenship, the latter gentleman, the right Hon. Robert Richard Warren, M. P., proceeded to address the jury, stating what he expected to prove and on which he would ask for the conviction of his namesake. The statement extends over ten pages of closely-printed matter. I call attention to these singular assertions in this opening of the attorney general. In defining treason-felony, he said:

"It consists in compassing or imagining the deposition of the queen from her royal state, or compassing, imagining, or intending to levy war against the queen and manifesting such guilty intentions by open external acts, when such compassing or intentions are manifested by one who owes allegiance to the queen of the United Kingdom." * * *

"If you shall arrive at the conclusion that any one or more of the overt acts alleged in this indictment is or are truly and justly laid to the charge of the prisoner, then it necessarily follows from the proof of the overt acts to your satisfaction that the prisoner is guilty of the crime of treason-felony."—Page 22.

I have quoted this passage to show that the attorney general placed no limit to the jurisdiction in which the overt act might be committed, whether in Boston or Dublin, and to show that he did not even claim the prisoner's conviction except only on the ground that he owed allegiance to the queen, notwithstanding his naturalization in this country. You will see also that he claims conviction on proof of any overt act alleged in the indictment, and most of the overt acts alleged in the indictment occurred here. It is noticeable, in this official report, that the indictment is nowhere stated, except as referred to by the clerk of the Crown or the attorney general. The latter enumerates the counts in the indictment more fully on page 23. He says the prisoner is charged in the first and second counts of having been connected with notorious Fenian leaders. These acts were proved to have occurred in the United States.

The fifth charges attendance at Fenian meetings. This, too, only in the United States. The sixth charges embarking on a certain vessel in America, so put down as actually occurring in New York; the seventh that he sailed into Sligo bay; the eighth that he joined a treasonable conspiracy in America called the Fenian brotherhood; the tenth that he conspired to provide arms to make war against the queen—this confessedly in America; the fifteenth that he became a member of the Fenian brotherhood to overthrow the queen, and made journeys and collected moneys for this purpose—all in America; the sixteenth that he levied war in the city of Dublin—this was proved to be a fiction; and the twentieth that in Sligo bay he administered an oath to Michael Gallagher to keep some secrets, which all the witnesses testified was done by Nagle, (page 23.) Here we have as many as twenty counts indicated by the attorney general. The third,

fourth, ninth, eleventh, twelfth, thirteenth, fourteenth, seventeenth, eighteenth, nineteenth, and all over twenty—if any, one half, at least—of the counts are not even mentioned in the trial. They were, perhaps, repetition or surplusage, but every one, except those failing of proof on the trial, occurred in the United States; and yet the jury were instructed to convict if only one were proved. The attorney general proceeds in these words:

"The only overt act on which I shall now make an observation is that of making war in the county of Dublin, because there will be no evidence that the prisoner personally levied war in the county of Dublin, but that charge is introduced because evidence will be given that members of the same conspiracy did levy war in the county of Dublin." * * *

"and if it shall appear to you, gentlemen, that the prisoner was a member of a conspiracy having for its object the establishment of a republic in Ireland, and that other members of the same conspiracy levied war against the queen in the county of Dublin, the prisoner himself is guilty of that levy of war."—Page 23.

"The charge against him is twofold: one is that he is a conspirator and a member of the Fenian conspiracy; and if, upon the evidence, you are satisfied of that, you are bound to find a verdict of guilty."—Page 25.

Yet Lord Stanley dares to say he was not convicted for acts done here. The attorney general then proceeds to say that a rising occurred in the city of Dublin, March 5, 1867, while Colonel Warren was in the United States, and that up to April 12, 1867, he was in New York; that he did not come near the coast of Ireland till about the 20th of May; and that he landed at Dungarvan without sword or pistol or other weapon of war, without doing any act of any kind whatever before arrest, on the 1st of June, a quarter of a year after the rising in Dublin, for which he was tried and convicted and is now suffering imprisonment.

Such is the opening of the attorney general, which went to the jury without dissent from the chief baron or his associate. The proof fell far short of the allegations in the indictment. The act charged in the seventh count that he sailed into Sligo bay, was not criminal, even if he had a hostile intent, provided he committed no overt act there, which is not alleged, except that he administered an oath; and the evidence produced by the Crown clearly proved that this act, if done at all, was done by Colonel Nagle, and for that he could not be tried in Dublin, as the attorney general acknowledges, (page 23,) and as the Government acknowledged by attempting to try Colonel Nagle in Sligo. If done at all it was done on an American vessel, and her deck was American territory and under American jurisdiction.

Daniel Buckley, an informer, proved that Warren was in New York as late as April 12, (pages 34, 35,) but he had never known Warren before that day, (page 40;) that they first sighted land May 18 or 20, (page 41;) that the oath was administered by Colonel Nagle to Gallagher; that he did not see Warren there at the time the oath was administered, (page 43;) that the vessel was under sail at the time, (page 44;) that they landed in a fishing boat, June 1, 1867, at Dungarvan. (Page 48.)

When the prisoner was asked if he wished to question the witness, he said: "I do not recognize the jurisdiction of this court at all," (page 49.)

Michael Gallagher, the pilot, proved that he boarded the vessel when she was about seven miles from land, (page 50;) that it was not the prisoner, but Nagle, that administered the oath, (pages 51, 52;) and even what evidence he did give was contradictory, as shown by the chief baron. (Pages 57, 58, 59, and 60.)

James Nolan, alias Daniel Coffey, was called as a witness, but refused to testify.

James Haughey was examined, but knew nothing of importance. (Pages 62, 63.)

Daniel Jones was examined, and knew about the same. (Page 64.)

Joseph Clarke, Richard Burke, Patrick Browne, Daniel Collins, George Jones, Andrew Roche, James Norris, Bernard Burke, James Patten, and Thomas Irwin were called and examined, but not one of them testified

to any overt act by Warren except landing and being arrested.

John Joseph Corydon, the informer, proved that he met John Warren as a captain recruiting for the Union Army, (page 83;) that he knew Warren as a Fenian in 1862, when he was in the American Army, (page 83;) that Warren's conduct as a soldier and a gentleman in the American Army was very good, (page 83;) that he was a reporter on the New York press in 1855, (page 84;) and that was all he knew or testified against Mr. Warren. Not one word of any act done or word spoken out of the United States.

Francis Sheridan, a Dublin policeman, then proved the rising in Dublin March 5, 1867, (page 86,) but of course did not prove Warren as present, or acting therein, for it was acknowledged by judge and attorney general and all that he was then in the United States.

Buckley was recalled, and his contradictory evidence was exposed. (Pages 89 to 95.)

And this is the case against Warren. So lamentably did the evidence fail to sustain even the frivolous counts in the indictment that the solicitor general, after summing up, withdrew all the counts except the first, sixth, sixteenth, and twentieth. First, he was a Fenian in the United States; sixth, he embarked upon a vessel at New York; sixteenth, while in New York he committed treason-felony in Dublin. This the solicitor general, in answer to the chief baron, called the venue point, (page 102;) and twentieth, he administered an oath in Sligo bay, which all the witnesses testifying on it swore was done by Nagle, no one even pretending to have seen Warren present while Nagle was administering it, and for which, even if guilty, he could have been tried, if triable at all, by Great Britain only in the county of Sligo, but really triable only by the United States as occurring on an American vessel.

The chief baron, in charging the jury, acknowledged that in this prosecution—

"It was necessary for the Crown to establish some overt act within the county of Dublin." * * *

An overt act having been established in the county of Dublin, it is open to the Crown to establish what would constitute overt acts showing a conspiracy in any other place; and though Sligo is not in the county of Dublin, and Waterford is not in the county of Dublin, yet if the party came to Sligo and brought arms for the purpose of effecting their treasonable purposes there, conspiring there to accomplish those purposes, it will establish a case against the prisoner, provided he is also fixed with the overt act done in the county of Dublin. Gentlemen, there is not a single particle of evidence to show that the prisoner at the bar was within the county or the city of Dublin or that he had any actual personal participation in what occurred at Milltown, Stepaside, or Glencullen; but if you come to the conclusion that these were the acts of his coconspirators in the Fenian confederacy, and if you come to the conclusion that the acts of levying war did take place within the county of Dublin," * * *

"the prisoner would be answerable for that act if he was then a member of the confederacy."—Pages 104, 105.

"If members of the Fenian confederation, in prosecution of the common design, attacked the three police barracks, and in so doing levied war against the queen, those were overt acts of all the persons who were then members of the confederation, wherever they were at that time."—Page 17.

Here it is plainly declared that all who attended or sympathized with Fenian meetings in Boston, New York, or Chicago, whether citizen, member of Congress, or Speaker of this House, all are triable for treason committed in Dublin. In reply to the question why sentence should not be pronounced against him, Colonel Warren made a manly speech, frequently interrupted by the chief baron, concluding as follows:

"My lord, though a very humble instrument when standing before you at this moment, my case, believe me, assumes a most remarkable and important size, and the present cases would form a great and momentous epoch in the history of these times." (Page 127.) * * *

"I have confidence in my Government that they will see justice done to me and that they will establish my right." * * *

"If America does not resent England's conduct toward me; if the only allegiance I ever acknowledged is not to be vindicated, then thirteen millions of the sons of Ireland who have lived in happiness in the United States up to this will have become the slaves of England." * * *

"Give me now, my lord, the full measure of sentence. I promise you I will live longer than the British constitution." (Pages 127, 129.)

The judge, in passing sentence, told Warren that he could not shake off his allegiance by naturalization, and when he returned he would be held to that allegiance in spite of all naturalization laws. (Page 130.)

And so, on the 16th of November, 1867, John Warren was sentenced by a British court to fifteen years' penal servitude for acts done and words spoken in the United States.

Now, after thus epitomizing the case against John Warren, I think the facts are plain enough, and there is no use in disguising them. John Warren attended meetings of the Fenian brotherhood in America, as he had a right to do, and as members of this House have done and will do. On the 12th of April, 1867, he embarked at New York on board a brigantine called the *Jacmel Packet*, as he had a right to do, subject to our laws alone. This brigantine sailed within sight of Ireland, off Sligo and Waterford, as she had a right to do, but did not cast anchor or touch land at any part of English or Irish territory. Of her cargo or destiny the testimony is so slight and so contradictory that very little is known; but for the sake of the argument before this House let us admit that she had arms on board, and that some of those on board, and among them John Warren, had they seen a prospect of striking a successful blow for Ireland's independence, would have landed some of those arms and might have taken a hand in the fight. Had they done so, for that, and that alone, they would have been answerable to a British tribunal.

Now, there is the whole of the case. The vessel either abandoned the landing in Ireland, if that ever was her intention, or proceeded on her voyage and returned to the United States. John Warren and some thirty others, either through stress of weather, want of food, or sickness, landed from a fishing smack near Dungarvan, in the county of Waterford, June 1, 1867, and were immediately arrested, and for some time suffered imprisonment, but were afterward in most cases liberated, as in the case of Colonel Nagle. Warren and Costello still remain in prison. They landed no arms; they took no part in any fight or *emeute*. They did nothing at all after they landed till arrested.

Will my Lord Stanley tell us if Warren and Costello were not convicted for words and acts spoken and done here, what the words or acts were, and where were they done or spoken? Will he name one single act or word which either of them did or spoke for which either of them was arrested, tried, convicted, and sentenced? I defy him to show in the official report one single guilty act or word alleged or proved after landing from American territory—an American deed.

We cannot permit England or any other country to trespass on our jurisdiction. No Power can maintain its self-respect in the community of nations which permits such outrages on its nationality to go unpunished and unchallenged. Now, I say here that if every word proved or even charged against Warren were true England had no jurisdiction. He could have been tried only by the United States for a violation of her neutrality laws or such other crime as might have been proved against him. We cannot permit strangers to whip our children for playing or rousing in our own lot. Ten thousand Americans may sail from New York or any other American port and cruise all round Ireland, and England, too, with any quantity of arms or any violence of intent they please, for intent is not punishable even under this very treason-felony act of Great Britain without some overt act. Some of these ten thousand men might proclaim in the streets of New York, or carry placards on their hats or breasts that they were going over to England to kill the queen and all the aristocracy. They might be accompanied to the vessel on which they embarked by processions and music, and from the decks to the masses on the dock they might proclaim their intentions; but if they only sailed round Ireland, or even if they landed from stress of weather, sickness, or even for

pleasure, but committed no overt act on British soil, they could not be tried in England without trespass by England on our jurisdiction and craven cowardice from us. Ours and ours alone is the jurisdiction to try them, whether for crime or lunacy, and that jurisdiction cannot be, without disgrace, surrendered or a trespass upon it permitted by us to any foreign Power. The most that England or any country could do, even for self-preservation under these almost unimaginable proceedings, would be to watch the movements of the parties so acting, or arrest and return, but not to try or punish.

And now, sir, I wish to pay my respects to the Committee on Foreign Affairs and call the attention of this House to the conduct of that committee in hitherto refusing or neglecting to attend to this the most important question before them. On the 3d of February last, now over ten months ago, I offered the following preamble and resolution:

"Whereas Stephen J. Meany, claiming to be an American citizen, was tried in Dublin in February last; and whereas the British attorney general on that trial, as reported in the *Dublin Irishman* of February 23, 1867, claimed his conviction for acts done in New York; and whereas Baron Fitzgerald stated the point on his trial to be that Mr. Meany had been a member of a Fenian society in America similar to a society existing in Ireland, but proved no acts of the person himself done in Ireland, or even that he was in Ireland during any part of the period that the associations were shown to exist either in America or Ireland; and whereas said Meany was convicted and sentenced to fifteen years' imprisonment; and whereas Colonel John Warren, a citizen of the United States, tried in Dublin October 30 and 31 and November 1, 1867, claimed upon said trial a mixed jury, as provided by British law, and challenged the array of the jury, which challenge was denied on the ground distinctly declared by Chief Justice Pigott, that a person born in the United Kingdom owes his allegiance to England forever, no matter where he might be; and whereas General Halpin, Augustus Costello, and other American citizens were denied the jury allowed by British law to every person exempt from allegiance to the British Crown; and whereas William J. Nagle, a native-American citizen, was on the 1st day of June, 1867, arrested with Colonel Warren and has been, without trial or conviction, held in prison for eight months, his application to be admitted to bail being refused and a speedy trial denied him; and whereas the said Colonel John Warren and William J. Nagle have petitioned this House to take such measures as may be just and necessary in their behalf; Therefore,

"Be it resolved by this House, That the President of the United States be, and he hereby is, requested to institute an immediate examination into the facts alleged in the preamble hereto, and if found true to demand the immediate release of any and all American citizens charged or convicted before or by any British court for words or deeds spoken or done in the United States; to demand an immediate new trial or liberty for any American citizen denied his challenge to the array of the jury on the ground of perpetual allegiance; and to demand the immediate release of William J. Nagle, who, on the 16th of November last, in open court, both before and after trial of said Warren, after nearly six months' imprisonment, demanded and was refused a trial on the charges preferred against him; and in case of such demand being refused the President is hereby requested to order the arrest and detain in custody any subjects or citizens of Great Britain who may be found within the jurisdiction of the United States, and to withdraw all intercourse of the United States with Great Britain."

The gentleman from Ohio [Mr. BINGHAM] objected, unless some modifications were made in the wording. The gentleman from Tennessee, [Mr. MAYNARD,] the gentleman from Massachusetts, [Mr. BANKS,] and the gentleman from Iowa, [Mr. ALLISON,] objecting, or asking delays and modifications, I moved a suspension of the rules that I might introduce the foregoing resolution. I then said:

"I want this nation to say to England, upon the very threshold of this discussion, that the time is past when the British lion can trample upon American citizens with impunity. I want to tell her now that if we can get the President, the Secretary of State, and the mind of the American nation roused from the lethargy in which they now appear to slumber while our citizens are rotting in British dungeons, not for another day shall our minister remain at the Court of St. James, and no minister of England shall be received here while that Government tramples in this way upon the rights of our citizens."

"I ask this House not to sleep one night upon this matter. I say they will be unworthy of being American citizens if they will stand by and see the flag of the Union made the foot-rug of Europe."

The rules were suspended on my call for the yeas and nays by a vote of 97 yeas to 30 nays, three of the Committee on Foreign Affairs beside myself voting for the suspension and

three against it, two being absent. The gentleman from Ohio [Mr. BINGHAM] then spoke in favor of referring the preamble and resolution to the Committee on Foreign Affairs, on the ground that the resolution would put the issues of peace and war into the hands of the President, and that Congress could not transfer that power to any man upon earth. I refused to yield the floor for the purpose of having it referred to the committee, believing then, as is proved now, that that would be the end of it. The gentleman from Ohio [Mr. BINGHAM] then contended that we did not know but that these men were held for crimes committed within the jurisdiction of Great Britain, but professed his willingness to interpose the whole power of the nation to shield our citizens from being held to answer for crime, either before an English tribunal or that of any sovereignty upon the globe when the crime was not committed where they were held to answer; and he acknowledged that the subject-matter of my resolution touched the peace of the Republic. And what is more important than the peace of this Republic, the honor of the Commonwealth? I quote his own language. With what emphasis, sir, would I repeat that acknowledgment of the distinguished gentleman from Ohio, now, I regret to see, absent, though informed that I would thus refer to him. This is a matter more important than peace; it touches the honor of the Commonwealth, said the gentleman from Ohio then. That honor has not since been vindicated. Every day since then that honor is tarnished by the world looking on as the heel of a tyrant crushes its iron into the neck of an American citizen and soldier for acts done beneath the flag which he fought and bled to preserve untarnished.

The gentleman from Ohio then proceeded to refer to the act of Congress of 1792 as yet unrepealed and unchallenged, providing that any citizen of the United States offending against its sovereignty, whether within our own jurisdiction or elsewhere, should be held to answer at the bar of the Republic. He also referred to the declaration of England by more than one enactment under the present sovereign that any subject offending against her sovereignty in any quarter of the world shall be held to answer before the tribunals of English justice. That sentiment I also emphasize. The crime of Warren, if he organized an expedition against the British queen or embarked upon an unlawful voyage at and from New York in an undocumented or even piratical vessel, was a crime against our sovereignty, and both by English and American law was to be tried by our courts alone. I replied that we had proof enough before us that some of our citizens, and among them Meany, who was then under sentence of fifteen years' penal servitude, but since released, had been tried, openly and avowedly so declared by the judges and the attorney generals, for acts done here. I knew these facts then as well as I do now, and so might all who chose to make themselves acquainted with them, and I stated then what seems now too near the truth, that—

"These insolent British officials seemed to calculate that men would be found here to delay the vindication of American citizens until eternity's bell should ring."

The chairman of the Committee on Foreign Affairs, [Mr. BANKS,] whom I am glad to see in his seat, urged its reference to the committee on the ground that we could not act without an authentic copy of the record; and that it might be that I did not know the facts in the case I replied:

"I do know that the facts recited in the preamble and resolution are substantially true. I have given the authority on which the fact is stated. It is taken from a paper published in the city where the trial was held and never contradicted, as far as any reader of the public press knows."

"Now, I am not willing to refer the resolution to a committee and have it sleep there. What has been our conduct here? I called for this information in March last, within a few hours after our assembling here. But what has been done since? How long, sir, must an American citizen pine in chains and in dungeons? How long must they be kept in British prisons before we can reach some department that will listen to their cry or shed a tear of pity over the

clanking of their chains? Six, nine, ten, twelve months have elapsed and these prisoners still rot in jail—one hundred American citizens, equal in intellect to the average of the men listening to me, American soldiers, without one solitary fact being alleged against some or proved against any.”

“I know that we cannot alter the British law; but I have quoted the words of Baron Fitzgerald himself in making up the minute which was taken in one of these cases from the court below to the court above, that there was no proof of any act done except coming to Ireland and having been said some months or years before to be connected with what they call the Fenian organization, and if this be true I do say here that the President and the Secretary of State and our minister in England and this Congress and this House would be derelict in their duty if, believing these facts to be true, they do not make just such a peremptory demand as I ask for here.”

The gentleman from Wisconsin [Mr. ELDRIDGE] supported me in asking for immediate action and protesting against referring the subject to the committee. I thank him for it, and I thank him now for remaining to support me again when others fail.

My colleague from the Albany district [Mr. PRUYN] and others seeming to desire time for reflection, and to inquire into the facts, I offered to let the resolution lie over till the next morning; but the gentleman from Illinois [Mr. WASHBURN] wished to settle the question forthwith. The House refusing to adjourn, I urged that the resolution should not be referred, but that immediate action should be had upon it; that there had been ten thousand times too long and inexcusable delay. I concluded my remarks in these words:

“The chains are on the limbs of American citizens: the iron of the British despot is rusting on the bones of sovereigns superior to their sovereign—with more brain, more intellect, each one of them than their sovereign has. And while we adjourn from day to day from our comfortable seats to our plentiful meals and our soft, downy beds, these American citizens, soldiers, heroes, are insulted in every quarter of Great Britain.”

“I want something done, and I want it done now. If you refuse to adjourn let us meet this question now and put it in the power of the President to act.”

“Sir, we are all comfortable; we are eating and drinking and faring sumptuously, and swinging round the circles of fashionable frivolity, but do not seem to appreciate the fact that one hundred American citizens, unconvicted and charged with no crime, are to-day pining in cold, damp British jails, badly fed and poorly clothed, while no man is raising a hand to liberate them, or a voice to comfort them, or a cup of consolation to their quivering lips.”

“Sir, I want to show that we are in earnest; and I intend, God giving me strength, to press this subject in every way and without cessation. If I do not succeed now you will hear from me again, unless my voice or my health fail me, as they have almost failed me to-day. At the risk of both, however, I have advocated and will continue to demand prompt and energetic action.”

I then moved the previous question on the immediate passage of the resolution, but could only get twenty-nine votes. I then called for the yeas and nays on referring the resolution to the committee, declaring that it would be the end of the whole matter, but the reference was carried by a vote of eighty-one yeas to thirty-eight nays. Sick and sorrowful I left this Chamber. My indisposition and other causes prevented my attendance at the succeeding meetings of the committee, and afterward necessitated my return home; but I promised you that with God's help I should press this subject in every way and without cessation. I am here with renewed health and vigor to keep my word, and you shall know no peace till this matter is settled. I shall devise means to keep it before the House, the country, and the world till the prison bars that shut hoarsely upon these American citizens shall ring out the music of their deliverance. They shall be free. They shall come home. Their sorrowing hearts shall brighten in the light of the stars, and their blushes shall be hidden in the crimson of their flag. In recounting this story of their wrongs and the history of our delays to right them, I have no intention of blaming or offending any one; I only wish to rouse attention to the outrages over which our sensibilities seem stupefied and our manhood paralyzed.

Why, sir, notwithstanding all the declarations of my distinguished friends who insisted on having this subject referred to the Committee on Foreign Affairs, promising prompt action as soon as the facts were officially ascertained, I pray you to hear me when I mention as a fact

patent on the records of this House that the official record of Warren's trial, published by the queen's reporter, has been officially before this House since the 10th of February last, now ten months, with Congress in session more than half of the time—technically the whole time—with that record in print and upon the desks of members, showing clearly that Warren was tried, convicted, and is suffering penal servitude for his actions beneath our flag, so ignominiously insulted in the face of mankind and in the light of this latter half of the nineteenth century.

Sir, a few months ago a colored woman was put out of a car between this city and Alexandria. That was a matter of assault and battery at best, triable and of easy remedy in any of our petty courts; but the proceedings in one House of Congress were absolutely suspended till the smallest rights of this humblest citizen of the Republic were vindicated. The very respectable colored citizen who caters for the members of this House on the floor below had received some cross look or word or treatment from some employé of the Baltimore and Ohio railroad, and the wheels of that railroad, if not even the wheels of time, were threatened with an everlasting stoppage till Mr. Downing gave a certificate to the Senate that he was satisfied. It was all right to protect the rights of the humblest citizen. But, sir, when will either this House or the House at the other end of this Capitol take such vigorous measures with England as we can take with a railroad company, and refuse to let up on her until Warren or Costello sends in a certificate that he is satisfied? When shall we look for the performance of the vows of the distinguished gentleman from Ohio [Mr. BINGHAM] concerning the “honor of the Commonwealth?” Has he read the official report, and does he still doubt that Warren was tried for acts done in the United States, and will he join me now to “interpose the whole power of the nation to shield our citizens from being held to answer for crimes not committed where they were held to answer?”

Sir, it will be in your memory that over a year ago, while speaking on this very subject, I called attention to and gave England credit for the prompt manner in which she vindicated the rights of her citizens traveling abroad. How her people were deeply moved, and her armies and navies swiftly flew to Abyssinia to avenge an insult given her in the imprisonment of her subjects by Theodoros. She avenged that insult over the ruined capital and the lifeless corpse of the sovereign who had dared to imprison, but had neither condemned nor sentenced the humblest of her citizens. When shall our armies and navies return from such a vindication of our insulted honor?

When shall we welcome back an American Napier and crown him with effulgent honors who returns to us with our national honor vindicated by rescuing from their imprisonment our citizens, even if it had to be done over the lifeless body of the sovereign and from the battered and smoking ruins of the capital of the country that dared to insult our nationality?

At the breaking out of our war many English subjects were guilty of all that was charged against Warren, yet England, when we arrested any of them, demanded their release, and we complied. Not one of the hordes of British blockade runners taken in the act were tried as Warren was; and even Lord Derby, Lord Stanley's father, then talked *civis Romanus sum* as volubly as George Francis Train now talks *civis Americanus sum*. In the State Department's publication of the diplomatic correspondence, Thirty-Seventh Congress, third session, volume one, 1862-63, commencing at page 27, will be found the following remarks in the House of Lords, reported in the London Morning Post of February 11, 1862, and sent to the State Department by Mr. Charles Francis Adams, our then minister to England, under date of February 13, 1862:

“The Earl of Carnarvon said he was anxious to ask a question of some importance of the noble earl the

secretary for foreign affairs. The house would remember that on Friday last he made some remarks on the case of an Englishman in America who had been taken into custody and sent to prison under the warrant of Mr. Seward. Since Friday he had received further information in reference to similar cases, but they were, if possible, worse than the one he then mentioned. He understood that at this moment there were no less than three British subjects who had been for four or five months confined in Lafayette prison, and they had been detained there without any charge of any sort or kind having been made against them. There had been no inquiry made into their cases. An inquiry had been asked for, but it had been refused, unless they first consented to take the oath of allegiance to the Government of the United States. Now, if that were so, it was clear that those persons had been illegally arrested, illegally imprisoned, and illegally detained, and there ought not to be a moment lost before clearly understanding the present position of affairs. In these American prisons there were confined persons of every rank and means, and intelligence, and many who had been brought up in affluence—there were representatives of the liberal professions—of the bar, the press, and the judiciary.”

“The names of the British subjects were Charles Green, formerly a British merchant resident at Savannah. He went from Liverpool, and his connexion with this country had been maintained to the present time, for he had now a son residing at Liverpool. The next person was Andrew Lowe, also a British merchant residing at Savannah, and he had children now at school at Brighton.”

“Now, if these persons had broken the laws of the United States they ought to be brought to trial, and if they were found guilty then let them be sentenced according as the law directed; but if they had not broken any law then they ought not to be kept in prison for an indefinite period, and on secret charges. He understood that an inquiry would be directed into the cases of these persons, but Mr. Seward made it a preliminary condition that they should take the oath of allegiance to the Government of the United States. Now, the very fact that these persons would not do that served to show that they were British subjects. He wished to know how far the noble earl had been informed of these things, and what steps or measures he had taken to obtain redress.”

“Earl Russell said: I conclude that the noble earl has hardly read the papers which have been laid upon the table of the house by command of her Majesty; for the noble earl would there have found a correspondence between Lord Lyons and Mr. Seward, and also between her Majesty's Government and Lord Lyons, on this subject. The noble earl, in his statement, seems hardly to have taken into account the very critical circumstances in which the Government of the United States has been placed. In the spring of last year nine of the States in the scheme of confederation declared war against the Government of the United States. In such circumstances as these it is usual for all Governments to imprison upon suspicion persons whom they consider are taking part in the war against them. In a case which happened not many years ago, namely, 1848, when there was a conspiracy for the purpose of overturning the authority of her Majesty, the secretary of state applied to the other house of Parliament for authority to arrest persons on suspicion, namely, for the suspension of the *habeas corpus* act, and in the papers presented to Parliament at that date there were two cases in which the lord lieutenant of Ireland had ordered the arrest of two American persons; a complaint was thereupon made by the American Government, and my noble friend, (Lord Palmerston,) at that time at the head of the foreign office, replied that with regard to those persons the lord lieutenant had due information, upon which he relied, that those persons were engaged in practices tending to subvert the authority of the Crown, and were aiding practices which were being pursued in that part of the kingdom. Those persons were never brought to trial, but on that authority they were arrested. After this civil war broke out in America complaints were made by certain British subjects that they had been arrested upon suspicion. I immediately directed Lord Lyons to complain of that act as an act enforced by the sole authority of the President of the United States, and especially in regard to one of those persons there seemed very light grounds for suspicion, and I said he ought not to be detained.”

“Lord Lyons represented to me that these cases took up a very great part of his time, and he was anxious to investigate every one of them. Nor can I say that Mr. Seward has refused at any time to listen to those complaints.”

“An innocent person being arrested and confined for several days in prison was undoubtedly a great grievance, and one for which he was entitled to compensation.”

“I was not aware of the cases the noble earl would mention. But with regard to Mr. Green this is the statement he made on the 5th of September: ‘I desire no action to be taken by my friends in England in consequence of my arrest. Lord Lyons has represented my case, and it will receive investigation in due time. Meanwhile I am in the hands of the officers of this fort.’”

“But in every case where a British subject is arrested, and a reasonable case is made out for him, I shall be ready to instruct Lord Lyons to bring the case under the consideration of the Government of the United States. Lord Lyons has never been wanting in his duty. He has, I think, shown himself a vigilant British minister in the respect; and I trust your lordships will not think that these cases have been neglected by the Government of this country.”

“The Earl of Derby. The statement made by my

noble friend behind me, and borne out by the noble earl opposite, is one which cannot be listened to without feelings excited in the highest degree in consequence of the treatment to which British subjects have been subjected. I am willing to admit, with the noble earl, that every allowance should be made for the circumstances and the difficulties in which the Government of the United States is placed, and the position in which they stand with regard to the civil war in which they are engaged. But I must say that the course they have pursued with respect to British subjects in America, notwithstanding the remonstrances which have been from time to time presented to them by Lord Lyons in the performance of his duty, which he appears to have pursued with great prudence, is most trying to the patience of this nation. I think he was justified in using strong language with regard to the course which has been pursued. That course was anything but in accordance with the *"civis Romanus sum"* doctrine of the noble lord at the head of the Government."

"I certainly do not recollect the case of any person being called on to take the oath of allegiance to the United States except one, in which there was some question with Lord Lyons, and that was the case of a gentleman who had given notice of his intention to become a citizen of the United States."

"This gentleman, who was arrested, made an appeal to the British Government, and the answer of Mr. Seward to the remonstrance addressed to him was, 'This gentleman has renounced all allegiance especially to her Majesty, Queen Victoria.' The matter was further inquired into, and it was found that Mr. Seward was wrong in his fact that this gentleman had given notice that he intended to become a citizen of the United States, and to forswear all allegiance to her Majesty, but he still remained a British subject. He had thus placed himself in a position in which he could not claim the protection of either our Government or the other."

"The Earl of Donoughmore, without entering on a discussion of the general subject, desired to have an explicit answer to one question, namely: whether the noble earl at the head of foreign affairs approved of the course which had been adopted of tendering the oath of allegiance to a British subject as a condition to his being brought to trial? He was of opinion that no greater insult could be offered to any man than to be first arrested by a foreign Government, and then be required by that Government to forswear allegiance to his own and allegiance to their's before the charge against him could be investigated. He trusted that a distinct answer to that question would be given by the noble earl."

"Earl Russell. The answer is, that so far as I know the American Government never tendered the oath of allegiance to a British subject, knowing him to be a British subject. When informed by Lord Lyons that a person arrested was a British subject, Mr. Seward once or twice replied that he was not aware of the fact, and that he would take care that the oath should not be tendered to a British subject."

"The Earl of Derby. Then it just comes to this, that he had no means of escaping from prison except by taking the oath."

"The Earl of Malmebury asked the noble earl at the head of foreign affairs whether, among the papers he had received from admirals on the American station and consuls in America, he had found any account of the actual condition of the blockade of the Confederate States?"

"He was told that Mr. Mason, who came over here, as they all know, to represent the case of the southern States, openly declared that no less than six or seven hundred ships had broken the blockade and passed in and out of the southern ports."

I quote these things to show that England, like all nations which have any self-respect, are prompt in the vindication of the rights of their citizens. I am glad always to give her credit where I can. I have no hatred toward England except for her invasion of rights of others, which she so promptly and energetically vindicates for her own subjects.

If we are dead to all sense of national honor can we not be aroused and stimulated by a bright and honorable example? It is competent to be taught our duty even by an enemy. What further can I say to rouse this House to a sense of its duty? Sir, we must meet this question, and meet it now. We must bring our children home, and that speedily. Every citizen of this Republic to whom was denied in England a trial by a jury of half foreigners, as provided in her laws, shall come home. Every citizen of this Republic, native and naturalized, unjustly deprived of liberty shall return, and shall be compensated fully and liberally. We must pay them and collect the amount from the wrongdoers. These claims are of transcendently greater importance than the Alabama claims: one is of greenbacks, gold, and such trash; the other is life, honor, self-respect, everything that makes a nation nobly grand or ignobly base. When shall the demand for their release ring out from these Halls with the immediate alternative of war? A prompt demand on the point of the nation's sword will avert war, but even at the risk of

war remember that it is the honor of the Commonwealth.

Sir, I wish to emphasize the declaration that there never was a nation, ancient or modern, strong or weak, civilized or barbarian, that quietly and tamely submitted to such insults to its citizens as we have for years and are to-day quietly enduring from England. If I could so arrange it, all business and pleasure and social enjoyments should cease till we had given to England the alternative of immediately releasing our citizens imprisoned as I have described with such ceremonies as she demanded from us on returning to her Messrs. Mason and Slidell, or war with the whole power of the Commonwealth. And until this is done I shall give myself and you no peace. Every time I can get the floor I shall keep it before you till you act. I shall make privileged questions an occasion for again and again renewing it. I shall move the impeachment of everybody impeachable and to censure every one censurable till you act upon this matter or call me to account for annoying you, and then I shall welcome your censure, for I would rather be expelled from this House than remain here if these indignities are to be tamely endured; or if I find that you will not act either with me or against me, I shall move a declaration of war against England, upon which I think I can promise a vote by yeas and nays. And if this House still refuse to demand the release of Warren, Costello, and others similarly wrongfully imprisoned citizens I shall resign my seat here and refuse to become *particeps criminis* in this national disgrace and this shameful dereliction of public duty.

Sir, I have spoken warmly and earnestly upon this subject. Am I not excusable? Shall my excuse not be found in the sacredness of my cause? I have no desire, for I have no right, to assume any superior devotion in this or any other patriotic measure. I know that if every member here knew and saw the facts as I know and see them this House would suffer no adjournment till this national disgrace should be effaced. I would not offend any member of the House, nor speak a harsh word toward any from whom I have received so much kindness; but have I not an interest—nor superior, but equal to yours—in the honor of this country? My children with yours will rejoice in its glory or suffer under its disgrace, and if I have spoken harshly or roughly it was to rouse you to your duty. Over six months ago we declared that England was punishing American citizens for words and acts spoken and done in the United States. It has been declared here by one of our most distinguished members that if so it involves the peace, and, what is more, the honor of the Commonwealth. The facts you have in print. If they are not as I have represented, why does not this House or its proper committee say so? If they are as I have represented them, why do we delay the execution of our duty?

There is work before you, and you have the power and the means to do it. Oh, for one day of patriotic action upon this subject, with a demand for the rights of our citizens; and if war should come of it, oh for an opportunity to watch the progress of that war in which with the armies of our recently divided country united, we should forget our former strife, cease from our insane internal bickerings and our measures to oppress and injure each other, and under the united command of Grant and Lee, of Hancock and Longstreet, of Sheridan and Johnson, strike one blow, effectual for ever, for the glory of our flag and the sanctity of our citizenship.

I have been abused and misrepresented for the earnestness with which I have pressed this subject upon public attention; but there is a future, and in that future I shall stand approved, and my children will point with pleasure to the part I took, and your children will wonder that you hesitated so long to do what you must yet do—demand the immediate release of your imprisoned citizens, or summon your army and

navy to sweep from the seas and vanquish on the land every power that opposes their liberation.

I now yield the remainder of my time to my colleague, [Mr. Wood.] I believe that indefinite time was given me by unanimous consent of the House; but assuming that I am to be limited to the hour, I will yield the remainder of the hour to my colleague.

The SPEAKER *pro tempore*, (Mr. Broomall in the chair.) The hour of the gentleman will terminate in three minutes.

Mr. WOOD. Mr. Speaker, I concur entirely with my colleague [Mr. Robinson] in what he has said upon this question. I myself have witnessed the repeated efforts he has made to call the attention of this House to the gravity and importance of this great question. But I have at times differed with him as to the mode by which he sought to accomplish an object certainly desirable to accomplish, and one which comes home to every American citizen.

Early in 1867, after the arrest of Colonel Warren, I looked upon this as a question more directly for the executive department of the Government to take action upon. In that view of the subject I made an application to the President of the United States to interpose, not his "good offices," but his high official authority, in order that this American citizen, then in prison in Ireland, should be restored to liberty and to his country. The President entertained that proposition and brought the subject before his Cabinet, and at a Cabinet meeting the Secretary of State was directed to communicate with the then British minister, Mr. Bruce, upon that question. I myself saw a copy of the conference which was then placed upon paper between the then British minister and our Secretary of State. I saw also a copy of a telegraphic dispatch which, at the instance of the President and Secretary of State, Mr. Bruce sent to his own Government for the immediate release of Colonel Warren and General Nagle, and I have reason to believe that but for the early and untimely death of the then British minister, which took place in Massachusetts, as we all know, under circumstances very painful, his good offices, through the action of the executive department of our Government, would have effected the release of these gentlemen, and they would to-day have been at liberty. Still, I concur fully with my colleague in the judgment that both Houses of Congress have been derelict in not giving strong and emphatic expression in reference to this insult to our Government in the persons of its citizens.

[Here the hammer fell.]

Mr. ROBINSON. I now ask that my resolution may be adopted.

The SPEAKER *pro tempore*, (Mr. Broomall.) By general consent the House ordered that no business should be transacted this afternoon after the remarks of the gentleman from New York, [Mr. Robinson.] The only motion that can be entertained by the Chair is a motion to adjourn.

Mr. ELDRIDGE. The resolution of the gentleman from New York [Mr. Robinson] will be pending if the House now adjourns.

The SPEAKER *pro tempore*. The resolution is not now before the House. The gentleman from New York was simply allowed to make his remarks.

Mr. ELDRIDGE. I supposed the introduction of the resolution was part of the object for which the gentleman from New York obtained obtained the floor.

The SPEAKER *pro tempore*. The only question put to the House was whether the gentleman from New York should be allowed forty-five minutes to address the House, which time was afterward extended to one hour.

Mr. ROBINSON. Then I must call the yeas and nays.

The SPEAKER *pro tempore*. The only motion the Chair can entertain is to now adjourn.

Mr. ROBINSON. Then I move that the

House do now adjourn. I simply wish to offer my resolution to-morrow.

The motion was agreed to; and accordingly (at four o'clock and five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The memorial of William C. H. Waddell, of New York, relative to a reduction in the cost of international ocean postage.

By Mr. ARCHER: The memorial of William Cornell Jewett, declaring the proposed censure against Hon. Reverdy Johnson as premature and calculated to destroy the peaceful relations now existing between England and America, setting forth the diplomatic wisdom and dignity of the representation of the American minister as unexampled, and praying for deliberation before resorting to threatening legislation toward England.

By Mr. BEAMAN: The petition of D. M. Richardson and others, of Detroit, Michigan, asking that action may be had at the present session on the civil-tenure bill, on the new tax bill, &c.

By Mr. BURR: The remonstrance of R. M. Bell and others, against the modification of the tariff on wool.

By Mr. MOORHEAD: The memorial of George Given, of Alleghany county, Pennsylvania, a soldier in the war of 1812, praying that a pension be granted him.

By Mr. MYERS: The petition of letter-carriers in the Philadelphia post office, for an increase of their salaries.

By Mr. NICHOLSON: The petition of William S. Chapman, of Wilmington, Delaware, for extension of a patent.

By Mr. O'NEILL: The petition of letter-carriers of the Philadelphia post office, for increased compensation.

By Mr. PERHAM: The petition of Lewis E. McLaughlin, for arrears of pension.

By Mr. WHITTEMORE: A petition for the removal of the political disabilities of Andrew Ramsey, a citizen of South Carolina, indorsed by R. K. Scott, Governor of South Carolina.

IN SENATE.

WEDNESDAY, December 9, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

Hon. CORNELIUS COLE, of California; Hon. GEORGE VICKERS, of Maryland; and Hon. WILFRED SAULSBURY, of Delaware, appeared in their seats to-day.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Treasurer of the United States, communicating copies of his accounts of receipts and expenditures for the fiscal year ending June 30, 1865; which was ordered to lie on the table.

He also laid before the Senate a letter from the Treasurer of the United States, communicating copies of his accounts of receipts and expenditures adjusted for the fiscal year ending June 30, 1866; which was ordered to lie on the table.

He also laid before the Senate a report from the Surgeon General of the United States Army of the expenditures for the completion of Providence Hospital up to December 1, 1868; which was ordered to lie on the table.

He also laid before the Senate a report from the Surgeon General of the United States Army, relative to a contract made by him for the care, support, and treatment of sixty transient paupers in the city of Washington, in accordance with the act approved July 27, 1868; which was ordered to lie on the table.

He also laid before the Senate a letter from the Comptroller of the Currency, communicat-

ing, in obedience to law, his annual report; which was ordered to lie on the table.

PETITIONS AND MEMORIALS.

Mr. POMEROY. I present the petition of fifty-five citizens of Maine, praying that if any amendment to the Constitution shall be proposed the right of suffrage may be extended to males and females equally.

I also present a similar petition from C. A. Stevens and sixty others, citizens of Massachusetts.

I move that they lie on the table for the present.

The motion was agreed to.

Mr. WILSON presented the petition of Virgil C. Gilman and others, praying that a pension be granted to Daniel B. Lewis, of Nashua, New Hampshire; which was ordered to lie on the table.

Mr. CAMERON presented the memorial of George Given, a soldier of the war of 1812, praying to be allowed a pension; which was ordered to lie on the table.

PAPERS WITHDRAWN.

Mr. MORRILL, of Vermont. I ask leave to withdraw the papers of George W. Tarleton from the files of the Senate. It appears that there was a report made in 1866 upon the case, but no action was taken thereon.

The PRESIDENT *pro tempore*. Was the report favorable?

Mr. MORRILL, of Vermont. I do not know, sir.

Mr. POMEROY. There is no rule in regard to withdrawing papers.

The PRESIDENT *pro tempore*. The order will be made if there be no objection.

BILLS INTRODUCED.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 660) to aid in the construction of the Oregon Branch Pacific railroad; which was read twice by its title, and ordered to lie on the table and be printed.

Mr. DRAKE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 661) for the relief of Lieutenant Colonel John W. Davidson, of the United States Army; which was read twice by its title, and ordered to lie on the table and be printed.

Mr. SUMNER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 662) to carry out the reconstruction acts in the State of Georgia; which was read twice by its title, and ordered to lie on the table and be printed.

Mr. NYE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 185) for the relief of William B. Whiting, a captain, formerly a commander in the Navy of the United States on the reserved list; which was read twice by its title, and ordered to lie on the table and be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 1460) regulating the duties on imported copper and copper ores; and

A bill (H. R. No. 1482) to restore the Bureau of Indian Affairs to the Department of War.

DISABILITIES OF FRANKLIN J. MOSES.

Mr. ROBERTSON. If it be in order, I move to take up for consideration the bill (S. No. 658) to relieve from disabilities Franklin J. Moses, a citizen of South Carolina.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill, which proposes to remove all political disabilities imposed on Franklin J. Moses, a citizen of South Carolina, by reason of the third section of the fourteenth article of the Constitution of the United States.

Mr. EDMUNDS. I objected to the consideration of this bill the other day, because I

was not advised of the facts upon which it rested. I have since been informed, from a source which entirely satisfies me, that this gentleman is deserving of this clemency, and that the loyal people of that State desire that it should be extended to him; and I have, therefore, now no objection to the passage of the bill.

Mr. ROBERTSON. I desire that the bill should pass for the following reasons: Judge Moses was a State senator in South Carolina for twenty-five consecutive years before and during the war. At the end of the war he was elected one of the circuit judges of the State. His decisions were satisfactory to both parties; so much so that upon the reassembling of the Legislature, after the passage of the reconstruction act, he was elected by a large majority chief justice of the State of South Carolina, and this by the Union men of the State. That court is in session at this time; and I may say that the ends of justice in the State of South Carolina are blocked in consequence of the court not having the proper presiding officer. I hope, therefore, that the Senate will consent to pass this bill at present without objection.

Mr. DAVIS. As the bill is short I ask for the reading of it again.

The Chief Clerk again read the bill.

Mr. DAVIS. I move as an amendment to the bill to insert after the words "South Carolina," in the fifth line, the words "and all other citizens of the State of South Carolina;" so that the bill will read:

Be it enacted, &c., (two thirds of each House concurring therein.) That all political disabilities imposed on Franklin J. Moses, a citizen of South Carolina, and all other citizens of the State of South Carolina, by reason of the third section of the fourteenth article of the Constitution of the United States, be, and the same are hereby, removed.

Mr. DRAKE. I ask for the yeas and nays on that amendment.

The yeas and nays were ordered; and being taken, resulted—yeas, 9, nays 44; as follows:

YEAS—Messrs. Bayard, Davis, Dixon, Doolittle, Ferry, McCreery, Norton, Patterson of Tennessee, and Saulsbury—9.

NAYS—Messrs. Anthony, Cameron, Cattell, Chandler, Cole, Conkling, Conness, Corbett, Cragin, Drake, Edmunds, Fessenden, Fowler, Frelinghuysen, Grimes, Harlan, Harris, Howe, Kollogg, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Osborn, Patterson of New Hampshire, Pomeroy, Ramsey, Rice, Robertson, Sherman, Spencer, Stewart, Sumner, Thayer, Tipton, Trumbull, Van Winkle, Wade, Warner, Welch, Wiley, Williams, Wilson, and Yates—44.

ABSENT—Messrs. Abbott, Buckalew, Henderson, Hendricks, Howard, McDonald, Morton, Pool, Ross, Sawyer, Sprague, Vickers, and Whyte—13.

So the amendment was rejected.

Mr. POMEROY. I believe there is a verbal alteration which should be made in the bill. As it now stands it proposes to remove all political disabilities imposed on this gentleman "by reason of the third section of the fourteenth article of the Constitution of the United States." The article referred to is not the fourteenth article of the Constitution, but the fourteenth article of the amendments to the Constitution. After the words "article of the" the words "amendments to the" should be inserted.

The PRESIDENT *pro tempore*. That amendment will be made, if there be no objection, it being a mere verbal alteration.

Mr. DAVIS. This bill would be more acceptable to me if the amendment which I proposed had been adopted; but as it stands I shall feel myself constrained to vote against it upon this ground: I hold that there is no fourteenth amendment to the Constitution. The proposition which purports to be the fourteenth amendment to the Constitution I hold has never been ratified by three fourths of the States, and therefore it is no part of that instrument, and gives no authority to Congress to pass any such measure.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. DAVIS. I ask for the yeas and nays on the passage of the bill.

The PRESIDENT *pro tempore*. On that question the yeas and nays must be taken, it requiring a two-thirds vote to pass the bill.

The question being taken by yeas and nays, resulted—yeas 46, nays 6; as follows:

YEAS—Messrs. Anthony, Cameron, Cattell, Chandler, Cole, Conkling, Conness, Corbett, Cragin, Drake, Edmunds, Ferry, Fessenden, Frelinghuysen, Grimes, Harlan, Harris, Howe, Kellogg, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Norton, Nye, Osborn, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Ramsey, Rice, Robertson, Ross, Sherman, Spencer, Stewart, Sumner, Trumbull, Van Winkle, Warner, Welch, Whyte, Willey, Williams, Wilson, and Yates—46.

NAYS—Messrs. Davis, Dixon, Doolittle, Fowler, McCreery, and Saulsbury—6.

ABSENT—Messrs. Abbott, Bayard, Buckalew, Henderson, Hendricks, Howard, McDonald, Pool, Sawyer, Sprague, Thayer, Tipton, Vickers, and Wade—14.

The PRESIDENT *pro tempore*. Two thirds having voted in the affirmative, the bill is passed.

HOUSE BILLS.

The following bills, received from the House of Representatives, were read twice by their titles, and ordered to lie on the table:

A bill (H. R. No. 1460) regulating the duties on imported copper and copper ores; and

A bill (H. R. No. 1482) to restore the Bureau of Indian Affairs to the Department of War.

The PRESIDENT *pro tempore*. There is a bill on the table which the Chair understands was not read at all at the last session. If there be no objection it may have its first and second reading now.

There being no objection, the bill (H. R. No. 1276) for the sale of the Hot Springs reservation in Arkansas was read twice by its title, and ordered to lie on the table.

RECESS.

Mr. EDMUNDS. I move that the Senate take a recess until one o'clock.

The motion was agreed to.

At the expiration of the recess the President *pro tempore* resumed the chair.

THE CALENDAR.

Mr. TRUMBULL. We have had laid on our tables this morning the Calendar, and it contains some seventeen or eighteen pages of matter, various resolutions and bills and reports of committees, many of which are adverse reports, and many resolutions that now have no significance or importance. It is very desirable that the Calendar should be reduced. It is difficult to find anything upon it while it is so large, and much of this matter might as well be removed from it. I move that the Secretary be directed to place the Calendar in order, and that we dismiss from it all the matter which may not properly come under consideration at this session.

Mr. SUMNER. Matter to the striking out of which there is no objection.

Mr. TRUMBULL. Certainly; with a view to reducing the Calendar.

The PRESIDENT *pro tempore*. If there be no objection the Calendar will be reduced in that way and those matters left off. No objection being made, it is so ordered.

PRESIDENT'S MESSAGE.

WILLIAM G. MOORE, esq., the President's Private Secretary, appeared at the bar and said:

Mr. President, I am directed by the President of the United States to deliver to the Senate a message in writing.

GEORGE C. GORHAM, esq., the Secretary of the Senate, thereupon proceeded to read the annual message of the President, and having read one fifth part of it, to the following sentence:

"One hundred millions annually are expended for the military force, a large portion of which is employed in the execution of laws both unnecessary and unconstitutional; \$150,000,000 are required each year to pay the interest on the public debt; an army of tax-gatherers impoverishes the nation; and public agents, placed by Congress beyond the control of the Executive, divert from their legitimate purposes large sums of money which they collect from the people in the name of the Government"—

he was interrupted by

Mr. CONNESS. I move to dispense with the further reading of the message, and that it be printed.

Mr. DAVIS. I hope not. That is an extraordinary motion in reference to the annual message of the President. I hope it will be read through.

Mr. CONNESS. Well, Mr. President, in support of the motion I make, I undertake to say that no such message has ever been received from a President of the United States. From the commencement of its reading up to the present moment it has consisted of a tirade, including loose statements, against the Congress of the United States, and assumptive declarations touching the unconstitutionality of laws passed by Congress. In all respects it is an offensive document. Certainly time can be better employed than in hearing it read. I hope we shall dispense with its further reading.

Mr. DAVIS. It seems to me that the message has confined itself to a simple and bare statement of facts. It is no otherwise offensive, I think, than the facts make it so. I hope that the message will be read through.

The PRESIDENT *pro tempore* put the question on the motion to dispense with the further reading of the message, and declared that the yeas appeared to have it.

Mr. CONNESS. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. HOWE. I did not make this motion, but I shall vote for it, and I have only a single word of explanation to urge in support of that vote. I know the Constitution requires the President to give information annually to Congress of the state of the country; but I do not think that it was intended to authorize the President of the United States to lecture the Congress; and I cannot for my life think that the language employed in this message is respectful to the body with which he is communicating. It does strike me in the light of a lecture. It does strike me as a labored effort to reproach one of the coordinate departments of the Government. I supposed that the Constitution intended simply to authorize the President to communicate such facts to the Legislature from year to year as he might become possessed of as the Executive of the nation; and it was not intended to authorize him to animadvert, in terms of reproach, at least, upon the acts of the Legislature itself. Certainly Congress must be supposed to know as well what it has done as the President can know. I know of nothing, either in the laws of the United States or in the language of the Constitution itself, which makes it obligatory upon us to sit here and hear a message read from the President any more than any other paper; and inasmuch as I do conceive that the language employed here is not respectful toward Congress, I shall vote to dispense with the reading of it. The country gets the benefit of it all the same.

Mr. WHYTE. I trust that for the sake of maintaining that respectful attention which the country demands upon the part of the legislative branch of the Government the message of the President may be read in the hearing of the Senate. He is called upon to discharge a great public duty, and in pursuance of the demand made upon him by the Constitution of the United States he seeks to give information to the Senate and the House of Representatives of the state of the country. He may use language strong in its character, as Senators often in the discussion of subjects before the Senate may use; he may use language that may be irritating in its character; but, nevertheless, he occupies the high and exalted position of the President of the United States; he is communicating, in the discharge of his duty, that which he conceives ought to be communicated to this, a coordinate branch of the Government; and I trust that at this, the beginning of a new session, or a continued session of Congress, we may have a cordiality in sentiment, or at least a respectful attention to the

views and sentiments of those who may differ with regard to the manner in which the Government should be conducted. I trust, sir, that the motion made by the Senator from California may not prevail.

Mr. WILSON. I think the message is disrespectful and untruthful. There cannot be a doubt about the one or the other. But it is the last annual message of a public officer whom the people have condemned all along, and have most emphatically condemned at this time. The issue between him and the Congress of the United States has been pronounced upon by the American people, and there is no appeal from it. This message is the utterance of a disappointed, bad man, who has disturbed the country, and who has been condemned by not only those who were politically associated with him and rejected by them, but has been condemned by the American people; and there is no question about it that the verdict of history will be against him. But he has sent in his message here, and I think we had better have it read, and proceed as we ordinarily do on such occasions. I have no anxiety about the judgment of the American people as between the Congress of the United States and Andrew Johnson, and therefore I think we had better proceed as we usually do in the matter.

Mr. HENDRICKS. I think if the President of the United States desired to secure a universal reading of this document by the people he would desire the success of the motion made by the gentleman from California. The proposition is, that the President of the United States, in the discharge of his constitutional duties, shall not be allowed to discuss the conduct of Congress; and when Congress says that to the country it will secure the universal reading of the President's views upon the subject. I say, Mr. President, that in my judgment it is not disrespectful to Congress to question either the wisdom or the policy that it has adopted, or the constitutionality of its measures, as a basis of recommendation for legislative reform. If the President of the United States feels that the legislation heretofore is unfortunate to the country, or in violation of the provisions of the Constitution, it is not only his right, but it becomes his duty, in communicating annually to Congress, to express his views upon the subject.

Now, sir, the President is discussing a question of great interest to the people—a question upon which the people are feeling deeply at this time—the question of the public expenditures. He has stated the enormous sums that are being expended. Does any Senator say that that statement is not correct? If the President be in error in regard to the amounts, that, of course, is a proper subject of discussion in the future; but error on the part of the President in the statement of amounts, as he gets them from the Departments, is certainly not a reason for the rejection of the document. The President is going on, at the very point in the message at which this motion is made, to discuss questions of reform, retrenchment, and a return to economy. These are proper subjects for the President's discussion, proper subjects for the Congress of the United States to consider, proper subjects for the people to hear from the President upon, and proper subjects for the people to hear from Congress upon. I do not think that the dignity of the office or respect to the present Chief Magistrate is involved in this message. The adoption of this motion will be the expression by Congress of an unnecessary sensitiveness on its own part when its conduct becomes the subject of criticism. No great body shields itself from public responsibility by showing an excessive degree of sensitiveness when its conduct is questioned.

Mr. CONNESS. Mr. President, the Senator from Indiana is a little in error when he attributes the motion that I made to sensitiveness at the discussion of the topics contained in the discussion proposed by the President.

We can well afford to "let the galled jade wince" for "our withers are unwrung." If the motion that I made can result in what the Senator has told us, I should be more than satisfied, and be willing, as I really am, with the consent of the Senate, to withdraw the motion now, namely, that the message should secure a wider reading by reason of this motion than otherwise; for to read it will be enough for its condemnation. A President of the United States has no right, under the constitutional requirement that he shall communicate with the legislative department of the Government, to offensively thrust language and opinions before them. In this document, as in preceding ones, the President has taken that course; this being, as I think, the most offensive that has ever yet been presented.

I was about to rise, agreeing with my friend, the Senator from Massachusetts, to withdraw the motion that I had made, with the consent of the Senate. I did not think the opportunity that was given by this extraordinary message should be allowed to pass without noting its offensiveness. And now, sir, if the Senate will consent, I withdraw the motion I made.

The PRESIDENT *pro tempore*. The motion will be withdrawn, unless there be objection.

Mr. CAMERON. If the motion be withdrawn, I presume I can renew it.

The PRESIDENT *pro tempore*. Certainly. Mr. CAMERON. I do not think the President has any right to come here and lecture the Congress of the United States. So far as I have been able to look at the message, I think it is an entire misstatement of facts, and in it the President is endeavoring to make a false impression upon the public mind. It is not his duty to lecture us. It is his duty to give us such information as may be in his possession of the actual condition of the country. In my opinion he has disgraced the place he holds for nearly four years, and I do not think it is in accordance with the dignity of the Senate that we shall allow him to attempt to lecture us upon his going out. It is the last opportunity he will have of addressing from a high place the people of this country, and I am not willing that he shall make us the channels through which he shall send his untruths to the country, or make the false impression which he desires to make. I renew the motion which was made by the Senator from California; or, if that be more proper, I object to its withdrawal.

Mr. MORTON. Mr. President, I do not agree with the distinguished Senator from Pennsylvania. It is the duty of the President to send us this message, and it is our duty under the Constitution to hear it. The refusal to hear it will be regarded as a mere matter of spite, and will do the President less harm than it will do ourselves. I think the Senate will belittle itself by such action. I hope the message will be read through.

Mr. DRAKE. I confess, sir, to somewhat of surprise at the sensitiveness manifested by some gentlemen with regard to this message. A year ago the President of the United States sent to us a message very considerably more offensive in its character than this, and we sat and took it with most exemplary patience and good humor. I deemed it my duty then to introduce a resolution of censure upon the President for that message, and I addressed the Senate in support of that resolution, but I could get no response here; and I do not see now that we should manifest more sensitiveness than we did then. On the contrary, I think we have rather got used to Executive kicks, and it is hardly worth while, when the last one is given, that we should turn round and resent it. I think that the time was a year ago to have begun the resentment. I am in favor of having this message read. I do not see that we are to be any more insulted than we have been heretofore, when we tamely bore it.

Mr. HOWE. The Senator from Indiana [Mr. MORTON] states that it was the duty of

the President, under the Constitution, to send us this message, and he adds to that the statement that it is the duty of the Senate, under the Constitution, to hear this message. I am obliged, with great deference to the Senator, to differ from both those statements. I do not conceive that it was the duty, or the privilege of the President even, under the Constitution, to send us this message. It is his duty, under the Constitution, to send us a message annually, communicating to us such facts as he becomes possessed of as the Executive of the nation, and which he may suppose the Congress is not possessed of. The language to which I object is not language employed in communicating to us facts, but it is communicating to us opinions upon subjects touching which we have all the facts that he has, and are supposed by the Constitution to be as capable of forming opinions upon as he himself. But whatever may be the subject-matter of the message, or whatever may be the terms employed in it, I humbly conceive that there is nothing in the Constitution which requires the Senate to sit and hear any message read, however respectful it may be. It has been the habit of the Senate, because it has been its experience that only respectful messages have been sent, to sit and listen to them; and a very respectful habit it is, and one that I should not care to see dispensed with so long as the Executive preserves the habit of sending here only respectful messages.

The Senator from Missouri says that we had occasion to resent a message a year ago. Perhaps so. I think so. I did not hear that message read, and was not in the Senate when it was read, nor in the country. I should not, perhaps, have ventured to make the motion now before the Senate myself. Being made, I support it. The Senator from Massachusetts, on the contrary, opposes it for the most extraordinary reasons that I think were ever urged in the world. Conceding that the language employed is both disrespectful and untruthful, he still insists upon the Senate sitting here and listening to that which is disrespectful and untruthful. I do humbly conceive that the Senate can be better employed.

If any one on this floor or elsewhere supposes that I object to the reading of this message here because I think the refusal to hear it read will be calculated to prevent its being read by the country he strangely mistakes me and my motives. I have not the slightest objection to the country's hearing this message. I desire that it shall be printed and go to the country as an expression of the views still animating the President of the United States. But I do not think we are obliged to sit here in our places and hear such statements as this before us read, coming from the President, the bold declaration that—

"One hundred millions annually are expended for the military force, a large portion of which is employed in the execution of laws both unnecessary and unconstitutional."

If the Senator from Indiana will find in the Constitution a clause which obliges us to sit here and listen to language of this kind, unless it be urged by a Senator on this floor, when of course we must hear it, and have heard it perhaps too many times; but when it is sent to us in a written communication from the Executive, if he can find the clause in the Constitution which obliges us to sit here and have it read by our officers, I will submit to the Constitution, as I always do; but I think it will trouble him to find any such clause.

Mr. EDMUNDS. I move, or shall in a moment, that the Senate adjourn. The business of the Senate will be facilitated, I may say, inasmuch as we are without committees at this time, by an early adjournment to-day, and this question about the message can be taken up to-morrow. I move, therefore, that the Senate adjourn.

The motion was agreed to; there being on a division—ayes 26, noes 22; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, December 9, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

DISABILITIES OF FRANKLIN J. MOSES.

Mr. PAINE, from the Committee on Reconstruction, reported a bill (H. R. No. 1484) to relieve from disabilities Franklin J. Moses, of South Carolina; which was read a first and second time.

Mr. PAINE. I am instructed by the Committee on Reconstruction to ask that this bill be put on its passage now, and after a brief explanation I shall ask the previous question. Mr. Moses has been lately elected chief justice of the State of South Carolina. He was for twenty-five years a member of the senate of that State before and during the rebellion. Since the rebellion he has been president of the senate and a judge of the circuit court. The law under which he was appointed chief justice required him to qualify within thirty days from the date of his appointment. He was unable to do so because Congress has not been in session for business since July last. By a special act of the Legislature of South Carolina, the time within which he might qualify was extended for five months. That time will expire on the 29th day of this month, so that this bill, in order to be of any avail to him and the State of South Carolina, must be passed at once. The removal of disabilities in this case is recommended unanimously by the senate of South Carolina, and, I believe, by all the members of the lower house of the Legislature of that State. I submit that recommendation, to be printed as a part of the record in this case; and I also present, for the same purpose, a letter of Major General Canby to General Grant, and a letter of the Governor of South Carolina, both recommending the relief of Mr. Moses from his disabilities.

The documents are as follows:

COLUMBIA, SOUTH CAROLINA,

November 25, 1868.

We, the subscribing members of the senate and house of representatives of the State of South Carolina, respectfully request our Senators and Representatives in Congress to take action for the speedy removal of the political disabilities of Hon. F. J. Moses, chief justice of the supreme court of said State:

JONATHAN J. WRIGHT,

Senator from Beaufort.

T. J. COGHILAN,

Senator from Sumter.

W. B. NASH,

Senator from Richland.

G. A. SWAILS,

Senator from Williamsburg.

CHARLES W. MONTGOMERY,

President Senate *pro tempore*.

FRANK ARMIN,

Senator from Edgefield.

JOEL FOSTER,

Senator from Spartanburg.

H. W. DUNCAN,

Senator from Union.

H. E. HAYNE,

Senator from Marion.

LUCIUS WIMBUSH,

Senator from Chester.

WILLIAM E. ROSE,

Senator from York.

JOSEPH A. GREENE,

Senator from Orangeburg.

J. H. REID,

Senator from Anderson.

Y. J. P. OWENS,

Senator from Laurens.

W. R. HOYT,

Senator from Colleton.

R. JAMES DONALDSON,

Senator from Chesterfield.

D. BIEMANN,

Senator from Pickens.

T. A. ROGERS,

Senator from Pickens.

H. BUCK,

Senator from Marion.

G. W. BARBER,

Senator from Fairfield county.

R. B. ELLIOTT,

Representative, Barnwell county.

J. N. HAYNE,

Representative, Barnwell county.

C. D. HAYNE,

Representative, Barnwell county.

JULIUS MAYER,

Representative, Barnwell county.

WILLIAM H. JONES, Jr.,

Representative, Georgetown county.

H. W. WEBB,
Representative, Georgetown county.
F. F. MILLER,
Representative, Georgetown county.
P. J. O'CONNELL,
Representative, York county.
E. M. STOEGER,
Representative, Marion county.
EBEN HAYS,
Representative, Marion county.
JOHN G. GRANT,
Representative, Marlborough county.
JAMES H. JONES,
Representative, Marlborough county.
WILLIAM SIMONS,
Representative, Richland county.
ÆSOP GOODSON,
Representative, Richland county.
S. B. THOMPSON,
Representative, Richland county.
C. M. WELDER,
Representative, Richland county.
JOHN H. FENTER,
Representative, Sumter county.
W. J. WHIPPER,
Representative, Beaufort county.
CHARLES S. KUII,
Representative, Beaufort county.
W. C. MONSON,
Representative, Beaufort county.
ROBERT SMALES,
Representative, Beaufort county.
CARLOS J. STOLBRAND,
Representative, Beaufort county.
C. H. PETTINGALL,
Representative, Williamsburg county.
R. F. SCOTT,
Representative, Williamsburg county.
P. E. EZEKIEL,
Representative, Beaufort county.
J. WILSON,
Representative, Anderson county.
GEORGE F. MCINTYRE,
Representative, Colleton county.
HENRY W. JAMES,
Representative, Colleton county.
WILLIAM DRIFFLE,
Representative, Colleton county.
WILLONA THOMAS,
Representative, Colleton county.
THOMAS RICHARDSON,
Representative, Colleton county.
JEFFERY PENDERGRASS,
Representative, Williamsburg county.
SAMUEL J. LEE,
Representative, Edgefield county.
LAWRENCE CAIN,
Representative, Edgefield county.
JOHN GARDNER,
Representative, Edgefield county.
P. R. RIVES,
Representative, Edgefield county.
JOHN WOOLLEY,
Representative, Edgefield county.
T. ROOT,
Representative, Edgefield county.
J. P. MAYS,
Representative, Orangeburg county.
E. I. CAIN,
Representative, Orangeburg county.
WILLIAM J. MCKINLAY,
Representative, Orangeburg county.
BENJAMIN A. BOSEMAN, JR.,
Representative, Charleston county.
A. J. KAUSIER,
Representative, Charleston county.
ROBERT W. DELARGE,
Representative from Charleston.
GEORGE LEE,
Representative from Charleston.
HENRY W. PUNIS,
Representative, Lexington county.
JOSEPH CRENS,
Representative, Laurens county.
H. McDOMEELS,
Representative, Laurens county.
WADE A. PENNRIU,
Representative, Laurens county.
GRIFFIN JOHNSON,
Representative, Laurens county.
W. G. BRODEO,
Representative, Marion county.
B. JAMES,
Representative, Sumter county.
WILLIAM E. JOHNSTON,
Representative, Sumter county.
WILLIAM H. W. GRAY,
Representative, Charleston county.
ABRAHAM SMITH,
Representative, Charleston county.
GEORGE DUSENBERRY,
Representative, Abbeville county.
HUTSON J. LOMAX,
Representative, Abbeville county.
POWELL SMYTHE,
Representative, Clarendon county.
WILSON COOK,
Representative, Greenville county.
JOHN A. CHESNUT,
Representative, Kershaw county.
J. A. BOSWELL,
Representative, Kershaw county.
BENJAMIN A. THOMPSON,
Representative, Marion county.
J. B. HYDE,
Representative, Greenville county.
EDWARD MCKEY,
Representative, Charleston county.
SIMON FARR,
Representative, Union county.
J. S. MOLLEY,
Representative, Union county.

Respectfully submitted to the General of the Army:

The writer was one of the judges of the court of common pleas and general sessions of the State of South Carolina, and has lately been elected by the Legislature chief justice of the supreme court of that State under the new constitution. Judge Moses was one of the first to accept the conditions of the acts of reconstruction and to act under them, and soon after they went into operation he united with Judges Glover and Aldrich, of the same court, in making some practical suggestions in relation to the jury system established by General Orders No. 32, of May 30, 1867. The last-named gentleman subsequently changed his course, but the two former continued to act consistently. The election by the Legislature to the highest judicial office of the State is regarded as a conclusive expression of the wishes of the people of South Carolina; but it is proper that I should add that Judge Moses's course, official and personal, was of material aid to me as commander of the district.

EDW. CANBY,
Brevet Major General United States Army.
WASHINGTON, D. C., November 9, 1868.

EXECUTIVE DEPARTMENT.

COLUMBIA, SOUTH CAROLINA, November 27, 1868.
DEAR SIR: It is with great pleasure that I avail myself of this opportunity of recommending the removal of your political disabilities by the Congress of the United States. I trust that speedy favorable action may be taken by that body, so that you may be enabled to take the seat in the court now sitting, to which the Legislature elected you.

While Assistant Commissioner of Bureau of Refugees, Freedmen, and Abandoned Lands I had full opportunity of knowing your earnest endeavors to carry out the reconstruction acts of Congress, and as a judge of the old bench, under the pressure of a strong public opinion against it, enforcing fearlessly the orders of Generals Sickles and Canby in relation to the changes in the selection of jurors. Your whole course has been to sustain by your words and example the policy and wisdom of Congress as expressed in their acts, of such great consequence to the whole country.

I have not referred to your eminent position as a lawyer, or your high character as a judge under the old constitution. The election by the Legislature to the highest place on the judiciary under the new is the best acknowledgment of your ability, patriotism, and high reputation.

Trusting that your disabilities will be at once removed, I am respectfully and truly yours,

ROBERT K. SCOTT,

Governor of South Carolina.
Hon. F. J. MOSES, Chief Justice-elect of Supreme Court of South Carolina.

I will add that the Committee on Reconstruction are unanimous in recommending the passage of this bill. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time.

The question being taken on the passage of the bill,

The SPEAKER said: In the opinion of the Chair two thirds have voted in the affirmative.

Mr. FARNSWORTH. I suggest whether the Journal ought not to show affirmatively that two thirds have voted in the affirmative?

The SPEAKER. The Chair states it as his opinion that two thirds have voted in the affirmative. If that statement is not challenged by some member demanding a count it will be recorded in the Globe that two thirds have voted in the affirmative, in the same way as on a question of suspending the rules.

Mr. FARNSWORTH. The question I raise is, whether the Journal ought not to show affirmatively that two thirds have voted in favor of the passage of the bill.

Mr. WASHBURNE, of Illinois. The Journal will show it.

Mr. FARNSWORTH. The Globe will show it, but the Journal will not.

The SPEAKER. The Journal, as well as the Globe, will state the fact. There is only one question, the question of repassing a bill over a presidential veto, on which the yeas and nays are required by the Constitution to be entered on the Journal. No such requirement is embraced in the fourteenth article of the constitutional amendments, under which the House is now acting. In the opinion of the Chair two thirds have voted in the affirmative, and the bill has passed.

Mr. PAINE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

Mr. BARNES asked and obtained leave of absence till Tuesday next.

COMPLETION OF PROVIDENCE HOSPITAL.

The SPEAKER, by unanimous consent, laid before the House a communication from the Surgeon General of the United States Army, transmitting a report of the expenditures to December 1, 1868, for the completion of Providence Hospital; which was referred to the Committee on Appropriations, and ordered to be printed.

SALE OF STEAMER ATLANTIC.

Mr. WASHBURNE, of Illinois. I hold in my hand a joint resolution directing the sale of the steamer Atlantic. This resolution, which I endeavored to get passed just before the adjournment of the last session, is a matter in which the public interest is involved to the extent of several thousand dollars. I ask that it may be read; and if there should be no objection I shall ask that it be put on its passage.

The joint resolution was read at length. It relates to a chattel mortgage made between the Secretary of the Navy and the assignees of the Collins contract to secure the repayment or refunding the amount of the annual compensation of the ships Atlantic and Pacific, which contract was sold to Prosper M. Wetmore in trust. The deed being still binding on the Atlantic, and a large amount being still due for expenses in executing the trust, it is therefore resolved that the Secretary of the Navy be directed to cause the trustee named in the deed of mortgage to sell, without delay and in accordance with the terms of said mortgage, said steamer Atlantic, now lying in the port of New York, and to finally close up the said trust and report the same to Congress.

There being no objection, the joint resolution (H. R. No. 372) was read a first, second, and third time, and passed.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BUSINESS OF THE SESSION.

Mr. WASHBURNE, of Illinois. I desire to make a statement from the Committee on Appropriations, which may be of interest to the House, touching the business of the session, and further in regard to the probable length of time we can take for a recess.

Mr. ROBINSON. There is a matter pending, simply to pass a resolution which I offered last evening. I do not wish to say anything more upon it, nor does any one else, I believe. It is simply a resolution of inquiry.

The SPEAKER. Does the gentleman object?

Mr. ROBINSON. I do not; I only wanted to have the resolution acted upon.

Mr. WASHBURNE, of Illinois. I desire, in the first place, to say that the estimates upon which the Committee on Appropriations will have to act will not reach the Speaker of the House till the last of this week or the first of next—at any rate not in season for the committee to perfect any bill before the time when both branches of Congress usually take their recess. There are some ten appropriation bills which we will have to consider, namely, the legislative, executive, and judicial, Army, Navy, pension, Post Office, Military Academy, sundry civil, Indian, deficiencies, and the consular and diplomatic appropriation bills. If the House shall take a recess at the time which the Committee on Appropriations have directed me to indicate, I can state that a majority of the committee will be present in the city during the recess and prepared to consider and act upon the bills in committee, and nothing would probably be gained by the House by continuing in session. I am therefore instructed by the committee to say that on Thursday a week from to-morrow I shall press a resolution that on the following Monday, the 21st instant, Congress shall adjourn over till Tuesday, the 5th day of January, 1869.

Several MEMBERS. Offer it now.

Mr. WASHBURN, of Illinois. Several gentlemen around me desire that the question may be settled now. If that is the judgment of the House I am willing to submit a concurrent resolution. I, however, do not desire to do so until some other gentlemen may be heard in regard to the business before the other committees.

Mr. HIGBY. I call for the regular order.

RECONSTRUCTION IN VIRGINIA.

Mr. BINGHAM. I am instructed by the Committee on Reconstruction to report a bill (H. R. No. 1485) providing for an election in Virginia, and put it on its passage.

The bill was accordingly read a first and second time. It provides that the constitution adopted by the convention which met in Richmond, Virginia, on the 3d day of December, A. D. 1867, be submitted for ratification on Wednesday, the 20th day of January, 1869, to the voters of the State of Virginia, who shall then be registered and qualified as such in compliance with the acts of Congress known as the reconstruction acts. The vote on said constitution shall be "for the constitution," or "against the constitution." The said election shall be held at the same places where the election for delegates to said convention was held, and under the regulations to be prescribed by the commanding general of the military district, and the returns made to him as directed by law.

It is provided by the second section that an election shall be held at the same time and places for members of the General Assembly, and for all State officers to be elected by the people under said Constitution; the election for State officers to be conducted under the same regulations as the election for the ratification of the constitution, and by the same persons. The returns of this election shall be in duplicate; one copy to the commanding general, and one copy to the president of said convention, who shall give certificates of election to the persons elected. The officers elected shall enter upon the duties of the offices for which they are chosen as soon as elected and qualified in compliance with the provisions of said constitution, and shall hold their respective offices for the term of years prescribed by the constitution, counting from the 1st day of January next, and until their successors are elected and qualified.

The third section provides that an election for members of the United States Congress shall be held in the congressional districts as established by said convention, one member of Congress being elected in the State at large, at the same time and places as the election for State officers; said election to be conducted by the same persons and under the same regulations before mentioned in this act; the returns to be made in the same manner provided for State officers.

By the fourth section it is provided that no person shall act either as a member of any board of registration to revise and correct the registration of voters as provided in section seven of the act of July 19, 1867, amendatory of the act of March 2, 1867, entitled "An act for the more efficient government of the rebel States," &c., or as a judge, commissioner, or other officer at any election to be held under the provisions of this act, who is a candidate for any office at the elections to be held as herein provided for.

The fifth section provides that the General Assembly elected under and by virtue of this act shall assemble at the capitol, in the city of Richmond, on Wednesday, the 10th day of February, 1869.

Mr. BINGHAM. I desire to say to the House that the bill now reported by the Reconstruction Committee is in all respects the bill which passed this House in July last, save a change of time for these elections. The time has passed provided for in the bill of July, and the elections were not held then for want of an appropriation. An appropriation was afterwards made, and the election can be held in

January. This bill is, as I said before, in every particular, with the exception of the change in the time for holding the election, the bill passed by this House in July last. If there be no person who desires to discuss this question I shall call the previous question on the engrossment and third reading of the bill.

Mr. ELDRIDGE. I wish to inquire of the gentleman from Ohio if this bill was debated at the time it was before the House when he indicates that it passed?

Mr. BINGHAM. My impression is that it was somewhat debated, and my impression is further that very little opposition was manifested to it from any quarter. It gives the people a very full opportunity to vote; and I desire also to say to the gentleman that I think the time is near at hand, if the people of Virginia are permitted to speak, when there will be no further complaint in that State as to the want of a local government resting on the consent of the governed.

Mr. ELDRIDGE. Does the bill provide for the removal of disabilities from persons who took part in the rebellion?

Mr. BINGHAM. No; but we have introduced bills for the purpose of removing disabilities. And I will answer the gentleman further that the constitution of Virginia has, in my judgment very wisely, provided that the Legislature of the State may without any further delay remove all disabilities in so far as they exist from the laws or constitution of that State from all persons.

Mr. ELDRIDGE. But is there a removal of the disabilities which would prevent those persons who took part in the rebellion from taking part in the election or voting upon the constitution?

Mr. BINGHAM. I answer the gentleman that there is no amendment at all of the reconstruction acts in that behalf; but the gentleman will notice that the bill passed in July provided, as does this bill, for a revision of the registration, so that persons who by one cause or the other have been prevented from registering may register and vote at this election. Of course, if this bill passes none can vote in the coming election except those authorized to vote by the existing reconstruction acts.

Mr. WASHBURN, of Illinois. It is utterly impossible for us on this side of the House to hear what the gentleman from Ohio is saying.

Mr. BINGHAM. I will repeat, then, very briefly, what I said in reply to the gentleman from Wisconsin, that this bill in no wise changes or affects the reconstruction acts as to the disqualification of citizens to vote in this preliminary election.

Mr. WASHBURN, of Illinois. Will the gentleman yield to me for a moment?

Mr. BINGHAM. Yes, sir.

Mr. WASHBURN, of Illinois. The point in the bill to which I wish to call the attention of the House is the time which is fixed for this election. I do not understand that there is anything objectionable in the bill in regard to its effect on the present reconstruction laws. But the point I wish to suggest to the House is in regard to the time at which the election is to be fixed. Congress is to fix it, and this bill proposes to do it, and that is the only alteration in the bill as it is now reported. I beg leave to suggest that the committee has put the time too soon. I think the middle of January is not the proper time to hold the election, and I am opposed to that feature of the bill. I hope the gentleman will allow me to move an amendment to the bill so as to put off the election until after the 4th of March next. I would fix it for the second Tuesday in April, a time when, I trust, the loyal people of Virginia can be protected.

Mr. BINGHAM. I desire to answer the suggestion of the gentleman from Illinois.

Mr. MAYNARD. Will the gentleman allow me to make an additional suggestion?

Mr. BINGHAM. I will yield to the gentleman.

Mr. MAYNARD. In addition to the reason assigned by the gentleman from Illinois I

would suggest that January is ordinarily a very inclement season of the year, and it would be very difficult, if not impracticable, to secure anything like a full vote at that time. I suggest to the gentleman that the election had better be postponed until a time when the weather will be more favorable for holding an election.

Mr. BINGHAM. Mr. Speaker, I desire the attention of the gentleman from Illinois, [Mr. WASHBURN,] if he is interested in this matter. The time named in this bill was not fixed by the committee; it is the time designated by the convention of the friends of the reconstruction measures in the State of Virginia, and it is reported here by their own committee. They are entirely satisfied that a fair election will be there had at that time, and that a result will be attained by this election which will be satisfactory to the friends of the Union everywhere in this country. And in addition to their suggestions I now desire to say to the gentlemen that certain revolutionary acts are taking place in this country which it is in the power of the people of Virginia in 1869 to do somewhat toward arresting, as they did on a memorable occasion in 1787. When there was sedition in the land then, Virginia, under the lead of wise and intelligent and patriotic men, was first of all the States in this Union to take action for such exercise of original powers on the part of the whole people of this country as would perpetuate their liberties, and, in their own language, "consolidate the union of the States."

Since the adjournment of this Congress in July last, some time in the month of September, the Legislature of Oregon, following the bad example of the Legislatures of Ohio and of New Jersey, repealed the ratification heretofore given by the people of Oregon to the fourteenth article of amendment to the Constitution of the United States. I undertake to say here to-day that there are men living in this land who will come to understand by absolute experience the positive necessity of that amendment to the Constitution of this country, if the Government is to be maintained by laws rather than by arms. It is in the power of the people of Virginia—and I desire that the people of that State shall have the opportunity of exercising that power—if this bill shall become a law as reported, and they shall act under it accordingly in January and February next, to put an end to this contest as between the States, and restore to this Congress the power, before the adjournment on the 4th of March next, to silence forever, here and everywhere, all question as to the validity of the ratification of that amendment, and as to the great question whether it is to be henceforth, until changed by the whole people, a part of the Constitution of this land to all intents and purposes. Men lately in rebellion have come to understand—and hence some of them have been before us on this subject—the necessity of this action for their own personal protection by the common law of their common country, to which they have surrendered, to which they wish to again declare their allegiance, and in support of which hereafter they desire to maintain their fealty.

I have made these remarks, Mr. Speaker, on account of what has dropped from the gentleman from Illinois, [Mr. WASHBURN.] He knows well enough that if we postpone this election until April next, there can be no further action on this subject, so far as Congress is concerned, until some subsequent meeting of Congress, probably not until December next. What may take place in the interim during these revolutionary times—for I again say it is nothing but revolution on the part of some of the States—no man can foresee. Let the responsibility rest upon those gentlemen who propose delay, when delay is dangerous. If the people of Virginia fail to ratify the constitution proposed by their convention, then it will be the same as though this bill had not been passed. If, on the other hand, the people of Virginia do ratify that constitution, and

do also ratify the fourteenth article of amendments to the Constitution of the United States, as provided by your existing laws, a great result will have been attained. And I beg leave to say advisedly, having read the constitution presented to the people of Virginia for their ratification, that from the day of the first attempt to establish republican government on this continent to this hour a more truly republican form of government has never been adopted by the people of any State. I am willing to risk it, and I ask, therefore, that the House will respond to the action of the Committee on Reconstruction—to its unanimous action, as it gives me pleasure to say—and let the people of Virginia have an opportunity to speak, and to speak at an early day.

Mr. BROOKS rose.

Mr. BINGHAM. I will yield to my colleague on the Committee on Reconstruction. Perhaps I ought not to have said what I did just now.

Mr. BROOKS. I should not have risen to say a word on this subject if the gentleman had not made that remark.

Mr. BINGHAM. I repeat that perhaps I ought not to have said it.

Mr. BROOKS. I do not wish it to be understood that we approve of everything in which we are constrained to acquiesce. I am not blind to the course of events. For example, I am conscious, sir, that the popular voice by a large majority has declared in favor of your removal from this Hall to another branch of the Government. I am not insensible to existing events. I acquiesce frequently in what I do not approve.

Mr. BINGHAM. I am thankful to the gentleman for the correction. It would have given me pain to have stood on the record as misrepresenting anything. But the gentleman is kind enough to say that he acquiesced, and that is all that I meant. I did not think there was any opposition to the measure; and, indeed, I did not think there could well be any opposition.

Mr. ELDRIDGE. Will the gentleman allow me to inquire what he meant by saying that certain States were in revolution—"nothing less than revolution?"

Mr. BINGHAM. I thought I had made myself understood; but I will state the proposition again.

Mr. ELDRIDGE. What I wish to understand is, whether the gentleman meant to say that if the States to which this constitutional amendment was submitted should, acting according to their own judgment, reject that amendment, it would be an act of revolution?

Mr. BINGHAM. No, sir. If the gentleman had attended to my words—perhaps they were not important enough to demand his attention—he would have understood me; for I generally make myself understood. And I venture to say here now that when the question is broadly made before the American people—and if this movement goes on it will inevitably be made before that people, the only tribunal on earth that can decide it finally—whether any State that undertakes to repeal its action upon an amendment of the Constitution after the Legislatures of three fourths of the several States have ratified it, is guilty of revolutionary action, the people will, by an overwhelming majority, declare that such action is revolutionary. And to make myself fully understood, I desire to say that before the action of Oregon in September last, professing to repeal the ratification theretofore given by the people of that State, through their Legislature, to the fourteenth article of the amendments, three fourths, and more than three fourths, of the States of this Union had solemnly ratified that article, and the fact had been proclaimed by the Secretary of State. This act of ratification on the part of those Legislatures, resting upon the proposition of two thirds of the Congress of the United States, is what the Constitution itself declares to be an act of amendment of the Constitution. The subsequent action of the Congress of the United States is no part of the act of

amendment. It is simply the solemn authentication, under the great seal of this country, of what the people of the country have done. It puts an end to all inquiry; it silences all challenge; it concludes all courts; it concludes everybody until the people, in the mode prescribed by the Constitution, shall hereafter reverse their own solemn action. That is what I meant. I say that Oregon, by the act to which I have referred, is guilty of revolution. Suppose that every State of the Union should imitate that bad example. It might be done in regard to not only the fourteenth article but the thirteenth, and the twelve preceding articles of amendment. That is no way to change the Constitution of the country. It is not authorized by the fundamental law.

Mr. ELDRIDGE. It is, at all events, a way to prevent a change.

Mr. BINGHAM. No, sir; it is no way to prevent a change. Such a proceeding is forbidden by the Constitution. It is an act of revolution; it is a step toward anarchy; and for one I desire to hasten such action on the part of the people of Virginia as, by the aid of this House, will result in putting an end thereafter to any further controversy about this question. That is one reason I desire to see this bill passed, and passed speedily, so that we may have an end of this strife. If the people of the United States desire to repeal that amendment, they know how to do it in the mode prescribed by the Constitution. Let them send here a Congress that will, by a two-thirds vote, propose to the Legislatures of the several States an amendment repealing the fourteenth article, and let three fourths of those Legislatures ratify the amendment. But let us at least have some decent regard to the substance as well as to the forms prescribed by the Constitution of the country. And in making this remark I cast no reflection upon any gentleman on this floor, for nothing has dropped from the lips of one of them to indicate any purpose to recommend any reverse action on the part of the Legislature of any State after three fourths of the States have solemnly ratified an amendment to the Constitution.

Mr. VAN TRUMP. Will my colleague yield?

Mr. BINGHAM. Yes, sir.

Mr. VAN TRUMP. I wish to ask my colleague, so far as the attempted ratification of the Legislature of Ohio is concerned, whether that was a consummate act until the certificate of the Secretary of State of the United States was furnished according to law?

Mr. BINGHAM. Undoubtedly it was, if the gentleman means by that the certificate of the Secretary of State to the public at large, for the reason that the Secretary of State is but the registrar of the people of the United States speaking through Congress. What he did he did under the requirement of the act of 1818, if I recollect right, and the legislative power that conferred that authority upon him conferred it upon him as a mere registrar. What he has certified to is only an authentication of what has been done. The point I desire my colleague to notice is that the certificate of the Secretary of State under the existing law is no act toward the ratification of an amendment to the Constitution, because the Constitution of the United States concludes the whole matter. It simply declares that the presentation by way of proposition of an amendment to the Constitution by the vote of two thirds of the Congress shall be to all intents and purposes a part of the Constitution when ratified by the votes of the Legislatures of three fourths of the States of the Union. That is what the Constitution says, and that ends the argument.

Mr. VAN TRUMP. I ask my colleague whether, from the time of the ratification of the proposed amendment up to the time of the issue of the Secretary of State, under the broad seal of the United States, the whole subject of ratification is not in *locus penitentie*?

Mr. BINGHAM. Not at all. The point I made is—and that was the significance of my remark before—that until there is an authorita-

tive authentication of the amendment, it may be challenged in your courts; but if it is authoritatively authenticated, either by a direct act of Congress or under the seal of existing law, no court can challenge it at all. A court can no more challenge an authenticated act—the fact, in other words, of the ratification as certified to the courts under existing law—than it can challenge the fact of an act of the Congress of the United States. The courts cannot sit in judgment upon the question at all. It is no part of their duty. It is not within their jurisdiction, and it is just precisely because of the necessity of putting an end to what is going on in this country, everybody setting himself up in judgment upon the great people and assailing the amendment to the Constitution, that I desire this action of Virginia. It will put an end to the controversy when put in connection with the subsequent action of this House. That is what I want done. I do not admit, by anything I have said, that the action of Ohio, New Jersey, and Oregon is valid. I think it is revolutionary. But I desire to put an end to these revolutionary movements and to give quiet and peace to this great people. I yield to my colleague on the committee, [Mr. FARNSWORTH,] who desires to make some remarks.

Mr. WASHBURN, of Illinois. Let the gentleman from Ohio withdraw his demand for the previous question, and permit me to offer the amendment I indicated, so that the House may pass upon it.

Mr. FARNSWORTH. No previous question is now pending.

Mr. BINGHAM. I will allow the gentleman to offer his amendment.

The SPEAKER. The gentleman from Ohio is still speaking, but he has a right to demand the previous question.

Mr. BINGHAM. I allow the gentleman to offer his amendment.

The SPEAKER. The amendment to substitute the fourth Thursday in May for the time named in the bill will then be considered as pending.

Mr. FARNSWORTH. Mr. Speaker, I can state in one minute, I think, the reasons which control my judgment and persuade me to favor this bill. I think we ought to order an election in the State of Virginia before this Congress adjourns, so that if the constitution is not adopted, such action may be taken by Congress as may be useful in the premises. It is said to be doubtful whether the people of Virginia will adopt this constitution or not. If they do adopt the constitution it matters not whether the election is held in winter or in summer. If they do not adopt the constitution we ought to know it before Congress adjourns, in order that further legislation may be had. It is the opinion of the committees from the State of Virginia who have had this matter in charge that the people of the State will adopt the constitution by a large majority. I believe that is the prevailing opinion of the committees which have communicated with the Committee on Reconstruction of this House. This controls my judgment and convinces me that we ought to order an election during the winter. If they do not adopt the constitution, we will then take such further steps as are necessary, and which steps ought to be taken, in order to reconstruct and bring this State into its former relations with the Union. We have left it out long enough. The people there require reconstruction and order. They want peace and prosperity, and the sooner the election is held the better. This is all I desire to say upon the question.

Mr. BINGHAM. I yield now to the gentleman from Massachusetts [Mr. BUTLER] for five minutes.

Mr. BUTLER, of Massachusetts. Mr. Speaker, I desire to call the attention of the House to one or two facts in connection with this bill which may influence our actions, but principally as to the time of the election. By its provisions the election is to be held within twenty days of the time when, by the usage of Virginia, contracts are made for labor during

the year, and when those contracts, as a means of coercing the votes of the laboring classes, are most potent. It is to be held at a season of the year when, if men will not make contracts, it is in the power of the land owners to starve them without injury to themselves. It is to be held at a time when we have no certainty at all of the coöperation of the Executive in restoring or maintaining order or punishing violence. It is to be held at a time when we have no assurance but what the scenes accompanying the late elections in Louisiana and Georgia, and of Texas, Arkansas, and Mississippi, will be reenacted.

Now, I would like to offer an amendment providing that the election shall be held on the fourth Thursday in May, the usual day of elections in Virginia. At that time if men are turned away from employment because of their votes they can live in spite of the land-owners who may attempt to control them. At that time we shall have an Executive that will support law and order. At that time we shall have the power, which we have not now, of punishing murder and riot. At that time we can insure the people of Virginia, the loyal men of Virginia, what they never yet have had, at least since 1860, a free and fair election. While I concur in all that comes from the Committee on Reconstruction in regard to the details of the bill, yet I believe, for the reasons that I have assigned, the judgment of the House will agree to a further postponement of the election. I have no special desire for one day more than another, except to get the election into the next Administration and out of the inclement season of the winter. I propose, therefore, to amend the amendment of the gentleman from Illinois [Mr. WASHBURN] by inserting "the fourth Thursday in May," the day on which the people of Virginia, in 1861, voted an acceptance of the ordinance of secession; and there may be some significance in the anniversary.

Mr. WASHBURN, of Illinois. If the gentleman will permit me, I will state that I indicated the second Tuesday in April, as being a time subsequent to the 4th of March. I do not know but that the time which the gentleman from Massachusetts suggests is a better time. I am not particular about that; but I do think that to order this election on the 20th of January is to throw the State inevitably into the hands of the other side; and there will be not a single man elected from Virginia who will not be opposed to the reconstruction acts and everything connected with them; and if the negroes should attempt to vote under all the difficulties which the gentleman from Massachusetts has stated, you will see such another scene of blood and violence and terrorism as the country witnessed with indignation in Georgia and Louisiana and Arkansas and other States. It is our duty, then, for the protection of those colored men to whom we have given the ballot, to fix the election at a time when the strong arm of a loyal Administration will protect them. I will now modify my amendment so as to make the day the "fourth Thursday in May."

Mr. BINGHAM. I now yield for a moment to the gentleman from Pennsylvania, [Mr. KELLEY.]

Mr. KELLEY. Do I understand the gentleman from Ohio [Mr. BINGHAM] to accept the amendment of the gentleman from Illinois [Mr. WASHBURN] as he has modified it?

Mr. BINGHAM. No. I do not accept it.

The SPEAKER. The gentleman from Ohio cannot accept any amendment to the bill under consideration, it having been reported from a committee.

Mr. KELLEY. Then I have a word to say, and to express a hope that the House will adopt that amendment. We need go no further than the State of Georgia, which I want to hold up as an example to this House, to learn that we here, in the name of the United States, must secure to the citizens of African descent in the States to be reconstructed their rights, or they will be withheld from them. To fix the election in Virginia at the time

designated by this bill, as the gentleman from Illinois [Mr. WASHBURN] has just said, would be to invite another series of massacres such as have disgraced Louisiana, Arkansas, and Texas, and another piece of political chicanery such as disgraced the partially-reconstructed State of Georgia. This election should be set at a time when the services of the colored laborer are of value to his employer; not in the winter, when they can be turned off temporarily with a threat of permanent discharge, without detriment to the interests of the employer. We should throw around them every guard that we can, and not toss them as victims before their oppressors and betrayers.

The conduct of the Republicans in the Legislature of Georgia has made me doubtful of those who claim to be the friends of reconstruction in that State; and I am glad to have this early and brief opportunity of holding up to obloquy, and as a warning to the Republicans of this House, the treachery of the Republican leaders of Georgia, in order that we may guard the freedmen of Virginia against such treachery in that State, and give them a chance to vote freely and fairly. That done, let them exercise their rights as men, and I care not, when it is of their own choice that they do it, with which political party they may act.

Mr. BINGHAM. I now yield to the gentleman from Massachusetts, [Mr. BOUTWELL,] my colleague on the Committee on Reconstruction.

Mr. BOUTWELL. I am sorry to be obliged to confess that having ventured into Pennsylvania, evening before last, I was not able to return in season for the meeting of the Committee on Reconstruction this morning. I cannot, however, neglect to say to the House, that for the moment, without further information than I now possess, I regret that this bill has been reported.

It will be remembered that on Monday last the Committee on Reconstruction was charged to inquire into the condition of public affairs in the States of Georgia, Virginia, Mississippi, and Texas. After the experience we have had in regard to Georgia I think it would be better to defer any positive action in regard to either of the three States not now represented here until the committee has completed the inquiry with which it has been charged by the House. For myself I consider that the action we took in regard to the State of Georgia was a mistake. We have beyond all question put the loyal people of that State into the custody of the rebels. I am not inclined, after this experience, to pursue the same policy in regard to the remaining unreconstructed States until we have an assurance on which we can rely that when those States shall have been reconstructed and admitted to representation in Congress political power can be kept in the hands of the loyal people of those States.

What measures may be necessary in regard to either or all of those three States I cannot now say. But if the Committee on Reconstruction is to inquire into the condition of public affairs in those States, it is for the purpose of ascertaining whether they are fit to be represented in Congress. In my judgment that is a question which depends upon the fact whether the majority of the people there are loyal, and whether the peace can be preserved so that the loyal people of those States can exercise their political rights. Manifestly it is of no consequence that a majority of the people are loyal if that majority is to be intimidated or coerced or the expression of their will prevented.

I am very clear that nothing should be done looking to the reconstruction of these States through the action of the people until we have an Administration here which will use the powers of the Government to enable the loyal people to exercise their rights. Therefore, if pressed to a vote this morning, I am in favor of the amendment. But without knowing what considerations may have been urged upon the committee this morning, I wish

they could see their way clear to ask the House to recommit the bill until these investigations have been carried so far as to enable the committee to have an opinion based upon the results of the inquiry with which the House has already charged them. I do not make any motion to recommit, but I wish that the gentleman having charge of the bill would submit such a motion.

Mr. BINGHAM resumed the floor.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HAMLIN, one of its clerks, announced that the Senate had passed an act (S. No. 658) to relieve from disabilities Francis J. Moses, a citizen of South Carolina; in which the concurrence of the House was requested.

PRESIDENT'S ANNUAL MESSAGE.

Mr. WILLIAM G. MOORE, Private Secretary of the President of the United States, being introduced, presented the annual message of the President.

Mr. WASHBURN, of Illinois. I hope the gentleman from Ohio, [Mr. BINGHAM,] who holds possession of the floor, will give way and allow the message to be read.

The SPEAKER. The gentleman from Ohio has twenty-five minutes of his hour remaining.

Mr. BINGHAM. I yield to allow the message to be read.

The Clerk read the annual message of the President of the United States. [It will be found in the Appendix.]

Mr. WASHBURN, of Illinois. I move that the message be laid on the table and printed. I suppose that upon the motion to print discussion is in order; but I do not intend to avail myself of that privilege to-day, except to say—

The SPEAKER. The Chair will state that the motion to lay on the table would make the whole proposition undebatable. If that motion be withdrawn, the question of printing will be open for debate.

Mr. WASHBURN, of Illinois. I withdraw, then, the motion to lay on the table, and make simply the motion to print. I will say to my friend from Ohio, [Mr. BINGHAM,] who is entitled to the floor on the bill pending when the message came in, that I propose to occupy only a moment. I desire merely to call the attention of the House and the country to that portion of the President's message on pages 11 and 12 of the pamphlet copy, in regard to the various plans proposed for the payment of the public debt. I consider the proposition there recommended by the President of the United States plain, undisguised repudiation; and, for one, I wish to take the earliest opportunity to enter my emphatic protest against it, and to denounce it as a disgrace to the country and to the Chief Magistrate who has sent in this message.

Mr. GARFIELD. Will the gentleman allow me to offer a resolution?

Mr. BINGHAM. I hope we shall go on with the bill which was under consideration when this message came in.

The SPEAKER. The gentleman from Illinois [Mr. WASHBURN] is entitled to the floor, and the pending motion is the motion to print the message.

Mr. BROOMALL. I ask unanimous consent to offer a resolution.

Mr. WASHBURN, of Illinois. I yield to the gentleman from Pennsylvania [Mr. BROOMALL] that he may offer his resolution.

Mr. WOOD. I rise to a question of order. The gentleman from Ohio, [Mr. BINGHAM,] I believe, had the floor, and I submit that he cannot be taken from it in this manner without his consent.

The SPEAKER. The Chair sustains the point of order, but it is not applicable to the present case. The gentleman from Ohio was upon the floor, and could not have been taken from it without his consent, even by the President's message. But he voluntarily surrendered the floor that the message might be read, and it is now before the House.

Mr. WOOD. I rise to another point of order; and it is that the gentleman from Illinois has been using unparliamentary language which this House ought not to tolerate.

The SPEAKER. The gentleman from New York will state what language he objects to.

Mr. WOOD. The language in reference to the President's message, in which he said that it was disgraceful to the country and to him, and tending to a direct recommendation of repudiation, when the message is not susceptible of any such construction.

Mr. GARFIELD. I rise to a point of order.

The SPEAKER. Only one point of order can be received at a time. The gentleman from New York raises the point that it is not in order for the gentleman from Illinois to characterize the message of the President of the United States in the language he has. This being a country of free speech, the Chair thinks that members who have been elected to represent the people of the United States have the right to criticize the official conduct of those who are clothed with public trust, provided it is done in language not indecorous or personally offensive—a right exercised in this message in referring to Congress.

Mr. WOOD. Then the Chair overrules my point of order.

Mr. GARFIELD. The point of order I wished to raise was that the objection comes too late, as business had intervened.

Mr. WASHBURN, of Illinois. I yield to the gentleman from Pennsylvania, to offer the resolution he sends to the Clerk's table.

Mr. SCHENCK. Will the gentleman yield a moment to the chairman of the Committee of Ways and Means?

Mr. BROOMALL. As soon as my resolution is read.

Mr. SCHENCK. I wish the floor now. I wish to have read, as a part of that to which I propose to call to the attention of the House, that portion of the President's message, as printed in the pamphlet laid upon our table, to be found on pages 11 and 12 which I have marked.

The Clerk read as follows:

"Our national credit should be sacredly observed; but in making provision for our creditors we should not forget what is due to the masses of the people. It may be assumed that the holders of our securities have already received upon their bonds a larger amount than their original investment, measured by a gold standard. Upon this statement of facts it would seem but just and equitable that the six per cent. interest now paid by the Government should be applied to the reduction of the principal in semi-annual installments, which in sixteen years and eight months would liquidate the entire national debt. Six per cent. in gold would at present rates be equal to nine per cent. in currency, and equivalent to the payment of the debt one and a half time in a fraction less than seventeen years. This, in connection with all the other advantages derived from their investment, would afford to the public creditors a fair and liberal compensation for the use of their capital, and with this they should be satisfied. The lessons of the past admonish the lender that it is not well to be over anxious in exacting from the borrower rigid compliance with the letter of the bond."

Mr. BROOMALL. I cannot yield further until my resolution is read. What has been read is a part of the resolution itself. I ask that the resolution be read, and if objection be made to its introduction I will have it read as a part of my remarks.

Mr. RANDALL. I object to the introduction of the resolution.

Mr. BROOMALL. I ask that it be read as a portion of my remarks.

Mr. RANDALL. I object.

Mr. WASHBURN, of Illinois. I have the floor for an hour, and have the right to yield.

The SPEAKER. The gentleman from Pennsylvania objects to the introduction of the resolution.

Mr. BROOMALL. I ask that it be read as a part of my remarks, the floor having been yielded to me by the gentleman from Illinois.

Mr. SCHENCK. Is the motion to print and lay upon the table debatable?

Mr. BROOMALL. The motion to lay upon the table has been withdrawn.

Mr. SCHENCK. The resolution is not in order to the motion to print.

The SPEAKER. The Chair has so decided.

Mr. BROOMALL. As part of my remarks its reading is in order.

Mr. WASHBURN, of Illinois. And I have yielded the floor to the gentleman for that purpose. I yield to him to offer it; but if it is objected to, I then yield to him to read it as a part of his remarks.

The SPEAKER. It has been objected to; but if it relates to the President's message the gentleman can have it read as a part of his remarks.

Mr. BROOMALL. It does relate to the President's message; and I give notice I shall offer it at the earliest moment it is in order, and press its adoption.

The SPEAKER. It will be read as a part of the gentleman's remarks.

Mr. RANDALL. Is not the gentleman able to read his own remarks? I object.

Mr. ROSS. He ought not to ask the Clerk to make his remarks.

The SPEAKER. Does the gentleman from Pennsylvania insist on his objection?

Mr. RANDALL. I do.

The SPEAKER. The usage has been to allow the Clerk to read such papers.

Mr. RANDALL. This is an unusual proceeding altogether, and requires unusual remedies to keep gentlemen in check.

Mr. BROOMALL took a position at the Clerk's desk.

Mr. RANDALL. I rise to another point of order. The gentleman is not in his seat.

The SPEAKER. The Chair overrules the point of order. The rule provides that a gentleman can speak from the Clerk's desk or from his own seat.

Mr. BROOMALL. If my colleague will allow me, I will let the Clerk read the resolution.

Mr. RANDALL. We have had a point of order, and the Chair has given his decision.

Mr. BROOMALL then read his resolution, as follows:

Whereas the President of the United States, in his annual message to the Fortieth Congress at its third session, says: "It may be assumed that the holders of our securities have already received upon their bonds a larger amount than their original investment, measured by a gold standard. Upon this statement of facts it would seem but just and equitable that the six per cent. interest now paid by the Government should be applied to the reduction of the principal in semi-annual installments, which in sixteen years and eight months would liquidate the entire national debt. Six per cent. in gold would at present rates be equal to nine per cent. in currency, and equivalent to the payment of the debt one and a half time in a fraction less than seventeen years. This, in connection with all the other advantages derived from their investment, would afford to the public creditors a fair and liberal compensation for the use of their capital, and with this they should be satisfied. The lessons of the past admonish the lender that it is not well to be over anxious in exacting from the borrower rigid compliance with the letter of the bond;" and whereas such sentiments, if permitted to go to the world without immediate protest, may be understood to be the sentiments of the people of the United States and their Representatives in Congress: Therefore,

Resolved, That all forms and degrees of repudiation of national indebtedness are odious to the American people. And that under no circumstances will their Representatives consent to offer the public creditor, as full compensation, a less amount of money than that which the Government contracted to pay him.

Mr. WASHBURN, of Illinois. I now demand the previous question on my motion.

Mr. SCHENCK. I ask the gentleman to yield to me.

Mr. WASHBURN, of Illinois. I yield to the gentleman.

Mr. SCHENCK. I return my profound thanks for this privilege. I am not going to engage in any squabble here as to who shall or shall not express opinions in regard to this message, on the motion now before the House. I am glad, however, to see that, as far as yet indicated, the only earnestness seems to be developed from the intense desire of each one who has spoken to mark with proper reprobation that which this message contains on the point indicated. I rose for a purpose which these gentlemen will entirely agree with me in. I had that part of the message read with a view to state—not from any particular weight that may be given to what I may say from my position as an individual

Representative of the people upon this floor, but it is possible that, having been honored with a place as chairman of the Committee of Ways and Means, I ought to express my opinions decidedly on the subject—that I look upon that portion of the message as the most gross, shameless, infamous proposition to repudiate the debt of the country that I have ever yet heard impudently avowed from any quarter, unless it may possibly be in the columns of the paper of "Brick" Pomeroy, which I believe has spread before the public this morning this message in full in advance of other papers, showing possibly a kindred feeling on this subject.

There is another part of the message to which I wish to direct attention. On page 25, as it lies upon our table, will be found a paragraph reflecting on the action of Congress in terms similar to those used by the Legislature of Oregon. It is only necessary for me to recall the attention of the House to the fact that yesterday when such language came from that source we stigmatized it as slanderous, scurrilous, and indecorous. I do not know any license the President of the United States has to speak thus of our legislation that cannot as well be accorded to the Legislature of Oregon; and I therefore class them together in that reprobation which this House has already passed upon one of them.

Now, sir, I trust there will be no printing of this message. Let it take its chance in the public prints. I trust it will be merely laid upon the table as not fit to be referred to the Committee of the Whole on the state of the Union, or any of the committees of this House.

Mr. FARNSWORTH. That is right.

Mr. SCHENCK. I trust, also, that no gentleman will be deterred from voting against referring it to the Committee of the Whole on the state of the Union on the supposition that it is necessary in order to give jurisdiction to the several committees of the House afterward when its several parts shall be referred to those committees. There is nothing in the message of which the standing committees may not obtain jurisdiction by the ordinary process of reference of petitions, bills, and resolutions to them. There is no necessity, therefore, for referring this to the Committee of the Whole on the state of the Union for the usual purpose of distribution to standing committees. There is no need of this being printed. It will go broadcast over the country, as Presidents' messages do, for what it is worth; and I therefore wish to withhold any sanction whatever, even the courtesy of printing this message, and to let it simply be laid upon the table. I hope my friend agreeing with me will let me substitute that for the other motion.

Mr. WASHBURN, of Illinois. I fully agree with that part of the remarks of the gentleman from Ohio which alleges that it is unnecessary to refer this message to the Committee of the Whole on the state of the Union, but it is necessary that the message should be printed. All the official documents of the country have to be printed to go into the official records. If the gentleman will modify his suggestion so as to lay upon the table and print the usual number of copies, with no extra copies, I think that will meet the case.

Mr. SCHENCK. It will go upon the Journal, and it seems to me that is a sufficient preservation of it.

Mr. WASHBURN, of Illinois. It does not go into the public documents which are deposited in the libraries of the country.

Mr. MAYNARD. It goes into the Globe.

Mr. HIGBY. I ask the gentleman from Illinois to yield to me.

Mr. WASHBURN, of Illinois. I yield to the gentleman from California for a moment.

Mr. HIGBY. I cannot agree with the gentleman from Ohio. I think, whatever comes from the President of the United States, it is highly proper we should do as we have done heretofore. Let it be printed and let it go to the nation and let the people see it. I do not

think it is our province to suppress anything. I agree with gentlemen in reference to what they say as to the character of the message; I have no hesitation as to that; but about one so effectually dead it seems to me we ought not to make so much parade. The last election settled that. Let the people see what we have had to contend with for the last three years. It will fully confirm all we have said of him heretofore. I think we make too many words over the message of a President whose public career has so effectually killed him.

Mr. WASHBURN, of Illinois. I renew my motion to lay upon the table and print.

Mr. ELDRIDGE. I demand a division of the question.

Mr. WASHBURN, of Illinois, demanded the previous question on the motion to print.

The previous question was seconded and the main question ordered.

Mr. ROSS. Is it in order to amend by moving the printing of one hundred thousand extra copies?

The SPEAKER. Not during the pendency of the previous question.

Mr. BROOKS. I rise to a point of order. If I could I would say something in reply to what has been said on the other side.

The SPEAKER. That is not a question of order.

The motion to print was agreed to.

Mr. ELDRIDGE demanded the yeas and nays on the motion to lay on the table.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 128, nays 38, not voting 55; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, James M. Ashley, Beaman, Beatty, Benjamin, Benton, Bingham, Blaine, Blair, Bontwell, Bowen, Boyden, Bromwell, Broome, Buckland, Roderick R. Butler, Calkins, Callis, Churchill, Reader W. Clarke, Sidney Clarke, Clift, Cobb, Coburn, Cook, Corley, Culom, Dawes, Delano, Dewese, Dickey, Dixon, Donnelly, Driggs, Eckley, Edwards, Eggleston, Eli, Eliot, Farnsworth, Ferriss, Ferry, Fields, French, Garfield, Goss, Gove, Haughey, Hoaton, Hill, Hooper, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Alexander H. Jones, Judd, Julian, Kelley, Kellogg, Kelsey, Ketcham, Kitchen, Koontz, Laffin, Lash, George V. Lawrence, William Lawrence, Lincoln, Loan, Loughridge, Lynch, Maynard, McCarthy, McKee, Mercur, Miller, Moore, Moorhead, Morrill, Mullins, Myers, Newham, Norris, O'Neill, Orth, Paine, Perham, Peters, Pettis, Pierce, Pike, Plants, Polesley, Pomeroy, Price, Prince, Robertson, Schenck, Scofield, Shanks, Starkweather, Stevens, Stokes, Stover, Taffe, Thomas, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Van Wyck, Oswaldwalder C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Whittemore, William Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—128.

NAYS—Messrs. Adams, Archer, Axtell, Baker, Barnes, Beck, Boyer, Brooks, Burr, Cary, Chanler, Eldridge, Fox, Getz, Glessbrenner, Higby, Hotchkiss, Jenckes, Thomas L. Jones, Kerr, McCormick, Munger, Niblack, Nicholson, Phelps, Randall, Robinson, Ross, Sitgreaves, Spalding, Taber, Tift, Lawrence S. Trimble, Van Auker, Van Trump, Wood, Woodward, and Young—38.

NOT VOTING—Messrs. Delos R. Ashley, Bailey, Baldwin, Banks, Barnum, Blackburn, Boles, Buckley, Benjamin F. Butler, Cornell, Corvode, Dockery, Dodge, Golladay, Gravely, Griswold, Grover, Haight, Halsey, Hamilton, Harding, Hawkins, Holman, Hopkins, Asabel W. Hubbard, Richard D. Hubbard, Humphrey, Johnson, Knott, Logan, Mallory, Marshall, Marvin, McCullough, Morrissey, Newcomb, Nunn, Pile, Poland, Pruyn, Raun, Roots, Sawyer, Selye, Suellabarger, Smith, Stewart, Stone, Sypher, Taylor, Robert T. Van Horn, Vidal, Ward, Thomas Williams, and John T. Wilson—55.

So the message was laid on the table.

Mr. WASHBURN, of Illinois, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RIGHTS OF AMERICAN CITIZENS ABROAD.

Mr. ROBINSON. I ask unanimous consent to take up the resolution which I submitted yesterday, and pass it.

No objection being made, the resolution was read, considered, and agreed to, as follows:

Be it resolved by this House, That the President of the United States be requested to inform this House what correspondence, if any, in addition to the dispatch of the Secretary of State to Mr. Moran, our acting chargé d'affaires in London, furnished by him June 22, 1868, in answer to the resolution of this House of June 15, 1868, has taken place, and to furnish

to this House copies of any such correspondence for the immediate action of Congress.

DISABILITIES OF FRANKLIN J. MOSES.

Mr. PAINE, by unanimous consent, moved that the House take up from the Speaker's table the bill (S. No. 658) to relieve from disabilities Franklin J. Moses, a citizen of South Carolina.

The motion was agreed to; and the bill was read a first and second time.

Mr. PAINE. This being exactly the same bill that passed the House this morning, I ask that it be put on its passage.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. PAINE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RECONSTRUCTION IN VIRGINIA.

The House resumed the consideration of the bill (H. R. No. 1485) providing for an election in Virginia, upon which Mr. BINGHAM was entitled to the floor.

Mr. BINGHAM. It is not my purpose to delay the House long with the further discussion of the bill which I had the honor to report this morning. I desire, however, to make some reply to the objections urged by gentlemen against the passage of the bill as reported, and to state some reasons why the time for this election should not be postponed till May, as proposed by the gentleman from Illinois.

The objections that were urged against the election in January next were upon the ground that the election would not be conducted fairly by reason of a supposed unwillingness of the acting President of the United States faithfully to execute the existing law. I desire to say upon that subject that the presence of this House and of the Senate of the United States gives security to the people referred to, to wit, the freedmen. The Congress will not probably be in session in May, the time proposed by the gentleman from Illinois. I desire to say further, after due consideration, that if there be any interference with these people in the exercise of the right secured to them by our own laws and intended to be perpetuated by the constitution of Virginia, I will be ready for one to set aside whatever may be done or whatever may be pretended to be done by the people of Virginia in the way of interference with the rights of the freedmen. The whole subject, Mr. Speaker, is under the control of the Congress of the United States until it shall finally act upon what the people shall have done to restore the State to its political power in the Union. It will therefore be competent for this Congress in January, if there be any complaint as to the manner in which the election shall have been conducted, to set the whole proceeding aside.

Having said this, Mr. Speaker, I think the House ought to be satisfied that there is no danger in holding an election in January on account of the supposed interference on the part of any evil-disposed persons with the rights and privileges of freemen of any color, as secured by the existing laws of this Congress in the matter of that election.

I desire to add to what I said on reporting the bill that what has transpired in this House this morning has given great significance to the words which I uttered before, and furnished additional reason why we should give the people of Virginia an early opportunity to act upon this matter and elect a Legislature to ratify the fourteenth article of amendment to the Constitution. I stated before, Mr. Speaker, to the House, that three of the thirty States that had heretofore ratified that amendment have repealed their ratification. This reduces the number adhering to the amendment to twenty-seven, which is less than three fourths of all the States of the Union, which leaves the question open for those who undertake to give validity to these revolutionary acts of these repeal-

ing States to challenge the validity of this amendment in the courts of this country. Let Virginia speak. Let her speak in February next, as provided by this bill. Let her ratify this amendment and there is an end of the controversy. You will have restored the number of twenty-eight ratifying States, and leave no room for challenge in any quarter.

I understand gentlemen to say that in their view of the subject the three States that have repealed their ratification of the amendment had no right so to do. I agree with them in that opinion, but I do not wish to intrust this question to any court. Let Virginia, therefore, speak, and then let us see whether we cannot pass an act upon this subject that will put an end to this thing of Legislative Assemblies undertaking by their acts to repeal an amendment of the Constitution of the United States. For myself, I am ready to say, as a Representative of the people, I shall vote for a bill making it a felony for any assembly of men in any State to pass any act declaring that a ratified amendment of the Constitution is repealed. It is not one of the privileges of speech in this country to organize revolution under the forms of State legislation; and I would add to such an enactment another provision—that it shall be a felony for any assembly in any State to pass anything in the nature of an ordinance of secession, or anything in the nature of an act of nullification of the Constitution and laws of the United States. The time has come when this question must be met in this forum, and for one I am ready to meet it; but I desire that the preliminaries shall be so settled in the first place as that the advantage in this great controversy shall be clearly with the loyal and law-abiding people of this country.

As I understand the gentleman from Illinois, [Mr. WASHBURN,] and also the gentleman from Massachusetts, [Mr. BUTLER,] they deem it important that the people of Virginia shall at an early day act upon the constitution which has been framed; but they think it will be safer that the people shall act upon it in May. If that be the opinion of the majority of the House I shall bow to that decision and vote for the bill as amended. I have given my own reasons to the House and to the country why I think the people of Virginia should be allowed to speak on this subject in January and to take final action in February next, while this Congress is in session, repeating here what I have already said, that if they succeed in accomplishing what is proposed and what is so much desired by all the people of the country, we will have taken a great step forward preparatory to the necessary legislation to put an end to this controversy and to these revolutionary movements touching this amendment of the Constitution.

Why, sir, if we had this question settled as it ought to be settled it would be forbidden by your fundamental law, by the judgment and consent of every man in America, to the President of the United States to send into this House or anywhere else a paper proposing to repudiate the entire interest-bearing debt of the United States. I desire to fix this question so that it shall not be challenged.

The constitution does not execute itself. I desire to enforce its provisions by penal enactments. I desire to add the voice of Virginia to the voices of the twenty-seven States that have ratified the amendment and have not repealed it, so that its ratification may be beyond all dispute or controversy. I agree with gentlemen around me that the acts of the repealing States are revolutionary and void; but I say, on the other hand, take away from the opponents of this measure any colorable excuse for challenging it. This being done, let a law be speedily enacted here making it a felony for any body of men in this country to attempt to set aside as void and inoperative, by legislative enactments, a ratified amendment of the Constitution of the United States. The proceeding that I am combating here this morning on this floor is the same in substance, differing

only in form, with the act of secession passed by the Legislature or convention of the State of South Carolina in December, 1860. I desire to see an end of all this trifling with the rights of a great people, with the interests of a great people, with the security of a great people.

I believe that the people of Virginia will ratify this amendment. That being done, we will be ready to take this other step, and see whether we can put an end to this quibbling among these assemblies of conspirators in the States about the ratification of an amendment to the Constitution of the United States. Your President, manifestly, is of the opinion that the amendment is not a part of the Constitution, else he would not have sent to this House a message declaring that the debt of the nation should be paid by withholding the six per cent. interest and applying it semi-annually to the payment of the principal, thereby arriving at the result that at the end of sixteen years and eight months you will have extinguished your entire indebtedness. A new way, sir, of paying old debts. In that constitutional amendment is written this language:

"The validity of the public debt of the United States authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned."

I suppose it is questioned when you propose to discharge the principal by applying the interest to that purpose.

Mr. ELDRIDGE. Will the gentleman allow me a moment?

Mr. BINGHAM. Certainly; though my time is fast running out.

Mr. ELDRIDGE. I expect the gentleman to yield to me to give briefly the reason why I cannot vote for this bill. Before I do that, however, I would like to ask the gentleman if he is not satisfied, from a hasty reading of the President's message, that he has not given the fair construction of it? I admit that the language of the message of the President is somewhat vague. But what I understand it to mean is to pay the indebtedness which is now drawing six per cent., and thereafter apply what would otherwise be the six per cent. interest to paying other portions of the indebtedness.

Mr. BINGHAM. It seems to me that the gentleman does not help the matter at all by his explanation. When words in a written paper are clear there is an end of all question as to the construction. Here is the language of the President.

Mr. ELDRIDGE. The gentleman will recollect that he began the reading at the middle of the paragraph. He should take, in that connection, what the President said preceding the portion of the message incorporated in the resolution which was read.

Mr. BINGHAM. That is, "that our national credit should be sacredly observed," &c.

Mr. ELDRIDGE. Yes; that is it.

Mr. BINGHAM. That was incorporated in the resolution.

Mr. ELDRIDGE. Well, what was before that?

Mr. BINGHAM. I will take the whole document in connection with that statement:

"Upon this statement of facts it would seem but just and equitable that the six per cent. interest now paid by the Government should be applied to the reduction of the principal in semi-annual installments, which in sixteen years and eight months would liquidate the entire national debt."

Now, it strikes me that the gentleman from Wisconsin, [Mr. ELDRIDGE,] if he would take a month for considering the matter, could not more plainly state the proposition to pay off the principal of the national debt in sixteen years and eight months by using semi-annually the six per cent. interest thereon.

Mr. HIGBY. I rise to a question of order. It is not now in order to discuss the President's message, it having been laid on the table.

Mr. BINGHAM. I hope the gentleman from California [Mr. HIGBY] does not propose to become the advocate of the President in this matter. I take it that it was quite

legitimate for the purpose of my argument for me, in order to convince members of the importance of the ratification of the constitutional amendment, to show that the President has here in your presence violated the amendment, which declares expressly that the validity of the national debt shall not be questioned. Here you have the President questioning the validity of the debt, and proposing to repudiate it in its entirety.

Mr. BOYER. Will the gentleman yield to me for a moment?

Mr. BINGHAM. No; not at this time. You have on the other hand a Legislative Assembly proposing to repudiate the validity of the constitutional amendment. I repeat, sir, that it is time that this Congress should take action in this matter. I agree with the gentleman from Iowa [Mr. WILSON] that, as I said before when I opened this discussion, this act of repealing the ratification of the amendment was revolutionary, and therefore void; that an amendment having been ratified by the Legislatures of three fourths of the States could not thereafter be challenged by any State, except in the manner provided by the Constitution itself, to wit: a new amendment to be proposed by Congress and acted upon by the Legislatures of three fourths of the States.

Mr. BOYER. Will the gentleman now yield to me?

Mr. BINGHAM. Very well.

Mr. ELDRIDGE. The gentleman yielded to me, I thought.

Mr. BOYER. I desire merely to state—

Mr. ELDRIDGE. I think the gentleman from Ohio [Mr. BINGHAM] yielded the floor to me. I stated that before I proceeded with what I had to say on this bill I would propound a question to him which did not relate to this bill.

Mr. BINGHAM. I had forgotten that; I will hear the question now.

Mr. BOYER. I desire to say but a word.

Mr. ELDRIDGE. If the gentleman from Ohio will consent, I will defer what I have to say until the gentleman from Pennsylvania [Mr. BOYER] has made his statement.

Mr. BINGHAM. Very well.

Mr. BOYER. I desire to make a single remark. Notwithstanding the unfortunate nature of the language used by the President in his annual message, I think the six per cent. he alludes to is not the six per cent. which the Government pays as interest to the holders of its bonds. If gentlemen will refer back a few sentences they will perceive that an allusion is made by the President to the national banking system, by which the national bondholders are enabled, if they turn bankers, to make six per cent. in addition to the interest they receive, which, in fact, under the present national banking system as established by Congress, is a premium of six per cent. which the people pay to the national banks. I think that the President intended to recommend that the six per cent. in gold which is thus paid under our present banking law as a premium to the banks should go toward the liquidation of the national debt.

Mr. FARNSWORTH. How can he mean that when he proposes to pay off in that way the entire national debt in sixteen years?

Mr. BINGHAM. I now yield for a moment to the gentleman from Illinois, [Mr. JUDD.]

Mr. JUDD. As the gentleman from Pennsylvania [Mr. BOYER] is construing the message, and seems to understand it, I very much desire that he should tell me the meaning of a passage which I will read, to be found on the eleventh page of the pamphlet copy.

Mr. HIGBY. I rise to a point of order. I wish to ask the Speaker whether it is in order to take up the President's message and discuss it when the House has just laid it on the table?

The SPEAKER. The Chair thinks the gentleman from California [Mr. HIGBY] is certainly not in earnest in his point of order.

Mr. HIGBY. I am in earnest.

The SPEAKER. The Chair will state that the speech of the queen of Great Britain to Parliament, though not submitted to Congress at all, might be a legitimate subject for discussion here, if germane to the question under review. The fact that the President's message has been laid on the table certainly does not remove it from discussion as public matter any more than it precludes the discussion of any other public matter known to the country and to members of the House.

Mr. HIGBY. I supposed that when the document was laid on the table that was the end of it.

The SPEAKER. Any public document or the speech of any private citizen, if it were germane to the subject under debate, might be referred to in the discussions of the House, and the Chair does not see how he could prevent it.

Mr. JUDD. The sentence which I desire to ask the gentleman from Pennsylvania [Mr. BOYER] to explain is in these words:

"And the conclusion is becoming prevalent that the amount which it [the Government] obtained was in real money three or four hundred per cent. less than the obligations which it issued in return."

I ask the gentleman from Pennsylvania to explain the meaning of that passage.

Mr. BOYER. I shall not undertake to explain everything the President has said in this message, as I am not his representative, nor does the duty devolve on me to be the expounder of whatever he may utter. But I will say this—

Mr. BINGHAM. I have but a little time remaining, and I must resume the floor that I may yield, as I promised, to the gentleman from Wisconsin, [Mr. ELDRIDGE.]

Mr. ELDRIDGE. Mr. Speaker, I should not have sought an opportunity to say a word upon this subject but for the fact that it may seem that we all acquiesce in the action of the House upon this bill. I have persistently voted against all measures of "reconstruction," and I look upon this as one of those measures. I cannot vote for it because I believe the State of Virginia to be an existing State of this Union to-day, having the same rights as any other State. I cannot vote for this proposition because it is a proposition to submit to men who are not legal voters of the State of Virginia the question what the constitution of that State shall be. I cannot vote for this proposition because it is liable to all the objections that have been urged against all the reconstruction measures of this Congress. Hence, as one of the members of this House, I cannot be considered as acquiescing in any action which proposes to submit this constitution to the people of the State of Virginia for adoption as the fundamental law of that State.

Mr. BINGHAM. Mr. Speaker, the gentleman has said about all that can be said on that side of the House against the passage of this bill.

Mr. ELDRIDGE. The gentleman ought not to presume that, for we have not the opportunity to debate, and he does us injustice when he says it.

Mr. BINGHAM. The gentleman totally mistakes the spirit of my remark. More words might be added to it, but I say that the proposition which the gentleman enunciates is the groundwork of all the hostility to this bill. He has stated it well enough. He holds that Virginia is an organized State of the Union, entitled to representation without our interference, and that no reconstruction is needed. The gentleman's statement needs no elaborate argument. The reply to that is this: the people of this country have spoken on this subject, and they have decided against the gentleman and against his party.

Mr. ELDRIDGE. They have decided against the congressional policy.

Mr. BINGHAM. They have decided against his argument.

Mr. ELDRIDGE. You could not have elected a majority here in Congress if it had not been for General Grant to draw them in.

Mr. BINGHAM. His own State has decided that question against the gentleman. The gentleman and his party made the issue that these acts of reconstruction are acts of usurpation, unconstitutional and void. The gentleman and his party went to the country upon that platform, and the people wrote in words of flame over their platform, that might be read of all men, that it was dangerous to stand upon that platform; that these acts of reconstruction were constitutional, were not revolutionary, were not usurpations, were not void, but should be enforced as the sovereign will of the people of this country. That is the verdict of the great people.

Mr. NIBLACK rose.

Mr. BINGHAM. I cannot yield, as my time is nearly out. That was the verdict of the people, and the only question which remains between my friend from Illinois [Mr. WASHBURN] and myself is whether this vote shall be taken in January or May. The gentleman from Illinois [Mr. WASHBURN] wishes to postpone the election to the fourth Thursday of May next. The bill, as it stands, provides that the election shall be held on the 20th of January next. I desire to remind the House that this bill passed at the last session providing for an election last spring, which was not held for want of an appropriation. That appropriation has since been made. It was then deemed wise to hold the election while Congress was in session. I adhere to that opinion now, and I say that the freedmen of Virginia during the session of Congress are more secure in holding an election than during its vacation. I hope the bill as reported will be passed, and the amendment rejected.

Mr. WASHBURN, of Illinois. I move to insert "fourth Thursday of May" wherever reference to holding the election is made in the bill.

Mr. BINGHAM demanded the previous question.

The previous question was seconded and the main question ordered.

The question first recurring on the amendment; and on a division there were—ayes 85, noes 55.

Mr. BINGHAM demanded tellers.

Tellers were ordered; and Mr. BINGHAM, and Mr. WASHBURN, of Illinois, were appointed. The House again divided; and the tellers reported—ayes 75, noes 60.

So the amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The SPEAKER. The bill provides that the Legislature shall meet in February, when the election, as the bill has been amended, does not take place until May.

Mr. ELDRIDGE. That shows the importance of debating the bill.

Mr. WASHBURN, of Illinois, moved to reconsider the vote ordering the bill to be engrossed and read a third time.

The motion was agreed to.

Mr. WASHBURN, of Illinois. I now move to amend so as to provide that the meeting of the Legislature shall be on the fourth Thursday of June.

Mr. FARNSWORTH. It should be later. It should be August or September. June is a bad time.

Mr. WASHBURN, of Illinois. I will make it the first Tuesday in September, 1869.

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. BINGHAM demanded the yeas and nays on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. ELDRIDGE demanded the yeas and nays, and tellers on the yeas and nays.

Tellers were not ordered; and the yeas and nays were not ordered.

The bill was passed.

Mr. BINGHAM moved to reconsider the vote by which the bill was passed; and also, moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FREEDMEN'S BUREAU.

The SPEAKER laid before the House a communication from the Secretary of War, submitting a communication from the Commissioner of the Bureau of Refugees, Freedmen, and Abandoned Lands, asking that Congress appoint a committee to investigate into the administration of the bureau; which was referred to the Committee on Freedmen's Affairs.

COMMITTEE ON COMMERCE.

Mr. WASHBURN, of Illinois. I desire to resign my position as chairman of the Committee on Commerce.

Mr. ALLISON. I move that the House do now adjourn.

Mr. BUTLER, of Massachusetts. I ask the gentleman to yield to me a single moment. I desire to enter a motion to reconsider the vote by which the bill introduced yesterday to repeal the tenure-of-office act was referred to the Committee on the Judiciary.

Mr. SCHENCK. I move to lay that motion on the table.

The SPEAKER. If the gentleman from Iowa [Mr. ALLISON] yields to the gentleman from Massachusetts to make that motion he yields unconditionally, as the motion to adjourn cuts off all business.

Mr. ALLISON. Then I do not yield. I renew the motion to adjourn.

The motion was agreed to; and thereupon (at three o'clock and thirty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions were presented under the rule, and referred to the appropriate committees:

By Mr. McKEE: The petition of John Price, for a pension.

By Mr. MOORHEAD: The petition of the letter-carriers of the city of Pittsburg, Pennsylvania, asking for an increase of pay.

By Mr. SPALDING: The petition of Mrs. Helen A. M. Edwards, for a pension.

By Mr. SITGREAVES: The petition of Mary E. J. Mitchell, widow of the late Lieutenant Commander John G. Mitchell, asking Congress to grant to her and her infant child a section or more of coal land discovered by her husband, when commanding the United States steamer Saginaw, in the territory recently acquired from Russia.

IN SENATE.

THURSDAY, December 10, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

Hon. CHARLES R. BUCKALEW, of Pennsylvania; Hon. JOHN POOL, of North Carolina; and Hon. F. A. SAWYER, of South Carolina, appeared in their seats to-day.

COMMITTEES OF THE SENATE.

Mr. ANTHONY. As the morning business has been somewhat embarrassed by the lack of the standing committees, I will, with the permission of the Senate, move to proceed to the appointment of the standing committees now, so that petitions and memorials may be referred to them as they are presented. Previous to doing so, I offer a resolution to continue one of the special committees that was appointed at the last session:

Resolved, That the committee appointed to inquire whether improper or corrupt means have been used, or attempted to be used, to influence the votes of the members of the Senate in the trial of the impeachment of the President, with power to send for persons and papers, be, and the same is hereby, reappointed.

The resolution was considered by unanimous consent, and agreed to.

Mr. ANTHONY. I now offer the following resolution:

Resolved, That the joint committee appointed at the first session of the present Congress, and continued at the last session, to revise and fix the pay of the officers of the two Houses, be, and they are hereby, reappointed.

The resolution was considered by unanimous consent, and agreed to.

Mr. ANTHONY. I offer another resolution:

Resolved, That the select committee to whom were referred certain railroad bills at the last session be continued during the present session.

The resolution was considered by unanimous consent, and agreed to.

Mr. ANTHONY. As the Senate is aware, very important work is now going on for the revision of the laws, and as the reports are coming in—several chapters have been submitted already, I believe—and the Judiciary Committee is very much overburdened with work, it has been thought advisable to have a committee on the revision of the laws. I offer the following resolution for that purpose:

Resolved, That there be added to the standing committees of the Senate a committee to be called a Committee on the Revision of the Laws of the United States, to consist of five persons.

The resolution was considered by unanimous consent, and agreed to.

Mr. ANTHONY. I now move that the Senate proceed to the election of the standing committees.

The motion was agreed to.

Mr. ANTHONY. Task the unanimous consent of the Senate to suspend the rule that requires the committees to be elected by ballot, that they may be elected by nomination.

The PRESIDENT *pro tempore*. That can only be done by unanimous consent. The Chair hears no objection.

Mr. ANTHONY. I nominate the committees on the list that I send to the Chair.

The Chief Clerk read the list, as follows:

On Foreign Relations—Messrs. Sumner, (chairman,) Fessenden, Cameron, Harlan, Morton, Patterson of New Hampshire, and Bayard.

On Finance—Messrs. Sherman, (chairman,) Morgan, Williams, Cattell, Henderson, Morrill of Vermont, and Warner.

On Appropriations—Messrs. Morrill of Maine, (chairman,) Grimes, Howe, Wilson, Cole, Conkling, and Buckalew.

On Commerce—Messrs. Chandler, (chairman,) Morgan, Corbett, Morrill of Vermont, Kellogg, Spencer, and Vickers.

On Manufactures—Messrs. Sprague, (chairman,) Yates, Abbott, Robertson, and Dixon.

On Agriculture—Messrs. Cameron, (chairman,) Cattell, Tipton, Welch, and McCreery.

On Military Affairs—Messrs. Wilson, (chairman,) Sprague, Cameron, Morton, Thayer, Abbott, and Doolittle.

On Naval Affairs—Messrs. Grimes, (chairman,) Anthony, Cragin, Nye, Frelinghuysen, Drake, and Hendricks.

On the Judiciary—Messrs. Trumbull, (chairman,) Stewart, Frelinghuysen, Edmunds, Conkling, Rice, and Hendricks.

On Post Offices and Post Roads—Messrs. Ramsey, (chairman,) Conness, Pomeroy, Van Winkle, McDonald, Welch, and Dixon.

On Public Lands—Messrs. Pomeroy, (chairman,) Stewart, Williams, Tipton, Osborn, Warner, and Hendricks.

On Private Land Claims—Messrs. Williams, (chairman,) Ferry, Sawyer, Kellogg, and Bayard.

On Indian Affairs—Messrs. Henderson, (chairman,) Morrill of Maine, Ross, Corbett, Thayer, Buckalew, and Doolittle.

On Pensions—Messrs. Van Winkle, (chairman,) Edmunds, Fowler, Tipton, Spencer, Davis, and Sawyer.

On Revolutionary Claims—Messrs. Nye, (chairman,) Chandler, Pool, Patterson of Tennessee, and Saulsbury.

On Claims—Messrs. Howe, (chairman,) Wiley, Frelinghuysen, Howard, Cole, Robertson, and Davis.

On the District of Columbia—Messrs. Har-

lan, (chairman,) Sumner, Patterson of New Hampshire, Rice, Harris, Patterson of Tennessee, and Vickers.

On Patents.—Messrs. Willey, (chairman,) Thayer, Ferry, Osborn, and Norton.

On Public Buildings and Grounds.—Messrs. Fessenden, (chairman,) Trumbull, Ferry, Davis, and Whyte.

On Territories.—Messrs. Yates, (chairman,) Nye, Cragin, Fowler, McDonald, McCreery, and Norton.

On the Pacific Railroad.—Messrs. Howard, (chairman,) Sherman, Morgan, Conness, Ramsey, Stewart, Wilson, Harlan, and Drake.

On Mines and Mining.—Messrs. Conness, (chairman,) Chandler, Anthony, Yates, Ross, Saulsbury, and Whyte.

On the Revision of the Laws of the United States.—Messrs. Conkling, (chairman,) Sumner, Cole, Pool, and Bayard.

To Audit and Control the Contingent Expenses of the Senate.—Messrs. Cragin, (chairman,) Morrill of Vermont, and Buckalew.

On Printing.—Messrs. Anthony, (chairman,) Harris, and Whyte.

On the Library.—Messrs. Morgan, (chairman,) Howe, and Fessenden.

On Enrolled Bills.—Messrs. Ross, (chairman,) Patterson of New Hampshire, and Dixon.

On Engrossed Bills.—Messrs. Fowler, (chairman,) Sumner, and Norton.

Select Committee on Railroads in the States.—Messrs. Sherman, (chairman,) Chandler, Sumner, Buckalew, Ramsey, Stewart, and Vickers.

Select Committee to inquire whether Improper or Corrupt Means have been used, or attempted to be used, to influence the Votes of the Members of the Senate in the Trial of the Impeachment of the President.—Messrs. Buckalew, (chairman,) Morrill of Maine, Chandler, Stewart, and Thayer.

Joint Committee on Retrenchment.—Messrs. Edmunds, (chairman,) Williams, Patterson of New Hampshire, and Buckalew.

Joint Committee to Revise and Fix the Pay of the Officers of the two Houses.—Messrs. Fessenden, (chairman,) Sherman, and Buckalew.

The PRESIDENT *pro tempore*. The question is on agreeing to this list of nominations as the standing committees of the Senate.

The motion was agreed to.

Mr. RICE. I move that two members be added to the Committee on the Pacific Railroad. I will state that in the formation of that committee the South was not represented, and the number of which it is now composed is necessary for the other interests that were then represented, and hence it could not be changed so as to admit any representatives of the South. In order to do that it will be essential to increase the committee, and as there is no Senator upon that committee whose constituents are locally interested in the Southern Pacific road, I move that there be an addition of two members to that committee.

Mr. EDMUNDS. I think it would be better, probably, to postpone the consideration of that motion until to-morrow, until this list can be printed, so that Senators may know how the committee is now constituted, and then we can consider in what manner, if at all, any addition shall be made. I hope, therefore, that my friend from Arkansas will permit his motion to go over until to-morrow.

Mr. RICE. I have no objection to that. I will submit it in the form of a resolution.

The motion to postpone was agreed to.

REFERENCE OF BILLS.

The PRESIDENT *pro tempore*. The Chair will state that several bills have been introduced at the present session, and some other business has been presented, that are now on the table awaiting the appointment of committees. If it is the pleasure of the Senate all these matters can be referred.

Mr. TRUMBULL. I make that motion, that they be referred to the proper committees.

Mr. SUMNER. There are one or two bills that I have had the honor of presenting on

which I wish to make remarks, not at length, but still some brief remarks before the reference.

Mr. EDMUNDS. Let those be passed over.

The PRESIDENT *pro tempore*. The Clerk will read the titles of the bills, and they will be referred to the appropriate committees if no objection is made, or if there are any observations to be made upon them they can be made.

The Chief Clerk proceeded to read the bills by their titles. The first bill was the bill (S. No. 649) to provide for the resumption of specie payments on the 4th of July, 1869.

Mr. SUMNER. Let that stay on the Calendar for a few days. I wish at the proper time to move its reference to the Committee on Finance. I will make that motion some time next week.

The PRESIDENT *pro tempore*. The bill will lie on the table for the present.

The bill (S. No. 650) to enforce the several provisions of the Constitution abolishing slavery, declaring the immunities of citizens, and guarantying a republican form of government by securing the elective franchise to citizens deprived of it by reason of race, color, or previous condition, was referred to the Committee on the Judiciary.

The bill (S. No. 651) to establish a uniform rule of naturalization was referred to the Committee on the Judiciary.

The next bill on the table was the bill (S. No. 652) to provide for the issue of arms for the use of the militia in certain States lately in rebellion.

Mr. RICE. I ask that that bill lie on the table, to be called up hereafter. It was acted upon by the Committee on Military Affairs at the last session.

The PRESIDENT *pro tempore*. It will lie over.

The bill (S. No. 653) to amend an act entitled "An act to establish a uniform system of naturalization," approved April 14, 1802, and to repeal all acts inconsistent therewith, was referred to the Committee on the Judiciary.

The bill (S. No. 654) to regulate proceedings for the naturalization of aliens was referred to the Committee on the Judiciary.

The bill (S. No. 655) granting a pension to Paulina Jones, of Greene county, Tennessee, was referred to the Committee on Pensions.

The bill (S. No. 656) to remove political disabilities was referred to the Committee on the Judiciary.

The bill (S. No. 657) to abolish the franking privilege was referred to the Committee on Post Offices and Post Roads.

The bill (S. No. 659) to relieve from legal and political disabilities certain persons engaged in the late rebellion was referred to the Committee on the Judiciary.

The bill (S. No. 660) to aid in the construction of the Oregon Branch Pacific railroad was referred to the Committee on the Pacific Railroad.

The bill (S. No. 661) for the relief of Lieutenant Colonel John W. Davidson, of the United States Army, was referred to the Committee on Military Affairs and the Militia.

The joint resolution (S. R. No. 179) proposing an amendment to the Constitution of the United States was referred to the Committee on the Judiciary.

The joint resolution (S. R. No. 184) for the removal of political disabilities was referred to the Committee on the Judiciary.

The joint resolution (S. R. No. 185) for the relief of William B. Whiting, a captain, formerly a commander in the Navy of the United States on the reserved list, was referred to the Committee on Naval Affairs.

RECONSTRUCTION IN GEORGIA.

The bill (S. No. 662) to carry out the reconstruction acts in the State of Georgia was read by its title.

Mr. SUMNER. That is a bill which I introduced yesterday, and which will naturally go to the Committee on the Judiciary; but before it is referred I desire to call attention

to one of the existing reconstruction laws which seems to me to govern the case. By the reconstruction act, bearing date July 19, 1867, it is provided that "all persons hereafter elected in said military districts under any so-called State or municipal authority shall be required to take and subscribe the oath of office prescribed by law for officers of the United States." Now, in point of fact, the existing Legislature of the State of Georgia did not, as I understand, take that prescribed oath; and I submit that, failing to take that oath, the Legislature is not properly organized. It becomes, therefore, it seems to me, the duty of Congress to intervene and to assume again, to a certain extent, for the purposes of the occasion, jurisdiction in that State; and the bill which I have had the honor of laying on the table of the Senate is with that object. With this simple explanation, I move its reference to the Committee on the Judiciary.

The motion was agreed to.

SYMPATHY TO SPAIN.

The joint resolution (S. R. No. 178) tendering sympathy and best wishes to the people of Spain was read by its title.

Mr. SUMNER. If there be no objection I ask the Senate to proceed with the consideration of that resolution now.

Several SENATORS. Oh, no.

Mr. DRAKE. Let it go to a committee.

Mr. EDMUNDS. It had better be referred to the Committee on Foreign Relations.

Mr. SUMNER. If any Senator suggests that it should go to the committee I shall make no objection.

Mr. EDMUNDS. I think it had better be referred to a committee. We do not know what the people of Spain are going to do yet.

The PRESIDENT *pro tempore*. The joint resolution will be referred to the Committee on Foreign Relations.

SUFFRAGE IN THE UNITED STATES.

The joint resolution (S. R. No. 180) proposing an amendment to the Constitution of the United States was read by its title.

Mr. POMEROY. I should like to have that joint resolution lie on the table. I do not want it to go so far that we cannot reach it. If it gets to the Judiciary Committee we shall never see it again. I move that it lie upon the table.

The motion was agreed to.

GRADES IN ARMY AND NAVY.

The joint resolution (S. R. No. 181) in relation to the grades of General and Lieutenant General in the Army and Admiral and Vice Admiral in the Navy was read by its title.

Mr. DRAKE. I desire to remark, in connection with that resolution at this time, that the simple object of it is, that as those offices were created as the rewards of great public services, they shall be held hereafter as such rewards through all the history of the Government, and shall not be offices open to regular promotion. I desire, too, to say that I can have no personal views in this matter with regard to any gentleman holding any one of those places, or to hold them. It is known, of course, to all that a vacancy will occur very shortly in the office of General. I wish distinctly to state that in offering this resolution I have no reference whatever to the individual who would be, of course, expected to come into that office by regular promotion. I have the honor of enjoying the friendship of that gentleman, and no one values him and his services and his friendship more highly than I do. But, sir, as in this Republic we have no rewards higher than high official position to bestow for great public services, as we have no dukedoms nor earldoms nor principalities to bestow where men have rendered great services to the country, I think it is desirable that these offices should be kept as the rewards of distinguished and preëminent public service. I make these remarks that the motives which induced me to introduce the resolution may be

thus early understood. I move the reference of the resolution, first, to the Committee on Military Affairs. After it is reported upon by them, if it should be, favorably, it will be proper then to refer it to the Committee on Naval Affairs. I move its reference now to the Committee on Military Affairs.

The motion was agreed to.

CLAIMS OF LOYAL SOUTHERN CITIZENS.

The joint resolution (S. R. No. 183) to extend the provisions of the act of July 4, 1864, limiting the jurisdiction of the Court of Claims, to the loyal citizens of the States of Louisiana and Arkansas, was read by its title.

Mr. SPENCER. I move to amend that bill by inserting after the word "Louisiana," where ever it occurs, the word "Alabama."

Mr. EDMUNDS. I suggest to my friend from Alabama that that bill ought to go to a committee, where any amendment of that kind, and how far it shall extend, can be considered. I move that it be referred to the Committee on the Judiciary, where claims of that kind have generally gone.

Mr. SPENCER. I will state for the information of the gentleman that Alabama should have been put in the bill originally, in pursuance of an understanding between the Senator from Louisiana and myself.

Mr. EDMUNDS. I have no objection to the amendment being made if the bill can then be referred, as I suppose it can be.

The PRESIDENT *pro tempore*. The question is on the amendment.

Mr. KELLOGG. There are one or two other amendments that ought to be made, and then I shall move the reference of the bill to the appropriate committee.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Alabama.

The amendment was agreed to.

The PRESIDENT *pro tempore*. Does the Senator from Louisiana propose any amendment to the bill?

Mr. KELLOGG. No, sir. I merely desire to move its reference to the Committee on the Judiciary.

The motion was agreed to.

FREEDMEN'S BUREAU.

The joint resolution (S. R. No. 182) extending the operations of the Freedmen's Bureau for a limited period in certain States was read by its title.

Mr. POMEROY. I move, as I had the honor of introducing that resolution, which refers only to a temporary continuance of the bureau in Virginia, Texas, and Mississippi, and to the continuation of the Government hospitals, that it be referred to the Committee on Military Affairs; and I hope they will make an early report upon it.

The motion was agreed to.

PAPERS WITHDRAWN AND REFERRED.

Mr. DRAKE. When Senate bill No. 661 was called just now I forgot at the moment to make a motion in connection with it. In 1860 that bill was before the Senate, and there are papers in the Secretary's office that appertain to it. I move that those papers be withdrawn from the files and referred to the Committee on Military Affairs, along with the bill.

Mr. EDMUNDS. What is the case?

Mr. DRAKE. The case of Lieutenant Colonel John W. Davidson.

The PRESIDENT *pro tempore*. The papers will be so referred if there be no objection.

HOUSE BILLS REFERRED.

The bill (H. R. No. 1460) regulating the duties on imported copper and copper ores was referred to the Committee on Finance; and the bill (H. R. No. 1276) for the sale of the Hot Springs reservation in Arkansas was referred to the Committee on Private Land Claims.

PROPOSED TRANSFER OF INDIAN BUREAU.

The bill (H. R. No. 1482) to restore the Bureau of Indian Affairs to the Department of War was read by its title.

Mr. THAYER. That should be referred to the Committee on Indian Affairs.

Mr. WILSON. I move its reference to the Committee on Military Affairs.

The PRESIDENT *pro tempore*. The first motion is that it be referred to the Committee on Indian Affairs, and the question is on that motion.

The question being put, there were, on a division—ayes twenty-four.

Mr. SUMNER. Let us have the yeas and nays.

The yeas and nays were ordered.

Mr. WILSON. I merely suggest that this subject has been before the Committee on Military Affairs, and that committee have reported several times in favor of this change. It has been recommended by the generals of the Army before, and by the War Department. This bill comes from the Committee on Military Affairs in the House of Representatives; it was reported by that committee, and it seems to me that it should go to the same committee in the Senate. I am not strenuous about it, but I think that is the proper place for it.

Mr. FERRY. I voted against the motion to refer to the Committee on Indian Affairs, because I believe that if that motion were to prevail it would be fatal to this bill. Favoring the bill, I should prefer its reference to the Committee on Military Affairs.

Mr. TIPTON. I voted to refer this bill to the Committee on Indian Affairs from the fact that my constituents are very deeply interested in this question of Indian affairs; and if a revolution entire is to be made in regard to controlling the Indian affairs of the country I certainly think that the Committee on Indian Affairs, which has been so long charged with this question, is entitled to look into the matter at the last hour of the action of Congress upon the subject. I hope, therefore, that the reference will be made to the Committee on Indian Affairs. That will not preclude a future reference of the matter to the Military Committee.

Mr. MORRILL, of Maine. This is a subject relating to Indian affairs. You have a committee on that subject. It would therefore, I submit, seem proper that the Committee on Indian Affairs should have cognizance of this question and examine it.

The suggestion of the honorable Senator from Massachusetts [Mr. Wilson] does not strike me as very forcible. He says this measure has been recommended by the generals. I do not suppose that the Senate of the United States is yet quite prepared to legislate in advance upon the recommendation of the generals of the Army. I still suppose that it is competent and that it is proper for the Senate of the United States, notwithstanding the recommendation of the generals, to examine subjects that are submitted to the Senate by the proper committees; and I would say to the honorable Senator from Massachusetts that the generals have recommended both ways on this subject. The legislation might be a little inconvenient if it were to go in that way. Manifestly, Mr. President, this is an important subject, and most manifestly, I submit, it belongs to the Committee on Indian Affairs; and I do not suppose that either the recommendation of the generals or the fact that by some reason or other the bill was reported from the Committee on Military Affairs of the House of Representatives will control the action of the Senate. I hope, therefore, that the Senate will at least have that ordinary confidence in the committee to whom this subject properly belongs to submit it to them and hear their judgment.

Mr. THAYER. Mr. President, if the reason assigned by the Senator from Connecticut [Mr. FERRY] is to govern legislation here we may as well abolish all committees at once. I am surprised to hear that a bill is not to go to its proper committee because a member may suppose that that committee may report against it or undertake to kill it. That, it seems to me, is prejudging the question. It is the rule of this body that bills shall be referred to the

appropriate committees. Every bill in relation to Indian affairs has hitherto gone to the Indian Committee. Why is it to be changed now? Is there a disposition to rush this bill right through? If there is, I respectfully protest against it. I do not say, I am not prepared to say, how I may vote upon it. I have the honor to be on both committees, the Indian Committee and the Military Committee; and so I can have my say on the subject, no matter to which committee it goes. But I do object to taking a certain course of action in order to insure the passage of this bill when that action is irregular, or, at least, not in accordance with the usages of this body. I agree with my honorable friend from Maine that we are not to act in regard to this reference because a general of the Army or several of them have made recommendations on this question. I have the documents in my possession to show that the lieutenant general has opposed the transfer of this Indian Bureau to the War Department.

Mr. SHERMAN. I think myself that the Committee on Indian Affairs, under the rules, is the proper committee to which this bill should be referred; but I would have voted to refer it to the Committee on Military Affairs for a very good reason. A similar bill has been introduced for two or three years and has been referred to the Committee on Indian Affairs, and it has never been reported by that committee, for or against. This is a subject that is entitled to a great deal of attention, upon which we have the right to have the report of the committee to whom the measure is referred. If I can have an assurance from members of the Committee on Indian Affairs that they will report on the subject, either for the transfer or against it, I shall vote to make the ordinary reference; but it is a remarkable fact that at the last session of Congress this subject, which excited a good deal of comment and conversation, was referred to that committee and was not reported upon. One of the members of that committee, who has already spoken, says they will report upon it, for or against it. I think it ought to be referred to that committee, because it relates to Indian affairs, although my opinions concur entirely with the report already made by the Committee on Military Affairs. The mere fact that the question of the military service is involved in it is not sufficient to induce its reference to the Committee on Military Affairs, because that reason would carry to that committee all the military appropriations and a multitude of other subjects that properly go to other committees.

Mr. TRUMBULL. Mr. President, I do not think that this is the proper time to express any opinions as to whether this bill ought to pass or ought not to pass. Nor is it material to inquire whether the generals of the Army have recommended it or disagreed in regard to the propriety of the passage of the bill. I shall vote upon this question, as upon all others of a similar character, according to what I believe to be the propriety of the reference. This is a bill relating to Indian affairs, contemplating a fundamental change in the administration of the Indian affairs of the country—a very important matter. We have a committee organized for the very purpose of taking charge of such matters; and because a bill has passed the House of Representatives, or is introduced here, proposing to transfer the control of Indian affairs to the Navy, or to the Army, or to the courts of the country, if you please, I do not suppose that it should go to a different committee than that which is organized for the purpose of taking charge of all matters relating to Indian transactions. I should regard it as a reflection upon the Committee on Indian Affairs, which I am not willing to make, to say that the bill will be smothered and not reported. There may have been reasons why the committee did not report on this measure at previous sessions. I was not aware of the fact that they had not done so. I recollect very well that we have had the matter in the Senate. We have had it dis-

cussed here. It has been up before the Senate, and the Senate has voted upon it. Somehow or other it has been brought to our attention. I shall not assume in advance, on the day that the committees are organized, that they will not do their duty.

I should be sorry to see the Senate so far depart from the usual mode of proceedings as to anticipate that one committee is favorable and another unfavorable to a particular measure which is proposed, and that it is to go to the hands of the friends of the measure. That seems to be assumed here. I do not know that the Committee on Military Affairs is any more friendly to this measure than the Committee on Indian Affairs, nor do I care how that may be. The Indian Committee, in my judgment, is the appropriate one to which the bill should be referred, and I hope the Senate will send it there.

Mr. MORRILL, of Maine. I desire to say, in reference to what has been remarked by the honorable Senator from Ohio, that I have not the slightest recollection of such a bill ever having been before the Committee on Indian Affairs. It may have been, as my attention has not been constant on that committee. But I have not the slightest belief that there is, in any sense whatever, an aversion on the part of that committee to giving this subject a full and proper consideration. I say so certainly for myself, in the absence of the chairman of the committee.

Mr. WILSON. Mr. President, during the Oregon Indian war this subject was investigated by the Committee on Military Affairs, and that committee came to the conclusion that the Indian Bureau ought to be in the War Department; that the War Department ought to have the care of Indian affairs; that millions of dollars of expense had been brought upon the country by the change that had been made by transferring the bureau to the Interior Department. Several times since the matter has been considered by that committee, and during the last four or five years they have reported two or three times on the subject. It is a well-known fact that the Indian Bureau has been very averse to this change, but it has been strongly and urgently recommended that the change should be made. Now, sir, as this bill came from the Committee on Military Affairs in the House of Representatives, I proposed that it should be referred to the same committee in the Senate. I do not desire the care of it in any way, and I am not at all strenuous as to where it shall go. It seems to me, however, that it is a matter that we should act upon. I believe that millions and tens of millions have been put upon this country by the change originally made by the transfer from the War Department to the Interior Department, and I think millions will be saved by putting it where it ought to be—in the War Department of this Government. I think a great deal of cheating and stealing, that have been disgraceful to the country, will be ended by this change. I certainly hope, whatever may be the reference, that we shall have an opportunity to act upon it, and that speedily. I shall not myself press any further the motion that the measure go to the Committee on Military Affairs.

Mr. POMEROY. I think this is a subject peculiarly appropriate for the Committee on Indian Affairs; but I prepared a bill at the last session, embodying somewhat similar provisions to those contained in this bill, and sent it to that committee, or rather the Senate voted that it should be referred to that committee, and that bill has been in the hands of the Committee on Indian Affairs ever since. If there was any reasonable assurance that this bill would ever be reported I would vote to send it there; but I do not think there is.

Mr. CONKLING. Mr. President, I feel perplexed to know how to vote upon this motion. I agree with the honorable Senator from Illinois that this is not a proper time to state convictions of the merits of this measure. I think, however, it is the proper time for the Senate to remember that this subject is im-

portant, that it is urgent, and that something ought to be done, and that quickly, touching Indian affairs. I know, as the Senator from Illinois has suggested, that in a formal sense, the Committee on Indian Affairs is the appropriate committee to which this bill should go, because it relates to Indian affairs, but we cannot shut our eyes to some facts which stand in opposition to that proposition. The purpose of the bill is to remove a large subject from the jurisdiction of the Committee on Indian Affairs; and it is only saying of that committee what is common to all committees and to all men to affirm that the tribunal itself which it is proposed to oust of a jurisdiction is not ordinarily the best or wisest arbiter of that question.

Neither can we shut our eyes to the fact that the Indian Committee, although just constituted, is the same committee that we have had heretofore, and that, for some reason, this subject has not commanded so much of the attention of that committee as to bring itself at all to the knowledge, or be brought to the knowledge, of the honorable Senator from Maine, one of the leading members of the committee. Thus the subject is ushered in with a very unpromising prospect if it goes to the Committee on Indian Affairs; and it is, I believe, one of the quaint old maxims of the parliamentary law that a child is not to be put to nurse with an unfriendly mother. Now, this nursing mother has certainly not paid very great attention to this particular offspring; and I insist, Mr. President, if it is to be referred to the Committee on Indian Affairs, that it should go there in the light of the assurance which we have received from the honorable Senator from Nebraska [Mr. THAYER] and the honorable Senator from Maine [Mr. MORRILL] that it will receive attention, and that it will be brought forward, so that Senators may vote upon it and express their convictions in regard to it. If I doubted that, I should insist by my vote that it should go to the Committee on Military Affairs; but trusting to this understanding, that despite the discouragement of the past we shall have an early report, I am willing to vote that the bill shall go to the Committee on Indian Affairs.

Mr. CONNESS. If Senators will consent, I think I can suggest a means by which we can get out of this difficulty, and which will eventually save, perhaps, some hours of discussion in the Senate. I will move that the two committees—the Committee on Indian Affairs and the Committee on Military Affairs—be constituted a special committee to which this bill shall be referred. I hope gentlemen on both sides will accept this suggestion, because there they can have a full investigation. The Military Committee will not be able to complain that they cannot have a report, because it will have prompt action, and they can fully discuss there a great many parts of the subject that need not be introduced to the Senate when it shall come up for consideration. I make that motion, and hope that gentlemen will accept it.

Mr. MORRILL, of Maine. I desire to say one word in reply to the question raised by the Senator from New York as to the disqualification of the Committee on Indian Affairs impartially to consider this question, resting on the supposed interest that they may have by reason of their jurisdiction over the subject which this measure proposes to take away. I ask the honorable Senator if there is any force in that logic; if the fact that the Indian Committee is about to part with its jurisdiction over this subject is to be in the estimation of the Senate a disqualifying fact, to tell the Senate, if he will, what effect it will have upon that committee, which is supposed to extend its jurisdiction by the reception of this authority; whether the Military Committee, who are desirous of thus augmenting their jurisdiction, are not equally disqualified with the Committee on Indian Affairs according to that logic? But I regard that argument of my learned friend rather as suggestive than otherwise.

Mr. CONKLING. I hope the Senator will

allow me a moment. I did not remark that either committee had a disposition to magnify its jurisdiction. I simply remarked that the statement made by the Senator from Illinois, that the Indian Committee was the appropriate committee, was to be taken with the qualification that, as a general rule, the tribunal which it was proposed to oust of jurisdiction was not the best tribunal in the world to determine that question. I agree that that applies to the Military Committee as it does to the Indian Committee, and I do not consider it a disqualifying fact as to either; but I do consider it a point in the case going to show that if some better arrangement—and I think the Senator from California has suggested one—could be made it would be just as well not to have this measure go exclusively to either committee.

Mr. MORRILL, of Maine. I am not very serious in urging this point. I merely made the suggestion that there did not seem to be great force in the argument of the Senator that it was a disqualifying fact. I think it might be found to be impracticable to put these two committees together. How are they to act? As independent committees, or as one joint select committee?

Mr. CONNESS. As one joint select committee—a special committee. They will organize whenever they meet without difficulty, I apprehend.

Mr. MORRILL, of Maine. If the Senate think that is the proper way to dispose of the subject I shall not interpose any objection; but still I think the subject had better go, simple and distinct, to the Committee on Indian Affairs.

Mr. CORBETT. I desire to state, as my friend from Maine has already stated, that this subject of transferring the control of Indian affairs to the War Department was somewhat discussed in the Committee on Indian Affairs at the last session; but I do not remember that the chairman brought that bill to our notice for discussion. Perhaps some reason may be found why he did not do so in his peculiar situation last year; but if the bill had been brought before the committee I have no doubt it would have received a fair examination and a fair report; and if such a bill is referred to the committee now I believe it will receive due consideration, and a report will be presented to the Senate.

The Senator from Massachusetts says that there is a great amount of stealing in the Indian department. I do not know how far that may be the case; but so far as my observation has gone I do not see that there is any more stealing in that department than perhaps in some others that I could point out. I notice by the reports laid before us that it costs between three and four million dollars to support three hundred thousand Indians; and I believe that in that section of the country where there has been the least military force the expense has been far less than in that portion of the country where the military have been stationed in force. In that portion of the country in which I reside, in Oregon, where the military were stationed adjacent to the Indian agencies, there were constant troubles between the soldiers and the Indians, arising from the association of the soldiers with the Indians, and the Government was compelled to remove those troops from the neighborhood of the Indians. A post was established near the Siletz reservation, but subsequently that post was broken up. It cost the Government perhaps one hundred thousand dollars a year. The Indians are now being supported there, and during the past year you have only appropriated for those Indians some ten thousand dollars. I notice that the expense of keeping up the Army, according to the report of the department, is \$2,500 to each man, while the cost of supporting the Indians is some ten dollars a head.

It seems to me, when you consider the immense expense of the Army, that you are not going to materially lessen the expenses of the Government by transferring the Indian Bureau to the War Department. In my opinion, the

three or four millions which are now expended to support the Indians will be swelled into ten millions by such a transfer. If you detail Army officers to take charge of Indian reservations you will be obliged to increase the Army. Then they must have a police force; they must have a company established at each reservation; and there will be constant trouble between the Indians settled on those reservations, where they are now being placed, and the soldiers. They will become demoralized by association with the soldiers. Such will be the effect of this transfer. I think it very important in this matter that we should have one Department to watch the other; and if the civil department needs the military to keep the Indians in subjection it will be time enough then for them to call for them. But, sir, as it has been suggested that perhaps this is not the proper time to express views on this subject, I desire only to say that if this bill shall be referred to the Committee on Indian Affairs it will receive proper consideration.

The PRESIDENT *pro tempore*. The morning hour having expired, the unfinished business of yesterday is before the Senate, being the reading of the President's message.

Mr. CONNESS. Let this question of reference be first disposed of.

The PRESIDENT *pro tempore*. If there be no objection, the question will be put on this motion.

Mr. DAVIS. I voted on the standing vote in favor of referring this subject to the Committee on Indian Affairs; but I feel constrained, from the facts stated by the Senator from Ohio, to change my position. It seems that this bill has gone for two successive sessions to that committee, and that there has been no report from that committee upon it. I think that is a neglect of an important subject that ought to be sufficient reason for the reference of the bill now to the Committee on Military Affairs, or some other committee that will consider the subject and will report upon it to the Senate. I have been all along in favor of the management of Indian affairs being retained by the Interior Department, but I have begun so seriously to doubt the expediency and propriety of such a continuance that I am strongly inclined now to vote to transfer the whole subject to the War Department. I merely want it under the supervision of the Department where it ought to be, and which will best attend to the interests of the Indians and of the country. For the present I think the reference should be made, not to the Committee on Indian Affairs, who have twice failed to report on the subject, but to the Committee on Military Affairs, or some other committee.

Mr. THAYER. I rise to say that I have asked for the reference of this bill to the Committee on Indian Affairs because I am unwilling that any reflections shall be cast upon that committee in this way. If there is this complaint against that committee it lies against almost every standing committee of this body. I can say to my friend from Kansas, the chairman of the Committee on Public Lands, that I had a bill referred to his committee a year ago, and I have never heard from it since.

Now, Mr. President, if any Senator felt a special interest in having the bill which has been referred to reported back; if he deemed that the Indian Committee did not do its duty, it was proper for him to call the attention of the Senate to it, to offer a resolution instructing or requesting that committee to report. I say for one, and I say to my friend from New York, [Mr. CONKLING,] that I do not propose to give any promise, so far as I am concerned, that our action shall be prompt. I do not propose that the committee shall be put upon its good behavior; but I say, as I before said, I have no disposition to kill the bill by keeping it back, by smothering it in committee; and I have none. I am ready for action in this body upon it; and I have no doubt the committee will act on it with that promptness which should be observed in all cases. But I do not propose, as far as I am concerned, to give a

pledge as an inducement to the Senate to refer it to that committee. I ask that the same course be observed toward that committee as toward other committees.

Now, I desire to call the attention of the Senate to the fact that the Senate has had a vote on a bill of this character, proposing to transfer the Indian Bureau to the War Department, and it has been voted down. Therefore the Indian Committee are not to be charged with having neglected their duty, because the Senate have had the question in all its bearings before them, and have voted on it, and voted adversely.

Mr. STEWART. I desire to move an instruction, in order to get the sense of the Senate on the question of the proposed transfer. It has been discussed often in the Senate. I have discussed it myself so frequently that I am almost ashamed to refer to it again. It must be manifest to every one that two Departments, hostile to each other, cannot operate in the Indian country without detriment to the service. That I have seen for the last fifteen or twenty years. There has been a constant strife, and it has been transferred to the Senate. It is quite important to get one or the other Department out of that country, so that we can have unity of action, so that something may be done with the Indians and somebody be responsible. All over that country there is a jealousy between the two Departments operating in the same country, each laying all the blame on the other, and it is difficult to investigate and ascertain where it really is. It seems to me that we had better take the sense of the Senate at once on the subject. I therefore move that the bill be referred, with instructions to the committee to report in favor of the transfer of the Indian Bureau to the War Department.

Mr. ANTHONY. If this vote can be taken without any further debate, I have no objection; but otherwise, if this debate is going on by general consent, I call for the order of the day.

Several SENATORS. Let us have a vote.

The PRESIDENT *pro tempore*. First, the Senator from Nebraska [Mr. THAYER] moves to refer this bill to the Committee on Indian Affairs, and on that question the yeas and nays have been ordered. The Senator from California [Mr. CONNESS] moves that that motion be amended so as to refer the bill to the Committee on Indian Affairs and the Committee on Military Affairs jointly, as a special committee.

Mr. CONNESS. With a view of getting a direct vote without any further debate, I withdraw my motion.

The PRESIDENT *pro tempore*. That motion being withdrawn, the question recurs upon referring the bill to the Committee on Indian Affairs.

Mr. STEWART. I desire my motion to be put, that the committee be instructed to report in favor of the transfer.

The PRESIDENT *pro tempore*. The question is on that amendment.

Mr. HENDRICKS. I ask if the motion of the Senator from Nevada can be separated from the proposition to refer?

Mr. EDMUNDS. Certainly.

The PRESIDENT *pro tempore*. Of course it can be divided.

Mr. HENDRICKS. Then I ask that it be done. I suppose the first vote will be on the reference, and then the question will be on the instructions. I desire, while I am up, to say that I shall vote to refer this bill to the appropriate committee. There is no question that the Indian Committee is the appropriate committee for the consideration of this bill. I have no doubt it will receive the attention at an early day of that committee. We have the assurances of enough of the honorable Senators who compose that committee to satisfy any gentleman that it will receive that consideration.

I do not intend to discuss the merits of the bill at this time; but in reply to the Senator

from Massachusetts, who is chairman of the Military Committee, I will say that his reason for the reference to his committee is not in favor of that reference but in favor of the other. We have had the benefit of the investigation of that committee, and, knowing that he is at the head of it, that investigation has been exhausted, and the Senate can get no more information from that committee. It is better to have a report from the other committee now, and compare the two.

Mr. President, I do not concur in the proposition that this is a transfer of the Indian service to a more economical or a more honest department of the Government than the civil department. I do not think that it is sustained upon any reason nor upon experience. I think that the Senator from Massachusetts cannot say that the record of the quartermaster's department is superior to and freer from question and blemish than the record of the Indian office and the Indian service generally. My opinion is, that the military service of the United States is the most expensive Government service in the world, and that instead of this being a proposition in favor of economy, if the Indian service is to participate in the character of the military service, it is a proposition for extravagance and increase of expenditure. It is known to us all who have examined the records that it has cost this Government much more to fight the Indians than to feed them—very much more; and I think this is a question whether they shall be fed or shall be shot—fed or fought. I am in favor of that policy which I think is consistent with the sentiments of humanity and the high obligations of the American people toward the Indians.

Mr. FESSENDEN. I hope that the proposition made by way of amendment by the honorable Senator from Nevada will not prevail. My impressions for a long time have been rather in favor of transferring the Indians from the Department of the Interior to the War Department. Still, I am not prepared at the present time to vote so, because I want information on the subject.

Mr. STEWART. If the Senator will allow me, if that is the disposition of those in favor of the proposed change I will not press the motion, but will allow the bill to be referred without instructions.

Mr. FESSENDEN. My honorable friend may withdraw his motion as soon as I get through.

It is manifest to me, Mr. President, as it is to all gentlemen—it does not seem to be disputed—that in the ordinary course of business in the Senate the Indian Committee is the appropriate committee to which this bill should be referred; and that if it is taken out of the hands of that committee it is rather a reflection upon the committee itself, an intimation that they cannot, or will not, arrive at a correct conclusion on the subject. Whatever may be their impressions, it is perfectly obvious that as that committee, and as all committees of the Senate are made up, after the discussion which has been had here, it will be the duty, and unquestionably the pleasure, of that committee at once to take this subject under consideration and report upon it at an early day. It is quite obvious, too, that for their own credit's sake, when they make that report, the report will be accompanied with an argument and with the reasons upon the subject showing the grounds of their opinion. Such would be the case unquestionably if it went to the Committee on Military Affairs; and as has been well remarked by gentlemen, there is the same objection, *prima facie*, to the Committee on Military Affairs that there is to the Committee on Indian Affairs; and the Committee on Military Affairs has not, by usage, the control of the subject.

Now, sir, I am not afraid to trust this matter to the Committee on Indian Affairs, especially after what has been said here; and I believe that in due time, as soon as they can give the subject the consideration which it deserves, we

shall have a full and lucid report from that committee. If it does not meet the approbation of the Senate, it will be time enough then to overrule them and transfer the jurisdiction of these Indians to the military arm of the Government, if that is thought advisable by Senators. Still, before acting upon it, I wish to have the matter thoroughly discussed; I wish to have the correctness of my own impressions tested; and if the Committee on Indian Affairs shall satisfy me, either by a report or by a subsequent debate, that I am wrong in my impressions, it will give me great pleasure at once to change them, and to vote to retain the subject-matter where it is. But, sir, until that is done I do not wish to be called upon to act on the subject, and I am glad to hear that my friend from Nevada is ready to withdraw his motion. I think it will be better to keep up the usage of the Senate, to cast no reflection upon any committee—we can at any time control the matter—and let the measure go where it properly and appropriately belongs.

Mr. DOOLITTLE. I think I may call to the attention of the Senate some facts which, perhaps, have escaped recollection at the present moment. On one occasion, some years ago, there was a joint committee appointed by the two Houses having charge of this whole question, and on a full examination and taking of testimony of the treatment of the Indians, both by the Army officers and by the civilians, the joint committee of the two Houses unanimously reported against this very proposition to transfer the Bureau of Indian Affairs to the War Department. It is true that on several occasions the Military Committee of this body have recommended that transfer. It is true, also, that on several occasions in the Senate within the last few years the question has been pressed upon the Senate and discussed in open Senate, and discussed at length, and the Senate, by a large majority, have voted down the proposition to transfer the Bureau of Indian Affairs to the War Department. If this bill was referred to the Committee on Indian Affairs at the last session I must say that it escaped my recollection. I was not aware that there was such a bill referred to the Committee on Indian Affairs at the last session; but at the session before I think there was, and the proposition came before the Senate a year ago this last winter, and on full discussion the sense of the Senate was taken. Under all these circumstances, therefore, it seems to me that there is no reason for supposing that the Committee on Indian Affairs have, in any respect, desired to avoid any responsibility about reporting on this question the one way or the other. That Committee will act upon the question just as much as any other committee of the body.

The fact that a special committee was once appointed having this subject in charge, who reported upon it, and the sense of the Senate taken on two or three different occasions, I think, ought to be considered before any gentleman should indulge for a moment any idea that the Indian Committee are not willing to take the responsibility of acting on this question. I believe they will take that responsibility, and will act.

For myself, having examined the question, as I did, both as a member of that joint committee and as a member of the Indian Committee on former occasions, I have not yet seen anything to change my opinion, an opinion which I then formed, and which I expressed here freely; but still I am, for one, perfectly willing to go into an investigation of the facts. If any new facts, or anything new in the condition of our Indian affairs has arisen, certainly I am willing, for one, to examine those facts and give to their consideration my best attention.

This is a very important question; Mr. President. I know that so long as Indian affairs are under the control of the civil department there must be estimates made for every particular item of expenditure for every Indian tribe, for every agency, for every Territory. They must be in items, reported to Congress, and Congress can open its eyes and look

on those estimates and discuss them. Put the Indian Bureau under the War Department, and the estimates will come in, for subsistence of the Army so many millions, for transportation for the Army so many more millions; and you can easily put through a bill here for forty or fifty millions, or a deficiency bill of ten, fifteen, or twenty millions, and nobody questions it at all. It is a very easy way to get your legislation on the subject of Indian affairs; certainly to get the money. I do not deny that there are abuses in the Indian department. Abuses will grow up in every department of the Government where money is expended. But the committee to which I have referred, you will remember, Mr. President, proposed to the Senate at that time a plan for the better administration of Indian affairs—a bill which passed the Senate, but failed in the House of Representatives.

This is an important subject, and it ought to have a careful consideration. Whichever committee it goes to, as far as I am concerned personally, it makes no difference, for I happen to be placed both on the Indian Committee and the Military Committee; but still it is a question which properly belongs to the Committee on Indian Affairs, as I think.

Mr. STEWART. I did not desire in making this motion to reflect upon the Committee on Indian Affairs, or express any want of confidence in them. My want of confidence is in our Indian system. I have seen it work, and my mind is fully made up that it will never be a success. The system of having two Departments of the Government working at cross-purposes in the Indian territory has been a failure. Whether one of them can succeed or not it is well enough to try. We certainly cannot do this business any worse than it is being done now. It is a disgrace to our country that we cannot manage our Indian affairs without so much corruption, and without so much barbarity. Other countries do it. Right on our border Great Britain is successful, and she operates through her military principally. She is successful, and it is not an expensive service there, where they have more wild Indians than we have. But we are unsuccessful, operating through two Departments. Now let us try one. The very nature of the service requires unity of action. The Indian must know that somebody is responsible. He must not be told one thing by one man and another thing by another man, because he will not believe either. Our system is a system that leads the Indians to have no confidence in us. There can be no unity of purpose when there are two Departments both operating in the same country. I want to see the system organized so there shall be a head. I do not wish to reflect on the War Department or the Interior Department, but I say it should be left to one Department or the other to manage the Indians, so that the Indians shall know who is boss, who is chief, who is big chief, and who are responsible to see that contracts are carried out. Under our present system there is constant abuse. However, I will withdraw the motion I made and let the bill go to the Indian Committee.

Mr. DOOLITTLE. My honorable friend from Nevada, it seems to me, is very unfortunate in his allusion to the administration of Indian affairs in the neighboring Dominion under the Government of Great Britain. He says they deal with them through the army. Not at all, sir. This body once appointed a special committee to examine into the Indian affairs of the neighboring province, and they made their report of the facts to this body. If my honorable friend had given his attention to the report on that subject he could not have fallen into such an error. They do not deal with them through the army at all. They deal with them by civilians and civil agents and the missionaries, whom they encourage among them, altogether. That is the reason why they have peace all over the Dominion of Canada and not war, or one of the reasons. I will not say it is the whole reason, because, with them it is different from what it is with us. The

amount of emigration on our part is pushing every where into the Indian territory and not into the Dominion.

Mr. STEWART. I should like to inquire of the Senator, in that connection, whether he pretends to say that they have two departments operating at the same time to perform this service? Does not one department direct the whole service?

Mr. DOOLITTLE. I have stated the fact that they do not deal with the Indians in the Dominion by the army at all. They deal with them through civil officers and the schools and the missionaries which they establish among them. Their system of civil administration, perhaps, in the appointment of persons connected with Indian affairs, is better than ours, growing out of the fact that if they are not appointed practically for life they are kept in almost for life. I did not intend to go into the argument of the merits of the question any further than to reply to the statement made by the honorable Senator. In my judgment, he made a mistake in alluding to the administration of Indian affairs in Canada as a reason why we should administer our own Indian affairs through the Army and the War Department. I do not intend to continue the discussion, as I suppose the Senate is anxious to come to a vote.

Mr. STEWART. I certainly am very greatly misinformed if the persons in the Indian country there have not complete control of civil and military affairs. There is only one head there, only one department to control Indian affairs, which controls both the civil and military relations and preserves unity of purpose. I know I have met a great many persons who were up in the Frazer river country, where there was a heavy emigration, where the emigration came in immediate contact with a great number of Indians, and they said they had no difficulty. Peace was preserved. There was unity of purpose there. There are no two departments operating in that country. I am quite certain of that. If there was, they would have the same confusion that you have here.

Mr. WARNER. I hope the original motion to refer this bill to the appropriate committee will prevail. This is not the time, I am aware, to discuss the merits of the bill. There is high authority for and against it. But I think the action of the Senate in refusing to refer this bill to the appropriate committee would be regarded by the world as conclusive of the sense of this body that the bill is to pass without that thorough examination and consideration by the appropriate committee of this body, who have in charge Indian affairs, and who are supposed best to understand and best to represent the interests of the Indians, which it should receive. There will be a wide difference of opinion in regard to this bill. There is a wide-spread conviction in the country that our treatment of the Indians amounts to a national disgrace and a national crime second only to that of our treatment of the colored race, and that we are suffering, and will suffer, the like penalty which we suffered in that case if we do not deal with them upon principles of humanity. I only say this to ask that this bill may have its proper reference, and have an examination by its appropriate committee.

I think I know what the conclusion of the Military Committee will be. They will represent the will and wishes of the Army. The Army think and feel that if they have to do the fighting they ought to have the control of the Indians. There is a pretty general feeling among the friends of the Indians that if we had less fighting and more justice in our treatment of the Indians it would be better. Already the rumor is in the papers that the recent battle was but a massacre of friendly Indians upon a Government reservation. I have the authority of an Army officer, just from the plains, who says that Black Kettle, reported as killed, was a friendly Indian, and carried his warriors away last summer to New Mexico to keep them out of the fight. I think

this subject of sufficient importance to give it a reference to its appropriate committee that it may have a thorough examination, and then, if necessary, it may be referred to the Military Committee.

The *PRESIDENT pro tempore*. The question is on the reference of the bill to the Committee on Indian Affairs, on which the yeas and nays have been ordered.

Mr. WILSON. I suggest that the call for the yeas and nays be withdrawn.

Mr. THAYER. I withdraw the call.

The *PRESIDENT pro tempore*. It will be withdrawn if there be no objection. The question is on referring the bill to the Committee on Indian Affairs.

The motion was agreed to.

EXECUTIVE COMMUNICATION.

The *PRESIDENT pro tempore* laid before the Senate a letter from the Commissioner of Indian Affairs, transmitting a tabular statement in duplicate, showing, as far as the accounts of Indian superintendents and agents have been received up to June 30, 1868, the disbursements of funds appropriated for incidental, contingent, and miscellaneous purposes of Indian intercourse for the year ending June 30, 1868; which was referred to the Committee on Indian Affairs.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 1484) to relieve from disabilities Franklin J. Moses, of South Carolina; A bill (H. R. No. 1485) providing for an election in Virginia; and

A joint resolution (H. R. No. 372) directing the sale of the steamer Atlantic.

The message also announced that the House had passed the bill (S. No. 658) to relieve from disabilities Franklin J. Moses, a citizen of South Carolina.

SENATOR FROM GEORGIA.

Mr. SHERMAN. For the purpose of referring the credentials of Mr. Hill, of Georgia, I move that they be taken up for consideration. The motion was agreed to.

Mr. SHERMAN. At the request of the Senator-elect I move to refer his credentials to the Committee on the Judiciary, as the desire has been expressed by several Senators to have the opinion of that committee, although he wishes prompt action.

Mr. SUMNER. I move that with the credentials the memorials and other papers relating to that question be referred also.

Mr. SHERMAN. Very well; let all the papers be referred, the communication of Governor Bullock and also the other communication.

Mr. SUMNER. The memorial presented by my colleague.

Mr. SHERMAN. All those papers should be referred at the same time.

The *PRESIDENT pro tempore*. The motion embraces all the papers relating to the subject. The motion was agreed to.

PETITIONS AND MEMORIALS.

Mr. FERRY presented the petition of the New Haven, Middletown, and Willimantic Railroad Company, praying that the bridge across the Connecticut river, to be constructed by that company, may be declared a lawful structure and a post road for the passage of the mail of the United States; which was referred to the Committee on Post Offices and Post Roads.

He also presented the petition of the Shore Line railway, praying for the passage of an act authorizing the construction of a bridge across the Connecticut river by that railway; which was referred to the Committee on Post Offices and Post Roads.

Mr. WILLEY presented papers in relation to the claim of R. W. Dawson; which were referred to the Committee on Claims.

Mr. VICKERS presented the memorial of William Cornell Jewett, in relation to the proposed vote of censure against Hon. Reverdy Johnson, minister to England; which was referred to the Committee on Foreign Relations.

Mr. FESSENDEN. I present a petition signed by several ladies, approved by General Howard, and certified by the mayors of Washington and Georgetown, in which they pray that aid may be granted for the relief of the destitute people in this District. I present it at this time in the hope that the honorable chairman of the Committee on the District of Columbia will see that immediate action is taken upon it, as from the statements of the petition, which are well attested, and other information that I have, I am satisfied that it is a matter upon which immediate action is demanded, if any action is to be taken at all. In accordance with our previous legislation upon the subject there seems to me to be no objection to granting the aid desired, and I have no doubt that the reasons are strong enough to satisfy the committee that they ought to take some action on the subject at once, and I hope it will be done. I move the reference of the petition to the Committee on the District of Columbia.

The motion was agreed to.

BILLS INTRODUCED.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 683) granting lands to aid in the construction of a railroad from St. Paul, Minnesota, to the Missouri river; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 186) declaratory and amendatory of the act entitled "An Act to provide for an American line of mail and emigrant passenger steamships between New York and one or more European ports," passed July 27, 1868; which was read twice by its title, referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

Mr. COLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 664) to provide for the paving of Pennsylvania avenue; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 665) to repeal section six of the act entitled "An Act making appropriations for the support of the Army for the year ending June 30, 1868," approved March 2, 1867; which was read twice by its title and referred to the Committee on Military Affairs.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 666) fixing the compensation for labor performed for the Government of the United States; which was read twice by its title, laid on the table, and ordered to be printed.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 667) to enable the Holly, Wayne, and Monroe Railway Company, in the State of Michigan, to have the subscription to its capital stock stamped, and the stamps already affixed and to be affixed to be duly canceled; which was read twice by its title and referred to the Committee on Finance.

Mr. HARRIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 668) to authorize the paving of a portion of Pennsylvania avenue and Fifteenth street west, in the city of Washington, with the Nicholson pavement; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. SHERMAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 669) to incorporate the National Junction Railway Company; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

REPORT OF COLUMBIA INSTITUTION.

Mr. PATTERSON of New Hampshire, submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That the Superintendent of Public Printing be, and he is hereby, authorized to print fifteen hundred copies of the report of the Columbia Institution for the Deaf and Dumb, with its appendix, for the use of the Institution.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the bill (S. No. 186) providing for the sale of the lands, tenements, and water privileges belonging to the United States at and near Harper's Ferry, in the county of Jefferson, West Virginia.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (S. No. 658) to relieve from disabilities Franklin J. Moses, a citizen of South Carolina; and it was thereupon signed by the President *pro tempore* of the Senate.

HOUSE BILLS REFERRED.

The bill (H. R. No. 1485) providing for an election in Virginia was read twice by its title, and referred to the Committee on the Judiciary; and the joint resolution (H. R. No. 372) directing the sale of the steamer Atlantic was read twice by its title, and referred to the Committee on Naval Affairs.

The bill (H. R. No. 1484) to relieve from disabilities Franklin J. Moses, of South Carolina, was read twice by its title.

The *PRESIDENT pro tempore*. This bill has been superseded by a bill just passed exactly like it.

Mr. TRUMBULL. I move that it be indefinitely postponed.

The motion was agreed to.

SELECTION OF JURORS IN UTAH.

Mr. CRAGIN. I desire to move that Senate bill No. 24, reported from the Committee on Territories, be recommitted. In order to make that motion I move that the Senate proceed to the consideration of the bill.

The motion was agreed to; and the Senate proceeded to consider the bill (S. No. 24) to regulate the selection of grand and petit jurors in the Territory of Utah, and for other purposes.

Mr. CRAGIN. I now move that the bill be recommitted to the Committee on Territories. The motion was agreed to.

ELECTIVE FRANCHISE.

Mr. WILSON. I move to take up Senate bill No. 111 to regulate the elective franchise in the United States, with a view of moving its reference.

The motion was agreed to.

Mr. WILSON. I now move that the bill be referred to the Committee on the Judiciary.

The motion was agreed to.

CONSTITUTIONAL AMENDMENT.

Mr. WILSON. I move to take up the joint resolution (S. R. No. 59) submitting to the Legislatures of the several States a proposition to amend the Constitution of the United States, with a view to its reference.

The motion was agreed to; and the joint resolution was read the second time by its title.

Mr. WILSON. I move the reference of the joint resolution to the Committee on the Judiciary.

The motion was agreed to.

ARMS TO THE SOUTHERN STATES.

Mr. RICE. I move that the Senate take up the bill (S. No. 652) to provide for the issue of arms for the use of the militia in certain States lately in rebellion, with a view of putting it upon its passage.

Mr. EDMUNDS. Let us hear it read for information before we act upon it.

The Chief Clerk read the bill, as follows:

Be it enacted, &c., That the Secretary of War be, and he is hereby, authorized and required to deliver to the Governor of each of the following-named

States: North Carolina, South Carolina, Georgia, Florida, Alabama, Louisiana, and Arkansas, at the seat of government of each of said States, for the use of the militia thereof, as many serviceable Springfield rifled muskets of caliber fifty-eight, with accoutrements and equipments complete, and serviceable field-pieces, with carriages, caissons, equipments, and implements as the Governors of such States respectively shall require for the use of the militia thereof, not exceeding two thousand rifled muskets, with accoutrements and implements, and two field-pieces, with carriages, caissons, and implements, for each congressional district in said States; and the same shall be delivered only upon the certificate of the Governor of the State showing to the satisfaction of the Secretary of War that the regiments and companies for which the same are required are organized of loyal citizens of such States under the laws thereof; and said muskets, field-pieces, and accoutrements shall remain the property of the United States, subject to the control of Congress.

SEC. 2. And be it further enacted, That so much of section six of an act entitled "An act making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes," as applies to the States above named, together with all other acts inconsistent herewith, be, and the same are hereby, repealed.

The PRESIDENT *pro tempore*. The question is on taking up the bill for consideration.

The motion was agreed to.

Mr. WILSON. I think it will be more satisfactory to have that bill referred, and I move its reference to the Committee on Military Affairs.

Mr. RICE. The only objection I have to its reference is, that in the State which I in part represent the militia is being organized, and there is great need of arms. It is impossible to perfect the organization without them. The Legislature is now in session, and it will greatly facilitate matters if there is an early passage of this bill. The bill, in substance, was before Congress at its last session, and the Senate passed it with only five nays, I believe, at that time. It was before the Military Committee, and they reported it unanimously. There is very little difference between that bill and this—no difference except in the quantity of arms that are to be distributed, so far as the southern States are concerned. I could not see any necessity for its reference to the Military Committee, or I should have so moved. I hope it will be put on its passage.

The PRESIDENT *pro tempore*. The question is on the motion to refer the bill to the Committee on Military Affairs.

The motion was agreed to.

ADJOURNMENT TO MONDAY.

On motion of Mr. GRIMES, it was

Ordered, That when the Senate adjourns to-day it adjourn to meet on Monday next.

REFERENCE OF PETITIONS.

The PRESIDENT *pro tempore*. The Chair will state that many petitions have been presented during the session which are now lying on the table, and if there be no objection those petitions will be referred by the Clerk to the appropriate committees without taking them up specially. Is there any objection to that course? None being made, that will be done by the Clerk.

Mr. PATTERSON, of Tennessee. I desire to have the memorial presented by myself a few days ago on the subject of the navigation of the Tennessee river referred to the Committee on Commerce.

The PRESIDENT *pro tempore*. It will be so referred.

PRESIDENT'S MESSAGE.

Mr. TRUMBULL. I was about to call attention to the Calendar, with a view of removing from it the business which will no longer require attention; but I shall not do it at present if other Senators have other matters to attend to.

Mr. EDMUNDS. I call for the unfinished business. I moved yesterday that the Senate adjourn while the President's message was being read. Some of my friends who desired to have it read seem to have supposed that it was intended to prevent its reading; and some gentlemen who are not my friends, as I understand by the public prints, are of the same opinion. On the contrary, I am in favor of having it read for the benefit of the party to

which I belong and for the benefit of the country, that they may see what sort of an official they have at the head of the Government. I therefore call for the unfinished business.

The PRESIDENT *pro tempore*. The Senator from Vermont moves that the Senate proceed to the consideration of the unfinished business.

Mr. EDMUNDS. It does not need any motion.

The PRESIDENT *pro tempore*. We have passed it over by common consent.

Mr. EDMUNDS. Well, now I call it up.

The PRESIDENT *pro tempore*. It takes a motion to call it up. The question is on that motion.

The motion was agreed to.

The PRESIDENT *pro tempore*. The pending question is on the motion of the Senator from Pennsylvania, [Mr. CAMERON,] to suspend the further reading of the message.

Mr. POMEROY. I understood the motion to be that the message lie on the table and be printed.

The PRESIDENT *pro tempore*. No; a motion was made by the Senator from California [Mr. CONNESS] to suspend the further reading, which he withdrew; but the motion was renewed by the Senator from Pennsylvania, [Mr. CAMERON,] and that motion is now pending.

Mr. CAMERON. At the suggestion of Senators around me I withdraw my motion.

The PRESIDENT *pro tempore*. The motion is withdrawn, and the Secretary will resume the reading of the message.

GEORGE C. GORHAM, esq., Secretary of the Senate, thereupon resumed the reading of the President's annual message at the point at which he was interrupted yesterday.

The message having been read,

Mr. EDMUNDS. I move that the message be laid on the table and printed.

The motion was agreed to.

Mr. EDMUNDS. Mr. President, in view of the extraordinary propositions that the message of his Excellency, the President of the United States, has developed on the subject of the national debt, I wish to give notice that on Tuesday next, unless in the mean time the Committee on Finance shall have reported, as I have no doubt they will, a resolution upon that subject which I had the honor to offer on the 21st of November, 1867, I shall move that the Committee on Finance be discharged from the consideration of that joint resolution, and shall ask the Senate to consider and pass it. Lest the substance of it may have been forgotten I wish to call attention to it now. It provides as follows:

Whereas the public debt of the United States was (except where specially otherwise provided) contracted and incurred upon the faith and credit of the United States that the same would be paid or redeemed in coin or its equivalent; and whereas doubts have been raised as to the duty and propriety of discharging such debt in coin or its equivalent:

Resolved, &c., That the public debt of the United States (except in the cases where in the law authorizing the same other provision was expressly made) is owing in coin or its equivalent, and the faith of the United States is hereby solemnly pledged to its payment accordingly.

That is the issue which I propose for one to make with the most extraordinary doctrine which is advanced in this message, that we are to flatly repudiate this debt by providing that the interest upon it shall be taken as a payment of the principal, and thus dishonor ourselves forever in the eyes of all honest men.

Mr. FRELINGHUYSEN. Mr. President, I do not think it proper that this message should pass without having a word said in reference to it; and I shall occupy the attention of the Senate very briefly.

I am glad the message has been read. That much was due to our respect for the highest official position of the nation, perhaps the highest position in the world. As to the reflections contained in it upon Congress, let me say that a legislative department which, in harmony and cooperation with the patriotism of the people,

with the exertions of our lamented President, with the heroism of our ever-triumphant General, has succeeded in rescuing the nation, and which for four years has carried on a contest with obstruction and obstructionists, and has just received the cordial and jubilant indorsement of a great, free people, cannot be disparaged by the petulant denunciations of the vanquished.

I am glad that the message has been read, for it is important that the world should know, and those who have given us credit abroad should be advised, that our attention has been called to the fact—a fact that were we not wonted and accustomed to wonders would astound us all—to wit, that the chief Executive of the nation puts forth the unvarnished proposition that we shall pay the interest on our national debt for sixteen or seventeen years, and then that the debt itself shall be repudiated; and thus this young Christian Republic be made a hissing by-word among the nations of the earth, and a credit, which is worth more to this young nation just entering on its grand career than the amount of the debt multiplied a hundred fold, shall be shipwrecked forever.

I am glad the message has been read, in order that we, the accredited representatives of this Government, may declare to the nations of the earth that we repudiate and reject the repudiating doctrine of the message, and that we may tell them that the plain people of the land, who had the heroism to preserve the liberties of this country, however the Executive may underrate them, are possessed of the integrity, the will, and the ability to preserve their country's honor. In our illimitable domain, in our waving fields, in our exhaustless mines, in our industrial enterprise—yes, and if it need be, in the tension and toil of every muscle, and in the sweat-drops from every brow—the world has the pledge that the honor and the faith of America shall be inviolate.

I am glad, too, that we have the opportunity of calling the attention of the public to the fact that if we proceed to pay the principal of our debt at the same rate that we have been paying it for the last five years, at the end of twenty years there will be no debt to tempt us to self-dishonor or self-destruction. Nay, sir, civil liberty and equality will not die to the world by the stab that repudiation would inflict, while the people through their lawfully elected representatives rule the nation. It is only a little longer, sir, but a little longer. Let us be patient.

Mr. EDMUNDS. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, December 10, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The Journal of yesterday was read and approved.

RESIGNATIONS ON COMMITTEES.

The SPEAKER. The following gentlemen resign their positions on the various committees named:

On the *Militia*—Nathaniel P. Banks, of Massachusetts, and John P. C. Shanks, of Indiana.

On *Revolutionary Claims*—Aaron F. Stevens of New Hampshire, William Lawrence of Ohio, and William H. Robertson of New York.

On *Revolutionary Pensions and of the War of 1812*—Hiram Price of Iowa, William B. Washburn of Massachusetts, and Henry D. Washburn of Indiana.

Of *Elections*—Glenni W. Scofield, of Pennsylvania.

On *Freemen's Affairs*—Halbert E. Paine, of Wisconsin.

Of *Education and Labor*—George S. Boutwell, of Massachusetts.

On *Mileage*—Henry Van Aernam, of New York.

On Expenditures in the State Department—Frederic A. Pike, of Maine, and Reader W. Clarke, of Ohio.

On Expenditures in the Treasury Department—Henry H. Starkweather, of Connecticut.

On Expenditures in the War Department—James A. Garfield, of Ohio.

On Expenditures in the Navy Department—Henry L. Dawes, of Massachusetts, and Charles H. Van Wyck, of New York.

On Expenditures in the Post Office Department—Benjamin Eggleston, of Ohio.

On Expenditures in the Interior Department—William H. Koontz, of Pennsylvania, and Ginery Twichell, of Massachusetts.

On Expenditures on the Public Buildings—Nathan F. Dixon, of Rhode Island.

On Enrolled Bills—Benjamin F. Hopkins, of Wisconsin.

The above-named members were accordingly excused from service on the various committees.

FILLING VACANCIES ON COMMITTEES.

The SPEAKER appointed the following-named members to fill vacancies on committees:

On Revision of the Laws of the United States—Samuel McKee of Kentucky, Oliver J. Dickey of Pennsylvania, Nathaniel Boyden of North Carolina, and Roderick R. Butler of Tennessee.

Of Elections—S. Newton Pettis, of Pennsylvania, and John H. Stover, of Missouri.

On Commerce—Francis W. Kellogg, of Alabama.

On Appropriations—Glenn W. Scofield, of Pennsylvania.

On the Pacific Railroad—Lawrence S. Trimble, of Kentucky.

On Reconstruction—Benjamin W. Norris, of Alabama.

On the Militia—John T. Deweese, of North Carolina, and J. Hale Sypher, of Louisiana.

On Freedmen's Affairs—C. C. Bowen, of South Carolina.

On Education and Labor—B. F. Whittemore, of South Carolina.

On Revolutionary Pensions and of the War of 1812—Alexander H. Jones of North Carolina, J. W. Clift of Georgia, and W. J. Blackburn of Louisiana.

On Revolutionary Claims—Oliver H. Dockery of North Carolina, James H. Goss of South Carolina, and W. P. Edwards of Georgia.

On Mileage—P. M. B. Young, of Georgia.

On Enrolled Bills—John B. Callis, of Alabama.

On Expenditures in the State Department—Michael Vidal of Louisiana, Simeon Corley of Georgia, and Thomas Boles of Arkansas.

On Expenditures in the Treasury Department—Israel G. Lash, of North Carolina, and Nelson Tift, of Georgia.

On Expenditures in the War Department—John R. French, of North Carolina.

On Expenditures in the Navy Department—Charles P. Buckley, of Alabama, and Samuel F. Gove, of Georgia.

On Expenditures in the Post Office Department—Joseph P. Newsham, of Louisiana.

On Expenditures in the Interior Department—Charles W. Pierce, of Alabama, and C. H. Prince, of Georgia.

On Expenditures on the Public Buildings—Thomas Haughey, of Alabama.

ORDER OF BUSINESS.

Mr. SCHENCK. I gave notice of my intention to move immediately after the morning hour to go to business on the Speaker's table, with a view to clearing it; and I now call for the regular order, so as to get through the morning hour.

The SPEAKER. The morning hour has commenced, and the regular order of business is the call of committees for reports. Reports are in order, from the Committee on Military Affairs.

HOLLY, WAYNE, AND MONROE RAILWAY.

Mr. BEAMAN, by unanimous consent, introduced a bill (H. R. No. 1486) to enable the

Holly, Wayne, and Monroe Railway Company, in the State of Michigan, to have the subscription to its capital stock stamped, and the stamps already affixed and to be affixed to be duly canceled; which was read a first and second time, and referred to the Committee of Ways and Means.

ADVERSE REPORTS.

Mr. BOYER, from the Committee on Military Affairs, made adverse reports on the following petitions, the cases being covered by a general law already passed; which were severally laid on the table:

The petition of William Backus, of Cleveland, Ohio, for increased pay while in the military service;

The petition of Amos Devoe;

The petition of J. L. Wells, praying for pay as second lieutenant of volunteers;

The petition of Alfred F. Storey; and

The petition of James M. Swabs.

Mr. BOYER, from the same committee, reported back, with the recommendation that it do not pass, the bill (H. R. No. 312) to provide for officers and soldiers not mustered into service; and the same was laid on the table.

JOEL H. LUCIA.

Mr. BOYER, from the same committee, reported back, with the recommendation that it do not pass, the bill (H. R. No. 409) for the relief of Joel H. Lucia; and the same was laid on the table.

CHANGE OF REFERENCE.

On motion of Mr. BOYER, the Committee on Military Affairs was discharged from the further consideration of the petition of William Hemphill, guardian to the minor brother of David Hemphill, deceased; and it was referred to the Committee on Invalid Pensions.

On motion of Mr. GARFIELD, the Committee on Military Affairs was discharged from the further consideration of the petition of citizens of Illinois, praying for the passage of an act granting pensions withheld from March 8, 1865, to June 3, 1866; and the same was referred to the Committee on Invalid Pensions.

JOHN H. OSTLER.

On motion of Mr. GARFIELD, the Committee on Military Affairs was discharged from the further consideration of the bill (H. R. No. 99) for the relief of Lieutenant John H. Ostler, Guernsey county, Ohio; and the same was referred to the Committee of Claims.

MASSACRE AT DAXTER'S SPRINGS.

Mr. GARFIELD, from the Committee on Military Affairs, made an adverse report on the concurrent resolutions of the Legislature of the State of Kansas, asking the appropriation by Congress of a sum of money to erect a monument at or near Baxter's Springs in memory of the soldiers massacred there who formed a part of the escort of General James Blunt in an expedition from Fort Scott, Kansas, to Fort Smith, in Arkansas, in 1863; and the same was laid on the table.

SUBSISTENCE DEPARTMENT.

Mr. BOYER, from the same committee, also reported adversely upon House bill No. 211, to increase the subsistence department of the Army of the United States; and the same was laid on the table.

UNITED STATES COLORED TROOPS.

Mr. BOYER, from the same committee, also reported adversely upon House bill No. 1105, for the reorganization of the United States colored troops, their instruction and colonization; and the same was laid on the table.

ARMY OFFICERS IN WASHINGTON.

Mr. BOYER, from the same committee, also reported adversely upon a resolution calling upon the Secretary of War for information respecting the number of officers employed in Washington; and the same was laid on the table.

PAYMASTERS' ACCOUNTS.

Mr. BOYER, from the same committee, also reported adversely upon House bill No. 866, to facilitate the settlement of the accounts of paymasters of the Army; and the same was laid on the table.

PAY OF ARMY OFFICERS.

Mr. BOYER, from the same committee, also reported adversely upon House bill No. 52, to repeal the twelfth section of an act approved July 17, 1862, entitled "An act to define the pay and emoluments of certain officers of the Army, and for other purposes;" and the same was laid on the table.

RECONSTRUCTION.

Mr. BOYER, from the same committee, also reported adversely upon House joint resolution No. 7, providing for the expense of carrying into full effect an act entitled "An act to provide for the more efficient government of the rebel States;" and the same was laid on the table.

BOUNTIES TO DRAFTED SOLDIERS.

Mr. WASHBURN, of Indiana, from the same committee, reported adversely upon House bill No. 491, giving a bounty to soldiers drafted into the Army of the United States; and the same was laid on the table.

EQUALIZATION OF BOUNTIES.

Mr. WASHBURN, of Indiana. I am also instructed by the Committee on Military Affairs to report back House bill No. 940, to equalize the bounties of soldiers, sailors, and marines who served in the late war for the Union, and to ask that it be made the special order for the second Tuesday in January next, after the morning hour.

The SPEAKER. It requires unanimous consent to make the bill a special order at that time.

Mr. WASHBURN, of Illinois, objected, but subsequently withdrew his objection upon the condition that it be made a special order for one hour only.

Mr. JULIAN renewed the objection, but subsequently withdrew it.

The bill was accordingly postponed until the second Tuesday of January next, after the morning hour, and made the special order for one hour.

ADVERSE REPORTS.

Mr. SITGREAVES, from the Committee on Military Affairs, reported adversely upon the following petitions, &c.; and the same were laid on the table:

Petition of S. V. B. Strider and others, citizens of Harper's Ferry and Bolivar, West Virginia, asking compensation for private property destroyed by the United States Army;

Claims of W. B. Andrews, William Cassell, Andrew J. Davis, Benjamin Long, and Loren A. Reed;

Petition of Mrs. Susan Sibley, of Maine, for bounty;

Petition of George W. Merriitt, company G, third Indiana cavalry volunteers, for relief; and

Petition of H. K. Thatcher, late captain of the fourteenth United States infantry, asking Congress to pass an act for his relief.

HARPER'S FERRY, WEST VIRGINIA.

Mr. GARFIELD, from the Committee on Military Affairs, reported back, with a recommendation that the same do pass, Senate bill No. 186, providing for the sale of the lands, tenements, and water privileges belonging to the United States at and near Harper's Ferry, in the county of Jefferson, West Virginia.

The question was upon ordering the bill to be read a third time.

The bill was read at length. The first section directs the Secretary of War to make sale at public auction of the lands, tenements, and water privileges belonging to the United States at and near Harper's Ferry, in the county of Jefferson, West Virginia, except as hereinafter provided, in such parcels as shall, in his opin-

ion, be best adapted to secure the greatest amount of money therefor on a credit of one and two years, taking bond and security from the purchaser or purchasers for the payment of the purchase money; and provides that the proceeds of such sale shall be applied by him as follows; provided, that no such sale shall be made until the time, terms, and place thereof shall have been published in one of the principal newspapers in each of the cities of Washington, New York, and Cincinnati for sixty days prior to the day of sale: first, in defraying the expenses of making said sale; second, in refunding to the United States the principal sum of purchase money paid for said lands, tenements, and water privileges by the United States, and for the erection of buildings thereon; and third, if any surplus remain, he shall deliver the same to such agent as the Legislature of the State of West Virginia shall appoint to receive the same; but upon condition that such surplus shall be received by the State of West Virginia to be set apart, held, invested, used, and applied as a part of the school fund of that State, under and by virtue of, and in manner and form as provided in section first of the tenth article of the constitution of West Virginia, and for no other purpose. And on making such sale of the said lands, tenements, and water privileges, or any part thereof, the said Secretary of War is hereby empowered and required, on receiving the purchase money in full, to execute all necessary deeds therefor to the purchaser or purchasers thereof, on behalf of the United States.

The second section directs the Secretary of War to convey by deed to Storer College, an institution of learning chartered by the State of West Virginia, all those certain portions of the aforesaid property, namely: the buildings, with the lots on which they stand, numbered thirty, thirty-one, and thirty-two, and also building numbered twenty-five, with enough of the lot on which it stands to give a breadth of ten rods on High street, otherwise known as Washington street, all of said buildings and lots being situated at Harper's Ferry aforesaid, being the same which have heretofore been assigned by the War Department to the Bureau of Refugees, Freedmen, and Abandoned Lands for educational purposes; and also to convey by deed to the proper persons all such other lands and buildings, portions of the aforesaid property, as have heretofore been set apart by the proper authority for religious, charitable, and town purposes.

The bill was then read the third time, and passed.

Mr. GARFIELD moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BERGEN HEIGHTS ARSENAL.

Mr. GARFIELD, from the Committee on Military Affairs, reported a joint resolution (H. R. No. 373) directing the Secretary of War to sell Bergen Heights arsenal; which was read a first and second time.

The question was upon ordering the joint resolution to be engrossed and read a third time.

The joint resolution, which was read, directs the Secretary of War to sell at public auction, to the highest bidder, the land and tenements belonging to the United States situate in the county of Hudson, State of New Jersey, and known as the Bergen Heights arsenal; the sale to be made on the ground, after thirty days' notice, in the Newark Daily Advertiser and Newark Evening Courier, and in the Daily Times and Evening Journal of Jersey City; the proceeds arising from said sale to be paid into the Treasury of the United States.

The question was on ordering the joint resolution to be engrossed for a third reading.

Mr. GARFIELD. This joint resolution is in accordance with the recommendation of the War Department; and in explanation of it I

submit the following letter from the Governor of West Virginia:

WASHINGTON, D. C., March 23, 1868.

SIR: I regret to learn that that portion of the Senate bill directing a sale of what remains of the armory property at Harper's Ferry, West Virginia, which provides that after reimbursing the United States for buildings erected, &c., the surplus shall go to the free-school fund of West Virginia, has met with opposition in your committee.

The State of Virginia—the mother State—had no free-school system, nor had she any school fund, except a very small one, for the education of the indigent—indeed, I may say, pauper children; and it was wholly insufficient for this purpose, as is evidenced by the census of 1860, where we find that more than eighty thousand of her free citizens over twenty-one years of age could not read and write; and, of course, West Virginia has received nothing, nor can she expect anything, for educational purposes from the old State. The truth is, that while Virginia fostered the University, could build asylums for the insane, and the deaf, dumb, and the blind, and spend millions for railroads in the eastern portion of the State, the west was wholly disregarded and neglected in all these particulars, so that when West Virginia was established, in 1863, she had no schools, no State public buildings of any kind, and no railroads or other improvements that had been built by Virginia, notwithstanding the people had paid large sums into the treasury as taxes on their property from year to year as they were demanded. She had no public lands within her borders, as the States of the Northwest had, out of which a portion might be claimed for school or other purposes; nor had she any other fund whatever to which she could resort for any of those purposes. Moreover, the rebellion was upon the country, and within her borders, actually devastating and laying waste her territory; and, while East Virginia joined all her power and influence with the enemies of the Government, West Virginia was true to her allegiance, and supported the Government with thirty-three thousand of her sons in the Army at a cost of over two million dollars in bounties, besides other liberal expenditures for the same purpose.

Under these circumstances, and at the time mentioned, the people of West Virginia adopted a constitution making it imperative on the Legislature to provide free schools for the children of the State; and the Legislature, at the first session, in 1863, passed a law providing schools for the free education of all the children of the State, both white and colored, between the ages of six and twenty-one years, and this law is still in force, and has been most vigorously and successfully executed.

We have built within the time mentioned about one thousand school-houses—some of them, in the cities and towns, costing from six to ten thousand dollars each, and are supplied with the most modern school furniture. All this, as well as supporting the schools and erecting an asylum for the insane, penitentiary, &c., has been done by direct taxation; which, in view of the facts above referred to, bears heavily upon the people of the State. Notwithstanding these adverse circumstances, however, those who have had control of the affairs of the State, and the constituency by which they have been supported, have determined to enlighten the masses and to press forward with the progress of the time, and not to allow them to remain where they were found when we separated from the old State.

Our State, not having received any aid from Virginia, or from the United States for school purposes, or indeed for any other purpose, it was believed that after reimbursing the General Government for the improvements on the armory property, and thus saving from any loss, Congress would allow the surplus, if any, to go into the school fund of the State, and thus lighten the taxes of our people to that extent. What the amount of the surplus may be cannot now be told; but from information derived from the most intelligent and reliable sources, I am satisfied that the sum will be small—far less than some persons seem to imagine.

May I not ask, therefore, that the committee will take this subject under consideration again, in connection with the statement I have here made? And may I not trust that it will be their pleasure to report the bill as it came from the Senate, and give it their support in the House?

I am, with the highest regard, your obedient servant,

A. I. BOREMAN,
Governor of West Virginia.

Hon. JAMES A. GARFIELD, Chairman of Committee on Military Affairs, House of Representatives.

The joint resolution was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time.

Mr. WASHBURN, of Illinois. Does this joint resolution provide for giving a deed for the property?

Mr. GARFIELD. Authority is given to sell, and I presume no further authority is necessary.

Mr. WASHBURN, of Illinois. The party purchasing does not get a good title till he receives a deed; and in all bills of this kind authority has been given to execute a deed.

Mr. GARFIELD. Authority is given in

this bill to sell and transfer. That implies the execution of a deed.

Mr. WASHBURN, of Illinois. I think it would be well to insert after the words "sell and transfer" the words "by good and sufficient conveyance, to be executed by the Secretary of War, transferring all the right, title, and interest of the United States."

Mr. GARFIELD. I have no objection to that amendment.

The SPEAKER. If there be no objection, the amendment suggested by the gentleman from Illinois will be regarded as adopted.

There was no objection.

The joint resolution, as amended, was passed.

Mr. GARFIELD moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JUDGE ADVOCATES OF THE ARMY.

Mr. GARFIELD also reported, from the Committee on Military Affairs, a bill (H. R. No. 1487) to declare and fix the status of the corps of judge advocates of the Army; which was read a first and second time.

The bill, which was read, recites in the preamble that doubts have arisen whether the judge advocates of the Army, though originally commissioned in the regular service, constitute a permanent corps in which vacancies may be filled; that it is expedient the said corps be made permanent and vacancies filled therein. The bill therefore provides that the corps of judge advocates of the Army be fixed at twelve members, including a Judge Advocate General and an Assistant Judge Advocate General; and the President is authorized, by and with the advice and consent of the Senate, to fill all vacancies which have occurred or may hereafter occur.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. GARFIELD moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CHATTANOOGA ROLLING-MILL.

Mr. GARFIELD also, from the Committee on Military Affairs, reported a joint resolution (H. R. No. 374) authorizing the sale of the Chattanooga rolling-mill property at Chattanooga, Tennessee, to the Southwestern Iron Company; which was read a first and second time.

The bill, which was read, recites in the preamble that the United States, on the 5th of October, 1865, in consideration of the sum of \$175,000 leased to John A. Spooner, of Plymouth, Massachusetts, his legal representatives and assigns, all the property known as the United States military rolling-mill in Chattanooga, Tennessee, and all the buildings, tools, machinery, fixtures, furniture, equipments, and appurtenances connected therewith, together with the railroad track connecting the mill with the Nashville and Chattanooga railroad, for two years from the date of the lease, with a further agreement contained in the lease that the United States would, upon the request of Spooner, his legal representatives or assigns, sell, transfer, and convey, by good and sufficient deed, the absolute title of the mill, buildings, machinery, and other property to Spooner, his representatives or assigns, to his or their own use. It is further recited that Spooner has assigned his interest in the lease to the Southwestern Iron Company, and the company have requested the United States to convey to them the mill, buildings, machinery, &c.

The joint resolution proposes to authorize the Secretary of War, in consideration of the sum already paid, to make, execute, and deliver all needful instruments conveying and transferring to the Southwestern Iron Company all the right, title, and interest of the

United States in and to the Chattanooga rolling-mill, with the buildings, tools, machinery, &c., and the railroad track connecting the mill with the Nashville and Chattanooga railroad.

Mr. MULLINS. I desire to ask what amount is to be paid for this property. I believe it is not mentioned in the bill.

Mr. GARFIELD. As the bill recites, \$175,000 have been paid for the lease, which provided that on the request of the lessee or his assigns a deed for the property should be made to him or them by the United States. That request has been made, and this bill provides, strictly in accordance with the terms of the contract, that the absolute title of this property shall be transferred to the Southwestern Iron Company. They have already paid the money, and it is only necessary to complete the terms of a contract already executed. I yield to the gentleman from Wisconsin.

Mr. PAINE. I wish the chairman of the committee would inform the House whether, in his judgment, the amount which has been paid by this company to the United States is an adequate compensation for this property. It may be very true that officers of the Government have agreed that the deed shall be made transferring this property pursuant to a contract, but that does not bind us at all to ratify it, and I do not want to consent to it unless the chairman will say to the House that he knows or believes, or has reason to believe, that the compensation is adequate.

Mr. GARFIELD. I yield to my colleague on the committee to answer that inquiry.

Mr. WASHBURN, of Indiana. In reply to the question of the gentleman from Wisconsin, I will say that this whole subject was investigated by the special Committee on Southern Railroads, of which I am a member, and I am satisfied that the price paid was a fair compensation. There is a doubt as to the title to be conferred by the Government—whether it has any title to the land at all or not—and that doubt makes the value of the property less than it would be otherwise. It was land captured and taken by the rebels, and then recaptured by us.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. GARFIELD moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MONUMENT TO GENERAL KEARNY.

Mr. GARFIELD, from the same committee, reported a joint resolution (H. R. No. 375) donating condemned cannon for the erection of a monument to Major General Kearny; which was read a first and second time.

It authorizes the Secretary of War to furnish such condemned iron cannon as may be required, not exceeding four, for the completion of a monument at Tivoli, New York, over the remains of the late Major General Philip Kearny, and other Union soldiers buried at that place, who lost their lives in the late war.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. GARFIELD moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ASYLUMS FOR DISABLED SOLDIERS.

Mr. GARFIELD, from the same committee, reported a bill (H. R. No. 1488) to consolidate the several asylums for aged and disabled soldiers, created under the laws of the United States; which was read a first and second time.

The bill provides that the military asylums established by the several acts of Congress heretofore passed, with all their rights and privileges, shall be transferred to and made a

part of the National Asylum for Disabled Volunteer Soldiers.

Section two provides that all the duties and powers to be exercised or performed by any person or officer relative to said soldiers shall be vested in and exercised by the board of managers of the said asylum, under such rules and regulations as they may determine, provided nothing in this act shall change in any way the claim of any veteran or disabled soldier to support in said national asylum.

Section three changes the name of the "National Asylum for Disabled Volunteer Soldiers" to "Veteran Soldiers' Home."

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. GARFIELD moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SAULT STE. MARIE RESERVATION.

Mr. GARFIELD, from the same committee, reported, in accordance with the recommendation of the Secretary of War, a bill (H. R. No. 1489) granting a portion of the military reservation at Sault Ste. Marie, Michigan, to the American Baptist Home Mission Society; which was read a first and second time.

The bill was read. It proposes to authorize the Secretary of War to convey to the American Baptist Home Mission Society, by good and sufficient title, a part of the military reservation at Sault Ste. Marie, in the State of Michigan, not to exceed one acre, now occupied by mission buildings owned by said society.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. GARFIELD moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PAY OF MILITARY INSTRUCTORS.

Mr. GARFIELD, from the same committee, reported a bill (H. R. No. 1490) to define the pay of officers of the Army detailed to act as military instructors; which was read a first and second time.

The bill provides that all officers detailed to give military instruction in colleges and universities, under the provisions of the act to increase and fix the military peace establishment of the United States, approved July 28, 1866, shall, while so detailed, be entitled to the full pay of their respective grades the same as if they were on active service.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. GARFIELD moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

W. G. MORSE AND CHARLES S. SHAMBAUGH.

Mr. GARFIELD. I am instructed by the Committee on Military Affairs to report the following resolution:

Resolved, That the Clerk of the House be directed to pay out of the contingent fund the sum of \$400 to W. G. Morse, and the sum of \$100 to Charles S. Shambaugh, which shall be in full of all claim by them on account of services rendered to the Committee on Military Affairs in collecting, during the recess of the Thirty-Ninth Congress, papers and evidence respecting artificial limbs furnished to soldiers.

I will say that this is an expenditure incurred during the last Congress, and the adjustment of the amount has been fixed in the bill according to the recommendation of my colleague, [Mr. SCHENCK,] the former chairman of the Committee on Military Affairs.

Mr. ROSS. I make the point of order that the resolution contains an appropriation, and must have its first consideration in Committee of the Whole.

The SPEAKER. The Chair overrules the point of order upon the ground that the amount

is to be paid out of the contingent fund, which is appropriated in an appropriation bill.

Mr. GARFIELD. I move the previous question.

Mr. BROOMALL. Will the gentleman yield to me for a moment?

Mr. GARFIELD. I will.

Mr. BROOMALL. I am under the impression that the gentleman's resolution will not take money out of the contingent fund for the purposes for which this is intended. I think it requires a joint resolution or bill.

Mr. WASHBURN, of Illinois. It has been so decided again and again at the Treasury Department.

Mr. BROOMALL. That is my understanding of the law, and I therefore suggest to the chairman of the Committee on Military Affairs that he had better make his resolution a joint resolution, unless he is sure that I am mistaken.

Mr. GARFIELD. I will modify the resolution and make it a joint resolution.

I will state that there were some seven thousand circulars from the chairman of the Committee on Military Affairs in the last Congress sent out to all the soldiers who had lost limbs, inquiring whether the artificial limbs furnished by the Government answered their necessities, and also for the purpose of completing and perfecting arrangements for furnishing them to those who have not received them.

Mr. MAYNARD. Has the gentleman considered the question whether we can appropriate money out of the contingent fund to pay for a claim that originated in the last Congress?

Mr. GARFIELD. It is now a joint resolution, and its passage is recommended by the former chairman of the Committee on Military Affairs. I move the previous question.

The previous question was seconded and the main question ordered.

The joint resolution (H. R. No. 376) was then read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. GARFIELD moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MILITARY INSTRUCTION.

Mr. GARFIELD. I am instructed by the Committee on Military Affairs to report back, with a recommendation that the same do pass, House bill No. 905, to establish a national system of military education.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read at length. The first section authorizes and directs the President of the United States upon the application of that one of the colleges or universities of any State of the Union, and of that one additional college or university for every additional million of inhabitants above one million in any State, which may be designated by the Legislature thereof, to detail from time to time one competent officer of the Army to act as military professor, and one competent lieutenant of the Army, for periods of two years, to act as military assistant in every such college or university, and to prescribe the text-books, the course of military studies and military exercises to be taught by said officers, as the condition which shall entitle said colleges or universities to the privileges hereafter provided, and to establish rules and regulations for the government of the officers so detailed, but without infringement of the rights of self-government of said colleges or universities; provided, that the colleges or universities so designated have a capacity sufficient to educate at one time, in a complete course of liberal studies, not less than one hundred male students each, and grounds suitable for military exercises.

The second section provides that whenever

any college or university shall have established a course of military instruction and exercises under the foregoing section of this act, the President shall cause to be issued for the use of such college or university, on the requisition of the military professor, such text-books as may be necessary for the prescribed course of military instruction, whenever Congress shall have appropriated money for that purpose, and such ordnance and ordnance stores and camp and garrison equipage as may be necessary for the prescribed instruction in military exercises; and the President shall direct the detail of one ordnance sergeant, and the enlistment of two competent musicians, to be styled college musicians, who shall have the pay and allowances of principal musicians of regiments, for appropriate duties at every such college or university.

The third section provides that the faculty of every college or university which shall have complied with the provisions of this act shall be authorized to recommend to the President of the United States, on or before the 30th day of June of each year, a list of graduates of such college, of the class of that year, as nearly as practicable in the proportion of one to every ten of such graduates distinguished for general proficiency in the collegiate course, special attainments in military science and skill in military exercises, of good moral character and of sound health; that the names of the distinguished graduates so recommended shall be published in the Army Register of that year, that one from each college of the graduates so recommended shall be commissioned in the Army in the same manner as provided by law for the graduates of the Military Academy at West Point; provided that such appointments shall be made after the assignment of the graduates of said Military Academy of that year, and that, when actual vacancies shall still exist in the Army in the grade of second lieutenant after said assignments and appointments all such vacancies shall be filled, as far as practicable, from the lists of distinguished graduates of colleges recommended as herein provided, regard being had in all such appointments to the order of relative merit of such graduates as fixed by the faculty of each college or university in their official recommendations, and to an equitable distribution of such additional appointments among all said colleges or universities; and provided further, that the rights under existing laws of meritorious non-commissioned officers to recommendation, examination, and promotion in the Army shall in no wise be prejudiced.

The fourth section provides that for the purpose of encouraging continued study and improvement among officers of the Army, and of securing and rewarding the exercise of special talent and zeal in the cause of military education by officers detailed at colleges under the provisions of this act, they shall have, by virtue of such detail and while so employed, rank and the infantry pay and emoluments thereof, as follows, namely, a military professor of more than twenty years' service in the Army, the rank of lieutenant colonel; a military professor of less than twenty years' service in the Army the rank of major, and a military assistant the rank of captain.

The fifth section provides that the President shall detail an officer of the Army to serve as director general of military education, who while serving as such shall have the rank, pay, and emoluments of brigadier general. Said director general shall be stationed at Washington, and shall, as often as necessary, inspect the Military Academy at West Point, and the colleges at which officers may be stationed under this act, to secure uniformity of military instruction and faithful attention to duty on the part of officers; and he shall make to the Secretary of War, for the information of Congress, annual reports of the operations of the Military Academy at West Point, and of the military departments of colleges in which the provisions of this act shall have been complied with; and there shall be detailed from the Army, from time to time, an officer to act

under the director general as assistant director of military education, who shall have, by virtue of such detail and while so employed, the rank, pay, and emoluments of colonel; and the director general may employ not more than two clerks, one of the second and one of the third class.

The sixth section provides that there shall be appropriated from any money in the Treasury not otherwise appropriated, for each college or university which shall have introduced into its plan of instruction a course of military instruction in accordance with the provisions of this act, the sum of \$2,000, to be expended by the director general of military education, with the approval of the Secretary of War, in the purchase of the necessary books of reference, maps, models, and text-books for issue to students for the prescribed course of military education.

Mr. GARFIELD. I see by the manifestations around me that the members of the House have not generally read this bill, and I will not, therefore, ask for final action upon it at this time. The attention of gentlemen has been called to the general provisions of this bill by its reading, and I will say that the House will soon be called upon to determine what it will do in the future in regard to the education of young men for officers of the Army; whether we will double the capacity of the Academy at West Point, as recently recommended, or adopt the system proposed in this bill, or something like it, as recommended by the officers appointed by the Secretary of War last year to examine and report upon the subject. That system is that the education of Army officers shall hereafter be intrusted in part to such colleges, not to exceed two in any one State, as may be selected by the State Legislatures, officers of the Army being detailed to act as military professors, &c. That plan is recommended by many officers of the Army.

This bill is too important to be disposed of under the operation of the previous question, and I therefore ask that it may be made the special order for some day sufficiently distant for the bill in its present shape to be printed and placed in the hands of every member. I suggest that it be made the special order for the second Tuesday in January.

Mr. WASHBURN, of Illinois. I am not only opposed to this bill *in toto*, as being a new scheme to plant military colleges all over the country; but I am particularly opposed to making it a special order.

Mr. GARFIELD. Then I will move that the bill be postponed until the second Tuesday in January, without being made a special order.

Mr. WASHBURN, of Illinois. I would inquire of the Chair what will be the position of this bill should it be postponed until the time named?

The SPEAKER. It will then come in behind all bills to be found on page 2 of the Calendar, whatever special orders may be made in the interim, the appropriation bills and the consideration of business in Committee of the Whole.

Mr. WOOD. I would inquire of the gentleman from Ohio [Mr. GARFIELD] if he proposes to press the question at this time upon this measure? I desire to be heard upon it.

Mr. GARFIELD. I have already moved that it be postponed until the second Tuesday in January, in order that it may be printed with the amendments proposed by the Committee on Military Affairs.

Mr. WOOD. This is one of the most important measures ever proposed in Congress, and we should have ample time for its discussion.

Mr. PRUYN. I wish to inquire of the gentleman from Ohio [Mr. GARFIELD] whether this bill is in conflict with, or supplementary to, the bill passed by Congress some years since, giving land to agricultural colleges?

Mr. GARFIELD. It in no way conflicts with it, and is not directly accessory to it; but still it will work in harmony with it, if carried out according to the true intention of the bill.

And I desire to express my regret that the gentleman from Illinois [Mr. WASHBURN] has pronounced against this bill, when he certainly cannot have had the opportunity to know its spirit.

Mr. CHANLER. I desire to ask the gentleman from Ohio [Mr. GARFIELD] whether this bill includes in it a provision for a similar system of education for the Navy?

Mr. GARFIELD. No, sir; it has nothing to do with that.

Mr. CHANLER. If the education of the masses for the purposes of national defense is the object of the bill, what objection can the gentleman have to authorizing the Government of the United States to establish in the harbors of this country school-ships for the education of a fit body of officers for the Navy?

Mr. GARFIELD. In answer to the gentleman from New York [Mr. CHANLER] I will say, in the first place, that the Committee on Military Affairs have no jurisdiction over the question of education for the Navy; and in the next place, these schools and colleges located in the interior will not be very favorably situated for the establishment of practice-ships for naval cadets.

Mr. PIKE. The present system of education for the Navy is quite sufficient.

Mr. CHANLER. As the Committee on Education and Labor has, in accordance with a bill of the gentleman himself, provided for a bureau of education, I wish to ask why this matter is made a subject of exclusive military consideration? In other words, why does a gentleman who has been so active in changing the whole system of national education by inaugurating a bureau to take charge of that subject hold in a corner this measure and keep it within the custody of the Committee on Military Affairs? Why is not the question of education for military purposes, as well as for the Navy, referred to this special bureau created on the gentleman's own suggestion?

Mr. GARFIELD. I cannot consent to go into a discussion of the bill now further than to say, in general, that the measure was drafted by an officer appointed by General Grant to consider this very subject, and his report was printed by order of General Grant when Secretary of War *ad interim*. The bill, therefore, comes to us with a recommendation entitling it to very careful consideration. I insist on my motion to postpone.

Mr. ELDRIDGE. I desire to ascertain from the gentleman from Ohio whether he intends, if the bill be now postponed, to give reasonable opportunity for its discussion when it shall again come up?

Mr. GARFIELD. Certainly.

Mr. ELDRIDGE. Gentlemen on this side desire to know whether they shall prepare themselves to discuss this bill, or whether it is to be passed under the operation of the previous question.

Mr. GARFIELD. There will be full opportunity for discussion.

Mr. ROSS. I move that the bill be laid on the table.

On the motion there were—ayes 60, noes 46.

Mr. GARFIELD called for tellers.

Tellers were ordered; and Messrs. GARFIELD and ROSS were appointed.

The House divided; and the tellers reported—ayes 73, noes 40.

So the bill was laid on the table.

Mr. WASHBURN, of Illinois, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. GARFIELD. I congratulate the organ of the incoming Administration upon the support of the gentleman from Illinois on the other side, [Mr. ROSS.]

ENROLLED BILL SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill (S. No. 658) to relieve from

disabilities Franklin J. Moses, a citizen of South Carolina; when the Speaker signed the same.

LEAVE OF ABSENCE.

Mr. SHELLABARGER asked and obtained indefinite leave of absence on account of the sickness of his wife.

WAR CLAIMS OF IOWA.

Mr. DODGE, from the Committee on Military Affairs, reported a bill (H. R. No. 1491) fixing the amount found to be due to the State of Iowa on account of certain claims against the United States; which was read a first and second time.

The preamble of the bill recites that Congress, by an act approved July 25, 1866, directed the President to appoint a commission to examine and report upon the claims of the State of Iowa for forage, transportation, subsistence, and clothing furnished by that State to volunteers; also, for the repayment of certain moneys expended by the State in raising, arming, equipping, paying, and subsisting certain troops of the State during the late rebellion; and also the claims of the State for certain forage procured and barracks built and turned over to the United States. It further recites that the commissioner appointed by the President has, after an examination of the claims, reported that there is due to the State of Iowa \$229,848 23, and recommended the payment of that sum. The bill, therefore, provides that the amount so found due to that State shall be paid to it out of an appropriation hereafter to be made.

Mr. DODGE. I demand the previous question.

Mr. WASHBURNE, of Illinois. I hope this bill will not be passed until we have some information on the subject.

Mr. DODGE. We have the report of the committee.

Mr. ROSS. I raise the point of order that this is an appropriation bill, and should go to the Committee of the Whole.

The SPEAKER. The Chair overrules the point of order. The bill states distinctly that the money is to be paid out of an appropriation hereafter to be made.

Mr. WASHBURNE, of Illinois. That is an evasion of the rule which I hope the House will not tolerate—bringing in a bill in that way.

Mr. DODGE. I withdraw the previous question for the purpose of having the report read.

The report from the Committee on Military Affairs was read. The committee find that the report submitted by the commissioner, Brevet Major General Robert C. Buchanan, under the law of July 25, 1866, has been made after a faithful and careful examination, and that the vouchers have been properly audited. They therefore recommend that an appropriation be made for the claims as audited and recommended in the report of General Buchanan.

Mr. MAYNARD. Does the report of General Buchanan accompany this?

Mr. DODGE. It is printed—Miscellaneous Document No. 101—if the gentleman desires it read.

Mr. MAYNARD. No, sir.

Mr. CULLOM. I would ask the gentleman whether there is any special reason why this bill should pass? Why should not the money be paid under the general law?

Mr. DODGE. I have the report of General Buchanan.

Mr. CULLOM. I would like to have the report read, then.

The report was read, as follows:

COMMISSIONER'S OFFICE IOWA CLAIMS,
WASHINGTON, D. C., December 6, 1867.

The undersigned having been appointed by the President, under the act approved July 25, 1866, commissioner "to examine and report upon the claim of the State of Iowa for forage, transportation, subsistence, and clothing furnished by said State to certain volunteers of said State under command of Colonels Morledge and Edwards; also the claim of the State of Iowa for repayment of certain moneys paid by said State in raising, arming, equipping, paying, and subsisting certain troops of the State, maintained by the State on the southern and north-

western borders thereof, during the late rebellion; and also the claim of said State for compensation for certain forage procured and barracks built by the State on the northwestern border thereof, and turned over by the State to and used by the United States," has the honor to submit the following report:

These claims are for reimbursement of expenses incurred and payments made by the State in the employment of a State militia force to protect it against the depredations of Indians on the north, and bushwhacking rebels in the south, during a period of the rebellion when the United States Government was unprepared to furnish the troops necessary for that purpose.

After a careful examination of the act, and of the claims and their vouchers presented by the State, I became satisfied that it would not be possible or proper to apply to them the rules usually prescribed by the accounting officers of the Treasury for the settlement of military claims against the Government. The exigencies of the case demanded immediate action, and the exceptional circumstances under which they originated rendered these expenditures absolutely imperative, and would of themselves have justified a greater departure from the proper forms of the various vouchers than is found in them.

The troops employed were the regiments of Colonels Morledge, Edwards, and Bussey, on the southern border in 1861; the "southern border brigade" in 1862-63; "southwestern frontier companies" in 1861-62-63-64; miscellaneous companies in 1861, on southern border; the "northern frontier guards" in 1861; and the "northern border brigade" in 1862-63.

I shall not attempt to give a detailed history of the circumstances under which these several bodies of troops were called out, as they will be shown by the statements of his Excellency Governor Kirkwood, Colonel J. N. Dewey, State commissioner of claims, and the reports of the various agents and officers employed, all of which accompany this report. The Sioux Indians, very soon after the outbreak of the rebellion, showed a very strong disposition to hostilities, and caused intense alarm and excitement among the settlers in the northern and northwestern borders of the State. These settlers were mostly of foreign birth, only recently arrived in the country, and entirely unacquainted with the Indian character and habits, and hence the more easily excited and alarmed by the current reports of their treachery and barbarity.

"The alarm was such," says Governor Kirkwood, "that the people nearly en masse were leaving their homes, taking their families and such property as they conveniently could, and abandoning all else, and urgent appeals were made to me for protection." In this state of affairs, to afford such protection as was in the power of the State was an imperative duty with the Governor, and he discharged it faithfully by calling into the service of the State the various troops employed on its northern borders. They were retained only while their services could not be dispensed with, and as soon as they could be safely discharged they were mustered out. While in the service some of these troops built barracks and block-houses, and at the time of their discharge turned them over to the United States troops by whom they were relieved.

While this state of affairs existed in the northern section, armed rebels in Missouri and their sympathizers in the southern part of the State were strongly threatening its peace, and the Union men there were loudly calling for aid to protect themselves against bushwhackers, who in some instances penetrated far into the interior of the State, carrying off prisoners and committing their usual depredations. The Government was calling loudly for volunteers from the State to aid in the suppression of the rebellion, but, says Governor Kirkwood, "it was useless to expect men to volunteer to leave their homes and families unless they had some guarantee that these would be protected during their absence." Hence arose the necessity for the services of the regiments of Colonels Morledge, Edwards, and Bussey, as also the other organizations employed in the southern portion of the State.

These troops were accordingly "raised, armed, equipped, paid, and subsisted," in accordance with the provisions of an act of the Legislature of the State approved April 7, 1862, and hereunto appended, by which it is provided that "the officers and men shall receive the same pay and allowances as are allowed to like troops in the service of the United States."

In the examination of the question of reimbursement to the State of Iowa for the expenses incurred by these several bodies of troops two questions arise, by the answers to which the whole matter must be decided:

First. Was there such necessity for their employment as to justify their organization?

Second. Were the expenditures made under the several heads reasonable and proper, and in accordance with the spirit of the laws in such cases made and provided?

With regard to the necessity, the facts stated above show, in my opinion, that it was absolutely imperative. On the one border the lives and property of the inhabitants of the State were threatened by a sanguinary and savage foe; and on the other the integrity of the State itself as a member of the Union was in imminent jeopardy from armed traitors and rebels seeking its conquest. No one can doubt the necessity and propriety of employing these troops.

As to the expenditures, the Legislature, by the act referred to, directed that all accounts arising under the employment of these troops should be submitted, previous to payment, to a board of commissioners then in existence, whose duty it was to audit and allow all claims against the State. Fortunately the members of this board were intelligent and discreet, and consulted a rigid economy in their allowances, being somewhat controlled, perhaps, by the idea of the uncertainty of the amount being refunded by the

Government. The board had plenary powers; its decisions were final, as no appeal could be taken from them, nor could any account be paid without its approval, with the amount allowed indorsed upon it, and verified by the signatures of its members. My examination of these accounts shows me that they are carefully made up in accordance with the laws of the State, verified on oath, and though not in the forms used by the Treasury Department, yet sufficiently like them for all practical purposes. I therefore did not attempt to apply to them the regulations of the accounting officers of the Treasury, for had this been possible, it did not seem likely that Congress would have provided by law for a commissioner "to examine and report upon" claims that could have been as well decided upon by those officers themselves. The letters of the Secretary of the Treasury and the Second Comptroller, hereto appended, sanction this opinion.

The regiments of Colonels Morledge and Edwards, and the company of Captain Jones, were called into service in 1861, and were employed, with the consent of Major General Pope, in active service in Missouri.

The report concludes with a statement of the claim taken from the pay-rolls and other documents. At the conclusion of the reading of the report, the morning hour expired.

CHINA MAIL STEAMSHIP SERVICE.

On motion of Mr. SCHENCK, the House proceeded to business on the Speaker's table.

The first business on the Speaker's table was Senate joint resolution (S. No. 104) relative to the ocean mail steamship service between the United States and China, authorized by act of Congress approved February 17, 1865; which was read a first and second time, and, on motion of Mr. FARNSWORTH, referred to the Committee on the Post Office and Post Roads.

BRIDGES ACROSS THE OHIO RIVER.

The next business on the Speaker's table was the bill (S. No. 622) in relation to bridges across the Ohio river; which was read a first and second time.

Mr. BINGHAM. * I move to refer the bill to the Committee on Roads and Canals.

Mr. ELIOT. I think it should go to the Committee on Commerce. I move that amendment.

Mr. BINGHAM. I think it ought to go to the Committee on Roads and Canals.

Mr. RAUM. I desire to put it on its passage.

Mr. BINGHAM. I hope not. It is too important to pass at once.

Mr. PHELPS. Gentlemen ought not to vote upon a question so important as this without knowing what they are voting upon. The passage of this bill would involve the Government at once in an expense of nearly half a million dollars in the shape of damages to a company which has commenced the construction of bridges under the existing law, for which amount the Government would be responsible to the company in the Court of Claims. It is well for gentlemen to know that in voting for this bill they vote to involve the Government in an expenditure of nearly half a million dollars. I hope the bill will be referred to a committee.

The bill was read. It directs the Secretary of War, with the approval of the President, to appoint a board of scientific engineers, to consist of not less than five nor more than seven, who shall report to the next session of Congress the proper width of span for railroad bridges across the Ohio river adapted to the wants of navigation and commerce upon that river, and provides that until Congress shall by law take action upon the report no bridge shall be erected over the said river. The board of engineers are also to examine the bridge across the Ohio river at Steubenville, and report whether it is any obstruction to the navigation of the river, and if so, to what extent, and what should be done to remedy such obstruction. The provisions of the bill are not to be applicable to the bridge now in process of construction at Louisville, which bridge shall not be less than four hundred feet span across the main channel of the river.

Mr. BINGHAM. Those who have attended to the reading of this bill will notice that it discriminates on its face in favor of the State of Kentucky and against the State of Ohio. It

contains an express provision that its provisions shall not operate upon the bridge in process of construction at Louisville, Kentucky. It decides further as to the span requisite, to wit, four hundred feet. It then provides for a commission to determine against the bridge already completed across the Ohio river at Steubenville, and connecting by rail the cities of St. Louis and Cincinnati with the city of Pittsburgh, a structure that has cost nearly a million dollars.

Now, I desire that the bill shall be referred to the Committee on Roads and Canals, and let them examine into this question and report upon it, and satisfy this House why Congress should in advance discriminate in favor of Kentucky and against the State of Ohio, and why all our works should be stopped on the Ohio river, from its mouth to the southern border of the State, while the work is to go on in Kentucky, and why the commerce and trade of the whole Southwest should be secured to the State of Kentucky to the exclusion of the State of Ohio. I ask the House to consider further that a bill like this passed before without debate under the operation of the previous question. I think it is treatment to which the people of Ohio have not subjected themselves by their conduct in the past, and, for one, I protest against this discrimination in advance in favor of the interests of any State of this Union to the exclusion of my own State. The bill proposes to allow this commission to inquire concerning a bridge which has been fully completed and is now in use and in full operation, and to inquire what more is to be done in order to remove it, if you please, as an obstruction, to tear it down and destroy the interests of the great line of railroad extending from Pittsburgh to the city of St. Louis. I hope the reference will be made, so that justice may be done.

Mr. RAUM. Before the vote is taken upon this question, I would like to make some little explanation as to the course this subject has taken in the two Houses. It will be remembered that a joint resolution, which I had the honor of introducing, was passed by this House, making provision that no bridge hereafter to be constructed over the Ohio river should have a less span than five hundred feet over the main channel of the river. That joint resolution passed by a very large majority and went to the Senate. It was there referred to the Committee on Post Offices and Post Roads, and received very careful attention at the hands of that committee, and was resisted with a great deal of earnestness by certain Senators, and particularly by the Senators from West Virginia, and as a kind of compromise, and after thorough investigation of the subject, it was determined that the action of Congress should be postponed in reference to fixing the length of the span until there should be a survey made by competent engineers appointed by the War Department.

Now, sir, if these bridges thrown across the Ohio river are obstructions to the navigation of that great stream, as a matter of course it is proper that the Congress of the United States should interfere in behalf of the commerce of that great river; and before the gentleman from Ohio [Mr. BINGHAM] took umbrage at the action of the Senate in discriminating, as he says, in favor of Kentucky as against his own State, he should have investigated the subject and explained the facts upon which the Senate acted when they excepted the bridge at the city of Louisville. Why, sir, nature has discriminated in favor of that bridge, not the Senate of the United States.

Mr. BINGHAM. Will the gentleman allow me to interrupt him a moment?

Mr. RAUM. Certainly.

Mr. BINGHAM. What I want is a report to this House from the proper committee, which shall show the reason why the work in Kentucky shall be permitted to go on to completion, and the whole commerce of the Southwest thereby secured to the State of Kentucky, all the details being settled by congressional legislation, while the work in Ohio shall be

suspended. You say that nature has made the discrimination. I want the matter referred to a committee, so that the committee may report to the House the facts which are necessary to enable us to act properly upon the subject.

Mr. MULLINS. Let it be referred to the committee of nature.

Mr. BINGHAM. Let it be referred to the Committee on Roads and Canals; that is the natural committee for it.

Mr. RAUM. Nature has discriminated in favor of Kentucky, instead of Ohio. By a rock-bound shore, on each side of the river, nature has fixed the greatest width for the span of the bridge at Louisville. Four hundred feet is the entire distance between the rocks at the point where this bridge is to be constructed.

The gentleman from Ohio [Mr. BINGHAM] says that this bill proposes to discriminate against the Steubenville bridge. If he has examined the Senate report—which he may have done to his satisfaction—he must have discovered that the space at the base of the piers of the Steubenville bridge has been reduced by a surrounding of rip-rap to the extent of twenty feet, thus reducing the width of the channel between the piers forty feet.

Now, I would ask how the Senate and the House can act more intelligently upon this subject than upon the report of seven scientific engineers appointed by the War Department? I hope this bill will pass at this time. It has been thoroughly considered by the Senate and passed by that body.

Mr. KERR. I am very clear in my opinion that this bill should be referred as suggested by my friend from Ohio, [Mr. BINGHAM.] I think the subject-matter of this bill is one of very great importance to our entire country, and especially to the commerce carried on upon our great inland waters in the West. I think this bill should receive a more thorough investigation and inquiry at the hands of a committee than it has yet received. And I have no hesitation in saying further to this House that in my judgment the present bill is not right; that its recommendation as to the longest span of these bridges is not correct; that it proposes too great a length for the span. I think there ought to be a compromise between five hundred feet and three hundred feet, in order to accommodate alike or with some degree of equality all the interests of commerce, whether by rail or by river, which are involved in this proposition.

Now, a word in reference to the Louisville bridge. I think my distinguished friend from Ohio [Mr. BINGHAM] labors under a mistake in regard to the intention of this bill in relation to that bridge. The length of the longest span of that bridge is not fixed or altered at all by this bill; it was not controlled by any bill. The truth is, that the length of the span of that bridge was dictated by nature. It was regulated by the topography of the site of the bridge, not by engineers, not by laws of Congress, or the laws of Kentucky or of Indiana, but by the very form and shape of the spot over which it passes. The rocks that bound that channel have themselves determined the length of the span of that bridge, therefore it cannot be changed by this law. Should Congress now attempt to change the length of the span of that bridge it would have to change the topography of the earth there. And the span of that bridge, as it now stands, does not affect the channel of the Ohio river at all; it does not diminish its width or interfere with the natural course of commerce upon that river. That question, therefore, is not involved in this question of reference. I think the bill should be referred, not only to the end that the doubt suggested by my friend from Ohio [Mr. BINGHAM] may be removed, but to the further and greater and more important end that the House may be more fully advised as to the relative influence and effect of this proposed legislation upon all the interests of the country in connection with these bridges.

The gentleman from Ohio [Mr. BINGHAM] entirely misapprehends the intent of this bill

in its exception of the Louisville bridge. That exception was the result of no disposition to favor Kentucky, or to discriminate in favor of or against any section of the country. And so far as it increases railroad facilities or connections, or advances the interests of commerce by rail, it is more beneficial to the North and East than it is to the South or to Kentucky. It is certainly promotive of the general welfare and commercial development of the country. The real reason for that exception is the one I have already referred to. Besides, that bridge has been well high constructed under laws long since enacted, and to interfere now with its completion would work manifest injustice to the bridge company and render no compensating advantages to the public. It was, therefore, very properly excepted by the Senate from the operation of this bill.

I think it ought therefore to be referred to the Committee on Roads and Canals, to which, in my judgment, the subject properly belongs. The bill purports to be a general measure, designed to secure the establishment for all time of what may be called a national standard for the spans of these bridges across that river. If such a standard is to be established, it would seem to be very obviously just that it should embrace all the great rivers of the country, not the Ohio alone. Neither is it just that the erection of all bridges across the Ohio river should be forbidden, until the proposed commission report and Congress prescribes a uniform length of span, while the erection of bridges over the other great rivers is permitted to go on. There should be no sectionalism in this matter. Let the purposes of this commission be extended and made to embrace the Mississippi and other rivers; or if it be confined to the Ohio, then bridge enterprises long since projected in accordance with existing laws and now in process of erection ought to be allowed to go on.

Mr. MOORHEAD. Mr. Speaker, I supposed there would be little or no opposition to the passage of this bill, and I am somewhat surprised that any opposition has been manifested. It will be recollected that the bill passed by the House and sent to the Senate was imperative in its terms, providing that no bridges should be constructed except with a span of at least five hundred feet in width. The Senate discussed that measure for a long period of time. The committee of that body to whom the subject was referred held meeting after meeting. They obtained reports on the subject from the ablest engineers in the country. The result of all the examination and consideration given to the question by the Senate was the bill which they have sent to us, proposing to submit the matter to a commission of able engineers, to be selected for the purpose by the War Department, I believe. I do not see why any one should object to this proposition.

Mr. BINGHAM. If the gentleman from Pennsylvania [Mr. MOORHEAD] will allow me to interrupt him, I desire to inquire whether the provision now contained in this joint resolution in relation to the railroad bridge completed above the city of Steubenville was included in the House bill at all?

Mr. RAUM. No, sir; it was not.

Mr. BINGHAM. So I understood.

Mr. RAUM. The Senate saw fit to include that.

Mr. MOORHEAD. The bill as passed by the Senate provides for the selection of engineers who, upon full examination, shall decide how the bridges shall be constructed. If there is any obstruction in the river, they will decide, I suppose, that that obstruction shall be removed. This appears to be a question between the navigation of the rivers and the crossing of the streams by railroads. Now, I am in favor of protecting the navigation of the rivers to the largest practicable extent, and I am at the same time opposed to preventing the railroads from crossing the streams. If these two interests conflict, each must to a certain extent yield to the other; we must adopt an arrangement satisfactory so far as possible to

both. Now, it is a well-ascertained fact that these bridges can be constructed with spans of five hundred feet; and that, if constructed with spans of only three hundred feet, they are destructive to the interests of navigation. It being then entirely practicable to build bridges with a span of five hundred feet, their construction in this way is a mere question of the expenditure of a little more money; and I am in favor of requiring the railroad companies who are to cross the streams to make this additional expenditure rather than destroy the navigation of the rivers.

The bill, however, proposes to leave this question to the commission to be appointed. This commission will not ask us what their decision shall be. These men, to be selected on account of their scientific skill, are to decide this question.

Mr. TRIMBLE, of Kentucky. Will the gentleman allow me to ask him a question?

Mr. MOORHEAD. Yes, sir.

Mr. TRIMBLE, of Kentucky. Why could not the Committee on Roads and Canals, or any committee of this House to whom the question may be referred, summon before them these engineers and obtain all the information necessary to enable them to submit to the House a full report of the facts, with such a bill as would be satisfactory to the entire section of country interested? I desire to ask the gentleman further whether this bill does not propose to apply to the Ohio river a principle which the legislation of the country has applied to no other stream within the limits of the United States? Why should this principle be applied to the Ohio river, and no other?

Mr. MOORHEAD. I am glad the gentleman has propounded this inquiry. In answer to the first part of the question I would say that the Senate had this matter under consideration for weeks. I was called before their committee two or three times. I went over there day after day to consult with the members of the Senate. They were very much annoyed with this question. Any one who will examine the Globe of the last session will find that this subject was up day after day for weeks, being postponed time and again. The committee labored upon the subject, and the Senate labored upon it. The result was that they agreed upon this bill; and I suppose there is nearly as much wisdom in the Senate as in this House. Well, my friend from Iowa [Mr. PRICE] says that cannot be admitted, and on his account I take it back.

Mr. TRIMBLE, of Kentucky. The committee to whom it has been referred have had a number of these things before them.

Mr. MOORHEAD. They have; and I do not know but they had the gentleman from Kentucky there. They had before them a great many gentlemen, some of the best engineers of Kentucky. I know they had Colonel Warren and Mr. Roberts, an engineer on the Ohio river, and General Humphreys, also. They obtained a written report, but they failed to get information enough to satisfy them on the subject.

Mr. JONES, of Kentucky. The gentleman says it is ascertained that a railroad bridge can be built with a span of five hundred feet. Does he know of any such bridge in the United States?

Mr. MOORHEAD. I know one at Niagara of about a thousand feet span.

Mr. JONES, of Kentucky. A railroad bridge.

Mr. MOORHEAD. Yes; trains of cars run over it every day.

Mr. JONES, of Kentucky. That is a suspension bridge.

Mr. MOORHEAD. There is nothing said in this bill about the kind of bridge.

Mr. JONES, of Kentucky. Be that as it may, I desire to know the main object of this bill. I do not understand it, and would be very glad if the gentleman would make a statement of the object.

Mr. MOORHEAD. It is just on account of this collision I speak of, between the navigation of the river and the railways that have

to cross the river. The parties in favor of the protection of the navigation of the river say that it is obstructed by these piers, and for the purpose of ascertaining exactly what that measure of obstruction would be, the Senate, as I think wisely, has given us a bill referring the matter to a committee of scientific men.

Mr. JONES, of Kentucky. I ask if the committee appointed by the War Department for the purpose of examining this matter have reported.

Mr. MOORHEAD. They have not been appointed, and will not be till this bill is passed.

Mr. BINGHAM. I desire to correct the gentleman's statement in one particular, about referring this matter to scientific men. By the passage of this bill the bridge at Louisville is expressly excepted from its operation.

Mr. MOORHEAD. I suppose the gentleman from Indiana [Mr. KERR] had satisfied the gentleman from Ohio as to what nature had done at that point.

Mr. BINGHAM. No, sir; he has not satisfied me. I am only correcting the gentleman's statement.

Mr. MOORHEAD. I hope the gentleman will not undertake to override the laws of nature.

Mr. BINGHAM. The case of the bridge at Louisville is not to be referred to scientific gentlemen, but is decided in this bill. It is excepted from the operation of the bill.

Mr. MOORHEAD. Before I leave the subject there is one other point to which I wish to refer. I have some facts on this subject that I think it proper should be laid before the House. I know there will be a question raised here about vested rights, about certain bridges having been commenced and the piers having been put into the river since the last adjournment of Congress. Now I have some particular information on that subject that I do not know that any body else has, and being a member of Congress, and feeling it my duty to give the House all the light on the subject I can, I think it very proper I should state it.

During the last fall I was called upon by an engineer in charge of the Baltimore and Ohio railroad, who spoke to me about the construction of a bridge at Parkersburg, and another at Belair, below Wheeling. He said he was going to put in the piers. I informed him that at the last session of Congress the Senate had passed a bill, which was pending before the House, referring the subject of bridging the Ohio river to a scientific commission; that I had no doubt the bill would be passed among the earliest actions of the House, and that would send the whole question to a scientific commission. I therefore advised him not to build the piers until that commission should decide the question, unless he should make them at least five hundred feet span. He laughed at me, and said that was a reason why he was in more of a hurry to get his piers in. He wanted to establish this very vested right that has been spoken of here in such eloquent terms.

Mr. TWICHELL. I would like to know of my friend if a span of three hundred feet would not be as wide as the navigation of the Ohio river is at its narrowest point?

Mr. MOORHEAD. Yes, at low water; but at high water it is from shore to shore. The channel is just as wide as the banks of the river are apart. Some of our coal-boat tows are two hundred and fifty feet in width, and they cannot run through a channel of two hundred and fifty feet.

Mr. HUBBARD, of West Virginia. I trust the House will adopt the motion of the gentleman from Ohio, [Mr. BINGHAM,] and refer this bill to the Committee on Roads and Canals. In the first place, no injury can accrue to any party by such a reference, but rather it will benefit all concerned. The gentleman from Pennsylvania [Mr. MOORHEAD] has said that one interest must yield to another in this matter. By reference to the committee, and only by reference, can it be properly ascertained how far these interests shall yield each to the other, so that the greatest good may result to

the whole country. The friends of river navigation and the friends of railroads can each present their views before the committee, and the committee thus be enabled to reach such conclusions as will be satisfactory to all. Any other course, it seems to me, would work wrong and injustice—wrong which, I am satisfied, this House does not wish to inflict.

There is another feature in connection with this bill to which I desire to call the attention of the House, and that is that if this commission be appointed it shall report to the next session of Congress. Well, now, when will the next session of Congress be held? Probably the Forty-First Congress may hold a brief session on the 4th of March next, but this commission, if appointed, will not have time to prepare a report and submit it at that session, and it must necessarily go over until December of next year. The whole of next summer will be lost so far as this bridge-building interest is concerned, and, as a consequence, the bridge now erected across the river at Steubenville, in which the Central Pennsylvania railroad is more especially interested, will have the advantage all the time, while the Baltimore and Ohio Railroad Company, which has now two bridges in progress of erection, will be compelled to stop their work in the erection of bridges, and their interest in the transportation of the country will suffer, while the Pennsylvania Central Railroad Company will enjoy that interest for a year longer.

Now, it is said that the Baltimore and Ohio Railroad Company has commenced the erection of its bridges since the adjournment of the last session of Congress. To my certain knowledge that road has been preparing materials and making ready for building the bridges for the last two years, and they have already expended nearly half a million dollars in connection with those bridges. They have located their piers so as to interfere as little as possible with the channel of the river, thus securing the best draught of water, locating the piers so that the water will draw fairly between them; and it is generally understood that the three hundred feet span which they are providing is sufficient to accommodate all the craft which can navigate the river at the ordinary stages of water.

I trust, therefore, in order that justice may be done to all interests and to all parties, that this bill may be referred to the Committee on Roads and Canals, where the parties interested can be heard and the committee can decide how far the navigation interest of the river must yield to the internal commerce of the country, and how far the internal commerce of the country shall yield to the navigation of the river. And when they shall be fairly heard I am satisfied the committee will not report favorably upon this bill. I trust it will be referred.

Mr. NIBLACK. I was not in the Hall when this bill was read, and I have to trust to what I have heard in this discussion in considering its provisions. My first impulse was to vote to refer it to the Committee on Roads and Canals, so that it may have further investigation; but the little discussion I have heard has impressed me with the conviction that the best thing that those who are opposed to the legislation which has heretofore passed Congress upon the subject of bridges can do is to advocate the passage of the bill in its present form.

During the last session of Congress, when this question of bridging the Ohio river at Paducah, I believe, was before the House, I felt constrained to oppose the passage of the bill. I took the position then—a position to which I still adhere—that all bridges constructed upon any plan which is generally in use upon the great rivers of the country are obstructions to commerce, and must of necessity be so. Representing as I do a district which is bounded upon one side by one hundred and seventy miles of the Ohio river, it becomes to the people of my district an important and to some extent a vital question. It will be with regret that I shall witness the construction of any bridges across the Ohio river below the falls of the

Ohio, at the city of Louisville, to which reference has been made in this discussion; but I presume, sir, that the railroad interests of the country will have sufficient influence to obtain from Congress and from the Legislatures of the States legislation sufficient to enable them to bridge that river at almost any point they choose. At all events, I think I am justified in making this statement, from the history of these bridge questions before Congress and before the State Legislatures.

If, therefore, we are to have bridges, it is important, at least to those I represent, that they shall be constructed in a manner that will produce the least possible obstruction to the navigation of that great river. As at present advised I should not vote under any circumstances for a bill allowing a bridge to be constructed across that river of a span less than five hundred feet. I am told that bridges can be constructed with a span of less length, and if properly constructed the injury to the navigation of the river would be very slight indeed. It may be that bridges might be constructed with a less span than five hundred feet, but that is a subject which I believe has not been fully investigated here; at least it is a subject which the public has not very maturely considered as yet; it is a subject upon which comparatively few persons have information.

In view, then, of this position of things, I know of nothing better to be done than to appoint a commission, as I am informed this bill proposes to do, to investigate this subject and to determine how much span is required for any of the points at which it is proposed to build bridges. If, therefore, we cannot defeat this legislation which we believe to be injurious to the commerce of the Ohio river, I think we should do the next best thing, and mitigate the evil, so far as we are able to do so. After hearing both sides of the question I am prepared, contrary to my first impression, to support this bill and to vote against its reference, because I believe that in the present condition of the legislation of the country, and considering the fact that this is the short session of Congress, to refer this bill is practically to defeat it.

Mr. RANDALL. It seems to me, with the slight information I have been able to obtain during the discussion of this question at this time, that this is a most important subject. As has been stated, it is in some degree a conflict between the river navigation and the railroad transportation of the West. It therefore involves immense interests, and should have due and full consideration from this House before we here, as the Representatives of the people, place it beyond our power to remedy any wrong which may result from legislation. Therefore, as the safe course, as the proper course to pursue, I shall vote for a reference of this bill, so that a proper and appropriate committee of this House may have an opportunity to examine the subject and to report thereupon. The proper committee, as I understand it, is the Committee on Roads and Canals—a committee constituted under the rules of this House, and to which the consideration of this subject properly belongs. In my opinion no interest can possibly suffer by a short delay, which will give an opportunity for examination, so that great and material interests of this country may not be injured by precipitating indiscreet action on our part. As one of the Representatives of parties who may be more or less interested in this matter, I desire that a reference shall be made, and that the subject may be fully examined and reported upon.

Mr. CLARKE, of Ohio. I do not know what danger there may be in this bill, and I do not know but I may ultimately support it. But if this proposed commission should be raised it would perhaps tend in some degree to change the action of Congress, and we might ultimately find ourselves in this condition: with the Ohio bridged from Pittsburgh to its mouth with bridges of three hundred feet span. The river is now very largely used for floating and

transporting merchandise in masses of large bulk, which, in that case, would be rendered impossible. And if we deprive it of that capacity we will destroy a very important interest of the western country, and especially of southwestern Ohio. When this commission shall have been appointed it will probably go out to the Ohio river, and be there visited by those in favor of the one and the other scheme of bridging the river, and its recommendations would tend to influence the minds of those who are not familiar with the capacity of that stream and the purposes for which nature seems to have designed it.

I am opposed to any bridge being constructed over that river with a span of less than five hundred feet, and I hope the time will come when the bridges already constructed will be required to extend their spans to that length. Those familiar with the navigation of that river know that those bridges already erected are a serious detriment to the navigation. The coal transportation down the river is seriously impeded by them, and in consequence of the increased difficulty of navigation the price of coal all along the lower part of the river is largely enhanced. An ordinary fleet of boats loaded with coal cannot pass at night through the spaces afforded by those bridges, but must tie up till daylight—

Mr. HUBBARD, of West Virginia. I would like to ask the gentleman what is the usual width of the coal-tows passing down the river?

Mr. CLARKE, of Ohio. I understand that they go down sometimes with a front of two hundred and fifty feet.

Mr. HUBBARD, of West Virginia. The gentleman's information is very different from mine. I understand that they never run more than four barges abreast, each barge being from twenty-five to thirty feet in width, making a total breadth of one hundred to one hundred and twenty feet.

Mr. CLARKE, of Ohio. I know that fleets arriving in the night at one of those bridges are frequently obliged to tie up till daylight in order to go through safely; and if they arrive at the time of a slight storm on the river, they are compelled to await a calm to pass through with safety. This is a specimen of the obstruction experienced on that river by a species of navigation which is of the utmost importance.

Mr. MILLER. I desire to ask the gentleman whether there is on that river any bridge with a span such as he advocates?

Mr. CLARKE, of Ohio. There is at Cincinnati a bridge with a span of one thousand feet—a substantial bridge capable of bearing any required burden; a structure which is not only no embarrassment to the river, but an embellishment to it. If the railroad companies would construct such spans as that they would have all the facilities they can reasonably desire, while the navigation of the river would not be interfered with.

Mr. MILLER. Is that a railroad bridge, or is it used only by foot passengers, carriages, &c.

Mr. CLARKE, of Ohio. The street cars pass over it, and it is hourly subjected to greater weight than would pass over any railroad bridge that might be constructed on the river either above or below that point. There is no question about the practicability of constructing such a span; there is no question about its ability to bear all the burden required for railroad transportation. The only question is that of cost. Shall we sacrifice the navigation of that great river for the sake of saving a few thousand dollars to certain railroad corporations? I trust not; and of all corporations save us from that to which the gentleman from West Virginia has alluded—a corporation that now holds within its grasp so large a portion of the carrying and passenger trade of the country, and to whose control I hope we shall not much longer be required to submit. I am willing to give to these railroad corporations every facility which they can reasonably ask; but I do not want to surrender to their control interests of such grave importance to every man, woman,

and child in the country. Why, sir, the fuel that is to warm the people of southern Ohio depends upon the free navigation of that river; and if we authorize the construction of these bridges with but three hundred feet span I cannot tell the extent of the injurious consequences which may result. Whatever may be done I trust we shall not allow a span of less than five hundred feet upon that river.

Mr. DELANO. Mr. Speaker, I do not venture to express any opinion as to the practicability of erecting a railroad bridge with a five hundred feet span so as to be safe for passengers. I do not profess to have sufficient knowledge as to the science of bridge-building to undertake to say whether with a span of five hundred feet there would be such security to the lives of railroad travelers as to justify the attempt. But as it is a new experiment I submit that legislators, before giving their sanction to such an experiment, should be well advised that it can probably be made successful; for it would be unfortunate if we should have to learn by the sacrifice of human life that such a span cannot be built with safety to travel. So much I desire to say because the object of this bill is to establish hereafter a span of five hundred feet and to hazard the lives of travelers by an affirmative decision as to the practicability of such a span with a proper regard to safety.

Last session there was introduced in this House, and considered under the operation of the previous question, a resolution proposing to require in the construction hereafter of bridges across the Ohio river a span of five hundred feet. Why the Ohio river was specially selected, and why the rule was made applicable to future bridges, when there was then in progress at Louisville, low down on the Ohio, a bridge with a span of four hundred feet, I could not comprehend, unless the object was to force railroad travel across the Ohio at that point to the advantage of certain railroad interests on the other side of the river and in an easterly direction. I fought that proposition, but it was passed and went to the Senate, and the result is, I believe, the proposition now before us.

Now, what is this proposition? Let us look at it for a single moment. It is that a commission shall be appointed to inquire what span ought to be adopted on the Ohio river, still confining this enterprise to that river, while all along the great Mississippi, which lies west of the Ohio, no such experiment is to be made and no such plan is to be adopted. I leave members to inquire why it is confined to the Ohio river. I do not understand it. But not only is it confined to the Ohio, but this bill contains a provision that the four hundred feet span at Louisville may continue. The work on all the rest of the bridges must be suspended and be postponed indefinitely, waiting the slow progress of this commission. It is an insidious, indirect way of accomplishing what a straightforward fight could not accomplish, and what the parties who sought to accomplish by a straightforward fight were defeated in. It is an outrage that the fine bridge at Stenbenville, near the district of my colleague, [Mr. BINGHAM,] should be subject to the criticism of this question of four hundred or five hundred feet span, while you permit a bridge to be built near the mouth of the river with a span of four hundred feet. It is an outrage that ought not to be perpetrated by this Congress.

I trust, therefore, with this simple statement of the question, that the House will refer the matter to one of its committees. My colleague [Mr. BINGHAM] has pressed its reference to the Committee on Roads and Canals. That is the legitimate committee to take charge of the question, in my opinion. I think we shall have from that committee a recommendation of some action not dictated by local interest or corporate interest, but which shall rest upon sound principles of equity and justice. I feel sure, if the House can understand this question, the reference will be made without hesitation.

Mr. CLARKE, of Ohio. I desire to ask the gentleman if he understands that those who propose the five hundred feet span propose also to except the bridge at Louisville from the operation of that restriction?

Mr. DELANO. I do.

Mr. BINGHAM. The bill makes the exception.

Mr. DELANO. Allow me to call my colleague's attention to the fact that the bill in its present form orders a scientific commission first to determine what span ought to be adopted hereafter. It then proposes to suspend all structures across the river until the commission shall report. It then authorizes the commission to examine and see whether the bridge at Steubenville is or is not an obstruction, and then, to accomplish the indirect and insidious purpose of these parties, it makes an exception in the case of the Louisville bridge and allows that to be completed. That is what the bill is, and what it means.

Mr. CLARKE, of Ohio. I can only say I do not concur in that exception by any means.

Mr. BINGHAM. That is the point.

Mr. DELANO. Let me read one of the provisions of the bill. It provides "that the provisions of this bill shall not be applicable to the bridge now in process of construction at Louisville, which bridge shall not be less than four hundred feet span in the clear across the channel." It is manifestly an insidious effort to secure the building of a bridge at Louisville of four hundred feet span, and hereafter to inhibit forever the building of bridges of a like span across the river at any other point. You may go up the stream, where it would seem natural that the span might be shorter, and there, if you can get a proper report, such as is contemplated here, you may make a five hundred feet span; but near the mouth of the river, in the mean time, we will allow a structure with a four hundred feet span for the benefit of certain corporations or interests. That is the question, and its barefacedness ought to subject it to a proper disposition, and that, I think, is the one suggested by my colleague, [Mr. BINGHAM.]

Mr. KERR. I desire to say, in reply to what has fallen from my friend from Ohio in reference to the confinement of this bill to the Ohio river, that it will be remembered by the House that while the bill excepts from its operation the Louisville bridge, it also and equally excepts all the bridges that are in process of erection on all of the western rivers, so that the Louisville bridge is not the only exception. It is only one of the exceptions. The bill applies to and embraces all the other enterprises of like character throughout the entire country, except on the Ohio river. For this additional reason, I submit, it is unfair; it is not national in its character; it is not such a bill as ought to pass.

Mr. CARY. Mr. Speaker, I cannot see any invidiousness in this bill in reference to the Louisville bridge that is exempted, when it is understood that the channel at that place is not and never can be over four hundred feet wide. We have a canal around the falls which was built to aid the commerce of that river in passing up and down.

Mr. BINGHAM. Will my colleague allow an inquiry?

Mr. CARY. Certainly.

Mr. BINGHAM. Does my colleague wish to be understood as making the statement to this House that at the highest water there is no more than four hundred feet of navigable channel at the point where this bridge is located at Louisville?

Mr. CARY. I mean to be understood as saying that when they pass the falls at Louisville there is but four hundred feet at any tide between the rocks where it is safe to pass.

Mr. BINGHAM. My question is whether the gentleman means to state to the House that at no stage of water is there a navigable channel at the point occupied by the bridge at Louisville wider than four hundred feet?

Mr. CARY. I mean to state that unless the

whole country round is covered with water that is the fact. If it is ever over four hundred feet in width it is an exception, and that exception is when the whole country round is under water. So that this attempt on the part of my colleague to create an impression in this House that this is for the benefit of Indiana or Kentucky, or both combined, and against the State of Ohio, is not borne out by the facts. I wish members of the House to understand the facts. And so far as the Steubenville bridge is concerned, it has cost already in damages and in obstructions to commerce more than the interest on the cost of building it.

Mr. DELANO. Will my colleague allow me to make an inquiry?

Mr. CARY made a gesture of assent.

Mr. DELANO. I understand—I do not assert the fact, because I have no positive knowledge—but I understand that there is a pier within the span of four hundred feet at the Louisville bridge.

Mr. CARY. I understand that that is not the fact. If you were to require that there should be a span of one thousand feet at Louisville, it would not increase the width of the river for purposes of navigation over four hundred feet. That is what I mean to be understood as saying: that four hundred feet is all that can be used for navigation. And so far as Ohio is concerned, I say in behalf of my constituents and of my colleague's constituents, who are interested in bridges on the upper Ohio, that we are as much interested in the navigation at Louisville being unobstructed as we are in the upper Ohio being unobstructed, and more interested. It is not, then, for any such reason that we are in favor of making this exception.

But, Mr. Speaker, why refer this bill? Will the Committee on Roads and Canals be any better posted than we are now? This bill of the Senate proposes to refer the matter to a commission to determine how wide the bridges should be made upon the Ohio river so as not seriously to obstruct navigation. The gentleman from Maryland [Mr. PHELPS] says that the Baltimore and Ohio Railroad company have already spent \$500,000 in building the bridge at Belair, and I understand that they have a large force of hands employed to continue that work, in order, if possible, to render it necessary for Congress to yield to their demands.

Mr. PHELPS. They are building two bridges.

Mr. CARY. And another one is to be built at Cincinnati. And the Board of Trade of Cincinnati, and all the insurance companies and all persons interested in the navigation of that river, unless connected with railroads, say that those bridges are and will be an obstruction. Suppose they have spent \$500,000. I say that if it is necessary we should pay them that \$500,000 to remove the obstruction, it will be better for us to do it than to wait until there are four or five bridges constructed over the river which it will be necessary for the General Government to remove because they are obstructions to the navigation of the river. Let us refer the matter to a commission, as this bill proposes. It does not say a word about a five hundred feet span, but it provides that the question shall be referred to a competent corps of engineers to determine how wide the bridges ought to be over that river so as not to obstruct commerce. Shall we have any more light on that subject until the commission are appointed and report? Can the Committee on Roads and Canals tell us anything?

This measure was before Congress and was fully discussed at the last session. We cannot have any more light upon the subject than we have now without the appointment of a commission? Let us suspend the work on the bridges over that river. Why, the commerce on that river is worth five times more than all the railroads that ever proposed to cross it. We know that at the bridge already constructed, that splendid structure, the Steubenville bridge, boats are compelled to lie up there over night, and that they cannot get through without danger to the property. One man who

ships coal from Pittsburg to Cincinnati testifies, and his testimony is on record, that the obstruction of the navigation of the river by that single bridge has cost him \$10,000 a year in getting his coal to market. When the Ohio river is high, and the coal is going down the river, there is a strong current, and you have piers within three hundred feet of each other, and it creates such a current around the piers that it is impossible to get through with the barges until the river falls; and when the river falls so that they can get through they are in danger of running upon sand bars upon one side or the other.

They now avail themselves of the time when the water is high, in order to get down barges of coal, iron, salt, and other articles that are sent down the river. But when the river is high these bridges constitute such an obstruction that the barges are compelled to tie up. And then the additional expense for insurance that is charged upon commerce on account of the bridge at Steubenville is more than the interest upon the cost of its construction. I am not opposed to railroads, for we are all interested in them. But let us keep the great channels of commerce God has given us open for the whole people; and that cannot be done with these narrow-span bridges. One reason why gentlemen are disposed to impress upon this House the fact that there is some discrimination in favor of the Louisville bridge is, I infer, that they want to refer this bill to a committee, so that those interested in the construction of these bridges can go on night and day in their construction, until they render all action on the part of Congress nugatory and void, or else involve the nation in the expense of removing those obstructions.

Mr. BINGHAM. I now call the previous question.

Mr. MOORHEAD. Will the gentleman withdraw the call for the previous question for a few minutes?

Mr. BINGHAM. Certainly, I will withdraw that motion, and yield to the gentleman for five minutes.

Mr. MOORHEAD. As I understand it, the first question will be upon the amendment to the motion to refer. I move to amend the amendment by striking out the words "Committee on Commerce," and inserting the words "Committee on the Post Office and Post Roads." I do not see why the Committee on the Post Office and Post Roads should be over-slaughed. But I want to say to those members of this House who are with me upon this subject that I shall vote against any reference of this bill, and hope that it will pass as it now stands. Still, if it is to be referred, I do not see why the Committee on the Post Office and Post Roads should be over-slaughed in the matter of reference. The bill, as it passed the House, originated in that committee. It went to the Senate, and was referred by that body to the Committee on Post Offices and Post Roads. And I now hold in my hand the report upon that subject of the chairman of the Senate Committee on Post Offices and Post Roads, being Senate Document No. 168. It was referred to that committee in this House; it was referred to that committee in the Senate; and I think it is the proper committee to whom the subject should be referred now, if it is to be referred at all, in order that they may see that the mails are carried across the stream. I do not see why that committee should be over-slaughed, particularly when it is proposed to refer this bill to a committee that meets scarcely once a year; that is, the Committee on Roads and Canals.

Unfortunately the manner in which the business of this House has been conducted has been such as to throw all the business into the hands of but few committees, while the work devolved upon the other committees has been merely nominal. The Committee on Roads and Canals is heard from hardly once in a session; it is seldom mentioned, unless some member wishes to consign some measure to the "tomb of the Capulets," when he moves

to refer it to the Committee on Roads and Canals. I am opposed to any reference of this bill at this time. But if it is to be referred I hope my amendment will be adopted, and that it will be referred to the Committee on the Post Office and Post Roads.

Now, one word in reply to the gentleman from Ohio, [Mr. DELANO,] who always speaks eloquently, and who always speaks in a very argumentative and convincing manner, so much so that he would almost induce the House to believe that there had been—I hardly know what—larceny, or burglary, or some great crime committed in connection with this matter. He referred to the insidiousness of the men who have moved in this matter. He spoke of the gross outrages in connection with this matter, in tones of denunciation that almost took the glass roof off the Capitol.

Now, I want to call the House back to its sober senses in relation to this subject. What is there at all insidious in this bill? The conclusion to which the Senate arrived, after discussing this subject for weeks, was to send the matter to a board of seven scientific men, selected for their peculiar knowledge on this subject. Yet the gentleman from Ohio [Mr. DELANO] would induce this House to believe that some men, or some set of men, had committed a gross outrage, and it was necessary that they should be immediately arrested for it. Now, I do not understand the necessity of using such language on such a subject and upon such an occasion as this.

I do not think there was anything to call it out. I am sorry it was indulged in; and I am sorry I have found it necessary to call the attention of the House to that part of the gentleman's argument; for I know he always speaks convincingly; he has convinced me very often—sometimes almost against my will. I have nothing further to say.

Mr. BINGHAM. I desire merely to answer the question which the gentleman from Pennsylvania [Mr. MOORHEAD] asks. The Committee on Roads and Canals is the appropriate committee to which this reference should be made. The construction of a bridge is the construction of a road; and if there is anything that is at all pertinent to the business of this committee it is precisely the bill which it is now proposed to refer to them. I desire, however, to say further that the gentleman has no right to assume that a standing committee of this House, when a measure is referred to it for consideration, will not discharge its duty; nor is it right for him to intimate that this committee is not quite as competent to investigate this question—a question altogether germane to the duties devolved upon it by the rules—as any other committee of the House.

Mr. MOORHEAD. I made no insinuation against the competency of the committee.

Mr. BINGHAM. The gentleman intimated that the committee would not attend to its duties. I say that he assumed what he had no right to assume with reference to the committee, especially when it has at its head the honorable gentleman from Illinois, [Mr. COOK,] who understands these western interests, and who, when he comes to examine the subject, will doubtless consider the question whether, if it be right thus to fetter the commerce in transit by rail across the Ohio, it would not be equally right to fetter by like restrictions the commerce in transit across the Mississippi and the Missouri. I desire to have the subject referred to this committee because it has at its head an honorable gentleman who stands in no wise committed on the one side or the other of this question, and who, I undertake to say, understands the interests which the people of the Mississippi valley have in this controversy quite as well as any gentleman in this House.

Mr. COOK. Mr. Speaker—

Mr. BINGHAM. I yield to the gentleman.

Mr. COOK. Mr. Speaker, I have no interest in this question and no desire to undertake the labor of investigating it. I wish merely to correct a misapprehension into which the gen-

tleman from Pennsylvania [Mr. MOORHEAD] seems to have fallen in saying that the Committee on Roads and Canals hold a meeting but once a year. We have met at least once a week during the last and the preceding session of Congress, have reported quite a number of bills, and have presented several elaborate reports upon subjects which we were directed by the House to investigate. We have not been so lazy as the gentleman thinks.

Mr. BINGHAM. I will conclude, Mr. Speaker, by repeating in the hearing of the House the statement which I made in my opening remarks, that, in spite of all that can be said by any man on this subject, the effect of the bill, if it be passed by the House in the form in which it now stands, will be to shut out for the time being every city and town in the State of Ohio from the benefits of commerce by rail with the southwest, and to give that commerce exclusively to the city of Louisville. This is a discrimination which I trust the House will not make until, by an elaborate report from its appropriate committee, it is fully informed as to the wisdom and justice and equity of such a proceeding. I now call the previous question, and I hope that the motion to refer the bill to any other committee than the Committee on Roads and Canals will be voted down.

The previous question was seconded and the main question ordered.

The first question was upon the amendment to the amendment, proposing to strike out "Commerce" and insert "Post Office and Post Roads," so as to refer the bill to the Committee on the Post Office and Post Roads.

The amendment to the amendment was not agreed to.

The question next recurred upon the amendment, to strike out "Roads and Canals" and insert "Commerce," so as to refer the bill to the Committee on Commerce.

The amendment was not agreed to.

The question then recurred upon the motion to refer the bill to the Committee on Roads and Canals.

The motion was agreed to; there being—ayes one hundred and nine, noes not counted.

So the bill was referred to the Committee on Roads and Canals.

Mr. BINGHAM moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

COMMITTEE ON REVOLUTIONARY CLAIMS.

Mr. TROWBRIDGE. Mr. Speaker, I ask to be excused from further service on the Committee on Revolutionary Claims.

The SPEAKER. If there is no objection, the gentleman will be excused.

There was no objection.

The SPEAKER announced the appointment of Mr. HAMILTON to fill the vacancy caused by the retirement of Mr. TROWBRIDGE.

ALTA VELA.

Mr. PHELPS, by unanimous consent, presented the petition of citizens of Baltimore, Maryland, relative to the claims of the Government and of citizens of the United States to the Island of Alta Vela; which was referred to the Committee on Foreign Affairs.

Mr. PHELPS. I ask unanimous consent to submit the following resolution:

Resolved, That the Committee on Foreign Affairs be, and are hereby, instructed to inquire into the alleged injuries and outrages sustained by Abraham B. Patterson and P. de Murguiondo, citizens of Maryland, in their forcible eviction by the authorities of St. Domingo from the guano islet of Alta Vela in October, 1860, and by other citizens of the United States, agents of the said Patterson & Murguiondo, in the assaults, imprisonments, and other trespasses accompanying and succeeding said eviction, also committed by said authorities, and whether any, and what, action of Congress is required to protect the rights and redress the wrongs of American citizens abroad, to vindicate from dishonor the American flag, and to maintain the lawful jurisdiction of the United States; with leave to report by bill or otherwise.

Mr. UPSON. I object.

ADJOURNMENT TILL MONDAY.

Mr. SCOTFIELD. I move that when the

House adjourns to-day it adjourn to meet on Monday next.

Mr. MAYNARD. I hope not. To-morrow is private bill day, and we will have few private bill days during this session.

Mr. SCOTFIELD. All members have business at the Departments.

The House divided; and there were—ayes 99, noes 24.

Mr. HIGBY demanded the yeas and nays. The yeas and nays were not ordered.

So the motion was agreed to.

Mr. SCOTFIELD moved to reconsider the vote by which the motion was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEGAL-TENDER NOTES.

Mr. BROOMALL, by unanimous consent, introduced a bill (H. R. No. 1492) to regulate the value of United States legal-tender notes, and for their redemption; which was read a first and second time, and referred to the Committee of Ways and Means.

ACCOUNTS OF INDIAN AGENTS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting, in compliance with the act of Congress of March 2, 1867, tabular statements of accounts with Indian agents to June 30, 1868; which was referred to the Committee on Indian Affairs.

The SPEAKER. The accompanying documents are voluminous, as the House will see, and it will decide whether they shall be printed or not.

Mr. WASHBURNE, of Illinois. I move that the question of printing be referred to the Committee on Printing.

The motion was agreed to.

FORT SNELLING RESERVATION.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Secretary of War, transmitting papers relative to the sale of the Fort Snelling reservation; which were referred to the Committee on Military affairs and ordered to be printed.

LEAVE OF ABSENCE.

Mr. FOX, Mr. GARFIELD, and Mr. BUCKLAND were granted leave of absence for one week.

F. A. GIBBONS.

On motion of Mr. MORRELL, leave was granted for the withdrawal from the files of the Committee on Agriculture of the papers in the case of F. A. Gibbons, and the substitution of other papers.

RECESS.

Mr. WASHBURNE, of Illinois. Mr. Speaker, at the suggestion of many members, I offer my resolution in reference to a recess. Gentlemen wish the matter settled some way or the other. I propose an adjournment from Monday, the 21st instant, to Tuesday, the 5th of January next, not the 15th, as the papers have had it. I will yield to the gentleman from Ohio, chairman of the Committee of Ways and Means, who desires to propose another time, and after that has been done, unless remarks are made requiring an answer, I will demand the previous question.

The Clerk read the resolution, as follows:

Resolved, (the Senate concurring.) That when the two Houses of Congress adjourn on Monday, the 21st instant, they adjourn to meet on Tuesday, the 5th day of January, 1869.

Mr. SCHENCK. I have to say in behalf of my committee that they know there is an abundance of business demanding the attention of the House, without reference to the general appropriation bills, which we were informed the other day could not be reported until after the holidays. Independently of everything else there are two special orders having precedence: one the tariff bill, which was under consideration in the Committee of the Whole at the last meeting of Congress, and the other the general tax bill, both of them in the Committee of the Whole ready to be

proceeded with, and in regard to both of which the House in the Committee of the Whole has already been engaged in their consideration. I know we must adjourn necessarily for the holidays. That is a foregone conclusion. It would be idle, as every one understands, to undertake to keep Congress here, but considering the shortness of this session, it does seem to me that we ought to run business up to the last possible convenient time before Christmas, and to resume it at as early a day as practicable afterward. Considering the whole question in my committee this morning, the subject having been broached already by the chairman of the Committee on Appropriations, I was instructed to move an amendment to his resolution when it came up, modifying it slightly as to dates, substituting Wednesday, the 23d, as the day on which the House will adjourn, and January 4 as the time for reassembling; that is, to adjourn on the second day before Christmas and reassemble on the first Monday after New Year. The effect of adjourning on the Monday before will be to send everybody off, as we know by experience, about Thursday of the preceding week.

Mr. FARNSWORTH. They will begin to go away about the middle of the week.

Mr. SCHENCK. They will begin to go away during the week preceding, whereas we may secure a solid week's work if we postpone the adjournment until two days before Christmas, as that will tend to keep gentlemen in their places. However, I do not rise to argue the matter. Every gentleman can judge for himself from past experience. I move the amendment which I have indicated to the pending resolution.

Mr. WASHBURNE, of Illinois. I will simply state, so far as I am personally concerned, that I am indifferent as to what day may be fixed, for I expect to be here during most of the recess; but I wish the House to decide between the times that have been proposed. If gentlemen think they can get home by starting on Wednesday, I am content to see the amendment of the gentleman from Ohio adopted. I demand the previous question.

The previous question was seconded and the main question ordered.

The House divided; and there were—ayes 63, noes 78.

Mr. MULLINS and Mr. HIGBY demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—ayes 76, nays 91, not voting 54; as follows:

YEAS—Messrs. Ames, James M. Ashley, Baldwin, Beaman, Benjamin, Bingham, Boyden, Buckland, Roderick R. Butler, Churchill, Cobb, Coburn, Corley, Cullom, Delano, Deweese, Dickey, Donnelly, Eckley, Eggleston, Eln, Eliot, Farnsworth, Ferry, French, Garfield, Gravelly, Griswold, Haughey, Heaton, Higby, Hooper, Chester D. Hubbard, Hunter, Ingersoll, Jencks, Judd, Julian, Kelley, Kellogg, Kelsey, Ketcham, Kitchen, Lash, George V. Lawrence, William Lawrence, Loan, Mallory, Marvin, Maynard, McCarthy, McCormick, Mercer, Moorhead, Morrell, Mullins, Niblack, O'Neill, Paine, Peters, Pettis, Polesley, Price, Raum, Schenck, Shanks, Spaulding, Starkweather, Stokes, Stover, Taylor, Henry D. Washburn, Welker, William Williams, Windom, and Woodbridge—76.

NAYS—Messrs. Adams, Anderson, Archer, Arnold, Atwell, Baker, Beck, Benton, Blair, Boutwell, Bowen, Boyer, Brooks, Broomall, Burr, Cake, Callis, Cary, Chandler, Reader W. Clarke, Sidney Clarke, Cist, Cook, Dawes, Dixon, Driggs, Edwards, Eldridge, Ferriss, Fields, Fox, Getz, Glossbrenner, Goldaday, Gove, Hill, Holman, Hopkins, Hotchkiss, Hubbard, Thomas L. Jones, Kerr, Knott, Koontz, Loughridge, Marshall, Miller, Moore, Mungen, Myers, Newcomb, Newsham, Norris, Orth, Perham, Phelps, Pike, Poland, Pomeroy, Prince, Pruyn, Randall, Robertson, Robinson, Seofield, Sigreaves, Smith, Stewart, Sypher, Taber, Taffe, Thomas, Tift, John Trimble, Lawrence S. Trimble, Trowbridge, Twichell, Unson, Van Aernam, Van Aukens, Burt Van Horn, Van Trump, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Whittemore, James F. Wilson, Stephen F. Wilson, Wood, Woodward, and Young—91.

NOT VOTING—Messrs. Allison, Delos R. Ashley, Bailey, Banks, Barnes, Barnum, Beatty, Blackburn, Blaine, Bolcs, Bromwell, Buckley, Benjamin F. Butler, Cornell, Covode, Dockery, Dodge, Goss, Grover, Haight, Halsey, Hamilton, Harding, Hawkins, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Johnson, Alexander H. Jones, Laffin, Lincoln, Logan, Lynch, McCullough, McKee, Morrissey, Nich-

olson, Nunn, Pierce, Pile, Plants, Roots, Ross, Sawyer, Selye, Shellabarger, Stevens, Stone, Robert T. Van Horn, Vidal, Ward, Thomas Williams, and John T. Wilson—54.

So the amendment was rejected.

The question then recurred on the adoption of the resolution.

Mr. FARNSWORTH. I suggest to my colleague that he make it the Friday before the Monday indicated, for making it Monday is really providing for an adjournment on the Friday before, and we might as well say so in the resolution. It is really an adjournment one week before Christmas, and why not say so in the resolution, and not by fraud before the people pretend to adjourn three or four days later than we do.

Mr. BALDWIN. I move that the resolution be laid upon the table.

Mr. HIGBY demanded the yeas and nays.

The yeas and nays were not ordered.

The motion to lay upon the table was disagreed to.

The resolution was then adopted.

Mr. WASHBURNE, of Illinois. I move to reconsider the vote by which the resolution was adopted; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. McDonald, its Chief Clerk, notifying the House that that body had indefinitely postponed a bill (H. R. No. 1484) to relieve from disabilities Franklin J. Moses, of South Carolina.

DEPARTMENT OF AGRICULTURE.

The next business upon the Speaker's table was Senate joint resolution No. 170, in relation to the library of the Department of Agriculture; which was read the first and second time.

Mr. TROWBRIDGE. I move that joint resolution be put upon its passage. The facts of the case are simply these: A large portion of the library of the Department of Agriculture was purchased or obtained when the department was a division in the Patent Office. The Commissioner of Patents claims this library as belonging to his department. The books mostly relate to agricultural matters. Most of them are books on agriculture. The Commissioner of Agriculture wishes to retain possession of this library, and this joint resolution merely enables him to do so. It has already been removed to the new building set apart especially for the Department of Agriculture. The resolution will do harm to nobody, and will merely enable the Department of Agriculture to retain what it is entitled to. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was ordered to a third reading, and it was accordingly read the third time and passed.

Mr. TROWBRIDGE moved to reconsider the vote by which the resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

COAST DEFENSES.

The next business upon the Speaker's table was Senate joint resolution No. 171; which was read a first and second time.

Mr. WASHBURNE, of Illinois, moved that it be referred to the Committee on Military Affairs.

The motion was agreed to.

NATIONAL CAPITAL INSURANCE COMPANY.

The next bill upon the Speaker's table was Senate bill No. 642, to amend the charter of the National Capital Insurance Company; which was read a first and second time.

Mr. WELKER moved that it be referred to the Committee for the District of Columbia.

The motion was agreed to.

MRS. EMMA WILSON.

The next business upon the Speaker's table was Senate bill No. 174, for the relief of Mrs.

Emma Wilson, of the State of Indiana; which was read a first and second time.

Mr. ORTH moved that it be referred to the Committee on Foreign Affairs.

The motion was agreed to.

GUSTAVUS J. CUSHMAN.

The next bill upon the Speaker's table was Senate bill No. 555, to authorize the Secretary of State to adjust the claim of Gustavus J. Cushman for office rent while commissioner under the reciprocity treaty; which was read a first and second time.

The bill authorizes the Secretary of State to reopen and adjust the accounts of Gustavus J. Cushman, late commissioner of fisheries under the late reciprocity treaty with Great Britain, so far as relates to a claim for office rent upon the same basis as allowed to all his successors in the same office.

Mr. PETERS. I think no one will object to that bill. If any one objects to its passage I will make a brief explanation.

Mr. HOLMAN. I move that it be referred to the Committee on Foreign Affairs.

Mr. PETERS. I think the gentleman will not insist upon that motion after a word of explanation. A similar bill has been before the Committee on Commerce and favorably acted on. There was an effort made to ingraft it upon a pending bill, and the only objection made was that it was not in accordance with the rules of the House. Mr. Cushman was the first commissioner under the treaty of 1842. He occupied an office and paid office rent, but omitted to charge it in his account. It is a small matter, of two or three hundred dollars only. The Department decided that he was entitled to it, but it was of the opinion that his accounts could not be reopened without an act of Congress. It is the same amount which has been allowed to the five different successive gentlemen who have occupied that office. I am cognizant of the facts, and I know the case has merit. Mr. Cushman is blind and poor, and is entitled to this small pittance. I hope the gentleman from Indiana will withdraw his motion to refer, and let the bill be passed.

Mr. HOLMAN. In view of the facts, with which the gentleman from Maine seems to be familiar, I withdraw the motion to refer.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PETERS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CARRIAGE OF PASSENGERS.

The next business upon the Speaker's table was Senate joint resolution No. 162; to regulate the carriage of passengers in steamships and other vessels; which was read a first and second time.

Mr. ELIOT moved that it be referred to the Committee on Commerce.

The motion was agreed to.

JOSEPH SEGAR.

The next business upon the Speaker's table was House bill No. 575, to refer the claim of Joseph Segar to the Court of Claims; which was read a first and second time.

The bill directs the Secretary of the Treasury, out of any money in the Treasury of the United States not otherwise appropriated, to pay to Joseph Segar the sum of \$25,000, in full satisfaction of his claim, of whatever character, for use and occupation by the United States military forces of his farm in Virginia, near Fortress Monroe, from May 24, 1861, to January 1, 1867; and also for timber cut on said farm and used by our military forces, and also for balance due him for quartermaster and subsistence supplies.

Mr. BINGHAM. I move that bill be put upon its passage.

Mr. WASHBURNE, of Illinois. I hope we are not going to charge the Court of Claims with matters of this kind. I think this matter

ought to have full consideration by the Committee on the Judiciary, and I move that it be referred to that committee.

Mr. BINGHAM. I desire to make a statement to the House. The effect of this bill, as the House will see, is not to give to the Court of Claims any further power than to investigate this matter; to investigate it, of course, under the existing laws governing the proceedings of that court; to investigate it judicially; to ascertain the facts under the obligation of judicial authority, so that there can be no mistake about the facts.

Mr. SCOFIELD. I wish to ask the gentleman if we would not have to refer all claims of this kind to the Court of Claims?

Mr. BINGHAM. Not all claims. But, sir, I have this to say, the investigation being made by the court they will make a report to the House of the evidence and the facts, and the House can then pass upon it. I do not undertake to say that the claim ought to be allowed under any circumstances, and there is nothing in this bill which authorizes the Court of Claims to pronounce a decree. They are simply authorized to investigate the case; and surely the House of Representatives, with the knowledge they have of this claimant, ought not to refuse him a hearing. What I wish to say to the House is that the truth can be more certainly ascertained by this proceeding than it can be by any committee of the House.

Mr. SCOFIELD. Why make this an exception to the vast amount of similar claims? Why not refer them all at once to the Court of Claims?

Mr. BINGHAM. There is not a vast amount of similar claims.

Mr. SCOFIELD. My friend is vastly mistaken about that.

Mr. BINGHAM. I am not mistaken.

Mr. SCOFIELD. There are many similar claims that have been before his committee.

Mr. BINGHAM. Name anything of the kind.

Mr. SCOFIELD. I can name thousands. I am not speaking of claims which in all their facts are exactly like this claim of Mr. Segar, but claims of the same nature for military damages.

Mr. MAYNARD. I trust the House will give this claimant a hearing.

Mr. HOLMAN. I move that it be referred to the Committee of Claims.

Mr. BINGHAM. If that be done the point I desire to reach is not attained at all. What I want to ascertain are the facts in the case, and to ascertain them judicially. Surely this House can afford to trust its own judgment.

Mr. SCOFIELD. If I understand it this claim comes under a resolution adopted by a previous Congress on motion of the gentleman from Ohio, [Mr. DELANO.]

Mr. BINGHAM. It is unlike other claims. The gentleman has ventured to say there are other claims like it, and I have ventured to say there are none like it. Now, I will make my statement about it. This claimant at the time the rebellion was going on occupied a seat upon this floor as a Representative of the people of Virginia. He was here in the discharge of his duty and known to those associated with him upon this floor. In the mean time his property was taken possession of by our own Army while he was attending to his public duties and unable to give attention to his affairs in Virginia. If any claim of any character whatever for damages occasioned by the destruction of property within the limits of the rebellion could be paid by the Department I have no doubt that this claim would have been investigated and decided one way or the other. But here was the owner of this property occupying a seat upon this floor, contributing by his voice and vote to the measures necessary to prosecute the war. In the mean time you took possession of his property. I want to know judicially the facts connected with this matter. Let them be ascertained under the obligations of an oath, and if it turns out that he was all the time faithful to the

cause of the country, that he was in nowise participating in the rebellion, that the Government destroyed his property and derived advantage from it, then let the Court of Claims say so. The only point is whether you will allow the Court of Claims to make this investigation.

I wish further to state that by a simple reference to the Judiciary Committee, or to the Committee of Claims, you do not secure, in my judgment, that judicial investigation of the facts which will be secured in the Court of Claims. That is the difference between us.

Mr. SCOFIELD. The gentleman from Ohio says that all he wants is to ascertain the facts.

Mr. BINGHAM. That is all there is in the bill.

Mr. SCOFIELD. If you yield the floor to me I will go on.

Mr. BINGHAM. Go on.

Mr. SCOFIELD. All he wishes is to ascertain the facts so the House may act upon the case. I suppose that is all any claimant asks; that in the first instance you shall refer his claim to a committee or to the Court of Claims to ascertain the facts. I do not think any claimant will ask us to act before we have any facts; but what I state is that there are a large number of similar claims, amounting to millions of dollars, and they ought all to be treated alike. If we take one man's claim in Virginia out of the resolution adopted by a former Congress, we ought to take them all. If one is referred to the Court of Claims for investigation of the facts, let them all go there. The gentleman says this is the only claim of that nature from the State of Virginia or any State; that is, claims for damages done by our Army in the rebel States. I suppose there are thousands of such claims, involving millions of dollars.

Mr. WASHBURNE, of Illinois. Hundreds of millions.

Mr. SCOFIELD. The gentleman from Illinois says hundreds of millions. I am not prepared to state what the amount is, but everybody knows that the gentleman is mistaken when he says there is nobody else in Virginia or anywhere else in the insurgent States to whom our Army did injury and who are themselves loyal men. Our Army did do a large amount of injury by taking possession of lands and buildings and the destruction of crops and fences, and by taking the stock of thousands of men friendly to the Union cause; and if this man's claim is to go to the Court of Claims, why not send them all there? Is he such a special pet of this Congress that he is to be singled out of thousands whose property has been injured by the Union Army? And for what? Not to pass upon it, not to tell whether there is any merit in it, but what is the amount of the claim. Let it be referred to the Committee of Claims, of which the eloquent and accomplished gentleman from Ohio himself is chairman. He is competent to investigate it, and when he makes his report we will have as much confidence in it as if it had gone to the Court of Claims.

Mr. BINGHAM. I ask the gentleman what there is about this claim to which he objects. I infer from his statement that he does not propose to pay anybody's claim for property destroyed within the rebel States. I beg to remind the gentleman that such claims have passed this House without his protest against them. That is the first thing I have to remark.

Mr. SCOFIELD. The gentleman misrepresents my position.

Mr. BINGHAM. I desire a categorical answer to my question, whether he protests against paying any claim arising out of the appropriation of private property within the limits of the late rebellion?

Mr. SCOFIELD. If the gentleman wishes to dodge the real question—

Mr. BINGHAM. I dodge nothing.

Mr. SCOFIELD. Wait till I say a word, and do not take me off the floor. The question is not here whether all these claims shall ever be paid, but whether we shall make this a pet

claim and single it out from thousands before the country just as meritorious as this. I want to treat them all alike. I will send them to his own committee, in which I have confidence, but I will not select this one and make it a special favorite, and ask the Court of Claims to give us the facts, when we are competent to investigate the facts for ourselves. I understand the reference of this to the Court of Claims means that we will give this a preference over all others.

The gentleman says that like claims passed without my protest. That is in the past, and I recall no such cases. I am talking about this one. If the gentleman has any remembrance of any let him state it, and I am prepared to reply. I recollect one case from Virginia, where a clergyman of this city came here and pleaded for it, and I believe succeeded in getting it through, but not with my vote. I think the gentleman from Ohio did vote for it, and the claim was afterward ascertained to be a fraud.

Mr. BINGHAM. That is not the only case. The gentleman has been asked to state a parallel case, and he has not done so. Here is a man engaged as a Representative of the State of Virginia on the floor of this House during the rebellion, voting for all the war measures, and in the meantime you take possession of his property, while he is not there to take charge of it himself. The gentleman says it is not an exceptional case. I say it is.

Mr. SCOFIELD. If the gentleman knows all the facts of the case why ask the Court of Claims to ascertain them for us?

Mr. BINGHAM. I know that fact, and the Journals will bear witness of it, whether the gentleman knows it or not. The gentleman undertakes to assume that the case was not exceptional. I say it is exceptional, and I challenge him to give us an instance of any sort wherein this House has refused an investigation.

Mr. SCOFIELD. Mr. Speaker, the gentleman says he challenges me. It is in violation of the laws of the District to send a challenge. [Laughter.]

Mr. BINGHAM. It is in violation of the law in the gentleman's judgment, I suppose, to speak plain English here. The gentleman pretends to be in favor of an investigation. He ought to know right well that if the members of the Committee of Claims attend to the duties which devolve upon them here as Representatives of the people, they cannot be present in person elsewhere than in the Capitol in the investigation of this matter. And he knows just as well that under your existing laws the Court of Claims can issue its order of examination in any part of the country, that the examinations can be made judicially before commissioned officers of the country, and that the witnesses are liable to the pains and penalties of perjury if they testify falsely. Now, the bill that comes from the Senate simply authorizes the Court of Claims to make that investigation under the shelter of your own laws; and it is useless, utterly useless, for the gentleman from Pennsylvania or any other gentleman to undertake to say that he is in favor of investigating this matter, but that he prefers not to investigate it under the full sanctions of the law and under such provisions of the law as will enable the applicant to have a full investigation of the matter, taking care all the while of the interest of this Government.

I do not commit myself in favor of the claim at all, and the only reason I have spoken at all is, I was appealed to by this gentleman, who was associated with me on this floor as a Representative of Virginia, to ask that this House respond to the action of the Senate in giving to him a judicial hearing as to the merits of his claim before a judicial tribunal. The gentleman now seems to intimate that it is all right to investigate it, and the only question between us, therefore, is whether the most efficient way is not the best way of investigating it. That is all.

The gentleman says, why not devolve this duty upon the Court of Claims as to all other

claims? I answer him by saying that the House has made an exception to its general rules already. I was not present here myself, but I understand my associates on the committee did report a claim of this kind from Georgia at the last session of this Congress, and it did pass. Whether the gentleman was as vigilant then as now I do not know, and the only reason I answer him in this spirit is, he seems to assume that there was something criminal in my asking for a fair investigation of this matter. If he did not assume that why this parade about hundreds of millions of other claims?

I say again to the House that there is something special in this case; that this petitioner was a Representative of Virginia on this floor in the midst of the rebellion, and that at the time when he was giving his voice and his vote earnestly in favor of every measure necessary to push on the war and put an end to the rebellion, this injury was done to his own property. I only ask that the facts be investigated. I think it is not asking very much to submit them to the Court of Claims. The Committee of Claims has not been in the habit of discharging this sort of duty. I understand the property is in the region of Norfolk, and I suppose the testimony ought to be taken on the spot. The authorities and the Representatives of the Government ought to be conversant with the premises involved in the dispute, and see all about the facts; and when they are ascertained, let not simply the conclusions but the testimony be reported to this House. That is what is contemplated by the bill.

Mr. KELLEY. I desire to ask the gentleman whether the bill is susceptible of amendment?

Mr. BINGHAM. It may be for aught I know.

Mr. KELLEY. And whether, if so, a case strikingly analogous to this may not be included. It is the case of an engineer of the United States Navy who was away in the service of the country—the late E. A. Whipple—and while away our Army took possession of his property, cut his wood, burned his house, and finally cleared everything away, lest it should protect the enemy. The papers relating to the claim are now on my desk. It seems to me if the case of a man who was in Congress entitles it to be made an exception, then certainly the case of one who was on the sea, an engineer on one of our armed vessels, is clearly within the same scope. I therefore move to amend by inserting the name of the widow of E. A. Whipple, engineer.

Mr. WASHBURN, of Illinois. I rise to a question of order. I think the question is now upon reference.

The SPEAKER. It is. The gentleman from Missouri [Mr. BENJAMIN] moved to refer the bill to the Committee on the Judiciary. The gentleman from Indiana [Mr. HOLMAN] moved to amend that motion by substituting the Committee of Claims for the Committee on the Judiciary.

Mr. BINGHAM. And my motion is to put the bill upon its passage.

The SPEAKER. The motion to refer takes precedence of that.

Mr. WASHBURN, of Massachusetts. I wish to make a single statement, in order that the House in voting upon this question may vote understandingly. This question is before the Committee of Claims, and has been before that committee for some time. It is proposed to take this matter out of the ordinary course. This bill has never been referred to a committee of this House, and the simple question for the House to decide is whether this particular bill shall take the ordinary course and be referred to a committee. We have very many bills pending before the Committee of Claims of a similar character to this bill. It is true that if you say that it is for the relief of a member of Congress who has had his property taken and appropriated by the Government, there are few cases like it, but there are many cases where there were men who went into the field

and while they were fighting the battles of their country the Government took possession of their property and appropriated it, and those claims are now pending before the committee. I think we ought not to single out this bill and pass it at once without reference to a committee. If it is such a bill as has been represented it will bear investigation by any committee. Let it go to the Committee of Claims and let them report upon it. If in their judgment this case should be referred to the Court of Claims they will report it back. There is time enough. There are several cases from the State of Tennessee, as strong cases as can be made out, that have been pressed before the committee. All I ask is that we shall adopt some settled policy in regard to all these cases, and not single out a particular case.

Mr. BINGHAM. I would inquire of the gentleman whether the Committee of Claims did not report a case last session to this House and ask that it be referred to the Court of Claims for investigation?

Mr. WASHBURN, of Massachusetts. I do not understand that they reported any case like this; but the gentleman knows very well that there are several cases pending that we laid over until this session.

Mr. BINGHAM. Will the gentleman allow me to have an answer to my question? I wish to know whether we did not report to this House a claim at the last session, and ask that the Court of Claims should investigate it?

Mr. WASHBURN, of Massachusetts. No bill similar in any degree to this. If upon examination, in the judgment of the committee this claim ought to be referred to the Court of Claims, we can report the bill back. But what I object to is that this bill, which has been referred to no committee and has not been examined in this House, should be pressed through at the very commencement of the session. The gentleman says there are no other cases like it. He knows that there are many cases pending to-day before the Committee of Claims of men who were fighting in our Army when their property was appropriated by the Government. All I ask is that the bill shall be referred, so that the House can act upon it understandingly, and that all these cases shall be put upon the same basis. I therefore hope that the motion to refer the bill to the Committee of Claims will prevail.

Mr. FARNSWORTH. I call the previous question.

The previous question was seconded and the main question ordered.

Mr. HOLMAN's amendment was agreed to; and Mr. BENJAMIN's motion, as amended, was then agreed to.

So the bill was referred to the Committee of Claims.

Mr. WASHBURN, of Massachusetts, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

GOVERNMENTS OF VIRGINIA AND TEXAS.

The next business on the Speaker's table was the joint resolution (S. R. No. 173) respecting the provisional governments of Virginia and Texas; which was read a first and second time.

Mr. BOUTWELL moved that the joint resolution be referred to the Committee on Reconstruction.

The motion was agreed to.

ORDER OF BUSINESS.

Mr. SCOFIELD. I move that the House now adjourn.

Mr. WASHBURN, of Illinois. If the gentleman will withdraw that motion, I will move that the House now resolve itself into a Committee of the Whole, as some of my friends have expressed a desire to be heard in committee, particularly my friend from the Kennebec district of Maine, [Mr. BLAINE.]

Mr. SCOFIELD. I will withdraw my motion for that purpose.

Mr. WASHBURN, of Illinois. I move that the House now resolve itself into the

Committee of the Whole on the President's annual message. [Laughter.]

The SPEAKER. The President's message of last year is still in Committee of the Whole, undisposed of. The message of this year is not in Committee of the Whole.

Mr. ELDRIDGE. Where is the message of this year?

The SPEAKER. It has been laid upon the table.

The question recurred upon the motion of Mr. WASHBURN, of Illinois; and being taken, upon a division there were—ayes seventy-six, noes not counted.

So the motion was agreed to; and accordingly the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. HOPKINS in the chair,) and resumed the consideration of the President's annual message of 1867.

NATIONAL AFFAIRS.

Mr. BLAINE. Mr. Chairman, the three presidential elections which have resulted in victory to the Republican party are by far the most memorable and momentous in the history of our country. The issues at stake each time have been grander, the contest on either side fiercer, the verdict in each instance more decisive and significant than ever attended previous struggles for the control of the national Government. In the first victory of 1800 slavery-propagandism received its fatal blow—the American people deciding that at all hazards the further spread of human servitude into free territory should cease. This decision was resisted by a rebellious war, and the war led to the necessity of entirely abolishing the institution whose extension had been merely checked by the expression of the popular will. The election of 1804 turned upon the point of continuing or discontinuing the bloody contest, which up to that time had raged with unabated fury and with enormous sacrifice of life and property. The vote of the people demanded the prosecution of the war until the rebellion should be suppressed, the national unity secured, and slavery utterly abolished throughout the length and breadth of the land. Had the verdict then rendered been enforced in the Cabinet as faithfully as it was in the field, the Presidential struggle of 1868 would not have turned upon the issues which actually entered into it. But the unexpected and unprecedented course of the Executive, the revived malignity of the southern rebellion, and the manifold attacks on our national character and credit by the Democratic party, rendered the victory of 1808 as absolutely essential to conserve and preserve the fruits of our great triumph, as was the victory of 1804 to insure the prosecution of the war to a successful conclusion. And now that victory, complete and unsullied, has been won, and the passions naturally engendered in the heat of the canvass are gradually cooling, it may not be unprofitable to take a hasty glance at the ground we have passed over, and to make a brief summary of the points that have been solemnly adjudicated and permanently settled by the American people in the election of General Grant to the Presidency.

And first: The union of the States has been maintained, and its perpetuity guaranteed, by this election, in a sense and with a force that were never before enunciated when the question was involved. I do not mean to assert that the election of Mr. Seymour would have necessarily led to a separation of the States, though there are not wanting facts of great significance that might well justify such an inference and such a fear. But what I do mean is that the triumph of the Democratic party under its rebel lead, and the formal installing of that element in supreme executive control, would have destroyed the true aim and spirit of the Union and reduced our Government as Mr. Webster said the same pernicious theories would have reduced it in 1830, "to the worst forms of the old Confederation" in which the "lost cause" would

have regained its paradise of State rights and its privilege of ruthlessly trampling on many of the most precious principles and priceless guarantees of our Constitution. General Grant's election has averted this great evil—not merely by a temporary triumph, leaving the contest to be renewed hereafter with doubtful issue in the end, but with a victory that removes it from the list of questions on which parties will divide in the future. The election of 1868 is the last in which the lately rebellious section, even if it could be wholly controlled by rebels, will have sufficient power in the electoral vote of the country to make it the object either of hope or of fear on the part of political organizations striving for the government of the nation. The tendency has been in that direction ever since Mr. Calhoun's famous theory of an equipose of free and slave States was destroyed by the admission of California in 1850. The relative power of the two sections has been changing since that date with startling rapidity, even without the intervention of war; and the approaching census of 1870 will disclose the fact that the ten rebel States, viewed as one compact power, will no longer have sufficient strength to offer temptation to the Democratic party of the North to sacrifice its loyalty and its pride for the profit of an alliance with them. The withdrawal of northern Democratic support from these States will give to the loyal inhabitants, who are a clear majority in each one of them, the power of governing them in the interest of loyalty, whereby the sectional and clannish spirit that has been their bane and their destruction will be expelled, and broad, generous, national sympathies take its place. And the effect of this result on the northern Democratic party in turn will be to enforce in the end an abandonment of the disloyal attitude by which it has lost its ancient prestige and renown. The southern rebels and the northern Democrats having derived no honor nor profit from their persistent coöperation, may find mutual advantage and gain by a separation in which each, disencumbered of the other, may atone at leisure for the joint sins of the discreditable partnership. This prospective and penitent attitude of the two great classes of offenders heralds the dawn of that day when Presidential elections will be contested and decided without a melancholy prediction or a savage menace of a dissolution of the Union. There are few voters now living in this country who ever participated in a presidential campaign in which the fate of the Union was not involved either in the angry threats of political malcontents or in the timid apprehensions of well-meaning citizens. That day has now passed. We have heard the last of that alarm in 1868. The Union was actually saved by General Grant's victories in the field. The menace of its destruction ceases with his victory at the polls.

Second: The reconstruction laws of Congress have been vindicated and sustained by General Grant's election. The State governments erected under those laws will be upheld and the basis of impartial loyal suffrage, without regard to race or color, will be accepted as the permanent rule in the lately rebellious States, as it will be at no distant day throughout the entire Union. This result is certain to be achieved either through the amelioration of prejudice and the conquering force of justice in the individual States or by the comprehensive influence of a constitutional amendment which shall affect all the States equally and alike. The decision in favor of the reconstruction measures must bring peace to the South—and with peace will come contentment and affluence. The rebellious element in those States, seeing the hopeless folly of longer resisting the mandate of the nation, will acquiesce in the decision, if with no better grace than merely accepting the inevitable. And with this acceptance will begin the real prosperity of that section, in which property will then be secure, investments inviting and remunerative, labor in demand and amply paid. The better minds

even among the rebel leaders recognize and admit that as a question of practical statesmanship it is too late to discuss negro suffrage; for having been granted it is impossible to recall it. Between originally withholding a franchise from large masses of people and annulling it after it has been conceded, wise men can see a vast difference—a difference quite literally as great, it may be, as that between peaceful discussion and bloody conflict. So that even excluding from the case the abstract and unchanging element of justice which underlies it, it is demonstrably impracticable to withhold suffrage from the southern negroes now that they have exercised it, without involving consequences which would destroy all security for life or property in that section for generations to come. Negro suffrage being then of necessity conceded as one of the essentials of reconstruction, the only remaining source of discontent is the exclusion of a small minority of white men from the polls by reason of disloyalty. And here the evil lies in the disloyalty and not in the exclusion—and I know I am safe in saying that the exclusion will be removed quite as rapidly as the disloyalty disappears. And the disloyal white men of the South should be quite contented if they acquire suffrage as rapidly as the loyal colored men of the whole country. May we not hope that the patriotic conduct of the one class and the softening of unreasonable prejudice toward the other, will enable the American people to hold the centennial celebration of their independence with no citizen of the Republic disfranchised, and with the sublime declaration that "all men are created equal" accepted and realized on the hundredth anniversary of its majestic utterance.

Third: The election of General Grant has settled the financial question. I do not mean that it has adjusted the details or even foreshadowed the particular measures by which the public debt is to be provided for and its prompt payment assured. I only mean that the American people have deliberately, solemnly, and emphatically recorded their decision in favor of an honest discharge of their public obligations, and against all the forms of evasion and delusion so temptingly set forth in Democratic platforms. They have declared against the policy of wildly inflating, depreciating, and ruining their currency in order to prematurely pay off any portion of the Government bonds; and they have declared with equal emphasis in favor of lightening the public burdens by reducing the interest on the national debt as promptly and as rapidly as it may be done with honor. They have decided against all forms of repudiation "open or covert, threatened or suspected," and in favor of upholding the public faith and maintaining the public honor spotless and stainless. Nay, they have gone one step further; the question of paying the public debt "in the utmost good faith, according to the letter and the spirit of the contract" is no longer to be made the subject of controversy or of doubt in the American Congress. Henceforth we may do well to remember that proud example furnished us in the parliamentary history of Great Britain, where just preceding the eventful battle of Blenheim, the probability of Marlborough's defeat being angrily suggested by one of the Commons, he was answered by the most brilliant man of that day in these eloquent and ever memorable words:

"The question of England's ability to maintain her position should not be discussed in her own Parliament. *Discussion implies doubt, and doubt breeds disaster.* Our business is to provide the means for the national defense, and let us to our task."

Fourth: With the election of General Grant comes a higher standard of American citizenship—with more dignity and character to the name abroad and more assured liberty and security attaching to it at home. Our diplomacy will be rescued from the subservient tone by which we have so often been humiliated in our own eyes and in the eyes of Europe, and the true position of the first nation of the earth in rank and prestige will be asserted; not in the spirit of bravado or with

the mere arrogance of strength, but with the conscious dignity which belongs to power, and with the moderation which is the true ornament of justice. And with this vindication of the rights and the rank of our citizenship abroad will come also its protection and its panoply at home. That provision of the Federal Constitution which solemnly guarantees that "the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States" will not be a dead letter under the administration of General Grant as it in fact has been from the foundation of the Federal Government down to this hour. Henceforward it is to be practically enforced throughout all our borders, and every citizen of the Republic, himself observant of the law and of the rights of others, shall go where it may please him, and speak as he may see fit, unawed by mobs, unharmed by murders, unmenaced in life, limb or estate!

With these four cardinal points settled by the people, General Grant's administration will have high vantage ground from the day of its inauguration. Its responsibilities will indeed be great, its power will be large, its opportunities will be splendid; and to meet them all we have a true and tried man; who adds to his other great elements of strength that of perfect trust and confidence on the part of the people. And to reassure ourselves of his executive character, if reassurance were necessary, let us remember that great military leaders have uniformly proved the wisest, firmest, and best of civil rulers. Cromwell, William III, Charles XII, Frederic of Prussia, are not more conspicuous instances in monarchical Governments than Washington, Jackson, and Taylor have proved in our own. Whatever, therefore, may lie before us in the untrodden and often beclouded path of the future—whether it be financial embarrassment, or domestic trouble of another and more serious type, or misunderstandings with foreign nations, or the extension of our flag and our sovereignty over insular or continental possessions, North or South, that fate or fortune may peacefully offer to our ambition—let us believe with all confidence that General Grant's administration will meet every exigency with the courage, the ability, and the conscience which American nationality and Christian civilization demand.

Mr. WINDOM obtained the floor, but yielded to

Mr. KOONTZ, who moved that the committee rise.

The motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, Mr. HARKINS reported that the Committee of the Whole, pursuant to order, had had under consideration the Union generally, and particularly the President's annual message of 1867, and had come to no resolution thereon.

DISTILLED SPIRITS AND TOBACCO.

Mr. COBURN, by unanimous consent, introduced a bill (H. R. No. 1493) to amend section seventy-eight of an act entitled "An act imposing taxes on distilled spirits and tobacco, and for other purposes," approved July 20, 1868; which was read a first and second time, and referred to the Committee of Ways and Means.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JUDICIAL DISTRICT, VIRGINIA.

Mr. BUTLER, of Tennessee, by unanimous consent, introduced a bill (H. R. No. 1494) creating an additional judicial district in Virginia; which was read a first and second time, and referred to the Committee on the Judiciary.

NATIONAL CURRENCY.

Mr. INGERSOLL, by unanimous consent, introduced a bill (H. R. No. 1495) supple-

mental to an act entitled "An act to provide a national currency, secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864, and for other purposes; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

VENTILATION OF THE HALL.

Mr. JULIAN. I ask unanimous consent to submit, for consideration at this time, the following preamble and resolution:

Whereas a new improvement in the method of ventilating public buildings has been invented, known as Root's rotary blower, which in sundry instances has proved a success on trial: Therefore,

Resolved, That the select Committee on Ventilation of this Hall be instructed to inquire into the character and utility of said improvement, and the practicability of applying the same in the ventilation of this Hall, and that they report to this House by bill or otherwise.

Mr. SCOTFIELD. I object to any action on that subject; let the resolution be referred to a committee.

Mr. JULIAN. Very well; I move that it be referred to the select Committee on Ventilation.

The motion to refer was agreed to.

ADDITIONAL POST ROUTES.

Mr. KERR, by unanimous consent, introduced a bill (H. R. No. 1496) to establish certain post routes; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

MEDICAL DEPARTMENT OF THE NAVY.

Mr. STEWART, by unanimous consent, introduced a bill (H. R. No. 1497) to reorganize and increase the efficiency of the medical department of the Navy; which was read a first and second time, and, with accompanying papers, referred to the Committee on Naval Affairs.

Mr. RANDALL moved to reconsider the various votes of reference; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. ELDRIDGE moved that the House adjourn.

The motion was agreed to; and accordingly (at four o'clock p. m.) the House adjourned till Monday next at twelve o'clock m.

PETITIONS, ETC.

The following petitions, &c., were presented under the rules, and referred to the appropriate committees:

By the SPEAKER: The petition of C. Y. Thomas, of Martinville, Virginia, praying that he may be relieved from political disabilities incurred by participation in the rebellion.

By Mr. BEAMAN: The petition of Edwin Willets, attorney of the Holly, Wayne, and Monroe Railway Company in the State of Michigan, praying for authority to stamp and cancel stamps upon certain subscriptions of stock of said company.

By Mr. BOUTWELL: The memorial of Polly B. Howe and others, in reference to the extension of the Howe patent.

Also, the petition of Abraham Primmer and others, in reference to the continuance of the Freedmen's Bureau.

By Mr. GRAVELY: A petition praying Congress to place the name of Rebecca Barton on the pension-roll.

Also, a petition praying Congress to grant a pension to Annie Buckland and her children.

By Mr. MILLER: The petition of Charlotte Oehner, widow of Lewis Oehner, deceased, late a private in company H, Nevin's battery of Pennsylvania heavy artillery, for a pension.

Also, the petition of Adolphus Hall, late of

company F, second regiment Pennsylvania reserves, for a pension.

Also, the petition of Peter Beard, late of company I, eleventh regiment Pennsylvania infantry volunteers, for a pension.

Also, the petition of Samuel Topley, late of company B, one hundred and sixth regiment Pennsylvania reserves, for a pension.

Also, the petition of George Dunn, late of company H, eleventh regiment Pennsylvania reserves, for a pension.

Also, the petition of Aaron T. Macklin, late of company E, Knapp's independent Pennsylvania battery, for a pension.

Also, the petition of John B. McClusky, late of company K, eleventh regiment Pennsylvania volunteers, for a pension.

Also, the petition of Melissa Andrews, widow of Joseph Andrews, deceased, late of company B, seventh regiment Pennsylvania cavalry, for a pension.

Also, the petition of Lucy Bennett, mother of John L. Bennett, deceased, late of company A, eighteenth regiment United States infantry, for a pension.

Also, the petition of Catharine McBrown, mother of George McBrown, deceased, late of company A, eleventh regiment Pennsylvania reserves, for a pension.

Also, the petition of Margaret Parker, widow of Ledyard Parker, deceased, late of company E, second regiment Pennsylvania cavalry, for a pension.

Also, the petition of Mary Miller, widow of Henry Miller, deceased, late of company B, one hundred and sixty-eighth regiment Pennsylvania volunteers, for a pension.

Also, the petition of Elizabeth Morley, mother of Isaac G. Morley, deceased, late of company K, fifty-third regiment Pennsylvania volunteers, for a pension.

Also, the petition of Mary A. Casteuviler, widow of John Casteuviler, deceased, late of company C, fourth regiment Pennsylvania cavalry, for a pension.

Also, the petition of Scott Halferty, late of company I, two hundred and eleventh regiment Pennsylvania volunteers, for a pension.

Also, the petition of George Smith, guardian of Verdelia Burkert, daughter of Cyrus Burkert, deceased, late of company B, fiftieth regiment Pennsylvania volunteers, for a pension.

By Mr. MORRELL: The petition and claim of F. A. Gibbons, esq., asking for compensation for extra work and materials at the Norfolk navy-yard.

By Mr. LAWRENCE, of Pennsylvania: The petition of Mrs. Catharine Bourshett, for an extension of a patent.

By Mr. O'NEILL: The memorial of the Philadelphia Board of Marine Underwriters, asking that a light-house be erected on the north end of Leaning's beach, on the Atlantic coast of New Jersey.

By Mr. PHELPS: The memorial of A. B. Patterson and P. de Murguiondo, citizens of Baltimore, relative to the claim of the Government and citizens of the United States to the guano islet of Alta Vela.

By Mr. SCHENCK: The petition of Jane Dulany, widow of the late Colonel William Dulany, of the United States Marine corps, for a pension.

By Mr. TAFTE: The petition of Julius Ecoffey and Adolph Cune, praying to be reimbursed for property taken and destroyed near Fort Laramie by a detachment of United States troops.

By Mr. TAYLOR: The petition of James Smith and 130 others, letter-carriers of Philadelphia, for an increase of compensation.

By Mr. THOMAS: The petition of a large number of citizens of Maryland, asking Congress to adopt measures, by special legislation or by constitutional amendment, to give to the people of that State a republican form of government.

By Mr. VAN AERNAM: The petition of Margaret H. Judd, of Wilmington, Delaware, praying Congress to grant her a pension.

Also, the petition of citizens of Olean, New

York, asking a pension for Mrs. S. E. Harmon, (colored.)

By Mr. WHITTEMORE: A petition to remove the disabilities of W. J. Mixon, Johnson J. Knox, and William A. McDaniels, citizens of South Carolina.

Also, a petition for a post route in South Carolina.

IN SENATE.

MONDAY, December 14, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of Thursday last was read and approved.

Hon. WILLIAM SPRAGUE, of Rhode Island, and Hon. JOHN B. HENDERSON, of Missouri, appeared in their seats to-day.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting a copy of a note of the 24th of November last, addressed to the Secretary of State by the minister of Great Britain, communicating a decree of the district court of the United States for the southern district of New York, ordering the payment of certain sums to the defendants in a suit against the English schooner Sybil, libeled as prize of war, and recommending an appropriation of the sums specified therein to be made by Congress accordingly; which was referred to the Committee on Foreign Relations, and ordered to be printed.

He also laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of June 25, 1868, a statement of Government supplies lost in transit by the sinking or injury to steamboats on the Missouri river below Omaha during the years 1866, 1867, and 1868; which was referred to the Committee on Commerce, and ordered to be printed.

He also laid before the Senate a letter of the Secretary of War, transmitting a communication from the Commissioner of the Bureau of Refugees, Freedmen, and Abandoned Lands, asking the appointment of a committee to investigate into and report upon the administration of that bureau from its organization in May, 1865, to its prospective discontinuance at the close of the present month; which was referred to the Committee on Military Affairs, and ordered to be printed.

He also laid before the Senate a letter of the Secretary of the Interior, communicating a statement of the expenditures made by the Surgeon General of the appropriation for the Columbia Hospital for Women and Lying-in Asylum; which was referred to the Committee on Military Affairs.

TERRITORIAL LAWS.

The PRESIDENT *pro tempore* laid before the Senate the revised statutes of the Territory of Colorado as passed at the seventh session of the Legislative Assembly, convened on the 2d of December, 1867; also the acts of a public nature passed at the same session, and the prior laws still in force; which were referred to the Committee on Territories.

He also laid before the Senate the public and private laws, memorials, and resolutions of the Territory of Dakota passed by the Legislative Assembly at the seventh session thereof, begun and held at Yankton, the capital of the Territory, on Monday, December 2, 1867, and concluded January 10, 1868; which were referred to the Committee on Territories.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a petition of citizens of Mississippi, praying the removal of the political disabilities imposed upon Prosper K. Montgomery by acts of Congress; which was referred to the Committee on the Judiciary.

He also presented a memorial of Henry Martin, president of the Baltimore Copper Company, against an increase of the duty on copper; which was referred to the Committee on Finance.

He also presented resolutions of the Legislative Assembly of Oregon, in favor of granting and confirming to that State the southeast quarter of section seventeen, township nine, south of range forty east of the Willamette meridian, with full power to that State to convey the land to Royal Augustas Pearce, resident on it; which was referred to the Committee on Private Land Claims.

He also presented resolutions of the Legislative Assembly of Oregon, in favor of the appointment of a commission to investigate and take proof as to losses sustained by citizens of that State by depredations of the Indians; which was referred to the Committee on Claims.

He also presented resolutions of the Legislative Assembly of Oregon, relative to amending the Constitution of the United States and withdrawing the assent of that State to the fourteenth constitutional amendment; which were referred to the Committee on the Judiciary.

He also presented a memorial of the Legislative Assembly of Oregon, in favor of the establishment of a mail route from Roseburg to Randolph in that State; which was referred to the Committee on Post Offices and Post Roads.

He also presented the petition of S. N. Goodale, praying the appointment of a special agent to introduce among Indians who are or may be permanently located on reservations machinery and materials to manufacture blankets and clothing; which was referred to the Committee on Indian Affairs.

Mr. WILSON presented the petition of Thomas McKiernan and others, praying the establishment by Congress of free reading-rooms, intelligence offices, and labor exchanges; which was referred to the Committee on the District of Columbia.

He also presented the petition of Daniel Lyon, praying relief from civil disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

He also presented the petition of citizens of Georgia, praying the adoption of measures for the protection of their rights as American citizens; which was referred to the Committee on the Judiciary.

Mr. RAMSEY presented the petition of George Wright, of Washington city, praying that remuneration be provided for him for the use of his patented lynch-pin adopted by the United States; which was referred to the Committee on Military Affairs.

Mr. POMEROY presented the petition of women of Pennsylvania, praying that in any amendment to the Constitution to extend or regulate suffrage there be no distinction made between men and women; which was referred to the Committee on the Judiciary.

He also presented the petition of citizens of Kansas, praying that in any amendment to the Constitution to extend or regulate suffrage there be no distinction made between men and women; which was referred to the Committee on the Judiciary.

Mr. SUMNER. I present the petition of a large number of colored persons from two different counties in the State of Georgia, McIntosh county and Liberty county, in which they set forth the outrages to which their race has been latterly exposed in Georgia and the bloodshed there growing out of the malignant spirit of slavery, which is still rampant in the State, and also the exclusion of the colored persons from the Legislature, and they ask Congress to exercise all the powers it has under the Constitution and under the existing reconstruction laws to apply a remedy. This subject is already before the Committee on the Judiciary, and I move the reference of this petition to that committee.

The motion was agreed to.

Mr. SUMNER also presented a petition of citizens of Craven county, North Carolina, praying that the Freedmen's Bureau be continued one year longer; which was referred to the Committee on Military Affairs.

He also presented a memorial of William C. H. Waddell, praying the adoption of a cheaper

rate of ocean postage; which was referred to the Committee on Post Offices and Post Roads.

He also presented the petition of the Pennsylvania Equal Rights League, praying for such an amendment to the Constitution of the United States as will secure to all the citizens of the several States equal political rights, privileges, and immunities, without regard to class, creed, birth, race, or color; which was referred to the Committee on the Judiciary.

He also presented a petition of William Grosch, praying to be allowed payment for expenses incurred in raising the fifty-fourth regiment of New York State volunteers; which was referred to the Committee on Military Affairs.

He also presented a petition of Robert D. Brown, of Van Buren county, Iowa, praying an increase of pension; which was referred to the Committee on Pensions.

Mr. WILLEY presented resolutions of the Legislature of West Virginia, asking Congress to aid in the completion of the Chesapeake and Ohio railroad; which were referred to the select Committee on Railroads in the States.

He also presented the petition of Charles Baldwin, praying the removal of civil disabilities imposed upon him by acts of Congress; which was referred to the Committee on the Judiciary.

Mr. PATTERSON, of Tennessee, presented a petition of Mary Mannin, praying compensation for services rendered in piloting Union men to the Federal Army through the mountains of East Tennessee, and for feeding them, and nursing them in sickness; which was referred to the Committee on Claims.

He also presented a resolution of the Legislature of Tennessee, in favor of an appropriation for the improvement of the Tennessee river; which was referred to the Committee on Commerce, and ordered to be printed.

Mr. SPENCER presented a petition of citizens of Alabama, praying that a pension be granted to William B. Looney; which was referred to the Committee on Pensions.

He also presented a petition of citizens of Alabama, praying a removal of the civil disabilities imposed upon certain citizens of that State; which was referred to the Committee on the Judiciary.

Mr. FERRY presented the petition of John Young, praying an extension of his patent for certain new and useful improvements in washing-machines; which was referred to the Committee on Patents.

Mr. CAMERON presented a memorial of the Board of Marine Underwriters of the city of Philadelphia, praying the erection of a lighthouse on the north end of the Seven Miles, sometimes called Leaming's beach, on the Atlantic coast of Cape May county, New Jersey; which was referred to the Committee on Commerce.

He also presented the petition of Mary E. Mitchell, widow of Captain J. G. Mitchell, United States Navy, deceased, asking a grant of land discovered and occupied by him in Alaska territory; which was referred to the Committee on Private Land Claims.

Mr. SHERMAN. I present the memorial and address of a convention of the citizens of the State of Mississippi, composed in part of the members of the Legislature-elect and the constitutional convention, in which they allege that the constitution formed in that State was adopted by a majority of the legal voters of the State, and pray that Congress may approve the constitution and adopt the State government thus elected. As this memorial relates to matter of public interest, I move that it be printed and referred to the Committee on the Judiciary.

The motion was agreed to.

Mr. MORGAN. I present the memorial of William E. Dodge, Moses H. Grinnell, Marshall O. Roberts, Horace Greeley, Isaac Sherman, Isaac H. Bailey, John H. White, Legrand B. Cannon, Jackson S. Schultz, and John Jay, asking Congress to appoint a special committee to investigate the naturalization and election frauds and irregularities perpetrated in the city

and State of New York, with a view to a thorough advisement of Congress in reference to the interests connected therewith. I do not propose, sir, to have a special committee of this body raised, but I move, as the matter is of a good deal of importance, that the memorial be printed and referred to the Committee on the Judiciary.

The motion was agreed to.

Mr. ANTHONY. I present resolutions adopted by the Board of Trade of the city of Providence, Rhode Island, setting forth the great importance of prompt and sufficient telegraphic communication at uniform rates, and recommending the bill for that purpose that has been offered by the Senator from Minnesota, the chairman of the Committee on Post Offices and Post Roads. I move the reference of the resolutions to that committee.

The motion was agreed to.

Mr. MORTON presented the petition of William P. Herron, praying to be allowed arrears of pension; which was referred to the Committee on Pensions.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

A bill (H. R. No. 1490) to define the pay of officers of the Army detailed as military instructors;

A bill (H. R. No. 1487) to declare and fix the status of the corps of judge advocates of the Army;

A bill (H. R. No. 1488) to consolidate the several asylums for aged and disabled soldiers created under the laws of the United States;

A bill (H. R. No. 1489) granting a portion of the military reservation at Sault Ste. Marie, Michigan, to the American Baptist Home Mission Society;

A joint resolution (H. R. No. 373) directing the Secretary of War to sell Bergen Heights arsenal;

A joint resolution (H. R. No. 374) authorizing the sale of the Chattanooga rolling-mill property at Chattanooga, Tennessee, to the Southwestern Iron Company;

A joint resolution (H. R. No. 375) donating condemned cannon for the erection of a monument to Major General Kearny; and

A joint resolution (H. R. No. 376) to pay W. S. Morse and Charles S. Shambaugh for services rendered the Committee on Military Affairs of the House of Representatives.

The message also announced that the House had passed the bill (S. No. 565) to authorize the Secretary of State to adjust the claim of Gustavus G. Cushman for office rent while commissioner under the reciprocity treaty, and the joint resolution (S. R. No. 170) in relation to the library of the Department of Agriculture.

The message also announced that the House had passed a concurrent resolution providing for an adjournment of the two Houses from Monday, December 21, to Tuesday, January 5, 1869.

REPORTS OF COMMITTEES.

Mr. SHERMAN. I am directed by the select Committee on Railroads, to whom was referred the bill (S. No. 554) to promote commerce among the States and to cheapen the transportation of the mails and military and naval stores, to report it back with sundry amendments. I propose on Wednesday, if it is the pleasure of the Senate, to proceed to the consideration of the bill.

Mr. WILSON, from the Committee on Military Affairs, to whom was referred the bill (S. No. 665) to repeal section six of the act entitled "An act making appropriations for the support of the Army for the year ending June 30, 1868," approved March 2, 1867, reported it with an amendment.

Mr. HARLAN, from the Committee on the District of Columbia, to whom was referred the petition of the children and heirs of the

late Robert Isherwood, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

BILL RECOMMENDED.

On motion of Mr. WILLEY, it was

Ordered, That the bill (S. No. 241) authorizing the Commissioner of Patents to pay certain employees of the Patent Office for services rendered be recommended to the Committee on Patents.

BILLS INTRODUCED.

Mr. SAWYER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 670) to relieve sundry citizens of South Carolina from disabilities; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 671) to authorize the payment of arrears of pension to Charles L. Willey; which was read twice by its title, and referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 672) to fix the number of judges of the Supreme Court and change the judicial circuits; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 673) in relation to swamp lands in the State of Iowa; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 674) to authorize the authorities of the District of Columbia and the cities therein to issue bonds and borrow money; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. DRAKE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 675) to incorporate the United States Accident and Life Insurance Company; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 676) to amend an act entitled "An act to establish a uniform rule of naturalization and to repeal the acts heretofore passed upon that subject;" which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. STEWART asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 677) to punish the crime of holding office in violation of the fourteenth article of the Constitution; which was read twice by its title.

Mr. STEWART. I move that the bill be referred to the Committee on the Judiciary.

Mr. FERRY. I ask the Senator from Nevada, in reference to that bill, to let it lie on the table for the present, as upon the motion to refer it I desire to submit some remarks on a measure introduced by me last week. If the Senator from Nevada will let this bill lie on the table I will call it up to-morrow, with the consent of the Senate, and at the same time submit some brief remarks on the bill I introduced the other day.

Mr. STEWART. I have no objection to that course.

The PRESIDENT *pro tempore*. The bill will lie on the table for the present.

Mr. MORTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 678) to provide for the redemption in coin of the United States notes and fractional currency, and requiring the national banks to redeem their notes in specie; which was read twice by its title.

Mr. MORTON. As the bill is not very long I ask to have it read at length, if there be no objection.

The Chief Clerk read the bill, as follows:

Be it enacted, &c., That hereafter there shall be no sales of gold belonging to the Treasury of the United States, and that the surplus gold now in the Treasury, and that which may hereafter accrue over and above the amount required to pay the interest on the public debt and for other specific uses specified by law, shall be reserved and set apart for the redemption of the United States notes and fractional currency.

SEC. 2. *And be it further enacted*, That on and after the 1st day of July, 1871, the Treasurer of the United States shall pay in coin at the Treasury of the United States, at Washington, in the District of Columbia, and at such other points as may be designated by the Secretary of the Treasury, all United States notes and fractional currency that may be presented for redemption.

SEC. 3. *And be it further enacted*, That on and after the 1st day of January, 1872, the national banks shall pay in coin such of their notes as may be presented for redemption, and shall, on and after the 1st day of July, 1870, reserve and hold in their vaults all the coin that may be received by them as interest on their stocks held by the Government for the redemption of their notes.

SEC. 4. *And be it further enacted*, That until the 1st day of January, 1872, at which time they are required to begin the redemption of their notes, the national banks shall keep and hold in their vaults the full reserve of legal-tender notes as now required by law, and that on and after that time the reserve of legal-tender notes as fast as withdrawn shall be replaced with coin to a like amount, and the said banks shall thereafter be required to hold a reserve in coin to the like amount and for the same purposes as now required by law to be held in legal-tender notes: *Provided*, That the Comptroller of the Currency may, with the assent of the Secretary of the Treasury, allow said banks to hold a portion of said reserve, not exceeding two fifths of the amount required by law, in United States notes.

SEC. 5. *And be it further enacted*, That the Secretary of the Treasury may cause so many of the United States notes that may be redeemed under the provisions of this act to be canceled as may, in his judgment, be necessary to the proper limitation of the currency: *Provided further*, That all fractional currency that may be redeemed shall be canceled.

SEC. 6. *And be it further enacted*, That on and after the 1st day of January, 1872, the United States notes shall cease to be a legal tender in payment of debts, but shall be receivable in payment of Government dues as now provided by law.

SEC. 7. *And be it further enacted*, That the Secretary of the Treasury shall have the power to negotiate and sell bonds of the United States, to be due in thirty years and redeemable by the Government at its pleasure, after ten years, bearing interest at the rate of — per cent., principal and interest payable in gold, to such an amount as may be necessary to carry into operation the provisions of the second section of this act.

Mr. MORTON. I move that the bill be printed and laid on the table. I will say to the Senate that I should like to call it up on Wednesday morning for the purpose of making some remarks upon it.

The motion was agreed to.

Mr. CORBETT asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 679) to amend an act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State; which was read twice by its title.

Mr. CORBETT. I move that the bill be referred to the Committee on Public Lands, and I desire to state here that the bill grants no additional lands, but merely gives an extension of time.

The motion was agreed to.

Mr. COLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 680) relating to contracts payable in coin; which was read twice by its title, referred to the Committee on Finance, and ordered to be printed.

Mr. SHERMAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 681) to provide railroad facilities to the capital of the United States; which was read twice by its title, referred to the Committee on Railroads in the States, and ordered to be printed.

Mr. CONKLING asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 682) to repeal an act to fix the times for the regular meetings of Congress; which was read twice by its title, and ordered to lie on the table and be printed.

Mr. FERRY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 683) to amend the naturalization laws; which was read twice by its title, referred to the Com-

mittee on the Judiciary, and ordered to be printed.

Mr. THAYER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 684) to incorporate the Washington City Glass Manufacturing Company; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 685) to create a department of Indian affairs, and to provide for the consolidation, civilization, and government of Indian tribes; which was read twice by its title, referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. FERRY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 686) to establish a certain post road in the State of Connecticut; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 687) to establish a certain post road in the State of Connecticut; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 688) to amend an act entitled "An act to regulate the elective franchise in the District of Columbia;" which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. KELLOGG asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 187) for the disposal of the public lands in the States of Louisiana, Arkansas, Mississippi, and Florida; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

UNITED STATES BONDS.

Mr. DAVIS. I offer the following resolution:

Resolved, That the Secretary of the Treasury inform the Senate what was the aggregate amount of each issue of United States bonds by their respective dates, and the aggregate amount of the gold value of each issue of said bonds at their dates, and also the rate of interest borne by them respectively.

Mr. SHERMAN. There is not a particle of that information which is not already published in the documents, and to answer the inquiry would require the employment of a large number of clerks for a great length of time to compute all these various sums. Now, I ask the Senate why incur the expense of such an order when the information is on the files of both Houses of Congress and published in our reports? I object to the passage of the resolution.

The PRESIDENT *pro tempore*. The resolution can only be considered at this time by unanimous consent. Is there any objection to its consideration?

Mr. SHERMAN. I object.

The PRESIDENT *pro tempore*. Then it will go over under the rule.

DISTURBANCE IN LOUISIANA.

Mr. KELLOGG. I offer the following resolution, and ask for its present consideration:

Resolved, That Major General O. O. Howard, Commissioner of the Freedmen's Bureau, be requested to transmit to the Senate any information in his possession from any officers connected with the Freedmen's Bureau in the State of Louisiana touching the recent disturbance in said State.

Mr. TRUMBULL. I would suggest to my friend from Louisiana that it is not the practice of the Senate to call upon subordinate officers in the Departments for information. Whenever any information is to be obtained in the War Department the usual practice of the Senate has been to pass a resolution directing the Secretary of War to furnish it, and he calls upon the proper subordinate officer, but it comes to us through the Secretary.

Mr. KELLOGG. I will modify the resolution by substituting the Secretary of War instead of the Commissioner of the Freedmen's Bureau.

The resolution was modified to read as follows:

Resolved, That the Secretary of War be directed to transmit to the Senate any information in his possession from the officers connected with the Freedmen's Bureau in the State of Louisiana touching the recent disturbance in said State.

The resolution was considered by unanimous consent, and agreed to.

TROOPS ON THE PLAINS.

Mr. MORRILL, of Maine, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be directed to communicate to the Senate the number of United States troops employed on the plains or frontiers in connection with Indian hostilities, in protecting the Missouri river traffic, the Union Pacific railroad, or in otherwise policing that region of country; and also, whether volunteer forces or militia from the States or Territories or Indians are or have been so employed; and if so, what numbers, from what States or Territories, and upon what authority, and upon whose order.

WASHITA RIVER BATTLE.

Mr. HENDERSON submitted the following resolutions; which were considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior be requested to communicate to the Senate all reports, papers, and other information in the Department connected with the late battle of the Washita river.

Resolved, That the Secretary of War be requested to communicate to the Senate all reports, papers, or other information in the Department connected with the late Indian battle on the Washita river.

COMMITTEE ON EDUCATION.

Mr. MORRILL, of Vermont. I offer the following resolution, and ask for its present consideration:

Resolved, That the Committee on Revising the Rules of the Senate be instructed to inquire and report as to the expediency of authorizing a committee of five on education.

By unanimous consent the Senate proceeded to consider the resolution.

Mr. MORRILL, of Vermont. Mr. President, I know the reluctance of the Senate to establish new standing committees; but it appears to me that this is a subject of sufficient importance to demand at least that amount of consideration on our part. Other nations having less popular institutions than our own are certainly bestowing more attention to this subject than we are at the present time. It would seem to be the will of Congress to abolish the Bureau of Education, and after that the least we can do, in my opinion, is to have a standing committee upon the subject. Under the law establishing agricultural colleges, so called, it appears that the several States have established them on very different principles. Some of them are quite successful. Others, perhaps, have not been long enough established to enable us to determine whether they will be successful or not. There are applications on the part of the States which have recently resumed their practical relations with the Government for the extension of the act establishing those colleges. Under these circumstances, it seems to me that a committee of the kind indicated would be calculated to promote the efficiency of these colleges. While the general subject of education is well placed under the control of the States, it would certainly seem proper that the Government of the United States should place itself in active sympathy with universal education. I therefore hope the Senate will concur with me as to the propriety of having this new committee established.

Mr. TRUMBULL. I sympathize entirely with what the Senator from Vermont has said in regard to education; but I do not understand that we have in the Senate any Committee on Rules.

Mr. MORRILL, of Vermont. I propose to have one on education.

The PRESIDENT *pro tempore*. The proposition is to raise such a committee.

Mr. TRUMBULL. A committee on rules?

Mr. MORRILL, of Vermont. No. The resolution merely proposes to refer the subject to the Committee on Rules, to report on the propriety of having such a committee.

Mr. TRUMBULL. That is the way I understood the Senator before. What I meant to say was, that there is no committee on rules to which to refer his resolution. The Senator moves to refer his resolution to the committee on rules. The Senate has no such committee.

Mr. MORRILL, of Vermont. I understand we have such a committee on the revision of the rules of the Senate.

Mr. TRUMBULL. It expired with the session.

Mr. SUMNER. I suggest to my friend from Vermont that the resolution be referred to the Committee on the Library. I agree with him entirely. I think we ought to do something on that subject.

Mr. EDMUNDS. The Committee on the Revision of the Rules was a special committee, which exhausted itself at the end of the session.

Mr. MORRILL, of Vermont. I move, then, to substitute the Committee on Agriculture.

The PRESIDENT *pro tempore*. That modification will be made if there be no objection. The resolution, as amended, was adopted.

PRESIDENTIAL MESSAGE.

A message from the President of the United States, by Mr. WILLIAM G. MOORE, his Secretary, announced that the President had on the 10th instant approved and signed the bill (S. No. 658) to relieve from disabilities Franklin J. Moses, a citizen of South Carolina.

Several executive messages were also received from the President of the United States.

CONSIDERATION OF INDIAN TREATIES.

Mr. DRAKE. I move that the Senate take up for consideration the resolution which I offered last July, requiring Indian treaties to be considered in open Senate.

The motion was agreed to; and the Senate proceeded to consider the following resolution:

Resolved, That Rule 38 be amended by adding thereto the following: "Treaties with Indian tribes or parts of tribes shall be considered and passed upon in open session."

Mr. DRAKE. When that resolution was before the Senate last week it was laid over at the suggestion of some gentlemen because the chairman of the Committee on Indian Affairs was not then in the Senate. He is now in his seat, and in conversation with him I learn that he has no objection to the passage of the resolution. I hope, sir, that it will be passed now.

Mr. EDMUNDS. I should like to inquire of the Senator from Missouri what distinction there is between this class of treaties and others which should make it necessary to consider these in open session and others in executive session? There may be a good reason; I dare say there is in the mind of my friend. I ask for information.

Mr. DRAKE. I confess, Mr. President, that I am rather surprised that a gentleman who sees as far into things generally as my friend from Vermont should ask me the reason. Treaties with foreign nations involve a great many questions, and arise in a great many different circumstances where it is important oftentimes that the terms of them should not transpire and that the deliberations upon them should be in secret. But there is nothing of that kind in any treaty that we ever have with any Indian tribe until there comes in some land stealing operation, and then it is very desirable that there should be secrecy in the consideration of the treaty. Except in that case I know of no circumstances whatever in which our relations to the Indian tribes can be affected by the publicity of treaties which are made between the contracting powers publicly in the field and come here for ratification. I do not see any reason why any opportunity should be given whatever for passing through in secret session treaties with Indians containing provisions which it would not be desirable that the country should know all about and hear all that is said about them. My main object, I confess, is to put a stop by this proceeding to such iniquitous land

transactions as have disgraced some of our Indian treaties.

Mr. POMEROY. I have no objection to considering this class of treaties and all treaties in open session. I know furthermore that if we undertake to consider anything in secret session it is a very sure way of having it well ventilated and well published. I have never known a treaty yet that was not as well understood outside of the Senate as in, even those upon which we have gone through the ceremony, or sometimes perhaps the farce, of considering in secret session. But we are now at war with some Indian tribes, and if that war is ever to terminate it will terminate by the adoption of a treaty, and it may not be best to consider such a treaty as that in open Senate, because the very ratification of the treaty may close the war or it may prolong the war. If there is any reason why a treaty with a foreign nation should be considered in secret session that same reason applies equally to treaties with the Indian tribes that are now hostile to this Government, and are foreign nations according to the way we are treating them, and if the war with them is to terminate it is to terminate upon some settlement by treaty.

The other day the only objection I made was—I do not know but that I was the Senator to whom the gentleman referred—that there were one or two other rules that would require to be amended if this one was amended, and I suggested that the resolution should be referred to a committee so as to make the rules harmonious and have them all amended. I should not have said a word on this subject if it had been reported upon by any committee. I do not care what committee considers it, but our rules ought not to be in conflict with each other. We tried during the last session to make a harmonious system, and I supposed we had succeeded; and I now merely say that if this proposition shall be reported by any committee, with an amendment to one or two other rules harmonizing them, I shall vote for it.

Mr. DRAKE. Will the honorable Senator from Kansas be so kind as to state what other rules this will come in conflict with?

Mr. POMEROY. I have not the rules before me, but the Senator is aware that we have two or three rules referring to proceedings in secret session.

Mr. DRAKE. But this will take the whole subject of Indian treaties out of secret session, and therefore it cannot conflict with any rule in relation to proceedings in secret session.

Mr. POMEROY. We have one rule which says that treaties shall be considered in secret session.

Mr. DRAKE. That is the very rule I propose to amend, by making this addition to it taking these treaties out of the operation of that rule.

Mr. POMEROY. I should like to have some committee read the rules in connection with this proposed new rule, and see what amendments are required to be made. That rule will certainly have to be changed.

Mr. DRAKE. That is the very proposition I make, to change it.

Mr. BUCKALEW. Where a treaty or other paper is sent to the Senate by the President as confidential it is under our rules considered as of course in executive session. If this resolution is to be adopted I should like to have inserted in it an exception, excepting such treaties as are sent here by the President as confidential. He may have occasion to mark a treaty in that manner, and have good reason for doing so, as in the case supposed by the Senator from Kansas. Suppose another case, as unfortunately was the case in the war with Mexico, that we were about negotiating a treaty with some Indian tribes on the borders, and did not desire the enemy to know the proceedings. In very many cases it might be entirely proper that the President should send to us a treaty as a confidential paper, and that we should consider it as such under our existing rules. I have no objection to the resolu-

tion of the Senator from Missouri as a general rule hereafter that Indian treaties shall be considered in open session, but where the Executive, who negotiates them, thinks the proceedings should be kept secret, I think we should retain our existing rule.

Mr. STEWART. Mr. President, I am decidedly in favor of this resolution. It seems to me there is nothing so unnecessary as closing the doors and making the room uncomfortable while we are considering an Indian treaty. Besides, it is almost impossible when these treaties are considered to get a quorum of a Senate or a sufficient number to consider it to stay, particularly when we have the summer session. All are aware that most of the Senators leave, on account of the oppressive heat, after the doors are closed. These treaties are very long; we do not even hear them read; and if this treaty business with the Indians is to be continued the treaties certainly ought to be considered in open session. As for myself I do not believe much in Indian treaties. I do not believe that there are any nations or tribes of Indians of sufficient importance, sufficient independence of character, and sufficient amount of government and order among themselves now existing in the western country to entitle them to be treated with. They are very differently situated from what they were at the foundation of our Government. The eastern tribes are better organized and they have more responsible heads; but the majority of the Indians now are wandering bands, particularly in the wild country, except a few Cherokees and Choctaws and those of the Indian territory. The majority of the Indians with whom we make treaties and are to make them are wandering tribes, and undoubtedly in open session facts would come out frequently showing that the parties with whom you were dealing were after all quite irresponsible. At all events, it seems to me that good might result from this publicity; further information might be obtained, and no harm could possibly arise. Our negotiations with a few Indians cannot be of such a delicate character under any circumstances as to require secrecy. I think secrecy is very detrimental in many cases where we now have it. I am decidedly in favor of this resolution, and think it will be a great improvement.

Mr. POMEROY. The resolution of the Senator from Missouri proposes to amend the thirty eighth rule. I will read the thirty-ninth rule, which his resolution does not propose to amend, in order to show that the one will be in direct conflict with the other. The thirty-ninth rule is as follows:

"39. All confidential communications made by the President of the United States to the Senate shall be by the Senators and the officers of the Senate kept secret; and all treaties which may be laid before the Senate, and all remarks and proceedings thereon, shall also be kept secret."

Would not this rule have to be changed? Then, the fortieth rule would also have to be changed. If any committee will report a change of the rules so as to make them in harmony I will vote for this proposition. I do not care anything about considering Indian treaties in open session. I have no objection to that; but I do insist that if one rule is changed they shall all be changed, so as to be made harmonious.

Mr. DRAKE. If it is the will of the Senate to adopt this proposition I will prepare other amendments to obviate the objection now made by the Senator from Kansas. I was not aware that the adoption of this resolution would require the least change in any other rule; but if I should find it to be so, after this is adopted I will immediately address myself to the work of preparing the necessary modifications to meet this change.

Mr. HENDERSON. I have no objection to the amendment contemplated by my colleague. I rise merely to make one remark in behalf of the present Indian Committee. I desire to say that so far as they are concerned every treaty that has come before us has had proper consideration, and that since I have been connected with that committee no treaties of the charac-

ter alluded to by my colleague—land-stealing treaties—have ever passed that committee, or passed this body. I have nothing to say with regard to treaties previous to the time I had connection with the Indian Committee; but since I have had connection with it I can assure him and other Senators that every treaty that has come there has been carefully scrutinized, and that no treaty of an exceptionable character has passed that committee or passed this body.

Mr. DRAKE. Mr. President, I desire promptly and distinctly to say that in the motion which I made I had not the slightest intention of making any reference to the present Committee on Indian Affairs, or to the chairman of that committee, that would involve any implication unfavorable to them in that connection.

Mr. EDMUNDS. I think the Senator from Kansas is right in suggesting that this resolution ought to go to a committee in order that if it be adopted, as very likely it may be—I certainly have no objection to it—the analogous and related rules may be so verbally changed as to make them all stand in harmony. It will not occasion any delay. I move, therefore, that this resolution be referred to the Committee on the Revision of the Laws, which is the most appropriate standing committee that we have to revise this subject.

Mr. POMEROY. I desire merely to say that I shall vote with my friend from Missouri for this proposition so soon as it can be made harmonious with the other rules, but not before. I think it should be referred to a committee.

Mr. BUCKALEW. I move to amend the resolution by inserting at the end these words: "except where the same shall be transmitted as confidential by the President."

Mr. EDMUNDS. The motion to refer is first in order.

Mr. DRAKE. I have no objection to the reference.

The PRESIDENT *pro tempore*. The question is on referring the resolution to the Committee on the Revision of the Laws.

Mr. CONKLING. I rise not to make objection to the proposed reference, but to suggest that any committee to which it is referred ought to act in the light of some expression from the Senate on the main question. The proper mission of a committee is to adapt this resolution to the rules as they stand, or else to adapt other rules to this. That is all, I take it, that is needed of any committee. That, it will be perceived, does not go at all to the main question, whether it be the judgment and pleasure of the Senate that these treaties shall hereafter be considered as open legislation is, or whether they shall remain, as now, part of the executive and confidential matter of the Senate. Therefore, I suggest to the honorable Senator from Vermont that if he will accompany his motion to refer with some instruction, one way or the other, which will enable the Senate to express its judgment upon this question, it will expedite the conclusion of the matter, and I should be very glad that it might be so.

Mr. EDMUNDS. I should not wish to instruct the Committee on the Revision of the Laws any more than any other committee of this body. We always refer projects that the movers of them certainly expect to have carried to committees without any preliminary expression of the direction we expect the proceeding to take. It is impracticable in a body that has committees, as a rule, to undertake to decide beforehand what a committee is to do; and after what has been said in debate here, I am sure the Committee on the Revision of the Laws, which brings fresh talent to the labors of legislation—as I believe this is the first subject that has yet been referred to it—will be enabled to reflect the opinion of the Senate by reporting upon this resolution, after what has been said, favorably; or whether they are in favor of it or not, they can report it with such suggestions of amendment, if it is to be adopted,

as will make it perfectly satisfactory to everybody; and so I hope it will be referred without any further occupation of time.

Mr. CONKLING. The response of the honorable Senator from Vermont is so entirely satisfactory, and so clearly instructive and to the point I suggested, that it is very unreasonable in me, no doubt, not to be entirely satisfied; but, notwithstanding the copious instruction and satisfaction which he affords, I venture to press for one moment this suggestion: everybody will see that it is no part of the Senator's purpose in referring this proposition to a committee to obtain from the committee its judgment upon the propriety of reaching a given end, but only to have the committee devise a mode by which this object can be properly and systematically attained. If the Senator is serious in wishing to refer this proposition to the committee he names, or any other committee, for the purpose of obtaining the judgment of that committee upon a question which I submit is quite transparent as it stands, because it presents a single point which has long been the subject of reflection here—if, nevertheless, he is serious in saying he wants the judgment of a committee on that question, of course I should not like to be understood as interposing any objection; but in point of fact we all know that that is not the purpose. The purpose is to adapt these rules to each other, if the rule itself which is now proposed is to be adopted. Therefore, I move as an amendment to the motion to refer that the committee be instructed to report the resolution back with such amendments to the resolution or to the standing rules as will enable the Senate properly to consider these treaties in public.

Mr. GRIMES. During the time that I have been here, and, as I have been told frequently by those who were much longer in the Senate when I came here, from the foundations of the Government to this time, a resolution has never been passed instructing one of the committees of this body. The object of a reference to a committee is to enable them to consider the subject and report their judgment, and their judgment alone, and the Senate is presumed to act upon it. I apprehend this reference to the committee is not alone to adopt such verbal phraseology as may be made necessary by this proposed change, but to come to what is a just conclusion in their judgment as to what we should do in the future, to establish what should be the future practice. I trust, therefore, that we shall not pass any resolutions of instruction, but refer the whole subject to the committee and let them report whether or not they think it advisable for us to change our rules—a question about which there are very strong arguments on both sides.

The PRESIDENT *pro tempore*. The question is on referring the resolution to the Committee on the Revision of the Laws with certain instructions.

Mr. TRUMBULL. I call for a division of the question. Let us vote on the instructions separately.

Mr. EDMUNDS. The instructions will have to be voted on separately, as I do not accept them as an amendment to my motion.

The PRESIDENT *pro tempore*. The first question will be on instructing the committee.

The motion was not agreed to—ayes four, noes not counted.

The PRESIDENT *pro tempore*. The question recurs on the motion to refer the resolution to the Committee on the Revision of the Laws.

Mr. DRAKE. I have just had placed in my hands for the first time, so as to examine them, the rules which bear upon matters in secret session, and I must be permitted to say that I do not see any reason in the world for referring this matter to a committee in order to reconcile the different rules with each other. There is not in the rules thirty-ninth or fortieth anything which will be brought in conflict with the thirty-eighth rule, if amended as I propose. They refer merely to proceedings in secret session; but when you take the Indian treaties

out of the secret session and bring them into open session there is, of course, no application in the thirty-ninth and fortieth rules to them. I do not see any reason, when I come to look into the rules, for the reference, and I hope it will not be made.

Mr. EDMUNDS. I should like to ask my friend from Missouri whether he intends in open session that these treaties shall be carried by a mere majority, or whether he intends the rules that now apply to the adoption and ratification of treaties in secret session to have force in open session as to the method of procedure and the number requisite to adjust the treaties. If, as I suppose he does, he intends to have the procedure upon an Indian treaty conducted in the same manner that it would be in secret session, save that the doors are open, then I submit to him that it is open to some question whether on that point, upon the very argument he makes, there should not be such a change as to make the rules for the secret session applicable to procedure in open session. It may be that they are now, but a committee ought to consider whether any change in that respect should be made.

Mr. DRAKE. If I am not mistaken, the matter of what shall constitute a ratification of a treaty is fixed by the Constitution, not by the rules of the Senate, and whether the treaty is considered in open or secret session that rule of the Constitution is to be operative in the case, and no rule which the Senate could make of a different kind would have any other effect.

Mr. EDMUNDS. That assumes that they are foreign nations.

Mr. DRAKE. And the Government has always assumed that these Indian tribes were foreign nations to us, and has treated with them on that basis, and the Constitution prescribes what shall amount to a ratification here in the Senate.

Mr. EDMUNDS. It does not prescribe how the question shall be put, does it?

Mr. DRAKE. It does not matter; the question can be put in any way, in open session or secret session.

Mr. HENDRICKS. Mr. President, I would not want a vote upon the merits of this question just now. I think it is usual to refer propositions to change the rules to a committee. I do not see why this should be made an exception. I cannot conceive that the proposition of the Senator from Missouri is so entirely clear as that it ought to be decided without the aid of a committee's investigation at all, and I do not see why he is not willing that it shall take the usual course. Let us know what is the judgment of the committee on this proposition. I do not know myself what would be right about it. My inclination is that a good deal of the business that is transacted in secret session might more properly be transacted in public session, but I would not want to act upon that until a committee had reported upon it.

The PRESIDENT *pro tempore*. The question is on agreeing to the motion to refer.

The motion was agreed to.

HOUSE BILLS REFERRED.

The following bills and joint resolutions from the House of Representatives were severally read twice by their titles, and referred to the Committee on Military Affairs:

A bill (H. R. No. 1490) to define the pay of officers of the Army detailed as military instructors;

A bill (H. R. No. 1487) to declare and fix the status of the corps of judge advocates of the Army;

A bill (H. R. No. 1488) to consolidate the several asylums for aged and disabled soldiers created under the laws of the United States;

A bill (H. R. No. 1489) granting a portion of the military reservation at Sault Ste. Marie, Michigan, to the American Baptist Home Mission Society;

A joint resolution (H. R. No. 373) directing the Secretary of War to sell Bergen Heights arsenal;

A joint resolution (H. R. No. 374) authorizing the sale of the Chattanooga rolling-mill property at Chattanooga, Tennessee, to the Southwestern Iron Company;

A joint resolution (H. R. No. 375) donating condemned cannon for the erection of a monument to Major General Kearny; and

A joint resolution (H. R. No. 376) to pay W. S. Morse and Charles S. Shambaugh for services rendered the Committee on Military Affairs of the House of Representatives.

ADJOURNMENT FOR THE HOLIDAYS.

The PRESIDENT *pro tempore* laid before the Senate the following concurrent resolution of the House of Representatives:

Resolved, (the Senate concurring,) That when the two Houses of Congress adjourn on Monday, the 21st instant, they adjourn to meet on Tuesday, the 5th of January, 1869.

Mr. HENDRICKS. I move that the Senate proceed to the consideration of that resolution.

Mr. SUMNER. I think it had better lie over.

Mr. HENDRICKS. There is no necessity for its lying over. It may as well be acted upon now. It is a matter of personal convenience to know in advance what course is to be pursued. The House of Representatives of course expected that the question would be settled at once. It is due to the House that we should give it consideration at an early hour. I move that the resolution be taken up now.

The PRESIDENT *pro tempore*. Is there any objection to the present consideration of the resolution?

Mr. SUMNER. I object.

The PRESIDENT *pro tempore*. It goes over, under the rule.

Mr. HENDRICKS. I did not know that the rule applied to a case like this. It is a concurrent resolution that has come from the House of Representatives.

The PRESIDENT *pro tempore*. It came over this morning, and objection being made to its consideration it goes over under the rules.

THE CALENDAR.

Mr. TRUMBULL. With a view of relieving the Calendar from the mass of unimportant measures upon it, I renew the motion that I made the other day that the Secretary take the Calendar and read the business upon it in its order with a view to striking off such of it as there is no objection to striking off. That will facilitate our business very much.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Illinois, that the Secretary proceed to read the Calendar for the purpose of striking from it impertinent and irrelevant matter.

Mr. TRUMBULL. I will suggest, by leave of the Senate, that if the chairmen of the various committees of the Senate would take the Calendar in their hands they will see that there is upon it a great deal of business which will not hereafter require the attention of the Senate—resolutions and bills the object of which or the reasons for introducing which have now transpired, and they may as well be stricken from the Calendar.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Secretary will proceed to read the Calendar according to the motion of the Senator from Illinois.

The CHIEF CLERK. The first resolution on the Calendar is a resolution of the House of Representatives for the appointment of a joint committee to inquire into and report what further legislation, if any, is needed in reference to the Capitol police force—received from the House July 5, 1867.

Mr. TRUMBULL. I move that it be indefinitely postponed.

Mr. SUMNER. Why should not that be referred to a committee? It has never been.

Mr. TRUMBULL. It is a year and a half ago since it was presented, and the object of it has been accomplished, I suppose; but if

the Senator from Massachusetts desires its reference I have no objection.

Mr. SUMNER. No; I know nothing about it.

Mr. TRUMBULL. Certainly, having received no attention since July 5, 1867, it is not at all likely that it is important.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Illinois, to postpone the resolution indefinitely.

The motion was agreed to.

The PRESIDENT *pro tempore*. If the Senate will consent to that course, the Chair will deem that when anything is read it may be considered as indefinitely postponed, unless that course is objected to. If such be the pleasure of the Senate, such will be the disposition of matters reached in their order. The next item will be read.

The CHIEF CLERK. "A resolution of the House of Representatives in relation to the adoption of the phonetic system of spelling in general use in schools and general literature—received from the House of Representatives July 18, 1867."

Mr. SUMNER. I think that had better be referred to the Committee on the Library; and I make that motion.

Mr. CONNESS. I think there is such a resolution which has been referred to that committee, but from whom no report has been had, if I am not mistaken. I would ask the chairman of the committee if that is not the case.

Mr. MORGAN. The committee were discharged from the consideration of the resolution referred to at the last session.

Mr. TRUMBULL. That being so, this had better be disposed of.

Mr. CONNESS. I should like to have this resolution referred to a committee who would consider it, because there is something in the system. I believe the committee made no report except simply to be discharged, as stated by the chairman. I wish the subject could be examined. The House of Representatives has seen fit to pass a resolution in regard to it, and I think it deserves attention. There are a great many very able persons in the United States who believe that a change in this regard would be very beneficial, and that the change should be initiated and tried at least, which could be done without, perhaps, any cost to the public Treasury.

Mr. SUMNER. I understand the Senator from New York [Mr. MORGAN] makes no objection to the reference to the Committee on the Library.

Mr. CONNESS. Let it be referred, then, and I hope the committee will examine the subject.

Mr. SUMNER. I hope it will be referred.

The PRESIDENT *pro tempore*. The motion is to refer the resolution to the Committee on the Library.

The motion was agreed to.

The next resolution on the Calendar was a resolution by Mr. SUMNER, declaring certain guarantees required in the reconstruction of the rebel States, submitted March 7, 1867.

Mr. SUMNER. I hope that will not be postponed.

Mr. TRUMBULL. There are various propositions on that subject.

Mr. CONNESS. There are a great many bills on that subject; one, I think, by the honorable Senator from Massachusetts, now sent to the Judiciary Committee. Why not commit this? Let them have the entire subject. The object is to get rid of matters from the Calendar that cannot be considered, perhaps, in the form in which they now are. The time which has elapsed between the introduction of these resolutions and the present period has doubtless thrown additional light on the subject. I hope it will go to the committee, if the Senator from Massachusetts has no objection, that the whole subject may be considered. I make that motion.

Mr. SUMNER. I understand that the rule under which we are now acting is that these

several matters shall be acted on by unanimous consent. If there is an objection—

Mr. CONNESS. I do not so understand it.

Mr. SUMNER. There was a rule established the other day on which we are now acting. We are reading these items over, and if the indefinite postponement of any one of these propositions is objected to then we pass to the next one.

Mr. CONNESS. It is not an indefinite postponement, I would remind the Senator, but a motion to refer for consideration. I should like to know whether the Senator objects to it? If he does I will not press it.

Mr. SUMNER. I would rather this proposition should stay where it is; but if the Senator has considered it carefully, and would prefer to have it referred to a committee, I shall submit to his judgment.

The PRESIDENT *pro tempore*. Is the motion to refer insisted upon?

Mr. CONNESS. I think the resolution had better be referred.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from California to refer the resolution to the Committee on the Judiciary.

The motion was agreed to.

The next resolution was a resolution of Mr. BUCKALEW, to direct a contract to be made with Richard Sutton to furnish a condensed or synoptical report of the proceedings and debates of the Senate, submitted March 30, 1867.

The resolution was indefinitely postponed.

The next resolution on the Calendar was a resolution by Mr. SUMNER, for the expulsion of Mr. SAULSBURY, Senator from Delaware.

The resolution was indefinitely postponed.

The next resolution on the Calendar was a resolution by Mr. SUMNER, proposing certain conditions to the exercise of the pardoning power, with a view of hastening the reconstruction of the rebel States, submitted July 3, 1867.

The PRESIDENT *pro tempore*. The resolution will be postponed indefinitely.

Mr. SUMNER. Before that is postponed I wish to have it read.

The PRESIDENT *pro tempore*. Let it be read.

The Chief Clerk read the resolution, as follows:

Resolved, That the reconstruction of the rebel States would be hastened and the best interest of the country promoted if the President of the United States, in the exercise of the pardoning power, would require that every landed proprietor who has been engaged in the rebellion, before receiving his pardon therefor, should convey to the freedmen, his former slaves, a certain portion of the land on which they have worked, so that they may have a homestead in which their own labor has mingled, and that the disloyal master may not continue to appropriate to himself the fruits of their toil.

Mr. SUMNER. Now, I ask the reference of that resolution to the Committee on the Judiciary.

The PRESIDENT *pro tempore*. It will be so referred if there be no objection.

The next resolution on the Calendar was the resolution, by Mr. FOWLER, in relation to the enforcement of the first clause of section four, article four, of the Constitution, guarantying a republican form of government to the several States, submitted July 12, 1867.

Mr. GRIMES. I move that it be referred to the Committee on the Judiciary.

Mr. TRUMBULL. It is manifest that we are making very little progress by these references. My object was to dispose of matter that there was now no necessity for legislation upon. Now, the Senator from Massachusetts has just had referred a resolution in regard to the conditions upon which pardons should be granted. The Senator from Massachusetts knows very well that so far as the Executive has the power to pardon it has been exercised pretty freely, and there would be very little land produced by inserting any such condition. But, sir, I did not rise to discuss these matters. The idea was that resolutions, the object for introducing which had transpired, had better

be postponed indefinitely and not brought back. If they are referred to a committee they will be brought back and go on the Calendar again.

Mr. CONNESS. It seems to me that the disposition which is being made of the majority of these resolutions only exhibits the confidence of the Senate in the honorable chairman and his committee, and that he ought to be rather pleased with them. I hope we shall refer everything that is valuable to them, so that they may have the opportunity to consider the matter.

EXECUTIVE SESSION.

Mr. SHERMAN. Unless some Senator desires to submit a proposition for the action of the Senate I will move an adjournment. I think we are wasting time. We can render better service in the committees. I move, therefore, that the Senate adjourn. There is no object in going through the Calendar in this way.

Mr. CONNESS. I have some business that I should like to call up.

Mr. SHERMAN. Very well; then I withdraw the motion. I understand there is executive business to be attended to, and I move that the Senate proceed to the consideration of executive business. After an executive session we can resume legislative business if it is desired.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After a short executive session the doors were reopened.

NATIONAL DEBT.

Mr. CATTELL. I ask the consent of the Senate to offer a resolution at this time. I send it to the desk to be read.

The resolution was read, as follows:

Resolved, That the Senate receive with profound regret the proposition of the President in his annual message to repudiate a portion of the national obligations, and regard this and all forms of repudiation as a national crime. National honor requires the payment of the public debt in the utmost good faith to all creditors at home and abroad, not only according to the letter, but the spirit of the laws under which it was created.

Mr. CATTELL. Mr. President, it seems to me that the extraordinary proposition contained in the President's annual message, favoring the repudiation of the public debt, should not go to the country without a prompt and decided expression by the Senate of their unqualified disapprobation. And it is with this view I offer the resolution just read.

Let the full scope and meaning of this passage in the message may have escaped the attention of some Senators, I beg to read it again in your hearing:

"It may be assumed that the holders of our securities have already received upon their bonds a larger amount than their original investment, measured by a gold standard. Upon this statement of facts it would seem but just and equitable that the six per cent. interest now paid by the Government should be applied to the reduction of the principal in semi-annual installments, which in sixteen years and eight months would liquidate the entire national debt. Six per cent. in gold would at present rates be equal to nine per cent. in currency, and equivalent to the payment of the debt one and a half times in a fraction less than seventeen years. This, in connection with all the other advantages derived from their investment, would afford to the public creditors a fair and liberal compensation for the use of their capital, and with this they should be satisfied. The lessons of the past admonish the lender that it is not well to be over anxious in exacting from the borrower rigid compliance with the letter of the bond."

Mr. President, here is a simple, plain proposition emanating from the President of the United States in his message to Congress, and advocated as just and equitable, to pay to the public creditor simply the interest provided for by law and stipulated in the bond for a given number of years, and at the expiration of that period to repudiate the entire principal of the debt. It passes belief that a proposition so monstrous as this, so disgraceful, in my opinion, to the nation, so damaging to its credit at home and abroad, should emanate from the Chief Executive of this Government, whose duty it is to guard the honor and faith of the nation rather than to tarnish the one and to break the other. No man in the United States,

so far as my knowledge extends, has been found hitherto bold enough to advocate open, undisguised, and unqualified repudiation. So indefensible a proposition as this has been reserved for Andrew Johnson, as a fitting climax to the wickedness and folly of his administration.

Mr. President, the people of the United States will repudiate the repudiator. In point of fact, they have already done so. At the recent elections the people of the United States invested with all the executive and legislative power of this nation the party which had the manliness to declare against all forms of repudiation as a crime, and to assert that the obligations of the national Government should be paid in good faith to the uttermost farthing. And, Mr. President, the people of the United States will stand by their verdict. The debt is a burdensome one, unquestionably; but it will be paid; it will be paid manfully and honestly; nay more, sir, it will be paid cheerfully, remembering that it is the final installment of the price paid for the preservation of the glorious institutions under which we live as a priceless inheritance for our children and our children's children. I move, sir, that this resolution be referred to the Committee on Finance.

Mr. FESSENDEN and others. Let us pass it now.

Mr. CATTELL. I have not the slightest objection.

The PRESIDENT *pro tempore*. The question is on referring the resolution to the Committee on Finance.

Mr. CATTELL. There seems to be a disposition to act on it now, and therefore I withdraw the motion to refer.

Mr. EDMUNDS. I am entirely in favor of the resolution, except that I should wish it to state a little more specifically, so that there should not be any double construction put upon it, what it means. That resolution is in the substantial, and for aught I know in the literal, language of the Chicago platform; and there are certain good men in the country claiming to be Republicans, claiming to be in favor of national honesty, and probably being so, who have maintained that the letter and the spirit of the obligation merely require us to pay in something else, and not in money. There are a good many such people who maintain that proposition. Therefore, in the face of such a message as we have received, to merely reassert an equivocal proposition would amount to nothing at all. Let us, then, send the resolution to the Committee on Finance, who may report it to-morrow, as I hope, in such language that it will mean, beyond equivocation or misconception, that we intend to pay the public funded debt of the United States in real money, in coin, or that we do not—one or the other. Let us get rid of the equivocal which certain adroit persons maintain is found in the Chicago platform. To me there is no equivocation in that platform; but a man who really believes, as some men say they do, that the letter and spirit of our obligation are satisfied by paying only in what is called lawful money, in greenbacks, can vote for that resolution and stand just where he did before and leave the question open, just as it was before. If we are to say anything, as I am satisfied our duty requires us to say something, let us say that which is absolutely unequivocal.

Mr. WILSON. I ask to have the resolution read.

The Chief Clerk read the resolution, as follows:

Resolved, That the Senate receive with profound regret the proposition of the President in his annual message, to repudiate a portion of the national obligations, and regard this and all forms of repudiation as a national crime. National honor requires the payment of the public debt in the utmost good faith, to all creditors at home and abroad, not only according to the letter but the spirit of the laws under which it was created.

Mr. CONNESS. Mr. President, when a resolution shall be passed on this subject, in my opinion it ought to have legislative form; that is to say, it should be the expression of opinion of the entire legislative body, both

Houses included. This is a resolution of the Senate simply. While I am in favor of any resolution upon this subject which shall meet the views of a majority here, and most in favor of such a form as shall most clearly express the meaning that we have and guard the faith of the nation, I hope we shall pass no resolution until it shall be the expression of both Houses of Congress. I hope, therefore, this proposition will be referred to the Committee on Finance for the purpose of giving it such form as shall commend it further to us.

Mr. CATTELL. Mr. President, my object in offering this resolution was that we should have from this body a prompt denial of the doctrine contained in this message to go out with it to the world. A legislative enactment such as the joint resolution proposed by the Senator from Vermont, which was on our tables at the last session, will necessarily bring up some debate, or require some time, at any rate, in its passage. The House of Representatives, I think, pursued the same course which I have now proposed: they introduced and passed a resolution of their own body; and I felt that it was exceedingly desirable that the Senate should at once promptly declare its views in relation to this proposition.

Moreover, sir, this proposition of the President differs from all others. There is no question in this proposition as to whether the debt shall be paid in greenbacks or in coin. The suggestion is that it shall not be paid at all; and it occurs to me that so open and undisguised a proposition as this ought to be met, at least, by a prompt and decided expression of the Senate of the United States against it. When the other question comes up, it involves, perhaps, some points on which there will be found differences of opinion. As to this, I think there can scarcely be found a solitary individual in the Senate of the United States who will not disagree to the message of the President, at any rate as I understand it; and therefore I should prefer that the Senate would agree to pass this resolution now rather than refer it. My motion for reference was at the suggestion of a friend. I leave the question entirely for the judgment of the Senate.

Mr. NYE. Mr. President, I rise rather for the purpose of making a suggestion to the honorable mover of this resolution, to see whether he will not consent to strike out all after the word "crime." It seems to me that the rest has been so often stated that it would be useless again to repeat it. I think if the resolution could be amended in that respect no member of this body, whatever his views may be upon the manner of payment, would vote against the proposition. No right-minded man of any party, I care not where he is, would dare stand up here in the presence of the intelligence of this day and say that he was in favor of repudiating the public debt of this country. It is a great crime to suggest it; it is a crime to think of it; and a double crime for a person standing in the position of the Executive of this nation to send forth that alarming statement to the country. What we need and what our public credit needs is that it be sustained and be confidently upheld by everybody of all parties. I attribute this suggestion of this dying Executive to the fact that he is dying; that he has been so long opposed to the successful operations of the Government that involuntarily, in his death-struggle, he gives an expiring kick. He has made an attempt which I think this body and this Congress will be prepared to meet.

Mr. HENDRICKS. I wish to ask of the Chair if this resolution was offered this morning?

The PRESIDENT *pro tempore*. The resolution was offered this morning?

Mr. HENDRICKS. Is it too late to ask that it shall lie over until to-morrow?

Several SENATORS. It has been debated.

The PRESIDENT *pro tempore*. I suppose an objection would carry it over, although the better construction of the rule ought to be that that objection should be made before debate is had.

Mr. SHERMAN. The Senator from New Jersey appealed to the unanimous consent of the Senate to introduce the resolution.

Mr. EDMUNDS. He said for reference.

Mr. HENDRICKS. The appeal to the Senate for unanimous leave to introduce the resolution was not a consent of the Senate that it should be considered now; but I will suggest to the Chair that when the Senator introduced it he continued to occupy the floor, and it would have been almost rude on the part of any Senator while he was expressing his views about his own resolution to object to the further consideration of it. I think this resolution ought to lie over. It is quite enough, as the distinguished Senator from Vermont has said, that it does not express any one proposition distinctly in regard to the obligations of the Government toward the public debt. If there is a difference between the letter and the spirit of the law, clearly Congress in stating anything about it ought to state what that difference is. I knew very well during all the summer that the contest, so far as it was presented at Chicago, on this important question was made upon an equivocal proposition, as the Senator from Vermont now says. This debt is to be paid not only according to the letter but according to the spirit of the laws under which it was contracted.

The PRESIDENT *pro tempore*. Does the Senator insist on his objection to the consideration of the resolution?

Mr. HENDRICKS. If it is to be referred, I will not.

Mr. CONNESS. Let it be referred.

Mr. HENDRICKS. Senators suggest that they are going to refer it, and so I will not insist on my objection.

The PRESIDENT *pro tempore*. The objection is withdrawn. The question is on the reference of the resolution to the Committee on Finance.

Mr. HENDRICKS. I wish to make another remark or two. I understand this proposition is the platform of a political party of last year. I should like to have the opportunity to present, when this is considered, as an amendment to it or substitute for it, the proposition of another political party presented to the people in the last contest. My own opinion is that that platform presents the real doctrine in regard to our public debt more correctly, and presents it as it was claimed by very many persons during the last contest, that this resolution should be so construed as to agree with the New York platform.

If the Senator from New Jersey wishes to rebuke the President of the United States it is not becoming that the rebuke shall be contained in equivocal language. If the President be wrong and the Senate intends to state what is the right it ought to state it. This does not. This assumes that between the letter of the law and the spirit of the law under which the debt was contracted there is a difference. What is that difference? Is the letter of the law that the debt shall be paid in the lawful money of the United States, but is the spirit of the law according to the judgment of the Senator from New Jersey, according to the judgment of the Senator from Vermont, that it shall be paid in gold? Now, we are not dealing with this question with a view to a political result, I presume; and if the Senate makes a declaration on this question at all, it ought to be done frankly and fully, especially if it is to be regarded as a rebuke to the Chief Magistrate of the country. He has declared his views upon it, in which I do not concur; but if he is to be rebuked, let him be rebuked plainly. If it is the business of the Senate to pass resolutions intended to be those of censure, let them declare the true doctrine as the doctrine instead of that contained in the President's message.

Now, I want to know from the Senator from New Jersey who presents this resolution what does it mean? By this resolution does he undertake to say that there is a difference between the spirit and the letter of the law?

If so, what is that difference? And if there be such a difference, what doctrine in regard to the payment of the public debt does he intend to declare by this resolution? Does he intend to declare that the debt must be paid in coin, or that in part it may be paid in the lawful money of the United States? My opinion is that the debt is to be paid according to the contract. The law is the contract. In the absence of a provision that it is to be paid in gold it is at the discretion of the Government to pay in gold or the lawful money of the United States. Now, what is the opinion of the Senator from New Jersey? He wants to rebuke the President. By what sentiment does he intend to rebuke him? By saying that this contract between the Government and the bondholder is a gold contract? Is that the construction? What was meant by this resolution as to the difference between the spirit and the letter of the law? It is well enough now that we should state what was meant by language that entered so largely into the discussions of last year, and I am glad the Senator has offered this resolution, for now we shall know, as a matter of course, exactly what is meant.

Mr. CATTELL. Mr. President, in reply to the remarks of the Senator from Indiana, I desire only to say that when the proper time arrives for the consideration of the subject to which he alludes I shall be prepared to answer any of the several inquiries which he has propounded to me. The object of this resolution was simply to express the disapprobation of the Senate in regard to that portion of the President's message which I read and commented upon; and in doing so I added to that general form of expression of opinion an expression which has been passed upon by a body higher than the Senate, or the Congress, or the Executive—passed upon by the people of the United States; and I am somewhat surprised to find that so good a Democrat as my friend from Indiana is disposed now, after that high court has passed upon this question, to propose to incorporate upon this resolution a portion of the platform which has been condemned by the people.

Mr. HENDRICKS. Will the Senator allow me to ask him one question? Did the people decide, in voting upon this resolution, in favor of paying the debt in gold or in the lawful money of the United States?

Mr. CATTELL. I think they decided that the resolution of the Chicago platform was very much preferable to that issued in New York. I think that was the great decision made on that occasion. But, Mr. President, as I remarked in rising, when it shall become necessary to discuss this question in all its length and breadth I shall be prepared to take my ground upon it with as much frankness as the Senator from Indiana will. My object was what I have stated. I should be glad to have a vote to-day on this resolution, but I submit to the better judgment of friends around me, who think it is better to refer the resolution to the committee.

Mr. EDMUNDS. Mr. President, I wish to ask my friend from Indiana, if I can have his attention, the same question that he asked the Senator from New Jersey: what he understands the people to have decided on that subject in the last campaign? He has better means of knowing than almost any of us, as he lived in a region of country where a good deal was said on that subject. I should really be glad, for information, to be told by the responsible head of the Democratic party precisely what the people did decide as he understands it.

Mr. HENDRICKS. Mr. President, the Senator from Vermont, inasmuch as he belongs to the majority party, ought to be able to answer that question much more satisfactorily than I am presumed to be able to do. If, however, I were to answer the Senator just as I believe, I would say that I think the people really decided nothing upon it. I understand that in the region of the country in which he lives it was claimed that the resolution meant

that the spirit of the contract was that the payment should be made in gold, and I presume the people of Vermont decided thus, while I know that in the region of the country in which I live the advocates of the Chicago platform claimed that it meant a payment in lawful money, in very many instances; so that very many persons in our section of the country voted for the candidates standing on the Chicago platform, assuming that that meant that the debt might be paid in lawful money, that that was the spirit of the contract as well as the letter; so I cannot say what was decided.

As the Senator a few moments since remarked, the resolution is equivocal; it declares nothing; and so politicians upon the stump put such construction upon it as suited the particular locality in which they were speaking, and of course no decision was made. But now, when a Senator undertakes to rebuke the President, and to reassert this same doctrine, that the spirit of the law is to prevail as well as the letter of the law, it is due that he should declare exactly what he means. If there be a difference between the letter and the spirit, I should like to know it. Ordinarily we gather the spirit and purpose of the law from the letter. It is to be presumed that the Congress of the United States uses language that expresses its intention. That is the presumption; but this resolution assumes that the letter does not express the intention of Congress; that there is something back of or beyond that which constitutes the spirit of the law. I want to know what that is. If that spirit is gold payment of the debt let us know.

Mr. President, I do not desire now to protract the debate. I have tried to answer the question of the Senator from Vermont, though it is a difficult one to answer.

Mr. EDMUNDS. I am really unable to see which way my friend has answered the question; but as it seems to be a little difficult one, I will relieve him from the responsibility now and ask it some other time.

Mr. WILLEY. Mr. President, it strikes me that the whole merit of this question depends upon the speedy and prompt action of the Senate. I doubt whether by referring it to a committee the object can be accomplished; and I question the propriety of bringing up a discussion upon the financial policy of the Government on an abstract resolution of this character. The President's message has gone out to the country. It has its influence, and is at present having its influence at home and abroad on the credit of the country and on the national honor. If we desire to counteract that we ought to do it by some expression of the Senate immediately had. I suggest, therefore, to the honorable Senator from New Jersey whether the resolution could not be so modified as simply to present to the Senate the question as to its opinion upon what the President has proposed himself, that, and no more; not a resolution in a form that will involve whether we are to pay our debt in gold or in the legal currency, or what the policy of the Government on our financial matters heretofore has been, but simply an expression on the part of the Senate condemning so much of the President's message as relates to the repudiation of our public debt, which is a matter entirely different from the manner in which we should pay it. The other day, when his message was read, I drew hastily a resolution of my own; and I desire now to read it to see whether the Senator from New Jersey will not think that it will accomplish the practical purpose which he designs. Inasmuch as it cannot possibly lead to any debate the sense of the Senate can at once go out to the country, and the object of introducing the resolution be accomplished. I had intended to offer a resolution in this form:

That the Senate, properly cherishing and upholding the good faith and honor of the nation, do hereby utterly disapprove of and condemn the sentiments and proposition contained in so much of the late annual message of the President of the United States as reads as follows

And then follow exactly the very words which the Senator from New Jersey read. There is

simply an expression of opinion on the part of the Senate condemning the repudiating doctrine set forth in the message—that and no more. It strikes me that at this time, in view of what is due to our honor at home and our credit and honor abroad, the Senate of the United States ought to place upon record some expression of its opinion that it may go out to the country and to the world, *pari passu* as nearly as may be, with this repudiating doctrine of the President of the United States. I merely throw out the suggestion.

The PRESIDENT *pro tempore*. The question is on the motion to refer the resolution to the Committee on Finance.

Mr. WILLEY. At the suggestion of Senators I will offer this as a substitute for the resolution of the Senator from New Jersey, and ask action on it now.

The PRESIDENT *pro tempore*. That is not strictly in order.

Mr. WILLEY. What I propose is to offer the resolution which I have read as a substitute for that submitted by the Senator from New Jersey.

The PRESIDENT *pro tempore*. That is not now in order, because the motion pending is to refer this resolution to the Committee on Finance.

Mr. SHERMAN. I should like to have the proposition of the Senator from West Virginia read.

The PRESIDENT *pro tempore*. It can be read for information.

The Chief Clerk read as follows:

Resolved, That the Senate, properly cherishing and upholding the good faith and honor of the nation, do hereby utterly disapprove of and condemn the sentiments and proposition contained in so much of the late annual message of the President of the United States as reads as follows: "It may be assumed that the holders of our securities have already received upon their bonds a larger amount than their original investment, measured by a gold standard. Upon this statement of facts it would seem but just and equitable that the six per cent. interest now paid by the Government should be applied to the reduction of the principal in semi-annual installments, which in sixteen years and eight months would liquidate the entire national debt. Six per cent. in gold would at present rates be equal to nine per cent. in currency, and equivalent to the payment of the debt one and a half time in a fraction less than seventeen years. This, in connection with all the other advantages derived from their investment, would afford to the public creditors a fair and liberal compensation for the use of their capital, and with this they should be satisfied. The lessons of the past admonish the lender that it is not well to be over anxious in exacting from the borrower rigid compliance with the letter of the bond."

Mr. SHERMAN. I think the Senate of the United States ought to express in very emphatic language its condemnation of this clause of the President's message. It is the first time, I believe, in the history of this Government that any public man, either in the legislative or executive department of the Government of the United States, has proposed open and plain repudiation. Disputes have often existed as to the terms and meaning of words in laws relating to revenue and relating to loans; there may have been honest differences of opinion; but, so far as I know, no man has ever heretofore undertaken to violate the faith of this country by proposing repudiation of the entire principal of the public debt. This proposition of the President is to substitute in the place of a debt drawing six per cent. interest an obligation to pay only an annuity for sixteen years, and repudiate the principal. So shocking a proposition, coming from the President of the United States, even although defeated as he has been in popular judgment, will excite comment all over the world, and I believe will excite prejudice against our institutions, which ought to be at once counteracted by the legislative department of the Government. I will vote, therefore, for either proposition, that of the Senator from New Jersey or that of the Senator from West Virginia. But it seems to me it would be better to confine the language of the resolution we adopt to the simple repudiation of the proposition of the President of the United States. It seems to me it would be wiser and better to refer this matter to the committee, which will probably be able to re-

port to-morrow either one resolution or the other, as their judgment shall dictate.

Mr. WARNER. I have a resolution to offer to go to the committee with the other resolutions, and I ask that it be read now for information.

The PRESIDENT *pro tempore*. It may be read for information, but resolutions are not now in order. The question is on the reference of the pending resolution to the Committee on Finance. The proposition of the Senator from Alabama may be read for information if there be no objection.

The Chief Clerk read as follows:

Resolved by the Senate of the United States, That we regard as dishonest the proposition of the President contained in his message to appropriate the interest of the public debt to the payment of the principal.

Mr. SAULSBURY. Mr. President, I shall vote for none of these propositions in their present shape, and I doubt whether I shall vote for them in any shape in which they may be presented. If the President's message, however, means that which gentlemen seem to conceive it means, repudiation in any form, I condemn the proposition as strongly as any body. I shall not attempt to give any explanation as to the meaning of the President of the United States in his message. That he meant repudiation of the public indebtedness, that he meant to advocate bad faith toward the public creditors or toward any other class of men, I do not for a moment believe. While I have been no partisan of his administration, I will do him the justice to say that his whole life has shown him to be a man who does not repudiate honest and honorable obligations either in public or in private life.

Take warning, Mr. President. There has been but one instance, according to my recollection, since the foundation of this Government, when the Senate of the United States attempted to pass resolutions of censure upon the Chief Executive officer of the nation; but one, and that not upon a mere recommendation of a message to the Senate, but founded upon acts. The Senate of the United States sat in judgment upon the great man who then filled the Chief Executive office of this nation, and the people of the United States afterwards sat in judgment upon them, and the condemnatory resolution has no place upon your journals. It may be, sir, that flushed with triumph, and deeming the future all secure to you and your party, you may think that you may go further and fare no worse. But, sir, although success has accrued to you for the present, the mutations of party are, if not as often repeated, yet as sure as mutations in private life.

But, sir, what would propriety, what would dignity, what would a true consideration for the character of the American Senate seem to require—a body formed for purposes of deliberation, calm, sober deliberation? It would be, if there be any proposition in the message of the President of the United States which you condemn, not to meet it by the simple passage of a resolution, but to meet it by your action. Show to the world that you condemn it, not by the simple passage of a resolution, but by acts of legislation showing to the creditors of the nation by your acts securing their debt evidence upon which they can firmly and confidently rely that the American Congress means, under any and all circumstances, to discharge the obligations of the country with fidelity; not a simple resolution passed to-day and gone to-morrow; passed to-day and not remembered at all hereafter.

The PRESIDENT *pro tempore*. The question is on the motion to refer the resolution of the Senator from New Jersey to the Committee on Finance.

The motion was agreed to.

Mr. RICE. I wish to renew the motion I made the other day in regard to adding two members to the Committee on the Pacific Railroad. I do not think there is any serious opposition to it, and I wish it taken up and acted upon now.

The PRESIDENT *pro tempore*. The Sena-

tor from Arkansas moves that two members be added to the Committee on the Pacific Railroad.

Mr. WILLEY. I desire to inquire whether the resolution I offered awhile ago goes to the Committee on Finance?

The PRESIDENT *pro tempore*. No; it was not strictly in order under that motion. It may go as an independent proposition, if the Senator moves it.

Mr. WILLEY. I move that it be referred to the committee, also.

The PRESIDENT *pro tempore*. There is a question pending—the motion of the Senator from Arkansas to add two members to the Committee on the Pacific Railroad.

Mr. WILSON. I suggest to the Senator from Arkansas to let this matter lie over to-day. The chairman of the committee has not been here this session. I think there will be no difficulty about settling the question.

Mr. RICE. At the suggestion of Senators I will let my motion lie over until the Senator from Michigan, [Mr. HOWARD,] the chairman of the committee, arrives.

The PRESIDENT *pro tempore*. The motion will lie over until to-morrow.

The PRESIDENT *pro tempore*. The Senator from West Virginia [Mr. WILLEY] moves that the Senate proceed to consider the resolution offered by him. No objection being made, the resolution will be read again.

Mr. FOWLER. Is it understood that the resolution is to be passed to-day?

Several SENATORS. Oh, no; only to be referred.

The Chief Clerk proceeded to read the resolution, as follows:

Resolved, That the Senate, properly cherishing and upholding the good faith and honor of the nation, do hereby utterly disapprove of and condemn the sentiments and proposition contained in so much of the late annual message of the President of the United States as reads as follows.

Mr. CONNESS. That has already been read. I move to refer it to the Committee on Finance.

The motion was agreed to.

The PRESIDENT *pro tempore*. There was a resolution offered by the Senator from Alabama [Mr. WARNER] which will be taken up.

The Chief Clerk read as follows:

Resolved by the Senate of the United States, That we regard as dishonest the proposition of the President contained in his message to appropriate the interest of the public debt to the payment of the principal.

Mr. CONNESS. I move that that have the same reference.

The motion was agreed to.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the following enrolled bills and joint resolution, and they were thereupon signed by the President *pro tempore* of the Senate:

A bill (S. No. 555) to authorize the Secretary of State to adjust the claim of Gustavus G. Cushman for office rent while commissioner under the reciprocity treaty;

A bill (S. No. 186) providing for the sale of the lands, tenements, and water privileges belonging to the United States at and near Harper's Ferry, in the county of Jefferson, West Virginia; and

A joint resolution (S. R. No. 170) in relation to the library of the Department of Agriculture.

COMMITTEE ON ORDNANCE.

Mr. CAMERON. The other day when the standing committees were appointed the chairman of the joint Committee on Ordnance was not present, and in consequence thereof the committee on that subject was suffered to expire. I move that it be continued, so that the committee may have an opportunity of closing up their business.

The motion was agreed to.

UNION PACIFIC RAILROAD.

Mr. SHERMAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior be

directed to communicate to the Senate the report of Mr. Williams, Government director of the Union Pacific railroad, on the condition of said road.

ADJOURNMENT FOR THE HOLIDAYS.

Mr. COLE. I move that the Senate proceed to the consideration of the resolution relating to the adjournment for the holidays.

The PRESIDENT *pro tempore*. That has been objected to, and the objection carries it over to-day unless it be withdrawn.

Mr. CONNESS. It may not be objected to now.

Mr. HENDRICKS. I do not suppose anybody will object.

Mr. COLE. I presume the objection made related to some question then pending which it was desirable to dispose of.

The motion was agreed to; and the Senate proceeded to consider the following concurrent resolution of the House of Representatives:

Resolved, (the Senate concurring,) That when the two Houses of Congress adjourn on Monday, the 21st instant, they adjourn to meet on Tuesday, the 5th of January, 1869.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution of the House of Representatives.

Mr. SUMNER. I move to amend the resolution by striking out "Monday, the 21st" and inserting "Wednesday, the 23d." It seems to me we ought not to adjourn so early. I call for the yeas and nays on the amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 26, nays 27; as follows:

YEAS—Messrs. Cameron, Corbett, Dixon, Edmunds, Fessenden, Harlan, Harris, Kellogg, Morrill of Vermont, Morton, Osborn, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Ramsey, Rice, Ross, Sherman, Spencer, Sumner, Thayer, Trumbull, Wade, Warner, Wilson, and Yates—26.

NAYS—Messrs. Anthony, Buckalew, Cattell, Cole, Conkling, Conness, Davis, Doolittle, Fowler, Henderson, Hendricks, Howe, McCreery, Morgan, Morrill of Maine, Nye, Pool, Robertson, Saulsbury, Sawyer, Sprague, Stewart, Tipton, Vickers, Whyte, Willey, and Williams—27.

ABSENT—Messrs. Abbott, Bayard, Chandler, Cragin, Drake, Ferry, Frelinghuysen, Grimes, Howard, McDonald, Norton, Van Winkle, and Welch—13.

So the amendment was not agreed to.

The PRESIDENT *pro tempore*. The question is on concurring in the resolution.

Mr. THAYER called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 36, nays 19; as follows:

YEAS—Messrs. Anthony, Buckalew, Cattell, Chandler, Cole, Conkling, Conness, Corbett, Davis, Dixon, Doolittle, Edmunds, Fowler, Grimes, Harris, Henderson, Hendricks, Howe, Kellogg, McCreery, McDonald, Morgan, Morrill of Maine, Nye, Osborn, Patterson of New Hampshire, Pool, Ramsey, Robertson, Saulsbury, Sawyer, Sprague, Stewart, Vickers, Whyte, and Willey—36.

NAYS—Messrs. Cameron, Fessenden, Harlan, Morrill of Vermont, Morton, Patterson of Tennessee, Pomeroy, Rice, Sherman, Spencer, Sumner, Thayer, Tipton, Trumbull, Wade, Warner, Williams, Wilson, and Yates—19.

ABSENT—Messrs. Abbott, Bayard, Cragin, Drake, Ferry, Frelinghuysen, Howard, Norton, Ross, Van Winkle, and Welch—11.

So the resolution was concurred in.

Mr. CONKLING. I move that the Senate do now adjourn.

The motion was agreed to, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, December 14, 1868.

The House met at twelve o'clock m.
The Journal of Thursday last was read and approved.

ORDER OF BUSINESS.

The SPEAKER. This being Monday, the first business in order is the call of States and Territories, commencing with the State of Maine, for the introduction of bills and joint resolutions, for reference to their appropriate committees, not to be brought back by motions to reconsider. During this call resolutions of State or territorial Legislatures may be presented.

DEFENSE OF NORTHEASTERN FRONTIER.

Mr. PETERS introduced a bill (H. R. No. 1498) to provide for the defense of the north-

eastern frontier; which was read a first and second time.

Mr. PETERS. I move the reference of this bill to a select committee of seven members.

Mr. WASHBURN, of Illinois. What is the necessity of multiplying committees? Why should not this bill go the appropriate standing committee?

Mr. PETERS. The standing committees are very full of business; and if this be referred to a standing committee there may not be an opportunity to report it during this session.

Mr. WASHBURN, of Illinois. The appropriate committee is the Committee on Military Affairs, and that committee is certainly not very full of business.

Mr. SCHENCK. I move to refer the bill to the Committee on Military Affairs.

The SPEAKER. The motion to refer to a standing committee takes precedence of the motion to refer to a select committee.

The question being taken on the motion of Mr. SCHENCK, there were—ayes 53, noes 42; no quorum voting.

The SPEAKER, under the rules, ordered tellers; and appointed Messrs. SCHENCK and PETERS.

The House divided; and the tellers reported—ayes 65, noes 48.

So the motion of Mr. SCHENCK was agreed to; and the bill was referred to the Committee on Military Affairs.

Mr. PETERS. I hope that, by unanimous consent, the reference of this bill will be changed so as to refer it to the Committee on Foreign Affairs. The Committee on Military Affairs will probably be unable to report again during this session.

Mr. GARFIELD. I cannot consent to that. The Committee on Foreign Affairs has nothing to do with this subject. I move to reconsider the vote by which the bill was referred, and also move that the motion to reconsider be laid on the table.

The SPEAKER. References made during the morning hour of Monday cannot be reconsidered.

PAY, BOUNTY, ETC., OF NON-RESIDENTS.

Mr. ELA introduced a bill (H. R. No. 1499) relating to pay, bounty, and pensions of non-residents; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MILITARY ESTABLISHMENT.

Mr. POLAND introduced a bill (H. R. No. 1500) to repeal a part of section eight of an act passed August 3, 1861; which was read a first and second time, and referred to the Committee on Military Affairs.

PAYMENT FOR HORSES.

Mr. SMITH introduced a bill (H. R. No. 1501) providing for payment for horses lost by certain officers in the service of the United States; which was read a first and second time, and referred to the Committee on Military Affairs.

FREEDMEN'S HOSPITALS.

Mr. ELIOT introduced a bill (H. R. No. 1502) relating to freedmen's hospitals; which was read a first and second time, referred to the Committee on Freedmen's Affairs, and ordered to be printed.

PENSIONS.

Mr. BANKS introduced a joint resolution (H. R. No. 377) instructing the Committee on Appropriations to consider the expediency of making an appropriation to carry into effect a certain provision of an act relating to pensions; which was read a first and second time, and referred to the Committee on Appropriations.

CONTESTED ELECTIONS.

Mr. CHURCHILL introduced a joint resolution (H. R. No. 378) designating officers authorized to take evidence in cases of contested elections, and for other purposes; which was read a first and second time, and referred to the Committee of Elections.

OBSTRUCTIONS IN NEW YORK HARBOR.

Mr. ROBINSON introduced a bill (H. R. No. 1503) to remove obstructions from the East river, in the harbor of New York; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

BOSTON AND WASHINGTON TELEGRAPH LINES.

Mr. STEWART introduced a bill (H. R. No. 1504) to establish telegraph lines between Boston, New York, Philadelphia, Baltimore, and Washington; which was read a first and second time, referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

SOUTHERN MARYLAND RAILROAD COMPANY.

Mr. VAN HORN, of New York, introduced a bill (H. R. No. 1505) to authorize the Southern Maryland Railroad Company to enter the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

AFRICAN COLLEGE.

Mr. BROOMALL introduced a bill (H. R. No. 1506) to incorporate the African College; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

RAILROAD INCORPORATIONS.

Mr. LAWRENCE, of Pennsylvania, introduced a bill (H. R. No. 1507) authorizing the incorporation of certain railroad companies, to construct railroads therein described or mentioned; which was read a first and second time, and referred to the Committee on Roads and Canals.

BONDS OF THE UNITED STATES.

Mr. MILLER introduced a joint resolution (H. R. No. 379) declaring that the principal of all bonds of the United States shall be paid in coin; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

POST ROUTE CHANGED.

Mr. MILLER also introduced a bill (H. R. No. 1508) to change post route No. 2243, in Union county, Pennsylvania, so as to go by way of Kelly's Point; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

POST OFFICE BUILDING, LEWISBURG.

Mr. MILLER also introduced a bill (H. R. No. 1509) authorizing the erection of a suitable post office building in the borough of Lewisburg, Pennsylvania; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

SUPPLEMENT TO BANKRUPT LAW.

Mr. O'NEILL introduced a bill (H. R. No. 1510) supplementary to an act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved March 2, 1867; which was read a first and second time, and referred to the Committee on Revision of Laws of the United States.

PAYING OF PENNSYLVANIA AVENUE.

Mr. PETTIS introduced a bill (H. R. No. 1511) to provide for the paving of Pennsylvania avenue; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

JAMES SMITH, OF PHILADELPHIA.

Mr. MYERS introduced a bill (H. R. No. 1512) granting a pension to James Smith, of Philadelphia, a soldier of the war of 1812; which was read a first and second time, and referred to the Committee on Revolutionary Pensions and of the War of 1812.

W. J. MIXSON.

Mr. WHITEMORE introduced a bill (H. R. No. 1513) for the removal of the disabilities of W. J. Mixson, a citizen of South Carolina; which was read a first and second time, and referred to the Committee on Reconstruction.

REMOVAL OF DISABILITIES.

Mr. BOWEN introduced a bill (H. R. No. 1514) to relieve from disabilities certain citizens of South Carolina; which was read a first and second time, and referred to the Committee on Reconstruction.

ELECTIONS IN SOUTH CAROLINA, ETC.

Mr. WHITEMORE introduced a joint resolution (H. R. No. 330) instructing the Committee of Elections to inquire into the elections of South Carolina, Georgia, and Louisiana; which was read a first and second time, and referred to the Committee on Reconstruction.

NATHAN LAND AND J. A. HOWARD.

Mr. YOUNG introduced a bill (H. R. No. 1515) to relieve Nathan Land and J. A. Howard, of Barton county, in the State of Georgia, from legal and political disabilities; which was read a first and second time, and referred to the Committee on Reconstruction.

NEW ORLEANS AND MOBILE RAILROAD CO., ETC.

Mr. KELLOGG introduced a bill (H. R. No. 1516) granting to the New Orleans, Mobile, and Chattanooga Railroad Company the right of way through the public lands of the United States, and for other purposes; which was read a first and second time, and referred to the Committee on the Public Lands.

APPOINTMENT OF MIDSHIPMEN.

Mr. NORRIS introduced a bill (H. R. No. 1517) in relation to the appointment of midshipmen from the lately reconstructed States; which was read a first and second time, and referred to the Committee on Reconstruction.

RELIEF FROM DISABILITIES.

Mr. CALLIS introduced a bill (H. R. No. 1518) to relieve from legal and political disabilities certain persons therein named, citizens of Alabama; which was read a first and second time, and referred to the Committee on Reconstruction.

COLLEGE LANDS IN ALABAMA.

Mr. BUCKLEY introduced a bill (H. R. No. 1519) providing that the State of Alabama may accept provisions of an act giving public lands for benefit of certain colleges within two years; which was read a first and second time, and referred to the Committee on the Public Lands.

MISSISSIPPI SHIP-CANAL COMPANY.

Mr. SYPPER introduced a bill (H. R. No. 1520) concerning the Mississippi and Mexican Gulf Ship-Canal Company, asking an appropriation of \$300,000; which was read a first and second time, and referred to the Committee on Appropriations.

GOLD CONTRACTS.

Mr. GARFIELD introduced a bill (H. R. No. 1521) to legalize gold contracts; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

REPUDIATION OF NATIONAL DEBT.

Mr. SPALDING introduced the following concurrent resolution; which was read, referred to the Committee of Ways and Means, and ordered to be printed:

Resolved, (the Senate concurring,) That Congress will not entertain any project that looks directly or indirectly to the repudiation of the debt of the United States; hence the Congress unhesitatingly abjures the proposition embraced in the executive message of applying the interest that shall hereafter be paid on the six per cent. bonds in liquidation of the principal sum named in said securities.

REMOVAL OF DISABILITIES.

Mr. WELKER introduced a bill (H. R. No. 1522) to relieve from legal and political disabilities W. Bethel, of Florida, engaged in the late rebellion; which was read a first and second time, and referred to the Committee on Reconstruction.

REGULAR MEETINGS OF CONGRESS.

Mr. WELKER also introduced a bill (H. R. No. 1523) to repeal the act entitled "An act to fix the times for the regular meetings of Congress," approved January 22, 1867; which was

read a first and second time and referred to the Committee on the Judiciary.

AMENDMENT TO THE CONSTITUTION.

Mr. ASHLEY, of Ohio, introduced a joint resolution (H. R. No. 331) proposing an amendment to the Constitution; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

PROTECTION OF WOMEN IN THE DISTRICT.

Mr. ASHLEY, of Ohio, also introduced a bill (H. R. No. 1524) for the better protection of women in the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

JUDICIAL DISTRICT IN OHIO.

Mr. PLANTS introduced a bill (H. R. No. 1525) to divide the State of Ohio; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

JUDICIAL DISTRICT IN KENTUCKY.

Mr. McKEE introduced a bill (H. R. No. 1526) to establish a new judicial district in Kentucky; which was read a first and second time, and referred to the Committee on the Judiciary.

NASHVILLE AND DECATUR RAILROAD.

Mr. ARNELL introduced a bill (H. R. No. 1527) to regrant certain lands in the State of Alabama to the Nashville and Decatur Railroad Company; which was read a first and second time, and referred to the Committee on the Public Lands.

IMPROVEMENT OF TENNESSEE RIVER.

Mr. MULLINS presented resolutions of the Legislature of Tennessee, asking an appropriation for the improvement of the navigation of the Tennessee river; which was referred to the Committee on Commerce.

SUPPRESSION OF UNLAWFUL VOTING.

Mr. MULLINS introduced a bill (H. R. No. 1528) to suppress and punish persons who unlawfully vote and disturb or otherwise unlawfully endeavor to control those who are legally entitled to vote at any election in the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

MESSAGE FROM THE PRESIDENT.

Several messages in writing from the President of the United States were communicated by Mr. Moore, his Private Secretary.

EMMELINE HICKS.

Mr. BUTLER, of Tennessee, introduced a bill (H. R. No. 1529) for the relief of Emmeline Hicks; which was read a first and second time, and referred to the Committee on Invalid Pensions.

SUFFRAGE IN THE DISTRICT OF COLUMBIA.

Mr. JULIAN introduced a bill (H. R. No. 1530) further to extend the right of suffrage in the District of Columbia; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

SUFFRAGE IN THE TERRITORIES.

Mr. JULIAN also introduced a bill (H. R. No. 1531) further to extend the right of suffrage in the Territories of the United States; which was read a first and second time, referred to the Committee on the Territories, and ordered to be printed.

JAMES M. HOOD.

Mr. FARNSWORTH introduced a bill (H. R. No. 1532) for the relief of James M. Hood; which was read a first and second time, and referred to the Committee on Foreign Affairs.

JERUSHA PAGE.

Mr. PILE introduced a joint resolution (H. R. No. 382) increasing the pension of Jerusha Page, widow of Captain Thomas Page; which was read a first and second time, and referred to the Committee on Invalid Pensions.

SCHOOL LANDS.

Mr. FERRY introduced a bill (H. R. No. 1533) donating for school purposes a lot of land and the building thereon known as the old Indian dormitory, in the village of Mackinaw, Michigan; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

ENOCH LYTLE.

Mr. LOUGHRIDGE introduced a bill (H. R. No. 1534) to grant a pension to Enoch Lytle; which was read a first and second time, and referred to the Committee on Invalid Pensions.

HENRY N. BERRY.

Mr. LOUGHRIDGE also introduced a bill (H. R. No. 1535) for the relief of Henry N. Berry, a soldier of the sixth Iowa cavalry; which was read a first and second time, and referred to the Committee of Claims.

POST ROUTE IN IOWA.

Mr. LOUGHRIDGE also introduced a bill (H. R. No. 1536) to establish a post route from Centerville, Iowa, to Moulton, Iowa; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

AMENDMENT TO THE CONSTITUTION.

Mr. LOUGHRIDGE also introduced a joint resolution (H. R. No. 883) proposing an amendment to the Constitution of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

MILITIA IN THE RECONSTRUCTED STATES.

Mr. PAINE introduced a bill (H. R. No. 1537) to repeal certain provisions of section six of an act entitled "An act making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes," approved March 2, 1867; which was read a first and second time, and referred to the Committee on Reconstruction.

WAGON-ROAD IN OREGON.

Mr. MALLORY presented the memorial of the Legislature of Oregon, asking from Congress a grant of lands along the line of a wagon-road from Tillamook valley to the Portland road at Lafayette, Yamhill county, Oregon; which was referred to the Committee on the Public Lands.

INDIAN DEPREDACTIONS IN OREGON.

Mr. MALLORY also presented joint resolutions of the Legislature of Oregon, relative to the appointment by Congress of a commission to investigate and take proof as to losses sustained by citizens of Oregon on account of Indian depredations since the report of the last commission; which were referred to the Committee on Indian Affairs.

LAND GRANT TO OREGON.

Mr. MALLORY also presented joint resolutions of the Legislature of Oregon, relative to granting and confirming to the State of Oregon certain lands; which were referred to the Committee on the Public Lands.

POST ROUTE IN OREGON.

Mr. MALLORY also presented the memorial of the Legislature of Oregon, requesting the establishment of a mail route from Roseburg, in Douglas county, to Randolph post office, in Coos county, Oregon; which was referred to the Committee on the Post Office and Post Roads.

CHESAPEAKE AND OHIO RAILROAD.

Mr. HUBBARD, of West Virginia, presented joint resolutions from the Legislature of West Virginia, asking Congress to aid in the completion of the Chesapeake and Ohio railroad; which were referred to the Committee on Roads and Canals.

WASHINGTON AND CINCINNATI RAILROAD.

Mr. POLSLEY presented a joint resolution of the Legislature of the State of West Vir-

ginia, asking Congress to pass the bill entitled "A bill to incorporate the Washington and Cincinnati National Railroad Company;" which was referred to the Committee on Commerce.

CHESAPEAKE AND OHIO RAILROAD.

Mr. POLSLEY also presented a joint resolution of the Legislature of the State of West Virginia, asking Congress to aid in the completion of the Chesapeake and Ohio railroad, and moved that the same be referred to the Committee on Roads and Canals.

The SPEAKER. The Chair would remind the gentleman that a resolution of the same character was presented a few minutes since by his colleague from West Virginia, [Mr. HUBBARD,] and referred to the Committee on Roads and Canals.

Mr. POLSLEY. Very well; I will withdraw it.

ASSAY OFFICE IN MONTANA.

Mr. CAVANAUGH introduced a bill (H. R. No. 1538) to locate and establish an assay office in the Territory of Montana; which was read a first and second time, and referred to the Committee on Coinage, Weights, and Measures.

JOHN S. SLATER.

Mr. CAVANAUGH also introduced a bill (H. R. No. 1539) for the relief of John S. Slater; which was read a first and second time, and referred to the Committee of Claims.

BENJAMIN LEVY.

Mr. CAVANAUGH also introduced a bill (H. R. No. 1540) for the relief of Benjamin Levy; which was read a first and second time, and referred to the Committee of Claims.

WILLIAM M. STAFFORD.

Mr. CAVANAUGH also introduced a bill (H. R. No. 1541) for the relief of William M. Stafford; which was read a first and second time, and referred to the Committee of Claims.

ADMIRALTY JURISDICTION.

Mr. KERR introduced a bill (H. R. No. 1542) to regulate and limit the admiralty jurisdiction of the district courts of the United States in certain cases; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

THOMAS J. WEBB.

Mr. CORLEY introduced a bill (H. R. No. 1543) for the removal of the disabilities of Thomas J. Webb, a citizen of South Carolina; which was read a first and second time, and referred to the Committee on Reconstruction.

VARNY A. GASKILL.

Mr. YOUNG introduced a bill (H. R. No. 1544) to relieve of disabilities Varney A. Gaskill, of Fulton county, Georgia; which was read a first and second time, and referred to the Committee on Reconstruction.

NEW ORLEANS AND SHIP ISLAND CANAL.

Mr. SYPHER introduced a bill (H. R. No. 1545) to aid in the construction of the New Orleans and Ship Island canal; which was read a first and second time, and referred to the Committee on Roads and Canals.

ORDER OF BUSINESS.

The SPEAKER. There being no further bills and joint resolutions for reference, the remainder of the morning hour will be devoted to the reception of resolutions, commencing with the State of Tennessee, where the call rested on the conclusion of the morning hour on Monday last.

KU-KLUX OUTRAGES.

Mr. ARNELL. I submit the following preamble and resolution, and ask the previous question upon them:

Whereas Ku-Klux outrages continue to be practiced upon peaceable and law-abiding citizens of the United States in the State of Tennessee and elsewhere; Therefore,

Resolved, That the Committee on Reconstruction be, and is hereby, instructed to inquire carefully into this whole matter, and to report to the House, by bill or otherwise, at the earliest day possible.

* The question was upon seconding the previous question.

Mr. BROOKS. Does this resolution embrace all the States where outrages are committed, not only the southern States but the northern and western States?

Mr. ARNELL. Wherever there are Ku-Klux organizations.

Mr. BROOKS. I shall object to it unless it embraces all the States where there are outrages. I call for a division of the question.

The SPEAKER. The question will first be taken upon the resolution, and then upon the preamble.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

The question recurred upon the preamble.

The previous question was seconded and the main question ordered; and under the operation thereof the preamble was agreed to.

Mr. ARNELL moved to reconsider the votes by which the preamble and resolution were agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

TWENTY PER CENT. COMPENSATION.

Mr. STOKES introduced a joint resolution (H. R. No. 384) granting additional compensation to certain employes in the civil service of the Government at Washington; which was read a first and second time.

The question was upon ordering the joint resolution to be engrossed and read a third time.

Mr. STOKES. Upon that question I call the previous question.

The joint resolution, which was read, provides that there shall be allowed and paid out of any money applicable to the purpose, heretofore or hereafter to be appropriated, to the same classes of officers and other persons in the civil service of the United States Government at Washington embraced in the joint resolution of Congress entitled "Joint resolution giving additional compensation to certain employes in the civil service of the Government at Washington," passed February 28, 1867, an additional compensation of twenty per cent. on their respective salaries as fixed by law or where no salary is fixed by law, upon their pay respectively from and after the 30th day of June, 1867, to the 30th day of June, 1869. But if any such officer or other person shall have performed service for less than one year, he or she is to be allowed the twenty per cent. upon the sum he or she may have actually received for such service. All such additional compensation as may be due to the employes of the Patent Office is to be paid out of the funds of that office. The resolution is not to apply to persons whose salaries as fixed by law exceed \$2,500. It is to include such persons as have been employed in any capacity in the Government Printing Office or in any of the Departments; the watchmen on the Dome of the Capitol and in the Capitol grounds; the inspector of marble; the foremen of mechanics at work on the Capitol extension; the watchmen in said extension, whether inside or out, and the employes of the jail.

Mr. BENJAMIN. I raise the point of order that this joint resolution contains an appropriation and must receive its first consideration in Committee of the Whole.

The SPEAKER. The Chair overrules the point. The resolution provides that the money shall be paid out of any appropriation applicable to the purpose heretofore made or hereafter to be made. The resolution itself will not take any money from the Treasury.

Mr. WASHBURN, of Illinois. I move that the joint resolution be referred to the Committee on Appropriations.

The SPEAKER. The gentleman from Tennessee [Mr. STOKES] has called the previous question, which takes precedence of the motion to refer.

Mr. BENJAMIN. I move that the joint resolution be laid on the table.

Mr. WARD. On that motion I call for the yeas and nays.

The yeas and nays were ordered.

Mr. MAYNARD. If the previous question be seconded can we then have a vote upon the motion of the gentleman from Illinois, [Mr. WASHBURN,] to refer the joint resolution?

The SPEAKER. If the previous question be seconded the motion to refer will not then be in order.

Mr. MILLER. I ask that the resolution be again read.

The Clerk again read the joint resolution.

Mr. WILSON, of Iowa. I rise to a question of order. I submit that, notwithstanding the decision of the Chair, this resolution does contain an appropriation, because it directs money to be paid out of the patent fund, and therefore it cannot be considered at this time.

The SPEAKER. The Chair overrules the point of order. To bring a bill or joint resolution within the rule it must make an appropriation out of the Treasury.

Mr. WILSON, of Iowa. In answer to that, I would suggest to the Speaker that Congress at its last session directed the patent fund to be paid into the Treasury; hence the money which this resolution proposes to appropriate is now in the Treasury.

The SPEAKER. The Chair will state to the gentleman from Iowa that the Digest prohibits the renewal of a point of order after it has been overruled, even though it be presented with additional reasons. The gentleman ought to have presented his reasons when the point was first raised.

Mr. WILSON, of Iowa. I would suggest to the Chair that I did not make the point of order in the first instance; and, more than that, there was so much confusion in the Hall that my attention was not called to this feature of the resolution until its second reading.

The SPEAKER. By the statement of the gentleman from Iowa it is obviously too late for him to raise the point, even if it were a good one; for it did not occur to him until the resolution had been read a second time, and mean while the previous question had been called, a motion made to lay the joint resolution on the table, and the yeas and nays called and ordered upon it.

The question was taken on the motion to lay the joint resolution on the table; and it was decided in the affirmative—yeas 91, nays 73, not voting 57; as follows:

YEAS—Messrs. Allison, Ames, Bailey, Baker, Baldwin, Beaman, Beatty, Benjamin, Benton, Bingham, Blair, Boutwell, Boyden, Broomall, Buckley, Churchill, Reader W. Clarke, Cobb, Coburn, Cook, Covode, Cullom, Deweese, Dockery, Donnelly, Eggleston, Ela, Farnsworth, Fields, Hawkins, Higby, Holman, Hopkins, Chester D. Hubbard, Hulburd, Humphrey, Hunter, Ingersoll, Judd, Julian, Kelley, Kelsey, Ketcham, Koonz, Lash, George V. Lawrence, William Lawrence, Loan, Loughridge, Marvin, Maynard, McCarthy, McKee, Mercur, Moore, Morrell, Morrissey, Mullins, Newcomb, Newsbarn, Niblack, Orth, Pike, Plauts, Polesie, Price, Baum, Ross, Scofield, Shanks, Starkweather, Stevens, Stewart, Stover, Syphers, Taylor, Tift, Lawrence S. Trimble, Upson, Van Arman, Bart, Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Welker, William Williams, James F. Wilson, John T. Wilson, and Windom—91.

NAYS—Messrs. Archer, James M. Ashley, Axtell, Banks, Beck, Bowen, Boyer, Brownell, Brooks, Burr, Roderick R. Butler, Callis, Cary, Chanler, Sidney Clarke, Corley, Dickey, Driggs, Eckley, Edwards, Elliot, Ferriss, French, Garfield, Getz, Glossbrenner, Golladay, Goss, Gove, Gravelly, Grover, Haughey, Jencks, Alexander H. Jones, Thomas L. Jones, Kellogg, Kerr, Kitchen, Knott, Lincoln, Marshall, Miller, Moorhead, Mungen, Myers, Norris, O'Neill, Prince, Perham, Pettis, Poland, Prince, Pruyn, Robertson, Robinson, Schenck, Sitgreaves, Spalding, Stokes, Stone, Taber, Taffe, Thomas, Trowbridge, Twichell, Van Trump, Henry D. Washburn, Whittemore, Stephen F. Wilson, Wood, Woodbridge, Woodward, and Young—73.

NOT VOTING—Messrs. Adams, Anderson, Arnell, Delos B. Ashley, Barnes, Barnum, Blackburn, Blaine, Bates, Backlund, Benjamin F. Butler, Cake, Clift, Cornell, Dawes, Delano, Dixon, Dodge, Eldridge, Ferry, Fox, Griswold, Haight, Halsey, Hamilton, Harring, Heaton, Hill, Hooper, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Johnson, Laffin, Logan, Lynch, Mallory, McCormick, McCullough, Nicholson, Nunn, Peters, Phelps, Pierce, Pile, Pomeroy, Randall, Roots, Sawyer, Selye, Shellabarger, Smith, John Trimble, Van Auker, Robert T. Van Horn, Vidal, and Thomas Williams—57.

So the joint resolution was laid on the table.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the joint resolution was laid on the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILLS.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill (S. No. 186) providing for the sale of the lands, tenements, and water privileges belonging to the United States at and near Harper's Ferry, in the county of Jefferson, West Virginia; when the Speaker signed the same.

POST OFFICE SERVICE.

The SPEAKER, by unanimous consent, laid before the House a communication from the Postmaster General, transmitting estimates of the sums required for the service of that Department for the fiscal year ending the 30th of June, 1870; which was referred to the Committee on Appropriations.

CHARLES McCARTY.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting papers requesting a pension be granted to Charles McCarty, formerly an engineer on the United States military railroad in Tennessee, with recommendation of the General of the Army, if the facts are found to be true; which was referred to the Committee on Invalid Pensions.

REGISTERED AMERICAN SEAMEN.

The SPEAKER also laid before the House a communication from the Secretary of State, transmitting, in compliance with the act of March 2, 1799, an abstract of returns made to that Department by collectors of customs of American seamen registered in the several ports of entry of the United States; which was referred to the Committee on Commerce.

ARMY BUILDING, NEW YORK CITY.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting report of Inspector General Hardie, relative to purchasing the building known as "Army Building," in New York city, now under lease, for military purposes; which was referred to the Committee on Military Affairs.

COLUMBIA HOSPITAL.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting a statement by Surgeon General Barnes of expenditures made under his direction of the appropriation by Congress for the Columbia Hospital for Women and Lying-in Asylum; which was referred to the Committee on Appropriations, and ordered to be printed.

REMOVAL OF POLITICAL DISABILITIES.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting petitions for removal of their political disabilities from Robert Gillian, J. N. Ryan, Abram Shepherd, F. F. Stribling, and N. K. Trout, of Virginia, and W. H. Grant, of Georgia; which was referred to the Committee on Reconstruction.

INDIAN WAR EXPENSES.

The SPEAKER also laid before the House a communication from the Secretary of War, stating that it is impracticable to state with sufficient accuracy the amount expended during the year ending the 30th June, 1868, on account of the Indian war, and that the amount expended for river and harbor surveys and improvements for the same period was \$3,430,154 68; which was laid on the table.

COLLECTORS OF INTERNAL REVENUE, ETC.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury, transmitting a draft of a bill allowing the Secretary to furnish collectors of internal revenue with fire and burglar proof safes;

which was referred to the Committee of Ways and Means.

JOSEPH SEGAR.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting the papers and recommending that permission be granted by law to Joseph Segar, of Virginia, to erect and keep a hotel on the public grounds at Fortress Monroe under proper restrictions by the Secretary of War; which was referred to the Committee on Military Affairs.

CHARLES MAY.

The SPEAKER also laid before the House a communication from the Commissioner of the General Land Office, transmitting, in compliance with House resolution of July 1, 1868, reports of the Solicitor of the Treasury and Commissioner of Indian Affairs, relative to the claim of Charles May, to certain lots in Milwaukee, Wisconsin; which was referred to the Committee of Claims.

LAWS OF COLORADO.

The SPEAKER also laid before the House the laws of the Territory of Colorado; which were referred to the Committee on the Territories.

FOURTEENTH CONSTITUTIONAL AMENDMENT.

The SPEAKER also laid before the House a joint resolution of the Legislature of Oregon rescinding the resolution passed September 19, 1868, relative to amending the Constitution of the United States, and withdrawing the assent of the State of Oregon to the proposed fourteenth constitutional amendment; which was referred to the Committee on the Judiciary, and ordered to be printed.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the joint resolution was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REPUDIATION OF THE NATIONAL DEBT.

Mr. BROOMALL. I offer the following preamble and resolution:

Whereas the President of the United States, in his annual message to the Fortieth Congress at its third session, says: "It may be assumed that the holders of our securities have already received upon their bonds a larger amount than their original investment, measured by a gold standard. Upon this statement of facts it would seem but just and equitable that the six per cent. interest now paid by the Government should be applied to the reduction of the principal in semi-annual installments, which in sixteen years and eight months would liquidate the entire national debt. Six per cent. in gold would at present rates be equal to nine per cent. in currency, and equivalent to the payment of the debt one and a half time in a fraction less than seven years. Thus, in connection with all the other advantages derived from their investment, would afford to the public creditors a fair and liberal compensation for the use of their capital, and with this they should be satisfied. The lessons of the past admonish the lender that it is not well to be over-anxious in exacting from the borrower rigid compliance with the letter of the bond;" and whereas such sentiments, if permitted to go to the world without immediate protest, may be understood to be the sentiments of the people of the United States and their Representatives in Congress: Therefore,

Resolved, That all forms and degrees of repudiation of national indebtedness are odious to the American people. And that under no circumstances will their Representatives consent to offer the public creditor, as full compensation, a less amount of money than that which the Government contracted to pay him.

Mr. ROSS. I object.

Mr. BROOMALL. I move to suspend the rules.

Mr. INGERSOLL. I ask the gentleman to let the resolution be printed. It is too much to ask us to pass upon a resolution of this character and length without having it before us.

Mr. BROOMALL. It has been printed in the public papers some days.

Mr. INGERSOLL. I mean on our files. I do not care to look at the public papers so far as concerns bills and resolutions that we are to act upon here.

Mr. BROOMALL. It is very short and simple.

The SPEAKER. Does the gentleman from Pennsylvania move to suspend the rules for the purpose of adopting the resolution?

Mr. BROOMALL. For the purpose of considering and adopting it.

The SPEAKER. Then it will be open for debate.

Mr. BROOMALL. I do not say I will not yield for an amendment.

The SPEAKER. If the gentleman will state exactly what he desires the Chair will put the motion.

Mr. BROOMALL. What I desire is to have the resolution considered now, but I do not want to prevent all amendment to make it better or stronger.

The SPEAKER. The gentleman moves to suspend the rules for the purpose of introducing the resolution. If the motion is carried the resolution will then be before the House and open to debate.

Mr. MAYNARD. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. RANDALL. Would it be in order to ask for a division of the resolution?

The SPEAKER. Not now; it will be on the question of agreeing to the resolution.

Mr. RANDALL. I give notice that I will call for a division of the resolution.

The SPEAKER. The question will then be on the preamble and that part of the resolution on which a separate vote is not demanded.

Mr. PRUYN. Before that will it be in order to move to amend?

The SPEAKER. The resolution is not yet before the House.

The question was taken on suspending the rules; and it was decided in the affirmative—yeas 135, nays 29, not voting 57; as follows:

YEAS—Messrs. Allison, Ames, Arnell, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Beatty, Benjamin, Bingham, Blair, Boutwell, Bowen, Boyden, Broomall, Buckley, Roderick R. Butler, Callis, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Corley, Covode, Cullom, Dawes, Deweese, Dickey, Dixon, Dockery, Donnelly, Driggs, Eckley, Edwards, Eggleston, Eli, Eliot, Farnsworth, Ferriss, Fields, French, Garfield, Gove, Gravely, Griswold, Haughey, Hawkins, Higby, Hooper, Hopkins, Hotchkiss, Chester D. Hubbard, Richard D. Hubbard, Hunter, Ingersoll, Jenckes, Alexander H. Jones, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Koontz, Lash, George V. Lawrence, William Lawrence, Lincoln, Loan, Longbridge, Lynch, Mallory, Marvin, Maynard, McCarthy, McKee, Mercer, Miller, Moore, Moorhead, Morrell, Morrissey, Mullins, Myers, Newsham, Norris, O'Neill, Orth, Paine, Perham, Peters, Pettis, Pike, Plants, Poland, Polsley, Price, Rann, Robertson, Schenck, Scofield, Shanks, Smith, Spalding, Starkweather, Stewart, Stokes, Stover, Sypher, Taffe, Taylor, Thomas, Trowbridge, Twichell, Upton, Van Aernam, Burt Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburne, William Whittemore, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—135.

NAYS—Messrs. Adams, Archer, Axtell, Beck, Boyer, Brooks, Burr, Cary, Chanler, Eldridge, Getz, Glossbrenner, Golladay, Grover, Holman, Humphrey, Thomas L. Jones, Kerr, Knott, McCormick, Mungen, Niblack, Phelps, Pruyn, Robinson, Ross, Sitgreaves, Stone, Lawrence S. Trimble, Van Trump, Wood, Woodward, and Young—29.

NOT VOTING—Messrs. Anderson, Delos R. Ashley, Barnes, Barnum, Benton, Blackburn, Blaine, Boies, Boyer, Bromwell, Buckland, Benjamin F. Butler, Cake, Chanler, Clift, Cornell, Delano, Dodge, Eldridge, Ferry, Fox, Glossbrenner, Goss, Haight, Halsey, Hamilton, Harding, Heaton, Hill, Asahel W. Hubbard, Hulburd, Johnson, Kellogg, Kerr, Lafin, Logan, McCullough, Newcomb, Nicholson, Nunn, Pierce, Pile, Pomeroy, Prince, Randall, Roots, Sawyer, Selye, Shellabarger, Stevens, Taber, Tift, John Trimble, Van Auker, Robert T. Van Horn, Vidal, and Thomas Williams—57.

So (two thirds voting in favor thereof) the rules were suspended.

Mr. BROOMALL. I do not propose to debate the resolution. The language of it is as plain and clear as it can be made by any words of mine. I do not desire to have the resolution debated at much length. I propose therefore to call the previous question, unless some gentleman wishes to say something on the subject.

Mr. PRUYN. I should like to say something.

Mr. BROOMALL. How short?

Mr. PRUYN. Five or ten minutes.

Mr. BROOMALL. I am urged all around to call the previous question, and I do so.

Mr. WOOD. Will the gentleman allow a communication from the President to be read?

Mr. BROOMALL. I am urged all around not to take up the time of the House, but to call the previous question, and I do so.

Mr. RANDALL. Well, I ask a division of the resolution.

Mr. PRUYN. Will the gentleman allow me to offer a substitute for the resolution?

Mr. BROOMALL. No, sir.

The SPEAKER. At what point does the gentleman from Pennsylvania [Mr. RANDALL] desire a division?

Mr. RANDALL. After the word "repudiation." The first part of the resolution is an expression of opinion; the second proposes to say what we shall not do in the future.

The SPEAKER. Then the gentleman desires a division after the word "people."

Mr. RANDALL. Yes; after the word "people."

The SPEAKER. The resolution is divisible at that point.

The previous question was seconded and the main question ordered.

Mr. RANDALL. I would like to ask the privilege of the gentleman from Pennsylvania [Mr. BROOMALL] who introduced the resolution to say a few words in reference to the last clause of the resolution.

The SPEAKER. That would require the unanimous consent of the House.

Mr. RANDALL. He has one hour to discuss the resolution after the previous question is seconded.

The SPEAKER. He has not, not having reported the resolution. If he had reported the resolution from a committee he would have been entitled to an hour; but having simply offered the resolution he has not that right.

Mr. PRUYN. I hope the gentleman will allow my substitute to be read. [Cries of "No, no," and "Object."]

The SPEAKER. The Clerk will read that part of the resolution on which the gentleman from Pennsylvania [Mr. RANDALL] demands a separate vote.

The Clerk read as follows:

And that under no circumstances will their Representatives consent to offer the public creditor, as full compensation, a less amount of money than that which the Government contracted to pay him.

Mr. RANDALL. Now, I want to say that the first proposition contained in that resolution—

Mr. BROOMALL. I object to debate.

The SPEAKER. The question is on the preamble and the first part of the resolution.

Mr. ELDRIDGE. I demand a division so as to have a separate vote on the preamble.

The SPEAKER. The Chair stated that the previous question would operate on the preamble and resolution unless some gentleman demanded a separate vote. It was not demanded. The preamble simply recites an extract from the President's message.

Mr. ELDRIDGE. I think it does not recite all that it ought to in order to show what the President meant.

Mr. RANDALL. I supposed that the preamble and resolution required a separate vote. That is the usual course. But I want to call the yeas and nays on the first part of the resolution.

The SPEAKER. A separate vote could have been had if gentlemen had demanded it in time.

Mr. RANDALL. It has been the custom to have a separate vote on the preamble.

The SPEAKER. The Chair stated distinctly that if a separate vote was required it must be asked. The question now is on the preamble and the first part of the resolution, being that part not reserved by the gentleman from Pennsylvania, [Mr. RANDALL.]

Mr. RANDALL. I think the Speaker misconceives what I desire to get at. I want a naked vote on the first part of the resolution, disconnected altogether from the preamble.

Mr. BROOMALL. You cannot have that.

The SPEAKER. The Chair has stated the parliamentary condition of the question. It is, unfortunately, too late to call for a separate

vote on the preamble except by unanimous consent.

Mr. RANDALL. Then the Speaker declines to entertain the demand for a division of the question.

The SPEAKER. He does; as he stated previously, that the vote would be taken together unless a separate vote was demanded. He gave an opportunity to the House to ask a separate vote and no gentleman took advantage of it.

Mr. RANDALL. I took advantage of it to call for a division of the resolution. I supposed that of course there would be a separate vote on the preamble.

The yeas and nays were then ordered upon the preamble and first clause of the resolution.

Mr. RANDALL. I desire to say that we here understood that a separate vote would be taken upon the preamble. I move, for that purpose, to reconsider the vote by which the previous question was seconded and the main question ordered.

Mr. ALLISON. I move that the motion to reconsider be laid on the table.

Mr. RANDALL. Upon that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and it was decided in the affirmative—yeas 134, nays 37, not voting 50; as follows:

YEAS—Messrs. Allison, Ames, Arnell, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Beatty, Benjamin, Benton, Bingham, Blair, Boutwell, Bowen, Boyden, Bromwell, Broomall, Buckley, Roderick R. Butler, Callis, Churchill, Reader W. Clarke, Sidney Clarke, Clift, Cobb, Coburn, Cook, Corley, Covode, Cullom, Dawes, Deweese, Dickey, Dixon, Donnelly, Driggs, Eckley, Edwards, Eggleston, Eliot, Ferriss, Ferry, Fields, French, Garfield, Goss, Gove, Gravely, Griswold, Haughey, Higby, Hooper, Hopkins, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Alexander H. Jones, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Koontz, Lash, George V. Lawrence, William Lawrence, Lincoln, Lynch, Mallory, Marvin, Maynard, McCarthy, McKee, Mercer, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newsham, Norris, O'Neill, Orth, Paine, Perham, Peters, Pettis, Pike, Plants, Poland, Price, Prince, Raum, Robertson, Schenck, Scofield, Shanks, Smith, Spalding, Starkweather, Stevens, Stewart, Stokes, Stover, Taffe, Taylor, Thomas, Trowbridge, Twichell, Upton, Van Aernam, Burt Van Horn, Van Wyck, Vidal, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburne, William Whittemore, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—134.

NAYS—Messrs. Adams, Archer, Axtell, Beck, Boyer, Brooks, Burr, Cary, Chanler, Eldridge, Getz, Glossbrenner, Golladay, Grover, Holman, Hotchkiss, Humphrey, Thomas L. Jones, Kerr, Knott, McCormick, McCullough, Mungen, Niblack, Phelps, Pruyn, Randall, Robinson, Ross, Stone, Taber, Tift, Lawrence S. Trimble, Van Trump, Wood, Woodward, and Young—37.

NOT VOTING—Messrs. Anderson, Delos R. Ashley, Barnes, Barnum, Blackburn, Blaine, Boies, Buckland, Benjamin F. Butler, Cake, Cornell, Delano, Dockery, Dodge, Eli, Farnsworth, Fox, Haight, Halsey, Hamilton, Harding, Hawkins, Heaton, Hill, Asahel W. Hubbard, Johnson, Kellogg, Lafin, Loan, Logan, Longbridge, Marshall, Morrissey, Newcomb, Nicholson, Nunn, Pierce, Pike, Polsley, Pomeroy, Roots, Sawyer, Selye, Shellabarger, Sitgreaves, Sypher, John Trimble, Van Auker, Robert T. Van Horn, and Thomas Williams—60.

So the motion to reconsider was laid on the table.

The question recurred upon agreeing to the preamble and first clause of the resolution, as follows:

Whereas the President of the United States, in his annual message to the Fortieth Congress at its third session, says: "It may be assumed that the holders of our securities have already received upon their bonds a larger amount than their original investment, measured by a gold standard. Upon this statement of facts it would seem but just and equitable that the six per cent. interest now paid by the Government should be applied to the reduction of the principal in semi-annual installments, which in sixteen years and eight months would liquidate the entire national debt. Six per cent. in gold would at present rates be equal to nine per cent. in currency, and equivalent to the payment of the debt one and a half time in a fraction less than seventeen years. This, in connection with all the other advantages derived from their investment, would afford to the public creditors a fair and liberal compensation for the use of their capital, and with this they should be satisfied. The lessons of the past admonish the lender that it is not well to be overanxious in exacting from the borrower rigid compliance with the letter of the bond," and whereas such sentiments, if permitted to go to the world without immediate protest, may be understood to be the sentiments of the people

of the United States and their Representatives in Congress: Therefore,

Resolved, That all forms and degrees of repudiation of national indebtedness are odious to the American people.

Upon this question the yeas and nays had been ordered.

Mr. RANDALL. I move to lay the preamble on the table; and on that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 37, nays 133, not voting 51; as follows:

YEAS—Messrs. Adams, Archer, Axtell, Beck, Boyer, Burr, Cary, Chanler, Sidney Clarke, Eldridge, Getz, Glossbrenner, Golladay, Grover, Holman, Hotchkiss, Humphrey, Thomas H. Jones, Kerr, Knott, Marshall, McCormick, McCullough, Mungen, Niblack, Pruyn, Randall, Robinson, Ross, Sitgreaves, Taber, Tift, Lawrence S. Trimble, Van Trump, Wood, Woodward, and Young—37.

NAYS—Messrs. Allison, Ames, Arnell, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Beatty, Benjamin, Benton, Bingham, Boutwell, Bowen, Boyden, Broomall, Buckley, Roderick R. Butler, Callis, Churchill, Reader W. Clarke, Cobb, Coburn, Cook, Corley, Covode, Cullom, Dawes, Deweese, Dickey, Dixon, Dockery, Donnelly, Driggs, Eckley, Edwards, Eggleston, Ela, Eliot, Farnsworth, Ferriss, Ferry, Fields, French, Garfield, Goss, Gravelly, Griswold, Haughey, Higby, Hooper, Hopkins, Chester D. Hubbard, Richard D. Hubbard, Hubbard, Hunter, Ingersoll, Jenckes, Alexander H. Jones, Judd, Julian, Kelley, Kellogg, Kelsey, Ketcham, Kitchen, Koontz, Lash, George V. Lawrence, William Lawrence, Lincoln, Loughridge, Lynch, Mallory, Marvin, Maynard, McCarthy, McKee, Mercer, Miller, Moore, Moorhead, Morrell, Morrissey, Mullins, Myers, Newsham, Norris, O'Neill, Orth, Paine, Perham, Peters, Pettis, Phelps, Plants, Poland, Polsley, Price, Raum, Robertson, Schenck, Scofield, Shanks, Smith, Spaulding, Starkweather, Stevens, Stewart, Stokes, Stover, Taffe, Taylor, Thomas, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Van Wyck, Vidal, Ward, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Whittemore, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—133.

NOT VOTING—Messrs. Anderson, Delos R. Ashley, Barnes, Barnum, Blackburn, Blaine, Blair, Boies, Brownell, Brooks, Buckland, Benjamin F. Butler, Cake, Clift, Cornell, Delano, Dodge, Fox, Gove, Haight, Halsey, Hamilton, Harding, Hawkins, Heaton, Hill, Asabel W. Hubbard, Johnson, Laffin, Loan, Logan, Newcomb, Nicholson, Nunn, Pierce, Pike, Pile, Pomeroy, Price, Prince, Roots, Sawyer, Selye, Shellabarger, Stone, Sypher, John Trimble, Van Auken, Robert T. Van Horn, Cadwalader C. Washburn, and Thomas Williams—51.

So the preamble was not laid on the table.

The question recurred upon agreeing to the preamble and first clause of the resolution, upon which the yeas and nays had been ordered.

Mr. WASHBURN, of Illinois. As I understand, Mr. Speaker, a negative vote on this question will indorse the extract from the President's message and favor repudiation.

The question was taken; and it was decided in the affirmative—yeas 155, nays 6, not voting 60; as follows:

YEAS—Messrs. Allison, Ames, Arnell, James M. Ashley, Axtell, Bailey, Baker, Baldwin, Banks, Barnum, Beaman, Beatty, Benjamin, Benton, Bingham, Blair, Boutwell, Bowen, Boyden, Boyer, Broomall, Buckley, Roderick R. Butler, Callis, Cary, Chanler, Churchill, Reader W. Clarke, Sidney Clarke, Coburn, Cook, Corley, Covode, Cullom, Dawes, Deweese, Dickey, Dixon, Donnelly, Driggs, Eckley, Edwards, Eggleston, Ela, Eliot, Farnsworth, Ferriss, Ferry, Fields, French, Garfield, Getz, Glossbrenner, Goss, Gove, Griswold, Haughey, Hawkins, Higby, Hooper, Hopkins, Hotchkiss, Chester D. Hubbard, Richard D. Hubbard, Hubbard, Hunter, Ingersoll, Jenckes, Alexander H. Jones, Judd, Julian, Kelley, Kellogg, Kelsey, Ketcham, Kitchen, Koontz, Lash, George V. Lawrence, William Lawrence, Lincoln, Loan, Loughridge, Lynch, Mallory, Marvin, McCarthy, McKee, Mercer, Miller, Moore, Moorhead, Morrell, Morrissey, Mullins, Myers, Newsham, Norris, O'Neill, Orth, Paine, Perham, Peters, Pettis, Phelps, Pike, Pile, Plants, Poland, Polsley, Price, Prince, Raum, Randall, Raum, Robertson, Robinson, Schenck, Scofield, Shanks, Stewart, Stokes, Stover, Sypher, Taber, Taffe, Taylor, Thomas, Tift, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Whittemore, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, Wood, Woodbridge, and Woodward—155.

NAYS—Messrs. Adams, Archer, Grover, Thomas L. Jones, Mungen, and Lawrence S. Trimble—6.

NOT VOTING—Messrs. Anderson, Delos R. Ashley, Barnes, Beck, Blackburn, Blaine, Boies, Brownell, Brooks, Buckland, Burr, Benjamin F. Butler, Cake, Clift, Cobb, Cornell, Gravelly, Haight, Halsey, Eldridge, Fox, Golladay, Gravelly, Haight, Halsey, Hamilton, Harding, Heaton, Hill, Holman, Asabel W. Hubbard, Humphrey, Johnson, Kerr, Knott, W. Hubbard, Humphrey, Johnson, Kerr, Knott, Laffin, Logan, Marshall, Maynard, McCormick, Mc-

Cullough, Newcomb, Niblack, Nicholson, Nunn, Pierce, Pomeroy, Roots, Ross, Sawyer, Selye, Shellabarger, Stone, John Trimble, Van Auken, Robert T. Van Horn, Van Trump, Vidal, Thomas Williams, and Young—60.

So the preamble and first clause of the resolution were agreed to.

The SPEAKER. The Clerk will now report the second part of the resolution, upon which a separate vote was called for by the gentleman from Pennsylvania, [Mr. RANDALL.]

The Clerk read as follows:

And that under no circumstances will their Representatives consent to offer the public creditor, as full compensation, a less amount of money than that which the Government contracted to pay him.

The second part of the resolution was agreed to.

ENROLLED BILL AND JOINT RESOLUTION.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill and a joint resolution of the following title; when the Speaker signed the same:

An act (S. No. 565) to authorize the Secretary of State to adjust the claim of Gustavus G. Cushman for office rent while commissioner under the reciprocity treaty; and

Joint resolution (S. R. No. 170) in relation to the library of the Department of Agriculture.

FRAUDULENT VOTING IN NEW YORK.

Mr. LAWRENCE, of Ohio. I present under the rule a memorial of the Union League Club of New York, in reference to fraudulent voting in the city and State of New York; and I ask consent to offer the following resolution:

Resolved, That the memorial from the Union League Club of New York be printed, and that a select committee of seven be appointed to investigate the irregularities and frauds therein alleged to have occurred in the city and State of New York affecting the recent election for Representatives to Congress and electors for President and Vice President, and report thereon to this House; and that the said committee may hold sessions in the State of New York and elsewhere by a quorum or by sub-committees of such number as the committee shall delegate; and that they have power to send for persons and papers, to administer oaths to witnesses, and to employ a clerk and messenger, with such stenographic assistance as they shall find necessary.

Mr. WOOD. I object to the introduction of the resolution.

Mr. LAWRENCE, of Ohio. I move to suspend the rules, that the resolution may be introduced and agreed to at this time.

Mr. WOOD. If the gentleman from Ohio will give us an opportunity to have a few words of discussion upon this resolution I will withdraw all objection so far as I am concerned.

Mr. LAWRENCE, of Ohio. I insist on my motion.

Mr. FARNSWORTH. I would inquire of the gentleman from Ohio whether the election referred to is not now being investigated under the authority of the people of New York?

Mr. LAWRENCE, of Ohio. A respectable portion of the people of New York have sent here a memorial asking the adoption of this resolution. If the gentleman will examine the memorial he will find in it abundant evidence that it is presented in good faith.

The SPEAKER. The motion to suspend the rules is not debatable except by unanimous consent.

Mr. CHANLER. I object to debate.

Mr. BROOKS. Does the memorial of the Union League Club accompany this resolution?

The SPEAKER. It does.

Mr. BROOKS. Let us hear it read.

Mr. WASHBURN, of Illinois. I should like to have it read. Let it be read by unanimous consent.

The SPEAKER. In order that the memorial may be read the gentleman from Ohio must first waive his motion to suspend the rules. The gentleman from New York has the right under the rule to have this memorial read, but the motion to suspend the rules covers that and all other rules.

Mr. LAWRENCE, of Ohio. I do not object to the reading of the memorial, and I will waive the motion to suspend the rules for the

present so that the memorial may be read, provided that at the conclusion of the reading the motion can be resumed.

Mr. BROOKS. What I wish to suggest to the gentleman from Ohio is this: that when a partisan body makes an *ex parte* representation it is but fair that the Representatives of the city and State of New York upon this floor should have an opportunity to reply to this memorial. I do not think there should be any objection to that.

Mr. LAWRENCE, of Ohio. The reading of the memorial was called for by gentlemen on the other side of the House. If this investigation be had there will be abundant opportunity afforded to gentlemen for reply to this memorial. Both sides of the question can be examined into.

Mr. BROOKS. What I wish to suggest further, that the Union League of New York city contributed hundreds of thousands of dollars to carry the States of Ohio and Indiana. I would like to know whether the whole country is to be investigated, and whether we are to know the amount of money given by the Union League of New York to carry Ohio and Indiana.

Mr. BENJAMIN. I object to the reading of the memorial.

Mr. WASHBURN, of Illinois. I should like to have the gentleman from New York tell us what has become of Helmbold's subscription.

Mr. ROBINSON. I rise to a parliamentary question. I ask, if it be in order, for a division of the resolution. The last resolution provides for one man to have the run of the hotels, subjecting the Government to heavy expenses.

The SPEAKER. The motion to suspend the rules suspends that rule with all others. Under the rule the gentleman can ask for a division of the resolution, but if two thirds vote to suspend the rules that rule is suspended with all others.

Mr. RANDALL. The gentleman from Illinois [Mr. WASHBURN] at the last session proposed that none of these special committees should be allowed to run the Government into debt. This resolution does the very thing he then protested against.

The SPEAKER. If that resolution had been adopted a two thirds vote would suspend that with all other rules.

Mr. RANDALL. Then, this committee can run this Government into any amount of indebtedness.

Mr. ROBINSON. They are all doing it now.

The House divided on the motion to suspend the rules; and there were—ayes 104, noes 42.

Mr. SCHENCK. There seems to be a good many gentlemen opposed to this resolution, and I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 134, nays 35, not voting 52; as follows:

YEAS—Messrs. Allison, Ames, Arnell, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Beatty, Benjamin, Benton, Bingham, Blair, Boutwell, Bowen, Boyden, Brownell, Brooks, Broomall, Buckley, Roderick R. Butler, Callis, Chanler, Churchill, Sidney Clarke, Clift, Cobb, Coburn, Cook, Corley, Covode, Dawes, Deweese, Dickey, Dixon, Donnelly, Driggs, Eckley, Edwards, Eggleston, Ela, Eliot, Ferriss, Ferry, Fields, Garfield, Goss, Gove, Gravelly, Griswold, Haughey, Hawkins, Higby, Hooper, Hopkins, Chester D. Hubbard, Hunter, Jenckes, Alexander H. Jones, Judd, Julian, Kelley, Kellogg, Kelsey, Ketcham, Kitchen, Koontz, Lash, George V. Lawrence, William Lawrence, Lincoln, Loan, Lynch, Mallory, Marvin, Maynard, McCarthy, McKee, Mercer, Miller, Moore, Moorhead, Morrell, Morrissey, Mullins, Myers, Newsham, Norris, O'Neill, Orth, Paine, Perham, Peters, Pettis, Pike, Pile, Plants, Poland, Polsley, Price, Prince, Raum, Robertson, Schenck, Scofield, Shanks, Spaulding, Starkweather, Stevens, Stewart, Stokes, Stover, Taylor, Thomas, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Van Wyck, Vidal, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Whittemore, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Woodbridge—134.

NAYS—Messrs. Adams, Archer, Axtell, Beck, Boyer, Burr, Cary, Eldridge, Getz, Glossbrenner, Golladay, Grover, Holman, Hotchkiss, Humphrey,

Thomas L. Jones, Kerr, Marshall, McCormick, McCullough, Munson, Niblack, Phelps, Pruyn, Randall, Robinson, Sigheaves, Stone, Taber, Tift, Lawrence S. Trimble, Van Trump, Wood, Woodward, and Young—35.

NOT VOTING—Messrs. Anderson, Delos R. Ashley, Barnes, Barnum, Blackburn, Blaine, Boies, Buckland, Benjamin F. Butler, Calkins, Reador W. Clarke, Cornell, Cullom, Delano, Dockery, Dodge, Farnsworth, Fox, French, Haight, Halsey, Hamilton, Harding, Hcaton, Hill, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Ingersoll, Johnson, Knott, Laffin, Logan, Loughridge, Newcomb, Nicholson, Nunn, Pierce, Pomroy, Roots, Ross, Sawyer, Selye, Shellabarger, Smith, Sypher, Taffe, John Trimble, Van Anken, Robert T. Van Horn, Thomas Williams, and Windom—52.

So (two thirds voting in favor thereof) the rules were suspended, and the resolution was agreed to.

Mr. LAWRENCE, of Ohio, moved to reconsider the vote, by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HAMLIN, one of its Secretaries, informed the House that the Senate had reappointed the joint committee appointed at the first session of the present Congress and continued at the last session, to revise and fix the pay of the officers of the two Houses, and had ordered that Messrs. Fessenden, Sherman, and Buckalew be the committee on the part of the Senate.

The message further announced that the Senate had concurred in the resolution of the House relating to the adjournment of Congress from the 21st of December to the 5th of January next.

ENGLISH SCHOONER SYBIL.

The SPEAKER laid before the House the following message from the President of the United States; which was referred to the Committee on Appropriations, and ordered to be printed:

To the Senate and House of Representatives:

I transmit a copy of a note of the 24th of November last, addressed to the Secretary of State by the minister of Great Britain, communicating a decree of the district court of the United States for the southern district of New York, ordering the payment of certain sums to the defendants in a suit against the English schooner Sybil, libeled as a prize of war. It is requisite for a fulfillment of the decree that an appropriation of the sums specified therein should be made by Congress. The appropriation is recommended accordingly.

ANDREW JOHNSON.

WASHINGTON, December 8, 1868.

ALABAMA CLAIMS.

The SPEAKER also laid before the House the following message from the President of the United States:

To the House of Representatives of the United States:

In answer to the resolution of the House of Representatives of the 7th instant, relating to the correspondence with the American minister at London concerning the so-called Alabama claims, I transmit a report on the subject from the Secretary of State.

ANDREW JOHNSON.

WASHINGTON, December 11, 1868.

DEPARTMENT OF STATE. WASHINGTON, December 11, 1868.

To the President:

The Secretary of State, to whom was referred the resolution of the House of Representatives of December 7, 1868, in the following words:

Resolved, That the President be requested to communicate to this House, if not incompatible with the public interest, copies of the letter of instructions to the American minister at London relating to the settlement of the so-called Alabama claims, and any subsequent correspondence with him or the British Government on that subject.

Has the honor to submit the following report:

In his annual message transmitted on the 9th of December, after the resolution referred to was passed, the President informed Congress that negotiations upon the subject referred to in the resolution, with some other international controversies between the United States and Great Britain were pending, and that he was not without hope of being able to lay before the Senate, for its consideration during the present session, protocols calculated to bring those controversies to an end.

The negotiations to which the President thus referred have just now been arrested by the retirement of her Majesty's late ministers from administration. There is reason, however, to believe that the interruption will be only a temporary one. Under these circumstances the Secretary of State is of opinion that the publication of the correspondence called for

at the present moment would be premature and incompatible with the public interests.

Respectfully submitted:

WILLIAM H. SEWARD.

On motion of Mr. WOOD, the message and accompanying paper were referred to the Committee on Foreign Affairs and ordered to be printed.

WASHINGTON AND NEW YORK RAILROAD.

Mr. LYNCH obtained the floor, but yielded to Mr. COOK, who moved that the bill (H. R. No. 621) authorizing the building of a military and postal railroad from Washington, District of Columbia, to the city of New York be printed with the amendments, and recommended to the Committee on Roads and Canals.

By unanimous consent it was so ordered.

Mr. COOK moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

GENERAL JOSEPH J. REYNOLDS.

Mr. ORTH, by unanimous consent, introduced the following joint resolution (H. R. No. 385;) which was referred to the Committee on Military Affairs:

Be it resolved by the Senate and House of Representatives, etc., That the thanks of Congress are hereby tendered to Brevet Major General Joseph J. Reynolds, for his ability and impartiality in the discharge of the delicate and important duty devolved upon him as commander of the fifth military district of the United States.

RECONSTRUCTION.

Mr. BUTLER, of Massachusetts, by unanimous consent, introduced a bill (H. R. No. 1546) to enforce the laws of the United States in the State of Georgia; which was read a first and second time, referred to the Committee on Reconstruction, and ordered to be printed.

PAY OFFICERS IN THE NAVY.

Mr. LYNCH. I yield for a moment to the gentleman from Michigan, [Mr. FERRY.]

Mr. FERRY, by unanimous consent, introduced a bill (H. R. No. 1547) to establish the rank of pay officers of the Navy; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

REFUNDING OF TAXES.

Mr. LYNCH. I yield to the gentleman from Pennsylvania, [Mr. RANDALL.]

Mr. RANDALL, by unanimous consent, introduced a bill (H. R. No. 1548) to regulate the refunding of taxes paid into the Treasury; which was read a first and second time, and referred to the Committee on the Judiciary.

Mr. LYNCH. I yield next to the gentleman from Indiana, [Mr. HOLMAN.]

SOUTH AMERICAN SQUADRON.

Mr. HOLMAN, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of State, if not incompatible with the public interest, communicate to this House all the correspondence in his Department between Hon. J. Watson Webb, American minister at Brazil, and Rear Admiral Davis touching the disposition of the American squadron at Rio Janeiro and the Paraguay difficulties.

Mr. BROOKS. I must object to the gentleman from Maine [Mr. Lynch] yielding any further. Unless I can drive some sort of bargain with gentlemen who want to do business I object to everything.

Mr. UPSON. I move to reconsider the several votes by which bills have been referred, and to lay the motion to reconsider on the table.

Mr. BROOKS. I object. I call for a separate vote.

Mr. WASHBURNE, of Illinois. Oh, let that go.

Mr. BROOKS. Well, I yield to the father of the House, and will let it go. [Laughter.]

The motion to reconsider was laid on the table.

Mr. BROOKS. I now call for the regular order.

RESUMPTION OF SPECIE PAYMENTS.

Mr. LYNCH. I should be happy to accommodate other gentlemen, but the gentleman

from New York objects. I desire to ask the unanimous consent of the House to allow the bill (H. R. No. 1364) to provide for the gradual resumption of specie payments, which was reported by me from the Committee on Banking and Currency and made the special order for the second Tuesday in December, to be made the special order for the first Tuesday in January.

I wish to make this statement: the bill was made the special order for the second Tuesday in December, and the second Tuesday in December was the second day of the session. I was under a misapprehension, supposing that it would be the second Tuesday of the session. I simply want to correct the mistake, and have that bill, which was by unanimous consent made the special order for the second Tuesday in December, made the special order for the first Tuesday in January, and from day to day until disposed of.

The SPEAKER. The Clerk will read from the Calendar, so as to show the position of the bill.

The Clerk read as follows:

"Mr. LYNCH—Banking and Currency—A bill (H. R. No. 1364) to provide for the gradual resumption of specie payments. Its further consideration postponed until the second Tuesday in December next, after the morning hour. Made a special order for that time."

The SPEAKER. The second Tuesday in December having been the second day of the session, the gentleman from Maine states that it was overlooked.

Mr. LYNCH. I think the Speaker was laboring under the same mistake as well as many gentlemen of the House. We supposed that next Tuesday was the second Tuesday in December.

The SPEAKER. Is there objection to the proposition of the gentleman from Maine?

Mr. SCHENCK. I object.

Mr. LYNCH. I move, then, to suspend the rules, in order to allow a correction of the error into which I fell.

Mr. SCHENCK. I object to making it a special order for so early a day.

Mr. MAYNARD. I rise to a question of order. This bill was made the special order for the second Tuesday in December. I submit, as a point of order, that that means the second congressional Tuesday, and not the second calendar Tuesday. To-morrow will be the second congressional Tuesday in the month, and the bill stands as the special order for to-morrow.

The SPEAKER. The Chair overrules the point of order. It is contrary to the uniform usage of the House. Bills are often made the special order for the second or third Thursday in December, for instance. If that does not mean the second or third Thursday in December, as it will be found in the almanac, Speakers have very generally labored under a mistake and have called up bills on the wrong day.

Mr. SCHENCK. I suggest to the gentleman that he make the bill the special order for the third Tuesday in January.

Mr. LYNCH. I will modify my motion so as to make it the special order for the first Wednesday in January.

Mr. SCHENCK. That is no better than the other. I propose to the gentleman to make it the third Tuesday, which I will not oppose. That will allow other reports upon the same subject to be submitted to the House.

Mr. WASHBURNE, of Illinois. I hope the gentleman will modify his motion so that it will be made the special order for the day only. To make it the special order from day to day may take a week.

Mr. LYNCH. I must insist upon my motion.

The question was then taken upon the motion of Mr. LYNCH, as modified; and upon a division there were—ayes 98, noes 33.

So (two thirds voting in the affirmative) the rules were suspended; and the bill (H. R. No. 1364) was made the special order for the first Wednesday in January next after the morning hour, and from day to day until disposed of.

PURCHASE OF ALASKA.

Mr. WOOD. I move that the rules be suspended, in order to allow the following preamble and resolution to be introduced and agreed to:

Whereas the Worcester Spy, edited and conducted by a member of this House, recently published the following statement: "Of the \$7,220,000 in gold voted for Alaska, the amount it is now reported Russia actually got was \$5,000,000 in gold, about one million pounds sterling. This leaves \$2,200,000 to be accounted for. But with regard to the outside ring, the third house—the press, editors, and correspondents—it is reported that above three hundred thousand dollars in greenbacks was spent among them. Mr. Riggs, a banker here, is said to have obtained from the Secretary of the Treasury, just at the close of the debates, &c., which terminated by the purchase of Alaska, a loan of the amount just specified. That loan was—if it had any real existence—for obvious reasons, never made public. Immediately on the receipt by Mr. Riggs, newspaper men and others known as lobbyists were the owners of drafts of various amounts on the Treasurer of the United States, which it is declared General Spinner's books will show were cashed. Among the sums specified in these reports are such items as New York Tribune, \$3,000; manager of its Washington bureau, \$5,000; publisher of Washington Chronicle, \$25,000. The correspondent of the Times, World, Boston Journal, Philadelphia Press, Chicago Tribune, Boston Advertiser, Evening Post, and others are all put down as having been paid various sums each, from \$2,500 upward. Some of them are anxiously inquiring what has become of the money, as it has never been paid to them. The daughters of a member from Ohio got \$10,000 each; but this, it is affirmed, was immediately sent back. Robert J. Walker got \$25,000 in gold. The certificates for this amount were, I believe, stolen from him in Boston or New York. He says it was a professional retainer from the Russian Government. He appears also to have been acting professionally for his own Government, as some part of the Riggs \$300,000 appears to have passed into his hands; and whereas these declarations, if true, seriously affect the character of our Government, and if not true the parties accused should have an opportunity to prove their innocence: Therefore

Be it resolved, That the Committee on Public Expenditures be directed to institute a full investigation into the truth of these allegations, with power to send for persons and papers, and to report at any time.

The question was then taken; and two-thirds voting in the affirmative the rules were suspended, and the preamble and resolution received and agreed to.

NIAGARA SHIP-CANAL.

Mr. VAN HORN, of New York. I ask unanimous consent to submit the following resolution for consideration at this time:

Resolved, That the Committee of the Whole be discharged from the further consideration of House bill No. 1202, to provide for the construction of a ship-canal around the Falls of Niagara, and that the same be made the special order for consideration in the House on the second Tuesday of January next after the morning hour, and so continued until disposed of.

Mr. HUMPHREY. I object.

Mr. RANDALL. This bill involves the expenditure of only about twelve million dollars.

Mr. VAN HORN, of New York. Then I move that the rules be suspended to allow my resolution to be introduced and agreed to.

The question was taken; and upon a division there were—ayes 77, noes 41.

Before the result was announced,

Mr. JUDD called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 103, nays 41; not voting 71; as follows:

YEAS—Messrs. Adams, Allison, Arnell, Axtell, Baker, Banks, Beaman, Beck, Benjamin, Blair, Boutwell, Bowen, Buckley, Burr, Benjamin F. Butler, Roderick R. Butler, Callis, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Clift, Cobb, Coburn, Cook, Corley, Cullom, Dawes, Deweese, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Ferriss, Ferry, Fields, French, Garfield, Goss, Gravely, Griswold, Hawkins, Higby, Hooper, Hopkins, Hotchkiss, Chester D. Hubbard, Hunter, Ingersoll, Jenckes, Alexander H. Jones, Judd, Kellogg, Ketchum, Lash, William Lawrence, Lincoln, Loan, McCormick, McKee, Mercer, Maynard, McCarthy, Morrill, Mullins, Mungen, Newsam, Norris, Orth, Paine, Perham, Peters, Pettis, Pike, Poland, Price, Kaun, Ross, Shanks, Stigraeves, Smith, Spalding, Starkweather, Stevens, Stewart, Stokes, Stover, Sypher, Twichell, Upson, Van Aersham, Burt Van Horn, Van Wyck, Vidal, Caldwell, J. Washburn, Henry D. Washburn, William B. Washburn, Welker, Whittemore, Woodbridge, 189.

NAYS—Messrs. Ames, Bingham, Boyden, Boyer, Brooks, Broomall, Chanler, Edwards, Getz, Glossbrenner, Gove, Holman, Humphrey, Thomas L. Jones, Julian, Kelley, Kelsey, Kerr, Kountz, George

V. Lawrence, Moore, Myers, Niblack, O'Neill, Pike, Pruyn, Randall, Robinson, Scofield, Stone, Taber, Taylor, Thomas, Tilt, Trowbridge, Ward, Blinn B. Washburne, Stephen F. Wilson, Wood, Woodward, and Young—41.

NOT VOTING—Messrs. Anderson, Archer, Delos R. Ashley, James M. Ashley, Bailey, Baldwin, Barnes, Barnum, Beatty, Benton, Blackburn, Blaine, Boies, Bowman, Buckland, Calkins, Cornell, Covode, Delano, Dixon, Dixon, Dockery, Lodge, Eggleston, Ely, Eldridge, Fox, Golladay, Grover, Haight, Halsey, Hamilton, Harding, Harghey, Heaton, Hill, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Johnson, Kitchin, Knott, Ladin, Logan, Loughridge, Lynch, McCullough, Morrissey, Newcomb, Nicholson, Nunn, Phelps, Pierce, Platts, Polsley, Pomeroy, Prince, Robertson, Root, Sawyer, Schenck Selye, Shellenbarger, Taffe, John Trimble, Lawrence S. Trimble, Van Aiken, Robert T. Van Horn, Van Trump, Thomas Williams, and John T. Wilson—71.

So (two thirds voting in favor thereof) the rules were suspended, and the resolution was agreed to.

COMMISSIONER TO SPAIN.

Mr. HUNTER. I ask unanimous consent to submit the following resolution:

Resolved, That the Secretary of State be directed to inform this House whether any commissioner has recently been sent as a representative of this country to Spain; and if so, for what purpose and by what authority; the name of said commissioner, the amount of compensation to be allowed him, and out of what fund paid, and also a copy of any instructions given to said commissioner.

Mr. CHANLER. I object.

Mr. WASHBURN, of Illinois. I move to suspend the rules, that the resolution may be introduced and agreed to.

On the motion there were—ayes 79, noes 34.

Mr. CHANLER. I call for the yeas and nays.

The yeas and nays were not ordered.

So (two thirds having voted in favor thereof) the rules were suspended, and the resolution of Mr. HUNTER was introduced and agreed to.

BRIDGES ACROSS THE OHIO RIVER.

Mr. COOK. I ask unanimous consent to submit the following resolution, by direction of the Committee on Roads and Canals:

Resolved, That the Committee on Roads and Canals shall have power to examine upon oath such skilled and scientific witnesses as they may deem necessary upon the bill referred to said committee in relation to the building of bridges across the Ohio river, provided the same shall be done without expense of mileage for officers or witnesses.

There being no objection the resolution was considered and agreed to.

TRADE WITH SPANISH WEST INDIA ISLANDS.

Mr. LYNCH, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Whereas vessels of the United States are, in ports of the Spanish West India islands, subjected to discriminating tonnage duties and port charges, amounting to nearly double the rates charged to vessels of Great Britain and some other European nations; and whereas the commerce between the United States and said islands is very extensive and of great importance: Therefore

Resolved, That the Committee on Foreign Affairs be directed to inquire and report to this House what action should be taken by our Government to place vessels of the United States landing at said ports on an equal footing with those of the most favored nations.

RESTRICTION OF FRANKING PRIVILEGE.

Mr. FARNSWORTH, by unanimous consent, introduced a bill (H. R. No. 1549) to restrict and regulate the franking privilege; which was read a first and second time.

Mr. WASHBURN, of Illinois. I hope that the bill will be read, and I think it would meet the approbation of the House to pass it now.

Several MEMBERS objected.

Mr. FARNSWORTH. I move the reference of the bill to the Committee on the Post Office and Post Roads.

The motion was agreed to.

COURTS IN CHARLESTON, SOUTH CAROLINA.

Mr. WHITTEMORE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be directed to report at the earliest moment if suitable accommodations can be provided for the United States courts and officers of the judiciary in the eastern-house of Charleston, South Carolina, and if not, to submit such recommendations as he may deem proper.

PROPOSALS FOR POSTAGE STAMPS.

Mr. WASHBURN, of Illinois, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Postmaster General be directed to communicate to this House a copy of the advertisement for proposals for furnishing postage stamps; also copies of the several bids offered therefor, together with the decision of the Department thereon.

MILITIA IN SOUTHERN STATES.

Mr. SYPPER, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be directed to inquire into the expediency of repealing the sixth section of the act making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes, approved March 2, 1867, which prohibits the organization of militia forces in the States of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Louisiana, Mississippi, and Texas; and that they report by bill or otherwise.

TARIFF BILL.

Mr. MOORHEAD submitted the following resolution; which was referred, under the law, to the Committee on Printing:

Resolved, That five hundred additional copies of House bill No. 1349 (the tariff bill) be printed for the use of the House.

HELL GATE.

Mr. SCHENCK submitted the following resolution; which was read, considered, and passed:

Resolved, That the Secretary of War be requested to inform this House what has been done toward the removal of obstructions to navigation at Hell Gate, in Long Island sound, for which an appropriation was made at the first session of the present Congress; and also that he state who was charged with the execution of said work, what plan was adopted, what proposals or bids were made by any person or persons seeking the contract, and generally all information in his power to communicate on the subject.

ORDER OF BUSINESS.

Mr. BROOKS. I ask, after the House has disposed of its business, that I shall be allowed to occupy the floor for twenty minutes.

Mr. KELSEY. I object.

Mr. SPALDING. Unless it is for a personal explanation I object.

Mr. RANDALL. I insist on the motion to adjourn.

Mr. INGERSOLL. I withdraw the motion to adjourn.

Mr. FARNSWORTH moved that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. KELSEY moved that the House adjourn.

The House divided; and there were—ayes 70, noes 50.

So the motion was agreed to; and (at four o'clock p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of W. W. Newall and others, of the ninth district of Kentucky, praying the repeal of sections seventy-eight and ninety-four of an act imposing taxes on distilled spirits and tobacco.

Also, the petition of George Wood, J. C. Crouch, and others, of Medaryville, Indiana, praying the repeal of parts of sections seventy-eight and ninety-four of an act imposing taxes on distilled spirits and tobacco; approved July 20, 1868.

Also, the petition of Aug. Schlademan, Tanguy & Barnheisel, J. J. Puterbaugh, and others, of Logansport, Indiana, on the same subject.

Also, the petition of John Brownfield, D. J. Holland, J. G. Bartlett and Son, J. C. Knoblock, Reed & Coonley, and others, of South Bend, Indiana, on the same subject.

Also, the petition of Ray & Warnock, A. G. Webster, and others, of Westville, Laporte county, Indiana, on the same subject.

By Mr. BASHFORD: The petition of H. S. Washburn, asking compensation for military

service as captain of the Arizona volunteers, and previous to his being mustered in.

By Mr. BURR: The petition of Lieutenant John Davis, company D, one hundred and ninety-ninth Pennsylvania volunteers, for pay.

Also, the petition of Robert Scott, corporal company B, sixth regiment New Jersey volunteers, for arrears of pay.

Also, the petition of Henry Stock, father of H. Stock, deceased, private company C, fourth Pennsylvania volunteers, for arrears of pension.

Also, the petition of Theresa K. Burnett, widow of John C. Burnett, deceased, pilot on Government transport, for pension.

Also, the petition of Clarendia Butcher, widow of E. Butcher, deceased, private company F, twenty-seventh Pennsylvania volunteers, for pension.

Also, the petition of Patrick Cullen, private company G, first battalion eleventh United States infantry, for pension.

Also, the petition of Theresa Casevant, mother of Joseph Casevant, deceased, company I, seventeenth Vermont volunteers, for bounty.

Also, the petition of Evelyn S. Jones, widow of George W. Jones, deceased, late chief engineer on United States revenue-cutter Delaware, for pension.

By Mr. BUTLER, of Massachusetts: The petition of Blanton Duncan, of Kentucky, for relief under the confiscation laws.

By Mr. COOK: A petition of citizens of Ottawa, Illinois, dealers in tobacco and cigars, praying for the revision of sections seventy-eight and ninety-four of an act entitled "An act imposing taxes on distilled spirits and tobacco," approved June 20, 1868.

Also, a petition to the same effect from citizens of Kaukaee, Illinois.

Also, a petition to the same effect from citizens of Joliet, Illinois.

Also, a petition to the same effect from citizens of Mendota, Illinois.

Also, a petition to the same effect from citizens of Morris, Illinois.

By Mr. COBB: The petition of L. McCarn and 58 others, of Platteville, Wisconsin, for the repeal of certain provisions of the law imposing a tax on whisky and tobacco, &c.

By Mr. ELA: The petition of Betsey Arlin, of Barrington, New Hampshire, for a pension.

By Mr. FARNSWORTH: The petition of L. G. Collins and E. E. Moss and others, of Belinda.

Also, the petition of Lyon & Hawks and others, of Waukegan, Illinois.

Also, the petition of Julius Mayn and others, of Rockford, Illinois.

Also, the petition of Peter Scheank and others, of Elgin, Illinois, for modification of the tax on tobacco, &c.

By Mr. FERRY: The petition of Hon. T. D. Gilbert, and 33 others, praying for action upon the civil service bill, new tax bill, reduction of expenses, against subsidies in money or bonds to railroads, and other measures of economy therein named.

By Mr. GARFIELD: A petition of citizens of Youngstown, Ohio, for greater economy in the public expenditures.

By Mr. HOOPER, of Massachusetts: A petition of vinegar manufacturers in Massachusetts, for a change in the internal revenue laws.

By Mr. HOPKINS: A petition of citizens of Waterloo, Wisconsin, for an amendment of the law taxing distilled spirits and tobacco.

Also, similar petitions from citizens of Columbus, Beloit, Madison, Marshall, and Watertown, Wisconsin.

By Mr. HOTCHKISS: A petition of the New Haven, Middletown, and Wiximantic Railroad Company, for a bridge across Connecticut river at Middletown, Connecticut.

By Mr. HUBBARD, of West Virginia: The petition of List, Morrison & Co., and others, citizens of Wheeling, West Virginia, asking amendments to the act imposing taxes on distilled spirits and tobacco.

By Mr. INGERSOLL: Four several peti-

tions of citizens of Pekin, Chillicothe, Galesburg, and Peoria, Illinois, dealers in and manufacturers of tobacco, asking for the repeal of parts of sections seventy-eight and ninety-four of the internal revenue act concerning the tax on tobacco.

By Mr. JENCKES: Resolutions of the Board of Trade of Providence, Rhode Island, in favor of a postal telegraph.

By Mr. JONES, of Kentucky: A petition of manufacturers of tobacco, snuff, and cigars in the city of Covington, praying repeal of certain sections of an act imposing taxes on distilled spirits and tobacco, and for other purposes.

By Mr. JUDD: The petition of J. W. Adams and 3,000 other business men of Chicago, asking the repeal of a portion of section seventy-eight of the internal revenue law relating to tobacco.

By Mr. JULIAN: The petition of Captain Stephen D. Lyon, praying for a pension according to his rank as an officer in the late war for the Union, instead of a pension as a private soldier.

Also, the petition of 12 citizens of Richmond, Indiana, and dealers in tobacco and cigars, praying an amendment in the tax law as to tobacco and cigars.

Also, the petition of 15 citizens of Hagerstown, Indiana, praying the same.

By Mr. KELLEY: A petition of citizens of Philadelphia asking for the repeal of certain provisions of the act imposing duties on distilled spirits and tobacco.

By Mr. KOONTZ: The petition of Hugh Parker and 115 others, of Franklin county, Pennsylvania, asking for such additional protective duties as will relieve their distress, secure a home market for the products of their industry, and aid them in the unequal contest with the underpaid labor of Europe.

By Mr. LYNCH: The petition of Richard Look, for a pension.

Also, the petition of Nahum Walker, for a pension.

Also, a petition of merchants of Portland, Maine, in relation to the tax on tobacco and cigars.

By Mr. McKEE: The petition of Captain John Taylor, for compensation for loss of the steamboat Pine Hill, used in Government service in October, 1865.

By Mr. MILLER: The petition of Alfred Benton, a sergeant in the thirty-fourth regiment United States infantry during the war of 1812, for a pension.

Also, the petition of Narcissa J. Dalton, widow of John F. Dalton, deceased, late a private in company D, twelfth New Hampshire volunteers, for a pension.

Also, the petition of Henry P. French, late a private in company A, ninth Vermont volunteers, for a pension.

Also, the petition of Chancy H. Goodale, late a private in company H, fourth regiment Vermont volunteers, for a pension.

Also, the petition of Sarah J. Evans, guardian of Ella C. G. Divoll, daughter of George W. Divoll, deceased, late a private in the seventh regiment Massachusetts light artillery, for a pension.

Also, the petition of Ellen Green, mother of Philip Green, deceased, late a coal-heaver on the United States ship E. B. Hale, for a pension.

Also, the petition of Maria B. Colbath, widow of Charles H. Colbath, deceased, late a private in company C, thirty-third Massachusetts volunteers, for a pension.

Also, the petition of Ann M. Wetmore, the widow of Dix Wetmore, deceased, late of company G, first regiment Indiana cavalry, for a pension.

Also, the petition of Margaret De Witt, widow of John De Witt, deceased, late of company H, thirty-first regiment Illinois volunteers, for a pension.

Also, the petition of John W. Champs, late of company H, one hundred and fourth regiment Illinois volunteers, for a pension.

Also, the petition of Richard Waters, late of company K, eleventh regiment Illinois volunteers, for a pension.

Also, the petition of Mahala L. Freeman, widow of Benjamin F. Freeman, deceased, late of company D, eighteenth regiment Illinois infantry, for a pension.

Also, the petition of Henry Freeman, late of company G, sixth regiment Illinois volunteers, for a pension.

Also, the petition of John W. Wertz, late of company A, thirtieth regiment Illinois infantry, for a pension.

By Mr. MOORHEAD: The memorial of N. J. Bigley, asking compensation for a steamboat and six barges of coal.

By Mr. O'NEILL: The memorial of the Universal Peace Union, in behalf of the Indians.

By Mr. PAINE: The petition of Helmholtz & Leidersdorf and others, citizens of Milwaukee, Wisconsin, relating to stamps on tobacco.

Also, the petition of J. F. Taber and others, citizens of Bristol, Wisconsin, relating to stamps on tobacco.

By Mr. PERHAM: The petition of Mary Dunn, widow of Richard T. Dunn, late a gunner in the United States Navy, for a pension.

Also, the petition of Elizabeth Jones, widow of Owen Jones, for a pension.

Also, the petition of Cyrus Bicknell and 40 others, soldiers of the war of 1812, residents of West Minot, Maine, asking for pensions.

Also, the petition of Joseph St. Clair, father of A. W. St. Clair, for bounty.

By Mr. PRICE: The petition of citizens of Scott, Clinton, and Muscatine counties, Iowa, asking for a modification of the revenue laws in reference to tobacco, snuff, &c.

By Mr. STOKES: The petition of Mary Miller, widow of Jacob Miller, praying for a pension.

Also, the petition of Mary Reed, widow of John Reed, praying for a pension.

Also, the petition of Eliza J. Williams, widow of John W. Williams, praying for a pension.

Also, the petition of Anne Penney, mother of Alexander Bruce, praying for a pension.

Also, the petition of Franklin Stoker, praying for arrears of pension.

Also, the petition of Eliza M. Scantland, praying for an increase of pension.

By Mr. STOVER: A petition of citizens of Johnson county, Missouri, praying the repeal of certain sections of the law passed at the last session of Congress imposing taxes upon distilled spirits and tobacco.

By Mr. STEWART: The petition of James F. Hall and associates, for a telegraphic line between Boston, New York, and Washington upon an improved plan of construction with metallic poles and air cables.

By Mr. TAFTE: A petition of citizens of Nebraska City and Omaha, Nebraska, praying the modification of certain provisions of an act entitled "An act imposing taxes on distilled spirits and tobacco, and for other purposes," approved July 20, 1868.

By Mr. UPSON: The petition of A. Sherman & Co., and 36 others, citizens of Paw-Paw, Michigan, praying Congress to repeal sections seventy-eight and ninety-four of an act imposing taxes on distilled spirits and tobacco, and for other purposes, approved July 20, 1868.

Also, the petition of Gilbert & Co., and 18 others, of Niles, Michigan, praying for the same thing.

By Mr. WASHBURN, of Illinois: Two petitions of citizens of Galena, Illinois, and Sterling, Illinois, praying for the repeal of so much of section seventy-eight and ninety-four of the tax bill of last June as provides that after the 1st day of January, 1869, chewing and smoking tobacco and snuff, after the 1st day of April, 1869, cigars, and after 1st day of July, 1869, all manufactured tobacco of all kinds shall be taken to have been either manufactured or imported after the passage of the tax bill of last July, the petitioners claiming that the time is altogether too short in which to dispose of the stocks now on hand.

By Mr. WELKER: The petition of Winer Bethel, of Key West, Florida, asking the removal of legal and political disabilities imposed in consequence of participation in the rebellion.

By Mr. WHITEMORE: A memorial from citizens of Georgetown, South Carolina, in behalf of Richard Marsh, a citizen of that county and State.

IN SENATE.

TUESDAY, December 15, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

Hon. JACOB M. HOWARD, of Michigan, appeared in his seat to-day.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of the Interior, recommending an appropriation for the purchase or rent of a building for the accommodation of the clerical force in the offices of the Commissioner of Pensions and Commissioner of Patents; which was referred to the Committee on Public Buildings and Grounds.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented the memorial of a committee of Indiana yearly meeting of Friends, praying that a certain piece of land granted to the Indiana yearly meeting of Friends for school purposes by the Shawnee Indians may be confirmed to them; which was referred to the Committee on Indian Affairs.

Mr. WILSON. I present the memorial of the executive committee of the American Missionary Association, signed by George Whipple and M. E. Strieby, secretaries, and Edgar Ketchum, treasurer, in which they set forth that they have for seven years been engaged in sending physical supplies, schools, and religious teachers to the South; that the missionaries and teachers of the association have averaged for the last two years more than five hundred in number; that they were devoted solely to the work of relieving and educating the people without respect to race or color; and for the very reason that their labors are thus impartial they are exposed to the violence of the disloyal, their work hindered, their schools sometimes broken up, and themselves subjected to insults and danger. I move that the petition be referred to the Committee on the Judiciary and be printed, as it contains an important statement of facts and tables.

The motion was agreed to.

Mr. ANTHONY presented the petition of Lieutenant Commander J. N. Quackenbush, United States Navy, praying to be restored to the active list; which was referred to the Committee on Naval Affairs.

Mr. DOOLITTLE presented the memorial of William Cornell Jewett, praying Congress to withhold all subsidy in United States bonds, money, or lands from the Pacific Railroad Company until the present road is made complete and safe by proper bridges and necessary work, and until the company shall give ample security not to abandon the road to the Government on finding it a failure, &c.; which was referred to the Committee on the Pacific Railroad.

Mr. POMEROY presented a petition of women of Massachusetts, praying that in any amendment to the Constitution to extend or regulate suffrage there be no distinction made between men and women; which was referred to the Committee on the Judiciary.

He also presented a petition of citizens of Michigan, praying that in any amendment to the Constitution to extend or regulate suffrage there be no distinction made between men and women; which was referred to the Committee on the Judiciary.

Mr. WHYTE presented the memorial of James P. Ellicott, praying that in the event of the passage of a law repaving Pennsylvania avenue his patent street washer and irrigator

may be adopted; which was referred to the Committee on the District of Columbia.

Mr. PATTERSON, of New Hampshire, presented a report of receipts and expenditures of the Columbia Institution for the Deaf and Dumb from June, 1857, to July 1, 1868; which was ordered to be printed.

REPORTS OF COMMITTEES.

Mr. SUMNER, from the Committee on Foreign Relations, to whom was referred the joint resolution (S. R. No. 178) tendering sympathy and best wishes to the people of Spain, reported it with amendments.

Mr. SHERMAN, from the Committee on Finance, to whom were referred the following petitions and memorials, asked to be discharged from their further consideration; which was agreed to:

A petition of freedmen of Edgefield, South Carolina;

A petition of colored citizens of the United States;

A petition of colored citizens of Alabama and Georgia;

A petition of H. Ryan, of Mississippi;

A petition of freedmen of Georgia;

A petition of a company of colored people living near Halifax, North Carolina; and

A memorial of the American Colonization Society, all praying an appropriation of \$100 to each person who will embark under the auspices of the American Colonization Society to Liberia.

PAPERS WITHDRAWN.

On motion of Mr. FRELINGHUYSEN, it was

Ordered, That the Committee on Claims be discharged from the further consideration of the claim of A. Burwell, and that the petitioner have leave to withdraw his petition and papers.

NATIONAL DEBT.

Mr. CATTELL. The Committee on Finance, to whom were referred the three resolutions offered yesterday in reference to that portion of the President's message which treats of the public debt, have instructed me to report back the resolution offered by the Senator from West Virginia [Mr. WILLEY] without amendment, and to ask for its present consideration.

The PRESIDENT *pro tempore*. It requires unanimous consent. The Senator from New Jersey asks for the present consideration of the resolution reported by him. Is there any objection?

Mr. McCREERY. I object to the present consideration of the resolution.

The PRESIDENT *pro tempore*. Objection being made, it goes over under the rule.

BILLS INTRODUCED.

Mr. NYE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 689) to provide for the paving of a portion of Pennsylvania avenue and Fifteenth street west, in the city of Washington, District of Columbia; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. PATTERSON, of New Hampshire, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 690) to incorporate the Washington Insurance Company of Washington, District of Columbia; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. EDMUNDS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 691) to prevent the holding of civil offices by military officers, and to prevent the holding of more than one office at the same time; which was read twice by its title.

Mr. EDMUNDS. I move that the bill be referred to the Committee on the Judiciary.

Mr. SUMNER. I will inquire of my friend whether that is not already anticipated by a section in one of our appropriation bills last year?

Mr. EDMUNDS. I think it is not fully; at least I desire to have the subject investigated

and see if we cannot stop the double holding of offices.

Mr. SUMNER. There is a section in one of our appropriation bills providing that no military or naval officer shall hold at the same time a civil and a military office.

The PRESIDENT *pro tempore*. Is there any objection to the reference of the bill? None being made, it will be referred to the Committee on the Judiciary.

CLAIMS AGAINST VENEZUELA.

Mr. SUMNER submitted the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested, if in his judgment not incompatible with the public interest, to communicate to the Senate any information in his possession in reference to the action of the mixed commission for the adjustment of claims by the citizens of the United States against the Government of Venezuela.

TERRITORY OF ALASKA.

Mr. PATTERSON, of New Hampshire, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be requested to communicate to the Senate all information possessed by the Treasury Department, not already communicated, respecting the territory of Alaska, and particularly concerning the fur interests therein.

POLITICAL DISABILITIES IN SOUTHERN STATES.

Mr. FERRY. Mr. President, I move to take from the table the bill introduced yesterday by the Senator from Nevada, [Mr. STEWART,] to punish the crime of holding office in violation of the fourteenth article of the Constitution. It is Senate bill No. 677. At the time of the introduction of the bill I requested the Senator from Nevada to let it lie on the table until to-day before referring it, promising to call it up and move its reference to-day, and desiring at the same time, with the consent of the Senate, on the motion to refer, to submit some remarks upon the bill and the bills introduced by myself at the commencement of the session. I therefore move that the bill offered by the Senator from Nevada be now taken from the table for that purpose.

The motion was agreed to; and the Senate proceeded to consider the bill (S. No. 677) to punish the crime of holding office in violation of the fourteenth article of the Constitution.

The PRESIDENT *pro tempore*. The bill will be read.

The bill was read, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person who shall hereafter accept or hold an office to which he is ineligible under the third section of the fourteenth article of the Constitution of the United States, or who shall attempt to hold or exercise the duties of such office, shall be deemed guilty of a felony against the United States, and upon conviction thereof shall be imprisoned not less than three years nor more than ten, and fined not less than \$1,000 nor more than \$10,000.

Mr. FERRY. Mr. President, the bill just read, and which was introduced by the Senator from Nevada on yesterday, provides a system of penalties for the purpose of enforcing the disabilities provided by the third section of the fourteenth article of amendment to the Constitution of the United States. Early in the session I had the honor to introduce two measures whose combined operation would secure the removal of all political disabilities growing out of Federal legislation during the progress of reconstruction. Those bills were appropriately referred at the time of their introduction; and I should not have attempted to discuss them until the action of the committee upon them had been made known to the Senate had it not been that the introduction of this bill by the Senator from Nevada affords me an opportunity and strengthens the argument in favor of the measures which I have proposed. In order that those measures may be understood, both separately and in combination, I desire that they shall be read by the Secretary. I send to the desk, for that purpose, Senate resolution No. 184.

The Chief Clerk read the joint resolution (S.

R. No. 184) for the removal of political disabilities, as follows:

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring.) That all persons now disqualified to hold office by the third section of the fourteenth article of amendment of the Constitution of the United States are hereby relieved from such disability, and the same is removed from and after the passage of this joint resolution.

Mr. FERRY. I now send to the desk to be read Senate bill No. 656.

The Chief Clerk read the bill (S. No. 656) to remove political disabilities, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all such parts of any act or acts of Congress as forbid any citizen of the United States to vote at any election, by reason of any of the disabilities mentioned in the third section of the fourteenth article of amendment of the Constitution of the United States, be, and the same are hereby, repealed.

Mr. FERRY. I would have been better pleased could I have embraced the whole subject-matter in one bill; but as in order to remove the disabilities enumerated in the third section of the fourteenth amendment it is necessary to obtain a concurring vote of two thirds of both Houses, it became also necessary that separate measures should be introduced for the removal of those disabilities on the one hand, and for the abolition of the limitations upon the suffrage imposed by the reconstruction laws on the other. The joint resolution seeks to restore to eligibility to office all citizens of the United States who have lost it by reason of the adoption of the fourteenth article of amendments to the Constitution of the United States. The bill seeks to remove the restrictions upon the suffrage which were imposed by certain acts of Congress known as the reconstruction laws. So that the two together will, as I have said, if adopted by Congress, operate to remove all political disabilities which have been created by Federal legislation during the progress of reconstruction. They interfere in no wise with State action, leaving the local policies of the States to their own discretion. It is my earnest hope that both these measures may meet with the sanction of Congress during the present session, and I have introduced them thus early, and take the opportunity of making these remarks, in order that the matter may be brought directly to the consideration of the Senate.

I may remark, Mr. President, in the first place, as one reason why these disabilities should be removed, that in their origin they were intended by Congress to be only temporary. The third section of the fourteenth amendment provides upon its face that the disabilities imposed thereby may be at any time removed by a vote of two thirds of both Houses of Congress. The limitations of the suffrage in the reconstruction acts are by their very terms confined to the transition period between the cessation of arms and the full restoration of the Union. That the latter were thus intended to be temporary is evident from the acts themselves. That the former was proposed to the people with the same intention appears both from the debates in Congress at that time and from the language of the amendment itself. For the purpose of rendering this clear I beg leave to read a brief extract from the debates in the Senate on the 30th of May, 1866, when this third section was under consideration. The Senator from Ohio, [Mr. SUMNER,] in commenting upon the section, remarks:

"But I take it all of us understand the meaning of the third section. It is that, for a time at least, all who have violated not only the letter, but the spirit of the oath of office they took when they became officers of the United States, and took the oath to support the Constitution of the United States, shall not hold office until a state of affairs shall come when two thirds of both Houses may, by a general amnesty, wipe out all these disabilities."

And this general understanding thus referred to by the Senator from Ohio is clearly evident throughout the whole of those debates. The question, therefore, arises whether the time has come for "wiping out all these disabilities." I take it, in the first place, in reference to the disabilities imposed by the third section

of the fourteenth article of amendment, that when the necessity for the existence of those disabilities shall have passed away Congress and the people of the United States will desire that the disabilities themselves shall be removed. In order to ascertain whether the time has now arrived when it can be truly said that that necessity has passed away, it may be well for us to inquire into the original necessity of any such amendment to the Constitution at all, and for this purpose it is well to examine the history of the fourteenth amendment; to consider the time at which it was prepared and promulgated to the people, and the circumstances which surrounded it.

It was prepared at the first session of the Thirty-Ninth Congress, and for the purpose of bringing about a more speedy restoration of the Union. It was prepared on account of the fact that the influential class in the southern communities, composing the great slave-holding and land-holding interest, and which included, also, the holders of office there for a generation before the war, had, it was believed, led the masses of those communities away from their allegiance to the General Government into insurrection and rebellion against the authority of the nation. It was believed that it was necessary to emancipate the southern masses from the influence and control of this oligarchy which had ruled them, and that by taking away that influence and control the masses themselves would return to loyal allegiance to the Government, and communities be built up there which could be safely intrusted with the resumption of the functions of States in the Federal Union. So that the great object of the third section of the amendment was the emancipation of the masses of the voting population of the South from the control of the oligarchy which was believed to be mainly responsible for the rebellion.

At that time, it must be remembered, during the first session of the Thirty-Ninth Congress, the idea had not yet entered into the minds of the majority of our statesmen that a loyal element was to be developed in the southern States by enfranchising the colored population. The whole theory of the fourteenth amendment, during the first session of the Thirty-Ninth Congress, was that under the operation of the amendment the political power of those communities was to remain in the old voting or white population, except so far as they should, by their own action, consent to share it with the colored citizens; and hence the necessity of emancipating the masses of the white population from the control of those who had led them into insurrection.

As such, as a measure necessary at the time for building up loyal communities in the recent theater of rebellion and for speedily bringing those communities back to the exercise of their normal functions in the Union, the people acquiesced in and sanctioned this third section of the fourteenth amendment. Now, sir, since that period almost three years have elapsed; and the inquiry to-day is whether the necessity which then existed for such disabilities exists any longer? If that necessity has ceased, if the restoration of the Union which was sought for by this species of legislation is now substantially an accomplished fact, then certainly it would seem that the time has arrived, foreseen by the Senator from Ohio, when by one general law we may wipe out all those disabilities.

Now, sir, has not that period arrived? Events have occurred stronger than all your legislation, more potent than all constitutional amendments which you have enacted or can enact to secure the immediate and complete restoration of the integrity of the Republic. The verdict of the people in the recent election has rendered no longer doubtful the immediate and complete return of all the States to their proper relations in the Union. Seven of them already have returned, and I see their loyal Senators around me on this floor. The remaining three inevitably, in the ordinary progress of events, must come back before another year has passed

over our heads. The necessity having ceased the disabilities should be removed.

When we come to the consideration of the abolition of the restrictions upon suffrage we are led into a somewhat similar course of inquiry to that through which we have just passed. How came it to be necessary to limit the suffrage in these southern States in the manner in which it is limited by the reconstruction acts? The fourteenth article of amendment had been promulgated to the people in June, 1866, and in the autumn and winter following had been quite unanimously rejected by the provisional Legislatures of the southern States. I shall not stop here to inquire how it happened that the rejection took place.

It is enough to say that it is clearly traceable to a combination between the southern oligarchy, the President of the United States, and the leaders of the Democratic party at the North. But the rejection did take place; and when the Thirty-Ninth Congress assembled at its second session the whole work of reconstruction had to begin again from the foundation, and now experience had taught us that the work would not stand unless it was founded upon justice. We had realized the necessity of developing in some other mode in those southern communities a loyal element, out of which State organizations might be framed which could be safely intrusted with the resumption of Federal duties. Hence the franchise was extended to the colored citizens of the South. But while at the same time the necessity of developing and building up a loyal element had become apparent, it had also become apparent that it was necessary to put down still more effectually the political power of the controlling disloyal element there; and therefore, for the transition period which must yet elapse before the restoration of those States to the Union, Congress in the reconstruction laws provided that the classes enumerated in the third section of the fourteenth amendment of the Constitution should not be permitted to vote, limiting and confining the operation of the provision to the transition period of which I have spoken.

In seven of the States the laws themselves have been replaced by the local State constitutions. They apply now only to Texas, Virginia, and Mississippi; and they apply there, after the result of the recent election, after the conviction which must have been forced upon the mind of every citizen of those States by that election of the inevitable necessity of a return to a loyal submission to the Government of the United States. These laws, limiting and restraining the suffrage, serve now only to gall and irritate, and to do no good whatever, unless, indeed, sir—that which I too often hear and too often read in the newspapers—we are here to continue disabilities upon those people for the purpose of maintaining the ascendancy of the Republican party in those communities; and I take it that legislation for such a purpose as that, or for any merely partisan purpose, is not to be entertained by the Senate of the United States.

Well, now, sir, is there any necessity that the fragment that remains of the operation of these limitations upon the suffrage in those States should be longer continued? And if there is not; if the original necessity of these disabilities of both kinds has passed away, has actually been driven out of existence by the action of the people of the United States in the recent presidential election, why should we retain them here longer?

But, sir, is not the only reason for the removal of these disabilities that the necessity in which they originated has passed away. There are other and stronger reasons affirmatively why the Congress of the United States should now enact the measures which I have introduced.

In the first place, if we are to judge by public action, what is the sentiment of the people in these restored States themselves? You limited the suffrage throughout those States during the transition period; and when the people

came to make their new constitutions, your own friends, the very loyal element that you had built up, swept away by their sovereign action in their conventions the very limitations that you had imposed.

But that is not all. The local feeling is not only thus evinced, but the continuance of these disabilities now provided for in the third section of the fourteenth article is injurious to the interests and the safety of the whole Republic. What do we want of those States? We want them to come back to build up a strong, free, and enduring nationality; and it is true, Senators; that the disabilities imposed by this third section to-day deprive the States and the Republic of the assistance and services of the greater portion of the intelligence, the culture, and the property of those communities.

Is it said that it is dangerous now, after the action of the people of this country in the recent presidential election? I do not believe that there is a man so mad throughout that whole portion of the Republic as even to wish to struggle longer against the national supremacy; and if he entertain no such wish, what other wish can he entertain except to restore prosperity to his own and all portions of the country?

But the imposition of your disabilities goes further. It scatters broadcast all over the South a race of political outlaws, sullen and discontented, from the feeling, right or wrong, that they are suffering injustice; and naturally enough so fits them to become centers of conspiracy.

The continuance of the disabilities affects not only the individuals themselves, but it extends to the whole community. It is a disfranchisement, so far as it goes, of every citizen there, black and white, loyal and disloyal. It is not enough to say to me "You may go to the polls to vote" when, at the same time, you say to me, "The man you choose shall not hold his office;" and thus the operation of the disabilities, if continued, will not only be to foster discontent in the class immediately affected by them, but it spreads the discontent out into the masses of society. And what is it that we want now? What is it that was the great watchword that carried us triumphantly, more, perhaps, than anything else, through the recent contest? It was the aching, longing demand of the people of this nation for peace; peace at home; peace with each other; peace with all the people in every State; peace, the parent of law, of order, of industry, and of prosperity. And are you to get peace by refusing to permit great bodies of citizens in ten of the States of the Union; yea, in all the States, wherever they may happen to reside, to be eligible to office, and by forbidding their fellow-citizens to exercise the right of suffrage in voting for them?

The bill of the Senator from Nevada is a forcible commentary upon the impolicy of any longer continuing in existence these disabilities. What is that bill? A bill for the creation of new crimes; a bill for the imposition of new punishments, fines, and imprisonments by Federal courts and Federal authority and Federal officers upon persons whom the people, in the exercise of their right of suffrage, according to their good pleasure, have elected to office.

And the bill of the Senator from Nevada is a logical deduction from the continuance of these disabilities, because if you insist upon continuing them you must do one of two things; you must either enforce them or you must let them pass without enforcement. If you enforce them you employ the central power of this nation and send it perambulating every State to see how the people vote and who holds the local offices. You drag constables and sheriffs and justices of the peace and members of the Legislatures before your Federal courts because they have accepted the offices to which the people chose them. You inflict upon them fines and imprisonments. You centralize the entire power of this Government. Sir, I am no particular believer in, nor have I any particular respect for, what is called the doctrine of State

rights; but I do believe that, essential to our republican system, essential to the liberties of this people, is the continuance of local self-government, and the bill of the Senator from Nevada compels the Federal authority to interfere in every local election throughout the Republic wherever the people shall choose to select for office a person affected by any of these disabilities. But suppose, on the other hand, that you do not enforce the law; that the bill of the Senator from Nevada shall not pass, and that the constitutional amendment shall be left to stand to enforce itself, then, as we know from experience, it will not be enforced. In every one of the recently reconstructed States, States that have made republican constitutions and sent them here, and we have approved them, in different parts of those States the local constituencies have chosen public officers obnoxious to some of these disabilities.

Will you enforce your law? You centralize the Government and you strike a fatal blow at the existence of local self-government, the proper foundation of our republican system. Will you decline or neglect to enforce your law? You bring all law into contempt. So that in either point of view it is true, as I said, that the bill offered by the Senator from Nevada is a forcible argument in favor of the measures which I advocate.

Again, sir, now that the strife of civil war is over; now that the three years of anarchy which a bad President has brought upon us are brought to a close; now that the people have by such overwhelming majorities declared that this Government henceforth is to go back to the system which Jefferson contemplated when he framed the Declaration, it is needful for the building up of that homogeneous state of civil society all over the Republic which is essential to the continuance of our institutions, that these disabilities should be removed. I have felt rejoiced at the amendment after amendment to the Constitution which has been offered in the two Houses of Congress at this session for the abolition of the class distinctions which still disfigure the legislation of many of the States of this Union. I have always believed that our Republican system can only endure upon the basis of a true and broad democracy, a Government deriving its powers from the consent of the governed. And how can I stand here and vote for an amendment to the Constitution to strike out all distinctions of color in the exercise of the suffrage and at the same time insist upon the continuance of such disabilities as yet remain upon the Federal statute-book? Why, sir, it does seem to me as if the experience of the last fifty years ought to enlighten us as to the chimerical character of the dangers which have been apprehended from the extension of suffrage and of eligibility to office at one time and another.

It has been thought once, even in this land, that poverty disqualified a man from voting, and no man, unless he was the owner of property, was permitted to exercise the suffrage. Time went on; the property qualification disappeared; and nowhere are law and order more respected, are person and property more secure than in those communities where suffrage is most universal and government rests upon the broadest foundation.

It has been thought that dangers might assail us in the influx of the enormous immigration from the Old World, and a great party was once organized upon that very apprehension. The fear has passed away, for time and experience have demonstrated that the evils accompanying that immigration are but temporary, and will pass away in a single generation.

The time has been when the negro was a beast of burden, and nothing else. The time is now when good men too often apprehend the danger of an extension of the suffrage unto him by reason of the ignorance which is the result of centuries of slavery; but it is beginning to be seen, by the practical operation of the laws extending suffrage, that all these fears are chimerical, and that the black man as well

as the white is an element of strength and prosperity in civil society.

And so now other good men fear that the extension of the suffrage and the removal of the disabilities to and from the entire class lately engaged in the rebellion will bring peril to the community. The apprehension in the last case, in my judgment, will prove as fallacious as in all the other cases; and I think that with the adoption of some one of the constitutional amendments to which I have referred, with the sweeping away from your statute-book of all these disabilities, we may realize in a brief space of time that which Jefferson contemplated when he framed the Declaration—a government wherein rich and poor, native and citizen of foreign birth, the negro and his former master, may all constitute elements in a republican democracy, which shall be as broad as the continent, and as enduring as the national life.

Mr. STEWART. Mr. President, I introduced this bill yesterday for the purpose of reference, but it was laid over in order that the Senator from Connecticut might make some remarks upon it. In order that those remarks may not go out without a brief statement of the situation, I desire to make a few observations myself on the same subject.

There is no one more ready to remove disabilities than myself, and no one more anxious for an opportunity to remove disabilities; but in removing disabilities I want reciprocity on the part of those people. That has been my theory from the beginning. If their disabilities are to be removed, if they are to be restored to citizenship and to the right to hold office, I want them voluntarily to allow other citizens the same privilege.

This particular section of the constitutional amendment when it was adopted was intended, as stated by the Senator from Connecticut, to be temporary. I thought at that time I saw some virtue in the section. I saw that there would be a time when we could appeal to the men in the South who had control to a great extent there to grant civil and political rights to all men, and receive them themselves. This subject of the removal of disabilities has been referred to me in the Senate, for the most part, and I have examined each case with all the care that I could, and wherever I found a person willing to submit to the laws of Congress, wherever the evidence tended to show that he was disposed to submit to the laws of Congress, to make no more trouble and cease to ostracize others, I have recommended the removal of the disabilities. It is reported that some of those very persons whose disabilities have been removed have not acted as they professed on that occasion, but for the most part they have acted well. There have been some mistakes already made.

The condition of the southern country will not warrant—I hope the time may come very soon when it will—the removal of disabilities universally. If we intend to secure what the Senator is so anxious to secure, that is to secure to all men their just rights, to wipe out class legislation and to make this a democratic Republic, it will not do to place any more power in the hands of the enemies of those ideas. Where they have had power they have exercised it in the most arbitrary manner in the South. In Georgia, for instance, we find them without any cause expelling from office without any trial loyal men elected and holding their offices, not only in accordance with the laws of Congress but in accordance with their State constitution, on account of color. We find them perpetrating those acts, and among the number guilty of these outrages we are informed—it has not been investigated; it is to be investigated, however—that there are a large number of persons who are disqualified from holding office under this very fourteenth amendment. Will the Senator from Connecticut remove the disabilities from those men who are disqualified by law, while they, in violation of all law and against their own local law, expel members of the Legislature?

Whenever we can have reciprocity, whenever these people are willing to allow their neighbors to enjoy civil and political rights, as they are entitled to do under the Constitution and laws of their country, I am willing to forget their crime of rebellion, notwithstanding it has caused so much misery to this country, and I am willing that they shall be restored, but not until then. Not until they will do justice to others shall they receive mercy at my hands as a Senator here:

We find in the city of New Orleans another striking example of the tyranny of these men. There are in that city forty-one thousand registered votes. It is stated, however, that there are five or six thousand illegally naturalized persons there who should not be counted in that number, making it something less. There were twenty-three thousand votes polled there at the presidential election, and out of that number there were but two hundred and seventy-six Republican votes. This, of course, is hereafter to be investigated, and I only make these statements upon the information I get; but all the parties with whom I have conversed estimate that there are twenty thousand Republicans in that city. They state, whether truly or falsely, as the reason why they did not vote, that there was so much violence, such a reign of terror, that it was impossible for them to go to the polls. This violence was perpetrated by the very men who are disqualified under the fourteenth article. Before we proceed to remove disabilities we should investigate this matter at New Orleans and see if it be true, as alleged, that the late rebels excluded from the polls their political opponents by violence. If they did not, if they are willing that the laws shall be enforced, if they are willing that all men shall enjoy the rights to which they are entitled under the Constitution, there is nobody inclined to continue these disabilities; but, until that is done, let it be understood that the laws of Congress must be respected. If while they thus defy the laws we repeal them, it will look like an act of cowardice. When they are willing to submit to the laws and be good citizens and give us evidence of that fact, then it will be generosity on our part to repeal them; but let us not repeal them nor extend any generosity toward them while they are threatening the lives of our friends and the peace of this country. They must obey the laws. I am willing that all men who will obey the laws and be good citizens shall be relieved; and I think that is the position which the committee will hold. So far as I am concerned hereafter, if I have anything to do with the subject of relieving from disabilities, I shall examine each case most critically, and I must be satisfied that the person asking to have disabilities removed has done some works meet for repentance, and that he is willing to be a good citizen. Then I shall be disposed to advocate the removal of his disabilities, but not until then.

The PRESIDING OFFICER. (Mr. ANTHONY in the chair.) The question is on the motion to refer this bill to the Committee on the Judiciary.

The motion was agreed to.

MILITIA IN THE SOUTHERN STATES.

Mr. WILSON. I move to take up Senate bill No. 665.

Mr. EDMUNDS. I gave notice, on Thursday last, that I should to-day move to discharge the Committee on Finance from the consideration of Senate joint resolution No. 66, touching the faith of the nation on the subject of the payment of its funded debt. I am informed by the chairman of that committee that the committee are not quite ready to report upon the subject, but will report to-morrow. In that state of the case, I shall of course have no occasion to make that precise motion, and shall postpone proposing what I wish to have the Senate do until to-morrow. I have thought it fit to say this, inasmuch as otherwise it might be inferred that I had given up the idea of getting the sense of the Senate upon that im-

portant question; but as that committee will report to-morrow, I shall not press my motion at this time.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Massachusetts, [Mr. WILSON.]

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 665) to repeal section six of the act entitled "An act making appropriations for the support of the Army for the year ending June 30, 1868," approved March 2, 1867.

The Committee on Military Affairs reported the bill with an amendment to strike out all of the original bill after the enacting clause, in the following words:

That section six of an act entitled "An act making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes," approved March 2, 1867, is hereby repealed.

And to insert in lieu thereof:

That so much of the act entitled "An act making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes," approved March 2, 1867, as prohibits the organization, arming, or calling into service of the militia forces in the States lately in rebellion, be, and the same is hereby, repealed.

Mr. HENDRICKS. I should like to inquire what that section is?

Mr. WILSON. By the act of March 2, 1867, Congress forbade the unreconstructed States from organizing militia. Most of those States have been reconstructed since that time, and it was proposed at the last session of Congress to repeal the act in order to allow those States to organize their militia. The President of the United States in his message earnestly recommends this repeal now. I do not know that anybody opposed it here at the last session; but I think it fell between the two Houses. I hope this bill will be promptly passed, because I believe some of these Legislatures are in session now, and are very desirous of legislating on the subject before they adjourn, as they may do in a very brief time.

Mr. EDMUNDS. I should like to have my friend, the chairman of the Military Committee, inform us what is the propriety of repealing the law which prohibits the three States that have not been readmitted into the Union, Virginia, Texas, and Mississippi, from organizing a militia? They have failed to comply with the reconstruction acts, as we have some reason to suppose, somewhat in a spirit of hostility to the policy which Congress has adopted. I might say something more than "somewhat in a spirit of hostility," probably, and not get beyond the truth. Now, the question is whether, as applied to those States, it is wise to take the hand of Congress off from them and to permit those communities, which are yet in a state of rebellion and who are held under the authority of military law, to set up a local militia of their own. I should be somewhat afraid, in such a case as that, that the loyal men who exist in those communities, men who desire peace, who wish to pursue industry, to acquire property, and to reestablish themselves, both black and white, would find it rather hard times under an organization of militia in those States at this period. I suggest to my friend, therefore, the inquiry whether it would not be wise to except those three States from the operation of this repealing act, if the original act which this proposes to repeal prohibited these local military organizations not only in the States that have been readmitted to Congress, but also in the States of Virginia, Mississippi, and Texas? With that exception I should be entirely satisfied, I think, with the bill. I suggest to my friend whether it would not be wiser to leave those States as they are?

Mr. WILSON. If that be the will of the Senate I shall not oppose it; but as those three States have no Legislatures to be called together, and cannot legislate on the subject, and have constitutions made which will probably be adopted in the course of a few months, I thought it better to make a whole thing of it at once and have it all settled. If, however, the Senator or Senators desire that the bill

shall not apply to those States, I am not strenuous about it.

Mr. EDMUNDS. I move to amend the amendment by inserting as a proviso:

Provided, That this act shall not operate to repeal so much of the act aforesaid as relates to the States of Virginia, Mississippi, and Texas.

That will accomplish my object; and I think it wise not to leap before we come to the stile. The existing act prohibits military organizations, and it does not necessarily, in the irregular way that things are done down there, require a formal and regular State government to authorize a military or militia organization; and I should expect, with the temper that we have seen exhibited in some of those States, particularly in Texas, where a reign of terror exists in almost all the counties, in spite of the few troops we have there now, that in that State military organizations adverse to liberty, adverse to peace and good order in society would immediately spring into existence, and would be used to the detriment of the progress of affairs in that region. I hope, therefore, that we shall pursue what appears to me to be the prudent course, of holding this prohibition against those States which have refused to comply with the conditions that we have imposed upon the others.

Mr. HENDRICKS. I do not now recollect what were the considerations that were urged upon the Senate for the adoption of the section which it is proposed by this bill to repeal. If the action of Congress at that time were wise, I am not aware of anything in our history since that time which makes its repeal now proper or important. Certainly the recent transactions in some of the States do not establish that the use of the local military power for the government of the people has been useful. On the contrary, much evidence is before the country that great wrongs and outrages are perpetrated by the local militia, and if this country is to be governed by military power I prefer that it should be governed by the regular Army of the United States—a military power that is under some control.

The calling up of the bill at this time would seem to be an indorsement of some of the conduct of the military companies in some of the southern States. Is it to be an indorsement of the transactions that have recently illustrated the sort of government that now obtains in the State of Arkansas? Is it to be an indorsement of the policy that has prevailed and governed society and governed elections for the last year or two in the State of Tennessee? Are the scenes that have been witnessed there to be extended to the other States? Is that the purpose of the committee in urging the passage of this bill?

Mr. President, I do not undertake to say that the original measure was wise, that it was proper; but if it were so, history since that time would admonish us that it is more important now than it was at that time. At the time the bill passed there had been no serious outrages by local military power; but since that time they have been witnessed very frequently. The law in many localities has been trampled under foot, and the people and their property have been made subject to the government of a lawless militia. It seems that the proposition to repeal the restraining law is with a view of sanctioning and perhaps extending that system of government that is so odious. I shall not vote for the measure unless some reasons are given which have not yet been suggested.

Mr. FESSENDEN. Mr. President, like the Senator from Indiana, I do not specifically recollect what the reasons were which led originally to the passage of the law which it is proposed to repeal. I am apprehensive, however, that the true reason will be found in the fact of a general distrust of the loyal character of the provisional governments formerly existing in those States, and that it would be dangerous to put an armed militia within their control. Whether I am correct or not I do not know; but I submit to the Senate whether we have not

had some experience which should teach us the necessity of placing an armed force within the control of somebody for the preservation of order in those States. The Senator from Indiana refers to an abuse of the militia in some particular instances; but has he forgotten the fact that there are throughout many of these States the grossest irregularities and the grossest enormities which no force at the control of the General Government or the State governments has been able to put down?

I hardly feel willing to agree with the idea of my honorable friend from Vermont, that the States which have not been reconstructed, so called, should not have a militia force. There is no State in the Union, I presume, where there have been such gross outrages committed and so generally as in the State of Texas. What is the reason of this? It is found, in my judgment, from the absolute want of any sufficient force to control the irregularities and the outrages which will necessarily spring from such a state of society left so unformed at the period of a long and sanguinary war. For the sake of economy, so called, we have been in a very great hurry to reduce our military force. Very much has been said on both sides of this Chamber and on both sides of the other House of Congress upon the subject of the necessity of bringing our expenditures down to a very low point, or as low a point as possible; and one of the first things to be done was a reduction of the Army, and to that my friend from Massachusetts [Mr. WILSON] pointed the attention of Congress at a very early day; and we did it. Now, sir, what is the complaint that we hear on all sides from the officers who have been put in the control of the military force in these several States? It is that they have no force at their command adequate to suppress irregularities and outrages upon the loyal people. A large portion of our military force is sent upon the plains and used elsewhere than in these States. What does General Reynolds tell you with reference to Texas itself? He says, if I remember rightly, that he has, and has had, no force that was at all adequate to protect the loyal people or the sober people of that State against murder and against all sorts of wickedness that have been perpetrated there by the loose population existing in portions of that State, perhaps the whole of it; and, if I remember rightly, (I may be mistaken,) he recommends—somebody certainly recommends; I have heard it somewhere—that the militia of that State, if you call it a State, should be organized in order that there may be some force adequate to the suppression of these outrages. Why, then, should we make an exception? Either increase your regular Army to a point where it will be made efficient, or else organize a militia in these several States and put arms in their hands, under the control of State officers if you please, or of somebody, for the purpose of affording the force necessary. Why, then, do you make an exception of Texas? It is not so bad in Virginia; that is at our own doors. I do not know that it is so bad in Mississippi; but with reference to the State of which I speak it is manifest that something should be done.

Sir, we have heard a great deal in the newspapers about these irregularities being the consequence of not having an earlier change in our Government. I cannot see for myself what General Grant, when he becomes President, is to do in order to suppress all sorts of violence in these several States unless you give him a force to do it with; and I do not see what the States themselves are to do—that is to say, the civil power of those States—unless you put into their hands a military force with which they can act. The civil power of itself, it is very evident, is very weak now; it can accomplish nothing. We see that no man who commits a crime is brought to justice. It may be that the civil power does not wish to bring him to justice in some instances; but it is very difficult for me to believe that respectable men, or men having the good of society among themselves at heart—and we must take it for granted

that most of the men in power are so disposed—should not wish, if possible, to put an end to a state of society that renders their own lives and their own property, and the lives and property of their friends, entirely unsafe.

For my own part I believe that the great difficulty has arisen from the fact that we were in such a hurry to build up a reputation for economy that we diminished the Army far below what was necessary and what will be necessary for some years to come, without providing an adequate military force in the States to be under the control of the power of the States, or somebody's control, in order to repress violence and to see that these outrages were not perpetrated.

I hope, therefore, sir, on this view of the matter, that my friend from Vermont will reconsider, if this bill is to pass, his proposed amendment, striking out the States that have not yet been reconstructed. I believe that a militia force is as necessary there as elsewhere. I believe that a militia, or a military power of some kind, is necessary in most of these States, if not all of them, and that unless we bring about a condition of things in which there is a power lodged with somebody to repress by force the violence that takes place there continually we shall see no end to the troubles of which we have heard so much for the last year. They will continue, and they must necessarily continue, from the nature of the population and the kind of feeling that exists; and the moral force of an election will be found totally inadequate to bring about a change of circumstances and produce an orderly state of society.

Mr. EDMUNDS. Mr. President, I agree to almost all that my honorable friend from Maine has said. I agree to all the principles that he has advocated heartily. There must be additional force in the State of Texas; for illustration, in order to preserve order, and that force, probably, if enough honest and courageous and loyal men can be found to make it up, must be in the nature of a militia force. But the difficulty of repealing this general prohibitory clause will be, as it appears to me, with all deference to my friend, that it will authorize anybody and everybody in the State of Texas, under what they call its ancient militia laws—because the theory of the majority here is that it has laws—to organize a militia hostile to the Government that we are undertaking to administer there, hostile to the peace of those men whom we are trying to protect, and that "confusion worse confounded" will result from leaving it in such a condition. Now, what I propose to do is for the time being to leave this general prohibition just as it stands, making all military organizations, as such, illegal in that State and in these two others. Then I should hope that speedily the Committee on Military Affairs would report a bill which shall authorize the military governor of the district of Texas to select such volunteers, or to organize such militia, selecting the loyal and the patriotic from the dishonest and the violent, as will enable him to protect the peaceable and loyally disposed persons in that State.

Now, I submit to my friend from Maine whether there is not great danger, if you leave the door entirely open in the State of Texas to the formation of militia, that you will find a militia formed, a majority of which, at least, will be as hostile to your present government and to your present order as the disorganized elements of disturbance that exist there now are. I should certainly fear it from the composition of that society. Hence, the only safe militia, the only safe local assistance that you can obtain, must be a selected militia, selected by the government of that State, whether you call it military, or provisional, or civil, selected under the authority of Congress (which may provide for such things constitutionally) from that portion of society who are desirous of upholding order and maintaining government. For such a purpose I should hope that the Military Committee would bring in a bill speedily, because unquestionably the state of things

there demands it, and demands it strongly. But, in advance of that, to repeal everything that we now have as a safeguard against unlawful and illegal organization, whose purpose would be to overthrow the order that we desire to maintain, would, it appears to me, be exceedingly unwise. This is the reason, Mr. President, why, with entire deference to my friend, it appears to me it is better as to those States, for the moment, until we can make special provision, to leave the law as it is.

Mr. CONKLING. Mr. President, I could hardly believe that I understood aright the honorable Senator from Indiana [Mr. HENDRICKS] when he expressed his disapproval of this general measure, without allusion to the particular amendment pending. I have been taught by a somewhat long experience that the things which this subject brings up were prominent among the complaints made in the country by those holding the political sentiments of which the Senator from Indiana is a distinguished exponent. According to the complaints to which I refer, I supposed that the two great offences committed by one of the political parties in this country were, first, denying equality to certain of the States in this Union and establishing discriminations and disabilities applicable to them which were not and could not be imposed upon the adhering States; and second, in so arranging the police (if I may so style it) in the lately rebellious States that the force employed there to preserve order was drawn from the regular Army, and was an onerous and wicked tax upon the people of the country.

Surely I cannot be wrong in supposing that for months and for years the political organization which holds sway in this Chamber has been on trial and kept on trial for nothing more often or more constantly than for the two matters to which I draw attention. Here, now, is a proposition to put an end to all possibility of complaint in both these regards; first, to restore to their old sovereignty, as we used to hear it called, to their Statehood and equality, all the communities in recent years ostracised; and second, to deduct from the budget of estimates that unascertained sum, that unknown quantity, which, in Democratic rhetoric, has been one of the most enormous sums which ever entered into the expenditures of this nation; that sum, whatever it may be, which has been rendered necessary by the fact that any force of the regular Army has been employed in preserving order in the South. According to this bill hereafter Alabama, like Indiana, is to be permitted, through her own sheriffs, to call out her own *posses*; and to be permitted in all respects to guard and conserve her own tranquillity in her own way, at her own expense of military organization, and the national Treasury is to be emancipated from that onerous and shocking servitude to the supposed conveniences of the South or of one party in the South, which, as I say, has constituted one of the crying evils by which the hearts and the interests, material and otherwise, of the people of this country have been wronged.

Now, sir, I can hardly understand how it is that after all the education we have received in the press and on the stump, and in this Chamber, as to the impropriety of both conditions of things which this bill is intended to remove, we should be discouraged when now, on the motion of the majority of this Chamber, we propose to do in two essential respects the very things which we are told should have been done long ago.

As to Texas, Virginia, and Mississippi, there is undoubtedly, it seems to me, a distinction to be made, at least in estimating the probable workings of this proposition. I rose, however, not to speak of that, but of the general view which struck me. Unlike the honorable Senator from Indiana, I shall vote for this bill with a very tolerable security that it will make things no worse in the South than they have been recently, no worse than they are now; that any change is likely to be for the better, and that it will enable us in the majority at

least to accept gracefully the true issue which has been afforded us so copiously heretofore, and to learn from our enemies, at least so far as to put in practice an experiment which they thought would have been wholesome long ago.

Mr. HENDRICKS. Mr. President, I do not intend to be led into a discussion of the past policy of the majority party of the country at this time; but, in reply to the Senator from New York, I intend to go only so far as to say that there was much complaint made of his party because at the meeting of the Thirty-Ninth Congress that party found in the southern States established governments with machinery working, courts established, and for the purpose of breaking those governments down and establishing in their stead governments for the time being resting upon military authority, to be followed by governments resting upon the consent of but a part of the people, the military power of this Government, at great expense to the people, was used. That was a matter of complaint, and I think it will stand in history against the party as a great offense to the interests of the country.

But, Mr. President, it was thought advisable by the majority party to declare by law that in the southern States, because of the condition of society there, of its divided character, there should not be military organizations. That is your law. For what reason was that law enacted? Upon what policy was it declared? And what has occurred since to change your policy, to remove the reasons that induced you to establish the law? Is it the conduct that we have read so recently of in the newspapers where private rights are crushed beneath the foot of an irresponsible local military power? Is it because by that military power men without trial have been executed? Is it because the free election in one or more of the States has been denied to the people through an irresponsible local military authority? Is this the teaching that has induced the majority party to change its policy and now to propose to repeal the restriction? It was to that feature of this question that I called attention.

I desire, sir, to see governments once more restored in the southern States based upon the American idea that the people govern. The governments in the fall of 1865 did rest upon that idea. You have reversed it; and I repeat that if we are to have a military government I prefer a military government that shall be under some safe or reasonably safe control. The military authority that is springing up in some of the localities is destructive of liberty and of personal safety. And is it because the information we have teaches this that you propose now to repeal a law which you declared at one time to be necessary? This was the inquiry I made. I want to know why it is to be repealed; what are the purposes for which the military power of the United States is to be withdrawn, to be substituted, I suppose, by an irresponsible local military force? The danger of that is this: your policy has placed one portion of the community, a minority of the community in many of the States, in absolute government over the majority; and to maintain that you have to resort to military power.

Military power is not ordinarily looked to for the preservation of the peace of society. We do not in the State of Indiana nor in the State of Maine look to an army to maintain the peace and quiet of society. We look to the law; we look to the courts. The only necessity in these southern States for the maintenance of a large military force results from the fact that you have attempted to reverse the American doctrine and to declare that by force the power of States shall be placed in the hands of a minority, and that a majority shall be governed by a minority, stripping classes of the right to participation in the government of a country, and then by force governing them. That is the necessity. Do away with that necessity; establish law; restore government to the people; let all participate

who are willing to obey law, all who honor the Constitution and respect the flag of the country now; let them come in and participate in the government of the States, and there is no need of looking to a military force to maintain local order. Law does its work; but when law is broken down, and in its stead mere power is asserted, then you must have your military force.

I think it was due to the Senate that the chairman urging the passage of this bill should explain the necessity for its passage now and the considerations which governed the committee in making the recommendation. I shall join with any Senator in any measure that shall restore the civil law—that government which the people of this country have been accustomed to where they themselves govern themselves. When an outside power is to govern, then it is expensive; then you have to resort to a military force.

Mr. FESSENDEN. Mr. President, it strikes me that what the honorable Senator from Indiana has been indulging us with is a very good part of the old story which I thought we had pretty much heard over. Why, sir, can he see no difference which should exist in the opinions of gentlemen on this side of the Chamber—to use the word metaphorically—with reference to the condition of things which led to the passage of that law, and the condition of things which calls or might call for its repeal? We all know, sir—the fact cannot be disguised—that the great majority of the people, or the great majority of those who represented in this Chamber and in the other House of Congress the majority of the people, had no confidence whatever in the governments established by the President and under his authority in these formerly rebel States; and they believed that to put into their hands or to keep in their hands a power to strengthen themselves by military force was only aiding to perpetuate that power and to perpetuate difficulty and trouble which we thought should be put an end to in another way.

Now, sir, it is well known that I have not agreed with all the details of the legislation which has been adopted here in Congress to the end that I have been speaking of. But legislation has been adopted of an entirely different character, leading to the reconstruction of the States, leading to the formation of civil governments, which civil governments, when formed, were to be preëminent and were to have the control of the civil affairs in those States. For myself, I was not exactly convinced that when those governments should be formed by the people they would be able to sustain themselves in all instances, such was the character of the population and such was the nature of the feeling existing in those States; and if I may claim to myself at all anything of the spirit of prophecy, I think it has turned out so in some small degree, to say the least of it. But, sir, governments have been established in most of them—governments of the people.

The honorable Senator talks about putting a majority into the hands of a minority. What we have been aiming at all along, and have accomplished so far as it could be accomplished, was to put the power into the hands of the majority of the people and to take it out of the hands of a minority which had always exercised it before and which claimed to exercise it now, and in whose hands the honorable Senator and the party with which he acts wish to continue it henceforth and forever. That is the truth of it. It is not that we desire to put the power or keep it in the hands of a minority. No, sir; let the majority rule in the true democratic sense of the word, and not the majority of a small minority who claimed to govern all within their view. And that is the offence that we have committed.

But, sir, we have abundant proof—proof which philosophy would teach any man we must have—that so long as power continues in the hands of a class where the honorable Senator would have desired to keep it always the result must be a state of society which it would

take long to reorganize, long to bring it into order, long to make peaceable and orderly; and that is what we have seen. Rebellion left these States without government. Rebellion, of course, left them in the very worst possible condition in the world for such a population: the great majority of the white population uneducated, and a very large portion of it disorderly from its very nature, poor, having been oppressed, and having and feeling no responsibilities; and added to that another class of freemen come into existence as freemen, perhaps in a very small degree prepared for it, but which, I must say, has shown wonderful adaptation to an orderly state of society, considering all the circumstances.

Now, sir, what is the result? The result is that we find civil governments in those States. The result is that we have withdrawn substantially the military power which kept all these disorderly elements in a state perhaps of comparative fear of offending against the law. We have withdrawn that power, leaving substantially to General Reynolds and other officers who have the command of troops and who have the power to a certain extent in those States, as they say, no sufficient authority and no sufficient force to enable them to keep these people in order. Well, now, what are we to do? Are we to increase the military force of the United States? Such would seem to be the course pointed out by the honorable Senator from Indiana, either that or to leave them as they are, disorderly, uneducated, prejudiced, ignorant, violent, having no responsibilities to society that they care about, and desiring and wishing to keep up precisely that same state of things for their own benefit. Something must be done, sir. Are we to leave them as they are? That such a state of things does exist we have proof that cannot be denied, certainly not as to the State of Texas and some others of those States.

Do you call for an increase of the military force of the United States, and placing them under strict military discipline? That is not what the honorable Senator from Indiana would recommend in words, however his argument may seem to point in that direction. He certainly would not wish to leave them as they are. What, then, is the only other course? There are civil governments there. Give them the power to organize the militia of those States; give them the power to repress violence by force; it is the only thing that can be done. Talk of the moral effect of an election upon such a people as that! Why, sir, they care no more about it than for the whistling of the idle wind. It must be force, to be exercised by men who dare to exercise it. Whether or not we have such men in power, chosen by the majority of the people of those States, I do not know; but I know what would be their plain duty. Since Congress decided that it would have these States organized under civil governments and readmitted here at this period of time—whether ready or not it does not become me to say—what is the course to be pursued?

If disorder and violence exist do not say to them, "You shall stand still and be murdered, and you shall stand still and have your houses burned over your heads; you shall have secret organizations pointing to violence always." Not at all, sir. Give them power to put down violence by force, and by that force which the Constitution of the United States recognizes as the proper force, the same that exists in Indiana, the same that exists in the other States of this Union which have not been troubled as these have been by rebellion and civil war.

The only question, as I understand, now is whether the same rule shall be extended to the States that are not thus organized; and to that point I addressed my remarks before. But that it is clear that you must do something must be evident to the mind of every man. Really I cannot see the propriety, under the circumstances, if we have organized governments in these States, of saying to those governments they shall not have the ordinary power which

all civil governments should have of carrying their laws into execution. Why talk about the fact that the courts cannot be had recourse to because these governments have been formed? Sir, were the courts open before? Was justice administered without fear and with effect before? Not at all; and that it cannot be administered now is not owing to the fact of elections and civil governments existing, but because those civil governments have not the power to enforce their laws over a disorderly, a violent, and a vicious community. Sir, you must give it to them or else you must provide some other mode either more or less objectionable.

Mr. RICE. Mr. President, I had not intended to trouble the Senate with any discussion of this bill, although I have submitted a proposition of a similar character which has gone to the Military Committee. But as we have had in our State some little experience of the operation of a State government without force, it may not be improper for me to say a few words on this question now.

We were told last session that if no arms were issued to the southern States and no militia organized there peace would prevail; the election could be carried on without difficulty and without violence. We were told that if militia were organized it would tend to irritate those lately engaged in rebellion, and the result would be riot and violence. This last proposition has been well answered by the experience of the last three months. No militia was organized prior to the election, no arms were distributed, and yet the magnanimity was appreciated only by violence, by murder, and by assassination. We mistook the idea that being without protection, keeping ourselves defenseless, was liberality and magnanimity. It is not true. It did not prove to be true. In the State of Arkansas the result of that was that up to the time of the election there was a systematic course of assassination that resulted in the destruction of over two hundred Union men in that State. A member of Congress was killed, State senators were assassinated, members of the House of Representatives, registers, and leading Union men in various counties of the State were assassinated without any open violence, without any notice, without any opportunity of defense. That is the answer to the proposition that if we do not organize a militia the rebels will remain peaceable. It is not a correct proposition, nor is the military force of the United States sufficient to supply the place of this militia. The military commander of any State will tell you that he has no power to put in force any means by which he can prevent a systematic course of assassination, that it can only be done by the local authorities, that it can only be done by a militia which can pervade every county of the State. It can be done in that way, and it will be done in that way if it is done at all.

Take the southern States generally, take the State of Arkansas, that I know more about than the others, and those assassinations, that violence, have all been on one side. We have not sought the use of the military for the purpose of oppressing anybody; we have not resorted to violence to carry any point in those States. There has been no pretense from any where that a single Democrat, if I may call them that, was killed in the State of Arkansas prior to the election. There is, I understand, some complaint now that since the election some of the assassins have been arrested by the militia, and some of them perhaps hung. If such is the fact I am glad of it. If such is the fact it only shows that we ought to have had the militia prior to the election, and thereby prevented a large number of cases that did occur. I honestly believe that if the militia had been organized before the election armed violence would have almost been unknown in the State. All men fear force; they respect power; and all men treat defenselessness with a sort of contempt. Let us protect our States. Give them militia, and let the State governments and the loyal men of the State have the necessary protection. Then if those lately in

rebellion ask us to be liberal, we can afford to be; we are in a condition where we can be liberal without danger, and I venture to say we shall be liberal. There is no disposition on my part or on the part of the Republicans of my State to be otherwise than liberal.

There is a disposition to enfranchise everybody there whenever we can place the State in a condition where the Union men and the Government itself will be protected; but at the present time the cry is that we have no regular government; that our State government is unconstitutional; that those opposed to it have a right by force to overthrow it at any time and not violate law. Until there is a change of sentiment on that subject it will be necessary to some extent to resort to military force to prevent attempts of that kind. When that is over, when we have the necessary means of protection, when we can suppress all such attempts, then, I say, we can and we ought to be liberal to all, and give every good citizen the right that any other good citizen may have.

Mr. FRELINGHUYSEN. Will the Senator permit me to ask him a question? Does he know whether or not the government of Texas is of that character that it would increase public security for them to have a militia?

Mr. RICE. I am not acquainted with the affairs of Texas except by information from people there; and they say that if they could have their local militia organizations in the counties they could prevent violence and bloodshed. They say that the United States military is only at certain leading points in the State, and cannot, from the want of numbers, be distributed to every county; that the disaffected take advantage of the absence of the United States military in those counties where it is not, and there commit their violence, while at the leading points where there is a strong military force no violence is committed. Hence they claim—and it is equally applicable to every other State—that in those counties where there is no United States military force a local loyal force would be the means of protecting the loyal people of the county. That is what is needed, and that is what we shall eventually have to have, and until we do have it Union men will be slaughtered from time to time. We cannot prevent it in any other way. The civil authorities are wholly inadequate from the fact that you cannot make an arrest without a *posse*, and there being no legal *posse*, the man is gone before you can get any Federal troops. Whenever there is an organized militia force in each county, and that militia force armed, the sheriff can call for a *posse* and arrest anybody that it is desirable to arrest. That is all we ask. We expect in the State of Arkansas, if we can get arms from the Federal Government, to be able to protect ourselves. We will not then ask of the Government any Freedmen's Bureau. We will not ask the Government for a single Federal soldier. We will take care of the State whenever we are put in possession of the means to do it. Until that time the assistance of the Federal Government will be necessary.

Mr. SAWYER. Mr. President, either the reconstructed States in the South have governments or they have not. If it was intended by the Congress of the United States that the governments which have been set up in those States should be real governments, having all the attributes which belong to State governments, there seems no good reason why the bill which has been reported by the Military Committee, or something effecting the same object, should not pass. We are not in a condition of society in the South where we can appeal to men's Christianity or civilization to protect us. I would, for my own part, and I have no doubt that most of the Republicans of the State of South Carolina would for their part, be glad if we could dispense with all force in carrying on the operations of our State government; but a large portion of the population in our State, as well as in the other States in the South, it is well known, is not well affected toward the Gov-

ernment of the United States; and particularly is it well known that it is not well affected toward the recently formed State governments which have been there set up. We are in the peculiar position of being apparently the dominant power in the State, while in fact we have not one single fire-arm where those who are opposed to us have ten. Those of us who represent the loyal sentiment in the State of South Carolina are an unarmed people, while those who are opposed to the loyal sentiment of South Carolina are an armed people, and have used their arms without stint.

That, Mr. President, is the position in which we in South Carolina are; and I have no doubt that that is practically and really the position in which most of the peoples of the southern States are placed. Now, if the government which has been set up in South Carolina, and in other southern States which have been reconstructed, is meant to be a real government, I ask, in the name of common sense, what reason there is for taking from it one of the attributes of a real State government? Why is it that there is any objection to putting those State governments on the same foundation upon which the State governments of Indiana and Massachusetts rest? The government of the State of South Carolina, and the governments of the other reconstructed States in the South, are in the hands of men who have been elected, not by a minority of the people, but by a majority of the people, even if you include in the opposition those men who are disfranchised by the acts of Congress. We have in most of those States a clear majority, even including the votes of all disfranchised men, had those votes been thrown. Those governments are the representatives of the majority of the people, and not of the minority.

It is true, Mr. President, and lamentably true, that those governments do represent a minority of the former wealth and power of those States; and when we reflect that the power of that formerly dominant faction was exercised in the way in which it has been exercised; when we reflect that the power which those men wielded brought about that revolution through which we have been passing, I think no Senator on this floor ought to be particularly anxious to see that the power is again placed in their hands. I think that the objection to putting into the power of the State governments the right to organize a system of militia when those State governments are in loyal hands comes with a poor grace from men who would have placed it in the hands of State governments that were disloyal. No, Mr. President, I conceive that the real objection to the passage of this bill, or something like it, is that it does go into the hands of a government which does really represent a majority. We ask for our State governments the same rights, the same immunities, the same powers of self-protection which are given to other State governments in practical and harmonious relations with the Government of the United States. That is all we ask. Can we ask any less? Can the American Congress give us any thing less?

It seems to me, Mr. President, that this is a simple question of justice and of fairness. If the American Congress intends to stand up and support these State governments, or place in their hands the power to support themselves, it seems to me that there can be but one answer to the proposition which is before the Senate. I trust that the bill will pass.

Mr. BUCKALEW. Mr. President, the Senator from Massachusetts, who introduced this bill, informs us that the President of the United States in his annual message has denounced the law which it is proposed to repeal. That is very true. He denounced it, not because of its present operation, not because circumstances have changed since it was enacted, but because at all times, both when it was placed upon the statute-book and every moment since, it was and is in his judgment a violation of the Constitution of the United States. One of the amendments to our fundamental law

expressly provides that "the right of the people to keep and bear arms shall not be infringed"—of course by this Government; and it gives the reason that a well-regulated militia in the several divisions of the country is necessary for the protection and for the interests of the people. When this law was passed it was passed in hostility to the State governments which then existed. There was a political reason for its enactment. It was intended to weaken and impair the strength and influence of those organizations which then existed in the southern States and had confided to them by the people, or by a portion of the people, the whole mass of local civil power.

Now, sir, that object has been accomplished. Reconstruction, constituted of the several measures which have obtained in Congress, administered in the southern country, has resulted in a reorganization of civil government such as was desired by the political party in the majority in these two Houses of Congress. Now, by repealing this law, by authorizing military force to come in aid of civil authority in the South, and by transferring articles of force, munitions of war, muskets, and other articles, from the national armories and arsenals, additional force and additional strength will be given to those organizations which were set up.

This is the simple explanation of what has been done and what it is now proposed to do. The party in power in Congress passed this law in order to weaken the then existing political governments in the South which were not in accord with them, which were not friendly to them—I mean in a political sense—and they now propose to restore to that section of the country all power over local militia and to furnish arms for their organization, because the political power which now exists is politically friendly to them; and it will be another element of influence and of power with them in maintaining themselves in the southern communities. It will influence elections, it will influence opinion and gather elements of strength about these organizations, and cause them to exist in the future.

This is of a piece with reconstruction. It is one of the features of reconstruction to withhold strength from those who were opposed to the congressional system originally, and now to extend it to those who propose to support it. I see no logical inconsistency in the course which those who support this bill have pursued as compared with that which they now pursue. As for myself, having voted originally against the measure because I thought Congress had no more power to enact it than they had to enact the other measures of reconstruction, with perfect consistency I shall acquiesce in the decision of the Senate. I suppose, of course, the bill is to be passed, and I have stated only so much to justify my own course, which is that of acquiescing in the repeal of this law, because, in my judgment, like other measures of reconstruction set up by Congress, it was without warrant of the Constitution.

Mr. EDMUNDS. I wish to modify the amendment I proposed so as to make it a little more perspicuous. I propose, after the word "States," in the thirteenth line of the amendment reported by the committee, to insert the words "North Carolina, South Carolina, Florida, Alabama, Louisiana, and Arkansas;" and after the word "States," in the same line, to strike out "lately in rebellion;" so that the amendment of the committee, if amended as I propose, will read:

That so much of the act entitled "An act making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes," approved March 2, 1867, as prohibits the organization, arming, or calling into service of the militia forces in the States of North Carolina, South Carolina, Florida, Alabama, Louisiana, and Arkansas, be, and the same is hereby, repealed.

Mr. WILSON. Mr. President, the Senator from Pennsylvania has given us his explanation why the law of 1867 was passed, and the reason for repealing it now. I will tell that Senator the reason why at that time we dis-

banded the militia in the rebel States. The President, without authority of Congress and contrary to the will of the nation, had by a portion of the people reconstructed those States. A small portion—a disloyal portion of the people, a great minority of the people—took possession of those governments, organized them, and put them into the hands of unrepentant and unwashed traitors. They organized rebel militia, commissioned rebel officers; and they wore the rebel gray and used the arms they ran away with when the rebel armies surrendered to our armies. This militia went up and down the country disarming Union men, black and white, and committing outrages upon the people. The Congress of the United States did not like this mode of reconstruction, and the people did not like it any better, and Congress provided that those governments should be provisional only, and adopted a mode of reconstruction by which the great body of the people in those States could reorganize them. The object was to disband that rebel militia; to send them home, make them take off their gray uniforms, and get out of sight. So we passed a law disbanding that militia, and providing that they should not be reorganized until Congress gave authority to organize militia in those States. At the last session of Congress, after we had restored to their practical relations several of those States, and admitted their Representatives in these Halls, it was proposed to repeal this act; but the measure became involved in the fate of another measure, and it failed. Now we propose to repeal the disbanding act, and the President of the United States, in his message to Congress, asks us to repeal it. Under these circumstances I was a little surprised that the Senator from Indiana should so strenuously oppose a measure that the President had so strongly recommended. Most of these States, certainly North Carolina, South Carolina, Florida, Alabama, Arkansas, and Louisiana, have been reorganized, and have loyal Governors and Legislatures. Some of those Legislatures are now in session, and they should certainly have the privilege that belongs to a reconstructed and organized State, to organize their own militia for the enforcement of their laws and the maintenance of their authority. I certainly am surprised that anybody should oppose the bill so far as it applies to six of the reconstructed States lately in rebellion.

We have had, since the adjournment of Congress last summer, great outrages perpetrated in portions of the southern country. We have withdrawn our military forces in a great measure. We had but a small force there, only sixteen thousand men in all the ten rebel States, and we have withdrawn a large portion of that, except on the frontiers of Texas. We have had in the State of Louisiana such outrages that at the late election sixty or seventy thousand people of that State dared not go to the ballot-box to exercise the rights of freemen. In the elections through which we have lately passed not less than a quarter of a million of men were kept from the polls and kept from voting in the reconstructed States who had the clearest right to vote. In the State of Louisiana we have had three or four massacres. One man alone, a leading rebel, boasts that he killed one hundred and twenty men on one occasion. He brags of it; goes up and down the country boasting of it. Whether that murderer and braggart killed, on the occasion alluded to, one hundred and twenty or not I cannot tell, but he did kill a large number.

Mr. BUCKALEW. Will the Senator allow me to ask him a question?

Mr. WILSON. Certainly.

Mr. BUCKALEW. I desire to ask the Senator if the very statement he makes in regard to this man is not the best proof that the fact never happened? Does not such boastful talk carry on its face evidence that it is not true?

Mr. WILSON. Well, Mr. President, the fact that this brutal creature made the boast would be to my mind evidence that it was not true; but we have the fact that at this massacre there

were a great number of men murdered and a great number wounded. The Senator from Louisiana may know better the facts of the case than I do. At any rate, several hundred persons have been murdered in Louisiana since Congress adjourned last July, and more men have been murdered in the southern States for political reasons since Lee's army surrendered than were slain on the field of Gettysburg. Three or four thousand men have lost their lives in the rebel States since Lee's army surrendered, murdered for no reason except that they were either freedmen, or loyal men, or "scallawags," or "carpet-baggers," or officers of the bureau or of the Army.

Sir, I think we shall have more peace in that section of the country, and I hope in all sections of the country; that we shall have more peace in Congress and out of Congress, and that during the next four years, when we have a good man in the presidential chair, and get a very bad man, or at any rate a very foolish man, out—a man whose whole administration has been one inspiration of violence and wrong in the country—I hope we shall have peace all over the country, and prosperity and good neighborhood and kind feeling.

Mr. DAVIS. Mr. President, I voted against the propositions that are now proposed to be repealed, and I did it upon the principle that Congress had no power to enact such provisions of law. I will now vote against the repeal for precisely the same reason. Congress has no power to legislate upon this subject at all, according to my comprehension of the powers of Congress. There is but one power in the United States that can organize a State government, and that is the power of the people of that particular State. Wherever a State organizes a government it has of its own inherent right and power authority to organize a militia for it. Congress has no right to abolish that militia after it is organized. Congress has no authority to invest that State with power to organize a militia. It has no right to prohibit that State from the organization of its militia. The exercise of this power belongs wholly and exclusively to the State and to the State government. If the State governments in these particular States are legitimately organized they have, as a necessary and an inherent power, the right to organize their own militia in their own way irrespective of the authority or prohibition or counsel of Congress. For that reason I shall vote against the repeal of a provision in an act of Congress which Congress had no power to enact, upon the principle that the subject is one over which Congress has no jurisdiction whatever.

Mr. President, as the honorable Senator from Indiana said, in the fall of 1865 all these States had legitimate State governments. They had governments formed by their own people, as that term was understood both in their State and in the Federal Constitutions. Those governments, according to my principle, were as legitimately organized and in existence as the government of Massachusetts or of any other State. What did Congress do when that was the condition of things? It intervened without any authority whatever; it abolished those State governments; it prescribed extraordinary and unconstitutional principles upon which State governments might be reorganized; it disfranchised large portions of the legitimate governing people of those States; and it attempted to enfranchise large portions of a people that had no political power in those States either under the Constitution of the United States or of the respective States. Congress, by this course of legislation, inaugurated anarchy and revolution.

Sir, what did Congress do? It abolished those State governments by its own will and legislation, and it required other governments to be organized for those States by a different power and upon different principles from those by and upon which the previous legitimate governments had been organized. Whence did Congress derive any such power as that? By its action it imposed upon the ten southern

States a different form of State government, organized by a different power and having different relations with the Federal Government from those which all the other governments of the States had. There is no position more absurd and more preposterous than that Congress has the power to organize or to prescribe the mode and principles upon which a State government shall be organized. There is but one power on earth under our system of government that can perform that great political function, and that power is the people of the State. But Congress chose to exercise its usurped power so as to require the inauguration and installation and administration of a different government for those States from that which the people themselves had made for themselves respectively.

More than this; it not only changed the character and the source from which those governments originated, and made them different from the other States in those respects, but it established entirely different relations between those States and the Government of the United States from those that subsisted for all the other States. There were two systems of State constitutions and of the relations of the States to the Federal Government organized by the authority of Congress; and those two systems of government and of relations between the General Government and the State governments were materially and essentially different in those States from what they were in the other States of the Union. All this monstrous and incongruous exercise of power, with its results of disorganization and anarchy and violence and bloodshed, was the legitimate offspring, and not only the offspring but the actual fruit, of the legislation of Congress. There never was a more unauthorized and fantastic and mischievous exercise of power by any tribunal on earth that claimed to have power. There never were acts that stood so flagrantly condemned by the principles of the Constitution and by every principle of legitimate power which the Congress could claim for itself under the Constitution.

Sir, what did Congress do? It disfranchised the white men to such an extent as to give political power to the negro and the adventurer. The honorable Senator from Massachusetts, I believe, used the phrase and spoke of "scalwags and carpet baggers." I believe those are legitimate phrases. Congress so exercised its alleged authority as to give to the negro—who had no political power, no capacity for self-government, no capacity for self-civilization, who has been nothing but a great disturbing element in the political organization—and the carpet-baggers and scalwags the whole political power of the States over the legitimate people. Congress, by its authority, introduced the government of the stranger into ten States. It gave to the stranger the illegitimate power of the negro vote, and it deprived the opponents of the stranger, in his adventure to take possession of those governments and to administer them, of the benefit of large numbers of the legitimate and constitutional people who had exercised, and who were rightfully entitled to exercise, the political power of those States. In that way Congress manipulated, fashioned, formed, controlled these spurious governments set up in those States by the stranger.

What has been the consequence? The government of the stranger is always tyrannical and oppressive and detestable to the native people in any country. In Ireland, in Poland, in Italy, everywhere on earth, in every country and age, the government of the stranger assumes the form of an oppressive tyranny and becomes hateful and odious to the native. What was the consequence here? Confusion, disorder, revolution, anarchy, violence, and bloodshed were the consequences. What power can compel any people to accept the government of a stranger that must necessarily assume such a character as I have attributed to these governments without the introduction and organization of anarchy and confusion?

If the legitimate State governments created by the true people of those respective States in 1865 had been in conformity to the views and policy of the majority in the two Houses of Congress they would never have been disturbed. It was because they were in conflict with the leading views, interests, and purposes of personal ambition, of party power, and of political aggrandizement of the majority in Congress that those governments were overthrown, and for no other reason.

Now, Mr. President, what did Congress intend, arguing from the provisions of the bill, to effect by the provisions that are now proposed to be repealed? It was to withdraw from the legitimate State governments organized by the people, existing by their will, their legitimate power of being sustained by the organization of the State militia of their respective States, as has been in substance admitted by the honorable chairman of the Committee on Military Affairs, and as we all knew at the time these particular provisions were passed. Events have gone on as the majority of Congress desired they should. The legitimate popular governments, created by the people of their respective States, were lawlessly overthrown by revolution and violence, and new ones erected upon their ruins. The stranger, the minority, the untutored negro with no capacity for self-government, the scalawag, and the carpet-bagger—I would not have used these phrases if the honorable Senator from Massachusetts himself had not introduced them—backed by the armies of the United States have usurped those State governments. They are in possession of them; they are administering those governments with a view to their own good, with a view to strengthen and perpetuate the power of their creators here in the Halls of Congress; and with this positive, active, administering power of these perverted governments, they now come into Congress and ask for a repeal of this law that they may have the formal sanction of Congress to authorize a militia exclusively under the leaders of their own faction, and place the arms which they get from the Government of the United States in their hands, in order to enable them to rivet the chains with which they have bound the true people and the majority of these respective States. For one I will give no countenance to any such adventure by voting for the repeal of this provision.

Every State, by its own reserved sovereignty and power, by the express recognition of the provisions and principles of the Constitution, has the undoubted and unquestionable right to organize a militia for itself. The object here is to receive another sanction from the legislation of Congress that they are the legitimate governments of those States, that they may take possession of their military power, as they call it—the military power of a faction, of a minority—with a view to grind and press still further the majority.

These reasons, Mr. President, will govern me in the vote that I shall give on this question. I know that that vote is of no consequence, and that the views that I have expressed have no significance with anybody except myself; but they are the considerations upon which I act and upon which I always intend to act. Since I have been a member of this body I have always been free and perfectly disposed to vote for any constitutional and proper proposition, come from what party or what man it might; and I intend still to act upon that principle as an American Senator. Every proposition that I believe ought to pass I will vote for. None that I believe should not pass will I vote for; and I will not vote for this bill for the reasons I have given.

Mr. SAWYER. Mr. President, I do not propose to occupy the time of the Senate in attempting to controvert the opinions which have been expressed by the honorable Senator from Kentucky. I take it the avowed and determined policy of the country has sufficiently expressed the will of the people upon this point. But I wish to call attention to one remark

which he has made in reference to the disposition which it is proposed to make of the military power which shall be placed in the hands of the governments of the reconstructed States by this bill. I do not entertain any doubt that the State which I have the honor in part to represent, and other States similarly situated, have a right to organize a system of militia; and yet this interdiction stands on the statute-book, and it seems to me wise that it should be removed.

I wish, however, to call attention to the spirit in which the present State government of South Carolina, for one State, has acted in regard to that minority which it is alleged by the honorable Senator from Kentucky this military power is intended to oppress. By the laws of the State of South Carolina, as passed by this pseudo government, or, as he calls it, this illegitimate government, every citizen of the State of South Carolina, no matter what his antecedents, can hold office under that government; every citizen in the State of South Carolina can vote in matters of State government and can hold office there; and what class of people was it that granted that privilege? It was the very class of people whom he characterizes as "carpet-baggers, scalwags, and ignorant negroes." The policy of those men who have set up the government of South Carolina in that State, and which is now in harmonious relations with the United States Government, has been to open the door to every man in South Carolina to any office in South Carolina. I am not afraid in that State, if this bill does not prevail, that the power will pass into the hands of the defeated leaders of a "lost cause;" but I claim that the State of South Carolina and every other southern State which has put itself into proper relations to this Government should stand on the same base as any other State in the Union.

With these few remarks in allusion to some things that the honorable Senator from Kentucky has said, I will take my seat.

Mr. WARNER. Mr. President, one single word as to this question of majorities and minorities. I do not hold that the passage of this bill is at all important to the State which I have the honor in part to represent here, because I hold that we have the right now, being restored to our full relations to the Federal Government, to organize a militia of our own, and that we could have done so at any time in the past, this law to the contrary notwithstanding. Article two of the amendments of the Constitution provides that—

"A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed."

But to remove all doubt, I am willing to vote for this bill. It simply puts it in the discretion of the Legislature of each one of these States whether or not they will organize a military force in support of the civil authority.

Now, I will say as to the State of Alabama that in that State all men vote. It is the theory of our Government, and I believe of all republican government, that it shall rest upon the consent of the governed; and I will say to the honorable Senator from Kentucky that the government of Alabama rests upon a broader base than his government of Kentucky, for it rests upon the consent of all the governed. By our constitution all those who are disqualified from holding office by the fourteenth article were disfranchised; but power was given to the Legislature to relieve them; and a Republican Legislature, the first one that convened, in which the Republican party had a vast majority, had nine tenths of the members, by a nearly unanimous vote removed that disability and allowed every man to vote in the State of Alabama, whatever may have been his antecedents or his past conduct.

As to minorities governing, I will say to the honorable Senator from Kentucky that that was the cry that his political friends made in my State. They said that we had forced upon them a constitution contrary to the will of the people; that it did not rest upon the consent

of the governed; and they declared in our legislative halls that when they reached the ballot-box they would sweep us from power and drive us from the State as with a whip of scorpions. We gave them that opportunity. We met them at the ballot-box on the 3d of November last, where every man in the State could vote, and there, upon a vote which was not a fair one to us by any means, we beat them by a majority of over five thousand, demonstrating to the country and to Congress, I hope, that our constitution does rest upon the will of the governed, and that the party which made it is in the ascendancy in our State.

As the Senator from Arkansas has well said, it is gentlemen of the political faith and belonging to the political organization to which the honorable Senator from Kentucky belongs that alone make any military force necessary in these States. All that the loyal men ask for in these States is simply peace and order, the right to vote and the right to speak as they shall think proper, having due regard to the abuse of that right. That is all that we have claimed and all that we ask, and whenever the political friends of the Senator from Kentucky shall accord to us these rights, the right of every American citizen to vote and to speak as he pleases, whenever we shall have the same freedom of speech and of the press and of political action in Alabama and these other States that they have in Ohio, then the necessity for any military force will have passed away. The only men who stand in the way of that condition of things are the men who belong to the political faith of the Senator from Kentucky. It is in their power any day to say that military force shall be unnecessary, and shall not be used in our State.

But let me tell the honorable Senator from Kentucky and gentlemen of like political faith that we intend to maintain these governments in these States. They do rest upon the will and consent of all the governed. They have been sanctioned by the law-making power of the country, and that action of Congress has been sanctioned by the American people at the ballot-box. With this sanction we intend to stand by them and to maintain them; peaceably, we hope, but forcibly if necessary; and if military force shall be necessary to preserve order and peace and secure the rights of the citizen and the maintenance of these governments we will use it, and native and carpet-bag Union men will stand shoulder to shoulder in the support of these governments.

For my own part, I will say to the honorable Senator from Kentucky that I glory in that progressive spirit which made me a carpet-bagger. I began my carpet-bag career seven years ago in the State which the gentleman from Kentucky has the honor in part to represent here. I met a good many of his friends there, and I have met them since; and I will say that I followed the lead of that great carpet-bagger whom the people of the United States have selected for their Chief Magistrate. We are in these States by virtue of the Constitution of the United States; we are there as citizens, and we intend to remain there, and to protect these governments, as I said before, peaceably and quietly and in good will and in a spirit of kindness, we hope, but forcibly if necessary.

Mr. DAVIS. I have only a word in reply to what the Senator from Alabama has said. He has very courageously proclaimed that they intend against all odds to maintain and sustain the government of Alabama as it exists. That is a very brave declaration, and the honorable Senator makes it with great boldness of manner. But suppose there was no military force moving from this center, this capital, and from States and places outside of Alabama, what would become of the honorable Senator's negro government and of his representation of it in this body? I am inclined to think they would be fugitives from it.

Now, this was one of the important principles which I laid down, and I maintain it; I may be forced to submit to the contrary, as I

have been, and of course I will yield with all the grace that I can: I never will consent that the Congress of the United States shall vote to force negro suffrage upon the State of Alabama or the State of Kentucky or any other State; and I assert that Congress has not a vestige of power to enforce such a constituency upon the people of any State.

The honorable Senator refers to me and to politicians of my stripe. I do not know that he knows anything particularly of my politics or of my political principles. I have announced to him one principle in the sentence I have just closed. He seems to be very much enamored with the idea of negro suffrage, and he seems to think that I and my political party are responsible for the non-existence of that political power in the other States. Who voted down negro suffrage in Kansas? Who voted down negro suffrage in Ohio? Who voted down negro suffrage in Michigan, but the honorable Senator's political friends? I believe this position to be incontestably true: that if the two parties for the last four years had occupied contrary positions, inverted positions, there is not a solitary Republican in Congress or out of Congress who would have voted for a single measure that has been proposed by their party, if those measures had been proposed by the Democratic party; certain I am that I should have voted against them all. Now, when Ohio by over forty thousand, Kansas by eight or ten thousand, Michigan by twenty or thirty thousand, and all the northern States, where there are no negroes to vote, voted down the principle of negro suffrage by such immense majorities, with what grace can they or their auxiliary, the Senator from Alabama, vote to force negro suffrage upon the ten southern States, under the principle of the Constitution of the United States that the people of a State have the sole and exclusive power of framing their own governments.

Sir, I shall not follow these remarks. I did not intend to make any when I entered the Chamber to-day; but I tell the honorable Senator that I am a devotee to the Constitution of the United States. I have pledged myself to the Union, the Constitution, and the enforcement of the laws. I have always held to that position, and I intend to do it for the remnant of my days; and all the energies that I possess shall be enlisted and exhausted, if necessary, in the effort, however vain it may be, to bring back the Government of our country to the great and imperishable principles of the Constitution.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Vermont [Mr. EDMUNDS] to the amendment reported by the Committee on Military Affairs.

The amendment to the amendment was agreed to.

The amendment of the committee, as amended, was adopted.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading; was read the third time, and passed.

Mr. WILSON. I move that the title be amended so as to read: "A bill respecting the organization of militia in the States of North Carolina, South Carolina, Florida, Alabama, Louisiana, and Arkansas." The amendment to the bill makes it necessary to change the title.

The amendment to the title was agreed to.

RETURN OF A HOUSE RESOLUTION.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House requested the return of the joint resolution (H. R. No. 332) authorizing the appointment of examiners to examine and report upon the expediency of discontinuing the navy-yard at Charlestown, Massachusetts, and uniting the same with the yard at Kittery, Maine, erroneously transmitted to the Senate as passed.

The Senate proceeded to consider the message of the House of Representatives, and, on motion of Mr. SHERMAN, it was

Ordered, That the Secretary be directed to return to the House of Representatives the joint resolution (H. R. No. 332) authorizing the appointment of examiners to examine and report upon the expediency of discontinuing the navy-yard at Charlestown, Massachusetts, and uniting the same with the yard at Kittery, Maine.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. PATTERSON, of Tennessee, it was

Ordered, That the memorial of A. W. Walker on the files of the Senate be referred to the Committee on Claims.

Mr. YATES. I move that Thomas Wolfe have leave to withdraw from the files of the Senate his petition and papers.

The PRESIDENT *pro tempore*. Has there been any adverse report?

Mr. YATES. An adverse report was made by the committee.

The PRESIDENT *pro tempore*. It is against the rule to withdraw papers where an adverse report has been made, unless there is new evidence in the case.

Mr. POMEROY. I think there is no rule against withdrawing papers.

The PRESIDENT *pro tempore*. I am told there is no rule against it. It struck me otherwise. If there is no such rule, the papers will be withdrawn, no objection being made.

Mr. YATES. The papers are intended to be used in another prosecution in the courts.

BILL INTRODUCED.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 692) to amend an act entitled "An act concerning notaries public for the District of Columbia;" which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

MISS SUE MURPHEY.

Mr. HOWE. I move that the Senate proceed to the consideration of Senate bill No. 625.

The motion was agreed to; and the bill (S. No. 625) for the relief of Miss Sue Murphey, of Decatur, Alabama, was read a second time, and considered as in Committee of the Whole. It proposes to require the Secretary of the Treasury to cause to be paid to Miss Sue Murphey, of Decatur, Alabama, the sum of \$7,000, in full compensation for damages done her farm in Decatur, Alabama, by reason of the same being occupied for military purposes, and for the destruction of the buildings and other property thereon.

Mr. EDMUNDS. I wish to inquire whether the committee reported favorably on this bill or not?

Mr. ANTHONY. They did.

Mr. EDMUNDS. It opens a very important question, indeed. At this particular stage in the session I think it had better go over until to-morrow, so that we may think of it. If we enter upon this class of legislation of course we must do it with the expectation of doing justice to everybody who is similarly situated. I have at least one constituent who had property taken and used for military purposes—a poor female school teacher, whose wages were taken—and who the Committee on Claims has decided is not entitled to anything on account of the peculiar circumstances of affairs in that country; and I acquiesced in that report at that time. I think it right, before we enter on this course, that we should consider pretty thoroughly what it is to lead us to, and what are the grounds and limitations upon which and by which we are to proceed. I move, therefore, so that I can look at the report and consider this question, that the bill be postponed until to-morrow.

Mr. HOWE. Mr. President, I hope the Senator will not insist upon that motion. This bill has been before the Senate since the last session. It was reported from the committee at a previous session and passed the Senate, went to the House of Representatives during the last Congress, but did not get there in

season to be acted on by the House. At the last session it was reported again, but reported too late to secure the consideration of the Senate.

There is but one fact involved in the case, and that is that the Government took possession of this claimant's land, on which were buildings, took the buildings down, erected a fort upon the premises, and occupied the fort as long as they pleased; and this sum is reported here as a proper sum to compensate her for the loss accruing to her from this direct act of the Government.

The Senator says that in another case a similar principle was involved, and that the action of the committee was adverse. I am inclined to think that in that statement the Senator is correct. I am inclined to think that the committee were mistaken; at least I believe I myself was mistaken as to the facts in that case when the committee acted upon it. I have not a distinct recollection of the facts of that case, but I have a general recollection that I did, after the report was made, go over the papers again, and did think that the committee were mistaken at the time they made that report. But I believe the principle involved in this case is one that the committee intend to abide by. It is one that they have recognized in several cases already, and I do not know that they have ignored it. I think they have not ignored the principle knowingly, deliberately, in any case. I hope the committee never will ignore it. It is so plainly just to my mind that the Government should pay for the damage which they deliberately do to a friend of the Government—that seems to me so manifest an act of justice that I hope never to see it ignored by this Senate or any other; and therefore I hope the Senator will not insist on his motion to postpone.

Mr. EDMUNDS. My friend from Wisconsin cannot excel me in a disposition to do justice; certainly not in the abstract; practically he may excel all of us. But I think the Senate ought to reflect pretty thoroughly upon this whole subject before it commits itself to a precedent which, if followed, as it ought to be followed if we commit ourselves to it, of course—because we cannot give fish to one and flesh to another—will involve the expenditure of millions upon millions of the public money. I am not one of those who contend that we are to refuse to do justice because it involves the expenditure of a great deal of money; but I am one of those who contend that we ought to consider pretty seriously whether justice does require us—and I do not now take the opposite of the proposition—when we are carrying on military operations in a hostile territory, and in the course of those military operations we happen to march over and destroy the field of a loyal citizen, to make compensation to him. We should consider whether that is not one of that class of cases where every citizen, as the common phrase is, takes his chance. Does it not stand upon the same principle as if it were destroyed in a battle, where the operations of both parties, or the operations of the enemy alone, produced the result?

Now, as I say, I do not maintain the proposition that in no instance can a loyal citizen whose property has been injured by military operations obtain redress; but what I do say is that we ought to act, in setting a precedent of this character, upon the most deliberate consideration with reference to the limitations which should operate in such cases, with reference, at this present time, to the possible ability of the country to make this compensation, which in the end, perhaps, it may be clear that we ought to make; because, if the public in the southern States where military operations were carried on, and in some of the northern States, understand that we are now ready to receive and act upon applications of this character, and to make compensation to every person who can establish his loyalty whose property has been taken or destroyed in the course of the war, we shall certainly have business enough upon our hands, and we shall be required to enlarge somewhat

the taxing operations of the Government to raise money to meet it.

It is true, I repeat, that this is no argument against the intrinsic justice of the claim; but it is an argument, as it seems to me, against with any haste (because this may be considered to be haste now; it is opened for the first time this session) proceeding to take a step which once began we must follow out, and from which we cannot justly or honestly recede. I make no observation in my motion to postpone against the justice of this claim, or at this present time against the principle upon which it rests; but I, for one, before I vote for it or against it, should wish some little time to reflect upon it. That is all I have to say.

Mr. ANTHONY. I had the honor to be upon the Committee on Claims when this bill was first reported and passed the Senate. I am not so familiar with the case now as I was then, but I believe I drew up the report, and I recollect very distinctly that the claim was perfectly made out. It was not a case where our soldiers had ravaged fields, but it was a case where by the command of the commanding officer of the district property was taken. It was proved to have been taken by competent authority for the purposes of the Government, and necessary for the purposes of the Government. The case was made out entirely. It was certified to by General Sherman and the officers under his command who executed his orders. It was a very hard case, indeed, and a case that appealed, and did appeal successfully at that time, to the justice of the Senate without there being any necessity for an appeal to its sympathy. The bill was passed by the Senate and went to the House of Representatives, and although there is in the House a rule which prohibits the consideration of any cases of this kind that rule was suspended. That fact itself, I think, is sufficient evidence of the opinion of the House upon the question; but there was not then time to pass the bill, and it failed for lack of time. It would have passed the Senate at the last session, I presume, if there had been time for its consideration. Now, sir, it having been so thoroughly considered; it having gone through a committee which certainly is not inferior to any committee in this Senate in the rigid exactness with which it examines the claims submitted to it; it having been passed once, I hope we shall not revive the discussion, but let it go through once more.

Mr. EDMUNDS. I should like to hear the report read.

Mr. HOWE. There is no report, I think, accompanying this bill. There was a report made by the committee, and I think made by the Senator from Rhode Island, in support of the claim when it was first reported to the Senate, and I am not sure but that that report accompanies the present bill.

The PRESIDENT *pro tempore*. The Chair is informed that the report made during the Thirty-Ninth Congress is with the papers.

Mr. EDMUNDS. Let it be read.

The Chief Clerk read the following report, submitted by Mr. ANTHONY on the 9th of July, 1866:

The Committee on Claims, to whom was referred the petition and papers relative to the claim of Miss Sue Murphey, of Decatur, Alabama, have had the same under consideration, and make the following report:

This is a claim for compensation for a dwelling-house, out-houses, stable, carriage-house, &c., the property of the petitioner, situated in Decatur, Alabama, and taken for military purposes under the following order:

[Special Order No. 72.]

HEADQUARTERS LEFT WING
SIXTEENTH ARMY CORPS.
ATHENS, ALABAMA, March 19, 1864.

The necessities of the Army require the use of every building in Decatur for Government purposes. It is therefore ordered:

1. That all citizens living in Decatur, or within one mile of the limits of the town, on the south side of the Tennessee river, shall move outside of the lines within six days from the receipt of this order.
2. They will be allowed to go north or south, as they may deem best, and take with them all their personal and movable property.
3. As fast as the buildings are vacated the com-

mandant of the post will take possession of them, and see that they are preserved, and no damage done them.

4. No exceptions to this order will be made except in the case of the families of persons in the Army or employes of the Government.

5. Brigadier General J. D. Stephenson will cause this order to be immediately complied with.

By order of Brigadier General G. W. Dodge:

J. W. BARNES,
Assistant Adjutant General.

General Sherman had previously issued an order to fortify Decatur for a military post. In the erection and construction of fortifications under these orders it became necessary to remove the buildings and fences belonging to the estate of Miss Murphey in the construction of Fort No. 1, and all the improvements on the property were either destroyed or applied to military purposes.

Major Whitehouse, adjutant general at Decatur when the property was taken, appeared before the committee and stated that he knew that a special order for the removal of the buildings was given, and that it was necessary to make this destruction of property of the petitioner in order to erect said fortification.

General Granger, in a communication to General John F. Miller, November 26, 1864, certifies: "Miss Murphey's house in Decatur was destroyed, not a vestige of it remaining, by order of the officer first in command at that place, under instructions from General Sherman to make Decatur a military post."

In compliance with orders received from Brigadier General R. S. Granger, commanding the district of northern Alabama, Colonel Joseph Conrad, commanding the post of Decatur, ordered a board of investigation to convene for the purpose of examining and reporting in the case of the property of Miss Sue Murphey. This board convened on the 13th of February, 1865, and after an examination as to the loyalty of the claimant and the value of the property reported: "We find the property destroyed, and value the loss at \$7,000."

This report was approved by the commander of the post and indorsed by General George H. Thomas, commanding the department of the Cumberland, recommending that "Miss Murphey be paid by the engineer's department the amount of damage done her in the destruction of her house," &c.

The loyalty of Miss Murphey is fully sustained by the statements of officers of the Army above referred to and others, who were at Decatur during the war.

Miss Murphey's father was a captain in the United States service, and died some years before the breaking out of the late rebellion, leaving Miss Murphey and her sister the farm upon which these buildings stood, consisting of about one hundred acres of land, partly lying within the corporate limits of Decatur.

The committee are of opinion the property in question was properly taken upon military order, warranted by the necessities of the situation and for public use, under the direction of competent military authority, and that the owner is a loyal citizen of the United States; that the officers of the Army, in assessing the value of the property, acted upon well authenticated evidence, and therefore report the accompanying bill, and recommend its passage.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Vermont to postpone the further consideration of the bill until to-morrow.

Mr. POMEROY. I never like to oppose or advocate a bill that I do not know anything about; but there is a principle in this bill that I do know something about. In the first place, I should like to inquire why this money cannot be paid under the existing law?

Mr. ANTHONY. Such was the decision of the engineer department, or the proper accounting officers. The Senate will see by the report that General Thomas directed that the amount should be paid by the engineer department.

Mr. POMEROY. I understand that.

Mr. ANTHONY. But the War Department, or the proper authorities, declined to do it, because they had no legal authority to do it. I think there were papers to prove that before the committee.

Mr. POMEROY. There are precedents, and there is authority.

Mr. ANTHONY. I think such a bill ought to be paid by the department.

Mr. POMEROY. My objection is not to this particular case, but that in going into this work now by piecemeal, one at a time, we shall be likely to do great injustice. When I do anything of this kind I want to do it in a way that will operate equally on all classes of sufferers of this character. I do not believe in passing a bill for one alone of a class. Why not take all the owners of property in the city of Decatur, and pass a bill covering all of them that are loyal? Why not have some general bill? Why select out this particular case? I understand there are a thousand cases in Decatur, not all like this, but cases of persons who were removed; who were put to incon-

venience, who suffered. Is Miss Murphey better than all others, and to be preferred to all the others? I have no hostility to this claim, but I do not like this way of doing the thing.

Mr. FESSENDEN. Mr. President, I suppose this may be a very hard case; and being a claim in favor of a lady who is said to be loyal, it is quite natural that it should excite very considerable good feeling toward the petitioner. I cannot vote for the bill, however, for the reason that it will, in my judgment, be establishing a precedent that will lead unquestionably to a very exhausting drain, to say the least of it, upon the Treasurer. Now, sir, I would ask with all due deference to General Thomas and the engineer department, in settling questions of law and right, what propriety there is, upon any legal principle, in our paying for this property thus taken? Our Army go into an enemy's country and take possession of a certain portion of it by force of arms, and while there they find it necessary for military operations that they should take a certain course with regard to some property thus situated. Under these circumstances they demolish a house, or perhaps more than one, for the purpose of military defense. Now, sir, I do not know that it can ever be established that any where, at any period of time, a hostile force in an enemy's country, taking possession of property for the purpose of defense is bound to pay for that property. If gentlemen can produce precedents and authority to that effect I shall be very glad to see them, and shall then with pleasure, under the circumstances, vote for this bill. By passing this bill you will be establishing as a principle that wherever our armies went in this hostile territory, war being flagrant, and found it necessary to take possession of what must be considered enemy's property, for the purposes of defense, merely erecting a military post or anything else of that description, all that property must be paid for. Sir, where shall we see the end of claims of this description if we once open the door to them?

I say these things very reluctantly, for having seen the young lady and heard all the circumstances, my sensibilities would lead me to vote for this bill. I should be glad to do it, but really I cannot consent to do so unless the gentlemen of the Committee on Claims, from whom it comes, will show me that it is according to the customary and received law.

Mr. EDMUNDS. The law is the other way.

Mr. FESSENDEN. I understand, as my friend from Vermont says, that the law is the other way. The law being the other way, where will the Treasury see the end of these claims if you begin in a case of this description? What will be the amount that we shall be compelled to pay before this thing arrives at its termination? If this is the fact with regard to it, and if such is the law with regard to it, I ask gentlemen how they can venture to establish a precedent of this description? I remember now that this case came up at the last session, and I interposed an objection to it then and it went over. It was about passing when I interposed. I did not know that it ever passed the Senate afterward.

Mr. ANTHONY. It passed before at a previous Congress.

Mr. FESSENDEN. I did not know that. It was the first time my attention was ever called to it, and that was accidentally, and it struck me at the time that a precedent of this kind would be of the most dangerous character, and that we could not defend ourselves before the community that must pay all these bills if we began a practice of this description. I shall vote against the bill. If a majority of the Senate see fit to pass it the responsibility will not be upon me.

Mr. HENDRICKS. Mr. President, I think the Senate stands committed to the proposition that a measure like this ought to pass. I recollect that in the case of Ames we appropriated \$9,000, and he received the money upon the ground that he was a citizen true to the country, living in the State of Virginia in

the scene and area of the war, and that his premises, being an academy and a school, were taken in making necessary defenses; so that there is a precedent in the action of Congress in favor of this bill.

Now, Mr. President, suppose this lady had lived in a northern State and a commander had taken her property, the home in which she lived, had removed the buildings so as to make a defense or a hospital or for any other war purpose, is any Senator ready to say that he would not vote to pay her? Would we hesitate one moment to vote for compensating her? Then, I ask Senators if, in equity and justice, her claim is any less because she lived in Alabama, when it is established by testimony that we do not question that during all the time she was true to the country? In the northern States it was not affirmatively a merit to stand by the Government. Public sentiment was that way all the time, and a man or a woman went with the popular current in going for the cause of the Union; but in the southern States a party had, in my judgment, the additional merit of stepping out and meeting the current of public sentiment in order to stand by the flag and the Constitution. So I say this case is much stronger, if the facts be as stated, than if she had lived in Indiana or in Maine. There she would have had the support of popular sentiment; where she lived she attested her devotion to the country under circumstances that were very strong to resist indeed.

Mr. President, I do not admit the law as stated by the Senator from Maine. I know very well that in a war between independent nations each citizen is the enemy of the other; and why? It stands upon the principle that the character of each citizen is fixed by the character of the sovereign. If the king be the enemy of a particular nation all his subjects are its enemies. This was not a war of a government *de facto* against a government *de jure*. According to the doctrine maintained by Mr. Lincoln through his whole administration, it was a war, not by a sovereign, but by the inhabitants of the insurgent States against the rightful authority of the Government. That was the doctrine that governed the administration of Mr. Lincoln during its entire period. Then, sir, if that be the doctrine, each one was an enemy that made him or herself an enemy. There was no sovereign who could affix upon the citizen the character of a public enemy. If we are at war with England all of our citizens are at war with England, for the simple reason that the sovereign is at war with England, not that each citizen participates in the war; and I am not going to admit, I am not going to act upon the doctrine, that in the South each person was an enemy of the country. It does not follow from any legal proposition.

Each person that participated in the insurrection and rebellion was an enemy, but each person who stood by his allegiance to the Government was a friend, and it will not do to adopt the doctrine that obtains when there is a war between independent sovereignties—that the citizens living within the hostile districts are all public enemies. I do not think the doctrine applies in this case, and I claim that any one living in the southern States and standing all the while by the cause of the country has a stronger demand upon Congress to be paid for property that was necessarily taken in prosecution of the war than if he had lived in a northern State.

Mr. FESSENDEN. Mr. President, the Senator from Indiana cannot be aware, I think, that the Supreme Court of the United States have decided that in all matters relating to the ordinary incidents of war, as between nation and nation, the same rules and the same consequences are applicable to the States that were in rebellion after the war was initiated and properly declared and was understood that would exist between any two independent nations. That doctrine I take to be established, and no other doctrine could with any propriety be applied to the contest thus waged.

Now, sir, look at the consequences. It is

said that this young lady was loyal. I take it that, being a young lady, her loyalty did not expose her to any very particular danger. She lived quietly there, and perhaps expressed her sentiments. Why, sir, if we admit that to be the rule which my honorable friend from Indiana seems now to suppose, how many are the people do you think in the southern States who lost property during the war who did not actually take particular open part in the rebellion who would not be able to prove their loyalty; to prove that they did nothing whatever, and that all the time they felt very friendly to the United States Government? How much property should we have to pay for that was destroyed in Sherman's famous march through Georgia and through the Carolinas? If the rule is that all a person has to do is to come forward and prove that he took no part in the war, and that he really occasionally said some very kind thing of the Government, and he is loyal, and if his property was destroyed for military purposes, the United States Government and the people who carried on the war must pay for it, where are we to be carried?

Sir, destruction of property is one of the incidents of war, no matter whether it is between two independent nations or between a nation and a portion of its people who have for a time made themselves independent and a distinct government. There is no possibility of drawing any distinction whatever between them in relation to the consequences of the warfare. If there is to be such a distinction, and this precedent is to be set, the amount of debt that we have already incurred in prosecuting this war must be doubled before we get through with it by claims that we shall have to pay for property destroyed of one kind and another. What is to prevent their coming forward and claiming compensation for slaves that have been emancipated in consequence of the war, except the effect of the constitutional amendment or something of that sort no more applicable to that than to anything else? All these consequences come one after the other, and we have to meet them one after the other as they arise.

Now, sir, my honorable friend from Indiana, in the view he takes of all questions relating to this contest may be right in regard to this case. He never has admitted that there was a war in reality going on. He has said that there was nothing but an insurrection down there of a portion of people who undertook to make a disturbance and oppose the execution of the laws. That is the Democratic doctrine, and that is the doctrine upon which they have acted, and which they have proclaimed here over and over again.

Mr. EDMUNDS. "A slight unpleasantness."

Mr. FESSENDEN. "A slight unpleasantness," as my friend from Vermont suggests. That is their doctrine, and on that doctrine my friend from Indiana can very well advocate the payment of this claim and of all other claims of persons who did not actually take part in the rebellion. It is one of the things that are, if possible, to make the war and the consequences of the war and the results of it unpopular in the eyes of this people, by heaping upon them burden after burden of this description.

Mr. HENDRICKS. Does the Senator attribute to me any such motive as that in advocating this bill?

Mr. FESSENDEN. Certainly not; I attribute no motive whatever.

Mr. HENDRICKS. Then, it seems to me, the argument is not legitimate.

Mr. FESSENDEN. I say the bill is in perfect accordance with the honorable Senator's theory.

Mr. HENDRICKS. Does the Senator attribute to me a desire to make political effect out of support of a bill like this?

Mr. FESSENDEN. I said no such thing. I attribute no motive to the Senator; it is not my habit to attribute motives; and there is no need of it in this case, because I take the honorable Senator upon his theory, upon which he

has acted and which he has proclaimed here over and over again. All this doctrine of paying these claims is in perfect accordance with that theory; but it is not ours; and I say that this is one of those things which are hereafter, if carried out by overburdening our people with debt, adding to the public indebtedness immensely, if not doubling it, to make the memory of this war unpopular with them. The Senator cannot accuse me of imputing anything to him in that remark. I certainly do not mean it. I disclaim anything of that kind.

Now, Mr. President, my opposition to this bill is founded principally on the principle which I stated, that we cannot as a people afford, after all the destruction of property that has been necessary in the southern States, to make a distinction between loyal and disloyal persons. That people living there who were in their hearts loyal to this Government suffered was the misfortune of their situation. It is one of the calamities that are inevitable: the good must suffer with the evil, and the minority must take the consequences of the action of the majority. But if you undertake to say that this was not a war in the ordinary sense of the term, and that in addition to the burdens the people of this country already bear you are to heap on them the additional burden of paying for all property that was destroyed which belonged to persons who were not actually engaged in the conflict, there is no end to it, and there is no foretelling what the consequence may be upon the peace and prosperity of the people of this country hereafter.

A word now as to this estimation of damage. How much damage was it? What was that property worth at the time, exposed as it was to attack, exposed to be burnt every day by an attack that was to be made upon that place by an enemy, to be bombarded, to be destroyed? And, yet, according to the statement the officers who estimated the damage just sat down and actually estimated how much that property was worth in a time of profound peace, with these buildings exposed to no danger, and call upon us to pay for it as if it were worth as much there as if it had been situated in a quiet place in the free States anywhere. Why, sir, it is quite manifest to me that if you even establish the principle that we are to pay for it, the ground on which the amount of damage was fixed was entirely erroneous. However, sir, it is a matter that I have been drawn into simply from my desire that the Senate should pause before it establishes a precedent which I believe to be fraught with such extreme danger and calculated to lead to such extreme consequences.

Mr. YATES. Mr. President, this is a question which is important, because it must involve millions to the Government; and if the Senate is to meet it it certainly is one of the most important measures which we can consider. But the question arises in my mind whether it is not a matter more appropriate for the courts. Many points are to be determined—such as the loyalty of the person whose property was destroyed, the value of the property in question, and the circumstances under which it was destroyed. Legal questions, also, are to be met. According to the common law private property cannot be taken by the Government without compensation to the owner. A State cannot take the land of a private owner in the construction of railroads without first condemning the property and paying to the owner its appraised value.

Now, sir, however the question may be decided great injustice may be done. Certainly a man should not suffer on account of his loyalty. If the owners of private property are entitled to compensation from the Government, most surely those who are loyal to the Government under peculiar circumstances should receive that compensation. But, as the decision of the principle at stake must involve millions upon millions, I think if the Senate could avoid its decision at the present time by setting the precedent that the courts should decide all such cases, it would certainly be

more advisable, and justice would be more certainly done.

Mr. ANTHONY. I wish to say a single word in reply to the suggestion of the Senator from Maine about the loyalty of this family. There is no doubt on that point. It was not the passive loyalty that he fancies it to have been; it was an active loyalty. Situated in that town, their loyalty, their attentions, their hospitalities, their kindness to the Union soldiers, subjected them to social ostracism. This house was always open. Our officers and men were always welcome there, and always nursed there in sickness, if it was necessary, and they received also from them valuable information. There is no doubt whatever of the active loyalty of this family. The children of an Army officer, they loved the flag under which he died.

It is too late, I suppose, to go on with this subject this evening; but when a committee, and that the committee which of all others is and must be most rigid in the examination of the claims submitted to it, reports upon a question of this kind, when it receives the almost unanimous consent of the Senate, goes to the other House, and is lost there for want of time, comes back here, and everybody has forgotten all about it, it seems to me rather hard that the Senate will not take the authority of their own committee, and also the authority of their own judgment, which they formed when they knew all about it, when the facts which they have now forgotten were fresh in their recollection. If this bill goes over now until my friend from Vermont shall become acquainted with it, then everybody else who knows anything about it will have forgotten it, and he, too, I suppose.

Mr. RAMSEY. I move that the Senate do now adjourn. It is evident that this question cannot be disposed of to-day.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, December 15, 1868.

The House met at twelve o'clock m.

The Journal of yesterday was read and approved.

TRANSPORTATION OF PETROLEUM.

Mr. GOLLADAY, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of prohibiting steam vessels, engaged in whole or in part in transporting passengers, from carrying petroleum or other inflammable fluids, with authority to report by bill or otherwise.

INSPECTION OF INDIAN AFFAIRS.

Mr. HIGBY, by unanimous consent, introduced a bill (H. R. No. 1550) to provide for an annual inspection into Indian affairs, and for other purposes; which was read a first and second time, and referred to the Committee on Indian Affairs.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DES MOINES AND ROCK ISLAND RAPIDS.

Mr. ELIOT. I ask unanimous consent to submit the following resolution:

Resolved, That the Secretary of War be directed to communicate to the House of Representatives any report from Major General James H. Wilson concerning the improvement of the Mississippi at Des Moines rapids which may be in the possession of the Department and not heretofore communicated to Congress.

Mr. WASHBURN, of Illinois. Modify the resolution, so as to say "Des Moines and Rock Island rapids."

Mr. ELIOT. I accept that modification. The resolution, as modified, was adopted.

MRS. EVELINE SHERIDAN.

Mr. HUBBARD, of West Virginia, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Invalid Pensions

be, and they are hereby, authorized and directed to inquire into the expediency of granting a pension to Mrs. Eveline Sheridan.

VALLEJO AND HUMBOLDT BAY RAILROAD.

Mr. JULIAN, by unanimous consent, from the Committee on the Public Lands, reported back Senate bill No. 349, granting lands to the State of California to aid in the construction of a railroad and telegraph line from the town of Vallejo to Humboldt Bay, in the State of California; which was ordered to be printed, and recommitted.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PACIFIC RAILROAD.

Mr. PRICE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Interior be directed to transmit to the House of Representatives the reports made on the Union Pacific railroad by the Government directors and special commissioners to which reference is made in his last annual report.

CLOTHING OF DISABLED SOLDIERS.

Mr. SHANKS offered the following resolution:

Resolved, That the Committee on Military Affairs be hereby instructed to report to the House, for its action, a bill directing the Secretary of War to furnish, through the proper officers of his Department, upon requisition made on him by the authorities legally controlling any home for needy, indigent, and disabled soldiers, which has been or may be established or adopted and controlled by the Legislature of any State in which such home may be situated, for the use of the inmates charitably received therein who have been honorably discharged from the military service of the United States, one suit of Army clothing each every six months, consisting of one blouse, short coat, or jacket, one pair of pants, two shirts, two pair drawers, two pair socks, one pair shoes or boots, one hat or cap, and each twelve months one overcoat; or so many of the above-named articles as may be needed for the comfort of the inmates of such home.

Mr. GARFIELD. I suggest a modification of that resolution. I object to its mandatory character. Let it read "inquire into the expediency of reporting."

Mr. SHANKS. I will modify it accordingly. The resolution, as modified, was agreed to.

INDIAN POLICY.

Mr. CLARKE, of Kansas, by unanimous consent, introduced a joint resolution (H. R. No. 386) changing the policy in regard to Indian tribes; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

ARREARS OF PENSIONS.

Mr. PERHAM, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Invalid Pensions be instructed to inquire whether any further legislation is necessary to facilitate the payment of arrears of pensions under the sixth section of the act of July 27, 1868, and report by bill or otherwise.

CLERK FOR A COMMITTEE.

Mr. POLAND. I ask consent to offer the following resolution for present action:

Resolved, That the Committee on Revision of the Laws of the United States be authorized to employ a clerk, who shall be allowed the same compensation as the clerk to the Committee on the Judiciary.

Mr. ARNELL. I object.

COMMERCE ON WESTERN RIVERS.

Mr. PILE, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be directed to inquire into and report to this House what further legislation is necessary for the security of life and property, and the promotion of commerce on the rivers flowing into the Gulf of Mexico.

ANN BAGLEY.

On motion of Mr. BENJAMIN, the petition of Mrs. Ann Bagley, for a pension, was withdrawn from the files of the House and referred to the Committee on Invalid Pensions.

NILES'S REGISTER.

Mr. MUNGEN, by unanimous consent, sub-

mitted the following resolution; which was referred to the Committee on Printing, under the law:

Resolved, That there be printed for the use of the House five thousand copies of Niles's Register, to be put up and bound in the same style as the Congressional Globe is now printed and bound.

ENFORCING CONSTITUTIONAL AMENDMENT.

Mr. SYPHER asked consent to offer the following resolution:

Resolved, That the Committee on the Judiciary be directed to report a bill as soon as practicable for the enforcement of the third section of the fourteenth article of amendment to the Constitution.

The SPEAKER: This resolution is mandatory. Is there objection?

Mr. CHANLER. I object.

EDWARD KINDRED.

Mr. INGERSOLL, by unanimous consent, introduced a bill (H. R. No. 1551) directing the Secretary of the Interior to place the name of Edward Kindred on the pension-roll; which was read a first and second time, and referred to the Committee on Revolutionary Pensions and of the War of 1812.

ISSUE OF BONDS IN THE DISTRICT.

Mr. INGERSOLL also, by unanimous consent, introduced a bill (H. R. No. 1552) to authorize the District of Columbia and the cities therein to issue coupon bonds and borrow money; which was read a first and second time, and referred to the Committee for the District of Columbia.

COLUMBIA RAILWAY COMPANY.

Mr. INGERSOLL also, by unanimous consent, introduced a bill (H. R. No. 1553) to incorporate the Columbia Railway Company in the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

Mr. WASHBURN, of Illinois, moved to reconsider the various votes of reference; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CIVIL OFFICES IN VIRGINIA AND TEXAS.

Mr. WHITTEMORE. I ask unanimous consent to offer the following resolution for reference to the Committee on Reconstruction:

Resolved, That all civil offices in the provisional governments of Virginia and Texas, held by persons disqualified by the oath of office approved July 2, 1862, be, and the same are hereby, declared vacant; and it shall be the duty of the commanders of the districts to proceed immediately to fill the vacancies so created by the appointment of qualified persons who shall have been nominated and recommended by the respective Governors of said States.

Mr. CHANLER. I object, and call for the regular order of business.

CHARLESTOWN NAVY-YARD.

The SPEAKER. The Chair is informed by the Clerk that the joint resolution (H. R. No. 332) authorizing the appointment of examiners to examine and report upon the expediency of discontinuing the navy-yard at Charlestown, Massachusetts, and uniting the same with the yard at Kittery, Maine, which was referred by the House on the 3d of July last to the Committee on Naval Affairs, was erroneously sent to the Senate as having been passed. If there be no objection the Senate will be asked to return it, so that it may be referred to the committee.

There was no objection, and it was so ordered.

WAR CLAIMS OF IOWA.

The SPEAKER. The morning hour has commenced, and the House resumes the consideration of the bill (H. R. No. 1491) fixing the amount found to be due to the State of Iowa on account of certain claims against the United States, which was reported on Thursday last, by the gentleman from Iowa, [Mr. Dodge], from the Committee on Military Affairs.

The bill was read. The preamble recites that Congress, by an act approved July 25, 1866, directed the President to appoint a commission to examine and report upon the claims of the State of Iowa for forage, transportation,

subsistence, and clothing furnished by that State to volunteers; also for the repayment of certain moneys expended by the State in raising, arming, equipping, paying, and subsisting certain troops of the State during the late rebellion; and also the claims of the State for certain forage procured and barracks built and turned over to the United States. It further recites that the commissioner appointed by the President has, after an examination of the claims, reported that there is due to the State of Iowa \$229,848 28, and recommended the payment of that sum. The bill, therefore, provides that the amount so found due to that State shall be paid to it out of an appropriation hereafter to be made.

Mr. GARFIELD obtained the floor.

Mr. MULLINS. Will the gentleman yield to me to offer an amendment to the bill?

Mr. GARFIELD. I desire first to make a brief statement of this matter. I regret very much that the gentleman from Iowa, [Mr. Dodge], the member of the Committee on Military Affairs, who has charge of this bill, is not present, and I will state in a word or two the action of the committee in regard to it.

Under the law of July 25, 1866, a commissioner was authorized to be appointed to examine and audit and report on all claims of the State of Iowa against the United States for the equipment of troops and expenditures in putting down the rebellion that had not yet been accounted for. In pursuance of that law General Buchanan, of the Army, was appointed the commissioner, and made a very full and voluminous report, which was laid before Congress and referred to the Committee on Military Affairs. There were accompanying his report some thirty documents, the titles of which are given on page 5 of General Buchanan's report, which has been printed and is now before the House as Miscellaneous Document No. 110. The report of General Buchanan, the commissioner, and the accompanying documents were examined by a sub-committee of the Committee on Military Affairs. They reported to the committee, and their report was approved, and the gentleman from Iowa [Mr. Dodge] was authorized to report this bill. The report proper of the committee has not been printed, but it is with the papers at the Clerk's desk. It is very brief, and I ask that it be read.

Mr. WARD. I would inquire of the gentleman if the bill has been printed?

Mr. GARFIELD. It has not.

Mr. WARD. I think a bill of this importance ought to be printed.

The Clerk read the report of the Committee on Military Affairs, as follows:

The Committee on Military Affairs, to whom were referred the claims of the State of Iowa for services and expenses incurred during the war, have had the same under consideration, and find that the examination and report by the commissioner, Brevet Major General Robert C. Buchanan, United States Army, under the law of Congress of July 25, 1866, has been faithfully and carefully performed; that a full examination has been made; that the vouchers and accounts have been properly audited, and the committee therefore recommend that an appropriation be made for the payment of the claims so audited and recommended in the report of General Buchanan, the commissioner appointed under the act approved July 25, 1866.

Mr. GARFIELD. Now, let me finish the statement I desire to make regarding this bill. The history of this bill is, in brief, this: on the 25th of July, 1866, the House of Representatives and the Senate passed an act authorizing the appointment of a commissioner to examine and report upon certain specified claims named in the original law. They were "claims of the State of Iowa for forage, transportation, subsistence, and clothing furnished by said State to certain volunteers of said State, under the command of Colonels Morledge and Edwards, at the request of certain officers commanding troops of the United States in the State of Missouri, and marched into the State of Missouri to cooperate with the troops of the United States in suppressing the rebellion." That was the language of the law describing the class of claims that were presented to this

commissioner, to be by him audited, examined, and reported upon. The commissioner was to submit his report by December, 1867, and on the 6th day of December, 1867, he presented his report, which is printed as House Miscellaneous Document No. 110. In that report he states that there are two questions to be considered; first, what was the service rendered and the necessity therefor? and, second, were the expenditures made under the general heads reasonable and proper and in accordance with the spirit of the law in the case made and provided? Under these two heads the examinations were made, the accounts audited and reported upon, and thirty supplemental papers were forwarded in connection with his report, as the vouchers for all the decisions the commissioner came to in regard to the matter. These vouchers, and all the accompanying documents, were laid before the Committee on Military Affairs, and they were examined by a sub-committee. The result was the adoption of the report which has just been read at the Clerk's desk, and the printing as a part of that report of the exhibit and report of the commissioner appointed to examine and report upon the accounts. This was the order taken in reference to all the States which have hitherto had their claims against the Government adjusted. So far as Congress has settled the question at all it has settled this as the mode of adjusting the claims of a State.

The bill here proposed recites the law under which the commissioner was appointed, the character of the services specified in the original bill. Then the bill proper consists simply in authorizing the payment of the amount of money found due by the commissioner, whenever Congress shall make an appropriation therefor. This bill is not an appropriation bill, but an authorization to adjust the accounts of the State of Iowa on the basis of this report whenever Congress shall appropriate the money. The Committee on Military Affairs has done its duty as well as it could under the circumstances. If we intend to settle this claim at all, as we have done the claims of several other States, I know of no better way than this as the mode of settling it.

Mr. WASHBURN, of Illinois. Will the gentleman yield to me for a few moments?

Mr. GARFIELD. Certainly.

Mr. WASHBURN, of Illinois. I take it that almost every State in the United States has claims of a similar character to these, and resting upon about the same principle as these claims of the State of Iowa. But these particular claims seem to have been singled out and referred to the Committee on Military Affairs, upon which there is one of the most distinguished and influential members of this House from the State of Iowa. That committee has reported back a bill to take this out of the general class of claims, and asks Congress to pass upon it. It does not propose to make an absolute appropriation of money. I called the attention of the House the other day to the peculiar language of the bill, which was to avoid a rule of this House, and gain an advantage which the bill should not have. This bill does not make an appropriation, but provides that the amount shall be paid out of any money hereafter to be appropriated for the purpose; and that, no doubt, was done for the reason that if the bill had made an appropriation, as it should have made, it would, under the rules of the House, have necessarily gone to the Committee of the Whole on the state of the Union, where it could be fully and amply discussed in connection with all other bills of the same or a similar character.

Mr. WILSON, of Iowa. Will the gentleman yield to me for a moment?

Mr. WASHBURN, of Illinois. Certainly.

Mr. WILSON, of Iowa. I merely wish to state the facts in regard to the reference of this claim to the Committee on Military Affairs. The report of General Buchanan was first referred to the Committee on Appropriations. That committee reported it back to the House with a recommendation that it be referred to

the Committee on Military Affairs for examination. That reference was made. The Committee examined the subject, and made the report which is now pending before the House. I remember very well that it was said in the Committee on Military Affairs that the question of making the appropriation ought to be left to the Committee on Appropriations, subject to the action of the House in regard to it. That is the reason the bill comes before the House in its present form.

Mr. WASHBURNE, of Illinois. Mr. Speaker, I understand that matter very well; and that is the reason I endeavored to get in a motion to send this whole matter now to the Committee on Appropriations, to whom it properly belongs. Let them act upon the subject. If an appropriation is to be made, it is to be made upon the report of the Committee on Appropriations; and does this House intend to withhold from that committee the information they are entitled to have if they are to pass upon this claim? Hence I say it is proper and right and just that this bill, as reported from the Committee on Military Affairs, declaring that a certain amount is to be paid out of the Treasury when appropriated, should go to the Committee on Appropriations for examination; and I hope the gentleman from Ohio will allow me to make the motion to refer the bill to that committee, and will allow the bill to be so referred.

But, sir, there is another fact to which I wish to call attention. This bill does not contain the provision which has been embraced in almost every bill of a similar character—a provision which I distinctly recollect was inserted in the bill making reimbursement to the State of Iowa—that before the payment of the amount claimed a report should be made by commissioners, to be appointed by the President and confirmed by the Senate, and that even then the right should be reserved to the Treasury Department to audit the accounts. There is no provision of that kind in this bill. We propose to direct that the amount shall be paid, making no provision that the Treasury Department shall examine the accounts and ascertain whether they are correct—no provision for a revision of the matter by the accounting officers of the Treasury. And, sir, even if the gentleman from Ohio will not yield to allow me to make a motion to refer the bill to the Committee on Appropriations, I hope he will permit me to offer an amendment providing that before payment shall be made these accounts shall be audited and approved by the Secretary of the Treasury.

Mr. GARFIELD. The gentleman will allow me to explain. I should have said precisely what has been said by my friend from Iowa, [Mr. WILSON.] It was not on account of any seeking on the part of the Committee on Military Affairs that this matter was sent to them for examination. It was, in the first place, sent to the Committee on Appropriations, which committee very properly said that this matter involved in large part questions of a military character; and therefore the subject was sent to the Committee on Military Affairs, that they might examine and report whether the accounts audited in this case were proper military accounts. The Committee on Military Affairs made the examination in accordance with the order of the House, and have reported that in their judgment these expenditures were made in good faith for proper military purposes, but yet for purposes that were not arranged for by Federal law. For instance, the irruption of Indians on the west, and of rebel "bushwhackers" on the south, made it necessary for the Governor of the State to take immediate action of an extraordinary kind to repel the danger, there being no time to await the result of a resort to the slow process of correspondence with the authorities of the United States Government. These steps were taken by the authorities of the State of Iowa; and the men called out, the expenses incurred, were as really for the protection of the State against the enemies of the United States as if every step had

been taken under the authority of the War Department of the United States Government. But these expenses were not incurred in such form and upon such vouchers as the Government of the United States requires; and, therefore, they could not be audited under such rules as are followed in the auditing of accounts by the United States authorities. They were, however, incurred and audited in accordance with the laws and regulations of the State of Iowa. Hence, this special commissioner examined them as made in accordance with the laws of the State of Iowa, not the laws of the United States.

The Committee on Military Affairs have now reported back the military part of the bill, merely declaring that they regard the expenditures as having been made in good faith for proper military purposes. We distinctly declare in the bill that we do not propose to make any appropriation, leaving that matter to the future action of the Committee on Appropriations. That matter is to be left to the Committee on Appropriations. We have stayed by the line of our duty, and intend to discharge that duty by reporting this bill to the House and asking that it be put upon its passage. Whether the House shall make an appropriation depends on the action of the Committee on Appropriations. I have not the slightest objection to such an amendment as the gentleman from Illinois suggests, that this payment hereafter to be authorized by appropriation shall be subject to any revision or any new audit which may be demanded to protect us against any possible mistake. I have no objection to that; and if the gentleman has any amendment to secure us against any possible danger in that regard I will give way for it. But I cannot consent, under the instructions of my committee, and the House also, to allow this bill to be referred to the Committee on Appropriations without first having the action of the House on it.

Mr. WASHBURNE, of Illinois. I offer the following amendment, to come in at the end of the bill—

Mr. GARFIELD. Before the gentleman's amendment is read I desire to say that I reciprocate all his suggestions out of his desire to protect the Treasury against any improper or fraudulent expenditure of the public money.

Mr. WASHBURNE, of Illinois. Now read my amendment.

The Clerk read as follows:

Provided, That no payment shall be made until all of the accounts have been audited and approved by the Secretary of the Treasury.

Mr. ALLISON. I hope that amendment will not be allowed to come in, and I desire to call the attention of the gentleman from Ohio and the House to it. It requires that all these accounts shall be audited by the proper accounting officers of the Treasury. If that be the case they will require these accounts to be in the form demanded by the United States. Now, it is perfectly well known to every gentleman here that these payments were not made and vouchers received in accordance with the requirements of the War Department. I trust, therefore, that my friend from Illinois will not press his amendment.

Mr. WASHBURNE, of Illinois. The suggestions of the gentleman from Iowa show the eminent propriety of such a provision as this. If the accounts are so loose and worthy of so little attention as seems to have been bestowed upon them it is certainly the duty of the Government to reserve to itself the right of examination and approval.

Mr. ALLISON. Either the gentleman entirely misapprehends what I have said, or he intends by this amendment that this claim of the State of Iowa shall not be paid. I know perfectly well, as does every gentleman from Iowa, that these expenditures were made in the most economical manner by a board of highly respectable gentlemen in our State; but they are not in accordance with the forms required by the War and Treasury Departments, and therefore cannot be paid without some

special provision. This bill proposes to make that special provision, and the gentleman from Illinois proposes that they shall go through the ordinary forms of the Treasury Department, which is another way of saying they shall never be paid.

Mr. GARFIELD. I will read one or two sentences from the Commissioner's report:

"My examination of these accounts shows me that they are carefully made up in accordance with the laws of the State, verified on oath, and, though not in the forms used by the Treasury Department, yet sufficiently like them for all practical purposes. I therefore did not attempt to apply to them the regulations of the accounting officers of the Treasury, for had this been possible it did not seem likely that Congress would have provided by law for a commissioner to examine and report upon claims that could have been as well decided upon by those officers themselves. The letters of the Secretary of the Treasury and the Second Comptroller, hereto appended, sanction this opinion."

It seems to me, therefore, if the gentleman offers his amendment in its full force as it now stands, it will merely annul all that has been done by the Commissioner, and in that form I cannot consent to its being offered.

Mr. WASHBURNE, of Illinois. Then the gentleman proposes absolutely that this amount shall be paid without reserving to the Treasury Department the right of revision.

Mr. GARFIELD. No, sir; I do not say that.

Mr. WASHBURNE, of Illinois. My amendment does not imply more than this, that before payment these claims shall be examined and audited by the United States authorities. I will agree to withdraw the word "audited" and insert "examined and approved."

Mr. GARFIELD. I now yield to the gentleman from Iowa.

Mr. PRICE. Mr. Speaker, I wish, in a few words, to give members of the House a competent idea of this matter. When the hordes of the rebellion crossed the Missouri line into Iowa something had to be done to repel them. The authorities of our State called men from the workshop and the plow, by day and by night, without any enlistment, without any formal regulation of the War Department, to beat back the tide of rebellion. They came when they were called. They had to be armed; they had to be subsisted. The State armed, equipped, and subsisted them. Then before a dollar of this claim was allowed a commission of three gentlemen was appointed by the Legislature to audit the accounts. And, by the way, while I think of it, to show that the commission was not of a partisan character, I will say that two of the three gentlemen belonged to the Democratic party. They audited the account under oath. They sifted it; and there was not a dollar allowed that upon full examination they did not find to be correct and proper, while a good many dollars were disallowed which parties asserted ought to have been paid.

Now, sir, we came here and asked the Government to reimburse the State of Iowa which had paid these accounts as audited by this board. The answer was, "Before we reimburse the State we will send an Army officer as commissioner to see whether the auditing was properly done." Accordingly General Buchanan was sent to Iowa to examine the matter in person. After a thorough examination he reports—and the report is on our tables—that the auditing has been done in accordance with law, but not strictly in accordance with Army regulations, though substantially so. Now, is it necessary to send this account to another auditing officer? It has been audited twice—once by the State commission and once by an authorized officer of the Government—and there is not a dollar in the account that both parties do not say is proper to be paid. We want to be reimbursed a part of the money that the State of Iowa paid in good faith to help put down the rebellion. We do not want anything more. It is a work of supererogation to send this account through a long train of auditing by the different Departments of the Government, and the child may not yet be born that will live to see the day when it

shall get through. Two such audits as we have had are enough.

Mr. WOOD. Mr. Speaker, this claim may be valid and just. I have no doubt the State of Iowa contributed very much toward the crushing of the rebellion, and that she is entitled to recover all she has expended in that case. But I can see no reason why the other States of this Union who contributed as much as Iowa, if not more in some instances, should not have their claims audited and paid as well as that State. Why should the claim of Iowa be preferred to the exclusion of other States? The municipal authorities of the city of New York, in advance of any action of the Federal Government, in advance of the appropriation of a single dollar at Washington, appropriated and actually expended \$1,000,000 to raise thirteen volunteer regiments to send on here for the protection of this capital. The city of New York has never been reimbursed one cent by the Federal Government. She has made her application to Congress. The State of New York has made her application. The State of Pennsylvania has already in part received the amount she expended. I cannot, myself, see why the State of Iowa should be preferred over New York and Pennsylvania and other States of the Union whose claims are just as equitable and right. Therefore I feel it my duty to oppose the appropriation of a single dollar of the public money to pay Iowa or any other State until all the States in the Union come in upon an equal footing. When that is done I am willing to vote to allow the whole.

Mr. WILSON, of Iowa. I desire to correct the gentleman's statement. I understand him to say that the State of New York has not been reimbursed.

Mr. WOOD. Not in all.

Mr. WILSON, of Iowa. I have before me a statement of the amounts that have been paid to the States by the General Government. The State of New York has received \$2,300,000, the State of Pennsylvania \$1,989,000, and the State of Illinois \$3,817,000.

Mr. WOOD. I repeat, what I have said before, that these States have not been paid in full, and the city of New York, which expended over a million dollars, has not received the first dollar. The State of New York has disbursed over thirty million dollars in aid of the late war, and issued her bonds, which are yet undecided and unpaid. I repeat that the State of New York, as well as Pennsylvania, has not been paid her demands, which are as just as those of Iowa.

Mr. CULLOM. As I recollect it, nearly every State in the Union that was loyal to the Government at the beginning of the war has been paid the expenses incurred in raising and sending troops to suppress the rebellion. Illinois did it. Iowa did it. New York did it. All the States North did it. After it was done, the Congress of the United States passed the following short bill:

"That the Secretary of the Treasury be, and is hereby, directed, out of any money in the Treasury not otherwise appropriated, to pay to the Governor of any State, or to his duly authorized agents, the costs, charges, and expenses properly incurred by such State for enrolling, subsisting, clothing, supplying, arming, equipping, paying, and transporting its troops employed in aiding to suppress the present insurrection against the United States, to be settled upon proper vouchers, to be filed and passed upon by the proper accounting officers of the Treasury."

After that bill became a law I suppose every northern State presented its claim against the Government for money paid out, and I suppose that every State in the Union received something from the Government on account of expenses incurred by the State in aiding the Government in the suppression of the rebellion. Illinois, as the gentleman from Iowa [Mr. WILSON] has stated, received some. Iowa, according to the same table that he presents, has also received some. New York has received some. But I undertake to say that there is probably no State in the Union that to-day admits that she has received the full amount of money that she is entitled to on account of aid given to the Government in the suppression of the

rebellion. All the States have got claims against the Government for money paid out and expended by them in the suppression of the rebellion. Illinois to-day has a claim for several hundred thousand dollars held back by the Government because of the fact that the State of Illinois is unable to show by her vouchers that the claims were regular and were in accordance with the regulations of the War Department. They are not paid. The Legislature of Illinois created a commission, exactly such a commission as the State of Iowa did, and these claims were audited. The commissioners audited a large number of claims that to-day are not allowed by the Government of the United States, and will not be, simply because they were expenses incurred out of the regular line, according to the judgment of the War Department. And now is it to be the action of this House that the State of Iowa shall have its full amount as settled by one man under the dictation, I suspect, of the Governor of the State, saying to him what claims should be allowed and what claims should not, while the State of Illinois and the State of New York and all the other States have got to stand out in the cold and their claims that are irregular are to go unpaid?

Mr. PRICE. Now, that is not a parallel case at all, and the gentleman will observe the point of divergence. The State of Iowa appointed commissioners of her own to examine and audit the accounts, and the State of Illinois did precisely the same thing, according to my friend, who presents the case here. But the General Government was not satisfied with the auditing of the board appointed by the State of Iowa, and they sent their own auditing officer out upon the ground to examine these accounts. He came back and reported that a certain class of these claims are just and proper, and recommended their payment, and it is that class of claims and that amount of money that we come here to-day and ask by this bill to be reimbursed. The only parallel case to this is the case of Missouri. She had similar claims, and an officer was sent out to audit her claims. He reported to Congress, and a bill was introduced and passed this House and became a law allowing the State of Missouri pay for exactly such claims as this. These claims have gone through precisely the same channels. We do not ask for any pay for the State of Iowa, except for claims every dollar of which has been examined by these two commissioners, one on the part of the State and one on the part of the General Government, and reported to this House as eminently proper to be paid.

Mr. BOYER. Will the gentleman yield to me for a moment?

Mr. PRICE. For a question.

Mr. BOYER. I desire simply to state that in the case of Pennsylvania there was no bill passed reimbursing that State for any portion of her war expenditures, except in cases in which it was for money advanced to the General Government by the State of Pennsylvania upon a contract, informally made, it is true, but still a contract, with President Lincoln and the Secretary of War, that the money should be refunded. It was for money advanced, and the reimbursement was made upon that ground.

Mr. PRICE. My friend will remember that I was not citing the case of Pennsylvania at all.

Mr. BOYER. But Pennsylvania has been mentioned in this discussion as a State to which reimbursement was made, and therefore I thought it proper to make this explanation.

Mr. PRICE. The State of Pennsylvania has received reimbursements. But I was proceeding to show that the only parallel to this case was the case of Missouri; that the case of Illinois was not a parallel case at all, and cannot be until they have an auditing officer appointed by the Government to go upon the ground and examine those claims. These claims of Iowa cannot be examined any more thoroughly, any more honestly, any more fully, or any more impartially than they have already been examined. Any further examination of this matter would result only in procrastination

and keeping the State of Iowa out of money that she honestly expended for the suppression of the rebellion.

Mr. CLARKE, of Kansas. Will the gentleman yield to me for a moment?

Mr. PRICE. For a moment; yes.

Mr. CLARKE, of Kansas. I understood the gentleman from Iowa [Mr. PRICE] to say that the only parallel case was the case of the State of Missouri.

Mr. PRICE. The only parallel case that I cited.

Mr. CLARKE, of Kansas. I beg leave to remind the gentleman that a bill has twice passed the Senate in favor of the State of Kansas, providing for the examination of claims for the payment of troops called out for service under Major General Curtis to resist what was known as the Price raid. If there is any justice in this claim on the part of Iowa, there is equal justice in the claim on the part of the State of Kansas.

Mr. PRICE. I ask my friend from Kansas [Mr. CLARKE] whether a commissioner has been appointed by the Government to go to Kansas and examine those claims?

Mr. CLARKE, of Kansas. Those claims have been referred to a commissioner provided by the Legislature of the State of Kansas. They have been thoroughly examined, and the result of the examination has been submitted to the Treasury Department, and the claims would have been paid had the troops been called out under regular provision of law.

Mr. PRICE. We did all that in Iowa, Mr. Speaker; and after doing all that, we submitted our claims to a Government officer. When Kansas has its claims examined by a Government officer it will have a parallel case, as Missouri now has.

Mr. CLARKE, of Kansas. The accounts of the State of Kansas have been examined at the Treasury Department. As I have already stated, they were not paid on account of some irregularities in calling out the troops. They have been examined at the Treasury Department, and a bill has twice passed the Senate, and is now pending before the Committee on Appropriations. I ask the gentleman having charge of this bill [Mr. GARFIELD] to allow me to offer an amendment, including the claims of the State of Kansas, which stand upon precisely the same basis as the claims of the State of Iowa.

Mr. GARFIELD. I trust the gentleman will see, upon a statement of the case, that the claims of the State of Iowa stand upon a different basis from the claims of the State of Kansas. I will also take advantage of the present occasion to reply to some statements made by gentlemen here. It has been objected by several gentlemen on this floor that it is not fair to single out one State and arrange for paying its claims when there are other States that have just as good claims of the same kind. Now, I ask gentlemen if it is not simply a matter of common sense, in case we are going to pay the claims of States at all, to begin somewhere, with the claims of some one State. We certainly cannot take all the States in a body; no one commission can possibly go over the claims of fifteen or twenty States at once.

The policy of Congress, so far as hitherto exhibited, has been, first, that the claims of each State shall be examined by its own commissioners, or persons appointed by its own Legislature; and then that the Government of the United States shall appoint commissioners to go over the whole matter presented by the State, rejecting what they do not consider proper, and allowing what they do consider proper, submitting the whole matter to Congress for its action. The policy is to settle the claims of these States one by one.

I desire to suggest to the gentleman from New York [Mr. WOOD] that if he ever expects to get the claims of the State of New York settled, it is not a good way to do it to object to the settlement of the claims of any other State before his own State has its claims settled. The only way is to take the States as they may be ready for settlement. When a

State says that its accounts are so adjusted that it has made a thorough and proper examination and report of its claims, then we can go to work and pass the proper legislation on our part.

When we have examined the subject by a proper board of officers appointed for the purpose, and when that board has reported certain results, it seems to me we have then reached a point where the committees of this House, and the House itself, can review the result of this double examination and act intelligently upon it. Unless we take some such course as that; unless we agree to take up the States in the order in which they present themselves, it seems to me the effect of the arguments made by gentlemen here is that we shall never touch any of them at all.

I grant you, Mr. Speaker, that it is an unpleasant business for a Representative in Congress from the State of Ohio to be voting money out of the Treasury of the United States to be paid to the State of Iowa. It is something for which no Ohio Representative will ever expect to get any special honor or any particularly flattering approval from his constituents. There is, therefore, no appeal to the selfish political interests of members on this floor to advocate or vote for any such bill as this. But it seems to me that if we are intending to do justice to all the States of this Union we must begin somewhere; and the best way is to begin with the States that have their accounts ready for examination.

Now, if we intend ever to pay any accounts of this sort, I know of no such accounts that have been examined more thoroughly, not only by the State itself, but by the Federal authorities, than this claim of the State of Iowa. I understand from my friend from Kansas [Mr. CLARKE] that the accounts of his State have undergone examination by the State authorities. This being so, I suggest to him that his State is in exactly the proper position to ask for the appointment of a Federal commission to go over all that his State has done. When such a commission has made its report, throwing out the claims that it considers improper, and approving those that it considers proper, the claims of that State will be in the same position which the claims of the State of Iowa now occupy before Congress. But until there has been the report of a Federal commission upon the claims of the State of Kansas I cannot see the propriety of putting them in the same category with the claims of the State of Iowa.

Mr. CLARKE, of Kansas. An amendment contemplating such an examination and report is what I desire to offer to this bill.

Mr. GARFIELD. But it is not in place as applied to this bill. Let the gentleman get up a separate bill for the appointment of a commission. That is the proper thing for him to do for his State.

I now yield five minutes to the gentleman from Iowa, [Mr. ALLISON.]

Mr. ALLISON. Mr. Speaker, it seems to me that gentlemen misapprehend entirely the character of this claim. The State of Iowa does not stand here to-day asking, by this bill, the payment of the class of expenses referred to by the gentleman from New York, [Mr. WOOD.] Other States have already received from the General Government reimbursement for the same class of expenses for which the State of Iowa now asks remuneration.

Mr. WOOD. The gentleman will permit me to say that, so far as the city of New York is concerned, her disbursements were for equipments, outfits, provisions, and stores of troops. I am sure that the State of Iowa cannot present a more meritorious claim than that.

Mr. ALLISON. I do not know the character of that particular claim; but I do know that the State of Missouri received some seven million dollars from the Government of the United States upon claims for expenses of precisely the same character as those for which the State of Iowa now asks reimbursement—

claims for expenses in raising and supporting troops that were not regularly mustered into the service of the United States. The report in this case shows that two regiments, or parts of regiments, raised in the State of Iowa passed over into the State of Missouri and were actually engaged in suppressing the rebellion; although they were not mustered into the Federal service, and therefore could not receive pay from the War Department. A portion of another regiment was mustered into the service of the State and sent out to the border for the purpose of suppressing Indian hostilities.

The claim of the State of Iowa upon the General Government for reimbursement of these expenses is just as strong as the claims of the State of New York and the State of Pennsylvania in similar cases. I remember perfectly well that three years ago the State of Pennsylvania asked us to pay nearly one million dollars to reimburse that State for the payment of troops called into service for thirty days, but not formally mustered into the service of the United States.

Now that law we ask from the General Government in reference to this claim. It is not a general settlement with the State of Iowa of all the claims she has or may have against the General Government. It is only the adjustment of a particular class of claims, the same class of claims having been adjusted in reference to every other State of the Union that I am aware of. The States of Indiana and Ohio have received payment of the same kind of claims. All that the State of Iowa asks is that she shall be placed upon a par with the other States who have received pay for this kind of expenditures. If the State of Illinois has the same character of expenditures she ought to be paid. So, also, in reference to the State of New York.

Mr. WASHBURN, of Illinois. Let me ask my friend in regard to this class of expenditures. If the gentleman and the House will look at the special document I hold in my hand, Miscellaneous Document No. 110, they will perceive there is an item of \$109,000. For what? To defend the State against the rebels? No, sir; but for the northern border brigade.

Mr. PRICE. Precisely; and I wish to state that the rebels excited the Indians to insurrection and murder, and these troops repelled them.

Mr. WASHBURN, of Illinois. Does the gentleman come here and state that the State of Iowa had not patriotism enough to repel the Indians, but came here and asked Congress to protect them?

Mr. PRICE. They had patriotism and money enough, and now they ask the Government to refund them the money they expended.

Mr. ALLISON. That expenditure was incurred by the Governor of the State of Iowa, and it was made in the most economical manner. It was incurred for the purpose of suppressing Indian hostilities. Now, I wish to ask the gentleman from Illinois whether he proposes that Colorado, Dakota, and the other Territories upon our northwestern border, shall pay the expense of the Indian war now going on? If he does, then this claim ought not to be allowed. If the General Government shall pay that class of claims, why, then, shall the State of Iowa be excluded?

Mr. WASHBURN, of Illinois. I will answer the gentleman. As a Representative in Congress I do not intend to permit Colorado, Dakota, or Iowa, or any other State, to raise troops and make war at the expense of this Government.

The SPEAKER. The five minutes of the gentleman from Iowa have expired.

Mr. GARFIELD. I have promised to yield for five minutes to the gentleman from Tennessee. I do not know what he desires.

Mr. MULLINS. I desire to offer an amendment to the bill at the proper time, for the purpose of bringing before Congress the condition of the people of Tennessee. They stand, as far as merit is concerned, as much entitled to

receive pay as the State of Iowa, or any other people belonging to the continent of America. I mean so far as the loyal people of the State of Tennessee are concerned, for the other body of her people I am not here representing directly. My amendment goes upon the ground of the bill, as I understood it when it was first presented, that it was to reimburse the State or citizens of the State for any loss incurred growing out of the rebellion, and incurred for the purpose of suppressing it. And furthermore, we ask, if this shall be allowed to the State of Tennessee, that it shall be allowed upon the principles adopted by her Legislature at its last and present session. That legislation prevents any man who was disloyal to the Government, and who incurred loss directly himself or through others by his adherence to the rebellion, from being paid one cent. If such a one comes up to the commissioner authorized by law, by himself or through his friends, it is made a high crime and misdemeanor, for which he is indictable for perjury and liable to a fine of from \$100 to \$1,000, and imprisoned from one to twenty-one years for presenting his illicit claim. This commission has been appointed by law in Tennessee. It has taken proof of the claims of loyal men in pursuance of law. It has audited those claims. They lie in almost every county of the State. I propose that these claims shall be paid just as those of Iowa. They stand upon the same grounds.

And, while on this subject, I wish every man to understand me. I, for one, hold that every dollar expended by a loyal State ought to be reimbursed by the General Government. The Government ought not to refuse that to the men who have been loyal to it. If the loyal people be denied, then their cry will continue as did the cry from the ground of the blood of Abel against Cain. It will not slumber. And while I sue for the people of Tennessee, understand me, I stand up for the payment of every loyal subject of this country or of any foreign country whose means have been taken or used in the suppression of the rebellion. If he has been loyal to the stars and stripes he ought to be remunerated. I say it will not slumber. You cannot keep it down. The thunders of justice will break down your doors, and the people, in their majesty, will demand that justice shall be done.

I cannot see why any objection should be made. Even the State of Illinois, that makes such a noise about it here, [laughter,] I rejoice to know that her people are right. I want to know whether the Government ever suppressed the Brigham Youngs, who originally stopped there? Or whether, when they engaged in the Black Hawk war, the Government ever lifted them out of the mud and mire? I glory in your spunk, that you stood by the Treasury to pay your honest and just debts, as I believe you fully intended to do.

Mr. GARFIELD. I am delighted and instructed by my friend from Tennessee; but I think he will perceive that I cannot allow his amendment to be offered, precisely for the reason why I declined to allow a similar amendment to be offered by the gentleman from Kansas. I must ask the previous question on the bill and amendment, as the morning hour is almost up, but I will allow further discussion as soon as the previous question is seconded.

Mr. WOOD. I would inquire of the Chair whether, if the previous question is not seconded, it will not be in order to move to recommit the bill, with instructions to report a general bill comprehending all the claims of the States?

The SPEAKER. It will be.

Mr. PRUYN. I have a bill prepared which will cover that ground, and, I think, reconcile these views.

The question being put on seconding the previous question, there were—ayes 48, noes 70.

So the previous question was not seconded.

Mr. WOOD. I now move to recommit the bill with instructions to report a general bill comprehending the claims of all the States of a similar character.

Mr. WASHBURN, of Illinois. I hope the gentleman will permit me to amend the motion by sending the bill to the Committee on Appropriations.

Mr. WOOD. I will accept the modification to refer with instructions to that committee.

Mr. WASHBURN, of Illinois. Very well; I demand the previous question.

Mr. PRUYN. If the gentleman will allow me—

Mr. WASHBURN, of Illinois. I ask a separate vote on the motion.

Mr. WOOD. I insist on my original motion. I suppose the gentleman was satisfied with his amendment that I accepted?

Mr. PRUYN. If my colleague will allow me, I have prepared, while the discussion has been going on, an amendment to the general bill referred to by the gentleman from Illinois, which I think will cover this whole ground. I ask my colleague to accept an amendment, to recommit, with instructions to amend the act approved July 27, 1861, by adding thereto the following:

But if any such vouchers are not in the form ordinarily in use in the War Department, or do not strictly correspond with the regulations prescribed by or in pursuance of law, the amount of any such vouchers may be allowed and paid on such evidence that they are just and correct as may be satisfactory to the Secretary of the Treasury. This act, and the act hereby amended, shall apply to the city of New York, and to any costs, charges, and expenses incurred by it for any of the objects or purposes above mentioned.

Mr. WOOD. I accept the amendment of my colleague.

The SPEAKER. The morning hour has expired, and the bill goes over till the morning hour of to-morrow.

By unanimous consent the bill and amendments were ordered to be printed, together with the report of the committee.

Mr. SCHENCK. I move to proceed to the business on the Speaker's table.

ALLEGED ELECTION FRAUDS.

The SPEAKER, by unanimous consent, announced the appointment of the following select committee ordered by the House on alleged election frauds in New York:

Messrs. LAWRENCE of Ohio, DAWES of Massachusetts, BLAIR of Michigan, DICKEY of Pennsylvania, HOPKINS of Wisconsin, MARSHALL of Illinois, and HUBBARD of Connecticut.

COLUMBIAN INSTITUTION.

The SPEAKER, by unanimous consent, also laid before the House a report of the receipts and expenditures of the Columbian Institution for the Deaf and Dumb from June, 1857, to July 1, 1863; which was referred to the Committee on Appropriations, and ordered to be printed.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HAMLIN, one of its clerks, announced that that body had directed the return to the House, agreeably to its request, joint resolution of the House (H. R. No. 832) authorizing the appointment of examiners to examine and report upon the expediency of discontinuing the navy-yard at Charlestown, Massachusetts, and uniting the same with the yard at Kittery, Maine.

PENSION AND PATENT OFFICES.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting letters from the Commissioner of Pensions and the Commissioner of Patents relative to the need of greater accommodations for their respective offices, and recommending the purchase of a building suitable for the purpose contiguous to the Department; which was referred to the Committee on Appropriations, and ordered to be printed.

DISBURSEMENTS OF WAR DEPARTMENT.

The SPEAKER also laid before the House a communication from the Secretary of War, relative to the amounts disbursed by that Department from June 30, 1863, to June 30, 1866; which was referred to the Committee on the Expenditures of the War Department, and ordered to be printed.

TARIFF BILL.

Mr. SCHENCK. Before the vote is taken on the motion to go to business on the Speaker's table I desire to state that after consultation with the Committee of Ways and Means I propose to give notice that on the 6th of January I shall move to go into Committee of the Whole on the state of the Union on the first special order, which is the tariff bill. Considering that to-morrow is likely to be the only day for work this week, inasmuch as there are to be some announcements made on Thursday and Friday, and we shall hardly have a quorum on Saturday, it has been thought advisable not to make a motion to go into Committee of the Whole on the state of the Union on that special order at this time or before the holidays, and I therefore give this notice that all may be prepared. I will yield, however, to my colleague on the committee from Pennsylvania, [Mr. MOORHEAD,] who desires to make another motion.

Mr. MOORHEAD. The gentleman yields time for the purpose of moving to go into Committee of the Whole on the state of the Union on the tariff bill. The bill has been before the country for some time. It is printed, and it was before the House last session, and it was agreed upon that it would be the first thing in order in Committee of the Whole, and would be taken up whenever we could get into Committee of the Whole. I am satisfied the country expects us to act upon the bill, and I was in hopes we could pass it through before the holidays. I therefore make the motion that the House resolve itself into Committee of the Whole on the state of the Union.

Mr. SCHENCK. I am perfectly willing that the sense of the House shall be taken on that motion.

Mr. BROOKS. For the purpose of understanding this matter, with the consent of the gentleman from Ohio, let me ask the gentleman from Pennsylvania what bill he expects to bring up in Committee of the Whole; whether it be the short bill reported by the Committee of Ways and Means last session and now in Committee of the Whole, or whether it be the very long bill of which he had custody in the Committee of Ways and Means as a subcommittee?

Mr. MOORHEAD. I would inform the gentleman that my motion is to go into Committee of the Whole on the state of the Union. The short bill, as he styles it, is the bill that is pending in Committee of the Whole on the state of the Union, and of course we shall take up that bill. That is my motion, and that is my expectation.

Mr. BROOKS. Does the gentleman propose to take it up for action before the recess?

Mr. MOORHEAD. To take it up at once for debate and amendment.

Mr. BROOKS. I hope that will not be done. There are so many interests concerned in the tariff and connected with the tariff that while an announcement is very proper of what is intended to be done in regard to it after the holidays, it would be very improper, in the present unprepared state of the country, to take up the tariff bill now and act upon it without any consultation with our constituents, when those constituents have forgotten the bill and all the details of the bill.

The SPEAKER. The Chair will state the condition of the bill. The short tariff bill, as it is called, was referred to the Committee of the Whole on the state of the Union. When the House was last in Committee of the Whole, before the adjournment in July, upon motion of the gentleman from Pennsylvania, [Mr. MOORHEAD,] various bills anterior to it were laid aside one by one; the bill was finally reached, and the first paragraph was read for amendment. That is the condition of the bill.

The question was taken on Mr. MOORHEAD's motion; and there were—ayes 60, noes 54.

Mr. ALLISON called for tellers.

Tellers were ordered; and Messrs. MOORHEAD and BROOKS were appointed.

The House divided; and the tellers reported—ayes 77, noes 55.

Mr. ROSS demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 104, nays 69, not voting 48; as follows:

YEAS—Messrs. Ames, Arnell, James M. Ashley, Bailey, Banks, Beaman, Beatty, Benton, Bingham, Blaine, Blair, Boutwell, Bowen, Boyden, Boyer, Broomall, Buckley, Roderick B. Butler, Cake, Callis, Churchill, Reader W. Clarke, Cobb, Coburn, Corley, Covode, Dawes, Deweese, Dickey, Dixon, Dockery, Donnelly, Driggs, Eckley, Eia, Farnsworth, Ferriss, Ferry, Fields, French, Garfield, Getz, Halsey, Haughey, Heaton, Higby, Chester D. Hubbard, Halburd, Jones, Alexander H. Jones, Kelley, Ketcham, Kitcher, Koontz, Lash, George V. Lawrence, William Lawrence, Lincoln, Loughridge, Lynch, Mallory, Marvin, Maynard, McCarthy, McKee, Mercer, Miller, Moore, Moorhead, Morrill, Mullins, Myers, Newsham, Norris, O'Neill, Perham, Pettis, Platts, Poland, Price, Prince, Randall, Robertson, Seefeld, Selye, Smith, Spalding, Starkweather, Stevens, Sypher, Taylor, Trowbridge, Twichell, Upson, Burr Van Horn, Vidal, Elihu B. Washburn, Henry D. Washburn, William B. Washburn, Welker, Whittemore, John T. Wilson, Stephen F. Wilson, and Windom—104.

NAYS—Messrs. Adams, Allison, Anderson, Archer, Axtell, Baker, Barnes, Barnum, Beck, Bromwell, Brooks, Burr, Benjamin F. Butler, Cary, Chanler, Sidney Clarke, Cook, Culom, Eggleston, Glessbrenner, Golladay, Gravely, Grover, Holman, Hooper, Hopkins, Hotchkiss, Richard D. Hubbard, Humphreys, Hunter, Johnson, Thomas L. Jones, Judd, Julian, Kerr, Knott, Loan, Marshall, McCullough, Morrissey, Munroe, Newcomb, Niblack, Orth, Peters, Phelps, Pike, Pile, Prinn, Robinson, Ross, Schenck, Sitgreaves, Stewart, Stokes, Stone, Siover, Taber, Taffe, Tift, Lawrence S. Trimble, Van Aernum, Van Trump, Van Wyck, William Williams, James F. Wilson, Wood, Woodward, and Young—59.

NOT VOTING—Messrs. Delos K. Ashley, Baldwin, Benjamin, Blackburn, Boles, Buckland, Critt, Cornell, Dolano, Dodge, Edwards, Eldridge, Elliot, Fox, Goss, Gove, Griswold, Haight, Hamilton, Harding, Hawkins, Hill, Asahel W. Hubbard, Ingersoll, Kellogg, Kelsey, Lullin, Logan, McCormick, Nicholson, Nunn, Paine, Pierce, Pooley, Pomeroy, Raum, Root, Sawyer, Shanks, Shellabarger, Thomas, Jean Trimble, Van Auken, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Thomas Williams, and Woodbridge—48.

So the motion was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed the consideration of the House bill No. 1349, to increase the revenue from duties on imports, and tending to equalize exports and imports.

The following paragraph of the bill was under consideration:

That from and after the passage of this act, in lieu of the duties heretofore imposed by law on the articles hereinafter mentioned, there shall be levied, collected, and paid on the articles herein enumerated and provided for, imported from foreign countries, the following specified duties and rates of duty, to wit: say: on all copper imported in the form of ores, three cents on each pound of fine copper contained therein; on all regulus of copper, and on all black or coarse copper, four cents on each pound of fine copper contained therein; on all old copper fit only for remanufacture, four cents per pound; on all copper in plates, bars, ingots, pigs, and in other forms not manufactured or herein enumerated, five cents per pound.

The CHAIRMAN. The gentleman from New York [Mr. BROOKS] is entitled to the floor for the remainder of his hour, ten minutes of his time having been occupied by the gentleman from Maine [Mr. PIKE] when this bill was last under consideration.

Mr. BROOKS. Mr. Chairman, the gentleman from Pennsylvania [Mr. MOORHEAD] has been omnipotent in this House in arresting all other business, and securing a monopoly of legislation for his own State. No matter what may be the public necessities, no matter what great interests of the country press upon the attention of Congress, Pennsylvania appears here and demands instant attention to her own particular interests, as set forth in the bill now before this committee.

Now, I am not prepared at this time for this discussion. Not expecting the bill to come up to-day I have not here the material necessary for stating properly my views upon this subject, which I had collected at the time the session closed in July last. But if I am pressed to do it, I suppose I shall have to go on, as the gentleman from Pennsylvania, [Mr. MOORHEAD,] however courteous he may be in regard to other matters, is most certain to be discourteous in

regard to those particular matters in which Pennsylvania is interested.

Before I go any further, I would like to know if the Chair will sustain a point of order which I will raise. The honorable gentleman from Ohio [Mr. LAWRENCE] introduced yesterday a resolution, the seeming object of which was to oust six anti-tariff members of Congress from the city and suburbs of New York. The point I desire to make is, that the gentleman from Ohio, in collusion with the gentleman from Pennsylvania—I mean nothing offensive by that statement—is seeking to disfranchise the great city of New York and its people, and to drive out of this House six anti-tariff members. And I wish to proceed to discuss that question rather than the bill now before us; and to show that that ought not to be done, and cannot be done in the manner proposed by the honorable gentleman from Ohio, I submit to the decision of the Chair the question whether, under precedents established in this House, such latitude of discussion will be allowed in Committee of the Whole.

The CHAIRMAN. The Chair can make no ruling in advance. If any remarks submitted by the gentleman should be objected to by any member, as out of order, the Chair will then rule upon the question.

Mr. BROOKS. My impression is that in the Committee of the Whole I am justified by the practice in discussing almost anything. Therefore I proceed to say that "money is the root of all evil"—not an original remark, to be sure; but money is the root of the evil in the proposition of the honorable gentleman from Pennsylvania, [Mr. MOORHEAD,] and in the allied proposition of the honorable gentleman from Ohio, [Mr. LAWRENCE.]

Mr. MULLINS. I rise to correct the gentleman from New York. The proper quotation is, "the love of money is the root of all evil." [Laughter.]

Mr. BROOKS. Mr. Chairman, one of the great means of corrupting the public mind and of corrupting popular elections is money, and money is obtained by monopolies; and the monopoly of the tariff, giving bounties of thirty, forty, fifty, or one hundred per cent., is the most dangerous and mischievous of all monopolies. Underlying all the frauds and corruptions in elections is always money; and when I say that nearly or quite five hundred thousand dollars, as I think will be established by an investigation of this matter, was contributed by the Union League of the city of New York, in collusion with the Union League of the city of Philadelphia—these organizations being made up mainly of iron men and steel men, I mean steel, not steal, for the latter expression might be offensive—to corrupt the elections and to carry the State of Indiana and the State of Ohio, as well as the State of Pennsylvania, and more than all, to carry the naturally anti-tariff State of Maine, as well as other States, I utter a fact too well known to the people of New York and the people of the city of Philadelphia, where these contributions were made in immense sums. I have a partial list here before me which I could read at some length, but it is unnecessary.

But before I proceed to the discussion of that question, I wish to proclaim to the country that the grand jury of the city of New York has had under examination the subject of the corruptions practiced by these Union Leagues of Philadelphia and New York, and has prepared a paper subjecting to indictment some men whose names are among the most eminent in this country. Let me add further, that an honorable Senator from my own State, who has contributed immense sums of money to carry the State of New York, if not other States, introduced yesterday in the Senate a proposition corresponding with that of the honorable gentleman from Ohio, [Mr. LAWRENCE,] but not calling for the appointment of a committee. Yet that honorable Senator, when summoned before the grand jury of New York to appear and give testimony which would show the immense sums of money he

had contributed, twice refused to answer to the process of the court, and only escaped testifying by leaving the city, or by availing himself of his privilege as a member of Congress.

Mr. MYERS. I desire to ask the gentleman a question.

Mr. BROOKS. I prefer not to be interrupted.

Mr. MYERS. I would like to ask the gentleman whether the Senator to whom he refers is one of the three New York State senators who voted in Philadelphia last October?

Mr. BROOKS. Sir, another gentleman who has contributed immense sums of money to carry these elections is a prominent member of one of the largest dry-goods houses.

Mr. MYERS. I rise to a point of order.

Mr. BROOKS. Oh, I expected that I should be offensive to the State of Pennsylvania.

Mr. MYERS. I just now asked the gentleman from New York, who has been allowed a large latitude of discussion, whether the Senator—

Mr. RANDALL. That is not a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. MYERS. My point of order is that the gentleman from New York is not discussing the question before the committee. As the gentleman refuses to answer questions in relation to the matter that he is bringing before the House, I clearly have the right to confine him to the question.

The CHAIRMAN. The Chair does not find that this bill has been made a special order in committee, and therefore more latitude of debate is allowed than otherwise would be.

Mr. MOORHEAD. I think the Chair has not examined the record.

The CHAIRMAN. The Chair will be corrected; but on examination at the Clerk's desk he is so informed. His recollection is, that this bill was taken up by laying aside all the bills preceding it.

Mr. MOORHEAD. That was the case; but in reply to an inquiry I made of the Speaker before the House adjourned he said this was a special order in the Committee of the Whole on the state of the Union. It is proper, therefore, that the discussion should be confined to the bill. I do not wish to cut off discussion of the bill itself. I would be glad to have legitimate discussion; but when I find gentlemen are disposed to ramble into general politics, as my eloquent friend from New York has done, I shall insist that they shall be confined to the bill.

Mr. ELDRIDGE. The gentleman is stating no point of order.

The CHAIRMAN. The gentleman is stating his recollection of the record.

Mr. MOORHEAD. Let us have the record read.

The CHAIRMAN. The Chair is informed, from the Clerk's desk, there is no record that it is a special order, and the gentleman from New York will therefore proceed.

Mr. BROOKS. At the head of the committee of investigation of the Union League of New York appears the name of William E. Dodge, a gentleman well known upon this floor, who procured from Geoghegan a certain amount of testimony which took me off the floor of the House and installed him here as Representative of a district which subsequently sent me back by near six thousand majority, and sent me back again by a majority approximating twelve thousand.

The CHAIRMAN. The Chair is unable to see any pertinency in these remarks to what is before the committee.

Mr. BROOKS. I hope the courtesy of the House will indulge me at some future time. I did not expect to get further than an honorable Senator. I expected to be stopped here; but I have much richer testimony, which I hope, in the course of human events, to get before the House. The indictment of that grand jury will show some of the richest election developments of the country.

Mr. BROOKS then proceeded to discuss the tariff. [See Appendix.]

Mr. WOOD. I move that the committee rise.

The motion was agreed to.

So the committee rose; and Mr. WILSON, of Iowa, having taken the chair as Speaker *pro tempore*, Mr. DAWES reported that the Committee of the Whole on the state of the Union, having had under consideration the state of the Union generally, and particularly the bill (H. R. No. 1349) to increase the revenue from duties on imports and tending to equalize exports and imports, had come to no conclusion thereon.

Mr. MOORHEAD. I move that the House again resolve itself into the Committee of the Whole on the state of the Union on the bill (H. R. No. 1349); and, pending that motion, I move that debate on the pending paragraph be limited to one hour.

Mr. WOOD. I hope the gentleman will not press his motion at this time. There is important business before the House which should be disposed of to-day, as it is understood tomorrow will be the last day for business before the holidays.

The House divided; and there were—ayes 55, noes 66.

So the House refused to close debate.

Mr. MOORHEAD demanded the yeas and nays on the motion to go into committee.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 93, nays 64, not voting 64; as follows:

YEAS—Messrs. James M. Ashley, Bailey, Baldwin, Banks, Beaman, Benton, Bingham, Blaine, Blair, Boutwell, Boyden, Broomall, Buckland, Roderick R. Butler, Calkins, Churchill, Cobb, Corley, Covodo, Dawes, Dewesse, Dickey, Dixon, Dockery, Driggs, Eckley, Edwards, Ela, Ferriss, Ferry, French, Goss, Gove, Griswold, Halsey, Haughey, Heaton, Higby, Chester D. Hubbard, Hulburt, Hunter, Jeuckes, Alexander H. Jones, Kelley, Kellogg, Kelsey, Ketchum, Koontz, Lash, George V. Lawrence, William Lawrence, Loughridge, Lynch, Marvin, Maynard, McCarthy, Mercer, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newsham, Norris, O'Neill, Pettis, Plants, Poland, Price, Randall, Raum, Robertson, Scofield, Selye, Shanks, Spaulding, Starkweather, Stevens, Taylor, Tiowbridge, Twichell, Ward, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Whittemore, William Williams, John T. Wilson, Stephen F. Wilson, and Woodbridge—93.

NAYS—Messrs. Adams, Allison, Archer, Baker, Barnes, Barnum, Beatty, Beck, Benjamin, Boyer, Brooks, Burr, Cary, Chanler, Clitt, Cook, Culom, Donnelly, Eldridge, Getz, Glessbrenner, Goladay, Grover, Hawkins, Holman, Hooper, Hopkins, Hotchkiss, Richard D. Hubbard, Humphrey, Johnson, Thomas L. Jones, Judd, Julian, Kerr, Kitchen, Knott, Loan, Mallory, Marshall, McCormick, McCullough, Newcomb, Niblack, Orth, Perham, Phelps, Pike, Pile, Pruyn, Ross, Senecak, Sitgreaves, Stewart, Stone, Stover, Taber, Titt, Lawrence S. Trimble, Van Trump, James F. Wilson, Wood, Woodward, and Young—64.

NOT VOTING—Messrs. Ames, Anderson, Arnell, Delos R. Ashley, Axtell, Blackburn, Boies, Bowen, Bromwell, Buckland, Benjamin F. Butler, Reader W. Clarke, Sidney Clarke, Coburn, Cornell, Delano, Dodge, Eggleston, Eliot, Farnsworth, Fields, Fox, Garfield, Gravelly, Haight, Hamilton, Harding, Hill, Asabel W. Hubbard, Lugersoll, Ladin, Lincoln, Logan, McKee, Morrissey, Mungen, Nicholson, Numan, Paine, Peters, Pierce, Polesley, Pomroy, Prince, Robinson, Roots, Sawyer, Shellabarger, Smith, Stokes, Sypher, Taffe, Thomas, John Trimble, Upson, Van Aernam, Van Auker, Burt Van Horn, Robert T. Van Horn, Van Wyck, Vidal, Cadwalader C. Washburn, Thomas Williams, and Windom—64.

So the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed the consideration of the tariff bill.

The CHAIRMAN. The Globe discloses the fact that on the 13th of July last, when this bill was under consideration in the House, the debate was closed in two hours.

The first paragraph of the bill was read, as follows:

That from and after the passage of this act, in lieu of the duties heretofore imposed by law on the articles hereinafter mentioned, there shall be levied, collected, and paid on the articles herein enumerated and provided for, imported from foreign countries, the following specified duties and rates of duty, that is to say: on all copper imported in the form of ores, three cents on each pound of fine copper contained therein; on all regulus of copper, and on all black or coarse copper, four cents on each pound of fine copper contained therein; on all old copper fit only for remanufacture, four cents per pound; on all copper in plates, bars, ingots, pigs, and in other forms not manufactured or herein enumerated, five cents per pound.

No amendment being offered, the Clerk read the next paragraph, as follows:

On copper, in plates, sheets, rods, pipes, and copper bottoms, and all manufactures of copper, or of which copper shall be a component material of chief value, not otherwise herein provided for, forty-five per cent. *ad valorem*.

Mr. BUTLER, of Massachusetts. I move to insert, after the word "value," the words "blue vitriol or sulphate of copper." The committee will observe that upon "all manufactures of copper or of which copper shall be a component material of chief value, not otherwise herein provided," the tax is increased to forty-five per cent. *ad valorem*. Now, blue vitriol or sulphate of copper is composed, of course, of copper, and copper is its chief value. But it being provided for under the head of chemicals the duty has not been raised. The present tariff is twenty-five per cent. on that article. We have some manufacturers of it who are just able to live now, and if you raise the price of copper three or five cents per pound it simply wipes out these manufactures. Now, as you increase the tariff on copper you should also increase the tariff on the salts of copper, as the copper constitutes their chief value. I therefore move to insert these articles, so as to equalize the tariff on them.

The amendment was agreed to.

Mr. PIKE. I move to amend the paragraph by striking out forty-five and inserting twenty per cent. I submit to the committee that this mode of arranging a tariff bill is not fair to the various interests of the country. Now that the election has gone by it would seem to be a fit and appropriate time to arrange a tariff with reference to all the great interests of the country. But instead of that, to my very great surprise, I find that these small tariff bills, which were introduced at the last session apparently for the purpose of bridging over the election in various localities to which they would particularly apply, are brought in here apparently with the sanction of the Committee of Ways and Means as serious projects on which to arrange the business of this country. Now, I ask the committee, is it fair to the great interests of the country which use this copper to assess a higher tariff upon copper for the purpose of raising its price, so as to charge those who use it an additional amount? I am entirely willing that this House, upon a fair consideration, should take the great interests of the consumers and of the manufacturers of copper, and arrange them upon an equitable basis. I am entirely willing to take an interest that I represent in part, but only in part, upon this floor—the ship-building interest, which is a large consumer of copper; but I ask the committee to say whether it is prepared now to punish that interest by an additional assessment of twenty per cent. for the benefit of a producing interest in another section of the country? Is it fair thus to attack a large and valuable national interest like that of ship-building? I need not comment upon its large importance. We have had it and discussed it repeatedly on this floor; and the Secretary of the Treasury in every report for three years past has not failed to lament the decadence of the great ship-building interest of this country as a great national misfortune. It is the only great manufacturing interest in the whole length and breadth of the country that was cut down by the war, the other great interests being stimulated thereby into unusual activity, so that they came out prosperous at its close, and are to-day vastly richer in all quarters of the country than they were before the war. But here is an interest that is struck at by this provision under the sanction of the Committee of Ways and Means. I ask them if they have considered what is to be the effect upon the consumers of this article? Now, I am not prepared to say what amount of copper this ship-building interest consumes, but it was stated upon the floor of the Senate by a Senator from Michigan, in a discussion in the month of June last, that one half of the copper product of this country went into ship-

building. I am not prepared to say whether that statement is correct or not, but if it be correct then the proposition in the pending paragraph in this bill is to assess upon the consumers of copper in ship-building one half the enhanced price of copper in this country.

[Here the hammer fell.]

Mr. MAYNARD. I desire to say a word in reply to the gentleman from Maine, [Mr. PIKE.] It will be seen, by comparing the article of copper with various other articles, that the duty on copper is very much less than the general average on imported articles. The reason of that has been that the copper interest of this country, relying upon the supposed facility with which copper could be procured, especially from what I may call the native ores of Lake Superior, have not claimed that amount of protection which some other interests require. The duty at present is thirty-five per cent., and this bill proposes to raise it ten per cent. *ad valorem*. The copper interest in this country ought to supply all the metal that would be wanted for ship-building or for any other purpose. Not only the copper mines of Lake Superior, but those of Virginia, Tennessee, and California, are wrought and have demonstrated a capacity of being wrought with great success. The competition that they meet with is from the ore that is brought in in ballast from Chili and from Cuba, and mainly from these two points.

I will not go over with the gentleman from Maine [Mr. PIKE] the theory of protection, because, if he agrees with me, it is unnecessary, and if he does not agree with me it is equally unnecessary. I do not admit that the raising of the tariff so far as is necessary to keep alive and in active operation our own establishments here at home will raise the price of copper to the ship-builders of Maine or to the mechanics in any other part of the country, or in any kind of employment. This provision of the bill is predicated upon the necessity deemed to exist and ascertained, after careful examination, of this amount of protection against foreign ore to keep alive and in active operation the copper-producing interests of our own country.

[Here the hammer fell.]

The question was taken on Mr. PIKE's amendment; and it was disagreed to—ayes thirty-one, noes not counted.

Mr. PHELPS. I move to add to the paragraph the following:

Provided, That if any person, corporation, company, or partnership engaged in the business of smelting copper ores shall import any foreign copper ores into the United States, and shall, in making such importation, file with the collector of the port into which such copper ores were imported a bond with security, to be approved by the collector of said port into which said ores are imported, to use two tons of copper ores mined in the United States to one ton of said imported ores in the smelting of copper, such person, corporation, company, or partnership shall be entitled to a drawback upon the foreign copper ores so imported to the extent of the duty paid thereon: *Provided*, Said person, corporation, company, or partnership shall furnish evidence, under regulations to be established by the Secretary of the Treasury, that he, it, or they has or have used said copper ores so imported, and also copper ores mined in the United States in his, its, or their business in the proportion of two tons of copper ores mined in the United States to one ton of imported copper ores.

Mr. Chairman, the committee will bear in mind that the paragraph which stands as the first paragraph of this bill has already, so far as the action of this House is concerned, become a law. It was taken out from the general bill and made a separate bill by itself, and in that form was passed. It will be further recollected that under the circumstances under which that bill was introduced, and under the pressure of the previous question was hurried to its passage, no opportunity was given to introduce this amendment or any other. It is absolutely indispensable for the proper protection of the domestic mining of copper as well as the domestic smelting companies that this proviso should accompany the increased tariff on copper ores. It is not, as might be supposed by many at first sight, and as all who are unacquainted with the subject are apt to imagine, a measure simply for the protection of domes-

tic miners against foreign ones. There is but one copper mining interest in this country that is so protected, and that is the Lake Superior mining interest. An extravagant bounty is given to that interest at the expense of all the other copper mining interests of the country, which are very largely represented in Vermont, in New Jersey, in Maryland, and in California. It is indispensable, for the proper manipulation of the copper ores produced in those States and in other States, that a certain proportion of Chilean and Cuban ores under the name of carbonates should be used in the process of smelting. Without the infusion of those carbonates the reduction of the native ores or sulphurets is an expensive, complicated, and tedious process, and would not justify the cost. But with the introduction of these foreign carbonates, in the proportion of one ton of the foreign ores to two tons of the domestic, the process is materially simplified. Indeed, without them it is impossible to sustain the smelting or the mining interests of the seaboard States. We therefore protest against this special legislation in favor of one branch of the great copper mining interests of this country to the detriment and probable ruin of other branches of the same interests. We protest against the raising of the tariff on copper ores, which are indispensably necessary as admixtures for the proper working of domestic ores, unless it be accompanied by the enactment of a provision such as that which I have sent to the Chair, and which, in the shape of a drawback on those ores used in the domestic manufacture, will give that amount of bounty on the domestic mines necessary to compensate them for the disadvantage which the States I have referred to will suffer by this competing monopoly of Lake Superior.

I regret that the separation of this paragraph relating to copper ores from the balance of the bill, and its passage as a separate bill under the operation of the previous question, without any opportunity for amendment, has made it necessary to offer this amendment by way of proviso to this bill. But, regarding the tariff as substantially raised upon copper ores, so far as the action of this House is concerned, I think it is well that this House should act upon the matter in the shape I have presented.

Mr. KELLEY. I desire to state to the gentleman from New York [Mr. Brooks] that Pennsylvania has no special copper interest to subserve. But, in connection with what has been said by the gentleman from Maryland, [Mr. PHELPS,] I want to make the suggestion that the changes proposed by this bill are just what are required by the interests which he says he deems this bill a blow at. The Lake Superior interests are suffering, as my friend from Michigan [Mr. DRIGGS] will tell you. But there are other copper interests in the country which require development, and which, if developed, will give ores, the equivalent of the foreign copper ores which are now required to be mixed with those from Lake Superior. Virginia has no voice upon this floor, or she would appeal to Congress for the development of her copper regions. Tennessee abounds as richly as Michigan in copper; those ores are diffused all over the eastern part of the State. Yet there is not protection enough in the tariff to develop them. Alabama has varieties of copper ores. Yet there is not capital enough there or inducement enough in our tariff to lead capital enough there to develop them. Our tariff, as it now stands, increases the price of copper, because there is not sufficient development of our native resources in that respect. Pass this bill, and the capital and energy of the North will go into Virginia, the capital which is already in Tennessee will be brought into play, and the copper of Alabama will rival all the other copper of the country in the market. We will have from our own mines every variety of ores we need for making the admixture referred to by the gentleman from Maryland. I hope, therefore, that if we do not adopt this provision, we will, in the interest of other industries, take

off that which, while it is a tax, affords no protection to the capital invested in copper mining and no stimulant to the development of our widely diversified copper regions.

The CHAIRMAN. Debate is exhausted on the amendment.

Mr. DRIGGS. I move to amend the amendment by striking out the last two lines. First, in reply to my friend from the State of Maine, [Mr. PIKE,] who asks whether it is fair to give further protection to copper to the detriment of the shipping interests of his State, allow me to say that it is fair that copper, which now has only from five to seven per cent. protection, should have a protection somewhat in keeping with that afforded to other articles.

Mr. PIKE. It now has a protection of thirty-five per cent.

Mr. DRIGGS. The article has now not over seven per cent., the article being worth in the market about twenty-three cents per pound, and the present tariff being three cents per pound.

Mr. PIKE. That is the tariff on the ore.

Mr. DRIGGS. I know of what I am speaking. I mean the pure copper in the ore. The duty is now but three or four cents per pound, and all we ask in this bill is a duty of five cents. This bill proposes to impose a specific duty of five cents per pound on pure copper contained in the ore. The article is worth in the market about twenty-three cents per pound.

I desire to state to the House, and members may rely upon the correctness of my information on this point, that of about one hundred mines in the Lake Superior region there are only about eleven now being worked; and the reason is that they have to pay on the iron and steel that they use in their drills and other machinery about fifty per cent., while the duty on copper is only about seven per cent. I should like to know how gentlemen can pretend that there is anything fair in such a discrimination against an important American interest. We ask a duty of only about twenty-two per cent. We are in favor of duties upon other articles requiring protection, but we do not think there is any justice in the present low duty on copper, nor does this House think so, judging by the vote the other day on the special bill upon this subject.

My friend from Maryland [Mr. PHELPS] feels an interest in the smelting works at Baltimore, and it is proper enough that he should defend the interests of his constituency; but I would say to him that if that particular branch of industry cannot live without crushing important American interests the persons concerned in it had better find some other business. The gentleman desires that a drawback shall be allowed upon every ton of imported copper mixed with two tons of American ore, thus practically bringing in the foreign copper free. Of the twelve thousand tons consumed in 1865 but three thousand were imported, the Lake Superior region producing nearly nine thousand tons. With the small protection now proposed—only about one half that given to many other articles of American production—the Lake Superior mines can produce all the copper that is needed in the country, saying nothing about the production in other States, of which my friend from Pennsylvania [Mr. KELLEY] has spoken. My friend from New Mexico [Mr. CLEVER] represents a district of country rivaling the Lake Superior region in reference to the production of this metal. Hence, the duty proposed in this bill is for the protection, not of the Lake Superior region alone, but of the copper interest throughout the United States. This bill, going further than the measure already passed, proposes to give protection to manufactured copper. We have no objection to that or to any other just provision of the bill.

I desire to make a single additional remark, that the copper of South America is produced very cheaply by peon labor, and should not be permitted to come into ruinous competition with that produced by the free labor of this country.

Mr. TWICHELL. I offer as a substitute for the pending amendment the following:

Add at the end of the paragraph these words: *Provided, That copper used in the manufacture of vessels shall be admitted free of duty.*

I trust that this amendment will be satisfactory to the Representatives from Michigan as well as those from Maine.

Mr. ALLISON. Mr. Chairman, I rise to oppose the amendment just offered, and in doing so I wish to make a few general remarks upon the subject of copper.

The Committee of Ways and Means found considerable difficulty in adjusting this question so as to please at the same time the Michigan copper miners and the manufacturers of copper in the East; but I am very clear in my recollection that when the question was before the committee last summer it was shown that the increase of the duty on copper ore, as provided for in this bill, would not affect in any way the manufacturer of copper. In other words, it was shown before the committee that there was no manufactured copper imported into this country; that those gentlemen in Baltimore and in other sections of the Union who manufacture copper have an entire monopoly of this business.

Now, the proposition is to increase the duty upon the manufactured copper ten per cent. *ad valorem*, and they offer as an excuse for that that we have increased the duty upon copper ore. I submit, Mr. Chairman, that this increase of duty, even if the first paragraph of this bill is permitted to become law, will not have the effect in any way to retard the manufacturers of copper in this country, for they have now absolutely the monopoly of this manufacture. The only effect of this will be to vote this much more into the pockets of the men who manufacture copper, and to take this much out of the pockets of the men who consume copper in ship-building or any other business. I maintain, sir, there is no necessity for this increase of duty upon the manufactured article. Certainly we have heard no good reason urged for it so far in this debate.

Now, with reference to the drawback on copper used in ship-building, I know of no reason why a shipbuilder should have drawback any more than any consumers of copper in my country in the shape of copper wire and copper coil. That is all I have to say on that point.

One word more in reference to the general subject of this bill. I regret that this tariff bill has been brought before us prematurely rather than have followed the suggestion of the chairman of the Committee of Ways and Means, that the whole subject should be postponed until the 6th of January next, when the report of the Secretary of the Treasury could be examined by the House. Then we might have had an opportunity of devising anew this bill, increasing duties upon articles not embraced in this bill, and reducing them upon articles which now have too much.

Mr. TWICHELL's amendment to the amendment was rejected.

Mr. MAYNARD. I move to amend the amendment of the gentleman from Maryland by striking out the last two lines.

Mr. Chairman, the amendment of the gentleman from Maryland is substantially to allow smelters to import duty free one ton of foreign copper ore on condition that they use two tons of native ore in connection with it. I see no necessity for such a provision, for we have sufficient native ore for all smelting purposes. The argument is made that it is necessary to have some part of foreign ore as a flux for the native ore. That is sufficiently answered by the smelting operations in my own State and in my own district. There the ore is smelted, and smelted successfully, using the native ore alone. It is successfully carried on there, and can be everywhere else without the importation of foreign ore. The introduction of copper ore from Cuba and Chili only serves to come into competition with the production of our own mines. I trust, therefore, the amendment of the gentleman from Maryland will not

be adopted, as it is in direct contravention of the principle of this bill, which is to develop our material resources. We should not encourage the principle contemplated by this amendment of bringing in copper free of duty from foreign ports.

Mr. PHELPS. Is it not the fact that this amendment, by admitting one ton of copper ore from abroad free of duty on condition of its being used with two tons of native copper ore will stimulate the production of native ore?

Mr. MAYNARD. I do not so understand it. The proper encouragement to the domestic mines would be to have the three tons of native ore and not one of foreign to two of native ore. I withdraw my amendment to the amendment.

Mr. PIKE. I renew the amendment for the purpose of making a single remark. The gentleman from Tennessee, in reply to the gentleman from Iowa, indicated that the raising of the tariff would not have the effect to raise the price now. The manufacturers of copper come before the Committee of Ways and Means and solicit an additional percentage of ten per cent. to be put in this bill; still they do not propose it for the purpose of raising the tariff on manufactured copper! Can the gentleman tell me what the object is of protecting the manufacturers of copper? They come to the House and solicit additional percentage, and still the gentleman from Tennessee says to the gentleman from Iowa it has not the effect of raising the price! Why, what do these manufacturers of copper want? Do they want a diminished price? If they do, that is something within their own power without any act of Congress.

Mr. MAYNARD. I think the gentleman misapprehended the point of my colleague on the committee. He was not stating a principle of political economy, but giving out what he supposed to be the fact, in which, however, I do not coincide with him, that all the manufactured copper used in this country was the home product.

Mr. ALLISON. I will only say I had before me the report of the Secretary of the Treasury showing that we do not import any manufactured copper.

Mr. PIKE. I do not wish to discuss political economy, but I certainly understood the gentleman from Tennessee to say that raising the duty would not raise the price. And that view was enforced by the impressive manner and exceedingly eloquent sentences of the gentleman from Pennsylvania, [Mr. KELLEY,] who insisted that the effect of an increased tariff is not to enhance prices. The consumers of iron and copper are told that by increasing the tariff they do not thereby have to pay an increased price for those articles. Now, sir, I have been something of a tariff man in my day, and I am to-day a tariff man, and I vote for a tariff for the purpose of increasing the price. I supposed that was one object of the tariff. I see one of the leading manufacturers of Pennsylvania, [Mr. MORRELL,] giving me his attention. I think he agrees with me that we want an additional tariff on iron for the purpose of increasing the price. He either wants it for one purpose or the other—for the purpose of increasing the price or diminishing it. If he wants it for the purpose of diminishing it, I suggest to him that he does not need our assistance. He can diminish the price any day by the tariff of prices. I withdraw the amendment to the amendment.

Mr. SPALDING. I move to amend the amendment by striking out the proviso and inserting in lieu thereof the following:

Provided, That copper in any form, used in ship-building, and actually imported into the United States for that purpose, shall be entitled to a drawback of twenty per cent. ad valorem.

I am in favor of protecting the copper interest, but I do not wish to discourage ship-building. I think this is a fair proposition for a compromise between those two interests. It still leaves upon imported copper sheeting a duty of twenty-five per cent. If they do import it for the purpose of using it in ship-building

let them have a drawback of twenty per cent. which will leave the duty twenty-five per cent. to be paid. I think that ought to satisfy both interests.

Mr. DRIGGS. Will the gentleman yield for a question?

Mr. SPALDING. It is getting rather late, and I want a vote on my amendment.

Mr. DRIGGS. I wish to ask the gentleman if that will not be a drawback for about all the duty imposed by this bill, which is about twenty-two per cent.?

Mr. SPALDING. No, sir; it is forty-five per cent. *ad valorem*, and my amendment leaves it twenty-five per cent.

Mr. KELLEY. There is much said about oppressing the shipping interest by the protection given to the copper interest. I want to say that if the shipping interest of the country will give to the owners of the copper fields the same monopoly which the ship-owners now have without any tariff they will be satisfied. The law secures to American shipping a monopoly, not by a prohibitory tariff, but an absolute monopoly of the coasting trade and river trade of the country. It is greater than all the foreign commerce of the world. There never was such a monopoly. I approve it, and I am willing to go further. I am willing, as the gentleman from Maine knows, to remove all tonnage duties from our internal trade, and stimulate and develop by every means our internal commerce.

Mr. PIKE. Will the gentleman allow a question?

Mr. KELLEY. I have but five minutes, as you said to other gentlemen who interrupted you. Do not let that interest which is protected by the most absolute and grandest monopoly the United States Government ever conceded to any interest come here and cry out against the copper interest of Lake Superior, Virginia, North Carolina, Alabama, and Tennessee, and ask to crush them all.

Mr. PIKE. The gentleman is astray in his figures.

The CHAIRMAN. Debate on the amendment to the amendment is exhausted.

The question being put on the amendment of Mr. SPALDING, there were—ayes 26, noes 41; no quorum voting.

Mr. ELDRIDGE. I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAVES reported that the Committee of the Whole on the state of the Union had had the state of the Union generally under consideration, and particularly the bill (H. R. No. 1349) to increase the revenue from duties on imports and tending to equalize exports and imports, and had come to no conclusion thereon.

And then, on motion of Mr. ALLISON, (at three o'clock and fifty-seven minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rules, and referred to the appropriate committees:

By Mr. BLAIR: The petition of Charles Ford and others, manufacturers and dealers in tobacco, citizens of the third congressional district of Michigan, for the repeal of parts of sections seventy-eight and ninety-four of the act imposing taxes on distilled spirits and tobacco, and for other purposes, approved July 20, 1868.

Also, the petition of Henry O. Arnold and others, to the same effect.

By Mr. BUTLER, of Massachusetts: The petition of W. T. Richards, receiver of Christy, Connell & Co., for pay for paving done in front of the custom-house at New Orleans, Louisiana, in 1860.

Also, the petition of John Coleman, of John Coleman & Co., for pay for paving done in front of the mint, at New Orleans, Louisiana, in 1860.

By Mr. DONNELLY: The petitions of citizens of Lake City and Red Wing, Minnesota, asking for certain amendments to the act in reference to distilled spirits and tobacco, approved July 20, 1868, by repealing parts of sections seventy-eight and ninety-four of the same.

By Mr. FERRY: The petition of Edward Mohl & Co. and 36 others, of Michigan, praying for the repeal of so much of sections seventy-eight and ninety-four of an act entitled "An act imposing taxes on distilled spirits and tobacco, and for other purposes," approved July 20, 1868, in the words expressed in the petition.

By Mr. GETZ: A petition from tobacco and cigar manufacturers of the city of Reading, Pennsylvania, asking for the repeal of parts of sections seventy-eight and ninety-four of the act approved July 20, 1868, relative to the tax on tobacco and cigars.

By Mr. HUBBARD, of West Virginia: The petition of B. Stanton and others, members of the bar, practicing in the circuit court of the United States for the district of West Virginia, asking the passage of a law requiring said court to be held in the city of Wheeling.

By Mr. HIGBY: The petition and accompanying papers of Green & Trainer, asking pay of Congress for beef furnished to the Army.

By Mr. MCCARTHY: A letter of George Hall, in behalf of the claim of Thankful Sheffield, for arrears of pension.

By Mr. MILLER: The petition of Joseph Stockbridge, late of company K, one hundred and fifty-second regiment New York volunteers, for a pension.

Also, the petition of Flora D. McKay, widow of John McKay, deceased, late a private in company G, seventy-fourth New York volunteers, for a pension.

Also, the petition of Christian Miller, late of company D, one hundred and twentieth regiment New York volunteers, for a pension.

Also, the petition of Catharine Smith, widow of Thomas Smith, deceased, late of company B, thirteenth regiment New York cavalry, for a pension.

Also, the petition of Lavina Snow, mother of George W. Snow, deceased, late of company A, fourteenth regiment New York volunteers, for a pension.

Also, the petition of Mary Ann Boland, widow of Peter Boland, deceased, late of company F, fifth regiment New York artillery, for a pension.

Also, the petition of Barbara Deitrick, widow of George Deitrick, deceased, late of battery B, first New York artillery battalion, for a pension.

Also, the petition of Jeremiah Cole, late of company A, one hundred and fifty-second regiment New York volunteers, for a pension.

Also, the petition of Eighart Dieffenbocker, late of company K, one hundred and fifty-second regiment New York volunteers, for a pension.

Also, the petition of William M. Hillman, late of company K, twenty-fourth regiment Indiana volunteers, for a pension.

Also, the petition of Noah H. Hutton, late of company C, eighth regiment Indiana volunteers, for a pension.

Also, the petition of Phineas G. Pearson, a private in company C, second regiment Ohio volunteers, during the Mexican war, for an artificial limb.

Also, the petition of Phineas G. Pearson, a private in company C, second regiment Ohio volunteers, during the Mexican war, for back pension.

Also, the petition of Andrew Terhune, late of company D, seventeenth regiment Indiana volunteers, for arrears of pension.

Also, the petition of Willis Floyd, late of company F, tenth regiment Indiana volunteers, for arrears of pension.

Also, the petition of John Clark, late of company H, second regiment Kansas volunteers, for arrears of pension.

Also, the petition of Mary Carr, mother of Richard H. Higgins, deceased, late of com-

pany I, thirty-third regiment Indiana volunteers, for arrears of pension.

By Mr. PAINE: The petition of G. Vandenburg, for compensation for property used by the United States.

By Mr. RANDALL: The petition of letter-carriers of the Philadelphia post office, asking for an increase of salary.

By Mr. STOKES: The petition of Charles A. Frazer, late judge of the sixth judicial district of Texas, asking to be relieved of his political disability.

Also, the petition of Dr. L. Russell and Mary L. House Russell, praying compensation for property used and injured by the Army.

By Mr. UPSON: The petition of O. B. Tucker & Co. and 26 others, citizens of Three Rivers, Michigan, praying Congress to repeal certain sections of the internal revenue law in regard to taxes and stamps on tobacco.

Also, the petition of Bassett, Bates & Co. and 42 others, citizens of Kalamazoo, Michigan, praying for the repeal of certain sections of the internal revenue law in regard to the tax upon tobacco.

IN SENATE.

WEDNESDAY, December 16, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

Hon. J. C. ABBOTT, of North Carolina, appeared in his seat to-day.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Interior, communicating, in compliance with a resolution of the Senate of the 14th instant, the report of Jesse L. Williams, esq., Government director of the Union Pacific railroad, on the condition of that railroad; which, on motion of Mr. CONNESS, was referred to the Committee on the Pacific Railroad.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a memorial of the Universal Peace Union, praying the adoption of humane measures in the treatment of the Indians; which was referred to the Committee on Indian Affairs.

Mr. WARNER presented a petition of nineteen members of the Alabama Legislature, praying for the establishment of a land office at Gadsden, Alabama; which was referred to the Committee on Public Lands.

Mr. POMEROY presented the petition of citizens of Indiana, praying that in any amendment of the Constitution to extend or regulate suffrage there be no distinction between men and women; which was referred to the Committee on the Judiciary.

Mr. ROSS presented a petition of citizens of Council Grove, Kansas, praying to be indemnified for loss of property by depredations of Indians; which was referred to the Committee on Indian Affairs.

REPORTS OF COMMITTEES.

Mr. ANTHONY, from the Committee on Printing, to whom was referred a resolution to print fifteen hundred additional copies of the report of the Columbian Institution for the Deaf and Dumb for the use of the institution, reported it without amendment; and the resolution was considered and agreed to, as follows:

Resolved, That the Superintendent of Public Printing be, and he is hereby, authorized to print fifteen hundred copies of the report of the Columbian Institution for the Deaf and Dumb, with its appendix, for the use of the institution.

Mr. SHERMAN, from the Committee on Finance, to whom was referred the bill (H. R. No. 1460) regulating the duties on imported copper and copper ores, reported it without amendment.

PAYMENT OF FIVE-TWENTY BONDS—SPECIE.

Mr. SHERMAN. I am directed by the Committee on Finance to report a resolution, which I send to the desk to be read.

The resolution was read, as follows :

Resolved by the Senate. That neither public policy nor the good faith of the nation will allow the redemption of the five-twenty bonds until the United States shall perform its primary duty of paying its notes in coin or making them equivalent thereto; and measures should be adopted by Congress to secure the resumption of specie payments at as early a period as practicable.

Mr. SHERMAN. I am also directed by the same committee to report back Senate joint resolution No. 66, pledging the faith of the United States for the payment of the public debt in coin or its equivalent, introduced at the first session of the present Congress and referred to the committee, with a recommendation that it lie on the table, as the view of the committee is embraced in the resolution already reported.

The PRESIDENT *pro tempore*. The joint resolution will lie on the table if there be no objection.

Mr. POMEROY. Do the committee recommend the passage of the resolution first read?

Mr. SHERMAN. Yes, sir; and I should like to have the resolution passed now if the Senate is ready for it; but I supposed it was a subject that would excite debate, and therefore I simply reported it that it might take its place on the Calendar.

Mr. POMEROY. I thought the Senator moved that it lie on the table, and I did not understand the meaning of that.

Mr. SHERMAN. It goes on the Calendar to take its place, and I will call it up at the first moment I can do so, to get the sense of the Senate on it.

The PRESIDENT *pro tempore*. It is a report of a committee not acted on when made, and of course takes its place on the Calendar.

MONUMENT TO GENERAL KEARNY.

Mr. WILSON. The Committee on Military Affairs, to whom was referred the joint resolution (H. R. No. 375) donating condemned cannon for the erection of a monument to Major General Kearny, have instructed me to report it back and recommend its passage. I ask that the resolution be put on its passage at this time. I am sure there will be no objection to it.

By unanimous consent the joint resolution was considered as in Committee of the Whole. It is an authorization to the Secretary of War to furnish such condemned iron cannon as may be required, not exceeding four, for the completion of a monument at Tivoli, New York, over the remains of the late Major General Philip Kearny and other Union soldiers buried at that place, who lost their lives in the late war.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

DISCHARGE OF CRIMINALS IN VIRGINIA.

Mr. WILLIAMS. I offer the following resolution, and ask for its present consideration:

Resolved. That the Committee on the Judiciary be instructed to inquire into the necessity and practicability of some immediate legislation to prevent the discharge of persons convicted of crime from imprisonment by the extraordinary decisions of the United States district judge of Virginia.

No objection being made, the Senate proceeded to the consideration of the resolution.

Mr. FERRY. I suggest to the Senator that he had better strike out the word "extraordinary."

Mr. WILLIAMS. No, sir; I think it might be made stronger.

Mr. FERRY. I move, then, that the word "extraordinary" be stricken out. I have no objection to this inquiry, but I think an imputation ought not to be cast upon the judge in this manner.

Mr. WILLIAMS. I am not very particular as to the phraseology of the resolution; but it seems to me that the word "extraordinary" is not misplaced, and that the decisions referred to might be characterized in stronger terms without any violation of propriety or right. I have read some of those decisions, and they

proceed upon the ground that a person convicted before a judge who is not properly qualified may be discharged from the judgment of conviction, because the proceedings are void, which is entirely in conflict with all decisions that I have ever read or heard of upon the subject. I have always understood that the proceedings before a judge *de facto*, if he was not properly qualified, were valid as between the litigants, particularly when they are collaterally assailed.

Now, in this matter, so far as the conviction of persons in Virginia is concerned, it is alleged that the judges who are holding the offices there, some of them, if not all of them, are not qualified according to the fourteenth amendment of the Constitution; that is, they have not taken some oath or that they do not possess some qualification prescribed by that amendment, notwithstanding they are judges *de facto* and have been acting as judges, and some hundreds of persons, I believe, have been convicted of crime in the courts held by them. If the decision of the United States district judge is sustained the prison doors of that State or Territory, whatever it may be, are to be opened and all prisoners convicted before these *de facto* judges are to be discharged. I have never heard of any precedent for any such proceedings; and therefore I characterize them as extraordinary, because they are extraordinary. They are unexampled, as I understand, and without any parallel in the history of jurisprudence; and I do not think that it is any disrespect to the judge to so describe them. It would not be quite proper, it seems to me, to ask the Committee on the Judiciary to inquire into an ordinary decision by a judge. The decision must be extraordinary or something unusual in order to elicit attention from the committee.

Mr. FERRY. I know but little regarding those decisions which have been made by the district judge in Virginia, and for that very reason I am unwilling to vote for a resolution containing language which every person will understand to cast some reflection upon the character of those decisions. The resolution is an instruction to the Committee on the Judiciary to make an inquiry as to the necessity of legislation growing out of certain decisions of one of the Federal courts. Now, the ordinary decisions of the Federal courts frequently require legislation, and it might in the case of the most correct judicial decisions be necessary to enact laws the necessity of which, previous to such decisions, had not been understood. But this resolution in its present phraseology does cast a reflection upon the decisions of one of the Federal courts. I do not know whether those decisions deserve that reflection or not; and because I do not know whether they deserve it or not I am unwilling to vote that such a reflection shall be incorporated in a common resolution of inquiry.

Mr. HOWARD. I ask for the reading of the resolution.

The Chief Clerk again read the resolution.

Mr. HOWARD. I would inquire what there is "extraordinary" in the decisions of the honorable judge referred to in that resolution? I really do not know; I am ignorant of it; and before I can vote for such a resolution as that I should be very glad to be informed what has been the nature of the decisions of which the resolution impliedly complains. What is the difficulty about them? In what sense are they extraordinary?

Mr. WILLIAMS. I am not very particular about the phraseology, as I said before. I will state to the Senate the decisions that are made by the United States district judge of Virginia, as I understand them. He holds that all judicial proceedings for the correction of persons accused of crime before the courts of Virginia are void, for the reason that the judges are not qualified to hold office according to the fourteenth amendment of the Constitution; that because a judge is not, as he holds, *de jure* a judge, his proceedings as a *de facto* judge are null and void in criminal cases. Where persons have been tried in the usual manner before a

court and jury and convicted, and sentenced to imprisonment or to be hung, he holds upon *habeas corpus* sued out by such persons that they ought to be discharged, and that he ought to treat all the proceedings before those courts as utterly void, and in effect open the prison doors of Virginia and discharge all persons confined for the punishment of crime. That is the purport of the decisions.

Mr. HOWARD. The statement of the honorable member from Oregon presents a very grave question, one which relates to the validity of the fourteenth amendment of the Constitution; as I apprehend, a question upon which certainly gentlemen may very naturally differ. I would therefore suggest to the honorable Senator that he strike out of his resolution the words which seem to convey a reflection upon Judge Underwood, for I believe that is his name, and simply frame it so as to require the committee to make an inquiry into the facts and the law of the case.

Mr. WILLIAMS. I am willing to accede to the request of the honorable Senator; but I do not acquiesce in the statement that the word "extraordinary" does cast any reflection upon the United States district judge of Virginia, or that the validity of the fourteenth amendment is involved. I supposed it was necessary to express some reason why the Committee on the Judiciary should be required to review the decisions of a United States district judge, for there would be little propriety in such a resolution if the decisions were of an ordinary character and description. But as it seems to be the desire of Senators that the word "extraordinary" should be removed from the resolution, I consent to its amendment in that respect.

The PRESIDENT *pro tempore*. The resolution will be so modified if there be no objection. No objection being made, the word "extraordinary" will be stricken out. The question is upon the resolution as modified.

The resolution was agreed to.

PAY OF SOUTHERN SENATORS.

Mr. MORTON. I offer the following resolution, and ask for its present consideration:

Resolved. That the Secretary of the Senate be directed to pay to Senators from the States of North Carolina, South Carolina, Florida, Alabama, Arkansas, and Louisiana the compensation allowed by law, to be computed from the commencement of the Fortieth Congress.

I simply desire to say that this resolution is in the language of the report originally made by the Committee on the Judiciary; and I understand further that it is in consonance with the practice of the Senate for many years. I would add that if it is in consonance with the practice of the Senate there are peculiar reasons why it should be applied in these cases. I ask for the present consideration of the resolution.

Mr. FERRY. I object to its present consideration.

The PRESIDENT *pro tempore*. The consideration of the resolution being objected to, it must go over under the rule.

Mr. FERRY subsequently said: I move to take up the resolution offered by the Senator from Indiana, to the consideration of which I objected this morning, regarding the pay of the Senators from the southern States, for the purpose of moving its reference to the Committee on the Judiciary. I have consulted the Senator from Indiana, and he assents to the reference.

No objection being made, the resolution was taken up, and referred to the Committee on the Judiciary.

BILLS INTRODUCED.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 188) explanatory of the act to create an additional land office in the State of Minnesota, approved July, 1868; which was read twice by its title.

Mr. RAMSEY. I should be glad to have the Senate proceed to the immediate consideration of that joint resolution. It simply re-

moves an ambiguity in a bill we passed at the close of the last session, and it is very important that it should be passed. The chairman of the Committee on Public Lands has examined it, and is satisfied.

Mr. EDMUNDS. I think it had better go over.

The PRESIDENT *pro tempore*. Objection being made, the bill goes over under the rule.

Mr. OSBORN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 694) to relieve sundry citizens of Florida from disabilities; which was read twice by its title, and ordered to lie on the table and be printed.

Mr. COLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 695) to provide a temporary government for the territory of Alaska; which was read twice by its title, referred to the Committee on Territories, and ordered to be printed.

Mr. ROSS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 696) to establish certain post routes in Kansas; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

PAPERS WITHDRAWN AND REFERRED.

Mr. MORGAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the joint resolution and papers authorizing the sale at public auction of certain surplus books and documents now in the custody of the Secretary of the Interior be taken from the files of the Senate and referred to the joint Committee on the Library.

He also submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the petition and papers for the preservation of the harbors of the United States against encroachments be taken from the files of the Senate and referred to the Committee on Commerce.

He also submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the petition and papers in reference to certain accounts on the books of the Treasury Department against John A. Dix, Richard M. Blatchford, and George Opdyke be taken from the files of the Senate and referred to the Committee on Finance.

HARBOR OF MIDWAY ISLANDS.

Mr. CONNESS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Naval Affairs be directed to inquire into the practicability, expediency, and probable cost of deepening the entrance to the harbor of Midway Islands, in the Pacific ocean, so as to afford a safe rendezvous and port of refuge and resort for the naval and merchant vessels of the United States.

RELIEF OF DESTITUTE.

Mr. VICKERS. I am instructed by the Committee on the District of Columbia to report a bill for the temporary relief of the poor and destitute of the District. The necessity for some relief is so pressing that I ask the Senate, on behalf of the committee, to consider the bill at the present time.

By unanimous consent the bill (S. No. 693) for the temporary relief of the poor and destitute people in the District of Columbia was read three times and passed. It proposes to appropriate \$20,000 for the purpose indicated, to be expended under the supervision and direction of the mayor of the city of Washington, the mayor of the city of Georgetown, and the president of the levy court of the District of Columbia.

PROOF OF WILLS.

Mr. HARLAN. I am instructed by the Committee on the District of Columbia to report back the bill (S. No. 612) relating to the proof of wills in the District of Columbia, and to ask for its present consideration. It is a small matter, and will occupy but little time; but still it is of considerable importance.

By unanimous consent the bill was considered as in Committee of the Whole. It provides that whenever a will or codicil shall be exhib-

ited for probate to the orphans' court of the District of Columbia, if any of the witnesses to the same shall reside out of the District, or be temporarily absent therefrom at the time when the will or codicil shall be so exhibited for probate, it shall and may be lawful for the court to issue, upon personal notice of not less than twenty days, to all parties in interest, a commission to one or more competent persons, to take the deposition of such absent witness or witnesses, in such form as the court may prescribe, touching the execution of such will or codicil, and the competency of the testator or testatrix, at the time of its execution; and such deposition, when returned to the court, is to be received therein as competent evidence, and have the same force and effect as if the witness or witnesses were personally present and testifying in the court. In all such cases the original will or codicil is to accompany the commission, and be exhibited to the witnesses so testifying.

Mr. EDMUNDS. I wish to ask the Senator who reported this bill how it changes the present law?

Mr. HARLAN. I will state that this bill was introduced by the Senator from New York, [Mr. CONKLING,] and I will ask him to explain the necessity of it, if he will be kind enough to do so.

Mr. CONKLING. I did introduce this bill, a long time ago, upon circumstances applicable to one case particularly, which have now faded somewhat from my recollection; but, in general terms, this is the state of facts which led to the introduction of the bill. As the law now stands, if a person dies in this District leaving a will, and one of the witnesses be at a long distance or sick, so as to be unable to attend personally in court, there is no way of making proof of the will or acting under it. It has happened several times, as it did in the case to which I refer, that a death took place, with a considerable estate left, and the subscribing witness was in a foreign land, to remain for a long time, and thus all proceedings were held in abeyance, awaiting the return, which possibly might never take place, of the witness. In the event of his not returning the testimony would be lost forever. In the event of his coming back at a future time delay would ensue. With that view, the proposition is to enable a commission to issue or testimony to be taken *de bene esse* in the case of a sick or absent person, so that the formal proof may be made.

Mr. EDMUNDS. My inquiry was based upon the idea that possibly the laws of Maryland, which, I suppose, are in force in this District on such subjects, directed the issuing of commissions by a court having general jurisdiction, as a probate court generally has over such a matter without any legislation. Certainly I have not any objection to this bill, except that I think it is a little too stringent in the case of a witness who is permanently absent, rather than too liberal; and if the law of Maryland is understood now to be in such a condition as not to permit a probate court to issue a commission, certainly there is no objection to this bill in that respect.

Mr. CONKLING. I did not before hear the Senator as to his inquiry. I hear him now, and I have only to say that, without having had occasion myself to examine the question at the time this bill was introduced, I was told by counsel who had examined it that there was no provision under which the orphans' court, the place into which wills are carried here, could supply itself with testimony except by the personal presence of the subscribing witnesses.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

REMOVAL OF POLITICAL DISABILITIES.

Mr. TRUMBULL. I am instructed by the Committee on the Judiciary, to whom were referred the joint resolution (S. R. No. 184) for the removal of political disabilities, and also

the bill (S. No. 656) to remove political disabilities, to report them back adversely.

I am also instructed by the same committee, to whom was referred the bill (S. No. 670) to relieve sundry citizens of South Carolina from disabilities; to report it back favorably, with an amendment; and if there be no objection I ask for the consideration of the bill now, as there are some reasons why it should pass before the holidays.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider the bill now.

Mr. DRAKE. I ask the Senator from Illinois if he will be so kind as to allow that bill to rest until to-morrow? I have received a letter from a gentleman of great respectability in South Carolina very strongly urging the removal of political disabilities from a citizen of that State. I have not the papers with me now, and I do not know whether the name is embraced in this bill or not; but I ask that it lie over until to-morrow, by which time I can obtain those papers.

Mr. TRUMBULL. I have no sort of objection; but the Senator from South Carolina, who is interested in the matter, gave as a reason that a number of the gentlemen included in this bill have been elected to offices in South Carolina, and it is necessary that they should qualify by the 1st of January, and a postponement of the bill might delay it beyond the holidays. That was the only reason why I asked for the present consideration of the bill.

The PRESIDENT *pro tempore*. An objection carries it over. Is there any objection to the present consideration of the bill?

Mr. DRAKE. Let it lie over until to-morrow.

The PRESIDENT *pro tempore*. Objection being made, it goes over.

PAY FOR GOVERNMENT LABOR.

Mr. CONNESS. I move that the Senate proceed to the consideration of Senate bill No. 666.

Mr. CATTELL. I ask the indulgence of the Senator from California to allow me to call up the resolution of the Committee on Finance in regard to the President's message, which ought to be promptly passed. It will give rise to no discussion.

Mr. CONNESS. This bill will occupy a great deal less time, and the Senator knows that that resolution will occupy the entire morning hour. I hope he will let this bill be acted upon, and then I will join him in taking up that resolution.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from California, to take up the bill (S. No. 666) fixing the compensation for labor performed for the Government of the United States.

Mr. SHERMAN. If the Senator from California expects that bill to pass without debate I am sorry to inform him that he is mistaken. I think the bill that we passed at the last session was so vicious, so injurious to the public service, that I could not allow this explanatory bill to pass without considerable debate. I am willing at any time to go into that debate; but I do not wish to crowd my friend from Indiana, [Mr. MORRIS,] who desires to go on at one o'clock with his remarks. I do not wish to interfere at all with the management of the bill, but I certainly wish to enter my protest against it.

Mr. CONNESS. I have no objection that the honorable Senator shall debate this bill, and I should like to hear him. I should like, indeed, to hear any Senator give a good reason why it should not pass. I hope we shall proceed with its consideration.

The PRESIDENT *pro tempore* put the question on the motion to take up the bill, and declared that the yeas appeared to have it.

Mr. CONNESS. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. CONNESS. I wish to say to the Senate in this connection that my purpose, of course, is not to intrude upon the Senator from

Indiana. When the hour of one o'clock arrives he will be entitled to the floor; but this is a subject that cannot be properly or in good taste evaded, in my opinion.

Mr. PATTERSON, of Tennessee. I ask to have the bill read for information.

The Chief Clerk read the bill, as follows:

Be it enacted, &c., That from and after June 25, 1868, all laborers, workmen, and mechanics engaged in the employment of the Government of the United States shall receive for a day's labor, as provided by law, the full wages and compensation paid for such labor as if ten hours constituted a day's labor.

Mr. SHERMAN. The only objection I have to taking up this bill now is that it will give it a priority over other business in the morning hour at this period of the session that would be very injurious. The Senator can, no doubt, call up this bill at any day; I shall not interpose objection; but it will lead to some debate, and at one o'clock, by common consent, the Senator from Indiana is to proceed with his remarks. I think the Senator will not make anything by taking up the bill now; and it is a vicious precedent to take up bills of general legislation which will excite debate in the morning hour.

Mr. CONNESS. If this bill is not to be taken up in the morning hour I should like to know when the honorable Senator from Ohio would consent to have it taken up? When we meet here after the holidays that Senator will demand the attention of the Senate for bills reported from his committee. This bill is not a very important one, perhaps, to the holders of the bonds of the United States, nor to the men interested in the great financial questions of this country; but it is deeply interesting to men a portion of whose wages have been withheld during the past fall and this winter thus far, and withheld most unjustly by those employed in paying the debts of the Government, construing laws against the plain intent of the body that passed them. I hope, sir, that we shall go on with its consideration.

The question being taken by yeas and nays, resulted—yeas 22, nays 28; as follows:

YEAS—Messrs. Abbott, Buckalew, Conness, Dixon, Harris, Hendricks, McCreery, Patterson of Tennessee, Pool, Ramsey, Rice, Robertson, Stewart, Thayer, Tipton, Vickers, Wade, Warner, Welch, Whyte, Williams, and Wilson—22.

NAYS—Messrs. Anthony, Chandler, Conkling, Corbett, Davis, Drake, Edmunds, Ferry, Fessenden, Fowler, Frelinghuysen, Grimes, Howard, Howe, Kellogg, Morgan, Morrill of Maine, Morrill of Vermont, Norton, Osborn, Pomeroy, Ross, Saulsbury, Sherman, Sumner, Trumbull, Van Winkle, and Willey—28.

ABSENT—Messrs. Bayard, Cameron, Cattell, Cole, Cragin, Doolittle, Harlan, Henderson, McDonald, Morton, Nye, Patterson of New Hampshire, Sawyer, Spencer, Sprague, and Yates—16.

So the motion was not agreed to.

COST OF FRACTIONAL CURRENCY.

Mr. CORBETT. I offer the following resolution; and ask for its present consideration:

Resolved, That the Secretary of the Treasury be requested to furnish the Senate, as near as practicable, for the information of the Senate, the total cost to the Government of the issue of the paper fractional currency since its authorization.

There being no objection, the Senate proceeded to consider the resolution.

Mr. EDMUNDS. I will state to the honorable Senator from Oregon that that subject is under investigation at this time. Testimony is being taken and examination is being made about it, and I hope to be able to make a report on the subject not very long after the holidays. I have no objection to the resolution other than the extra expense and trouble it will put the Department to beyond the investigation we are making.

Mr. CORBETT. I will ask the Senator if the expense of the fractional currency is being separated from that of the national currency in that investigation?

Mr. EDMUNDS. No; it is not. There is no way, so far as I know anything about the accounts in that respect, of separating that expense from the expense of the other printing in the Printing Bureau of the Treasury, because the paper upon which it is printed and the men and machines who do the work all run together in one account, together with the other printing

that is done of bonds and notes and certificates, and all that sort of thing. Hence it will be impossible to separate it otherwise than by a reasonable estimation, taking into view the whole amount of work done upon them all, so far as I understand. I wish to say again that I have no special objection to the resolution other than the unnecessary labor it produces.

Mr. CORBETT. The design of this resolution is confined to the fractional currency alone. I noticed in looking through the Treasury Department that there was an immense quantity of work there in printing this currency and reprinting it, and I desire to ascertain as near as practicable, as stated in the resolution, the cost of this fractional currency, that we may know whether it will not be cheaper to the Government to substitute a silver currency or coin for that fractional currency, and thus avoid that expense; and for that reason I desire the resolution adopted.

Mr. EDMUNDS. I do not make any objection, if the Senator insists upon it after the explanation I have made.

The resolution was adopted.

PRESIDENTIAL APPROVAL OF BILLS.

A message from the President of the United States, by Mr. WILLIAM G. MOORE, his Secretary, announced that the President had approved and signed, on the 15th instant, the following bills and joint resolution:

A bill (S. No. 186) providing for the sale of the lands, tenements, and water privileges belonging to the United States at and near Harper's Ferry, in the county of Jefferson, West Virginia;

A bill (S. No. 565) to authorize the Secretary of State to adjust the claim of Gustavus G. Cushman for office rent while commissioner under the reciprocity treaty; and

A joint resolution (S. R. No. 170) in relation to the library of the Department of Agriculture.

RAILROADS IN THE STATES.

Mr. SHERMAN. I gave notice in reporting the bill in regard to railroads that I should call it up to-day; but to give the Senator from Indiana an opportunity to express his views on another bill, and on consulting the gentlemen who are opposed to the bill, I move that it be taken up with a view to its postponement to the 5th of January. I was instructed by the select committee to urge it constantly upon the attention of the Senate, and I give notice that at the meeting of the Senate after the holidays I shall move to take it up. I move now that it be taken up and postponed until the 5th of January.

Mr. GRIMES. It will be postponed anyhow without a motion.

Mr. FESSENDEN. The Senator does not gain anything by such a motion unless he proposes to make it a special order.

Mr. SHERMAN. I do not want to make it a special order. It was postponed until to-day, and I wish to keep it in that position.

The PRESIDENT *pro tempore*. The Senator from Ohio moves that the bill be taken up for consideration for the purpose of postponing it to another day. Is there any objection?

Mr. HENDRICKS. Is the effect of that the same as making it a special order?

The PRESIDENT *pro tempore*. Not at all.

Mr. SHERMAN. I do not ask that it be made a special order.

Mr. POMEROY. I ask the Senator from Ohio what is the effect of his motion?

Mr. SHERMAN. It does not make the bill a special order; but it will come up at one o'clock on Tuesday, the 5th of January, unless some other special business intervenes.

Mr. POMEROY. No; the unfinished business of the preceding adjournment would be first in order on that day.

Mr. SHERMAN. I made this motion merely for the purpose of giving notice that the bill will then come up. I made it after consulting gentlemen opposed to the bill, who agree that

after that time they will make no objection to its being taken up, considered, and acted on.

Mr. POMEROY. This has simply the effect of notifying the Senate that the Senator will call up the bill on the day named. It gives it no precedence.

Mr. SHERMAN. This is an ordinary motion. The bill being now pending, I move to postpone its consideration to the first Tuesday in January.

The PRESIDENT *pro tempore*. The first question is on the motion to take up the bill (S. No. 554) to promote commerce among the States and to cheapen the transportation of the mails and military and naval stores.

The motion was agreed to.

The PRESIDENT *pro tempore*. The question now is on the motion of the Senator from Ohio, to postpone the further consideration of the bill until the 5th day of January next.

The motion was agreed to.

COIN PAYMENT OF PUBLIC DEBT.

Mr. EDMUNDS. The Committee on Finance having this morning in my absence reported back the resolution that I had the honor to introduce last year touching the public debt, and having also reported another resolution which was intended to take its place, as I understand, I wish to give notice that I shall ask the Senate to-morrow to proceed to its consideration; and for that purpose I should be glad to have the Senate take it up this afternoon, in order that we may enter upon its consideration, so that it may be in order to-morrow. I say this now, when the Senate is full, that everybody may understand it.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 1587) to repeal certain provisions of section six of an act entitled "An act making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes," approved March 2, 1867;

A bill (H. R. No. 1555) to amend an act entitled "An act imposing taxes on distilled spirits and tobacco, and for other purposes," approved July 20, 1868; and

A bill (H. R. No. 1556) to relieve certain persons of all political disabilities imposed by the fourteenth article of the Constitution of the United States.

ORDER OF BUSINESS.

The PRESIDENT *pro tempore*. The morning hour having expired, the unfinished business of yesterday is now regularly before the Senate, being the bill (S. No. 625) for the relief of Miss Sue Murphey, of Decatur, Alabama.

Mr. MORTON. I move that the unfinished business be postponed for the purpose of taking up Senate bill No. 678.

Mr. HOWE. I hope the Senator from Indiana will not make that motion. If he desires to address the Senate to-day, as it is said by Senators about me that he does, upon any particular measure, I have no objection to this bill being laid aside informally so that the measure to which he refers may come up.

Mr. MORTON. I consent to that.

The PRESIDENT *pro tempore*. Is there any objection to passing by the unfinished business informally? ["None."] The unfinished business will accordingly be laid aside.

RESUMPTION OF SPECIE PAYMENTS.

Mr. MORTON. I move now to take from the table the bill (S. No. 678) to provide for the redemption in coin of the United States notes and fractional currency, and requiring the national banks to redeem their notes in coin, on which I desire to address the Senate.

The motion was agreed to.

The PRESIDENT *pro tempore*. The bill is before the Senate.

Mr. MORTON. Mr. President, among the mighty changes wrought by the war is the revolution in the character of our currency. The war found us with gold and silver a part of the circulating medium, and with a convertible paper currency, the issues of local banks created by authority of the several States. When it ended, gold and silver and this bank paper had been banished from the circulation, and in their places substituted the notes of the Government and of the national banks.

The great problem now to be solved is to reintroduce into the currency gold and silver, which can be done only by making the notes of the Government and of the national banks convertible into coin at par. These notes are now greatly depreciated, and since the 1st of July gold has fluctuated between thirty-two and a half and forty-nine cents premium. These fluctuations in the value of the currency affect every kind of business disastrously. The prices of provisions, goods, and labor change from month to month. Every branch of legitimate business which depends upon small but regular profits is greatly impaired. With such fluctuations in the value of the currency, in the cost of living, in the profits of business, and the value of everything that enters into trade, together with the painful uncertainty that hangs over the whole financial policy of the country, men hesitate to engage in new enterprises or to make new investments in business. The prudent capitalist is standing still, awaiting the course of events and the establishment of some definite financial policy by which he can judge of the future. It is impossible to calculate the aggregate loss to the country, even in one year, by this state of things, or to estimate the suffering and destitution produced by stagnation of business and the want of employment for labor; and it is not only the business but the imperative duty of Congress to address itself to the great work of reform by adopting such legislation, if possible, whereby the currency shall be made good and business be made to flow on prosperously through its regular channels. The business transactions of the country, amounting to many thousand million dollars in the course of the year, are conducted through the medium of the currency, and if the currency is depreciated, fluctuating, and deceptive, the prosperity of the country must inevitably be seriously injured and its general progress and development delayed.

The question to which I invite the attention of the Senate to-day is whether such legislation may be had, and a plan adopted whereby the currency can be made good and the Government return to specie payments without producing a crash or great commercial distress.

And first, I will consider some of the difficulties which, it is urged, will prevent a return to specie payments.

It is said by many that the currency is redundant, and that we cannot return to specie payments until contraction has taken place. We are referred to the fact that before the war, in 1860, the entire bank circulation was but \$202,000,000, and the specie in the vaults of the banks about eighty-eight million dollars, making less than three hundred million dollars. But at that time gold and silver were in circulation as a part of the currency, and it is probable that there was more than one hundred and fifty million dollars in the country beside that which was held in the banks. This would bring up the mixed currency to nearly four hundred and fifty million dollars. The Director of the Mint in Philadelphia in 1861 estimated the amount of gold and silver in the country at \$275,000,000, which is nearly fifty millions beyond my estimate. But there was another form of currency then much more in use than now, which must not be overlooked in considering the aggregate currency of the country. The paper money consisted of the issues of local banks, and was not current except in the locality of the banks by which it was issued. Then the paper money of the northwestern, southern, and southwestern States was not current in

New York, and was not received there in payment of debts. The bank notes of the northern States were not current in the southern States, and *vice versa*. Hence the payment of debts and commercial transactions between different parts of the country were conducted by bills of exchange, which amounted to many hundred million dollars during the year. This form of currency is still used, but not nearly to the same extent as before the war. Now the greenbacks and national bank notes are of equal value in every part of the United States, and are transmitted in payment of debts and transactions of business from one part of the country to another, by means of express companies and otherwise, to the amount of many hundred millions every year. The books of the express companies show an immense transportation of paper money, the amount of which cannot be accurately ascertained. But it would be a moderate computation to say that \$100,000,000 of our currency are now used in that way, which was before the war supplied by bills of exchange and promissory notes. And when we consider the progress of the country since 1860, the rapid development and opening up of the western States and Territories, the vast extension of business, the magnitude of the national debt, the necessary collection of large revenues, and the greatly increased expenses of the Government in its general administration, we may reasonably conclude that there is an actual demand for an increase of the currency over the wants of 1860 to the amount of at least \$150,000,000. Therefore, when you add to the actual currency of 1860—about four hundred and fifty million dollars—the amount of currency now used in the place of former bills of exchange and promissory notes, and the increased demand for currency otherwise growing out of the causes referred to, it is doubtful whether the currency is more redundant now than it was in 1860, when the banks were paying specie. And if not redundant, then contraction is not a necessary preliminary measure to a return to specie payments.

Again, it is said that the Government cannot return to specie payments until after we have checked the flow of our gold to Europe by largely reducing our importations of foreign goods. This is a clear case of putting the disease for the remedy. Gold, like every other commodity, is governed by the great commercial law of demand and supply. It goes where it is needed, and leaves the country where it is not in demand. In this country there is now but one demand for gold, which is to pay duties on imports. The great use to which it is ordinarily applied, to constitute a currency and medium of exchange, has been cut off for five years, and our gold has steadily flowed into other countries where it is demanded for a currency.

In whatever country paper money has been made a legal tender, it has invariably driven gold and silver from the circulation, and in great part from the country. Thus it is that Canada is now flooded with American silver. Thus it is that American gold has gone to Europe in a steady stream for five years. Thus it was during the French revolution, when the *assignats*, a legal-tender currency like our own, drove French gold into all of the neighboring countries, so that when the *assignats* finally collapsed, as they did in a single day, France found herself almost destitute of coin. And thus it was during the long suspension of the Bank of England, when English gold went steadily out, and was only recalled by the preparations made to return to specie payments.

We cannot retain our gold at home except by making a demand for it. The holders of it are not patriotic enough to keep it here for nothing. If we would reduce the importation of foreign goods we must withhold the gold with which they are purchased. And this we cannot do except by making it more profitable to keep it at home than to send it abroad. Until we create this home demand the annual product of our mines in chief part

will go to England, France, and Germany to swell the rich volume of their currency.

Again, it is said that specie payments cannot be brought about by special legislation, or materially aided thereby, but can be produced only by the operation of general causes, such as the increase of the tariff, the increase of population and development of the resources of the country, whereby the general credit of the Government will be improved. To understand the merits of this proposition we must consider what are the causes of the depreciation of the currency, and this I will do in answering another proposition which is said to present the best and readiest method of returning to specie payments. It is alleged that we can only raise the value of our currency by raising the value of our bonds in the market; that as we bring up the price of our bonds we shall thereby bring up the value of greenbacks; that we can only improve the value of the currency by improving the general credit of the Government, as shown by the value of our stocks, and to this end the surplus gold in the Treasury and that which is to accrue should be applied to the purchase of our bonds in the market, to be canceled, thus diminishing the number of them and improving the value of the balance.

This view of the question I hold to be a total misconception. I do not believe that the existence of our bonded debt has anything, or scarcely anything, to do with the depreciation of our currency. I believe our currency would be depreciated as it is if the Government did not owe a single bond or if all our bonds were at par. Why is our currency depreciated? And why would it be depreciated if the Government did not owe a single bond? Because the greenback note is a promise by the Government to pay so many dollars on demand, which it does not pay. The promise is daily broken, and has long been dishonored. The note draws no interest, and the Government has fixed no time when it will pay it. Under such circumstances the note must be depreciated. The solvency or ultimate ability of the promisor never kept overdue paper at par, and never will. To do that something more is required than the ultimate wealth or ability of the promisor. There must be certainty in the payment and time of payment, and if the time of payment be deferred compensation must be made by the payment of interest. Let me suppose, by way of argument, that A. T. Stewart, the great merchant in New York, should pay off his numerous employes in due bills or notes payable on demand, which draw no interest, and which he refuses to pay on demand and will fix no time when he will. Notwithstanding his immense wealth and his entire ability to pay, his notes would inevitably depreciate, and could only be sold at a large discount, which would be increased if it were admitted that there was no legal remedy by which he could be compelled to pay them. One of the wealthiest men in the Northwest, now dead, who left some five million dollars to be divided among his heirs, had an unfortunate habit of refusing to pay his small debts. Instead of paying he would give his notes for them, refuse to pay the notes at maturity, suffer himself to be sued, then hire a lawyer to fight the cases. The result was that his paper was hawked about the streets at sixty or seventy cents on the dollar, while, perhaps, that of his near neighbor, who kept a small store and was only worth \$10,000, but who was prompt in the payment of his debts, could be sold at a very small discount.

In overcoming the depreciation of the currency we have to overcome the difference in value between the greenback currency and the like amount of gold, and not the difference between two thousand millions of bonded debt and two thousand millions in gold. Even if the credit of the Government was so greatly impaired as that her bonds were not worth twenty-five cents on the dollar, still it would not be impossible to make the currency good and keep it at par. If the Government did not owe a single bond the value of our cur-

rency could not be improved, except by making arrangements to redeem it; and if the Government does make arrangements to redeem it the existence of the bonded debt will not prevent the improvement in its value. If we should take the surplus gold in the Treasury and that which is to accrue and use it in the purchase of bonds in the market, to be canceled as purchased, we should inevitably further depreciate the value of the greenbacks. The explanation of this effect is simple. By taking the gold, which is the only means by which the greenbacks can be redeemed, and applying it to the purchase of bonds, it puts the redemption of the greenbacks out of the power of the Government, and proclaims to the world that it does not intend to return to specie payments.

The proposal to improve our currency by taking our surplus gold and investing it in bonds would be regarded by capitalists as absurd. The gold thus paid out would not enter into the circulation, but would sink back into an article of merchandise to be gambled for, as it now is in Wall street. What would the world think of the morality of such an operation? We have \$356,000,000 of the public debt overdue and drawing no interest, and we take the only means of paying this debt and apply it to the purchase, at a discount, of our bonds, which will not be due under fourteen years. What would be said of the integrity of the man who should refuse to pay his debts which are due, leaving his creditors to suffer great loss, and should employ his money to buy up at a heavy shave his debts that will not be due under ten or fifteen years? Plain people would call such a man rascal and swindler, and would speak of the Government in the same terms under the same circumstances. The pretense that it was done to improve the value of the currency would deceive nobody. Such a plan of returning to specie payments is worthy of the circumlocution office, and should be labeled "How not to do it."

The greenback currency is a part of the public debt, for the redemption of which the faith of the nation is solemnly pledged. The redemption of this pledge is not only demanded by every principle of national honor, but is imperatively demanded by the interests of the people, collectively and individually. The currency of a country lies at the foundation of its daily business and vitally affects the interest of every class and condition of people, and if the Government, overlooking its honor and its duty, should take the only means by which it can be improved and apply it to the purchase of bonds which will not be due for many years it would merit and receive the indignation and contempt of honest men everywhere.

But it is said that if the Government reserves and holds the surplus gold in the Treasury, to be applied to the redemption of the greenback currency at some future time, to be fixed by law, it will suffer great loss in the interest on the gold thus held in reserve. In one point of view this objection is well taken. But what else can we do? Is it not a difficulty to be encountered by every debtor who collects and holds the money wherewith to finally pay his debts? If a man owe \$1,000 can he pay it in any other way than by collecting the money for that purpose and holding it until he gets enough to meet his debt? The Government owes a debt which can only be paid in gold, and it must, if it intends to pay it, collect the necessary amount in gold. If the debt was of that nature that the gold could be paid out on it as soon as collected, of course it should be done; but the debt is not of that nature. If the Government should pay out the gold as fast as it is received in the redemption of the greenback currency it would fail to bring the remainder of the currency up to par, and the gold thus paid out would not enter into the circulation, but would sink back into an article of merchandise such as it now is. The redemption of the greenback currency should not begin

until the Government is prepared to redeem all that may be presented; for this would at once bring the whole body of the currency to par, and the gold paid out would go into the circulation and take the place of the paper money redeemed. But if paid out by piecemeal in advance it would not go into circulation or bring up the balance of the currency to par. But what will be the actual loss of the interest on the gold held in reserve compared with the loss sustained by the great mass of the people in their labor, trade, and property, to be suffered by the continuance of the present condition of the currency? Scarcely as one dollar is to a hundred. The losses by the failure to employ labor; by the stagnation of business; by the paralysis of trade; by the delay in general progress and development, brought about by depreciated, fluctuating, and deceptive currency, when estimated in dollars, would form a vast sum, compared with which the loss of interest on the reserved gold would be a mere bagatelle.

But if we do not obtain the gold to redeem the greenback currency in the manner proposed, in what other way or at what time shall it be obtained? Shall the Government go into Wall street and buy it like the importers or the gamblers? Or shall we sell new bonds in Europe at seventy or seventy-two cents on the dollar and obtain it in that way? Will it be easier to begin the process at the end of five years, the nation suffering in the mean time all the evils and losses of depreciation? Shall the nation stand shivering for years on the banks of this Jordan and then make the plunge when the waters are deeper, swifter, and colder than now? Such is not the part of wisdom or patriotic statesmanship.

If an individual fails to pay his debts payment may be enforced by the law against his property, but against the Government there is no such remedy. What would be mere neglect or failure, therefore, on the part of an individual would be repudiation by a Government.

If the greenback note is to be regarded as an obligation for the payment of which the faith of the Government is pledged the continued failure of the Government to make any provision for its redemption cannot be regarded in any other light than repudiation. When the first of these notes were issued it was provided that they might be funded into the five-twenty bonds, but that provision was shortly after repealed, and they now stand in the nature of a forced loan, drawing no interest, and, for all that appears, are to be left to perish in the hands of the people.

If when the five-twenty bonds fall due the Government should fail to pay them, or to make any satisfactory provision for funding them into a new bond, the cry of repudiation would at once be raised; and yet it cannot be shown that the legal and moral obligation to pay those bonds at maturity is greater than that resting on the Government to make prompt provision for the redemption of the greenback currency. The legal obligation is no greater, and the moral obligation hardly so strong; for the greenback notes are in fact the people's bonds, the bonds of the million, in which are invested the laborer's toil and the meager profits of the humble occupations in life, which, more than any others, demand the fostering and protecting care of the Government.

But while it is true that the discount on our bonds has little, if anything, to do with the depreciation of our currency, it is also true that the depreciation of the currency has much to do with the discount on the bonds. I do not believe that our bonds will ever reach par, or approach it nearly, until the currency is made good.

The legal-tender currency of a country bears an intimate and, perhaps, a mysterious relation to every form of credit and security, both public and private, and if it be depreciated inevitably drags them down to its own level. This I state as a general proposition, to which there may be a few exceptions, dependent upon

grounds which can be readily explained. The legal-tender currency is at par in contemplation of law and in the payment of debts, though it may not be worth six cents on the dollar. It is the "par" and measure of price and value recognized in all the ordinary business of the country. The prices of property and all articles of trade are not given at so much in gold, but in greenbacks, and the legal-tender value of the greenbacks is so identified in the public mind with the measurement in price of every species of property, merchandise, and labor, that it assimilates to itself as well the price of securities, even though by their terms they may be made expressly payable in gold.

We find a full illustration of the operation of this principle in the history of the five-twenty and ten-forty bonds. These bonds were sold at par by the Government for greenbacks when the greenbacks ranged in value, at different times, from ninety to thirty-four cents on the dollar. Whatever might be the value of the greenback dollar, the bonds were still sold at par for that dollar, and such is their measure of value to-day in the markets of the world. The five-twenty bond is sold at 110, 111, 112, and 113 in greenbacks in the New York market. The premium grows out of the semi-annual payment of a large interest, and it is hardly so large as the premium which was paid on United States six per cent. stocks before the war in gold. So that, in point of fact, the par value of these bonds in New York is measured by the legal "par" of the greenback currency.

The value of the ten-forty bonds in the market, although by their express terms payable in gold, is governed by the same legal "par," and what is true of the market value of these bonds in the United States is equally true of their market value in Europe. Here their price is calculated in greenbacks, and there in gold. There the price has ranged from sixty to seventy-two cents on the dollar in gold, and is always kept within the gold value of the greenback currency in New York, perhaps with the addition of two or three cents, growing out of the premium paid for them at home on account of their large interest. They have not been able to escape from the thrall of the greenback currency, either at home or abroad, and never will while it remains in circulation. As the value of our legal-tender currency goes up the price of our bonds will go up with it; and what is true of Government securities is equally true of the great mass of American securities, public and private. State stocks that were at par in gold before the war are now about par in greenbacks, although they are certainly as good now as they were then. Their gold value has fallen off from twenty-five to thirty per cent. To this statement there are two exceptions: the stocks of Massachusetts and California, which have maintained their former price in gold because the interest has always been paid in gold, and few if any of them are on the market. Railroad bonds—which, as a general thing, are worth more now than before the war, because the floating debts of the companies have been paid off and their business generally improved—that were about par in gold before the war now command about the same price in greenbacks, showing that their gold value has been reduced from twenty-five to thirty per cent. Of course, the relative prices of bonds are not entirely uniform, because various circumstances enter into them; but it will be found on examination that they bear about the same general price in greenbacks that they did in gold before the war. Another obstacle to the adoption of any plan for returning to specie payments is the cry that the right way to resume is to resume at once. I have labored to find that this means anything but the indefinite postponement of resumption. Every one must comprehend that the Government cannot redeem the greenback currency without first collecting the gold to do it with; that it cannot return to specie payments by contraction without taking time to contract,

with all its attending calamities; that, in short, there is no process by which it can be done, however ruinous, that does not involve time. If the Government should pay out the \$70,000,000 surplus gold now in the Treasury in the redemption of an equal amount of greenbacks the whole country would know that it was not prepared to redeem any more. The gold paid out would not pass into circulation, but sink back into an article of merchandise, the balance of the greenback currency be but little improved, and the net result of the operation would simply be the contraction of the currency to the extent of \$70,000,000 and the indefinite postponement of the redemption of the balance.

But the great obstacle to the return to specie payments, and the one which we will have the greatest difficulty in overcoming, is the interest against it. The premium upon gold, and the advantages it gives to certain classes over others, was unavoidable in the beginning, but should not be allowed to continue a single day longer than is necessary. The present condition of things produces great inequalities among the people, which if longer continued will give rise to heartburnings and tend to demoralize the public sentiment in relation to our national obligations.

To illustrate: I will suppose that A has an income of \$5,000 in gold derived from interest on United States stocks. Upon this he would pay an income tax in currency, but no tax on the stocks from which it is derived. When this income is converted into currency it will net him about seven thousand dollars. On the other hand, B has an income of \$5,000 in currency derived from agriculture, merchandise, or manufactures, and pays a tax of at least two per cent. on the appraised value of the different kinds of property from which this income is derived. This will reduce his income probably to \$3,500, upon which he pays an income tax, leaving a balance in favor of A, as between them, of \$3,500.

To illustrate again: A is the owner of \$10,000 five-twenty bonds, from which he derives an income of \$600 in gold. This gold, when converted, will realize \$800 in currency, and upon his bonds he pays no tax whatever. B is the owner of \$10,000 in six per cent. railroad bonds, from which he derives an income of \$600 in currency, and upon these bonds he pays at least two per cent. for State and county purposes, which will reduce his income to \$400, just one half the amount of A's. B may, perhaps, not feel very comfortable over this state of things, and will be led to inquire into the cause of this gross inequality. He will be told that so far as it arises from taxation it is unavoidable, as the States cannot tax Government securities; but so far as it arises from the condition of the currency speedy relief may be afforded by the Government if it will. Equal rights are the gift of God to all men, and equal conditions in society, equal facilities for acquiring wealth, equal rewards for labor, and the equal support of public burdens should be given by every Government to its people so far as it may be possible.

To the man who lent his money to the Government to carry on the war for the suppression of the rebellion I am grateful. Whatever may have been his motives he was a public benefactor, and entitled to the thanks of the nation. To him the Government must keep faith, whatever that faith may be; for good faith covers a nation like a clear and refreshing atmosphere, which imparts health and vigor to men and through which all nature seems beautiful and bright. But when faith is broken, it is as if the air were filled with noxious vapors, which obscure the sight, impair the health, and end in darkness, disease, and death. But while our creditors should receive all that they are entitled to in law and equity it is not bad faith to improve the condition of the balance of the people and bring them up as nearly as possible to the same prosperous level. The exemption from taxation is a legitimate advantage,

as it results from the nature of their securities; but the additional profit of a premium on their gold was accidental in the beginning, and if continued for their benefit, and beyond the necessity which created it, would become fraudulent to the rest of the nation.

The credit of the Government of the United States was never so good as it is now. There is more confidence to-day in the perpetuity of the Government than ever before. It has been tried as no existing Government ever has, and in the midst of the deadly struggle, when its life seemed to hang upon a thread, revealed the existence of a credit and of vast resources that astonished the world. At the beginning of the war, and before, it could not borrow a dollar in Europe, and can scarcely be said to have had any credit; and this was one of the things relied upon by the conspirators in their calculations as to the amount of resistance it could make to the rebellion. Its resources never developed so rapidly as now, were never so well understood as now, and the faith of the people in the destiny of our country is greater than ever before. While there are very few men in the country who doubt the ability of the Government to pay off the whole debt, I have never met with one who doubted its ability to redeem or pay off the legal-tender notes. In regard to the redemption of these notes it has never been a question of ability but of purpose, and to say that these notes cannot be paid until the general credit of the Government is improved by the expenditure of some hundreds of millions in the purchase of bonds that will not be due for years is to fly into the face of common sense and insult the intelligence of the people.

If, as I have before said, there is an intimate and inextricable relation existing between the legal-tender currency of a country and its public securities, by which the value of its securities can never get beyond that of the currency in which the business of the country may be said to "live, move, and have its being," then the application of the gold to come into the Treasury for the next five or ten years to the purchase of bonds could add but little, if anything, to the value of the rest of the bonds or the currency. But one thing is certain, that while nobody doubts the ability of the Government to pay the notes by making reasonable preparations, if the Government neglects or abandons the currency, under whatever pretense or disguise, and applies its surplus revenues to the purchase of bonds, with a view to improve the value of the rest of them, and thus legislate for the benefit of a class—the only class in this country doing well enough, and better than any other—the currency will sink from that hour, and the very foundations of good faith will be shaken. Such legislation would be notoriously and wickedly partial and unjust. What would be thought of a great railroad corporation that should refuse to pay its overdue floating debt, and apply its current revenues to the liquidation of its long bonds, under the pretense that it would thereby improve its ability to pay its floating debt? But such legislation would be as stupid as it would be wicked for the depressed currency would inevitably carry down the bonds in its close embrace. While our overdue paper, drawing no interest, and for which no time of payment is fixed, and no preparation made, must necessarily be depreciated as it now is, still that depreciation would be far greater but for the general faith existing among the people that the Government will speedily make arrangements for its redemption. When this faith is broken the currency will sink lower, and sink rapidly.

The Secretary of the Treasury, in his last report, after making an able argument to show the evils of a depreciated currency, begins his discussion as to the means of returning to specie payments with the following statement:

"The Secretary still adheres to the opinion so frequently expressed by him, that a reduction of the paper circulation of the country until it appreciated to the specie standard was the true solution of our

financial problem. But as this policy was emphatically condemned by Congress, and it is now too late to return to it, he recommends the following measures as the next best calculated to effect the desired result."

Here the Secretary reiterates his former opinion, that by largely contracting the paper currency the rest of it would be appreciated to par. How such contraction would have this effect he has never shown, and the opinion results from a misapprehension of the causes which depreciate the paper currency. Suppose the greenback currency was contracted down to \$100,000,000, could the remaining hundred millions be brought to par in any other way than by making arrangements to redeem it?

You cannot pay a debt without paying it, and every trick or device to bring the currency up to par without making preparations to redeem it according to the promise on its face will be abortive and disastrous. The currency is depreciated because it is overdue and dishonored, draws no interest, and there is no time fixed or preparation made for its redemption; and these causes would depreciate it if there were but \$1,000,000 of it afloat. The effort to force depreciated and irredeemable paper up to par by making it scarce and pinching the people is like an attempt to enhance the price of unwholesome provisions by producing a famine.

The means he suggests for returning to specie payments are twofold. The first is to legalize specific contracts to be executed in coin. I voted for a bill for that purpose last session without much consideration, and have since become satisfied it was an error. The unwary would be enticed into such contracts by the crafty, and those in straightened circumstances or under heavy pressure would be forced into them. No man can safely make a contract to be executed in coin while the currency is depreciated and the financial condition of the country is fluctuating. Such contracts, where not brought about by coercion or fraud, would be in the nature of gold gambling—the one party trusting that gold would be at a large premium when the contract was due, and the other that it would command little or none. It could hardly be distinguished from a contract for the delivery of gold at a future time. Should coin contracts be legalized, however, as proposed, it should only be in connection with some general plan to return to specie payments at a fixed period. But, aside from the evils and hardships to result from such contracts, how could they appreciate the value of the currency any more than common contracts for the future delivery of gold? They would not constitute any preparation on the part of the Government for the redemption of the currency, and therefore could not, to any perceptible extent, appreciate its value.

The second means for returning to specie payments is contained in the following passage from the Secretary's report:

"And he therefore recommends, in addition to the enactment by which contracts for the payment of coin can be enforced, that it be declared that after the 1st day of January, 1870, United States notes shall cease to be a legal tender in payment of all private debts subsequently contracted, and that after the 1st day of January, 1871, they shall cease to be a legal tender on any contract for any purpose whatever, except Government dues, for which they are now receivable. The law should also authorize the conversion of these notes, at the pleasure of the holders, into bonds bearing such rate of interest as may be authorized by Congress on the debt into which the present outstanding bonds may be funded."

It is not enough, it seems, that the currency is already depreciated thirty per cent.; that the Government has violated its pledge; but it is now proposed to strike off at least one third of its market value by stripping it of its legal-tender character. Its legal-tender character, by which it is made lawful money and may be used in the payment of debts, has added at least one third to its current value. And this heavy loss the Secretary proposes to inflict upon the holders of the currency at the times

mentioned. The Government could be guilty of no clearer act of repudiation. To strike off one third of their value in the hands of the people does not differ in principle from making them wholly worthless. While they are depreciated and unprovided for, the Government has no right to withdraw from them any element which goes to constitute their value.

To show that such a measure would be repudiation in fact, let us consider the character of the contract between the holder of a greenback note and the Government. It is to pay so many dollars to the bearer or holder on demand. This is the original contract between the Government and the holder. The privilege of funding the notes into the five-twenty bonds, conferred by the act of February 25, 1862, and which the Secretary proposes to re-establish, only reducing the rate of interest on the bonds, is a mere collateral privilege, and in no wise affects the right of the holder of the note to demand the performance of the original contract printed on its face. When the Government, therefore, refuses to perform the original contract, and throws the holder entirely upon his collateral privilege of funding the notes into bonds, the act forms the clearest possible definition of repudiation, and does not differ in principle from the proposition of the President to apply the payment of the interest to the extinguishment of the bonded debt. When the greenbacks have been brought to par, and the Government stands ready to redeem them, then, and not till then, can their legal-tender character be taken away without repudiation.

Suppose that Congress should pass a bill providing that when the five-twenty bonds are due the holders may fund them into a three per cent. bond; and that, if they refuse to exchange, the Government will make no provision for their payment. The Secretary would call that repudiation, and yet the case is different in no respect from what he proposes. The greenback note promises to pay so many dollars on demand. The bond promises to pay so many dollars at a particular time. The greenback note declares that it is "a legal tender for all debts, public and private, except duties on imports and interest on the public debt," which gives it one third its current value. The bond promises to pay six per cent. in gold, which is its chief element of value. The greenback note promises to pay to the bearer, and so does the bond. The title to each of them passes by mere delivery, and there is no more personality about the one than there is about the other. The moral and legal obligations of the one promise are precisely equal to those of the other, and Congress has as much right to strike out the interest on the bond as to strike out the legal-tender clause on the note. The value of the greenback note may be so depreciated as to make it the interest of the holder to fund it into a bond bearing the very lowest rate of interest or no interest at all, and Congress might by legislation so impair the value of the five-twenty bond as to make it the interest of the holder to exchange it for a bond drawing interest only at the rate of two per cent. The Secretary proposes to take from the greenback currency one third of its current value by striking from it its legal-tender character, and then authorizing the holder to fund it into a bond drawing a low rate of interest, at the same time telling him, in substance, that this is a final measure, and that if he does not fund he will get nothing.

But it is true that by stripping the currency of its legal-tender character the country will at once be brought to specie payments; that is to say, there will then be no lawful money but gold and silver which would be a legal tender in payment of debts, and every man would be required to pay coin on his contracts. But the Secretary could not afford to strike down the value of the currency in this way without suggesting some provision for it, and so, notwithstanding the fact that he had just said that the policy of contraction had been emphatically

condemned by Congress and it is now too late to return to it, he says the law stripping the notes of their legal-tender character should also provide for funding them into bonds, at the pleasure of the holder, bearing such rate of interest as may be authorized by Congress on the debt into which the present outstanding bonds may be funded. It may well be imagined that the holders of the notes will then be ready to fund them into any sort of bond. But what is that but contraction, pure and simple?

The Secretary's policy travels in a circle, which invariably brings him back to contraction. He proposes nothing for redemption, and offers only that policy which he says has been emphatically condemned by Congress and as emphatically by the country. Contraction is the "San-grado policy," of bleeding the country nearly to death to cure it of a disease which demands tonics and building up. The withdrawal of even \$100,000,000 of the circulation would produce great stringency in the money market, innumerable bankruptcies, and most likely result in panic and crash from which the country would not recover for years, and during which the power of the Government to fund the debt and redeem the balance of the greenback currency would be paralyzed. To contract the currency to the extent of funding all the greenbacks would be financial suicide—would precipitate a disaster to the trade, industry, and prosperity of the country for which there is no example in history. We must not return to specie payments in that way. We must descend the mountain by easy slopes and gentle curves, though it may take much longer, rather than spring from the top of the precipice to be dashed to pieces at the bottom.

But it is broadly intimated by the Secretary that the Supreme Court will decide the laws making the greenbacks a legal tender in payment of debts to be unconstitutional, and therefore void. If the deed is to be done let it be by the court, and not by Congress. But it would have to be a very clear case that would justify the court in making a decision fraught with such terrible calamities to the country. If there be doubts hanging about the question they should be cast in favor of the legislation of Congress and the preservation of the vast interests that are dependent on the maintenance of the law. The Supreme Court, having jurisdiction over questions involving vast political, commercial, and social interests, should be something more than the rigid expounder of statutes or collator of precedents, and should view such questions as statesmen as well as lawyers.

It was Lord Mansfield who plucked up by the roots the hoary abuses of the law, however deeply imbedded in ancient authorities, and who, in the construction of statutes and settlement of great questions, decided them in accordance with the progress of the times and the new conditions of society, and thus rendered himself immortal in the history of jurisprudence.

Believing, as I do, that these laws are constitutional and were imperatively necessary at the time of their passage, I should look upon a decision by which they would be suddenly destroyed with horror, and the court making it would descend in history as the author of the most appalling financial disaster that ever occurred in any country. But I have full faith in the learning, ability, and patriotism of that august tribunal, and believe it will not render its decision until the question has been viewed in all its bearings and consequences. To return to specie payments without a crash is the great desideratum, and this can only be done by making the process gradual. Time is a necessary element, and the first question to be considered is the period which should be fixed by the Government to begin the redemption of the greenback notes, and in my bill I have stated the 1st day of July, 1871. Fixing a time must be the starting point of any plan which proposes to bring about resumption without crash and disaster.

In proposing to give two years and a half to

begin the work of redemption I have several objects in view:

First. By establishing the period of redemption a fixed value is given to the greenback note. Now its gold value is fluctuating and deceptive, sometimes varying as much as ten per cent. in sixty days, and scarce ever remaining the same for a week at a time. But by fixing a time for its redemption a certain value is given to it. If the note is to be paid in gold on the 1st of July, 1871, its value can be determined by the ordinary rules of discount, and will steadily improve as the time for its redemption approaches, and other preparations being properly made, it will be at par on or before the day fixed for redemption by gradual appreciation. By fixing the time of redemption one chief element in the value of all commercial paper is gained, that of certainty in the time of payment.

Second. By fixing the period of redemption the country is notified and may be prepared for the change. People will have it in view in making new contracts and arrangements in business, and debtors, fearing a decline in the prices of property, will make haste to pay their debts. During this two and a half years the great body of existing debts among the people will be paid. The debt now contracted, which will not fall due for two years and a half, is very small; and is generally for real estate. The great difficulty generally attending the improvement in the value of the currency and the resumption of specie payments, where they have been suspended, is the reduction in the nominal prices of property and labor, which operates injuriously upon the debtor class. It is generally true that as the purchasing power of the currency is increased the nominal prices of property are diminished. But this effect is sometimes counteracted by the increase in the volume of the currency. The inflation of the currency, even though it be composed of gold and silver exclusively, increases the nominal prices of property, of which we have a notable instance in the history of Spain. When resumption takes place all the gold and silver will be set free and poured into the volume of the currency, thereby inflating it to a considerable extent, because the whole amount of gold and silver is very much greater than the whole amount of greenbacks that will be presented for redemption.

But, as before stated, the period of redemption is postponed so long that the great body of the existing debt will be paid before it arrives, and the declension in the prices of property, which is likely to be small, would affect but a very limited class, and would scarcely reach the general business of the country. The time given is so long that it will become stale in the public mind, all excitement and panic will pass away, and the change come so gently on that people will almost have forgotten it when it arrives.

Third. By fixing the period of redemption so far off the Government will have time to collect the amount of gold that will be necessary.

And first I will consider the amount of gold that will probably be required, and with which it will be safe to begin redemption. It is shown by the history of banking that solvent and well-conducted banks can safely carry on operations when they have one dollar in gold in their vaults to three dollars of their circulation. It is also shown by bank history that banks which have suspended specie payments, but whose solvency and good management are not suspected, have been able to resume when they have gotten into their vaults one dollar in gold to two and a half dollars of their circulation. The credit of the Government is better than that of any bank, and it can, in my opinion, resume on a smaller proportion of gold than any suspended bank under the old system.

The greenback notes, notwithstanding their depreciation, have one great merit which did not belong to the paper of any of the old State banks, which is that they are of uniform value in every part of the United States. They are

far more convenient than coin for all business purposes. They can be sent to every part of the country in payment of debts better and cheaper than the transportation of coin. The traveler from Maine to Minnesota can carry \$50,000 of it about his person without inconvenience or observation, saving to him the labor and anxiety of carrying coin, or the purchase of a bill of exchange. If brought to par they would be the most desirable currency the country has ever known, and the causes which usually bring about a run on the banks for gold would not operate against them or have any effect upon their value. Under the old State bank system, to which it is hoped the country will never return, there was a far greater demand for gold than would occur under the present. The banks being local in their character, and their paper not current in distant parts of the country, led to a demand on them for gold by travelers or those who had debts to pay at distant points where their notes were not current. From these and other considerations it is doubtful whether as much as one hundred millions of greenback notes would be presented for redemption. When the greenback note is as good as gold then the people will not want gold, unless for specific purposes, for it would be an inconvenience and burden.

The whole question may be thus stated: if the Government is strong with gold to redeem all the notes that may be presented but little gold will be demanded, because it will be worth no more than greenbacks; but if the Government is weak and only able to redeem a small part of the currency the gold will be hastily drawn out to sell in the market at a profit.

It is true there are \$300,000,000 of national bank notes in circulation, for the redemption of which the Government is bound, under the conditions of the national banking law, and it has been urged that when the period fixed for redemption arrives the national banks would immediately rush to the Treasury with all their greenback reserves and drain it of a large part of its gold. To avoid this difficulty, and to make the process still more gradual, and to avoid all rush upon the Treasury or the banks, I propose, by my bill, that the banks shall not be required to redeem their notes in specie until the 1st of January, 1872, and during the preceding six months shall be required to hold in their vaults the same amount of greenback reserves, in which they may, as now, redeem their notes. If, during that period, they are required to hold their greenback reserves, as now, of course they cannot rush to the Treasury with them to get gold, and at the end of the time the Government will be able to meet their demands without trouble or danger. To give the banks six months to redeem their notes in gold—and perhaps I may move to make it a year—beyond the time when the Government begins the redemption of the greenback currency, will be no hardship to the Government or the people; for national bank notes being convertible into greenbacks, they will be of equal value and at par, and persons holding the bank notes who want gold for them will only have to present them to the banks and receive greenbacks in exchange, on which they would get the gold.

And now I will consider the question how the Government shall procure the gold to commence the work of redemption.

To this I answer that the sales of gold by the Secretary of the Treasury must be stopped, and the surplus gold now in the Treasury, and that which will accrue hereafter, over and above the sums required to pay the interest on the public debt and for specific uses, shall be reserved and set apart for the redemption of the greenback notes. There is now in the Treasury a surplus of not less than \$70,000,000, and the accruing surplus under the present tariff for the next two and a half years cannot be less than \$100,000,000, which will together make \$170,000,000.

It is very difficult to form an estimate of the amount of gold in the country. * The Director

of the Mint in Philadelphia in 1861 estimated the amount of gold in the country at that time to be \$275,000,000, which I have no doubt was much short of the actual amount.

The Comptroller of the Currency (Mr. Hulburd) in his report last year estimated the gold product from our mines from 30th June, 1860, to 30th June, 1867, at \$411,320,000.

The imports of gold from abroad during the same period were..... 78,933,587
The products of the mines during the year ending June 30, 1868, are estimated at..... 75,000,000

Making in the aggregate..... 840,253,587
To which may be added the gold circulation in California and other gold-producing States, not included in the above calculation—estimated at..... 50,000,000

Making in all..... 890,253,587.
Deducting the amount of gold exported during the same period..... 477,740,908

Leaves a balance of..... 412,512,679

There is also another large import of gold into the country from Europe of which there is no official record, the amount of which can only be guessed at. I mean that which is brought in small sums by emigrants, who come to our country at the rate of half a million a year. I have heard various conjectures as to the amount thus brought to the country, and none have put it lower than \$20,000,000 per annum for the last eight years, making the sum of..... 160,000,000

Which, added to the above, makes a total sum of..... \$572,512,679

But to make allowance for mistakes and exaggerations I estimate the gold and silver coin in the country at \$375,000,000.

The product of the mines, for the year ending June 30, 1869, may be safely estimated at \$75,000,000, and after that at \$100,000,000 per annum. When the Pacific railroad is completed, which will be next year, the facilities for getting to the mines in California, Nevada, Idaho, Colorado, Utah, and Montana, and for the transportation of heavy machinery necessary for quartz mining, will be greatly increased and must add very largely to the gold and silver product.

But, after all, the question of the amount of gold in the country is by no means so important as might at first be supposed. When the greenback notes begin to appreciate in value our bonds will inevitably advance along with them, and it will be a very easy matter for the Government then to procure enough gold abroad on its bonds, added to that which is in the Treasury, to redeem the whole greenback circulation; and to this end I have in my bill provided that the Secretary of the Treasury may, as the time for redemption approaches, negotiate bonds drawing interest for the purpose of procuring gold sufficient to complete the work of redemption.

But it has been said that if the Government reserves the surplus gold in the Treasury as proposed it would become scarce in the market and difficult for importers to obtain enough with which to pay duties. This objection might have some force were it not for other considerations. When the Government fixes the time for the redemption of the greenback notes those who have been hoarding gold will think the time to sell it has come. If they hold it until the time of redemption comes it will be worth no more than greenbacks. It would be better for them to sell when the premium is thirty-five cents than to hold it until the premium is only twenty five or ten cents; and the natural, and I may say the inevitable, effect of fixing a time for redemption will be to throw a large amount of gold into the market that has hitherto been hoarded. It will then be better to hold greenbacks which are appreciating than gold which will soon lose its premium. Beside that, reserving the gold in the Treasury creates a demand for it and brings into operation the law which I have elsewhere discussed, that the supply is governed by the demand.

The currency is not redundant, as I have before undertaken to show; and contraction should not come this side of redemption, and

only by the act of redemption. The greenback notes redeemed may be canceled, and the coin paid out for them will take their place in the circulation, and the currency will become mixed, but the volume of it will not be diminished. Bringing the greenback notes to par will, in chemical language, "set free" all the gold and silver in the land and pour them into the volume of the currency, thus inflating it, but the inflation will be legitimate. Then national banking may be made free, limited and restrained by the requirement of redeeming their notes in coin. Then there will be one currency for all the people, and one man's income will be equal to another's of like amount. Then our bonds, having kept pace with the appreciation of the currency, will be at par, and their disastrous flow to Europe will be checked. Then the Government can sell a four per cent. bond in the market at par, and with the proceeds pay off the present bonds if the holders refuse to exchange them, and thus reduce the aggregate interest on the debt more than forty million dollars per annum. Then the business of the country will be upon solid foundations and its prosperity enduring. At the end of two years reconstruction will in all probability have taken place; the blessings of peace will prevail throughout the land; the prosperity of the South in great part restored, and cotton, though never more called king, will play its former part in our foreign exchanges.

After the ocean has been swept by angry tempests that have engulfed gallant fleets and strewn the shores with wrecks and the bodies of the dead comes a calm. The mountain waves sink to gentle billows; the fierce gale lulls to a prosperous breeze; the sun shines forth in splendor, and the surviving mariners with joyful hearts again spread their sails, resume their courses, and speed away to their destined haven. So with our country when peace, reconstruction, and resumption have come.

It has been swept and rent by the storms of civil war. The land was strewn with the dead, and everywhere are visible the vestiges of the conflict. But peace has come, and with it reconstruction. The bright sun of prosperity shines forth in a cloudless sky. Industry, trade, and commerce again flow in their accustomed channels with accelerated currents. The tide of emigration, rising higher and higher, sweeps across from the Old World. The wilderness of the West yields up its golden treasures and blossoms as the rose, and our country moves on gloriously to its great and final destiny.

I move the reference of the bill I have just been discussing to the Committee on Finance.

The motion was agreed to.

HOUSE BILLS REFERRED.

The bill (H. R. No. 1537) to repeal certain provisions of section six of an act entitled "An act making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes," approved March 2, 1867, was read twice by its title, and referred to the Committee on Military Affairs.

The bill (H. R. No. 1555) to amend an act entitled "An act imposing taxes on distilled spirits and tobacco, and for other purposes," approved July 20, 1863, was read twice by its title, and referred to the Committee on Finance.

The bill (H. R. No. 1556) to relieve certain persons of all political disabilities imposed by the fourteenth article of the Constitution of the United States was read twice by its title.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The bill will be referred to the Committee on the Judiciary if there be no objection.

Mr. TRUMBULL. That bill relates to the removal of disabilities in South Carolina. The Judiciary Committee reported a similar bill this morning, and I think there is no occasion to refer this one.

Mr. EDMUNDS. Is it the same bill?

Mr. TRUMBULL. The Senator from South Carolina has been examining it to see if all the names are the same. I think it had better go upon the Calendar and be acted upon with the other bill.

The PRESIDING OFFICER. It will take that course if there be no objection. The Chair hears no objection.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bill and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 1558) to amend an act entitled "An act to prescribe the mode of obtaining evidence in case of contested elections," approved February 19, 1851; and

A joint resolution (H. R. No. 388) explanatory of an act to create an additional land office in the State of Minnesota, approved July 25, 1868.

NATIONAL DEBT.

Mr. CATTELL. I move that the Senate proceed to the consideration of the resolution reported by the Committee on Finance yesterday with regard to that part of the President's message which related to the finances.

The PRESIDING OFFICER. The Chair will remind the Senate that the first business in order is the unfinished business of yesterday. It can be laid aside by unanimous consent, or a motion to proceed to the consideration of another subject will be in order; but the unfinished business is now regularly in order. It was laid aside temporarily on the motion of the Senator from Indiana.

Mr. HOWE. The Senator from New Jersey is desirous of having a vote on the resolution just referred to by him, and I desire to see that resolution passed myself. If the Senate is ready to take a vote upon that resolution I have no objection that the unfinished business shall still further be laid aside informally; but if the resolution is to lead to debate it seems to me preferable that we should close one subject at a time.

Mr. HENDRICKS. Unquestionably the proposition of the Senator from New Jersey will lead to debate. There is no doubt about that, I should think. If the Senator from Wisconsin wishes to pass his bill that is all right. I have nothing to say about that.

Mr. SHERMAN. If this resolution reported by the Committee on Finance and under the charge of the Senator from New Jersey is passed at all it ought to be passed to-day. It is a simple condemnation of a certain clause of the President's message; and if we think it of sufficient importance to make it it ought to be done to-day or not at all. I look upon it as a matter of the very highest importance that the sense of the Senate should be taken upon the proposition of the President to repudiate the whole of the national debt except an annuity for sixteen years. It seems to me we can take a vote on that proposition after a little debate, if gentlemen choose to indulge in it. I do not wish to debate it. But if we intend to act upon the resolution at all it should be done before the recess. I admit that if it were a doubtful proposition it ought not to be acted on in this way.

Mr. CATTELL. If the Senator from Wisconsin will allow me, I desire to call the attention of the Senator from Indiana to the fact that the resolution of the Finance Committee was reported in such a shape that they hope and expect to get the vote of the Senator from Indiana in favor of it. All the objectionable features which were represented by him in the debate have been removed in order to secure his vote for the passage of the resolution. I do not think it will lead to debate.

Mr. HENDRICKS. I understood it was the resolution that the Senator introduced on the subject that was to be called up.

Mr. SHERMAN. No, sir; another resolution reported by the committee; the one offered

by the Senator from West Virginia, [Mr. WILLEY.]

Mr. HENDRICKS. I should like to have the resolution read, as it has been reported.

The PRESIDING OFFICER. The question is on proceeding to the consideration of the resolution mentioned by the Senator from New Jersey.

Mr. HENDRICKS. And I ask that it be read first.

The PRESIDING OFFICER. It may be read for the information of the Senate if there be no objection.

The Chief Clerk read as follows:

Resolved, That the Senate, properly cherishing and upholding the good faith and honor of the nation, do hereby utterly disapprove of and condemn the sentiments and proposition contained in so much of the late annual message of the President of the United States as reads as follows: "It may be assumed that the holders of our securities have already received upon their bonds a larger amount than their original investment, measured by a gold standard. Upon this statement of facts it would seem but just and equitable that the six per cent. interest now paid by the Government should be applied to the reduction of the principal, in semi-annual installments, which, in sixteen years and eight months, would liquidate the entire national debt. Six per cent. in gold would at present rates be equal to nine per cent. in currency, and equivalent to the payment of the debt one and a half time in a fraction less than seventeen years. This, in connection with all the other advantages derived from their investment, would afford to the public creditors a fair and liberal compensation for the use of their capital, and with this they should be satisfied. The lessons of the past admonish the lender that it is not well to be over anxious in exacting from the borrower rigid compliance with the letter of the bond."

Mr. HOWE. There seems to be a very general desire that a vote should be taken upon this proposition, and I will not stand in the way of it if there is no objection to the unfinished business being laid over informally.

The PRESIDING OFFICER. The unfinished business can be laid aside informally if there be no objection. The Chair hears no objection. The Senator from New Jersey moves that the Senate proceed to the consideration of the resolution which has just been read.

The motion was agreed to.

The PRESIDING OFFICER. The resolution has been read at length. The question is on its adoption. ["Question." "Question."]

Mr. DAVIS. I move to strike out all of the resolution after the word "resolved" and to insert the following as a substitute for it:

That the equitable and true measure of the liability of the United States upon all their bonds issued during and since the termination of the late rebellion is the value in gold and silver coin of the bonds of the date of their issue respectively, and interest upon that value.

Mr. President, I have not a great deal to say in support of my proposition; but what I have to say I prefer to say on some other occasion when I can be heard. At this late hour of the day I did not expect that the proposition would be called up. I hope, therefore, that the courtesy of the Senate will continue the subject over until to-morrow, that I may occupy its attention for perhaps half an hour in support of the proposition which I have moved as a substitute for the original resolution.

Mr. SHERMAN. I reported this morning, from the Committee on Finance, a resolution on which the argument of the Senator from Kentucky will be much more germane than on this proposition, and I think, therefore, it would be no denial of courtesy to him, as the subject will be constantly before the Senate, to refuse his request on this occasion. If this resolution is to pass it ought to be passed at once and confined entirely to the subject-matter of the President's message. When the other resolution is before the Senate the Senator from Kentucky will have opportunity to debate the question of his amendment. It has no pertinency to the message of the President.

Mr. EDMUNDS. I would suggest to the Senator from Kentucky that I have already given notice that either to-night before we adjourn, or to-morrow, with a view of considering it to-morrow, I shall ask the Senate to take up the resolution reported by the Committee on Finance this morning that I intro-

duced, expressly declaring that we owe this funded debt in coin, which will raise precisely the question that is suggested in the amendment offered by the Senator from Kentucky to this resolution. I suggest to him, therefore, whether it would not be more convenient to submit his proposition as an amendment to the resolution referred to rather than to this. That will come up in a day or two, certainly.

Mr. DAVIS. In urging any views that I may entertain in support of my substituted proposition it will be my purpose to say something upon the identical proposition that is set forth in the message of the President. I am not at all particular, though, about giving my views at the present time in connection with the resolution offered by the Senator from West Virginia, or whether it shall be done upon the subject of the resolution which the Senator from Ohio and the Senator from Vermont refer to. I would prefer, myself, at a very early time to say what I have to say upon the subject. If the proposition referred to by the Senator from Ohio and the Senator from Vermont is to come up to-morrow for speedy discussion, so that I may then have an opportunity to say what I desire to say, I have no objection to the matter taking the course which the gentlemen suggest.

Mr. EDMUNDS. I think I can promise the Senator that either the resolution proposed by the committee or the one offered by myself will come up to-morrow. I shall certainly ask the courtesy of the Senate to take up mine, according to the notice I have previously given, in order that at least I may have the opportunity of expressing some brief views of my own upon it. I think it safe, therefore, to assume that the courtesy of the Senate will be extended to the consideration of that subject to-morrow.

The PRESIDING OFFICER. Does the Senator from Kentucky withdraw his amendment?

Mr. DAVIS. As it seems to be the sense of the Senate that the subject shall take the course indicated by the gentlemen, I withdraw it.

The PRESIDING OFFICER. The amendment being withdrawn, the question is on the adoption of the resolution.

Mr. HENDRICKS. Mr. President, in regard to this question I occupy just this attitude: I do not agree with the sentiments expressed by the President of the United States in that part of his message which is quoted in the resolution now before this body; and, on the other hand, I do not understand it to be the province of the Senate of the United States, by resolution, to discuss and express an opinion upon the sentiments the President may be pleased to express in his message. It is a constitutional duty on the part of the President to make his views known to Congress upon every important question, and I presume it is the duty of Congress to consider those views; and any expression of sentiment that Congress may have to make upon them ought to be, I should suppose, in the form of legislation. The recommendations of the President are made with a view of influencing the action of Congress in its legislation. Now, if it is not the pleasure of Congress to concur with the recommendations made by the Chief Executive, that is expressed in its refusal to legislate according to those views. But is it possible that every opinion expressed by the Executive which is not agreeable to the majority must be met by a resolution of condemnation for fear that somewhere or other it may be understood that the Congress of the United States, by its silence, acquiesces in those views? Why, sir, the Constitution itself makes the President's message to be his own expression of opinion and advice to Congress. It in no way commits Congress to an indorsement of his views unless they be adopted in legislation.

Now, I am not willing to vote a resolution of censure; nor am I willing to be understood as indorsing the precise views that the President of the United States may express on this

subject. A good deal can be said on this question of repudiation. I recollect that, against my vote, the Congress of the United States, a few years ago, with a view of increasing the Army and securing colored troops from some of the States, made a pledge in a law that there should be certain payments made, and to-day we stand boldly repudiating that obligation of law. So that if Congress undertakes to say that repudiation in all forms is offensive to it Congress states what is not correct. Congress stands now to-day as repudiating an obligation that the Senator from Kentucky has urged as based upon law. That obligation of the Government was incurred without my support; I did not think it was politic at the time; but I refer to it simply as showing that Congress is not altogether clear of the offense of repudiation.

Mr. President, as expressing my views upon this subject, I move to amend the resolution by striking out all after the word "resolved," and inserting as a substitute:

That the Senate cordially indorse the sentiment in the President's message that "our national credit should be sacredly observed," and declare that the public debt shall be paid as rapidly as practicable exactly in accordance with the terms of the contracts under which the several loans were made; and where the obligations of the Government do not expressly state upon their face, or the law under which they were issued does not provide that they shall be paid in coin, they ought in right and justice to be paid in the lawful money of the United States.

I think, Mr. President, if Congress is now called upon to make any expression of opinion at all that this is the statement which ought to be made, that the public faith is to be observed, and that it is to be observed according to the contract; that if it be the contract that the bonds shall be paid in gold, they shall be thus paid; but if that be not the contract, then under the law of 1862 they may be paid in the lawful money of the United States. While we have no right to repudiate the obligation to the bondholder, and perhaps have no desire to do so, we have no right, in my judgment, to increase the obligations of the Government to the bondholder. He is entitled to his contract. When he gets his contract he cannot say that there is repudiation.

Now, I think the proposition of the President of the United States does not rest upon the contract. I do not refer to the sentiment which I have quoted in this amendment, but to the passage of the message which is quoted in the original resolution. I think the proposition of the President is not according to the law, and therefore is not the law of the case, is not the contract. But, sir, taking the law of 1862, which authorized the issue of Treasury notes, and considering the peculiar language of that law, in my judgment the amendment which I have offered does express the law of the case and the contract between the Government and the bondholder. Why not say so then, sir? If Senators believe the contract is otherwise, that can be met by adopting the resolution of the Senator from Vermont; but that we shall simply satisfy ourselves by passing a resolution of censure upon the Executive is a thing that I do not agree to; nor yet am I willing to be understood as adopting the proposition of the President. I content myself, sir, by taking a vote on this amendment, and I should like to have the yeas and nays upon it.

Mr. EDMUNDS. I wish the Senator from Indiana would withdraw that amendment, and let us express our opinion upon the distinct proposition in the President's message, which, he confesses himself, is not the proposition either way upon which his resolution proposes to act. The President's assertion may be true, and the amendment offered by the Senator from Indiana may be true also; on the other hand, the President's proposition may be false, and at the same time the proposition of the Senator from Indiana may be as false and erroneous as that is; and I should vote in favor of both the latter positions decidedly. But the proper consideration of what our national obligation is, as it respects the manner and currency in which it is to be paid, is a totally distinct

question from the one which the President has presented in his message. That proposition I shall be quite ready to discuss when it properly arises upon the resolutions which have been reported by the Committee on Finance. I agree, I may say now, however, without going into the discussion, to the assertion of the Senator from Indiana, that we are to pay according to the contract; but the great question is, as between us who are the final arbiters of what that contract is and the people who hold it, what is that contract in the light of the circumstances under which it was made, in the same light that it would be viewed by the gentleman himself if he had made a promise in similar language and only his own honor could be appealed to to interpret and enforce it? That is the question; but, as I say, I do not wish to discuss that question now; and as the Senator from Kentucky has, with great courtesy and regard to the wishes of the majority of the Senate, withdrawn a proposition which covers something of the same ground, I should hope that the Senator from Indiana would do the same thing.

Mr. HENDRICKS. I should like to have the yeas and nays on the proposition which I have submitted.

The yeas and nays were ordered.

Mr. BUCKALEW. Mr. President, I have never bestowed much attention and have never given any discussion myself to this question of the medium in which the public debt is payable. Heretofore it has not seemed to be a practical question, one requiring immediate action and decision by Congress or by the people; but as I am obliged to go upon the record on the amendment proposed by the Senator from Indiana, I wish to say a word or two in justice to myself.

I was very much struck with the argument heretofore made by the colleague of the Senator from Indiana, that assuming that the fifty-two bonds were payable in lawful money of the United States it would be against good faith that the volume of that currency as issued in former years should be increased. I believe it was the argument of the Senator from Indiana to whom I refer [Mr. MORROW] that the greenbacks issued up to 1864, constituting a volume of currency of a certain magnitude, were applicable under the laws to the payment of the principal of the fifty-two bonds. It was his argument that the creditor received his securities in view of the existing state of the currency under the authority given by law to the Secretary of the Treasury to issue that sort of securities, and that it would be a violation, not of express but of implied faith on the part of the Government, by issuing additional currency to reduce the amount of compensation which the creditor would receive when the bonds came to be paid. Now, sir, at present my impression is that that argument is sound; that we can apply the currency issued under the act of 1862 and one or two subsequent acts to the payment of the principal of the bonds authorized to be issued by the same class of laws passed *pari passu* with it; but on the other hand it would be inequitable and unjust for the Government, by diluting the currency by subsequent issues of paper money, to depreciate the value those creditors should receive. I do not know in what exact form this amendment is proposed. I am averse to voting for an amendment without any limitation, and which declares a general doctrine upon which I have bestowed no attention. I ask for the reading of it.

The PRESIDENT *pro tempore*. It will be read.

The CHIEF CLERK. It is proposed to strike out all after the word "resolved," and to insert:

That the Senate cordially indorse the sentiment in the President's message, that "our national credit should be sacredly observed," and declare that the public debt should be paid as rapidly as practicable, exactly in accordance with the terms of the contracts under which the several loans were made, and where the obligations of the Government do not expressly state upon their face, or the law under which they

were issued does not provide, that they shall be paid in coin, they ought, in right and in justice, to be paid in the lawful money of the United States.

Mr. DIXON. I wish to inquire whether it is in order to divide that proposition, to make two questions of it. I wish to vote for a part of it, but not the whole.

The PRESIDENT *pro tempore*. It will be read so that the Senate may know when it is divided what they will vote upon.

The CHIEF CLERK. The first branch of the amendment is—

That the Senate cordially indorse the sentiment in the President's message, that "our national credit should be sacredly observed."

Mr. DIXON. Read one sentence more.

The CHIEF CLERK:

And declare that the public debt should be paid as rapidly as practicable, exactly in accordance with the terms of the contracts under which the several loans were made, and where the obligations of the Government do not expressly state upon their face, or the law under which they were issued does not provide, that they shall be paid in coin, they ought, in right and in justice, to be paid in the lawful money of the United States.

Mr. DIXON. I propose to divide the proposition at the close of the first sentence, as I understand it, that the debt shall be paid in accordance with the terms of the contract.

The PRESIDENT *pro tempore*. The Senator can move to amend the amendment if he wishes to do so; but the Chair does not see exactly how the proposition can be divided.

Mr. DIXON. I propose to divide the amendment so that the question shall be taken on the first branch, as follows:

That the Senate cordially indorse the sentiment in the President's message, that "our national credit should be sacredly observed," and declare that the public debt should be paid, as rapidly as practicable, exactly in accordance with the terms of the contracts under which the several loans were made.

Mr. CONNESS. It seems to me that is all one proposition.

The PRESIDENT *pro tempore*. It is dividing a sentence of the same proposition. The Senator can move to amend the amendment if he wishes to do so, but I do not know that we can vote by piecemeal upon it. What the Senator asks is equivalent to a motion to strike out all after the words indicated by him.

Mr. POMEROY. I take it it is in order to amend the amendment by striking out all after a certain word.

The PRESIDENT *pro tempore*. That would seem to effect the object which the Senator from Connecticut desires to accomplish by a division.

Mr. POMEROY. If the Senator from Connecticut desires it I will make that motion for him.

Mr. DIXON. I do not propose to amend the amendment at all; but under the twelfth standing rule of the Senate I suppose I have a right to ask that the proposition be divided. The twelfth rule is as follows:

"If the question in debate contains several points any Senator may have the same divided."

What I ask is, that the proposition before the Senate may be divided at the point I have indicated, and that after disposing of that we then proceed to act upon the other branch. I do not offer it as an amendment, but merely submit it as a question of order.

The PRESIDENT *pro tempore*. The Chair does not doubt the right of a Senator to call for a division of a question where it can properly be divided and voted upon in that way; and perhaps this proposition can be divided at the point named as well as any other.

Mr. CONKLING. I ask for the reading of the next clause of the twelfth rule by the Secretary. It seems to me this is a motion to strike out and insert, and it is not divisible. I will read it, as I have it in my hand:

"But on a motion to strike out and insert it shall not be in order to move for a division of the question."

The motion here is to strike out all after the word "resolved" and to insert what the Senator from Indiana proposes. Now, I understand that according to this rule such a proposition is not divisible. I am surprised that it is so; but the Senator from Ohio [Mr. SHER-

MAN] tells me it is. I know the rule is not so in the other House; but according to this rule I understand a Senator cannot call for a division of this question because the motion, whatever the form may be, is to strike out all after the word "resolved," and insert the amendment of the Senator from Indiana.

Mr. SHERMAN. I desire to state that I have observed the practice of the Senate for years to conform to the rule. It is different in the House of Representatives, where they sometimes confuse the Speaker by demanding a division of an amendment. That is impossible under the rules of the Senate. A proposition is offered. A substitute for it is then offered. That substitute may be amended before the vote is taken on the original proposition, but you cannot have a division of the substitute. You must take the whole of it or else amend it by striking out a portion or by adding a portion.

Mr. HENDRICKS. The Senator from New York gives a wrong construction to that part of the twelfth rule which he has read, as I think. A motion to strike out and insert is not divisible in this, that you cannot demand a vote first upon the proposition to strike out and afterward upon the motion to insert. That is certainly the proper construction of the rule. I have never understood it to have any other meaning, and the proposition of the Senator from Ohio is not correct. I do not care anything about this question except as one of parliamentary law. Any proposition before the Senate may be divided if it be properly susceptible of division. If distinct propositions be made, and by a proposed division a distinct proposition is submitted to the Senate, and a distinct and separate proposition remains, then it is divisible. I understand that to be the rule.

Mr. CONKLING. I ask the Senator to yield to me for one moment.

Mr. HENDRICKS. Certainly.

Mr. CONKLING. The interpretation which the Senator puts upon this rule is the interpretation always put in the House of Representatives upon a rule not precisely identical in language with this, but which I have always supposed was equivalent to this; and so far I agree with the Senator. But, as I said before, I am told by the Senator from Ohio that the construction which has been put upon it in this body has always been that offering an amendment in the nature of a substitute, the motion being to strike out and insert, gave no right to divide. Therefore, I do not want to be taken to task by the Senator for a mistake upon the original language here, because, as I had previously said to my friend before me, in the House the interpretation is, as he suggests, upon language substantially like this; but I am told that here it has always been different.

Mr. HENDRICKS. I do not think it has been different here. Every reason which permits a division of an original question will permit a division of an amendment. If it is the pleasure of the Senate to adopt a part of an amendment, and an independent proposition connected with it is not agreeable to the Senate, then of course the Senate ought to have an opportunity to vote according to its pleasure upon it. That is the whole reason of it, as I understand. I have no doubt that the Senator from Connecticut is right, that the proposition is divisible.

The PRESIDENT *pro tempore*. The question is, at all events, new to me, and the Chair will refer it to the Senate to decide whether the question is susceptible of a division or not.

Mr. DAVIS. I think the motion of the Senator from Connecticut is in order. The proposition of the Senator from Indiana is in the nature of a substitute for the original resolution. The question then resolves itself into this simply: have you a right to perfect a substitute and have a vote upon that substitute on a motion to strike out and insert? I think clearly so. It may be that the substitute might be modified so as to be acceptable to the Senate, and in that way it would be perfectly according to parliamentary rule. The oppor-

tunity to perfect a substitute before the question is taken on striking out the original proposition and inserting that substitute would seem to me one of the most plain and obvious rights of the Senate and of every Senator.

Mr. POMEROY. I think there is no question of parliamentary law here, certainly. The point which has been made, that a motion to strike out and insert is not susceptible of division, does not arise. It can be made provided the Senator from Indiana should move, as he has done, to strike out and insert. That question is indivisible, clearly; you cannot take two votes on that. That is one motion. But there can be as many divisions of a substitute as there are subjects in it. This substitute may have a dozen propositions in it, and each Senator may demand a vote on each one, because it is the perfection of a substitute. The question of striking out and inserting does not come in here.

Mr. DIXON. I think the Senator from New York entirely misunderstands the intention of the clause which he read from the twelfth rule. The rule is this:

"If the question in debate contain several points any Senator may have the same divided; but on a motion to strike out and insert it shall not be in order to move for a division of the question."

Now, as I understand the Senator, he supposes that, as the motion is to strike out and insert, the matter proposed as a substitute cannot be divided. Is that his meaning? The only meaning of the rule, according to my understanding, is, that a motion to strike out and insert shall not be divided; that is, you shall not take it as a separate motion to strike out and not insert. For instance, to apply it to this case, when the Senator from Indiana proposes this as a substitute, or to strike out and insert, you shall not ask that the first question shall be whether you will strike out the original proposition and then insert his. That is the division that cannot be made; but the rule does not say that you shall not divide the proposition which is presented for insertion.

The PRESIDENT *pro tempore*. The Chair will refer the question of order, whether the proposition under the rule is divisible, to the Senate.

The question being put, it was decided in the affirmative; so that the proposition was held to be susceptible of division.

The PRESIDENT *pro tempore*. The question now is on the first clause of the proposition that has been read. It will be read again.

The Chief Clerk read as follows:

That the Senate cordially indorse the sentiment in the President's message that "our national credit should be sacredly observed," and declare that the public debt should be paid as rapidly as practicable, exactly in accordance with the terms of the contracts under which the several loans were made.

The PRESIDENT *pro tempore*. The question is on agreeing to this clause of the amendment.

Mr. WHYTE. On that question I call for the yeas and nays.

Mr. HENDRICKS. They were ordered, I believe.

The PRESIDENT *pro tempore*. They were ordered on the whole proposition, but not on this branch of it.

The yeas and nays were ordered.

Mr. FESSENDEN. I wish to inquire of the Chair, or some gentleman learned in the rules, whether, if we adopt this amendment, we adopt it in this vote as a substitute for the original resolution?

Mr. EDMUNDS. Certainly; it takes the place of that.

Mr. FESSENDEN. In that case I shall vote against it.

Mr. TRUMBULL. I do not understand that the vote on this divided proposition substitutes it in lieu of the proposition reported by the committee.

Mr. EDMUNDS. It substitutes so much of it as is adopted.

Mr. TRUMBULL. Not at all. This is a proposition to perfect the substitute, as I understand it.

The PRESIDENT *pro tempore*. That is the way the Chair understands it.

Mr. EDMUNDS. It takes the place of the other proposition.

Mr. TRUMBULL. I do not so understand it at all.

Mr. CONNESS. Let us get the decision of the Chair upon it.

Mr. TRUMBULL. We shall get the decision in a moment; but let us understand how we are going to vote. After we have voted upon this clause of the substitute the next question will be upon the other clause of the substitute.

The PRESIDENT *pro tempore*. Certainly.

Mr. TRUMBULL. Suppose that one clause of the substitute should be adopted and the other clause should not be, then would not the question arise on substituting the substitute as amended for the original proposition? It terminates in the same way. Suppose it were a proposition directly to amend the substitute by striking out half of it, and you struck it out, the next question would be, shall the substitute, as amended, be adopted in place of the original proposition? Now, suppose, what is actually occurring, that we divide the substitute. You strike out half the substitute by refusing to adopt it. You have not thereby substituted the substitute for the original proposition. That requires another vote. We cannot vote to substitute a part of the substitute for the original proposition. We must first determine what the substitute is upon which we vote, and that is what we are proposing to do, as I understand.

Mr. EDMUNDS. My friend from Illinois is altogether mistaken. The mere statement of what the question is under parliamentary law answers him entirely. The motion of the Senator from Indiana is to amend the original resolution by striking out all after the word "resolved" and inserting another proposition. That proposition is divided into two branches. The question is taken first on the first branch, and then on the second; and the identical question on the first branch is, whether we will agree to so much of his amendment as is embraced in that branch, and it therefore strikes out the whole of the original resolution after the word "resolved" and inserts so much of the amendment. Then we immediately take the question on inserting the residue of the amendment; and if we vote "ay"—

Mr. TRUMBULL. That strikes it out again.

Mr. EDMUNDS. Not at all.

Mr. TRUMBULL. If adopting the first part strikes it out I should like to know if adopting the second part does not strike it out a second time?

Mr. EDMUNDS. I assure my distinguished friend that that is not the case, because it is out already, unless he has a way of striking out that which is already out. The question, therefore, in the form in which it must be put, is, will the Senate agree to strike out all after the word "resolved" in the proposition of the committee, and insert so much, that is to say, the first branch of the proposed amendment? If we say "ay" to that it is carried. Then the question immediately recurs on the second branch of the amendment, whether that also shall be inserted in lieu of all that has been already stricken out. That is the question.

Mr. TRUMBULL. I do not so understand the question. The question is on agreeing to so much of the substitute. It strikes out nothing. Then the question is on agreeing to the residue of the substitute; and when you have perfected your substitute, then the question is whether you will strike out the original proposition; but now there is no proposition to strike anything out. The Senator from Connecticut has called for a division of the substitute—not upon striking out the original proposition, but dividing the matter proposed to be inserted. If the Senator from Vermont is right, if when we vote upon the first part of the proposition we strike out the original resolution, when we come to vote upon the second part of the proposition what do we strike out? He says nothing at all, for you have already

stricken out the original matter. Then, what are you voting on when you come to vote on the second clause of the substitute?

Mr. EDMUNDS. Voting on the insertion of an additional part of the amendment.

Mr. TRUMBULL. In that way, instead of perfecting your substitute and then voting on inserting it in lieu of the original proposition, you can never perfect a substitute.

Mr. EDMUNDS. We are not undertaking to perfect the substitute. The Senator from Connecticut refuses to perfect the substitute by moving to amend. He merely says he wishes to divide the question because it embraces two propositions. He does not offer to perfect it.

Mr. TRUMBULL. The argument that the Senator makes would be a good argument to show that it was not divisible; but it is no argument, it seems to me, to show how the vote should be.

Mr. SHERMAN. It seems to me we are getting into this confusion by departing from the practice of the Senate and the rule. The rule, it seems to me, is plain enough. A proposition of great importance is pending that is divisible. That is the proposition under debate. Any Senator has a right to divide it, or move to amend it, or move a substitute. When he moves to strike out the whole and insert a substitute in its place that substitute itself may be amended; but you cannot have a division. You cannot take a vote on each section or each clause of that amendment or substitute, because the substitute, after all, is only an amendment. It is only a different name for an amendment. Take an ordinary case; I have seen it done a hundred times: a bill before us is referred to a committee, and a substitute for that bill is reported back from the committee; that substitute can be amended by an amendment in the ordinary way; but you cannot take a vote on every section of that substitute, and then have another vote on the original proposition. That would create interminable delay. The rule, it seems to me, is plain enough. It declares that a proposition to strike out and insert is not divisible. What does that mean? Merely that a proposition to strike out shall not be taken at one time and to insert at another? Not at all. It means that that proposition to strike out and insert what we call a substitute shall be in the nature of an amendment subject to amendment, but that it shall not be divisible; that is, the proposition is not divisible. It may be amended, which is substantially the same thing. It seems to me that if we once establish the rule that a substitute may be offered, and then that that substitute may be divided up into as many votes as there are sections or propositions in it, it will create interminable confusion and probably delay the prosecution of the public business. The Senator from Connecticut has a perfect right, if he is not satisfied with the proposition submitted by the Senator from Indiana, to move to strike out any portion of it. That will bring us to a vote upon the part to which he objects, and if he succeeds there is a vote on the rest, and then finally a vote as between that proposition and the original. I think, therefore, we had better regard this as an indivisible proposition. By departing from the rules we create confusion and trouble.

The PRESIDENT *pro tempore*. The Senate has already determined that the proposition is divisible.

Mr. SHERMAN. There was no regular vote. It was not thoroughly understood.

Mr. HOWE. Would a motion to reconsider that vote just taken by the Senate be in order?

The PRESIDENT *pro tempore*. I think it would.

Mr. HOWE. I move to reconsider that vote. It seems to me, if it is possible to prohibit by a standing rule the division of a subject, the rule first read here does prohibit the division in this case. The rule makes but one proposition of a motion to strike out and insert; but if you divide either of the propositions, either the proposition to be stricken out or the proposition to be inserted, you do divide the whole

question, because you do not conclude it by one vote; it takes two or more. I move to reconsider the vote, holding the question to be divisible.

Mr. POMEROY. I do not think the Senate need reconsider anything. There is really no question in this. It has been the practice of the Senate always. The Senator from Indiana moves a substitute, to strike out and insert. That is one motion. The Senator from Connecticut moves nothing, but asks to have a division of that question; that is, a division of that substitute, not of the question to strike out and insert. That is indivisible. He asks to have a division of the substitute. He has a right to ask that. It does not require any motion. Now, the question to be put by the Presiding Officer is this: Will the Senate agree to the motion of the Senator from Indiana so far as it relates to the first clause of his amendment? If the Senate vote "aye," then that is adopted, and there is no way of getting away from that except by reconsidering it.

Mr. SHERMAN. That divides the original proposition.

Mr. POMEROY. That divides the original proposition; but if the Senate vote "no," and vote it all down, then the motion of the Senator from Indiana does not prevail, and the question recurs on the original motion.

Mr. SHERMAN. If that is the case what is the use of putting the substitute question afterwards?

Mr. POMEROY. There is no such question as that to be put. It is not before the Senate and it cannot be before the Senate, because this motion to strike out and insert is one and indivisible. But a Senator says, "let us perfect it; let us take a part of it, not the whole." The Senator from Connecticut seems to be in favor of the motion of the Senator from Indiana in part; and he has the right to vote on that part, and if the Senate agree with him, then so much of it is substituted and we cannot help it except by reconsidering it.

Mr. CONKLING. May I ask the Senator a question?

Mr. POMEROY. Yes, sir.

Mr. CONKLING. I understand the motion to be to strike out and insert is indivisible. Suppose the first part of the motion, upon his theory, carries; the whole original is stricken out and a certain part of the substitute is inserted. Now, the next question, according to him, the motion to strike out and insert being indivisible, would be whether the whole of it should be stricken out again and the rest of this substitute inserted. Can that be?

Mr. POMEROY. No, sir.

Mr. CONKLING. If that is not so, then I submit the motion to strike out and insert must be divisible, because the only sensible motion that can be put in the second instance would be whether, having stricken out the whole of the original, this residue of the substitute should also be inserted. That would lead directly to a division of the motion to strike out and insert.

Mr. POMEROY. I think the Senator from New York cannot but see this question clear at any rate: that if we adopt the motion of the Senator from Indiana in part, we may go on beyond that and adopt it still further, adopt the balance or reject it.

Mr. CONKLING. But how? If we adopt the balance of it what is that act of the Senate?

Mr. POMEROY. The Senate then have agreed to strike out the original and insert the amendment.

Mr. CONKLING. But they have already stricken out the whole of it on the first motion.

Mr. POMEROY. But they have enlarged what should be put in by the second.

Mr. CONKLING. Exactly; and there they divide the question of striking out and inserting; because, having stricken out the whole, that part of the motion has expended itself; and now when they come simply to insert in addition to the first insertion, that is a vote upon only half the motion to strike out and insert.

Mr. RAMSEY. Will the Senator from

Kansas allow me to suggest that this matter might be settled—it is a very perplexing affair—by a motion to adjourn. [Laughter.]

Mr. POMEROY. I do not think it is very perplexing. I should like to take the vote.

Mr. WILLIAMS. I would take the liberty of making a suggestion in reference to this rule, although I do not profess to be very expert in the rules of the Senate. It seems to me that the difficulty grows out of the mistake of the Senate in deciding that this question was at all divisible. The rule says:

"If the question in debate contain several points, any Senator may have the same divided; but on a motion to strike out and insert it shall not be in order to move for a division of the question."

This was one motion. The motion to strike out and insert is one and indivisible, according to my judgment; and when a proposition is made to divide a proposed substitute, the question in point of fact is divided because the substitute and the motion to strike out are both parts of one question. The question is an entirety: shall the original matter be stricken out and the substitute inserted? That is an entirety; that you cannot divide; but if you allow this division of the proposed substitute, then you do divide the question contrary to this rule; and it seems to me that we ought to reconsider the vote and decide that the question is not divisible.

The PRESIDENT *pro tempore*. The question is on reconsidering the vote by which the proposition was held to be divisible.

Mr. HENDRICKS. On this question I wish to say just one word. Now the proposition is that when a substitute is submitted to the Senate, the Senate cannot divide that substitute, and that the only vote which can be taken is whether the entire substitute shall be adopted in lieu of the original proposition.

Mr. WILLIAMS. You can amend it, of course, but not divide it.

Mr. HENDRICKS. You may amend it by striking out.

Mr. SHERMAN. Or inserting.

Mr. HENDRICKS. But you cannot divide. I think the practice of the Senate has been the other way. When a bill is before the Senate, and a committee reports a substitute for it, do we not consider that substitute section by section, and vote upon the adoption of the sections separately? Of course, finally, when the bill comes to pass, we have to vote upon the entire bill; but while the Senate is considering it we certainly do—it is an every-day practice, it seems to me—vote on the sections separately when they are presented as substitutes.

Several SENATORS. Never.

The PRESIDENT *pro tempore*. The question is on reconsidering the vote by which it was determined that this question was divisible.

The motion to reconsider was agreed to.

The PRESIDENT *pro tempore*. The question now is whether the pending proposition is divisible.

The question being put, it was determined in the negative.

The PRESIDENT *pro tempore*. The Senate decide that the amendment is not divisible. The question recurs on the amendment offered by the Senator from Indiana, [Mr. HENDRICKS,] upon which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 7, nays 44; as follows:

YEAS—Messrs. Buckalew, Davis, Hendricks, McGree, Saulsbury, Vickers, and Whyte—7.

NAYS—Messrs. Abbott, Anthony, Cattell, Chandler, Cole, Conkling, Corbett, Dixon, Drake, Edmunds, Ferry, Fessenden, Frelinghuysen, Grimes, Harris, Henderson, Howard, Howe, Kellogg, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Osborn, Pool, Ramsey, Rice, Robertson, Ross, Sawyer, Sherman, Spencer, Stewart, Sumner, Thayer, Trumbull, Van Winkle, Wade, Warner, Welch, Willey, Williams, Wilson, and Yates—44.

ABSENT—Messrs. Bayard, Cameron, Conness, Cragin, Doolittle, Fowler, Harlan, McDonald, Morton, Norton, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Sprague, and Tipton—15.

So the amendment was rejected.

Mr. BUCKALEW. Mr. President, this is unusual business for the Senate to engage in. The resolution, in the form in which it now stands, selects a passage in the annual message

of the President and pronounces a judgment of condemnation upon the sentiments contained in it, upon its language, and upon the proposition generally. What is to follow from it? The Senator from Indiana [Mr. HERRICKS] proposes an amendment declaring, I believe, a doctrine of a party platform. The Senator from New Jersey [Mr. CARTER] in the original form of his resolution had a fragment from another party platform. Now, I submit, sir, that our duties are not those of a convention, that our duties are legislative; and that we misspend our time in discussing abstract propositions which are to lead to no immediate action and take no legislative form.

See the result to which we come in this particular instance. It is proposed to select in this resolution a passage in the President's message. He and his friends will insist that that does him great injustice; that you take particular language; you take a sentence or two from his message and you leave out altogether the context; and upon turning to the message myself I am of that opinion; that by your resolution you will not give a fair representation of the President's position. A few paragraphs before the passage cited in the resolution the President commences in this manner:

"Various plans have been proposed for the payment of the public debt. However they may have varied as to the time and mode in which it should be redeemed, there seems to be a general concurrence as to the propriety and justness of a reduction in the present rate of interest."

Then he proceeds to mention that the Secretary of the Treasury has proposed the conversion of the debt into a five per cent. debt or loan, and that other propositions have been made, particularly in a bill passed by Congress at the last session, providing for a four or a four and a half per cent. loan into which the present five-twenty bonds should be converted. Other suggestions, he says, have also been made with reference to this debt and the burden which it imposes upon the people; and then he says further:

"A system that produces such results is justly regarded as favoring a few at the expense of the many, and has led to the further inquiry whether our bondholders, in view of the large profits which they have enjoyed, would themselves be averse to a settlement of our indebtedness upon a plan which would yield them a fair remuneration, and at the same time be just to the tax-payers of the nation."

And then, further on, he states the proposition which is embodied in the resolution before the Senate. In the first reading of his message the idea I obtained was that he proposed that Congress should at once pass a law compelling the public creditor, without any reason whatever assigned on the face of the law or assigned outside of the law, to accept interest for sixteen years, and then that the debt should be considered extinguished; but upon a fair construction it seems to me that his message does not mean that, but, going on and mentioning the various propositions that have been made in Congress and out of it for relieving the people with reference to debt and interest, he suggests that the public creditors, in view of considerations which pertain to the whole subject, may be content to make an arrangement or an adjustment of their claims with the Government. Then he goes on and states simply a proposition, a thing to be considered. The upshot of it is, he suggests whether the creditors may not take into consideration the particular plan which he proposes. Is there any reason for the condemnation of this resolution, in view of that construction of the message? Certainly not. For my part, I think the plan which the President proposes is not one which will be entertained by the public creditors or entertained by the country; that it is not practicable. I am not for it; I am committed against it; but in justice to him let it be understood that it is stated in his message as an addition to the various other propositions which have been made in Congress and out of it in regard to the public debt; and whether it be admissible or not, wise or not, there is no reason for pronouncing, by resolution, condemnation upon it. The Senate con-

demns the sentiments as well as the matter of the message. We have no business to condemn it. It is not within our jurisdiction to sit in judgment and condemn him in this manner. It might be proper for the Senate to express its own opinion, if it should think proper, in the way of a resolution. The Senate may declare that its opinion is thus and so, although I think we ought to be reluctant to enter upon the passage of resolutions that do not lead to immediate practical action.

I think the Senator from New Jersey therefore spoke without the book when he suggested that the form in which this resolution was reported from the committee was so unobjectionable that everybody would agree to it.

If it were a mere expression of opinion by the Senate upon the subject of paying the public debt it would be one thing. If by reference to the President's message it expressed dissent in its opinion from a proposition contained there, that also would be a matter for fair consideration. But here a fragment of the message is taken out without the context, which will convey to the public and to the world a just view of what the President intended; and then the Senate pronounces judgment of condemnation upon that passage; and, of course, read by itself, without what goes before and explains it, it conveys an incorrect idea altogether of the position which the President takes.

Mr. President, I might go on if the hour were timely and suggest that there have been various other propositions made in regard to the public debt which would fall under precisely the same condemnation which this resolution visits, propositions here in Congress and out of it; propositions based upon the idea that the public creditors and the Government shall adjust their relations with each other by compromise and by agreement. We proposed one bill at the last session which the President did not sign, and various others have been proposed, and the principle upon which they all go, every one of them, is that the Government shall not pay absolutely six per cent. in interest and the principal of the loans in gold; that the creditors shall take something which is less advantageous to them. I agree that this plan proposed in the President's message, so far as I can understand it, is not a practicable or a wise one; I am not for it, but I am opposed to this resolution, which upon insufficient grounds condemns his message, does him injustice; which does not state his position at all; which leaves out the context, which is necessary to go along with the passage cited in the resolution in order to be comprehended.

Sir, it is an embarrassing position in which to be placed, if a gentleman intends to vote, when he agrees in opinion against the proposition mentioned in the resolution, and yet at the same time is precluded from voting for that or assenting to it because of its form and because it does injustice. It seems to me that if the committee that had the subject in charge desired anything that would have a salutary effect upon public opinion, which would fairly express a reasonable view of the Senate, they would have put the resolution in a different form. In the form in which it is I, for one, will not vote for it.

Mr. SAULSBURY. Mr. President, I know no instance in the history of the Senate of the United States when a recommendation of the President of the United States has been met by a resolution of condemnation. The Senate will be at a loss to find any resolution of this body condemning simply a mere expression of opinion on the part of the President of the United States.

In the passage from the message of the President which is cited in the resolution he makes no recommendation; he does not in any particular invoke the action of this body; he does not even suggest to you the propriety of any action on your part; but as an individual he makes a suggestion as to what he supposes would be for the interest of the public creditors, as to what he supposes they will be

satisfied with; and simply because he has thus expressed an opinion or made a suggestion, without asking you to indorse it either by resolution or by legislative enactment, you hurry through this, the High Council Chamber of the nation, a resolution condemnatory in its character. I doubt, sir, whether in any great legislative body a resolution of this character has ever been passed. What! has it come to this that the chief Executive Officer of the nation, in his communications with this body, shall not be allowed to express an opinion or make a suggestion as to what he supposes would be to the interest of the public and also to the interest of the public creditors without being met by words of condemnation and language of disapprobation?

This is the true situation of this question now before the Senate. Read that message carefully, and I will defy any man to point out in this regard a particle of recommendation on the part of the President or even an intimation that the Senate of the United States as a legislative body ought to take any action upon the suggestion which he makes. Why, sir, he starts out by stating to you distinctly that many suggestions have been made in reference to the manner of discharging the public indebtedness. He reminds you that Congress at its last session passed an act providing for the payment of interest at the rate of four and four and a half per cent. This was one suggestion; it passed this body; it passed the other House of Congress; it went to the President; he withheld his signature from it, and it did not become a law. Then he assumes as a fact that in the judgment of this body and the judgment of the other House of Congress there ought to be an abatement of the public interest, and he assumes that the judgment of Congress in that respect is the judgment of the country. This proposition having received the favorable consideration of Congress, he then makes a suggestion of his own whether, if the public indebtedness were discharged in the manner he suggests in his message, it would not be a better plan and whether it would not meet the approval of the creditors themselves.

And yet, sir, upon the reading of this message in this body, the mere suggestion of the President of the United States was regarded by the body as repudiation. If the suggestion of the President be repudiation, what is the suggestion in a bill passed by Congress of funding the debt at an interest of four and four and a half per cent. except repudiation? The honorable Senator who introduced that bill and this body when they passed it had no idea that in introducing it or passing it they were favoring the doctrine of repudiation; and yet it was a proposition to abate one and a half and two per cent. of the interest on the public debt.

Then, sir, there is no difference in principle between the suggestion of the President of the United States and the solemn enactment of this body. The principle is the same. The question is only as to the abatement of the amount of interest. And yet, sir, after the gentlemen of this body have themselves solemnly voted for a proposition to abate the interest on the public debt one and a half and two per cent., thereby showing their judgment that the people of the country are paying a greater amount of interest than should be exacted from them, they come forward with a condemnatory resolution of the President of the United States when he suggests the same thing and does not even ask their approval, does not ask their indorsement, does not ask them to pass any bill or enact any measure to carry out his views. In condemning him, sir, you condemn yourselves.

It is said that consistency is a jewel. I know that that jewel is not found too frequently in legislative halls; but I should like some gentleman who voted for the bill of the honorable Senator from Ohio, providing that the public debt should draw four or four and a half per cent. interest, to explain to me the difference in principle between the provisions of that bill and the suggestion of the President of the

United States. Who condemned you? Who uttered a word against your honor or your honesty? Who believed that in voting for that measure you Senators who gave it your support meant to do a dishonorable act? No one; not even the most rabid political paper in the United States which was opposed to your party and opposed to you politically ever questioned your personal integrity in that act. And yet, sir, proposition after proposition was made in this body after the reading of the message, reflecting not only upon the suggestion of the President of the United States, but reflecting upon his honor in making the suggestions, for one of the resolutions went to the extent of declaring it "dishonest." Before Senators condemn measures or suggestions coming from the Executive of the United States, or from any other source, they ought to calmly and considerably weigh what the suggestions are. When you come to reduce the suggestion to its elements, and to see what there is in it, you find that there is nothing in it except what you voted for yourselves.

However this resolution may be worded, it cannot escape the conviction in the public mind that it is intended not only to condemn the measure, but to reach him who made the suggestion. Repudiation charged against a man who, in his very communication to the body, tells you that the public credit should be sacredly preserved! He, doubtless, was anxious that the public credit should be preserved; and as there were many suggestions being made, and as some of those suggestions had received the favorable consideration of Congress, he makes one that the public credit may be preserved; and the basis of the suggestion, after all, is the consent of the creditor, for he expressly says that the public creditors themselves, in view of the large gains to them from their investment, the large amount of profit which they realized from the investment, may be perfectly willing to agree to a proposition of this kind. Does he say to you, sir, does he say to the country, that if the public creditors are unwilling to accept a proposition of this kind then pass an act compelling them to do so? Not at all. He asks you to pass nothing; he asks you to force nothing on the public creditor; but, sir, having as a wise man and as a student of history pondered the teachings of history, he may have foreseen as he thought, and you may perhaps foresee if you will for a moment think of it, the danger in which a large public debt of this kind may be from exacting principal and interest, the entire amount, without listening to any words of accommodation. To avoid repudiation it is not alone sufficient to pass resolutions expressing the individual opinions of members of this body. To avoid repudiation or great public embarrassment it would be wiser to commence the consideration of those great measures of reform in the administration of Government and in the legislation of Congress which the sufferings of an embarrassed and burdened people imperatively demand.

If you would elevate to the standard of coin your legal-tenders or greenbacks there is a way much more potential for the accomplishment of such a laudable object than passing resolutions through this body. Cease the expenditure of the public money upon measures which you yourselves admitted, were in their inception, of an extraordinary character and for a temporary period. Abolish your miserable Freedmen's Bureau, which has been a blight and curse and disgrace to the country ever since it was established; save the millions that you are taking from the public Treasury in supporting that bureau, an institution as needless as the imagination of man can conceive; cease the rule of Ulysses the First over ten States of this Union, backed up by a large and unnecessary military power; call off the oppressors of the people; do not reward them for their oppression by running your hand into the public Treasury and giving them premiums; see that the taxes which you levy are so reasonable in amount and so just in themselves that

the revenue of the country can be collected without the perpetration of such enormous, such extensive, and such numerous frauds, as leave the amount collected almost useless in discharge of the public expenses.

But, sir, gentlemen who are in favor of the measures to which I have alluded are not willing that their reputation for integrity should be tarnished by the possibility of its being believed that they would discharge the public indebtedness, except by paying the whole amount of principal and the whole amount of interest, and some of them are so guarded in reference to their reputation in this behalf that they would pay the whole amount in gold, whether the contract said "pay in gold" or not. Mr. President, I believe in repudiation in no form, in no shape, in public or in private; but I do not believe in making the public pay the public creditors anything more than the public, through their representatives in Congress, have agreed to pay them. There is a large portion of this debt, perhaps two thirds of it, as to which nothing has been said in regard to what it shall be paid in, whether coin or currency. I have no doubt my honorable friend from New Jersey [Mr. CARTELL] would have it all paid in coin. He is a coin man. He knows a great deal more about finances than I do. It is a subject which I never studied much, because I did not think I should ever be able to understand it, never having seen a man in my life that did. [Laughter.] But I wish to suggest to that honorable Senator, and to those who are so generous that they would not only pay off the public creditors according to the contract but pay them off in coin, whether they have ever considered the question where the coin is to come from? The late Mr. Stevens said in the House of Representatives, in a public speech, that this country was indebted to the amount of five billions. Others have said that it amounts to four billions. The published statement makes the ascertained adjusted indebtedness, not including the unascertained or unadjusted indebtedness, to be \$2,500,000,000. How are you going to pay it all off in coin, principal and interest?

You are generous. It is a noble feeling which prompts not only to doing justly, but tells you, as you have it in your power, to do more than justly; and you are now to look up the coin with which to pay. How much coin is there in the world? Sir, there are not this day four billions of coin in the whole world; but admit that there are four billions of coin in the whole world, you propose to take four and a half billions of it and leave all the rest of the world with a billion and a half. Modest request! You expect the world to come and bring its treasures to your door to enable you to pay off your patriotic lenders of money, who loaned it, not for their benefit, mind you, if they did lend a greenback worth forty cents on the dollar and get a promise for one hundred cents for it, but for your benefit, to enable you to prosecute a great, glorious, and patriotic war, the objects of which I will not now enter into. Perhaps before the end of the session I may have occasion, on some measure patriotic in its character which you may suggest, to enter into a fuller consideration of that branch of the subject. But do you suppose that out of the four billions of coin in the whole world you are going to get two and a half billions and that the rest of the world is going to be content with two and a half billions? No, sir; however patriotic the impulse may be, and however strong the desire on your part may be so to discharge the public indebtedness, you will find when you want the money to do it that you cannot get it. You will have to resort to some other mode if you discharge it. But you say, perhaps, "We do not propose to do it all now;" but according to the prediction of the honorable and distinguished Senator from New Jersey [Mr. FREELINGHUYSEN] you will do it in about twenty-one years. Now, take the amount of your coinage in the world twenty-one years ago, compare it with the amount of coinage now, and say that it will increase proportionately twenty-one years in the future; sup-

pose you have arrived at that period, if you get enough coin to discharge this public debt will you not get more than your share? Is all the world going to let you have that amount? No. It is simply this; when you attempt to pay the public debt in coin, either now or in future, you will find the coin is not there; you have not that much of the coin of the world for your share; you will never be able to do it, and the consequence will be that your debt will never be paid, because you will never have the wherewithal to pay it.

Oh, but, said the honorable Senator from New Jersey [Mr. FREELINGHUYSEN], the other day, in that beautiful and elegant speech which he made—and he always makes such speeches—"we will find the resources in our waving fields"—I thought he was going to become a poet—"we will find them in our mines; we will find them in the different industrial pursuits of life; and if everything else fails we will find them in the sweat of our brows." Mr. President, I believe it was Artemus Ward who said during the war, to show his patriotism, that he was perfectly willing, as a proof of his devotion to his country, to give every one of his wife's relations to the prosecution of the war. [Laughter.] I do not know that I object to taking the waving fields of New Jersey and the mines of Pennsylvania and the products of the shops of New England and giving them all to discharge this public debt; and I am willing to contribute my part of the public burden, but when it comes to this sweating business I do not sweat, [laughter;] the Senator from New Jersey will not sweat; and the honorable Senator who offered this resolution will not sweat. Whenever it comes to the point of sweating, let me tell you, Mr. President, the great masses of the people will take hold of it, and these public creditors had better now, I will not say take the suggestion of the President, but take some reasonable proposition. They know, as the President says, that they have already got as much as they ever invested. Let them come up and agree to an adjustment before sweating time comes. Do you suppose the people of this country are so in love with this public debt, that they are so sensitive upon the subject, as is either one of the honorable Senators from New Jersey or any member of this body?

Do you not suppose they will hail with delight the time when the tax-gatherer no longer comes around to summon them to the county seat? I live in a very plain, unsophisticated part of the world; they never saw a Federal tax-gatherer before this war; but now men are summoned up to the county seat to tell how much their income is, that they may contribute a portion of it for the benefit of Uncle Sam. Do you not think it will delight their hearts when they find that they have to sweat to help to pay these taxes for the Federal Government? How would they have been wounded in their finer sensibilities if the tax-gatherer had only told them, "Well, now, you need not pay this at all;" and would they not have protested, would they not have asked the privilege of giving part of the fruits of the sweat of their brow for the benefit of the Federal Government?

Sir, the cry of "copperhead" and "traitor," "rebels down South" and "Ku-Klux Klan," and all those things, will soon pass away. You cannot keep up the public excitement very long and for many years so as to control popular elections by such cries. I make no predictions; but I say that four years to come they will not be strong enough to defeat the honorable Senator from Indiana [Mr. HENDRICKS] for Governor, if he wishes to be. And then, when your public debt is not being decreased; when you keep up your standing Army, that costs twice as much now to maintain it as the ordinary average expenses of the General Government were in the past; when navies are kept up; when there is no curtailment of the public expenses; when the people see all this, and when all those things that excited for the moment have passed away and sweating time comes, the

great danger is, not that the people are dishonest, but seeing that those whom they intrusted with the management of their affairs and to represent them in the Halls of Congress do not curtail the expenses of the General Government and lessen their burdens, it may be that they may consider, as Livy said when he went to write his history, whether it shall be the price of their labor, whether it shall be the price of their sweat to pay the public debt at all. You know, sir, and so does every other reflecting man know, that if you could separate portions of this public debt from other portions of it, there is a large part of the American people who would to-day not repudiate it, but who would not acknowledge that it ever rightfully existed.

Suppose you could separate that portion of the public debt which was incurred in the legitimate and proper prosecution of the war from that portion of it which had no connection with the legitimate and proper prosecution of the war, and put the question of the payment of the latter to the people of the United States this day, I doubt whether you could predict with certainty the result. Who would pay that portion of the debt (if it could be presented distinctly from any other portion of it) incurred for the military's being sent into States that had never joined in what you called the rebellion, that never gave you any disturbance, to control elections, as they were in my State? I might vote for it, provided I could vote at the same time for a rope to hang the men that sent them.

All these questions may hereafter by some persons be presented for the consideration of the American people. Now, suppose a great financial crash should come, such as this country has undergone in time past, then, from the depths of embarrassment and want and ruin, the people may begin to consider the easiest way to escape; and therefore, says the President in his message, (whether he had any reference to a state of affairs of that kind or not,) it is not always best to exact to the letter the fulfillment of the bond.

But, Mr. President, I will not enter more fully into the discussion of this question now. I do not believe that any person who properly considers the language of the Executive in his message can seriously come to the conclusion that he meant repudiation in any form whatever; but finding that even Congress itself had entertained a proposition for the abatement of the public interest, so that there should not be a rigid compliance with the terms of the bond, he, without recommending Congress to act upon his suggestion, merely suggested this as one of the propositions that might be worthy of consideration here and by the creditors. But, sir, I suppose this resolution will pass. If so, I can see no possible good to come from it. The mere suggestion has not lowered the price of stocks and gold in the market. It has not decreased the value of your bonds. The public are suffering no detriment. The resolution looks too much upon its face, although I do not presume that the honorable Senator who offered it could possibly have meant such a thing, as if it was intended to give a party fling at a retiring President.

I shall enter upon no eulogy of the President. He has done many things which you disapprove. He has not gone far enough in the right direction for me. He is about to go out of public life. Although I have dissented from many measures of his administration, I have approved most of those to which you have taken exception. There is one thing that can with truth be said of him, that starting out in early life with none of the advantages which most of you have had, he has worked himself up by honorable paths to the chief position under this Government, the President of the United States. History, notwithstanding any resolution which you may pass, whether designed for the purposes of reflection or otherwise, will adjudge this of him, that in the trying and embarrassing situation in which he has been placed he acted, to the best of his judgment, a patriotic part. He has given too many

evidences in the past of his devotion to the country for it now to be believed that he means that country wrong.

Mr. HOWARD. Mr. President, the passage cited in the resolution now under consideration from the President's message is to my mind very plain. It needs no gloss or comment or interpretation to arrive at its just intention and exact purpose. It recommends to Congress, as a measure proceeding from the executive mind, a recommendation presented to us in the course of his official duties as established by the Constitution, that we should enact by law that the public creditors, the bondholders of the United States, should be deprived of the benefit of the performance of the promise which the Government has made to them in the terms in which it was made. He recommends that henceforth there shall be applied from time to time, from the end of one period of six months to the end of another period of six months, the semi-annual interest accruing upon the bonds of the United States, upon the principal made payable on the face of those bonds, until this application, or rather withholding of the interest of the bonds, shall have absorbed and exhausted and paid the principal of the bonds. That is the executive recommendation; it is in effect and intent a deliberate recommendation to Congress to make a private seizure of the interest accruing upon the public bonds of the United States, and to apply that interest in payment of the principal of the bonds. In other words, it is an attempt on the part of the Executive, by way of recommendation, to repudiate henceforth and reject, refuse to pay—for that is the plain English of it—both the interest and principal of those bonds.

Such, sir, very plainly and very clearly, is the effect and intent of that executive recommendation. It calls upon Congress to refuse to pay the honest debts of the nation.

Gentlemen on the other side of the Chamber do not regard this as a recommendation suggested on the part of the President of the United States. They seem to treat it very plausibly and very kindly, as if it was a mere kindly and benevolent suggestion on the part of the President of the United States. Sir, the Constitution gives to the President, among other powers and among other duties, the power and duty of furnishing information to Congress, from time to time, of the state of the nation, and of recommending to their consideration such measures as he may see fit. He is not authorized by the Constitution to enter upon the business of writing and publishing essays either to Congress or to the public. He is bound up and confined to these two simple duties: furnishing information to Congress, and recommending to Congress such measures as he may see fit. I take it for granted he did not intend in the present instance to depart from the line of what he regarded his constitutional duty, and I therefore take it for granted that it is his deliberate purpose, as President of the United States, to have it understood that he, the President, is opposed to the payment henceforth of either the principal or the interest upon the bonds of the United States.

This recommendation goes the entire length of repudiating and sweeping out of existence the honorable obligations due from this Government to its creditors, who, in its hour of need, came generously and patriotically forward and loaned their money to carry on the war to put down the rebellion. Now, sir, I would not upon every trifling occasion express an opinion upon the recommendations of the President; but when he, acting under the Constitution, lays before the Congress of the United States, and causes to be published at home and abroad, this outright, sweeping, unblushing piece of practical piracy, if it shall ever be carried out, then I hold that it becomes my duty as a Senator of the United States to raise my voice against his and to condemn so piratical a recommendation. Had this proceeded from any private person, had it proceeded from any other public functionary, it would have carried with it far less weight than

it does now. How will it be looked upon abroad by the creditors of the Government who may happen to read it? And I trust in God they will be very few who will take that trouble; they certainly will not if they know the man as well as I think I know him. But this recommendation will go abroad; it will be understood by the public creditors abroad as an expression, to some extent at least, of the purpose of the American people to repudiate their honest debts. I need not say, sir, what effect it may have abroad or what effect it may have at home.

I hold it therefore, sir, to be our bounden duty, as constituting the legislative power of the nation, to rebuke *in limine* this attempt to repudiate the debts of the United States; and I am by no means persuaded, by the remarks of the gentlemen upon the other side, that we are committing the high and grave crime of disrespect toward Andrew Johnson, President of the United States, when we say in reply to that foul recommendation—that is a harsh term, perhaps, but I think it very well deserved—that it is no better than a recommendation of piracy and public robbery; for it is, after all, a recommendation to seize and confiscate into the Treasury of the United States moneys which honestly and justly belong to the honest creditors of the United States.

Mr. DIXON obtained the floor.

Mr. NYE. I move that the Senate adjourn.

Mr. ANTHONY. If it is the pleasure of the Senate to adjourn I beg to suggest that it is desirable that there should be a short executive session.

Mr. SUMNER. Can we not get a vote?

Mr. DIXON. To test the sense of the Senate as to whether they wish to hear me this evening in the few remarks I have to make, I move that the Senate adjourn.

Mr. CATTELL. I hope the Senate will not adjourn.

Mr. ANTHONY. I hope the Senator from Connecticut will withdraw his motion so that we may have an executive session. There is some executive business that we ought to do.

Mr. DIXON. I withdraw the motion to adjourn with the understanding that I have the floor on this question.

Mr. ANTHONY. Then I move that the Senate proceed to the consideration of executive business.

The motion was not agreed to.

Mr. WILLIAMS. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, December 16, 1868.

The House met at twelve o'clock m.

The Journal of yesterday was read and approved.

LEAVE OF ABSENCE.

Indefinite leave of absence was granted to Mr. WILLIAMS, of Pennsylvania, on account of sickness.

CLERK TO COMMITTEE ON REVISION OF LAWS.

Mr. POLAND, by unanimous consent, submitted the following resolution:

Resolved, That the Committee on the Revision of the Laws of the United States be authorized to employ a clerk, who shall be allowed the same compensation as the clerk to the Committee on the Judiciary.

Mr. McKEE. I would like to make one suggestion to the gentleman from Vermont. I am not objecting to the resolution. I am in favor of allowing the committee a clerk. I entirely agree with the chairman of the committee on that point. But I suggest to him that in order to carry out what was agreed on in the committee the compensation should be limited to the time that Congress is in session. We ought not to create a salaried office for the year.

Mr. SPALDING. It is so now.

The SPEAKER. The Chair will state that it will expire on the 4th of March next.

The resolution was then agreed to.

Mr. POLAND moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

INVALID PENSIONS.

Mr. MILLER. I ask unanimous consent to offer the following resolution:

Resolved, That the Secretary of the Interior be directed to furnish for the information of the House a list of the names of all invalid pensioners placed on the roll since 1861 from disabilities incurred in the service of the United States during the war for the suppression of the rebellion, with their residence or address; and that he also designate in said list the names of those who still continue to receive pensions, and the rate per month.

Mr. SCOFIELD. I object.

MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States was communicated to the House by Mr. WILLIAM G. MOORE, his Private Secretary.

BRIDGE ACROSS THE MISSOURI.

Mr. PILE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be directed to furnish this House with any reports made by officers of the engineer department with reference to the bridge across the Missouri river at Kansas City, Missouri.

RIGHTS OF AMERICAN CITIZENS ABROAD.

Mr. ROBINSON. I ask unanimous consent to offer the following preamble and resolution:

Whereas this House, by a resolution adopted June 15, 1868, has declared that Messrs. Warren and Costello, American citizens, now held under penal servitude in English prisons, were "convicted and sentenced in Great Britain for words and acts spoken and done in this country, by ignoring our naturalization laws;" and whereas the Secretary of State of the United States has, in a dispatch to Mr. Moran, our charge d'affaires at London, which was read to Lord Stanley, the English foreign secretary, by said Moran, July 9, 1868, stated that the correspondence of our legation at London is full of remonstrances and expostulations which, by the President's direction, he, the said Secretary of State, had addressed to her Majesty's Government against the imprisonment of Messrs. Warren and Costello, which said remonstrances and expostulations seem to be neglected and despised by her said Majesty's Government; and whereas a member of this House from the State of Ohio on the 3d day of February, 1868, declared that if Messrs. Warren and Costello were tried and imprisoned in England for words and acts spoken and done within our jurisdiction it concerned the peace of the Republic, and more, that it involved the honor of the Commonwealth; and whereas on the said 3d of February, 1868, the chairman of the Committee on Foreign Affairs and said member of this House from Ohio protested against this matter going to the Executive, as it was a matter exclusively for congressional action; and whereas the official report of Warren's trial was communicated to this House, referred to the Committee on Foreign Affairs, and ordered to be printed on the 10th day of February, 1868, now ten months ago, clearly proving that Messrs. Warren and Costello were tried, and convicted in Dublin for words and acts done and spoken in the United States, as alleged in the resolution of this House of June 15, 1868, and which has been denied by Lord Stanley; and whereas no report has been made by any committee of this House, and no notice has been taken by this House for these ten months of this matter, involving not only the peace of our Republic, but the honor of the Commonwealth; and whereas a resolution involving the facts herein alleged was referred to the Committee on Foreign Affairs over ten months ago, upon which no report has since been made: Therefore,
Be it resolved by this House, That a select committee of seven members be, and the same hereby is, appointed to examine into this matter, and report forthwith to this House whether any American citizens have been tried and convicted in Great Britain for words and acts spoken or done in the United States or by ignoring our naturalization laws, and to recommend by bill or otherwise such measures as will vindicate the honor of the Commonwealth.

Mr. BINGHAM. I must object to this preamble and resolution, unless they are referred to the Committee on Foreign Affairs.

Mr. ROBINSON. I shall not consent to anything going to that committee, and therefore I withdraw the resolution.

NITRO-GLYCERINE, PETROLEUM, ETC.

Mr. ELIOT, by unanimous consent, introduced a bill (H. R. No. 1554) prohibiting the carriage as freight in passenger vessels of nitro-glycerine, petroleum, or other explosive substances; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

REMOVAL OF DISABILITIES.

Mr. PAINE, from the Committee on Reconstruction, which is authorized to report at any time, reported a bill (H. R. No. 1556) to relieve Andrew Ramsay, W. L. Heriotz, William J. Mixson, William A. McDaniels, James Harrison, John H. Goodwin, Johnson J. Knox, J. J. Klein, John W. Burbridge, Charles B. Farmer, and George Buist from all political disabilities imposed by the fourteenth article of amendment to the Constitution of the United States; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

Mr. PAINE. I have been instructed by the Committee on Reconstruction to ask that this bill be considered at this time. I send to the Clerk's desk to be read a statement relating to the persons named in this bill, signed by the Representatives from the State of South Carolina in this House.

The Clerk read as follows:

The persons named in this bill are loyal men, have been elected to various positions, and unless they qualify before January 1st their offices cannot be filled except by a new election, as the offices they have been elected to are elective and not appointive. They are men worthy to have their disabilities removed.

B. F. WHITEMORE,
Member of Congress First District.
C. C. BOWEN,
Member of Congress Second District.
SIMEON CURLEY,
Member of Congress Third District.
JAMES H. GOSS,
Member of Congress Fourth District.

Mr. PAINE. The statement just read shows the reason why we desire to make this an exceptional case, and ask for legislation now. It is that unless these gentlemen are relieved from disabilities before the 1st day of January next the offices to which they have been elected will be vacated. For that reason we have placed them in a separate bill. I will add that these gentlemen are all citizens of the State of South Carolina; the names of citizens of no other State being placed in the bill.

I send to the Clerk's desk, and ask to have printed in the Globe, some documents relating to some of these gentlemen. I now yield the floor to the gentleman from New York, [Mr. Brooks,] my colleague on the committee.

Mr. BROOKS. I was about to suggest that all these documents should be printed. I will also add, while I am up, that we who are in the minority of the committee from which this bill is reported, though cognizant of the fact that these persons are almost all of one political party, yet hope that the day will soon come, now that universal male negro suffrage exists in the South, when universal white male suffrage will also be permitted there.

The papers referred to by Mr. PAINE are as follows:

GREENVILLE COURT-HOUSE, SOUTH CAROLINA,
December 11, 1868.

SIR: Having been elected school commissioner of our county, I cannot qualify because of political disabilities. Will you be so kind as to take the proper measures to have my disabilities removed by Congress?

Yours, very respectfully,

JAMES HARRISON.

Hon. J. M. ALLEN, Senator.

FRIEND WHITEMORE: Please do all you can in this matter; also, that of John H. Goodwin and W. A. McDaniel, as it is necessary that these gentlemen should be able to qualify under the act or resolution introduced by you at the last session, that was to extend the time to qualify until the 1st of January, 1869.

Respectfully, yours, &c.,

JAMES M. ALLEN.

I am not personally acquainted with the parties named in this communication. They have been elected on the Republican ticket, and are recommended by Hon. James M. Allen, State senator, and postmaster at Greenville, South Carolina, and I can safely indorse his recommendations.

B. F. WHITEMORE,
Member of Congress First District South Carolina.

IN THE HOUSE OF REPRESENTATIVES,
COLUMBIA, SOUTH CAROLINA, December 12, 1868.
DEAR SIR: Yours of the 10th instant has just come to hand. In reply I write to inform you that Mr. W. J. Mixson was before the war a magistrate, and at the commencement of the war he enlisted as a pri-

vate and remained in the confederate army about three months. He was the first, and, for some time, the only white man in Barwell who supported the reconstruction acts. He has from the passage of those acts faithfully labored for the success of the Republican party. As an acknowledgment of his merit he was elected as a member of the General Assembly. Do have his disabilities removed as soon as possible.

Yours, truly,

R. B. ELLIOTT.

Hon. B. F. WHITEMORE.

MECHANICSVILLE POST OFFICE.

SUMTER COUNTY, S. C., December 12, 1868.

DEAR SIR: Having had the pleasure of making your acquaintance some time ago at Mr. Coghan's, in Sumter, I have taken the liberty of asking a favor of you, namely: that you will press my claims for the removal of my disabilities, which are simply these: that I unfortunately some ten or fifteen years ago was a member of the Legislature, and went into the confederate army. I have acted from the beginning to the end faithfully with the Republican party in furthering all of their views, and was the only white man in my neighborhood who would act with the Republican party in the hour of its greatest need. I assisted in the election for members for convention, its ratification, and for all of its nominations, and acted at our polls as magistrate at all of its elections to preserve peace and order. Should reference be required I will give you the voters of Sumter county as proof, and also of my stand with the party. My petition from South Carolina Legislature, I have been informed by Mr. Coghan, our senator, was unanimous, and was forwarded to Congress last fall just before it took its recess. Please give it your earliest attention and oblige.

Very respectfully, your obedient servant, &c.,

R. LA ROCHE HERIOTZ.

Hon. B. F. WHITEMORE.

Please let me hear from you, and oblige, very respectfully,

R. L. H.

Mr. PAINE. I will now call the previous question.

Mr. FARNSWORTH. Will the gentleman withdraw that motion for a moment?

Mr. PAINE. Very well.

Mr. FARNSWORTH. I desire to ask the gentleman to allow me to move an amendment to this bill, to add the name of De Witt C. Senter, of Tennessee. The committee have directed me to report a bill for his relief.

Mr. PAINE. I feel authorized to allow the amendment to be offered.

Mr. FARNSWORTH. Mr. Senter is now the Lieutenant Governor of Tennessee, and will soon be obliged to take the oath of Governor.

The SPEAKER. As the bill comes from a committee, the amendment cannot be accepted. It will be regarded as pending.

Mr. PAINE. I now demand the previous question on the bill and pending amendment.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment of Mr. FARNSWORTH was agreed to.

The bill, as amended, was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time.

The question being taken on the passage of the bill, it was passed, two thirds voting in favor thereof.

Mr. PAINE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

On motion of Mr. PAINE, the title of the bill was amended so as to read, "An act to relieve certain persons therein named from all political disabilities imposed by the fourteenth article of amendment to the Constitution of the United States."

MILITIA IN SOUTHERN STATES.

Mr. PAINE also reported back, from the Committee on Reconstruction, a bill (H. R. No. 1537) to repeal certain provisions of section six of an act entitled "An act making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes," approved March 2, 1867, and demanded the previous question.

The question was on ordering the bill to be engrossed for a third reading.

The bill, which was read, provides for the repeal of section six of the act named in the title, so far as the same is applicable to the States of North Carolina, South Carolina, Florida, Alabama, and Louisiana.

Mr. BROOKS. I think my colleague on the

committee [Mr. PAINE] owes to the House some exposition of a bill of such importance as this before calling for summary action upon it.

Mr. PAINE. I will state to the House the object we have in presenting this bill. By section six of the act of March 2, 1867, it was provided that in the lately rebellious States no militia should be organized or maintained. That provision is still in force, although several of those States have been restored to their relations to the Federal Government. The repeal of the provision becomes necessary in order to remove an obstruction to the organization and maintenance of the State militia in those States as the State militia is maintained in other States of the Union. A bill of this kind has, I believe, been already passed by the Senate; and it seems to me no one can have any objection to such a measure.

Mr. ELDRIDGE. I desire to make an inquiry of my colleague, [Mr. PAINE.]

Mr. PAINE. I withdraw the demand for the previous question to enable my colleague to make his inquiry.

Mr. ELDRIDGE. I observe that the State of Georgia is omitted from this bill. I desire to inquire the reason for this omission? It seems to me that that State is in the same situation as the others, and ought not to be excluded from the benefits of this measure.

Mr. PAINE. In response to the inquiry of my colleague I will state the reason why Georgia is omitted. I am not sure that I should be in favor finally of excluding Georgia from the operation of a measure of this kind; but it will be remembered that there is now pending before Congress an inquiry as to the condition of things in Georgia; and this fact made it questionable whether we should at this stage of the session include Georgia in a bill of this kind. It was deemed best to postpone action with reference to that State until the questions in regard to that community shall have been examined and reported upon, and then to act upon the case of Georgia in a separate bill. So far as I am concerned, I rather think I shall in due time be in favor of including Georgia in a bill of this kind.

Mr. ELDRIDGE. I wish to inquire whether it is the purpose of the committee making this report to reconstruct Georgia again, or whether it is considered as sufficiently reconstructed?

Mr. PAINE. The instructions which I received from the committee this morning did not embrace that subject.

Mr. BENJAMIN. I hope we will have read the section that it is proposed to repeal.

Mr. BECK. I simply desire to make a statement.

Mr. PAINE. I will yield for that purpose.

Mr. BECK. A bill of this character, as I see by the Globe, passed the Senate yesterday, and as one of the members of the Reconstruction Committee I think this bill should be postponed for the present. The Senate bill brings up the whole question as to all of the States, and having already passed the Senate and now coming to this House, I think it better this bill should not be acted on, but that we should wait for the Senate bill.

Mr. PAINE. I will send to the Clerk's table, to be read, section six, which it is proposed to repeal. In reply to my colleague on the committee, [Mr. BECK,] I will say that it will be impossible for us to regulate our legislation in the way he suggests. If our bill first reaches the Senate it may be first acted on, and if their bill first reaches us it may first be acted on.

The Clerk read as follows:

Sec. 6. And be it further enacted, That all militia forces now organized or in service in either of the States of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Louisiana, Mississippi, and Texas be forthwith disbanded, and that the further organization, arming, or calling into service of the said militia forces, or any part thereof, is hereby prohibited, under any circumstances whatever, until the same shall be authorized by Congress.

Mr. FARNSWORTH. I ask my colleague to yield to me for a moment.

Mr. PAINE. I will yield to my colleague.

Mr. FARNSWORTH. I will vote for this bill, but at the same time I do not want to be put upon the record as agreeing to the doctrine that Congress may prevent States from organizing militia.

Mr. PAINE. Of course, then, the gentleman will vote for this bill, which repeals a provision involving that doctrine. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PAINE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REVENUE STEAMER S. P. CHASE.

Mr. BUTLER, of Massachusetts, by unanimous consent, introduced a joint resolution (H. R. No. 387) to authorize the removal of the revenue steamer S. P. Chase from Lake Ontario to the sea-board; which was read a first and second time, and referred to the Committee on Commerce.

DISTILLED SPIRITS AND TOBACCO.

Mr. SCHENCK. I ask unanimous consent to report from the Committee of Ways and Means a bill (H. R. No. 1555) to amend an act entitled "An act imposing taxes on distilled spirits and tobacco, and for other purposes," approved July 20, 1868. It should be passed, if at all, before the holidays.

There was no objection; and the bill was received and read a first and second time.

It amends section seventy-eight of the act indicated by striking out "1st day of January," and inserting "15th day of February."

Mr. SCHENCK. I demand the previous question, unless some explanation is required.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REDUCTION OF OFFICERS.

Mr. LAWRENCE, of Ohio, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of State, of the Treasury, of the Department of War, of the Navy, of the Interior, the Attorney General, and the Postmaster General be, and are hereby, directed to report to this House, as soon as practicable, what reduction can be made, compatible with the public interests, in the number of officers and employés, salaries and expenses in their respective Departments, or in the service connected therewith.

UNION PACIFIC RAILROAD.

Mr. WASHBURN, of Illinois, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the President be requested to transmit to this House the report of the special commissioners to examine into the character of the work on the Union Pacific railroad, and to inform the House what attempts, if any, have been made on the part of said railroad company to obtain money from the Government for building said road without having constructed the same in conformity to existing law; and also to further inform the House the amount of bonds issued to said railroad company, and if a sufficient amount has been retained in the hands of the Government to guaranty its completion as a first-class road, in further accordance with the existing law.

DRAWING FOR SEATS.

Mr. ROSS. I rise to a privileged question. I offer for consideration the following resolution:

Resolved, That the Clerk of this Houseshall, at one o'clock p. m. on Wednesday, the 16th day of December, A. D. 1868, place in a box the name of each Member and Delegate of the House of Representatives, written on a piece of paper; that he then proceed in the presence of the House to draw from said box, one at a time, the said slips of paper, and as each is drawn he shall announce the name of the Member or Delegate upon it, who shall choose his seat for the present session: *Provided*, That before said drawing

shall commence the Speaker shall cause each seat to be vacated, and shall see that every seat continues vacant until it is selected under this order; and that every seat, after having been selected, shall be deemed vacant if left unoccupied before the calling of the roll is finished.

The SPEAKER. The Chair rules, as he has done heretofore, that a resolution for the drawing of seats at each session is a privileged question. It is for the House to determine whether it will or will not draw for seats.

Mr. ROSS. There are twenty five or thirty new members who have had no chance to draw seats, and it is but justice to them to give them the opportunity. I demand the previous question.

Mr. DAWES. I desire to ask the gentleman—

Mr. ROSS. I object to anything else intervening, because the time will soon expire for the resolution to go into operation.

The SPEAKER. Does the inquiry of the gentleman from Massachusetts relate to this proposition?

Mr. DAWES. It does not. The Committee of Elections desire me to report a short bill, to which I presume no one will object, which it is necessary, if it pass, shall go through before the recess. That is all.

Mr. ROSS. I demand the previous question.

Mr. VAN TRUMP. I move that the resolution be laid on the table.

Mr. ROSS. I will modify the resolution by inserting after "one o'clock" the words "or as soon as this resolution is agreed to."

Mr. SCHENCK. Mr. Speaker, if the previous question is not seconded, will it be in order to move to proceed to a drawing for seats every Monday morning? [Laughter.]

The SPEAKER. If the previous question is not seconded it would be.

Mr. CAVANAUGH. I desire to ask a question of the Chair. On this question I think the Delegates from the Territories ought to have the right to vote.

The SPEAKER. The Chair decides that according to uniform usage they will not be entitled to vote, not being Representatives from States.

The question being put on laying the resolution on the table, there were—ayes 83, noes 72.

Mr. ROSS demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 88, nays 84, not voting 49; as follows:

YEAS—Messrs. Adams, Anderson, Archer, James M. Ashley, Bailey, Baldwin, Barnum, Beaman, Beck, Benjamin, Bingham, Boutwell, Boyer, Brownell, Burr, Benjamin F. Butler, Chanler, Reader W. Clarke, Cobb, Cook, Dawes, Dixon, Donnelly, Eggleston, Eldridge, Eliot, Farnsworth, Ferry, Getz, Glossbrenner, Golladay, Gove, Griswold, Halsey, Higby, Chester D. Hubbard, Humphrey, Ingersoll, Jencks, Judd, Kelley, Kelsey, Kerr, Ketcham, Knott, Koonz, George V. Lawrence, William Lawrence, Loan, Loughbridge, Mallory, Marshall, Marvin, McKee, Morrissey, Mullins, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Phelps, Pianty, Poland, Pooley, Pruyn, Raum, Robinson, Sawyer, Schenck, Scofield, Sitgreaves, Spalding, Stokes, Stone, Tabor, Taffe, Taylor, Thomas, Trowbridge, Upton, Van Aernam, Van Trump, Welker, Stephen F. Wilson, Wood, and Woodward—88.

NAYS—Messrs. Allison, Arnell, Axtell, Baker, Barnes, Beatty, Benton, Blair, Bowen, Boyden, Broomall, Buckley, Roderick R. Butler, Calk, Callis, Churchill, Sidney Clarke, Clitt, Coburn, Corley, Covode, Cullom, Deweese, Dickey, Driggs, Eckley, Ferriss, French, Goss, Gravely, Grover, Haghey, Hawkins, Heaton, Hill, Holman, Hooper, Hopkins, Hotchkiss, Hulburt, Hunter, Thomas L. Jones, Julian, Kellogg, Kitchen, Lynne, Maynard, McCarthy, McCormick, Mercer, Miller, Moore, Moorhead, Morrell, Mungen, Newsum, Niblack, Norris, Peters, Pettis, Pike, Pile, Price, Prince, Robertson, Ross, Shanks, Smith, Stevens, Stewart, Stover, Sypher, John Trimble, Lawrence S. Trimble, Twichell, Van Wyck, Ward, Henry D. Washburn, Whittemore, William Williams, James F. Wilson, Windom, Woodbridge, and Young—84.

NOT VOTING—Messrs. Ames, Delos R. Ashley, Banks, Blackburn, Blaine, Boies, Brooks, Buckland, Cary, Cornell, Delano, Dockery, Dodge, Edwards, Ela, Fields, Fox, Garfield, Haight, Hamilton, Harding, Asahel W. Hubbard, Richard D. Hubbard, Johnson, Alexander H. Jones, Lakin, Lash, Lincoln, Logan, McCullough, Nicholson, Nunn, Pierce, Pomeroy, Randall, Roots, Selye, Shellabarger, Starkweather, Tift, Van Aiken, Bart Van Horn, Robert T. Van Horn, Vidal, Caldwell, C. Washburn, Elisha B. Washburne, William B. Washburn, Thomas Williams, and John T. Wilson—49.

So the resolution was laid on the table.

Mr. SCOFIELD. I move to reconsider the vote by which the resolution was laid on the table, and to lay the motion to reconsider on the table.

Mr. WILSON, of Iowa. I demand the yeas and nays on the latter motion.

Mr. SCOFIELD. I withdraw the motion.

TESTIMONY IN CONTESTED ELECTIONS.

Mr. DAWES. I desire the permission of the House to report from the Committee of Elections a short bill, to which I presume there will be no objection. It is desirable, if it passes at all, that it should pass before the recess, in order that the benefits of it may be had by those who desire it to be passed. It is a bill to amend an act entitled "An act to prescribe the mode of obtaining evidence in cases of contested elections," approved February 19, 1851.

The bill was read for information. It proposes to authorize the register in bankruptcy resident in any congressional district, the right to represent which is contested, to take testimony and perform any of the other acts which a judge of any court of the United States is authorized to do by the third section of an act entitled "An act to prescribe the mode of obtaining evidence in cases of contested elections."

Mr. WOOD. I object to that, most decidedly.

Mr. DAWES. If the gentleman will listen to me, I will state to him the occasion for the passage of the bill, and I think he will have no objection.

Mr. WOOD. If the gentleman from Massachusetts will permit me to make but one remark in opposition to this measure, I am satisfied that he himself will see its impolicy and impropriety.

Mr. DAWES. I will listen to the gentleman.

THE SPEAKER. The gentleman from New York [Mr. Wood] reserves the right to object.

Mr. WOOD. The proposition, as I understand it, is to place in the hands of these registers the same powers as are now exercised by judges under the existing law.

Mr. DAWES. That is not the intention of it. The intention is to add the register to the number of officers prescribed. I will tell the gentleman the difficulty that has existed heretofore in such places, for instance, as the city of New York, where there are half a dozen districts in the city. The law requires the officer to reside in the district. Well, the judge of the United States court for the whole city may not reside in the district. It is not the intention of the bill to take away from the officers now prescribed by law any authority which they now have, but only to add to them the register of bankruptcy.

Mr. WOOD. The objection in my mind to this proposition is that it places this whole power in the hands of members of one political party. I believe that all the officers in the United States to whom it is proposed to give this power belong to one political party, and I think that is a fatal objection to the proposition.

Mr. DAWES. Whether these registers be all of one political party or not I am not advised; but this bill does not propose to compel either side to go before this register. One side, for instance, might go before the register and the other side go before any one of the other persons named in the act, as they could do as the law stands now. But there have been contests in districts where it has been impossible to find the particular officer named in the act resident in the district, and the parties have had to come to Congress to get special authority for some individual to take the testimony.

Now, while the Committee of Elections do not desire to force the parties before the register of insolvency or to compel them to take their testimony before one particular individual—and they have drawn the act on purpose to avoid that—they desire to afford facilities to them all by adding the register of insolvency to the list of officers before whom the testimony may be taken. He is authorized by law to

administer oaths, and is an officer supposed by the committee to be particularly suitable to take the testimony. He will not, of course, be resorted to unless it is more convenient to take testimony before him than before one of these judges, and nobody can be compelled to take testimony before him when there are any other of the officers resident in the district. That is the purport of it.

Mr. WOOD. Another objection which strikes me to this measure is that these officers are temporary officers, appointed under the existing bankrupt law, and at the expiration of the operation of that law these officers will necessarily go out of existence as such.

Mr. DAWES. The answer to that is twofold; the bankrupt law is a standing law as much as any other law, and if it should expire or be repealed it would leave this statute precisely as it is to-day, so that it would embarrass nobody.

Mr. WOOD. Every bankrupt law that this Government has ever enacted has been but a temporary measure for temporary purposes, and in every instance—and we have had several of them—they have ceased after an operation of two or three years.

Mr. DAWES. If that should be the fate of this law it would cause no embarrassment, for every contestant would have precisely the same privileges and rights that he has now if that law should be repealed and the registers become extinct.

Mr. WOOD. I must object to the introduction and consideration of this bill at this time. At a subsequent period, Mr. Wood withdrew his objection.

The bill (H. R. No. 1558) was then introduced, and read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

Mr. McKEE. Will the gentleman from Massachusetts [Mr. DAWES] yield to allow me to amend the bill by inserting the words "notaries public?"

Mr. DAWES. The committee had under consideration the question whether this power should be extended to notaries public, and they thought that every facility would be furnished by adding the registers in bankruptcy to those now named in the law, and we were not desirous to give that authority to everybody. Therefore, as representing the committee, I should not be willing to have the amendment offered which has been suggested by the gentleman.

Mr. McKEE. Will the gentleman allow me to offer the amendment in order that it may be voted upon by the House? The gentleman is aware that in the Kentucky contested-election cases we were obliged to go some hundreds of miles before we could get our testimony taken. Unless this amendment is made, there will be a necessity perhaps of taking a register in bankruptcy, and compelling him to travel in some cases a distance of two hundred miles.

Mr. DAWES. Nobody is confined, under this bill, to the register in bankruptcy in any district. Besides that officer he will have half a dozen other officers upon whom to call for that service. If notaries public are included in the bill it will add hundreds of officers to those now covered by the bill. In many districts there are a hundred notaries public; I venture to say that in New York city alone there are a thousand of them. The committee are unwilling to extend the list of officers so far, for there would be danger that in some instances this matter would be brought before improper officers. If in practice it should be found necessary to extend the list of officers it can then be done. But I am not willing to have it extended in the direction proposed. I therefore decline to yield for that purpose, and call the previous question.

The previous question was seconded and the main question ordered.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. DAWES moved to reconsider the vote

by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CONSTANCE BATEMAN AND OTHERS.

Mr. KELSEY, by unanimous consent, introduced a bill (H. R. No. 1557) for the relief of Constance Bateman, Augustine de Caidry, and Julia L. Wamaling; which was read a first and second time, and referred to the Committee of Claims.

SLAVE-HOLDING IN KENTUCKY.

Mr. JULIAN. I ask unanimous consent to introduce for consideration at this time the following preamble and resolution:

Whereas it is alleged, on good authority, that thousands of colored people in the State of Kentucky are now actually held as slaves by their former owners; and whereas many of these persons are children, ignorant of their rights and unable to defend them, and many others are too poor to employ counsel and meet the expenses of litigating their rights in the Federal courts, and hundreds of miles distant: Therefore,

Resolved, That the Judiciary Committee be instructed to inquire into the expediency of providing by law for the appointment by competent authority of United States commissioners in convenient and suitable localities, with power to issue writs of *habeas corpus*, and to hear and determine applications and causes involving such illegal slave-holding, and that said committee report by bill or otherwise.

Mr. TRIMBLE, of Kentucky. I object.

Mr. BECK. I also object; for the reason that the statements therein made are incorrect.

CERTIFIED CHECKS—NATIONAL BANKS.

Mr. PRICE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Banking and Currency be instructed to inquire into the expediency of reporting to this House, at as early a day as practicable, a bill prohibiting under a severe penalty any national bank from certifying any check unless the maker of such check has on deposit and subject to draft in such bank at the time of such certifying the funds necessary to meet the same.

MINNESOTA LAND DISTRICT.

Mr. DONNELLY, by unanimous consent, introduced a joint resolution (H. R. No. 888) explanatory of the act to create an additional land office in the State of Minnesota, approved July 25, 1868; which was read a first and second time.

The question was upon ordering the joint resolution to be engrossed and read a third time.

The joint resolution, which was read, provides that the limits of the land district, as designated in the act entitled "An act to create an additional land district in the State of Minnesota," approved July 25, 1868, to wit: all that part of the northwestern land district which lies north of township No. 124 north, and west of range No. 35 west of the fifth principal meridian, shall be construed to embrace all the land north of township No. 124 and west of said range No. 35.

Mr. DONNELLY. Mr. Speaker, I think that after a brief explanation there will be no objection to the passage of this bill.

At the last session Congress passed a bill creating a new land district in the State of Minnesota. That bill, which was prepared by the Commissioner of the General Land Office, was passed in the form prepared by him. The language of it was as follows:

"And to establish an additional land district in the State of Minnesota, embracing all that part of the northwestern land district which lies north of township No. 124 north."

It appears that the old northwestern land district did not extend down to the line of township No. 124 north, but only to township No. 128, so that there was an inconsistency or an ambiguity in the language of the bill in defining the boundaries of the district; in consequence of which the bill passed at the last session has not gone into effect. The land office has been established; the officers appointed and commissioned by the President, and confirmed by the Senate; but in consequence of the ambiguity I have mentioned the work cannot be proceeded with. The result is

that the settlers in that region of country have now to travel through the snow in many instances one hundred miles farther than would be necessary if this incongruity in the act of last session were remedied.

The bill which has just been read by the Clerk has been prepared by the Commissioner of the General Land Office, and sent to me accompanied by a letter, which I ask may be read.

The Clerk read as follows:

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE, December 15, 1868.

SIR: In reply to yours of this morning, I state that the act of July 25, 1868, creating the Alexandria district in Minnesota, directs that the district shall embrace all that part of the present northwestern district lying north of township No. 124, &c.

As the southern line of the northwestern district is the township line dividing No. 123 and No. 129, the law would require that as the limit, while the naming of township No. 124 shows an evident intention to make that the southern boundary.

Senator RAMSEY called to-day, and the matter was explained to him, and at his request we prepared a joint resolution, of which the inclosed is a copy, and which we have transmitted to him. I have no doubt the passage of this resolution will fully relieve the difficulty. I also inclose copy of the original act.

I am, sir, very respectfully,

J. S. WILSON,
Commissioner.

Hon. IGNATIUS DONNELLY, House of Representatives.

Mr. DONNELLY. I will add that I have conferred with seven of the nine members of the Committee on the Public Lands, and they are all in favor of the bill, and ask that it may be considered and passed at this time.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. DONNELLY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BRIDGE ACROSS DELAWARE RIVER.

Mr. O'NEILL, by unanimous consent, introduced a bill (H. R. No. 1559) giving the consent of the United States to the erection of a bridge across the Delaware river, between Philadelphia and Camden; which was read a first and second time, and referred to the Committee on Commerce.

RELIEF FROM POLITICAL DISABILITIES.

Mr. SYPHER, by unanimous consent, introduced a bill (H. R. No. 1560) to relieve from disabilities James T. Ward and John L. Lewis, citizens of Louisiana; which was read a first and second time, and referred to the Committee on Reconstruction.

COMPOUNDING OF LIQUORS.

Mr. VAN WYCK, by unanimous consent, introduced a bill (H. R. No. 1561) subjecting compounders of liquors to the same provisions as rectifiers; also prohibiting compounding establishments within six hundred feet of a distillery, the same as rectifying establishments; which was read a first and second time, and referred to the Committee of Ways and Means.

HEIRS OF MATTHEW SZEGADY.

Mr. PILE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Accounts be instructed to examine the claim of the legal representatives of Matthew Szegady, deceased, late a folder under the Doorkeeper, and to allow thereon such sum, not exceeding two months' pay, as may be just and proper.

PUBLIC LANDS.

Mr. CLARKE, of Kansas. I ask unanimous consent to submit the following resolution:

Resolved, That in the judgment of this House, whenever the public lands of the United States be disincumbered of Indian title, said lands should be immediately opened for settlement under existing laws, or under such rules and regulations as Congress may prescribe, and that the sale of Indian lands to corporations and speculators by treaty stipulations is contrary to sound public policy and in derogation of the rights of the masses of the people.

Mr. MAYNARD. I object.

PARAGUAY.

Mr. MUNGEN. I ask unanimous consent to submit the following resolution for action at this time:

Resolved, That the Secretary of State of the United States be requested to furnish to this House such information as he has in his possession relative to the arrest of American citizens in Paraguay, and especially touching the arrest of persons attached to the American legation and the conduct of our minister resident at Paraguay therewith.

Mr. RANDALL. I will not object if the gentleman will insert "Mexico."

Mr. ROBINSON. I object until we pass the most important resolution in reference to American citizens imprisoned in Great Britain.

Mr. MUNGEN. Let it be referred, then, to the Committee on Foreign Affairs.

There was no objection, and the resolution was received and referred accordingly.

UNITED STATES AND VENEZUELA.

Mr. DRIGGS, by unanimous consent, introduced a bill (H. R. No. 1562) more effectually to provide relief for claimants under the late convention between the United States and the republic of Venezuela; which was read a first and second time, and referred to the Committee on Foreign Affairs.

PAY OF FEMALE CLERKS.

Mr. JONES, of Kentucky, by unanimous consent, introduced the following resolution:

Resolved, That all females in the employment of the Government be allowed equal pay where they perform like service with males.

Mr. JONES, of Kentucky. The justice of the resolution speaks for itself, and I demand the previous question on its adoption.

The previous question was seconded.

Mr. WASHBURN, of Illinois, demanded the yeas and nays on ordering the main question.

The yeas and nays were ordered.

Mr. RANDALL. Is this a House resolution? If it is, it will effect nothing.

The SPEAKER. It is a House resolution; expresses the opinion of the House; action to be effective requires a joint resolution.

Mr. JONES, of Kentucky. I ask unanimous consent to modify it so as to make it a joint resolution.

Mr. WASHBURN, of Illinois. I object.

Mr. JONES, of Kentucky. Then let it pass as it is.

The question was taken; and there were—

ayes 131, nays 28, not voting 62; as follows:

YEAS—Messrs. Adams, Allison, Ames, Anderson, Archer, Arnell, Axtell, Baker, Baldwin, Barnes, Barnum, Beaman, Beatty, Benjamin, Benton, Bingham, Blaine, Boutwell, Bowen, Boyer, Brooks, Broomall, Burr, Roderick R. Butler, Callis, Cary, Chanler, Sidney Clarke, Clift, Corley, Deweese, Dickey, Donnelly, Driggs, Edwards, Eggleston, Ela, Eldridge, Ferry, French, Getz, Glossbrenner, Golladay, Goss, Gove, Gravely, Grover, Haughey, Hawkins, Heaton, Higby, Holman, Hooper, Hotchkiss, Chester D. Hubbard, Humphrey, Ingersoll, Alexander H. Jones, Thomas L. Jones, Judd, Julian, Kelley, Kellogg, Kerr, Kitchen, Knott, William Lawrence, Loan, Loughridge, Mallory, Marshall, Maynard, McCormick, McKee, Miller, Moore, Morrell, Morrissey, Mullins, Mungen, Myers, Newcomb, Newsam, Norris, O'Neill, Orth, Paine, Pettis, Phelps, Pike, Pile, Plants, Poland, Polsley, Price, Prince, Prun, Randall, Raum, Robertson, Robinson, Ross, Schenck, Scofield, Shanks, Sitgreaves, Smith, Starkweather, Stewart, Stokes, Stone, Stover, Sypher, Taber, Tift, John Trimble, Lawrence S. Trimble, Trowbridge, Twichell, Van Aernam, Van Trump, Vidal, Whittemore, William Williams, John T. Wilson, Stephen F. Wilson, Windom, Wood, Woodward, and Young—131.

NAYS—Messrs. Bailey, Blair, Boyden, Cake, Churchill, Cobb, Cook, Ferriss, Hopkins, Hunter, Kelsey, Ketcham, Koontz, George V. Lawrence, McCarthy, Mercur, Moorhead, Perham, Peters, Sawyer, Selye, Spaulding, Taffe, Taylor, Upson, Burt Van Horn, Van Wyck, and Elihu B. Washburne—28.

NOT VOTING—Messrs. Delos R. Ashley, James M. Ashley, Banks, Beck, Blackburn, Boles, Bromwell, Buckland, Buckley, Benjamin F. Butler, Reader W. Clarke, Coburn, Cornell, Covode, Culom, Dawes, Delano, Dixon, Dockery, Dodge, Eckley, Eliot, Farnsworth, Fields, Fox, Garfield, Griswold, Haight, Halsey, Hamilton, Harding, Hill, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Johnson, Lash, Lash, Lincoln, Logan, Lynch, Marvin, McCullough, Niblack, Nicholson, Nunn, Pierce, Pomeroy, Roots, Shellabarger, Stevens, Van Auken, Robert T. Van Horn, Ward,

Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, James F. Wilson, and Woodbridge—62.

So the main question was ordered to be now put.

Mr. FERRISS moved that the resolution be laid upon the table; and on that motion demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 33, nays 127, not voting 61; as follows:

YEAS—Messrs. Ames, Bailey, Blair, Boyden, Cake, Churchill, Cobb, Cook, Ferriss, Halsey, Hill, Hopkins, Hulburd, Hunter, Johnson, Judd, Koontz, George V. Lawrence, Marvin, McCarthy, Mercur, Moore, Moorhead, Peters, Pettis, Sawyer, Spaulding, Taylor, Upson, Burt Van Horn, Van Wyck, Elihu B. Washburne, and William B. Washburn—33.

NAYS—Messrs. Adams, Allison, Archer, Arnell, James M. Ashley, Axtell, Baker, Baldwin, Barnes, Barnum, Beaman, Beatty, Beck, Benjamin, Benton, Bingham, Blaine, Boutwell, Boyer, Bromwell, Brooks, Broomall, Burr, Roderick R. Butler, Callis, Cary, Sidney Clarke, Clift, Corley, Culom, Deweese, Dickey, Donnelly, Driggs, Eckley, Edwards, Ela, Eldridge, Ferry, French, Getz, Glossbrenner, Golladay, Goss, Gove, Gravely, Griswold, Grover, Haughey, Hawkins, Heaton, Higby, Holman, Hooper, Hotchkiss, Chester D. Hubbard, Humphrey, Ingersoll, Alexander H. Jones, Thomas L. Jones, Julian, Kelley, Kellogg, Kerr, Ketcham, Kitchen, Knott, William Lawrence, Loan, Loughridge, Mallory, Marshall, Maynard, McCormick, McKee, Miller, Morrell, Munger, Newcomb, Newsam, Niblack, Norris, O'Neill, Orth, Paine, Phelps, Pike, Pile, Plants, Poland, Polsley, Price, Prince, Prun, Randall, Raum, Robertson, Robinson, Ross, Schenck, Scofield, Shanks, Sitgreaves, Smith, Starkweather, Stewart, Stokes, Stone, Stover, Taber, Tift, John Trimble, Lawrence S. Trimble, Trowbridge, Twichell, Van Aernam, Van Trump, Vidal, Welker, Whittemore, William Williams, James F. Wilson, Stephen F. Wilson, Windom, Wood, Woodward, and Young—127.

NOT VOTING—Messrs. Delos R. Ashley, Banks, Blackburn, Boles, Bowen, Buckland, Buckley, Benjamin F. Butler, Chanler, Reader W. Clarke, Coburn, Cornell, Covode, Dawes, Delano, Dixon, Dockery, Dodge, Eggleston, Eliot, Farnsworth, Fields, Fox, Garfield, Haight, Hamilton, Harding, Asahel W. Hubbard, Richard D. Hubbard, Jenckes, Kelsey, Lash, Lash, Lincoln, Logan, Lynch, McCullough, Morrissey, Mullins, Myers, Nicholson, Nunn, Perham, Pierce, Pomeroy, Roots, Selye, Shellabarger, Stevens, Sypher, Taffe, Thomas, Van Auken, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Henry D. Washburn, Thomas Williams, John T. Wilson, and Woodbridge—61.

So the House refused to lay the resolution on the table.

The question recurred on agreeing to the resolution.

Mr. WASHBURN, of Illinois. On that I demand the yeas and nays. It raises salaries and increases taxes.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 124, nays 27, not voting 70; as follows:

YEAS—Messrs. Adams, Allison, Archer, Arnell, James M. Ashley, Axtell, Baker, Baldwin, Barnes, Barnum, Beaman, Beatty, Benjamin, Bingham, Boutwell, Bromwell, Brooks, Broomall, Roderick R. Butler, Callis, Cary, Chanler, Sidney Clarke, Clift, Corley, Dawes, Deweese, Dickey, Dixon, Driggs, Edwards, Eggleston, Ela, Eldridge, Eliot, Farnsworth, Ferry, French, Getz, Glossbrenner, Golladay, Goss, Gove, Grover, Haughey, Heaton, Higby, Holman, Hotchkiss, Chester D. Hubbard, Hulburd, Humphrey, Ingersoll, Jenckes, Thomas L. Jones, Judd, Julian, Kelley, Kellogg, Kerr, Ketcham, Kitchen, William Lawrence, Loan, Loughridge, Mallory, Marshall, Maynard, McCormick, McKee, Morrell, Morrissey, Mullins, Mungen, Myers, Newcomb, Newsam, Niblack, Norris, O'Neill, Orth, Phelps, Pike, Pile, Plants, Poland, Polsley, Price, Prince, Prun, Randall, Raum, Robinson, Ross, Schenck, Scofield, Shanks, Smith, Starkweather, Stewart, Stokes, Stone, Stover, Sypher, Taber, Tift, John Trimble, Lawrence S. Trimble, Trowbridge, Twichell, Van Aernam, Van Trump, Vidal, William B. Washburn, Welker, Whittemore, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Wood, Woodbridge, Woodward, and Young—124.

NAYS—Messrs. Blair, Boyden, Cake, Cobb, Cook, Ferriss, Halsey, Hill, Hopkins, Hunter, Johnson, Koontz, McCarthy, Mercur, Perham, Peters, Pettis, Sawyer, Selye, Sitgreaves, Taffe, Taylor, Upson, Burt Van Horn, Van Wyck, Ward, and Elihu B. Washburne—27.

NOT VOTING—Messrs. Ames, Anderson, Delos R. Ashley, Bailey, Banks, Beck, Benton, Blackburn, Blaine, Boles, Bowen, Boyer, Buckland, Buckley, Burr, Benjamin F. Butler, Churchill, Reader W. Clarke, Coburn, Donnelly, Eckley, Fields, Fox, Garfield, Gravely, Griswold, Haight, Hamilton, Harding, Hawkins, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Alexander H. Jones, Kelsey, Knott, Lash, Lash, George V. Lawrence, Lincoln, Logan, Lynch, Marvin, McCullough, Miller, Moore, Moor-

head, Nicholson, Nunn, Paine, Pierce, Pomeroy, Robertson, Roots, Snellbarger, Spalding, Stevens, Thomas, Van Auker, Robert T. Van Horn, Cadwalader C. Washburn, Henry D. Washburn, Thomas Williams, and Windom—70.

So the resolution was agreed to.

Mr. JONES, of Kentucky, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

UNIVERSITY FOR THE BLIND.

Mr. BINGHAM, by unanimous consent, introduced a bill (H. R. No. 1563) to incorporate the University for the Blind in the District of Columbia; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

REGISTRY LAW IN THE TERRITORIES.

Mr. JULIAN, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Judiciary Committee be instructed to inquire into the expediency of enacting a congressional registry law for the Territories of the United States, and that said committee report by bill or otherwise.

DRAWING FOR SEATS—AGAIN.

Mr. VAN AERNAM. I move to reconsider the vote by which the House laid on the table the resolution in relation to drawing for seats.

The SPEAKER. Did the gentleman vote in the affirmative?

Mr. VAN AERNAM. I did.

Mr. BENJAMIN moved that the motion to reconsider be laid on the table.

Mr. WILSON, of Iowa, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 80, nays 93, not voting 48; as follows:

YEAS—Messrs. Adams, Ames, Archer, James M. Ashley, Bailey, Baldwin, Beaman, Beck, Benjamin, Bingham, Boutwell, Boyer, Burr, Cobb, Daves, Dixon, Donnelly, Eggleston, Eldridge, Eliot, Farnsworth, Ferry, Getz, Glossbrenner, Golladay, Griswold, Halsey, Higby, Chester D. Hubbard, Humphrey, Jencks, Johnson, Judd, Kelley, Kelsey, Kerr, Ketcham, Knott, Koontz, George V. Lawrence, William Lawrence, Loan, Loughridge, Mallory, Marshall, Marvin, McKee, Morrissey, Mullins, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Phelps, Platts, Poland, Polesey, Pruyn, Randall, Kaun, Robinson, Sawyer, Schenck, Seefeld, Spalding, Stokes, Stone, Taber, Taffey, Taylor, Trowbridge, Upson, Van Trump, William B. Washburn, Welker, Stephen F. Wilson, Wood, and Woodward—80.

NAYS—Messrs. Allison, Arnell, Baker, Barnes, Beatty, Benton, Blair, Boyden, Bromwell, Broomall, Rodrick R. Butler, Cake, Callis, Cary, Chanler, Churchhill, Sidney Clarke, Clift, Corley, Covode, Culom, Deweese, Diekey, Driggs, Eckley, Edwards, Ela, Ferriss, French, Goss, Grove, Grover, Haughey, Hawkins, Heaton, Hill, Holman, Hooper, Hopkins, Hotchkiss, Richard D. Hubbard, Hulburd, Hunter, Alexander H. Jones, Thomas L. Jones, Julian, Kellogg, Kitchen, Lincoln, Lynch, Maynard, McCarthy, McCormick, Mercut, Miller, Moore, Moorhead, Morrill, Mungen, Newsham, Norris, Peters, Pettis, Pike, Price, Prince, Robertson, Ross, Selye, Shanks, Sitgreaves, Smith, Stevens, Stewart, Stover, Sypher, Tift, John Trimble, Lawrence S. Trimble, Twichell, Van Aernam, Burt Van Horn, Van Wyck, Vidal, Ward, Henry D. Washburn, Whittemore, William Williams, James F. Wilson, John T. Wilson, Windom, and Young—93.

NOT VOTING—Messrs. Anderson, Delos R. Ashley, Axtell, Banks, Barnum, Blackburn, Blaine, Boles, Bowen, Brooks, Buckland, Buckley, Benjamin F. Butler, Reader W. Clarke, Coburn, Cook, Cornell, Delano, Diekey, Dodge, Fields, Fox, Garfield, Gravelly, Haight, Hamilton, Harding, Asahel W. Hubbard, Ingersoll, Laffin, Lash, Logan, McCullough, Niblack, Nicholson, Nunn, Pierce, Pomeroy, Roots, Snellbarger, Starkweather, Thomas, Van Auker, Robert T. Van Horn, Cadwalader C. Washburn, Elihu B. Washburne, Thomas Williams, and Woodbridge—48.

So the House refused to lay the motion to reconsider on the table.

The question recurred upon the motion to reconsider the vote by which the resolution was laid on the table.

Mr. KELSEY. Is it in order to move to refer the resolution?

The SPEAKER. It is not.

Mr. RANDALL. Is it in order to move

to proceed to the business on the Speaker's table?

The SPEAKER. It is not, as there has as yet been no morning hour.

Mr. SPALDING. I demand the yeas and nays on the motion to reconsider.

The yeas and nays were ordered.

Mr. BENJAMIN. I move that the House do now adjourn.

ORDER OF BUSINESS.

The SPEAKER. Before stating the question on the motion to adjourn, the Chair desires the indulgence of the House for a moment. The Chair is informed by the delegation from Pennsylvania that to-morrow, as soon as the Journal is read, the successor of the late member from Pennsylvania, Mr. Stevens, will announce his death, and will be followed by other gentlemen. The Chair is informed of the desire of eighteen gentlemen to speak to-morrow, and the entire day will, therefore, be consumed in all probability.

On Friday, at half past one o'clock, or as soon thereafter as convenient, the same delegation intend, through the successor of the late member from Pennsylvania, Mr. Finney, to announce his death.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HAMLIN, one of its clerks, informed the House that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

A bill (S. No. 612) relating to the proof of wills in the District of Columbia;

A bill (S. No. 665) respecting the organization of militia in the States of North Carolina, South Carolina, Florida, Alabama, Louisiana, and Arkansas; and

A bill (S. No. 693) for the temporary relief of poor and destitute people in the District of Columbia.

The message further announced that the Senate had passed the joint resolution (H. R. No. 375) donating condemned cannon for the erection of a monument to Major General Kearny.

ALLEGED ELECTION FRAUDS.

The SPEAKER. The gentleman from Illinois [Mr. MARSHALL] and the gentleman from Connecticut [Mr. HUBBARD] ask to be excused from service on the committee to investigate alleged election frauds in New York. If there is no objection they will be excused. The Chair hears no objection; and the Chair appoints in their places Mr. KERR, of Indiana, and Mr. PHELPS, of Maryland.

Mr. PHELPS. I ask to be excused from service on that committee, on account of urgent business which would prevent my attending.

There was no objection; and Mr. PHELPS was excused.

The SPEAKER thereupon appointed Mr. ROSS, of Illinois, a member of the committee.

NICKEL-COPPER COINS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting a copy of a bill for the coinage of nickel-copper pieces of five cents and under, for the consideration of Congress; which was referred to the Committee on Coinage, Weights, and Measures.

LEAVE OF ABSENCE.

Leave of absence was granted to Mr. SITGREAVES from December 17 to January 8.

COMMISSIONER TO SPAIN.

The SPEAKER, by unanimous consent, laid before the House a message from the President of the United States, together with a report from the Secretary of State; which were read, as follows:

To the House of Representatives:

In answer to a resolution of the House of Representatives of the 14th of December instant, I transmit the accompanying report of the Secretary of State.

ANDREW JOHNSON.

WASHINGTON, December 15, 1868.

DEPARTMENT OF STATE.
WASHINGTON, December 15, 1868.

To the President:

The Secretary of State, to whom was referred a resolution of the House of Representatives passed on the 14th of December instant, in the words following: "*Resolved*, That the Secretary of State be directed to inform this House whether any commissioner has recently been sent as a representative of this country to Spain, and if so for what purpose and by what authority, the name of said commissioner, the amount of compensation to be allowed him, and out of what fund paid, and also a copy of any instructions given to said commissioner."

Has the honor to submit to the President of the United States the following report:

No commissioner has recently been sent to Spain by the Executive of the United States.

WILLIAM H. SEWARD.

Mr. RANDALL. I move that the message with the accompanying paper be referred to the gentleman from Illinois [Mr. WASHBURN] who offered the resolution calling for this information.

The SPEAKER. It would not be in order to refer the message to any particular member. It can be referred to a committee.

Mr. RANDALL. Then I move that it be referred to the Committee on Appropriations, of which the gentleman is chairman.

The motion was agreed to.

WELLS, FARGO AND COMPANY.

The SPEAKER, by unanimous consent, also laid before the House the response of the Postmaster General to the resolution of the House in regard to the contract with Wells, Fargo & Co.; which was referred to the Committee on Appropriations.

E. W. CRANDALL.

Mr. COOK, by unanimous consent, obtained leave to withdraw from the files of the House papers filed in the Thirty-Eighth Congress in support of the claim of E. W. Crandall, for the purpose of using the same as evidence on the trial of a cause in the circuit court of the United States at Chicago.

DRAWING OF SEATS.

The SPEAKER. The pending motion is that the House now adjourn. The Chair will state that if that motion shall prevail the pending subject, in relation to the drawing of seats, will come up on Friday after the reading of the Journal, to-morrow having been assigned for another purpose.

Mr. KELSEY. I call for the yeas and nays on the motion to adjourn.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 59, nays 112, not voting 50; as follows:

YEAS—Messrs. Adams, Archer, Axtell, Beck, Benjamin, Bingham, Boutwell, Brooks, Burr, Cobb, Cook, Eldridge, Eliot, Getz, Glossbrenner, Golladay, Halsey, Hopkins, Chester D. Hubbard, Humphrey, Judd, Kelley, Kelsey, Kerr, Ketcham, Knott, Koontz, George V. Lawrence, William Lawrence, Loughridge, Mallory, Marshall, Marvin, Mullins, Niblack, Orth, Paine, Phelps, Pile, Platts, Poland, Polesey, Pruyn, Randall, Robinson, Sawyer, Seefeld, Spalding, Stokes, Stone, Taber, Taffey, Taylor, Upson, Van Trump, Welker, Stephen F. Wilson, Wood, and Woodward—59.

NAYS—Messrs. Allison, Ames, James M. Ashley, Bailey, Baker, Baldwin, Barnes, Beaman, Beatty, Benton, Blair, Boyden, Bromwell, Broomall, Rodrick R. Butler, Cake, Callis, Cary, Chanler, Churchhill, Sidney Clarke, Clift, Coburn, Corley, Covode, Culom, Delano, Deweese, Diekey, Donnelly, Driggs, Eckley, Edwards, Eggleston, Ela, Farnsworth, Ferriss, Ferry, French, Gravelly, Griswold, Grover, Haughey, Hawkins, Heaton, Higby, Hill, Holman, Hooper, Hotchkiss, Hulburd, Hunter, Ingersoll, Jencks, Johnson, Alexander H. Jones, Thomas L. Jones, Julian, Kellogg, Kitchen, Lincoln, Loan, Lynch, Maynard, McCarthy, McCormick, McKee, Mercut, Miller, Moore, Morrill, Mungen, Newcomb, Newsham, Norris, O'Neill, Perham, Peters, Pettis, Pike, Price, Prince, Robertson, Ross, Schenck, Selye, Shanks, Sitgreaves, Smith, Starkweather, Stevens, Stewart, Stover, Sypher, Tift, John Trimble, Lawrence S. Trimble, Twichell, Van Aernam, Burt Van Horn, Van Wyck, Vidal, Ward, Henry D. Washburn, William B. Washburn, Whittemore, William Williams, James F. Wilson, John T. Wilson, Windom, Woodbridge, and Young—112.

NOT VOTING—Messrs. Anderson, Arnell, Delos R. Ashley, Banks, Barnum, Blackburn, Blaine, Boles, Bowen, Boyer, Buckland, Buckley, Benjamin F. Butler, Reader W. Clarke, Cornell, Daves, Dixon, Dockery, Dodge, Fields, Fox, Garfield, Goss, Grove, Haight, Hamilton, Harding, Asahel W. Hubbard, Richard D. Hubbard, Laffin, Lash, Logan, McCullough, Moorhead, Morrissey, Myers, Nicholson, Nunn, Pierce, Pomeroy, Kaun, Roots, Snellbarger, Thomas, Trow-

bridge, Van Auker, Robert T. Van Horn, Cadwalader C. Washburn, Elihu B. Washburne, and Thomas Williams—50.

So the motion to adjourn was not agreed to.

The SPEAKER. The question now recurs upon the motion of the gentleman from New York, [Mr. VAN AERNAM,] to reconsider the vote by which the House laid upon the table the resolution of the gentleman from Illinois [Mr. ROSS] in relation to the drawing of seats, upon which motion the yeas and nays have been ordered.

The question was taken; and it was decided in the affirmative—yeas 99, nays 76, not voting 46; as follows:

YEAS—Messrs. Allison, Anderson, Arnell, Baker, Barnes, Beatty, Benton, Blair, Bowen, Boyden, Bromwell, Broomall, Roderick R. Butler, Cake, Callis, Cary, Chanler, Churchill, Sidney Clarke, Clift, Coburn, Corley, Covode, Cullom, Dewesse, Dickey, Driggs, Eckley, Edwards, Els, Ferriss, French, Gove, Gravelly, Grover, Haughey, Hawkins, Heaton, Hill, Holman, Hooper, Hopkins, Hotchkiss, Richard D. Hubbard, Hulburd, Hunter, Alexander H. Jones, Thomas L. Jones, Julian, Kellogg, Kitchen, Lincoln, Loan, Lynch, Maynard, McCarthy, McCormick, Mercer, Miller, Moore, Moorhead, Morrill, Mungen, Newsham, Norris, Peters, Pettis, Pike, Pile, Price, Prince, Raum, Robertson, Ross, Selye, Shanks, Sitgreaves, Starkweather, Stevens, Stewart, Stover, Sypher, Tift, John Trimble, Lawrence S. Trimble, Twichell, Van Aernam, Burt Van Horn, Van Wyck, Vidal, Ward, Henry D. Washburn, William B. Washburn, Whittemore, William Williams, James F. Wilson, John T. Wilson, Windom, and Young—99.

NAYS—Messrs. Adams, Ames, Archer, James M. Ashley, Bailey, Baldwin, Barnum, Beaman, Beck, Benjamin, Bingham, Boutwell, Boyer, Brooks, Burr, Cobb, Dixon, Donnelly, Eggleston, Eldridge, Eliot, Farnsworth, Ferry, Getz, Glossbrenner, Golladay, Griswold, Halsey, Higby, Chester D. Hubbard, Jenckes, Johnson, Judd, Kelley, Kelsey, Kerr, Ketchum, Knott, Koontz, George V. Lawrence, William Lawrence, Mallory, Marshall, Marvin, McKee, Mullins, Myers, Newcomb, Niblack, Nunn, O'Neill, Paine, Perham, Phelps, Plants, Poland, Polsley, Pruyn, Randall, Robinson, Sawyer, Schenck, Scofield, Spalding, Stokes, Stone, Taber, Taffe, Taylor, Trowbridge, Upson, Van Trump, Welker, Stephen F. Wilson, Wood, and Woodward—76.

NOT VOTING—Messrs. Delos R. Ashley, Axtell, Banks, Blackburn, Blaine, Boles, Buckland, Buckley, Benjamin F. Butler, Reader W. Clarke, Cook, Cornell, Dawes, Delano, Dockery, Dodge, Fields, Fox, Garfield, Goss, Haight, Hamilton, Harding, Asahel W. Hubbard, Humphrey, Ingersoll, Laffin, Lash, Logan, Loughbridge, McCullough, Morrissey, Nicholson, Orth, Pierce, Pomeroy, Roots, Shellabarger, Smith, Thomas, Van Auker, Robert T. Van Horn, Cadwalader C. Washburn, Elihu B. Washburne, Thomas Williams, and Woodbridge—46.

So the motion to reconsider the vote by which the resolution was laid on the table was agreed to.

The question recurred on the motion of Mr. VAN TRUMP, to lay the resolution on the table.

Mr. ELDRIDGE. On that motion I call for the yeas and nays.

The yeas and nays were not ordered.

The motion to lay the resolution on the table was not agreed to.

The SPEAKER. The question now recurs on the demand for the previous question upon the resolution.

Mr. FARNSWORTH. I ask my colleague from Illinois [Mr. ROSS] to allow me to offer an amendment to his resolution. In these drawings for seats it is customary to except one or two members, allowing them to retain their seats. My amendment is to make several exceptions of that kind.

Mr. ROSS. I will hear the amendment.

Mr. FARNSWORTH. It is to add to the resolution the following:

Provided, That the seats of Hons. JAMES G. BLAINE, H. L. DAWES, S. M. CULLOM, SAMUEL HOOPER, LUKE P. POLAND, H. E. PAINE, R. C. SCHENCK, JAMES F. WILSON, F. C. BEAMAN, R. P. SPALDING, C. A. ELDRIDGE, FERNANDO WOOD, N. B. JUDD, J. V. L. PRUYN, J. A. BINGHAM, E. B. WASHBURN, JAMES MULLINS, and myself be excepted from the drawing, and that the aforesaid members be permitted to retain their present seats.

[Laughter.]

Mr. RANDALL. I suggest to the gentleman from Illinois [Mr. FARNSWORTH] that he modify his amendment by adding, in the words of the late President Taylor, "the rest of mankind." [Laughter.]

Mr. ROSS. I decline to allow the amendment to be offered.

The previous question was seconded and the

main question ordered; which was upon the adoption of the following resolution:

*Resolved, That the Clerk of this House shall, at one o'clock p. m. on Wednesday, December 16, A. D. 1868, or as soon thereafter as this resolution is agreed to, place in a box the names of each Member and Delegate of the House of Representatives, written on a piece of paper; that he then proceed in the presence of the House to draw from said box, one at a time, the said slips of paper; and as each is drawn he shall announce the name of the Member or Delegate upon it, who shall choose his seat for the present session: *Provided, That before said drawing shall commence the Speaker shall cause each seat to be vacated, and shall see that every seat continues vacant until it is selected under this order; and that every seat after having been selected shall be deemed vacant if left unoccupied before the calling of the roll is finished.**

Mr. ELDRIDGE. I call for the yeas and nays on the adoption of the resolution.

The yeas and nays were not ordered.

Mr. ARCHER. I call for tellers on agreeing to the resolution.

Tellers were ordered; and Mr. ARCHER, and Mr. WILSON of Iowa, were appointed.

The House divided; and the tellers reported—ayes one hundred and eight, noes not counted.

So the resolution was adopted.

Mr. ROSS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

In execution of the order of the House, the Members and Delegates retired beyond the outer row of seats, and, as their names were drawn, came forward and selected their seats.

During the drawing,

Mr. HOOPER, of Massachusetts, moved, when Mr. BANKS's name was drawn, that some one should be authorized to draw a seat for him.

Objection was made.

Mr. PRUYN moved that Governor THOMAS's seat be reserved for him as before.

There was no objection; and it was ordered accordingly.

Mr. MILLER moved that Mr. WASHBURN, of Illinois, be allowed to select his seat.

Objection was made.

Mr. GARFIELD moved that the seat of Mr. SHELLABARGER should be reserved.

Mr. FARNSWORTH objected.

Mr. VAN HORN, of New York, stated that his colleague [Mr. LARLIN] was in the city, but confined to his room by sickness, and moved that a seat be reserved for him.

Mr. WASHBURN, of Illinois. Such has always been the custom when a member is in the city sick.

There was no objection; and it was ordered accordingly.

The drawing was then completed.

MONUMENT ANTHRACITE RAILROAD COMPANY.

Mr. MORRELL. I ask unanimous consent to introduce a bill to incorporate the Monument Anthracite Railroad Company, for reference to the Committee on Roads and Canals.

Mr. PHELPS. I object.

PRINTING TARIFF BILL.

Mr. CAKE, from the Committee on Printing, reported the following resolution; which was read, considered, and agreed to:

Resolved, That five hundred extra copies of House bill No. 1349 (tariff bill) be printed for the use of the House.

Mr. GARFIELD. I hope it will be the understanding that it is to be printed on bill paper, and not in pamphlet form.

Mr. SCHENCK. And with lines numbered to correspond with the present printed bill.

The SPEAKER. Such will be the understanding.

ORDER OF BUSINESS.

Mr. WASHBURN, of Illinois. What is to be the order of business to-morrow?

The SPEAKER. To-morrow, after the reading of the Journal, the Pennsylvania delegation give notice they will announce the death of their late colleague, THADDEUS STEVENS, and

on Friday, at half past one, the death of Mr. FINNEY.

Mr. WASHBURN, of Illinois. In view of the recess and the large number of members leaving the city I move that when the House adjourns on Friday it adjourn to meet on Monday, and that on Monday there shall be no session for business.

There was no objection, and it was ordered accordingly.

The SPEAKER stated that he would be absent on Monday, and asked for authority to appoint a Speaker *pro tempore* for that day.

There was no objection, and it was ordered accordingly.

CIVIL SERVICE BILL.

Mr. JENCKES, by unanimous consent, moved that the civil service bill be reprinted. The motion was agreed to.

Mr. KELLEY. I ask unanimous consent to make a report, in order that it may be printed and recommitted to the Committee on Naval Affairs.

Mr. RANDALL. I object.

And then, on motion of Mr. PILE, (at four o'clock and fifteen minutes p. m.) the House adjourned.

PETITIONS.

The following petitions were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of Peter Brewer, late of company F, twenty-ninth Indiana volunteers, for a pension.

By Mr. ASHLEY, of Ohio: A petition of the cigar-makers of Toledo, Ohio, praying for a modification of the tax on cigars, &c.

Also, a petition of the cigar-makers of Toledo, Ohio, praying for a modification of the tax on cigars, &c.

By Mr. COVODE: The petition of Mary Whaley, widow of Henry G. Whaley, deceased, late a private in company G, one hundred and ninety-first regiment Pennsylvania volunteers, praying for a pension.

By Mr. FERRY: The petition of Lyon & Cady, and 18 others, of Michigan, praying for the repeal of so much of sections seventy-eight and ninety-four of an act imposing taxes on distilled spirits and tobacco, approved July 28, 1868.

By Mr. HOOPER, of Massachusetts: The petition of A. F. Cochran, for payment for one hundred and fourteen hogsheads of sugar taken from him by United States authorities.

By Mr. MILLER: The petition of Nancy A. Hammond, widow of George W. Hammond, deceased, late of company M, seventh regiment Ohio cavalry, for a pension.

Also, the petition of Mary Miller, widow of Edward Miller, deceased, who enlisted as Edward Whitlock in company F, sixteenth regiment United States colored troops, for a pension.

Also, the petition of Caroline R. Davis, widow of Samuel W. Davis, deceased, late of company F, fifth regiment Ohio volunteers, for a pension.

Also, the petition of James Hough, late of company D, third regiment Virginia infantry, for a pension.

Also, the petition of Sarah Snyder, mother of Lucius C. Snyder, deceased, late of company K, first regiment Mississippi marine brigade, for a pension.

Also, the petition of Caroline Reinicker, widow of Frederick Reinicker, deceased, late of company H, one hundred and eighty-eighth regiment Ohio volunteers, for a pension.

Also, the petition of Kate Spriggs, widow of Benjamin Spriggs, deceased, late of company F, fifty-sixth regiment Ohio volunteers, for a pension.

Also, the petition of Caroline Muecke, mother of Emil Muecke, deceased, late of company G, one hundred and sixth regiment Ohio volunteers, for a pension.

Also, the petition of Alois Mazet, late of

company H, seventeenth regiment Missouri volunteers, for a pension.

Also, the petition of James H. Knotts, late of company E, fifteenth regiment Virginia infantry, for a pension.

Also, the petition of John W. Rehea, late of company A, sixty-fourth regiment Ohio volunteers, for a pension.

Also, the petition of Catharine Webb, mother of Benton Webb, deceased, late of company K, eighteenth regiment Iowa volunteers, for a pension.

Also, the petition of Mary A. Holden, widow of Breck M. Holden, deceased, late of company B, first battalion, eighteenth regiment United States infantry, for a pension.

Also, the petition of Abigail Haney, widow of Joseph W. Haney, deceased, late of company H, twenty-sixth regiment Iowa volunteers, for a pension.

Also, the petition of John Francis Kuhns, late of company A, sixteenth regiment Kansas volunteers, for a pension.

Also, the petition of Mary A. Mellinger, widow of Christian B. B. Mellinger, deceased, late captain of company I, eleventh regiment Iowa volunteers, for a pension.

Also, the petition of Almira Herrick, widow of Jesse D. Herrick, deceased, late of company G, thirty-first regiment Iowa volunteers, for a pension.

IN SENATE.

THURSDAY, December 17, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read.

Mr. SHERMAN. I notice that the Secretary in making up the Journal has fallen into the same error that occurs in the morning papers in relation to the report made from the Committee on Finance yesterday on the joint resolution (S. R. No. 66) pledging the faith of the United States for the payment of the public debt in coin or its equivalent. I reported back the joint resolution referred to with a recommendation that it lie on the table. I probably was not heard by the Secretary. I ask that that amendment to the Journal be made.

The PRESIDENT *pro tempore*. That correction will be made.

HOUSE BILL REFERRED.

The bill (H. R. No. 1558) to amend an act entitled "An act to prescribe the mode of obtaining evidence in case of contested elections," approved February 19, 1851, was read twice by its title, and referred to the Committee on the Judiciary.

LAND DISTRICT IN MINNESOTA.

The joint resolution (H. R. No. 388) explanatory of an act to create an additional land office in the State of Minnesota, approved July 25, 1868, was read twice by its title.

Mr. RAMSEY. As that resolution simply removes an ambiguity in the description of the district I hope the Senate will pass it at once.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It provides that the limits of the land district, as designated in the act entitled "An act to create an additional land district in the State of Minnesota," approved July 25, 1868; to wit, all that part of the northwestern land district which lies north of township No. 124 north, and west of range No. 35, west of the fifth principal meridian, shall be construed to embrace all the land north of township No. 124 and west of range No. 35.

Mr. POMEROY. As I understand this resolution it corrects the boundary of the land district. Is that all?

Mr. RAMSEY. That is all.

Mr. POMEROY. Then I have no objection to it.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PETITIONS AND MEMORIALS.

Mr. EDMUNDS. I present the petition of Andrew Tracy and thirty or forty other lawyers, of the State of Vermont, with the indorsement of the judge of that district, asking for a provision of law for an additional term of the United States courts in that district. I ought to say, perhaps, that Mr. Tracy, the first petitioner, is deceased, having died since the petition was sent here. I move that it be referred to the Committee on the Judiciary.

The motion was agreed to.

Mr. POMEROY presented a petition of citizens of Indiana, praying that in any amendment to the Constitution to extend or regulate suffrage there be no distinction between men and women; which was referred to the Committee on the Judiciary.

He also presented the petition of W. F. Nelson, hospital chaplain United States Army, praying that he may be compensated for quarters not furnished by the Government; which was referred to the Committee of Claims.

Mr. SHERMAN presented a petition of soldiers in the war of 1812, praying to be allowed pensions; which was referred to the Committee on Pensions.

He also presented a petition of citizens of Ohio, praying that pensions be granted to the surviving soldiers of the war of 1812; which was referred to the Committee on Pensions.

Mr. COLE presented the memorial of Thomas E. Truworthy, praying an appropriation of \$100,000 to him for the purpose of removing obstructions to the navigation of the Colorado river; which was referred to the Committee on Commerce.

Mr. VAN WINKLE presented the petition of John Russell, a soldier of 1812, for arrears of pension; which was referred to the Committee on Pensions.

Mr. SHERMAN presented a memorial of J. V. Cushing, guardian of Joseph Moorehead, praying that he may be admitted into the Naval and Military Asylum for the Insane at Washington, District of Columbia; which was referred to the Committee on Naval Affairs.

Mr. SUMNER. I offer two petitions from members of the bar in Mississippi, in which they ask that the place of holding the United States courts be changed by law so that the courts may hereafter be held in the city of Vicksburg, the commercial center of the State; and they present reasons at length for the proposed change. I move the reference of these two petitions to the Committee on the Judiciary.

The motion was agreed to.

Mr. CONKLING presented a petition of citizens of Florida, praying the removal of the political disabilities imposed on Dr. J. R. Kelley by acts of Congress; which was referred to the Committee on the Judiciary.

TOBACCO STAMPS.

Mr. SHERMAN. The Committee on Finance have directed me to report back the bill (H. R. No. 1555) to amend an act entitled "An act imposing taxes on distilled spirits and tobacco, and for other purposes," approved July 30, 1868. I desire to say that to accomplish the purpose the bill must be passed at once. It merely extends the time for affixing stamps on tobacco from the 1st of January next to the 15th of February. I ask for the immediate consideration of the bill.

By unanimous consent the bill was considered as in Committee of the Whole. It proposes to amend the seventy-eighth section of an act imposing taxes on distilled spirits and tobacco, and for other purposes, approved July 20, 1868, by striking out the words "first day of January," wherever they occur in that section, and inserting in lieu thereof the words "fifteenth day of February."

Mr. COLE. I desire to inquire of the chairman of the committee if it is not desirable to extend still further the time fixed by this bill. I think that an extension until the 15th of February will be hardly sufficient for the purposes of the Pacific coast.

Mr. SHERMAN. A longer time was proposed by persons interested, but on the whole it was thought best not to change the bill. There will be time enough for further legislation, if any should be needed, before the 15th of February. The bill must be passed to day to be effective, and the probability is that there will not be a quorum of the other House to act on an amendment.

Mr. COLE. If it endangers the passage of the bill I will withhold the amendment which I was about to offer. I should like to have an opportunity to offer the amendment; but, as the chairman of the committee thinks it will endanger the passage of the bill, I will not urge it.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

REMOVAL OF DISABILITIES.

Mr. SAWYER. I move to take up for consideration the bill (H. R. No. 1556) to relieve certain persons of all political disabilities imposed by the fourteenth article of the Constitution of the United States.

The motion was agreed to; and the bill was considered as in Committee of the Whole. It proposes to provide (two thirds of each House concurring therein) that all political disabilities imposed by the fourteenth article of the amendments of the Constitution of the United States upon the following citizens of South Carolina: Andrew Ramsey, of Edgefield county; W. L. Hewit, of Sumter county; William A. McDaniels, James Harrison, and John H. Goodwin, of Greenville county; William J. Mixson, of Barnwell county; Johnson J. Knox, of Sumter county; J. J. Klein, John W. Burbridge, and Charles B. Farmer, of Colleton county; George Buist, of Charleston county, and Dewitt C. Senter, of Granger county, Tennessee, on account of participation in the recent rebellion, be removed.

Mr. SAWYER. I offer an amendment to the bill, which I send to the desk.

The Secretary read the amendment, which was to insert after the words "Charleston county," in the twelfth line, the following names:

A. L. McCaslan and William Hill, of Abbeville county; John F. Porteous, of Beaufort county; C. W. McFadden, of Chester county; R. H. Edmunds, of Fairfield county; Alexander McBee, H. M. Smith, and William E. Earle, of Greenville county; W. H. Langston, of Laurens county; John C. Secresh, of Lancaster county; Julius L. Shanklin, of Oconee county; Thompson H. Cooke, George Boliver, and William N. Mount, of Orangeburg county; Spartan D. Goodlett, R. E. Holcombe, John W. Singleton, L. N. Robins, and James E. Hagood, of Pickens county; John Heart and William H. Talley, of Richland county; P. Quin Camp and A. E. Smith, of Spartanburg county; R. L. Meriot, of Sumter county; and Charles W. Geddes, of Charleston county, South Carolina; Edward Cantwell, of Hanover county, and W. J. Clarke, of Craven county, North Carolina.

Mr. SAWYER. I will say in regard to the names from South Carolina which are included in the amendment that they are names which have all been passed upon by the Committee on the Judiciary of the Senate and reported on favorably by that committee, and they are offered here as an amendment for the purpose of gaining time. It is necessary that the disabilities should be removed from these persons before the recess, in order to enable them to qualify for offices to which they have been elected before the 1st of January. There are no names in the amendment, with the exception of the last two, which have not been passed on by the Judiciary Committee of the Senate, and those two I was requested to add by the Senator from North Carolina.

Mr. STEWART. I desire to inquire of the Senator from South Carolina if the new names in the bill that comes from the other House are known to him?

Mr. SAWYER. The names in the bill that came from the House are known to the members of the House of Representatives from South Carolina, indorsed by them, and recommended by the Legislature of the State.

Mr. STEWART. All recommended by the Legislature?

Mr. SAWYER. So I understand from the members of the House.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

The PRESIDENT *pro tempore*. The bill having been read three times, the question is, Shall it pass? On the passage of the bill the yeas and nays will be taken.

Mr. POMEROY. It may be done by unanimous consent, I suppose, without ordering the yeas and nays.

Mr. SAULSBURY. I would gladly, Mr. President, vote to relieve all the people of the South from disabilities. I think it ought to be done. While I know nothing about these gentlemen, personally or politically, and must act on information, I shall not vote for the bill; and for this reason: I have seen it stated in the public press—and I presume it to be correct—that the persons applying, or in whose behalf application is made for the removal of disabilities here, are persons belonging to one particular political organization. I object to their being made favorites in the legislation of Congress. If they have incurred disabilities then they have been guilty of that which their neighbors have been guilty of, and no reason is stated to the Senate why this favor should be extended exclusively to them. I hold that it is not wise in legislation to legislate simply in reference to the party associations or political convictions of individuals. I do not know of any particular merit, and I have heard no particular merit of these gentlemen stated which should cause them to receive this favor, while their neighbors, who have been no worse than they, who have not participated in the late civil war to a greater extent, perhaps, than they have, who did not give aid and comfort to the southern confederacy or to persons in arms against the United States to any greater extent than they have, are excluded. Why should these be favored and the rest excluded? I make this statement merely to place myself aright, as I intend to vote against this and all kindred measures partial in their character.

Mr. SAWYER. I desire to say, in regard to some of the parties whose names are in the bill before the Senate, that they are not members of the Republican party, but they are men who were selected by the votes of their several localities to fill important local offices; and where we were not able to get a good Republican we took a good Democrat who was willing to recognize the existing state of things. There are several gentlemen included here who are known as members of the Democratic party, but they are those who have put themselves in proper relations with the existing government of the State. Our Legislature has not confined its recommendation for the removal of disabilities to men of one political party, and this bill includes several names of prominent Democrats in that State.

The PRESIDENT *pro tempore*. The question is on the passage of the bill; and, as the Constitution requires the concurrence of two thirds of the members present to pass it, the vote must be taken by yeas and nays.

The question being taken by yeas and nays, resulted—yeas 44, nays 3; as follows:

YEAS—Messrs. Abbott, Anthony, Cameron, Cat-tell, Chandler, Cole, Corbett, Cragin, Dixon, Edmunds, Ferry, Frelinghuysen, Grimes, Harlan, Hendricks, Howard, Howe, Kellogg, Morgan, Morrill of Maine, Morrill of Vermont, Norton, Nye, Osborn, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Pool, Ramsey, Rice, Robertson, Ross, Sawyer, Sherman, Spencer, Sprague, Stewart, Sumner, Van Winkle, Vickers, Warner, Williams, Wilson, and Yates—44.

NAYS—Messrs. Davis, McCreery, and Saulsbury—3.

ABSENT—Messrs. Bayard, Buckalew, Conkling, Conness, Doolittle, Drake, Fessenden, Fowler, Harris, Henderson, McDonald, Morton, Thayer, Tipton, Trumbull, Wade, Welch, Whyte, and Willey—19.

The PRESIDENT *pro tempore*. Two thirds of the members present having voted in the affirmative, the bill is passed.

Mr. FERRY. The title of the bill should be changed by inserting the words "of amendments" after "article," so as to read: "A bill to relieve certain persons of all political disabilities imposed by the fourteenth article of amendments of the Constitution of the United States."

The PRESIDENT *pro tempore*. The title will be so amended.

BILLS INTRODUCED.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 697) granting lands to the States of Wisconsin and Michigan to aid in the construction of the Wisconsin and Lake Superior railroad and its branch; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. HARRIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 698) to relieve from legal and political disabilities certain persons engaged in the late rebellion; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. BAYARD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 699) for the relief of the daughters of General Charles F. Smith, deceased; which was read twice by its title, referred to the Committee on Military Affairs, and ordered to be printed.

Mr. SHERMAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 700) for the relief of Joseph Moorehead; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. SPENCER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 701) granting to the New Orleans, Mobile, and Chattanooga Railroad Company the right of way through the public lands of the United States and for other purposes; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. RICE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 702) for the removal of political disabilities from certain citizens of the State of Arkansas; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 703) for the removal of political disabilities from certain citizens of the State of Kentucky; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. FERRY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 704) to extend the letters-patent originally granted to John Young; which was read twice by its title, referred to the Committee on Patents, and ordered to be printed.

Mr. McCREERY. I submit resolutions amending the Constitution of the United States. I am not the author of these resolutions myself. They were prepared by Hon. S. S. Nicholas, of Louisville, Kentucky, a man who for fifty years has been an ornament to the bar and bench of Kentucky. He had devoted much time to the consideration of constitutional questions, and the result of his experience and reflection is embodied in these resolutions. I therefore commend them to the consideration of the committee to which they will be referred. They are intended to protect the rights of minorities and to provide against the contingency of bringing an election for President and Vice President to the House of Representatives. I move that the resolutions be printed and referred to the Committee on the Judiciary.

By unanimous consent leave was granted to introduce the joint resolution (S. R. No. 189) proposing an amendment to the Constitution of the United States; and it was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 190) relating to the bounties to colored soldiers who entered the volunteer service as slaves; which was read twice by its title, referred to the Committee on Military Affairs, and ordered to be printed.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 705) further to provide for giving effect to treaty stipulations between this and foreign Governments for the extradition of criminals; which was read twice by its title.

Mr. TRUMBULL. The bill has been examined by the Judiciary Committee, and I ask that it take its place on the Calendar.

The PRESIDENT *pro tempore*. The bill will go on the Calendar.

Mr. TRUMBULL. I move that it be printed. The motion was agreed to.

MILITIA IN THE SOUTHERN STATES.

Mr. WILSON. The Committee on Military Affairs, to whom was referred the bill (H. R. No. 1537) to repeal certain provisions of section six of an act entitled "An act making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes," approved March 2, 1867, have directed me to report it back without amendment and recommend its passage; and I ask to have it considered at once. It will take but a moment. It is precisely similar to the bill which we passed the other day on the same subject.

There being no objection the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. HOWARD. I should like to hear some explanation of this bill from the chairman of the Committee on Military Affairs.

Mr. WILSON. We passed a similar bill the other day—the Senator was not here at the time—which was fully debated. It went to the House of Representatives, but the House at the same time, or the day after, passed this bill, and as they are engaged to-day in such a way that they cannot act upon our bill I thought I would have this bill taken up and put on its passage.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOSEPH MOOREHEAD.

Mr. GRIMES. The Committee on Naval Affairs, to whom was referred the bill (S. No. 700) for the relief of Joseph Moorehead, have directed me to report it back without amendment, and to recommend its passage; and the Senator from Ohio [Mr. SHERMAN] desires that I should ask the Senate to consider it now.

Mr. SHERMAN. That is the case of a lunatic who is now at large on account of the lunatic asylum in Ohio being burnt out. It is important that it should pass in order to allow an ex-officer of the Navy to be transferred to the lunatic asylum here. I hope it will be allowed to pass at once.

The PRESIDENT *pro tempore*. Is there any objection to the present consideration of the bill?

Mr. EDMUNDS. Let it be read for information.

The Chief Clerk read the bill, which provides that Joseph Moorehead, of Ohio, lately a passed midshipman in the United States Navy, now insane, shall be admitted as a patient into the Naval and Military Asylum for the Insane at Washington, District of Columbia, and remain therein so long as he shall continue insane and his guardian shall so desire.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. GRIMES. I desire simply to say that on the 16th of February, 1853, Congress passed a law agreeing to pay to the guardian of Joseph Moorehead the furlough pay of a passed midshipman from some time in the year 1840, and so long as he should remain insane. He has

been confined in the Ohio Insane Asylum, which has now been burnt out, and this bill simply authorizes the Secretary of the Navy to transfer him to the asylum in this District.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

REPORT OF COLUMBIAN INSTITUTION.

Mr. ANTHONY. I move to reconsider the resolution passed yesterday authorizing the printing of fifteen hundred extra copies of the report of the superintendent of the Columbian Institution for the Deaf and Dumb, with a view to recommit it to the Committee on Printing. Some circumstances have come to my knowledge that I was not aware of at that time.

The motion to reconsider was agreed to.

Mr. ANTHONY. I move to recommit the resolution to the Committee on Printing.

The motion was agreed to.

BILLS RECOMMITTED.

On motion by Mr. MORGAN, the bill (H. R. No. 375) to repeal an act approved March 2, 1867, entitled "An act to regulate the disposition of fines, penalties, and forfeitures received under the laws relating to the customs, and for other purposes," and to amend certain acts for the prevention and punishment of frauds on the revenue and for the prevention of smuggling, was recommitted to the Committee on Commerce.

On motion by Mr. MORGAN, the bill (S. No. 490) for the relief of the owners of the brig Ocean Belle was read a second time, and recommitted to the Committee on Finance.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker had signed the enrolled joint resolution (H. R. No. 375) donating condemned cannon for the erection of a monument to Major General Kearny; and it was thereupon signed by the President *pro tempore* of the Senate.

SYMPATHY TO SPAIN.

Mr. SUMNER. I move that the Senate proceed to the consideration of the joint resolution (S. R. No. 178) tendering sympathy and best wishes to the people of Spain.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

Mr. SUMNER. It is only necessary to read the substitute reported by the committee.

The Chief Clerk read the amendment reported by the Committee on Foreign Relations; which was to strike out all of the resolution after the resolving clause, and to insert the following:

That the people of the United States, sympathizing with the people of Spain in their effort to establish a new order of things, express the confident hope that it will be conducted to the end in such way as to promote the triumph of liberal institutions, and they earnestly appeal to the people of Spain not to allow the present opportunity to pass without securing the immediate emancipation of slaves and the final abolition of slavery throughout the Spanish dominions.

Sec. 2. And he it further resolved, That the President of the United States is charged with the duty of communicating this resolution to the Government of Spain.

The amendment was agreed to.

Mr. POMEROY. I suppose the Senator from Massachusetts has carefully considered these words; but it may not be so much of a congratulation to establish a new order of things as it would be to establish a republican form of government.

Mr. SUMNER. Would you insert "republican government?"

Mr. POMEROY. I want a republican government. If we are going to congratulate them let us congratulate them on their opportunity of establishing a republican government. A new order of things may make it worse on the whole.

Mr. CONNESS. I was going to make a suggestion in this connection. I would suggest that the words "a more popular form of government" might be adopted, or "more enlightened and liberal institutions;" something

that expresses the idea of a government like our own.

Mr. POMEROY. I like the phrase "representative republican government."

Mr. CONNESS. That, perhaps, may be going too far.

Mr. POMEROY. I made the suggestion to the Senator from Massachusetts, thinking he would adopt it.

Mr. SUMNER. It is not in my power precisely to adopt it, for this is the report of the committee. The resolution as I introduced it the Senator has before him, and that has been amended by the committee, and it is the amendment of the committee which is now under consideration. If the suggestion of the Senator should prevail it strikes me it would come in at a different part of the resolution; that instead of saying "the triumph of liberal institutions," we should say "the triumph of republican institutions."

Mr. FESSENDEN. Mr. President, the committee thought that it would not be exactly in good taste, especially in the present unsettled state of things in Spain and considering the institutions that prevail among European Governments, to attempt to hint what particular form of government we should most desire. That is, of course, very well understood. The expression "a new order of things" does not exactly suit me. I would suggest to the chairman whether the expression "a more liberal form of government" simply would not be sufficient and as far as we ought to go.

Mr. BAYARD. Mr. President, I am opposed myself to the adoption either of the amendment or of the resolution. It makes very little difference, in my judgment, which the Senate choose to adopt. I will state very briefly—I did not know the question would come up this morning—the grounds on which I shall object to said resolution. They are impracticable in their character. They are an interference with a course of things in another country which is now in a state of revolution—successful revolution, if you will—but still what do you know of the condition of things in Spain? You know that there are two parties there, one in favor of monarchy and the other in favor of a republic. You know that they have had conflicts there since the revolution took place in which the late sovereign of Spain was deposed. Why should the United States depart from the policy which ought always to characterize it, of non-interference with the affairs of foreign nations? Why not leave Spain to decide both as to the form of government the people choose to adopt and as to the mode in which they choose to regulate their domestic institutions of any kind whatever?

My objection is not to the particular request or approbation which is indicated in this resolution or to the expression of the hope that Spain may abolish slavery throughout her dominions. My objection arises from the fact that the precedent in itself is impracticable and contrary to that principle of non-interference in the domestic affairs of foreign communities which I think always ought to be adhered to in this country, as it generally has in the past. If you make a precedent of this kind what may follow? Other questions may arise in other countries on which you may have very strong sentiments or opinions in this country; and you may ultimately by resolutions of this character, which are not legislation in your own affairs, which have no practical bearing upon the people of this country in any way whatever, involve the country and complicate its relations with foreign Powers.

Let me illustrate by a case which is not probable now, I admit, but I do not know how soon it may become probable. We know that in Great Britain there is a contest going on now for the disestablishment of what is called the Irish Church. It is not at all improbable that in the course of things there it may ultimately lead also to a contest for the disestablishment of the Church of England. In this country we do not recognize established

churches in any form whatever. The general system of the people of this country is against it. I can see no reason why we might not just as well, in a political crisis there connected with the disestablishment of the church, pass resolutions in reference to what we might hope the action of England would be in reference to matters of that kind as in reference to the course of Spain now.

My judgment is to let foreign countries manage their own institutions and their own affairs, recognizing always the *de facto* Government where it is fully established; but beyond that the path of wisdom, the act of statesmanship on the part of the Government of the United States, is not to interfere in the domestic matters of foreign communities where they do not by their management trespass upon us.

This is the general ground on which I object to this resolution in any shape in which it may be presented. I cannot see that it is called for. We do know, and all we know is that there is a disturbed state of affairs in Spain, the issue of which no man here has any sufficient knowledge now to predict. It may end, as I have understood is most probable, in the establishment of a monarchy. It may be different. It may end in civil conflict and further anarchy. We do not know. Why should we interfere, then? I object to it not because Spain could at all injure us, or that we complicate our relations with Spain, but we establish a precedent by this interference, and though the men of the day here now in this Senate may consider that it is very desirable that Spain should do what this resolution asks, in the Senate hereafter other questions relating to other nations may arise in which a majority may be equally devoted to some particular opinion which they may seek to enforce upon a foreign nation and may do it to the extent of complicating the relations of the country.

I have stated the general ground on which I object to resolutions of this character altogether. I do not think them appropriate legislation. I think them dangerous legislation as a precedent; much more so than any effect this particular resolution might have in any way whatever. I am therefore opposed to the passage of such resolutions.

The PRESIDENT *pro tempore*. The morning hour having expired, it is the duty of the Chair to announce that the resolution of the Senator from West Virginia, [Mr. WILLEY,] in relation to a portion of the President's message relating to the finances, is before the Senate.

Mr. SUMNER. I hope the Senate will indulge me by taking a vote on this joint resolution. I think there will be no further discussion.

The PRESIDENT *pro tempore*. If there be no objection the special order will be passed over for the purpose of taking the vote on this joint resolution.

Mr. CATTELL. This joint resolution will lead to further debate, and I ask that the unfinished business of yesterday be now taken up.

The PRESIDENT *pro tempore*. Objection being made to laying aside the unfinished business it will be taken up.

Mr. POMEROY. Let it be laid aside informally.

Mr. SUMNER. Let us finish this.

The PRESIDENT *pro tempore*. The unfinished business will be laid aside informally if there be no objection.

Mr. CATTELL. I must object.

Mr. SUMNER. I appeal to the Senator to allow five minutes.

The PRESIDENT *pro tempore*. The Senator from Massachusetts can test the matter by submitting a motion to the Senate.

Mr. SUMNER. I do not wish to submit a motion. I ask the indulgence of the Senate merely for five minutes that this may be disposed of. I think it can be disposed of in that time.

Mr. CATTELL. I have no objection to allowing five minutes; but Senators all around me say it cannot be disposed of in that time.

The PRESIDENT *pro tempore*. Will the Senate postpone the special order informally?

Mr. SUMNER. For five minutes.

The PRESIDENT *pro tempore*. Is there objection to that? None being made, Senate joint resolution No. 178 is pending.

Mr. SUMNER. The Senator from Maine made a suggestion to substitute instead of "new order of things" the words "more liberal form of government." I have no objection to the substitution. If he makes it in the form of a motion I certainly shall be ready to accept it.

The PRESIDENT *pro tempore*. The question is on the amendment to the amendment of the committee.

The amendment to the amendment was agreed to.

Mr. WARNER. I move to insert in place of the word "liberal" the word "republican." This is simply an expression of sympathy; and it seems to me that we cannot do less than express our sympathy in the form I propose.

The PRESIDENT *pro tempore*. The amendment of the Senator from Alabama is not now in order, inasmuch as the proposition which he moves to amend has been agreed to in a different form. The question now is on the amendment of the committee as amended.

Mr. THAYER. Is it not in order to amend the resolution?

The PRESIDENT *pro tempore*. Certainly it is.

Mr. THAYER. I move to amend by striking out in the seventh line the words "promote the triumph of liberal institutions" and insert "secure the establishment of a republican form of government," so as to read, "express the confident hope that it will be continued to the end in such way as to secure the establishment of a republican form of government." Does the Senator from Massachusetts object to that?

Mr. WARNER. Did I understand the Chair to decide that the proposition was not now open to amendment?

The PRESIDENT *pro tempore*. It is open to amendment, but not precisely to the amendment offered by the Senator, because the very matter which he wishes to strike out has already been agreed to.

Mr. FESSENDEN. I wish to state to gentlemen who have made these suggestions that the matter of them was very considerably discussed in committee, and the committee, I believe, came to the unanimous conclusion that it would not be proper at all for us to recommend to the people of Spain any particular form of government. That is a matter for them to settle. Suppose the British Parliament should pass a resolution recommending to them not to establish a popular or republican form of government; we should think that it was an impertinent interference. Suppose the legislative department of any other Government should pass a resolution or recommendation of the same kind, should we consider it proper? The committee thought that, in conducting matters of this sort, if we interfered at all, it was as well to be governed by good taste, and not undertake to dictate to a European Power in that way or to suggest what particular form of government they should adopt. It is to be supposed that the people of Spain know what is most for their own interest; and, at any rate, it is advisable for us, in the present condition of things, to wait. But, inasmuch as the effort is making evidently to improve their condition, we thought there could be no impropriety in recommending to them to adopt more liberal institutions, or liberal institutions generally, leaving to them to decide what particular form of liberal institutions they would adopt. I really hope we shall not be guilty of what I should consider very bad taste in passing a resolution suggesting to them as a matter of advice what particular form of government they should adopt; and the committee, as I said before, were unanimous on that subject; but I believe there is no objection on the part of any one to the amendment that has been already made by the Senate with the consent of the chairman.

Mr. SUMNER. I have to say that, person-

ally, if my wishes could prevail, there would be a republican government in Spain, and I think that ancient monarchy will err much in this crisis of her history if she fails to secure a republican government; and if my voice could reach those who have now influence over her destinies it would be to tell them not to hesitate in the path of duty. So much I say for myself; but while ready to say thus much for myself, I do not undertake to advise Congress to say what I would say. I united with the committee in the report which has been made. I believed that at this time, under all circumstances, considering the case carefully, it would be, perhaps, more prudent, more wise, and certainly more in conformity with the usages of nations, for Congress not to undertake to make any recommendation with regard to the form of government. But it certainly does belong to Congress to express always, everywhere, and to every nation, its aspirations for liberal institutions. Those are expressed in this resolution.

Now, I think that my friend from Nebraska cannot be more fervid in this cause than I am; I think that he is not ready to go further than I am; but perhaps he has not sufficiently considered all the reasons and the motives for a more cautious and prudent form of expression. I submit most respectfully to him that he should review his judgment on this question, and perhaps he may be disposed to withdraw his proposition.

Mr. CATTELL. The five minutes have elapsed, and I must insist on the special order.

Mr. THAYER. I will withdraw my amendment in order that the vote may be taken.

Mr. SUMNER. Let us have a vote.

Mr. SAULSBURY. Mr. President—

The PRESIDENT *pro tempore*. The time for which the unfinished business of yesterday was postponed has expired, and the Chair must be governed by the action of the Senate. This joint resolution must be laid aside and the unfinished business of yesterday taken up.

PAPER WITHDRAWN.

On motion of Mr. HOWE, it was

Ordered, That the papers relating to the claim of the Mercantile Mutual Insurance Company of New York for eight \$1,000 legal-tender notes be withdrawn from the files of the Senate.

NATIONAL DEBT.

The Senate resumed the consideration of the following resolution:

Resolved, That the Senate, properly cherishing and upholding the good faith and honor of the nation, do hereby utterly disapprove of and condemn the sentiments and proposition contained in so much of the late annual message of the President of the United States as reads as follows: "It may be assumed that the holders of our securities have already received upon their bonds a larger amount than their original investment, measured by a gold standard. Upon this statement of facts it would seem but just and equitable that the six per cent. interest now paid by the Government should be applied to the reduction of the principal in semi-annual installments, which in sixteen years and eight months would liquidate the entire national debt. Six per cent. in gold would at present rates be equal to nine per cent. in currency, and equivalent to the payment of the debt one and a half time in a fraction less than seventeen years. This, in connection with all the other advantages derived from their investment, would afford to the public creditors a fair and liberal compensation for the use of their capital, and with this they should be satisfied. The lessons of the past admonish the lender that it is not well to be over anxious in exacting from the borrower rigid compliance with the letter of the bond."

Mr. DIXON addressed the Senate. [His speech will be published in the Appendix.]

Mr. FERRY. Mr. President, my colleague has taken the opportunity, in the course of his remarks upon the resolution now pending before the Senate, to discuss the resolution, to make a financial speech and to establish, in his own judgment, a charge of inconsistency against myself.

Mr. DIXON. The latter was not my object.

Mr. FERRY. Now, sir, I thought in the remarks which I had the honor to address to the Senate the other day that I showed, with some degree of clearness, the altered state of circumstances at the present time from what they were at the time the fourteenth constitu-

tional amendment was proposed, which altered state of circumstances was the main foundation upon which I rested my argument for the present removal of political disabilities created by the fourteenth article of amendment to the Constitution of the United States. What was the condition of things two years ago when you were discussing that matter here in the Senate of the United States? I was not here.

Mr. DIXON. One year ago.

Mr. FERRY. In May, 1866, you were discussing that constitutional amendment. In that month it was agreed to in the Senate. In the next month it was promulgated to the people of the United States for their ratification; and what was the condition of things? That southern oligarchy to which I referred in my speech the other day, which had led the masses of the southern people originally into the rebellion, and which at the close of the rebellion felt itself crushed to the dust and then was willing to receive any terms which the conqueror might see fit to impose, had been lifted up from that position by the President whom the Senator followed, and by the efforts of the Senator himself, so far as they went, in sustaining the President. That same oligarchy had shown conclusively, by its conduct upon the encouragement thus received from the President and from his immediate supporters, that they were unfit, in the transition period which was to intervene before the final restoration of those States to the Union, to be intrusted with political power which they had so abused in misleading the mass of the southern communities in the years then but lately gone by; and to prevent the danger of the efforts which that class of the people of the South might make to put off still longer that restoration of the Union which all loyal men sought for these disabilities were imposed upon them by the amendment to the Constitution, and imposed, as was said fully and expressly in the debates of the period, two years ago, solely for a temporary purpose. And the Senator from Ohio [Mr. SHERMAN] in his speech on that occasion hoped that the time might soon arrive when all these disabilities could be wiped away.

That was the condition of things then. They were a dangerous element in the southern communities. They were an element then unfit to be intrusted with political power, because the political power which they might be intrusted with would in the circumstances of those communities at that time be dangerous to the speedy restoration of the Union and the safety of the Republic. Well, what has happened since? Your constitutional amendment has been approved by the people. Your reconstruction acts have been sanctioned by the people. Seven States have come back to the Union under the operation of those laws. The others are inevitably to return within a year from the present time. And, more potent than all this, the people of this country at the ballot-box have clearly and unmistakably expressed such a determination that the malice of the ancient southern oligarchy cannot fail to understand, for whether they can understand generosity and magnanimity or not there is one thing that the mind of the southern oligarchy does comprehend. It does understand force, and the people of the nation have incarnated the force of the Republic in the person of the great general whom they have placed at the head of this Government for the next four years. It is, in my judgment, no longer in the power of that oligarchy to prevent the restoration of the Union in the shortest possible period; it is no longer in their power to revive discord and civil strife in those communities; and therefore, even though they may be hostile still, even though they may be sullen and discontented, in my judgment it is safer for those States, in my judgment it is safer for the Republic, that they should cease to be considered by the communities in which they live, or a portion of those communities, as a sort of martyrs to a "lost cause;" and it is my judgment that they will lose their fic-

titious importance by being restored to the ordinary privileges of American citizenship.

But I gave another reason why I was in favor now of removing these disabilities. Believing that the danger no longer exists, believing that this great experiment of a democratic free government is now moving forward to a successful conclusion, I wish to have nothing whatever to mar the harmony of the system. For the identical reason that I favor the enfranchisement of the American, be he black or white, all over this land; for the very reason that I believe in an amendment to the Constitution of the United States which shall prevent henceforth the distinction of color being made applicable to the exercise of the franchise, for that very reason am I willing now to extend the franchise to the recent rebel. It is better that the negro citizen of this land should be endowed with all the political rights of citizenship than that he should be kept a pariah closed, as I said in my speech the other day, deprived of self-respect and left open to the assaults of vice. It is better for him, it is better for the State, it is better for the Republic; and for the same reason is it better also that the class at the South whose capacity of doing injury is now taken from them should be restored to the exercise of the ordinary capacities of American citizenship.

I have but one word more to utter. With regard to an amendment of the Constitution of the United States removing the distinctions of color now existing in different States of the Republic I had certainly hoped that my colleague would be willing to stand side by side with me in the support of it. I knew that he had twice in my State voted with me for a constitutional amendment there to extend the franchise to the negro; and I ask what difference is there between an amendment to the constitution of my State and an amendment to the Constitution of the United States for the purpose of accomplishing the same object?

My colleague says he will have no objection to the amendment or its submission to the people of Connecticut if it can be submitted to them assembled in a convention elected for that purpose.

Mr. DIXON. Not that I have no objection, but that it ought to be done in that way.

Mr. FERRY. The implication was, at any rate, that in that mode it would be less objectionable to my colleague. I say to my colleague that I will meet him in the State of Connecticut before the people of Connecticut in the election of a convention by the people of Connecticut for the very purpose of deciding on this question; and I believe that that State will give a greater majority for an amendment to the Constitution of the United States to wipe out these odious distinctions than she has given to either political party for the last twenty years; for the people of Connecticut, variable and changing as they may have been in politics during the last twenty years, are yet a liberty-loving, democratic people. They have been taught to base the foundations of civil society upon the very broadest base. They govern themselves in their town meetings and believe in true democracy, and not in that kind of Democracy to which my colleague has lately allied himself. I think that when the period shall come that people will express themselves overwhelmingly in favor of the removal of these discriminations, whether it be done by an amendment to the constitution of Connecticut or an amendment to the Constitution of the United States.

Mr. DIXON. Mr. President, my colleague says that the people of Connecticut are a liberty loving people, and that if this question could be presented to them they would of their own will and accord amend their own constitution and grant to every citizen of the State the right of suffrage. If that be so, why not leave it to the people of Connecticut? Why must it be said now and hereafter that it was necessary to use extraneous force upon the people of Connecticut for the purpose of accomplishing an object which he considers so

desirable? for the Senator knows very well that by the plan proposed by him suffrage may be enforced upon Connecticut against her will, and she may possibly vote against it for that reason.

Mr. FERRY. I should like to ask my colleague whether the promulgation to the people of an amendment to the Constitution of the United States is an enforcing of legislation upon the people of any particular State?

Mr. DIXON. It may not be under all circumstances, but under certain circumstances it may be. Suppose Connecticut, for instance, should vote against it and every other State in the Union vote for it, I ask, then, if in a certain sense it would not be enforced upon her?

Mr. FERRY. In no improper sense.

Mr. DIXON. I prefer leaving it to Connecticut to decide for herself; and that was the substance of Dr. Bacon's letter. He said he was in favor of negro suffrage, but preferred that the negroes should never vote rather than that negro suffrage should be forced upon Connecticut by act of Congress; and you may say the same thing of an amendment to the Constitution of the United States.

But, not to dwell on that, I did not desire, Mr. President, to show the inconsistency of my colleague. I desired merely to show that he had advanced to a noble position and to congratulate him upon that advance, and I did it in good faith.

There is one word more which I wish to say, in order to set myself right on the financial question; otherwise, perhaps, I might be misunderstood. I said I doubted the possibility of enforcing or establishing specie payments by legislation. I do not mean by that to say that I shall vote against a bill for that purpose. I am so anxious to accomplish it that I am prepared to vote for a proper bill for that purpose; for the bill of the Senator from Indiana, if it is amended and somewhat improved, if that is deemed the best bill, or for the bill of the Senator from Massachusetts. I consider a restoration of specie payment desirable in every respect, and particularly so for my section of the country.

Now, Mr. President, I desire to move an amendment to the pending resolution. After the word "nation" I move to insert "and agreeing with the President in the sentiment expressed in his message that 'the national faith should be sacredly observed.'" I wish to insert these words for the purpose of showing that the President is not a repudiator, but that all the departments of this Government agree in that sentiment.

Mr. HOWARD. Mr. President, the amendment just offered by the Senator from Connecticut is not in perfect accordance with the real sentiment of the message, which it is the object of the resolution itself to condemn. I took occasion yesterday to say a few words as to the real purpose and intent of the President in the passage which is embodied in the resolution now before us, and showed, as I think, that that intent was plainly one of repudiation. I think so still, sir; and if the Senate will bear with me for a moment I will endeavor to make my proposition perhaps somewhat clearer by reading the context of the message itself.

It is said that the Executive, in the message before us, intends only to leave it optional with the public creditor whether he shall be paid the amount of his bond in the manner pointed out by the Executive; that it is to be a matter of stipulation between the Government and the creditor; that the creditor shall consider himself paid fully the amount of his obligation by the application of the semi-annual interest upon his bond until that application shall extinguish the principal of the bond as well as the interest. That, to me, is a very singular kind of option; it is taking the lion's share: no, sir, it is taking more than the lion's share; it is taking the whole of the game at one fell swoop, and leaving nothing for the creditor.

Now, what does President Johnson say in this message? I call the especial attention of my friend from Connecticut to his language,

in order that he may determine for himself whether the Executive holds out to the public creditor an option to be paid in that very singular manner; that is to say, he shall have the option that he shall not be paid at all! The message reads as follows:

"Our national credit should be sacredly observed."

And how is it going to be observed according to this message? He proceeds to say:

"It may be assumed that the holders of our securities have already received upon their bonds a larger amount than their original investment, measured by a gold standard."

This is the assumption of the President in his message; this is the state of facts upon which he bases his subsequent recommendation, which I will now read:

"Upon this statement of facts it would seem but just and equitable that the six per cent. interest now paid by the Government should be applied to the reduction of the principal in semi-annual installments, which in sixteen years and eight months would liquidate the entire national debt."

President Johnson says that this would be a just and equitable adjustment of the public debt due upon the public bonds of the United States. "Just and equitable" is the language of the message. But he proceeds further in a subsequent paragraph, and says:

"If provision be made for the payment of the indebtedness of the Government in the manner suggested our nation will rapidly recover its wonted prosperity."

Now, sir, I can draw but one inference from this language; and that is, that he recommends the passage of an act of Congress by which the bonds of the public creditors should be paid by the semi-annual application of the interest upon the principal of the bond until that principal becomes paid and extinguished. What other meaning can be given to it? He had no right, as I remarked yesterday, to send a message to Congress unless it was for the purpose of giving information to Congress upon the state of the Union, or of recommending measures for the action of Congress, in the language of the Constitution; and here is as plain a recommendation of a measure to be passed and perfected by Congress as is to be found in any message of any President of the United States, and it goes to the entire extent of sweeping away at one blow, at one dash of the legislative pen, the whole bonded indebtedness of the United States, principal and interest together. This is what Andrew Johnson, President of the United States, recommends to be done by the Congress of the United States; and I cannot suffer his friends and advocates here to make their escape from the odium of this proposition by placing upon it any gloss or interpretation which neither the passage nor the context will bear. The President complacently remarks:

"If provision be made for the payment of the indebtedness of the Government in the manner suggested our nation will rapidly recover its wonted prosperity."

Well, it would be a most undesirable kind of prosperity, rather, perhaps, notoriety, for the Government of a great nation just emerging from one of the bloodiest wars in the history of the human race, by which liberty itself has been saved, to turn around coolly upon its creditors, who have aided and assisted in achieving this great triumph, and say to them, "We are very much obliged to you for the use of your money, but we do not choose hereafter to pay you one cent for it. We are the law-making power as well as one of the contracting parties; and we see fit, in the exercise of our omnipotence as a legislative body, to repudiate these loans which, in our distress, we humbled ourselves almost upon our knees and begged from the creditors who are now clamoring for their pay."

Sir, there is no true national prosperity that can arise from such an act as the President has seen fit to recommend to Congress. Instead of prosperity it would be one of the deepest of national humiliations; it would be a disgrace to the American nation which, with all its industry, all its intelligence, and all its

boasted virtues, it could not wipe out for four centuries to come. He remarks, also:

"The lessons of the past admonish the lender that it is not well to be over anxious in exacting from the borrower rigid compliance with the letter of the bond."

What does that mean? Will my honorable friend from Connecticut tell me what is intended by that mystic passage? It may be a little mystic to him. I fancy he will find it such if he attempts to explain it. But there is no mystery about it to me. It is a plain admission that the purpose of this recommendation is to repudiate and get rid of the public debt and not perform the public obligation as it is written on the bond.

Now, I am entirely willing that Mr. Johnson should enjoy all the credit and all the renown that is likely to be derived from this recommendation; and I know of no man in the United States more deserving of the equivocal honor of being the parent of that recommendation than the present President of the United States. I say it, sir, with sorrow and humility. That is all I have to say in reply to the interpretation which my honorable friend from Connecticut has endeavored to place upon the message.

Mr. DIXON. Mr. President, the Senator has called upon me to explain the sentence which he has read, which he declares mystical. I meant to allude to it in the first place. It seems to me it throws some light on this question. The question now is, it seems, whether the President intended to recommend a compulsory scheme. The honorable Senator from Michigan says he did. I do not read it so. If I thought he did I should entirely dissent from it. If I supposed that this was a compulsory plan I should say that the plan was still more objectionable than I think it to be, although I have already explained, or attempted to explain, that it is not by any means what the Senator declares it to be, actual repudiation of the entire debt. I have already shown by arithmetical figures that a long annuity of thirty or forty years is a better proposition for the creditor than reducing the interest to four per cent. and finally paying the capital. The Senator will not deny that. The Senator will not deny that an annuity of forty years at six per cent. instead of seventeen or twenty years, is worth more to the creditor and is more liberal on the part of the Government than offering a bond, the capital of which shall be paid at the end, and four per cent. interest on it during the time. He knows that very well. He has not forgotten his arithmetic. He can cipher. All that it requires to see that is a bare knowledge of arithmetic. If the President had made such a proposition, then it would appear plain that it was to be not compulsory, but optional. But because it is less favorable for the creditor than that they therefore say it is compulsory. That does not follow at all. Because it is an objectionable proposition, and one which the bondholder will not accept, it does not follow that it is intended to be compulsory.

Now, sir, in the first place I think it is not to be presumed that the President would offer to this Congress a proposition for the compulsory settlement of the debt in that manner. It must be plain and apparent and not matter of reasoning that he intended it to be compulsory, or you cannot infer it, because he is not the man, I think, whatever else may be said of him, to propose to the Congress of the United States an act of compulsory repudiation.

But what does he say? The Senator refers to his language. I think his language and the whole context ought to be referred to; and I find that in speaking of this very proposition he says the bondholders may not be averse to it. What does that mean? It may be unwise, it may be foolish, it may even be weak for him to suppose that the bondholders may not be averse to it; but the fact that he says so shows that that was in his contemplation. He might have said that the bondholders would not be averse to an entire relinquishment of their claim, and he hoped they would have the pa-

triotism to do it; that would not be repudiation. Now, he says they may not be averse to it. He says the public faith must be preserved, and then he goes on to suggest a plan which requires the reasoning powers of the Senator from Michigan to make out as compulsory. I cannot see that it is a compulsory plan. I do not think he so intended it; but even as it is, that is a question of construction. The Senator may think so; I may not think so. He may think worse of Mr. Johnson than I do. I may have that opinion of him that I will not believe, except on his express declaration, that he would propose a compulsory scheme of this kind; but, at any rate, whether compulsory or not, the resolution being in bare condemnation of the proposition as a wise scheme, I can unite with my friend from Michigan in voting that it is unwise and that I disapprove of it; but in so doing I do not by any means mean to admit that I think the President of the United States intended to propose it as a compulsory scheme.

Mr. CORBETT. Mr. President, the recommendation of the President of the United States to the Congress of the United States is in these words: referring to the advantages of the loan by the creditor to the Government, he says:

"This, in connection with all the other advantages derived from their investment, would afford to the public creditors a fair and liberal compensation for the use of their capital, and with this they should be satisfied."

Thus intimating to the Congress of the United States that we should enact such a law as to compel the creditor to accept the terms he indicates. He then proceeds to say:

"The lessons of the past admonish the lender that it is not well to be over anxious in exacting from the borrower rigid compliance with the letter of the bond."

This smacks very strongly of a threat to the bondholder that if he does not accept these terms Congress will enact such laws as will compel him to accept them. These terms are very different from those proposed by the Congress of the United States at the last session. The Committee on Finance then reported a bill giving to the bondholder the option of funding his debt into a long loan at four or four and a half per cent., giving him a long period in which he should enjoy that interest, provided he would fund his short bond, maturing in fifteen or twenty years, in a long loan. It was supposed that this long loan would compensate the bondholders to a certain extent for the relinquishment of their present bonds, having but a short time to run, at a larger rate of interest. Consequently, the committee reported a bill giving the option to the bondholder to fund his bond into such a loan if he desired it; otherwise, he could hold that bond until it matured and then receive his money.

In this connection it may not be improper to refer to our citizens who have invested in these loans. The patriotic people who came forward at the commencement of this rebellion with their means to sustain the Government held real estate and other property that was as good to them as gold, and some of them, I know, sold their property in order to enable them to help the Government. I know of one citizen who disposed of \$100,000 worth of property that he might assist the Government of the United States. He invested that money in the bonds of the United States, and said, "If the Government goes down let my bonds go, but if it is ever able to pay, then I expect it will pay them in full in gold." He sold real estate in New York city which has since increased in value from two hundred to three hundred per cent. The property that he sold for \$100,000 is worth to-day from two hundred thousand to three hundred thousand dollars. That property was probably sold to those who had not faith in the Government of the United States that it would ever pay this debt. Some of his friends said to him, "You will never get a cent of the money that you loan to the United States Government." Those who had not faith in the Government, the men who were not favorable to carrying on the war and who were opposed to assisting the Government

in that hour of its great need, bought his real estate and have reaped this profit from it; and now here is a proposition from the President of the United States to the friends of the Government, the men who furnished it with the means to carry on the war for the benefit of the Army and for the protection of their lives and property, absolutely to repudiate the entire debt.

Sir, there are many other securities which are paying as large an interest as the present bonds of the United States. The President's figuring does not appear to be exactly right. The bonds, on the average, in the United States that are bearing six per cent. interest are worth about one hundred and ten at this time. Gold is now at about thirty-five per cent. premium. Thirty-three and one third per cent. would be just eight per cent. per annum upon the gold. These bonds at one hundred and ten would give about seven and three-tenths per cent. interest in currency. The bonds of the State of Tennessee are now worth about sixty-five or sixty-seven in the market. Those bonds are now paying six per cent. in currency on their par value. Would the President, who is a citizen of that State, recommend to the State of Tennessee such a proposition as this? Would he say to the citizens there, "After you have paid the amount of your bonds in interest you should repudiate the balance?" Those bonds are paying on the market value about nine per cent., one and one half per cent. at least greater than the bonds of the United States. Many of our citizens have invested in those bonds. If the President, on returning to Tennessee, should recommend such a measure as this in that State, what do you suppose would be the price of Tennessee bonds in the market?

Mr. President, if it is necessary to protect the credit of a State how much greater and more important is it that we should guard and protect the credit of the United States? If the credit of a State is above the credit of the United States, then we may expect the securities of that State to take precedence of the securities of the United States and drive them from the market. It is necessary for us to maintain, above everything else, the credit of this nation. If we are to have another rebellion, as we may at some future time, it will be important for us that we guard the nation's credit at this time, looking forward to the future in the expectation that we may call for loans hereafter. Unless we do this what guarantee have we for the future of the success of our arms? I apprehend if it was not the expectation of those who invested in the United States bonds that they should receive their money in gold in the future this rebellion would never have been put down; your Union would have been scattered to the winds, and each State would be legislating in its own behalf at this time, and you would be in a state of anarchy equalled only by that of Mexico.

Such a proposition, emanating from the President of the United States, has a tendency to depreciate the credit of the United States and to destroy the future prospect of obtaining money in case of need. It has a tendency to relieve those people who were enemies to the Government in time of war from taxes, and it appeals to the prejudice of that class of people who were opposed to the war for the suppression of the rebellion to join with him in repudiating this debt, that we may lose the benefits which we have derived in maintaining the Union. Sir, if we do not maintain the credit of this nation our efforts have been in vain; the efforts of those gallant young men who went forth to battle and sacrificed their lives on the altar of our country have been in vain. What would they say if they could rise up before you to-day? They would ask you if you were going to repudiate the debt which was contracted to feed them, to clothe them, and to support them in their efforts to maintain this Union. They would say, "Are you going to be so picayunish now as to repudiate the debt contracted in the glorious cause for

which we laid down our lives and now lie in our blood-bought graves? Will you dishonor the nation by repudiating that debt, and declaring that you will not pay your portion of the taxes, when we have given our blood and our lives to support the nation?"

Sir, when I think of these things, when I think of the young men who have died in defense of the nation, when I think of their heroism, their fortitude, their sickness, and their wasting away in the rebel pens that I visited in the South; when I think of those pens with the little holes they dug in the earth where many of them died—for I counted three or four thousand graves of men whose deaths were caused by starvation by the enemies of this Government—and then when I see this same interest at work to repudiate the debt of the Government, and I see this same desire to dishonor the Government and to make it inefficient in every way possible, this to me is the greatest crime of all. The Executive of the nation deliberately proposes here at this juncture, when we have achieved our victory and glory has crowned our arms and these men are enshrined in the hearts of their country, to repudiate the debt due to those loyal men who sold their farms and their property and invested the proceeds in Government securities to support this Government and to support their children and their brethren in this war to put down the rebellion.

Sir, I think it is only necessary to bring this question to a vote. I cannot see how any loyal man can vote otherwise than to censure the President for so monstrous a proposition. I cannot see how any of our Democratic friends on this floor can refuse to join in such a resolution. I trust, sir, that this resolution will be adopted unanimously without any amendment.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Connecticut.

Mr. HOWE. Is that amendment open to amendment?

The PRESIDENT *pro tempore*. It is.

Mr. HOWE. Then I wish to move to amend it. If the Clerk will report it once more, I will tell him where I should like to have the amendment come in.

The CHIEF CLERK. The amendment is to insert after the word "nation," in the second line of the resolution, the following:

And agreeing with the President in the sentiment expressed in his message, "that the national faith should be faithfully observed."

Mr. HOWE. I move to insert after the word "sentiment" the words "which ought to have been, but which was not;" so that if amended it will read:

And agreeing with the President in the sentiment, which ought to have been, but which was not, expressed in his message, that the national faith should be faithfully observed.

[Laughter.]

If the Senate will indulge me one moment I think they will see the importance, if we are going to commit the Senate to a sentiment expressed in the message, of voting the sentiment correctly. It will be seen that the sentiment in the amendment offered by the Senator from Connecticut differs widely from the sentiment expressed in the message. That amendment reads, that we agree to the sentiment expressed that the "national faith should be sacredly observed." The message says "the national credit." The national faith requires that we should pay what we have agreed to pay; but I have known many a debtor who thought he could best preserve his credit by paying a part of his debt and keeping the balance in his pocket. The President seems to have adopted that view, that the national credit can be best preserved by paying a part of the debt, or paying none of the principal of the debt, but only the interest; and so that we may be left in no doubt as to what he means, he qualifies his statement that the national credit should be preserved by going on to explain how it should be preserved, to wit, by remembering what is due to the great mass of the people and taking good care not to pay

any of the principal, but only the interest for a limited number of years.

Mr. DIXON. I intended, of course, to offer the amendment in the exact language of the message, and supposed I had done so. How does it read?

The CHIEF CLERK. The amendment, as taken down at the time it was submitted, reads as follows:

And agreeing with the President in the sentiment expressed in his message, "that the national faith should be sacredly observed."

Mr. DIXON. It should be "national credit." Of course I can make that verbal amendment.

Mr. HOWE. I take it, as there is another amendment pending, that amendment is not in order.

Mr. DIXON. The meaning is the same.

The PRESIDENT *pro tempore*. The Senator can modify his own amendment.

Mr. DIXON. I ask leave to make that verbal amendment.

Mr. HOWE. I raise the question of order whether the amendment now moved by the Senator from Connecticut is in order while another amendment to the amendment is pending.

The PRESIDENT *pro tempore*. As a general principle, the mover of an amendment may modify his own amendment. Whether he can do it after an amendment to that is offered is a new question to me; but, I suppose, a liberal interpretation would permit him to do it.

Mr. SAULSBURY. Mr. President, I think there is a very easy mode of getting out of the difficulty in which we are in reference to this resolution; and that mode I suggest to be for the Senate to pass a resolution that the President had no legal right to express any such opinion as he has stated in his message; so that the House of Representatives may draw up articles of impeachment and send him here for some two months' trial. It will give us very healthy and profitable exercise during the cold winter months, and will be only following the illustrious example heretofore set!

Mr. CATTELL. I will say, in answer to the gentleman from Delaware, that I presume the President had a right to say what he did to Congress, and the Senate have a perfect right to say they do not approve it.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Wisconsin to the amendment of the Senator from Connecticut.

The question being put, there were, on a division—ayes 18, noes 8; no quorum voting.

Mr. ANTHONY. There is a quorum present. I hope the Chair will put the question over again.

The PRESIDENT *pro tempore*. Those in the affirmative will rise, and let every one rise that intends to vote.

Twenty-eight Senators rose.

Mr. DIXON. If it is not too late I rise to a question of order.

The PRESIDENT *pro tempore*. What is the question of order?

Mr. DIXON. This amendment offered by the Senator from Wisconsin is an amendment to an amendment to an amendment.

Mr. POMEROY. I submit that a question of order cannot be raised while we are dividing.

Mr. DIXON. My amendment was an amendment to an amendment, and his is an amendment in the third degree.

The PRESIDENT *pro tempore*. No; it is not. The amendment of the Senator from Connecticut was to the original proposition reported by the Senator from New Jersey. Those in the negative will rise.

Twelve Senators rose.

So the amendment to the amendment was agreed to.

The amendment, as amended, was rejected.

The PRESIDENT *pro tempore*. The question recurs on the original resolution.

Mr. WHYTE. Reluctant as I am, Mr. President, at this late hour of the day to trespass for a moment—and it shall be but for a

moment—upon the time of the Senate, I do not wish the vote which I shall give upon the resolution now pending to be misunderstood either here or by the people whom I have the honor, in part, to represent on this floor.

The resolution as it now stands is, in my judgment, one of censure and of condemnation of the opinion of the President; and as I hold the right of opinion sacred, whether from citizens in public office or in private station, I cannot give any support to the resolution now before this body.

These views of the President have been denounced here as inculcating the doctrine of repudiation. I do not so understand them. Repudiation, as I comprehend it, means the application of the sponge to the national debt. It means rejection of the debt *in toto*, principal and interest. When Congress, in its fourteenth amendment to the Constitution of the United States, demanded of the rebel States prior to their restoration to practical relations with the Federal Government, that they should declare null and void every State obligation, either to pay for arms or for money used in the rebellion or as compensation for slaves emancipated, that I understand to be repudiation. But when the President or any other person undertakes to discuss the means by which the country can be relieved of its pressing obligations, that I conceive to be another and a different thing. And looking at the vast increase of our public debt and the diminution of the revenue, many high-toned and honorable public men have proposed various methods for composition with the public creditors of the United States. The letter of the contract calls for six per cent. in gold as interest; and whenever you depart from that and offer to the creditors a less rate of interest, you might as well call it repudiation as so to stigmatize the opinions of the President.

When, at the last session of Congress, the distinguished chairman of the Committee on Finance offered his proposition to consolidate the public debt and reduce the interest, which was followed by propositions from other Senators and members of the other House to reduce it still lower, no hands were raised in holy horror, nor was there any cry of "repudiation" then. Now the proposition of the President is the same in principle; the difference is in degree. One proposes the payment of the principal at a long time with a less rate of interest. The President proposes the extinction of the principal by paying the existing rate of interest for a longer period of years. I see no difference, therefore, Mr. President; and while I do not concur in the views of the President of the United States, while they have no indorsement of mine, I cannot vote for a resolution of this kind. I come from a State which has passed through crucial trials in the payment of its public debt and has come out unscathed and untarnished by the abatement of a single dollar that it owed. Therefore, I concur in no proposition to repudiate the public debt or to abate it; but I shall no more enter into a clamor against the President of the United States because he entertains sentiments different from me than I would join here in a crusade against any Senator who might propose the payment of the debt of the United States by the retirement of the old issues and the furnishing of a new issue payable at a longer period and with a smaller amount of interest.

Mr. VICKERS. Mr. President, I do not desire to detain the Senate, but to express briefly the views which explain the vote I shall give. I agree with the Senator from my own State who has just spoken, and adopt the views he entertains. I have several other objections, however, to the passage of this resolution, which I will endeavor to explain.

The Executive is a coördinate department of the Government, and it is his constitutional duty—a duty which he cannot avoid—to make known his views upon the condition of the country and its finances. The very theory and genius of our Government and the practice

which has grown up under it allow great liberty and even license in oral discussions, and in communications in writing with reference to subjects of a political and financial nature. I do not understand the President to recommend repudiation. I do not understand, in the language of this resolution, that his message contains a proposition and a sentiment as it is called; for it proposes to disagree to the proposition and the sentiments expressed by the President. I have looked in vain for any proposition in the message in reference to the subject under consideration. I see no language of recommendation. I do not agree with the Senator from Oregon and the Senator from Michigan that here is a direct or even an implied proposition to pay less than the principal and the interest of the public debt. The President knew as well as any one how to make a proposition, and when he designed to make one he did not fail to use language to do so. For example, on page 28 of his message he says:

"I renew the recommendation contained in my communication to Congress dated the 18th of July last—a copy of which accompanies this message—that the judgment of the people should be taken on the propriety of so amending the Federal Constitution that it shall provide," &c.

Here is a direct recommendation of the President; but there is no recommendation, either express or implied, in the passage which is contained in the resolution under discussion, and there is no proposition in it. If there is no proposition it is only, then, the sentiment of the President; and is the Senate of the United States called upon to be sentimental? I consider this resolution a mere abstraction; and shall we legislate upon abstractions? Let us rather legislate upon some practical subject.

I ask, if this resolution should pass what would be its effect? Would it enlighten the public mind in reference to the payment of the national debt and its interest? Would it indicate the policy of Congress in reference to the payment of the debt? Is there anything tangible in this resolution, anything which can afford to the people any hope of relief from the heavy burdens of taxation which they are called upon to bear? Is there anything to commend it to the people? Will it indicate to them any mode or measure of relief? The national debt, as was stated yesterday by the honorable Senator from Delaware, amounts to \$2,500,000,000; but I hold in my hand an editorial from a paper published in this city, the National Intelligencer, which makes the debt, not the national debt proper, but the debt growing out of the war, much more than that spoken of by the Senator from Delaware. In reading this and the communication referred to in it from a New York paper I will omit all reflections against the Congress of the United States, and also against the Secretary of the Treasury. The article is:

"The true figure as to the national debt is not seen in the present reported amount of it. It will continue to increase largely if all the legitimate demands upon the United States Treasury are answered. Considered prospectively, the debt of the General Government cannot be put at a dollar less than \$3,000,000,000. As things are, gold interest on that sum will amount, in the sort of money that the people are now using, to something like \$270,000,000. But State, city, county, and town debts are in reality, for the most part, of the debt incurred on civil war account. These are not less than \$2,000,000,000. Thus the aggregate of the debt caused by the civil war is \$5,000,000,000. This was doubtless the sum which Mr. Thaddeus Stevens so often referred to as the true national debt by reason of the war. States, cities, and towns could not have entered upon any such usurious and unconscionable contracts as to pay excessive interest in gold. Estimating the aggregate amount of interest in greenbacks at \$120,000,000 on the \$2,000,000,000 in State, city, town, and county obligations on account of the war, the total amount of interest to be paid by the people yearly in greenbacks will be nearly four hundred million dollars.

"The people cannot possibly pay this amount even in lawful currency without much suffering, and at the same time defray the annual expenses for carrying on governments in the form of national, State, county, and town. Elsewhere will be found, among extracts from the newspaper press, one from the Philadelphia North American, (Radical,) which asserts that the view of the President on the subject of the public debt must be regarded. The New York Herald speaks as follows upon this subject:

"Mr. Johnson's remarks about the necessity of extinguishing the debt, and that the bondholders

have received and are receiving an enormous amount over, and above what was given for the bonds, are true enough. No people were ever fleeced as the people of this country have been by the shameful manner in which the debt was created."

"The debt ought not and need not have been more than a third of what it is."

"Still the public may be oppressed beyond the limit of forbearance. The bondholders, Shylock-like, may demand the pound of flesh, may clamor for exorbitant immunities while all the rest of the community are suffering, till the people are driven to look into the equity of their claims and resort to repudiation. This, let it be remembered, would be no new thing in the history of nations. Indeed, it is hardly possible to point to any nation that has not in some form or other entirely or partially repudiated its debt. Even England, which is held up as the paragon of honor, reduced the interest on its debt from time to time from six per cent. or more to three and a half and three per cent. The interest drawn now by our bondholders, as the President remarks, is enormous. Reckoning the difference between gold and currency and the immunity from taxation the amount of interest is about ten per cent. But the national banks make considerably more than this on their bonds—that is, from fifteen to seventeen per cent.—through the privileges given to them by Congress. There is no denying the fact that this is an infamous state of things, contrary to a just equality of privileges and burdens in the community, and very oppressive to the industrious classes."

"How, then, are these first mutterings of repudiation to be checked? How are we to pay the debt equitably and honorably and avoid repudiation? Not by the exacting demands of the bondholders to be paid the uttermost cent in specie, according to their interpretation of the letter or spirit of the bond, while all other debts and everybody else are paid in depreciated currency. Not by their demands to be relieved of a fair share of the public burdens. No; the public creditors must share these burdens with the people, and the interest of the debt must be reduced. The interest is now far too high, and out of all proportion to either what was given for the debt or the value of the capital. Laws are passed in all countries against usurious interest as one of the greatest evils to society; yet that our debt is most exorbitant. In a word, it is far too oppressive and corrupting and dangerous in its influence. Two things are necessary, then, to relieve the country from its heavy burdens, and possibly from repudiation, namely, the funding of the debt at a low rate of interest, and the certain and steady liquidation of the principal."

The view of the President, as I understand it, is practically illustrated as follows:

The United States in account with A. B.

Dr.	
1863. To cash paid for one bond of \$100, say in gold.....	\$30 00
To interest for twenty-one years.....	63 00
	<hr/> \$113 00

Cr.	
1868. By interest for five years, from 1863 to 1868, in gold, upon \$100.....	\$30 00
By interest for sixteen years, proposed to be paid.....	96 00
	<hr/> \$126 00

Being thirteen dollars actually paid above the value in coin given for the bonds; and if you calculate the interest of \$100 at nine per cent. for twenty-one years you will have an over payment of the bond at the end of that time of seventy-six dollars. This is a practical application of the principle which the President has suggested in his message, for I have considered it merely as a suggestion for the consideration of Congress and not as a proposed measure.

I prefer greatly to pay the debt, both principal and interest; I prefer to pay it all in coin; and I would prefer if it were funded to pay it at a particular period with six per cent. interest. I desire that no creditor shall receive anything less than the principal and interest. But this is a practical question, and the inquiry must come home to every Senator how is this debt to be paid? There is not specie enough in the country to pay it, and according to the estimate which I have read from the National Intelligencer the debt of the General Government and the debt of the cities and the towns growing out of the war amounts to five billion dollars. Where will you get the specie necessary to pay this debt? Five billions is estimated by some to be the debt; and the Senator from Delaware told us yesterday that there were but four billions of coin in the world. How is it to be paid? Resolutions will not pay it. This resolution and its kindred resolutions now lying on the table and ready to be

discussed will not provide a means or a remedy for the payment of this debt.

I know not why we should be so sensitive upon this subject when a mere suggestion is made for our consideration. I do not think that we have a right; properly considering the comity that should exist between the different branches of the Government, to pass, either directly or impliedly, a vote of censure upon the Executive simply because he submits to us a proposition for our consideration, a suggestion merely. Why, sir, if the President had recommended to us that the debt should be funded at a less rate of interest there would have been no proposition to pass a vote of censure upon him; but, as was so eloquently stated by the Senator from Delaware yesterday, the principle is the same; it is paying less than you contracted to pay. When the Government borrowed this money it agreed to pay interest at six per cent. in coin. If that is a part of the contract how can the Government evade the payment of six per cent. in coin upon the national debt? If it funds the debt and pays only four or four and a half or five per cent., does that fulfill the letter or the spirit of the contract? It does not. Then it impairs the obligation of the contract. How, then, can it be said that one mode is to be called repudiation and another mode which does not fulfill the contract is to be called an honorable mode?

Why, sir, I do not consider that in any of these propositions there is anything like dishonor or anything like bad faith intended; but these are propositions which are submitted to the consideration of the representatives of the people and of the States.

Now, what is the legislation of Congress on this subject—I do not mean upon the subject of the public debt, but on the subject of repudiation? I propose to read from a portion of the report of Mr. Spinner, the Treasurer of the United States, who speaks very plainly: Speaking of the refusal of the Government to receive fractional currency above a certain amount to pay the debts which postmasters owe to the Government, he says:

"Officers engaged in Government collections, especially those connected with the Post Office Department, suffer in consequence. Postmasters are by law compelled to receive these Government tokens in payment for postage stamps, and are then immediately liable to the Government for the amounts of such sales in good money. But the Government that sold these tokens at par for their face value or paid them as money to its creditors now turns round and refuses to receive them back in payment from its own officers, who were by law compelled to receive them on account of the Government. Postmasters who were so obliged to receive these tokens have offered them by the bagful in payment of their post office receipts at the counter of the Treasury and have been compelled to carry them home again, because the Treasury cannot receive over sixty cents in three-cent pieces, nor over four cents in one or two-cent pieces in any one payment. Was there ever an act of the Government of a respectable people that, for meanness, can compare with this? An individual that would practice such a confidence game would be branded as a two-penny thief, and would soon be consigned to a house of correction. A Government that practices such frauds upon the people cannot hope long to retain the respect of anybody. It has been intimated, and there are those that are uncharitable enough to believe the story, that the ownership of an unprofitable nickel mine had something to do in influencing the passage of these 'speedy-return-to-specie-payment' laws."

"A Government that has the meanness to openly repudiate the payment or redemption of its one and two cent issues will soon be suspected of being none too good to repudiate payment of the larger obligations of the nation. He that is not faithful in small things will scarcely be trusted in large ones. Congress can prevent this danger and save the reputation of the Government only by making immediate provision for the prompt redemption of these, its smallest, obligations in lawful money."

That is the language of the Treasurer of the United States, in which he charges direct repudiation upon the legislation of Congress; but I am confident that it never was the intention of Congress to repudiate in any improper sense. It only shows the different constructions placed upon this word "repudiation." I do not believe that the President of the United States ever designed to intimate anything that was unfair or dishonorable. It was only a suggestion, which, of course, must receive the sanction of the creditors before it can be effective, whether they should be paid in six-

teen years, gold interest, or whether they shall run the hazard which everybody seems to have some apprehension of, that this debt never will be fully paid. I wish it were in the power of this Government to-day to pay every dollar of the debt, principal and interest, in coin. I do not indorse this recommendation of the President; but I have looked upon it with that respectful consideration with which I always regard state papers that emanate from those in high authority. He occupies a very eminent position. He has opportunities and advantages for ascertaining the true condition of the country in all its interests and in all its financial affairs, in its productions, in its various interests, and looking at things from a stand-point so different from that which I am enabled to occupy, I must have some respect for views which emanate from a man so distinguished as he is, and occupying with such advantages as he does his high and elevated position.

Who can believe for a moment that the President, in his suggestion of another among the many modes devised for the payment of the public debt, meant anything like dishonorable repudiation? He has acquired a reputation for singleness of purpose and integrity of which he may well be proud and jealous. What motive could he have, as President of a great people, to advocate repudiation? He has been educated in the school of adversity in moral and political principles that have commanded the highest respect.

Mr. WARNER. I should like to ask the Senator from Maryland a question. The President, in his message, proposes that the Government should never pay the bondholder a dollar, either of interest or principal. If this is not repudiation, what is?

Mr. VICKERS. I thought the proposition was to pay the interest for sixteen years. If the Senator has read the message as I have certainly he must have seen that the President does not propose to repudiate the payment of interest.

Mr. WARNER. I ask the Senator if the President proposes ever to pay the bondholder a single dollar of money? I ask if a single dollar of money under the President's proposition is ever to go out of the Treasury to the bondholder?

Mr. VICKERS. If the Senator from Alabama had listened attentively to the account which I stated between the bondholder and the Government he would have perceived that when the bondholder paid but fifty dollars for a Government bond of \$100, if he received interest on \$100 for twenty-one years, according to the President's proposition, he would be paid both principal and interest on the fifty dollars which he loaned at six per cent., and be overpaid by thirteen dollars, and overpaid by seventy-six dollars if the interest be computed at nine per cent., which the President has stated it to be in his message. That, I say, is the President's view, that the payment of interest at six per cent. in gold on the nominal amount of the bond will pay both principal and interest on the actual amount which was loaned by the creditor. That is my view of the President's position.

Mr. WARNER. That does not answer my question. Does not the Senator understand that the President proposes that the Government shall never pay the bondholder any money out of the Treasury? Is not that the proposition of the President?

Mr. VICKERS. The President's suggestion is to pay him the interest for sixteen years and eight months.

Mr. WARNER. Does he propose ever to pay the bondholder any money?

Mr. VICKERS. He proposes to pay him interest on \$100, double the sum which he loaned to the Government, for sixteen years and eight months. He does not propose to pay the principal, because, as he states, the payment of this interest on double the actual amount loaned will pay both principal and interest of what the creditor loaned.

Mr. WARNER. Will the Senator answer my question? Under the President's plan will the bondholder ever receive a dollar of money out of the United States Treasury?

Mr. VICKERS. He receives every six months the interest in gold at six per cent. on double the amount of the money he loaned. That is what I understand as the President's view of the subject in the message.

Mr. WARNER. Is that a payment to the bondholder?

Mr. VICKERS. Certainly. Who else can it be paid to? The Government owes the bondholder. The Government gives him a bond for \$100 where the bondholder only paid the Government fifty dollars; and then the bondholder every six months gets interest in gold, which is worth nearly nine per cent. a year, not upon the fifty dollars, but upon the \$100; and if the calculation is made as I have made it here, it will be seen that when you reduce to practical operation the President's view it will have paid and more than paid both principal and interest of the money actually loaned. But it is not the mode in which I desire to see the bondholder paid.

But, sir, I was going on to say that the President has been educated in the school of adversity, in moral and political principles that have commanded the highest respect. No one could have gone through the alphabet of office, grading from the lowest to the greatest by qualifications and merit, and taken the first honor in the highest political school of his country among thousands of competitors, unless he had the will, the capacity, and the experience of a statesman as well as the moral and intellectual stamina of a man of honor and ability. Like all public men he may have committed official errors; but I have yet to hear of a suspicion of his personal integrity. In some respects he has disappointed the views and expectations of both political parties; but this only vindicates his independence and firmness. It is not contended that he is infallible, but it is assumed that he is incorruptible and patriotic. No President has had to breast the storms of difficulty, of embarrassment, and of I will not say persecution, that has attended his administration. He is the only one who has not had a party to sustain him. He has passed through a fiery ordeal unparalleled in the history of his country; and the recorded verdict of the American Senate, by the votes of those who differed politically from him, but whose high sense of judicial duty induced them to vote his acquittal, will go down to posterity crowned with immortal honor. I mean no reflection or disrespect, even by implication, upon those who differed with them upon that occasion; but the magistrate who has thus been in peril is not the one to tarnish his own fame or the bright escutcheon of the nation's faith.

I move, sir, to amend the resolution now pending by adding to it:

But we do not condemn the sentiments of the President's message contained in the following words:

The anomalous condition of our currency is in striking contrast with that which was originally designed. Our circulation now embraces, first, notes of the national banks, which are made receivable for all dues to the Government, excluding imposts, and by all its creditors, excepting in payment of interest upon its bonds and the securities themselves; second, legal-tender notes, issued by the United States, and which the law requires shall be received as well in payment of all debts between citizens as of all Government dues, excepting imposts; and third, gold and silver coin. By the operation of our present system of finance, however, the metallic currency, when collected, is reserved only for one class of Government creditors, who, holding its bonds, semi-annually receive their interest in coin from the national Treasury. There is no reason which will be accepted as satisfactory by the people why those who defend us on the land and protect us on the sea; the pensioner upon the gratitude of the nation, bearing the scars and wounds received while in its service; the public servants in the various departments of the Government; the farmer who supplies the soldiers of the Army and the sailors of the Navy; the artisan who toils in the nation's workshops, or the mechanics and laborers who build its edifices and construct its forts and vessels of war, should, in payment of their just and hard-earned dues, receive depreciated paper, while another class of their countrymen, no more deserving, are paid in coin of gold and silver. Equal and exact justice requires that all the creditors of the Government should be paid in a currency pos-

sessing a uniform value. This can only be accomplished by the restoration of the currency to the standard established by the Constitution; and by this means we would remove a discrimination which may, if it has not already done so, create a prejudice that may become deep-rooted and wide-spread, and imperil the national credit."

The PRESIDENT *pro tempore*. The question is on the amendment.

The amendment was rejected.

Mr. VICKERS. I now offer this amendment. To add to the resolution:

But we approve that portion of the said message which is contained in the following words:

It is unreasonable to expect a return to a sound currency so long as the Government and banks, by continuing to issue irredeemable notes, fill the channels of circulation with depreciated paper. Notwithstanding a coinage by our mints, since 1849, of \$874,000,000, the people are now strangers to the currency which was designed for their use and benefit, and specimens of the precious metals bearing the national device are seldom seen, except when produced to gratify the interest excited by their novelty. If depreciated paper is to be continued as the permanent currency of the country, and all our coin is to become a mere article of traffic and speculation, to the enhancement in price of all that is indispensable to the comfort of the people, it would be wise economy to abolish our mints, thus saving the nation the care and expense incident to such establishments, and let all our precious metals be exported in bullion. The time has come, however, when the Government and national banks should be required to take the most efficient steps and make all necessary arrangements for a resumption of specie payments. Let specie payments once be earnestly inaugurated by the Government and banks, and the value of the paper circulation would directly approximate a specie standard."

The amendment was rejected.

Mr. CATTELL. I rise to say that I am dying to make a speech on this subject. It has not, I apprehend, been sufficiently discussed; but still, having some regard for the comfort of members and the approach of the dinner hour, I do not propose to say a word except to call for the yeas and nays on the resolution.

The yeas and nays were ordered; and being taken, resulted—yeas 43, nays 6; as follows:

YEAS—Messrs. Abbott, Anthony, Cameron, Cattell, Chandler, Cole, Conkling, Corbett, Cragin, Dixon, Edmunds, Ferry, Fessenden, Frelinghuysen, Grimes, Harlan, Harris, Henderson, Howard, Howe, Kellogg, Morgan, Morrill of Vermont, Nye, Osborn, Pomerooy, Ramsey, Rice, Robertson, Ross, Sawyer, Sherman, Spencer, Stewart, Sumner, Thayer, Van Winkle, Wade, Warner, Willey, Williams, Wilson, and Yates—43.

NAYS—Messrs. Davis, McCreery, Patterson of Tennessee, Saulsbury, Vickers, and Whyte—6.

ABSENT—Messrs. Bayard, Buckalew, Conness, Doolittle, Drake, Fowler, Hendricks, McDonald, Morrill of Maine, Morton, Norton, Patterson of New Hampshire, Pool, Sprague, Tipton, Trumbull, and Welch—17.

So the resolution was agreed to.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, communicating a report of the Secretary of State, in answer to the resolution of the Senate of the 8th instant, calling for information concerning recent transactions in the region of the La Plata affecting the political relations of the United States with Paraguay, the Argentine republic, Uruguay, and Brazil.

Mr. SUMNER. I move that those papers be laid on the table, and printed for the use of the Senate.

Mr. TRUMBULL. That seems to be a large document.

Mr. SUMNER. I know it is a large document; but then the call was made expressly to obtain the information.

Mr. TRUMBULL. If the Senator from Massachusetts has examined the papers and thinks it necessary to print them, I have nothing to say.

Mr. SUMNER. I have looked at them sufficiently to say that it is difficult for any one, or at least for myself, to make discrimination among the papers. It is a consecutive series, historical in its nature, relating to events which have occupied so much attention in the papers lately.

The motion was agreed to.

ORDER OF BUSINESS.

Mr. EDMUNDS. I move that the Senate proceed to the consideration of Senate joint

resolution No. 86, which it was the understanding yesterday should be taken up.

Mr. HOWE. I must object to that if the motion is to be pressed now. I wish to say to the Senate that several days ago a little claim was taken up for consideration by the Senate and is still the pending order; it having been laid aside informally, and it is of great importance to the Committee on Claims that the principles involved in that bill should be settled. We have other claims pending involving the same principle. If the law is settled, as it is insisted by some it ought to be, we can dispose of a great deal of business on the Calendar. Unless the Senate will settle that principle we must entertain these cases and we must investigate them, and we have not time to do any fancy work. The time of the Senate necessary to settle this question must be expended at some period, and I think can be as well expended now as at any later day in the session; and I think it is the right of the Committee on Claims that that question shall be settled one way or the other, and I must object to that particular bill being displaced at the present time.

Mr. EDMUNDS. The resolution to which I refer has been before this body for thirteen months. It is not any fancy business. It proposes a distinct proposition of obligation. It is of great importance to the public to say, as a matter of fact and as a matter of honor, one way or the other; I do not propose now to discuss its merits. I gave notice some days ago of an intention to call it up in the present condition of affairs. It was stated yesterday or the day before without any gentleman objecting, when the honorable Senator from Kentucky was moving an amendment to the resolution that has just passed, that this resolution was to come up afterward. Now, I am perfectly willing to assist my friend from Wisconsin to settle the question of Sue Murphey to-morrow morning in the morning hour, but as this joint resolution has been so long before the body and is of such importance I think it should be taken up now. The bill to which my friend refers has lost its place by going over a day, it having been laid aside.

Mr. CONKLING. At what time does the Senator wish to consider this joint resolution?

Mr. EDMUNDS. At any time; as soon as it can be reached.

Mr. CONKLING. Before the holidays?

Mr. EDMUNDS. I want to consider it whenever I can get the Senate to take it up.

Mr. HENDERSON. Before any motion is put on that subject I desire to state to the Senate that the Senator who is chairman of the Finance Committee has just left the Hall, supposing that no business would be called up this morning.

Mr. EDMUNDS. That Senator was informed yesterday, and apparently acquiesced in what was agreed by general consent, that this joint resolution should come up to-day, and it would be very strange if after such acquiescence the Senate should refuse to carry out the arrangement.

Mr. HENDERSON. I merely stated what the Senator from Ohio said on leaving, that he supposed no business would be called up at this late hour.

Mr. HOWE. Mr. President, I wish to say, in reply to my friend, the Senator from Vermont, that if his resolution has been pending for thirteen months I think it pretty conclusive evidence of one of two things: either that the passage of that resolution at any particular time is not of any great importance to the country, or that the Senate has been very derelict in its duty. The Senator does not state any reason why it cannot just as well be disposed of after the holidays as before. I do state a reason which I think ought to influence the votes of Senators why the question involved in this small claim should be settled by the Senate, and settled at an early day. You seem to think it important enough to have a Committee on Claims. The business before that committee is pressing. If this question

is settled one way it will be relieved of considerable of that business; and I ask in the name of right and justice, as well as in the name of convenience to the committee, that you will settle that question.

Mr. CAMERON. I move that the Senate adjourn.

Mr. CONKLING. I ask the Senator to withdraw the motion, to allow me to offer a resolution to which I think nobody will object.

Mr. CAMERON. Very well.

AMERICAN CITIZENS IN JAPAN.

Mr. CONKLING. I offer the following resolution, and ask for its present consideration:

Resolved, That the Secretary of State be directed to communicate to the Senate, if not incompatible with the public interest, any information in his possession concerning the exercise or claim by consuls of the United States in Japan of judicial power in cases arising between American citizens and citizens or subjects of any foreign nation other than Japan; and if so, under what authority of law or treaty said powers were exercised or claimed; also, to state what further legislation, if any, is necessary for the better adjudication and protection of the rights of person and property of Americans in Japan.

The Senate proceeded to consider the resolution.

Mr. POMEROY. I have no objection to the resolution, but it is almost uniformly the practice of the Senate to address such resolutions to the President. He is to judge whether the public interests will allow the information to be communicated.

Mr. CONKLING. I beg pardon. This is simply a call for information from the State Department.

Mr. POMEROY. But in such cases we address the President, and he sends the resolution to the Secretary of State, and the President sends us his answer. We do not communicate with the Secretary of State. Such has been the practice of the Senate, although I believe there are one or two precedents to the contrary.

Mr. CONKLING. There can be no difficulty in this case; it is a mere call for information.

Mr. POMEROY. Who is to judge whether furnishing it is compatible with the public interest? The Secretary of State?

Mr. CONKLING. Do we not use that form continually in regard to Cabinet officers?

Mr. POMEROY. No; only when we send resolutions to the President.

Mr. CONKLING. I beg the Senator's pardon. The difference is this: when we send to the President we request him; when we send to a Cabinet officer we direct him. That is one thing I have learned pretty thoroughly in my experience. We request the President; we direct the Cabinet ministers. This is a mere call for information, and therefore there cannot be any importance in the question raised.

Mr. POMEROY. If it is a mere call for information why put in the phrase allowing the Secretary to judge whether it is for the public interest to communicate it?

Mr. CONKLING. Does the Senator mean to say that we do not address calls for information to Cabinet officers and leave them to judge whether it is compatible with the public interest or not?

Mr. POMEROY. I do not mean to say so.

Mr. CONKLING. Then I mean to say that during the brief time I have been in this body, in more than one hundred instances the contrary is true.

Several Senators. Oh, no.

Mr. CONKLING. Most certainly.

Mr. POMEROY. I have not the slightest objection to this call, but I simply say that the resolution is against the precedents of the Senate.

Mr. BUCKALEW. I think it is manifestly improper to send a resolution to the Secretary of State, and leave it to his discretion judging of our foreign affairs. That has never been done.

Mr. CONKLING. How would Senators like

to have this? Would they have it left to the President?

Mr. BUCKALEW. Certainly.

Mr. CONKLING. Very well. Suppose we change it by consent, and strike out "Secretary of State" and insert "President."

The PRESIDENT *pro tempore*. The resolution will be so modified.

Mr. CONKLING. Is it satisfactory now?

Mr. POMEROY. Entirely.

Mr. CONKLING. Now, it being satisfactory to everybody else, I ask to have it changed to the usual form, that the President be "requested," because we never direct him. We request him. He is one of the branches of the Government. Let that change be made, also.

The PRESIDENT *pro tempore*. The resolution will be so modified.

The resolution, as modified, was agreed to, as follows:

Resolved, That the President of the United States be requested to communicate to the Senate, if not incompatible with the public interest, any information in his possession concerning the exercise or claim by consuls of the United States in Japan of judicial powers in cases arising between American citizens and citizens or subjects of any foreign nation other than Japan, and if so under what authority of law or treaty said powers were exercised or claimed; also, to state what further legislation, if any, is necessary for the better adjudication and protection of the rights of person and property of Americans in Japan.

Mr. CAMERON. I renew my motion that the Senate adjourn.

Mr. EDMUNDS. Let us have a vote on my motion to take up Senate joint resolution No. 66.

Mr. CAMERON. I withdraw my motion for that purpose.

Mr. BUCKALEW. I desire to say a word if that resolution is to be pressed.

The PRESIDENT *pro tempore*. The question is on taking up the resolution indicated by the Senator from Vermont.

Mr. BUCKALEW. That is the very thing I am opposed to.

Mr. CAMERON. Then I do not withdraw my motion to adjourn.

Mr. BUCKALEW. Now, sir, within a couple of days of a recess to take up an abstract proposition simply declaring the Senate's opinion, having nothing practical in it, would be a manifest waste of the public time.

Mr. CAMERON. I wish my colleague would give way to a motion to adjourn.

Mr. BUCKALEW. I give way.

Mr. CAMERON. I move that the Senate do now adjourn.

Mr. EDMUNDS. On that question, if we have got to have this species of opposition after a fair understanding yesterday, I ask for the yeas and nays.

The yeas and nays were not ordered.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, December 17, 1868.

The House met at twelve o'clock m.

The Journal of yesterday was read and approved.

ENROLLED JOINT RESOLUTION.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a joint resolution (H. R. No. 375) donating condemned cannon for the erection of a monument to Major General Kearny; when the Speaker signed the same.

DEATH OF HON. THADDEUS STEVENS.

Mr. DICKEY. Mr. Speaker, the painful duty has devolved upon me of announcing to this House the death of my predecessor, Hon. THADDEUS STEVENS, of Pennsylvania.

This distinguished statesman was not merely my predecessor in this body, but in my childhood my father taught me to admire and love him who was the instructor and guide of my youth and the friend of my maturer years. If an intimacy with wise and noble men be one of the greatest blessings that can crown a man,

then in no part of my career have I been so fortunate as in my association with THADDEUS STEVENS. It was in his office, and in connection with him, that I commenced my professional life; and from that moment, through the turmoil of many legal and political contests, down to the moment when in his last will he selected me to perform the last service one man can ask from his fellow, our friendship suffered neither diminution nor interruption.

Informed that my duty requires of me a sketch of the history of my friend, I hope to be pardoned by the House for any prolixity of statement, promising to leave to others abler and fitter, his associates here who are to follow me, the analysis of his character as a statesman and the story of his struggles and triumphs in this arena, where he was recognized as a great leader and bore the name of "the old Commoner."

THADDEUS STEVENS was born at Danville, Caledonia county, Vermont, on the 4th day of April, 1792, and died at his residence in this city at midnight on the 11th day of August, 1868. His parents were poor in a community where poverty was the rule and wealth the exception. Of his father I know but little, save that he enlisted in the war of 1812 and died in service. Upon his mother chiefly fell the burden of rearing their four sons. She was a woman of great energy, strong will, and deep piety. Early seeing the ambition and fully sympathizing with the aspirations of her crippled boy, she devotedly seconded his efforts for the acquisition of knowledge, and by her industry, energy, and frugality largely aided him in procuring a collegiate education. He returned her affection with the full strength of his strong nature, and for many years after he had acquired fame and fortune in his adopted State had the pleasure of making an annual pilgrimage to the home which he had provided for her comfort, and where she dispensed, with means he furnished, a liberal charity.

In the last year of his life, in writing his will with his own hand, while making no provision for the care of his own grave, he did not forget that of his mother, but set apart an ample sum for that purpose, directing yearly payments upon the condition "that the sexton keep the grave in good order, and plant roses and other cheerful flowers at each of the four corners of said grave every spring." In the same instrument, in devising \$1,000 in aid of the establishment at his home of a Baptist church, of which society his mother was an earnest member, he says:

"I do this out of respect to the memory of my mother, to whom I owe whatever little of prosperity I have had on earth, which, small as it is, I desire emphatically to acknowledge."

After attending the common schools of the neighborhood he fitted for college at the Peacham Academy, in his native county, entered the University of Vermont, and remained there about two years. The college suspending operations on account of the war, he proceeded to Dartmouth, and graduated at that institution in 1814. After reading law at Peacham in the office of Judge Mattocks, for some months, he left his native State and settled in Pennsylvania in 1815, first in the town of York, where he taught an academy and pursued his legal studies. The rules of court in that district having required students to read one year in the office of an attorney, he went to Belair, Harford county, Maryland, and was there examined and admitted to practice in August, 1816. He at once returned to Pennsylvania, and opened a law office at Gettysburg, in the county of Adams, and entered upon the practice of his profession in that and adjoining counties. He was soon in the possession of an extensive and lucrative business, to which he gave his entire attention for some sixteen years. I may here be allowed briefly to allude to a few traits of Mr. STEVENS as a lawyer. Although not perhaps of great national reputation as such, he was recognized by the profession in a State claiming some eminence for the

high character of her advocates and jurists as one of her greatest lawyers, and was so pronounced by three of her ablest chief justices, Gibson, Black, and Lewis, who tried him by the sure test of uniform power.

I need scarcely say that Mr. STEVENS shone at the bar with the same clearness of statement, force and eloquence of expression, power of argumentation, wit, sarcasm, and invective, which he employed in legislative halls, and that there, as here, he was master of all the weapons of debate. As an advocate he was always jealous of the rights of his profession, and resisted their innovation. He was always courteous to the court, and uniformly brief, never speaking beyond an hour upon any question. He never took or used notes of the evidence, the speeches of opponents, or the rulings of the court, trusting wholly to a memory that never failed him. In the preparation of his law he was industrious and careful, here, too, relying upon his memory, his brief seldom contained more than the name of the case and page of the book. In argument he cited but few authorities, and those directly to his purpose. Grasping one or two points which he conceived vital to the cause, he directed all his energies and concentrated all his powers upon them, giving little attention to subordinate questions. No matter with whom associated, he never tried a cause save upon his own theory of the case. *Ad nisi prius* he uniformly insisted on personally seeing and examining, before they were called, the important witnesses on his own side. Generally relying upon the strength and presentation of his own case, he seldom indulged in extended cross-examination of witnesses, though possessing rare ability in that direction. He never consented to be concerned or act as counsel in the prosecution of a capital case, not from opposition to the punishment, but because it was repugnant to his feelings and that service was the duty of public officers. He was as remarkable for his consideration, forbearance, and kindness when opposed by the young, weak, or diffident, as he was for the grim jest, haughty sneer, pointed sarcasm, or fierce invective launched at one who entered the lists and challenged battle with such weapons. He was always willing to give advice and assistance to the young and inexperienced members of the profession, and his large library was ever open for their use. He had many young men read law with him, though he did not care to have students. There were, however, two recommendations which never failed to procure an entrance into his office: ambition to learn, and inability to pay for the privilege.

Mr. STEVENS first engaged actively in politics with the rise of the Anti-Masonic party in 1828-29, which he joined in their opposition to secret societies. He was elected to the popular branch of the Legislature of his State, in 1833, as a representative from the county of Adams, and continued to serve in that body almost without interruption until 1840, during which entire period he was the leader of his party in the Legislature, if not the State. During this service he championed many measures of improvement, among others the common-school system of Pennsylvania, which at a critical moment he saved from overthrow by a speech which he always asserted to have, in his opinion, been the most effective he ever made. By that single effort he established the principle, never since seriously questioned in Pennsylvania, that it is the duty of the State to provide the facilities for education to all the children of the Commonwealth. In behalf of this measure he joined hands with his bitterest personal and political enemies. He highly eulogized, for his course upon this question, the chief of the opposing political party, Governor George Wolf, and denounced with all his power of invective the time-servers of his own party. Himself the child of poverty he plead the cause of the poor, and by the force of his will, intellect, and eloquence broke down the barriers enacted by wealth, caste, and ignorance, and earned a name that will endure as long as a child of

Pennsylvania gratefully remembers the blessings conferred by light and knowledge.

In 1837-38 Mr. STEVENS was a member of the convention called to revise the constitution of Pennsylvania, an assemblage which numbered as members many of the strongest men of the State, among whom Mr. STEVENS stood in the front rank. This convention, notwithstanding the able and strenuous opposition of a strong minority, led by Mr. STEVENS, inserted the word "white" as a qualification of suffrage, thus disfranchising a race. On this account he refused to append his name to the completed instrument, and stood alone in such refusal. For the same cause he opposed, but unsuccessfully, the ratification by the people.

In 1842 Mr. STEVENS, finding himself deeply in debt by reason of losses in the iron business, and liabilities incurred for numerous indorsements made for friends, removed to Lancaster county, one of the largest, richest, and most populous counties of the State, and resumed the practice of his profession. His reputation as a lawyer had preceded him, and his income almost at once became the largest at the bar. In a few years he paid his debts, and saved the bulk of his estate. In 1848 and 1850 he was elected to Congress from Lancaster county, when, declining to be a candidate, he returned to his profession until 1858, when he was again elected, and continued to hold the seat without interruption till his death. His course upon this floor has passed into and forms no unimportant part in the history of a mighty people in a great crisis of their existence. But I have promised to leave to others to say what may be proper in illustration of his great achievements in his latter days.

To those here who judged of the personal appearance of the deceased only as they looked on him bearing the burden of years and stricken with disease, though he still stood with eye undimmed and will undaunted, I may say that in his prime he was a man physically well proportioned, muscular and strong, of clear and ruddy complexion, with face and feature of great mobility and under perfect command and control. In his youth and early manhood, notwithstanding his lameness, he entered with zest into almost all of the athletic games and sports of the times. He was an expert swimmer and an excellent horseman. When residing at Gettysburg he followed the chase; kept his hunters and hounds.

On a recent visit to his iron-works I found the old mountain men garrulous with stories of the risks and dangers of the bold rider, as with horse and hound he followed the deer along the slopes and through the gaps of the South mountain.

In private life, among his friends, Mr. STEVENS was ever genial, kind, and considerate. To them he was linked with hooks of steel. For them he would labor and sacrifice without stint, complaint, or regret. In his hours of relaxation there could be no more genial companion. His rare conversational powers, fund of anecdote, brilliant sallies of wit, and wise sayings upon the topic of the hour, made his company much sought, and many of these are the current coin of the circle in which he moved.

Mr. STEVENS was an honest and a truthful man in public and in private life. His word was sacred in letter and spirit, and was never paltered in a double sense. In money matters he was liberal to a fault, and out of his immense professional income he left but a meager estate. In his private charity he was lavish. He was incapable of saying no in the presence of want or misery. His charity, like his political convictions, regarded neither creed, race, nor color. He was a good classical scholar, and was well read in ancient and modern literature, especially on subjects of philosophy and law. In his old age he read but few books. Shakespeare, Dante, Homer, Milton, and the Bible could, however, generally be found upon the table in his sleeping room, where he was accustomed to read in bed. He was simple and temperate in his habits.

He disliked the use of tobacco, and for forty years never used or admitted to his house intoxicating drinks except by direction of his physician.

Mr. STEVENS was deeply loved and fully trusted by his constituents. He was often in advance of their views; sometimes he ran counter to their prejudices or passions; yet such was his popularity with them, so strong their faith in his wisdom, in the integrity of his action and the purity of his purpose, that they never failed to sustain him. Popular with men of all parties, with his own supporters his name was a household word. To them, and among themselves, "Old Thad" was a phrase of endearment; while even his foes spoke of him with pride as the "great Commoner." No man ever died more deeply mourned by a constituency than THADDEUS STEVENS.

Having briefly selected some of the incidents that marked the history of my friend, I will in conclusion say a few words of him on a subject in connection with which he is probably more widely known than any other—slavery. Mr. STEVENS was always an anti-slavery man. From the time he left his native mountains to the moment of his death he was not only anti-slavery in the common acceptance of the term, but a bold, fearless, determined, and uncompromising foe to oppression in any and every form. He was an abolitionist before there was such a party name.

His opposition to American slavery, no matter what his party connection, was never based upon mere questions of expediency or political economy. He always viewed it as a great wrong, at war with the fundamental principles of this and all good government, as a sin in the sight of God and a crime against man. For many years, long before it became popular to do so, he denounced this institution as the great crime of the nation on the stump, at the forum, in party conventions and deliberative assemblies. On this question he was always in advance of his party, his State, and his constituents. Always resident in a border county, he defended the fugitive on all occasions, asserted the right of free speech, and stood between the abolitionist and the mob, often with peril to himself. This was one great cause of his having been so long in a minority, and of his entrance late in life into the councils of the nation; but for this he was fully compensated by living to see the destruction of an institution which he loathed, and by receiving for his reward, and as the crowning glory of his life, the blessings of millions he had so largely aided to make free.

The remains of Mr. STEVENS lie in Lancaster, in a private cemetery established by an old friend, in a lot selected by himself, for reasons stated in the touching and beautiful epitaph prepared by himself for inscription upon his tomb:

"I repose in this quiet and secluded spot, not from any natural preference for solitude, but finding other cemeteries limited by charter rules as to race, I have chosen it that I might be enabled to illustrate in my death the principles which I have advocated through a long life—equality of man before his Creator."

Let us trust and believe that if the earnest and sincere prayers of millions of the poor, downtrodden, and oppressed may smooth the pathway of the traveler on his journey from this world to the bourne of all, his has been a happy exit.

I offer the following resolutions:

Resolved, That this House has heard with deep regret the death of Hon. THADDEUS STEVENS, a member of this House from the State of Pennsylvania.

Resolved, That as a testimony of respect to the memory of this distinguished statesman the officers and members of this House will wear the usual badge of mourning for the space of thirty days.

Resolved, That a copy of these resolutions be transmitted to the family of the deceased by the Clerk.

Resolved, That this House, as a further mark of respect to the memory of the deceased, do now adjourn.

Mr. POLAND. Mr. Speaker, I rise to second the resolutions offered by the gentleman from Pennsylvania. The town of Danville, where Mr. STEVENS was born, and the town of

Peacham, in which he lived until he had completed his education and attained his majority, are both adjacent to the town where I reside, and form a part of the district I have the honor to represent. It seems appropriate that a Representative of Mr. STEVENS's native State and the Representative of his native town and county should perform this duty, but I regret that it has fallen upon one who had so little personal knowledge of him. Mr. STEVENS removed from Vermont to Pennsylvania before my birth, and I became a resident of his native county but a few years since, and after his youthful associates were nearly all gone. I met him once or twice in Vermont when he came to visit his aged mother, but except this I never saw him until I came to the Senate at the beginning of the Thirty-Ninth Congress. Since I became a member of this House his advanced age and broken health prevented his active participation in much of its business, and for a great part of the time his attendance during its sessions. I can, therefore, do little more than express the general estimation of his public character and service entertained by myself in common with the people of his native State. I have learned that the parents of Mr. STEVENS had very small pecuniary ability, and that his education was mainly secured by his own energy and efforts. When he removed to the State of Pennsylvania to begin his career of active manhood he went among strangers, dependent for friends, for success in business, for professional or other advancement, for the means of living even, upon what he might, by force of his own unaided efforts and ability, be able to win. How hardly he struggled, how hardly he fought, how successfully he won friends, professional distinction, political advancement, name and fame, we have been told by his long-time friend and neighbor and successor in this House. His career and his success is another instance of what is so common in this country, but so uncommon in all others, of the attainment of the highest professional and political distinction from the humblest condition by the mere force of personal effort and ability.

Mr. STEVENS was another tribute to our system of free institutions, founded upon the equality of all men—institutions which he loved so well, and exerted himself so faithfully to extend and perpetuate. That Mr. STEVENS was a man of marked ability has ever been conceded, as well by his political opponents as by his political and personal friends. He had indomitable courage, energy of character, and tenacious will, so that when he had once settled upon a course of action he pursued it to the end with an apparent, almost reckless, disregard of the opinions and judgments of other men. His leading and characteristic ambition seemed to be to elevate the masses of his fellow-men. He seemed ever to desire and to labor that all men should have an equal start and a fair chance in the race of life. His early and successful efforts in his adopted State in the cause of popular and general education were an apt and enduring illustration of this great trait of his character. He loved freedom and liberty for himself and for all men as well. He hated every form of tyranny and oppression which clogged and opposed the advancement of men to better conditions, and especially did he abhor and detest that vast oppression which once prevailed in this country and which seemed likely to prevail forever—human slavery. Accordingly, when that institution came to be one of the subjects of political controversy in the country, he was found among its most determined and advanced opponents. It is not saying more than I believe to be just to him, that to his efforts as much as to those of any one man is the country indebted for its final overthrow. When the country had become involved in a civil war of appalling magnitude upon this question of slavery, and the great question of the time was whether the Union or slavery should go down, Mr. STEVENS seemed to rise at once to the magnitude and majesty of the occasion.

His leadership of the Union men and opponents of slavery and its abettors during the period of the war, in the great American Commons, was perhaps as brilliant and successful as the world has ever seen. Though I have no reason to doubt he loved his country, its free institutions, and its government as well as others, I have thought his great efforts in their behalf during that period were actuated as much by his hatred of slavery as by his love of country.

I will not further allude to Mr. STEVENS's congressional career, though his public life is mainly included in it, but leave that to others whose opportunities to know it are so much better than my own. Mr. STEVENS had very warm sympathies and great kindness of heart. No case of suffering or distress ever appealed to him in vain; his heart and his hand were always open to sympathize with and relieve the needy and the downtrodden of the earth.

I am aware that since the close of the war, in dealing with the subject of the restoration of the revolted States and their people, that Mr. STEVENS has been charged with entertaining malignant and uncharitable feelings, and being influenced by them in his public action. So far as this charge applies to the masses of the people of those States, who might well be regarded as the deluded victims of unwise leaders, I have never seen any evidence of its truth. He did regard the promoters and leaders of the rebellion as great criminals, who ought to be punished as such; he felt a kind of righteous and holy indignation against them, and as if the nation itself was endangered unless justice and judgment were meted out against them. Mr. STEVENS always retained a strong feeling of attachment to his native State, and a very high regard for her people. It was a sufficient passport to his favor that the applicant came from Vermont. So long as his mother lived he made almost annual pilgrimages to the old home upon the Green mountains to see to her comfort and to visit the scenes of his boyhood. I do not think I ever met him since I have been in Washington but he inquired about something or somebody in Vermont, and almost always had some amusing anecdote to relate connected with his early life. His strong filial affection is beautifully shown by the provision in his will for the annual planting of roses and other cheerful flowers at the corners of the graves of his mother and brother; and his attachment to the scenes and memories of his youthful days is equally well exhibited by his bequest to the Juvenile Library Association of the old Peacham Academy, where he received his preparatory education. The people of Vermont felt a just and laudable pride in Mr. STEVENS and in his distinguished public career. They watched his success, as they have many others of her sons who have gone out from her and attained position and fame in other States. In the case of Mr. STEVENS his public course was generally such as commended itself to their own judgment. Sometimes he announced doctrines and advocated measures more extreme than they were prepared to accept, but they ever felt that for him something was to be pardoned to the spirit of liberty.

The people of Vermont always loved to believe that the strong love of freedom and independence for all men exhibited by him, his hatred of all forms of oppression, and his efforts to elevate and benefit the masses, were, to some extent, due to his being born in Vermont. The early history of Vermont was that of a continual struggle against what they deemed to be unlawful and unjust attempts of other States to obtain jurisdiction and exercise governmental power over them. These struggles had ceased, to be sure, prior to the birth of Mr. STEVENS; but the heroes and statesmen who were her leaders in those trying days were still alive, and gave tone and temper to public sentiment and opinion for many years after. We have loved to believe in Vermont that the free and independent opinions inhaled by him in his youth with the free air of our grand mountains in some degree contributed to make him what he

was so emphatically, the friend of the oppressed and the foe of the oppressor. Like other men, he had his faults; but he has done so much for the great cause of humanity that this and all future generations in this land have ample cause to bless and revere his memory. To show the estimate in which Mr. STEVENS was held by the people of Vermont I ask to have the Clerk read the following resolutions, which were unanimously adopted by the Vermont Legislature at their recent session.

The Clerk read as follows:

"Mr. Varnum, of Peacham, offered the following joint resolution:

Resolved by the Senate and House of Representatives. That so great a loss to the nation as the death of Hon. THADDEUS STEVENS deserves, and should receive, of the Representatives of the people of his native State in General Assembly convened, a befitting and appropriate recognition.

Resolved. That we mourn and deeply sympathize with those of his adopted State, whom he so faithfully represented in the councils of our nation, and by whom he was so nobly sustained, in this their great bereavement and irreparable loss, of one so firm, so devoted to the interests, the welfare, and the honor of the people.

Resolved. That his patriotism; his devotion to the principles of liberty, justice, and equality; his unswerving fidelity to the trusts of his State and the trusts of the Union, have left an honorable and ineffaceable impression on the pages of history and on the records of a great Republic.

Resolved. That we will remember him as a son of Vermont, and will cherish his memory, and point with pride to his life as an example of patriotism for ourselves and our posterity.

Resolved. That the Governor be requested to transmit a copy of these resolutions to the Governor of Pennsylvania."

Mr. MOORHEAD. Mr. Speaker, my acquaintance with THADDEUS STEVENS began during the administration of Governor Ritner, of Pennsylvania, about the year 1836. He was then a bold and daring leader of his party. Always in advance of public opinion, he constantly antagonized it with a valor and boldness unequalled. Usually political leaders ascertain the current and drift of public sentiment and accommodate themselves to it. Not so with him. He formed his own opinions and acted on his own convictions. Opposition, so far from weakening his resolves, only nerved him for whatever effort was necessary to the accomplishment of his purpose. He created public opinion and molded public sentiment. In this, above all other traits, lay the greatness of THADDEUS STEVENS. He was always ready to defend his views, never shrinking from any service required by his fidelity to duty. The victims overthrown by his power and logic, and impaled by his wit, irony, and sarcasm, are legion. Many of them, like himself, have gone to their reward, others remain, retaining a lively recollection of the old com-moner.

While he was at times terribly severe, and more rarely discourteous, and sometimes in the intensity of political excitement wounded the feelings of his friends, yet at heart he was eminently kind, generous, and forgiving.

The history of his public life is before the world; his name and fame are a part of the possession of the people. While free government endures THADDEUS STEVENS will be remembered with honor, and his services in its maintenance will be recalled with gratitude. But his greatest achievements were undoubtedly his agency in the establishment of the common-school system of Pennsylvania and in the emancipation of four million slaves. Both these great measures would undoubtedly have been adopted in time without him, but both were hastened by his strong and able support.

When a member of the Pennsylvania Legislature, in 1833, he commenced his public advocacy of free schools, many of our industrious, frugal, agricultural population believed that every man should take care of his own family and educate his children or not as seemed to him best.

The idea of taxing one man to pay for schooling the children of another was looked upon by them as an innovation and an injustice. His constituency held a meeting and instructed him to oppose the proposition. He boldly refused, denounced them for their self-

ishness, carried his measure, and also a majority of his constituents with him. The abolition of slavery is too recent and his action too well known, not only to the people of the United States but of the world, to require any comment of mine. I cannot refrain, however, from saying that in 1850, being a visitor in this city, I obtained through the courtesy of a friend admittance to the floor of the House. Mr. STEVENS was upon the floor at the time, speaking on the evils of slavery. The leading members from the slaveholding States were gathered in front of his desk. As he portrayed the degradation and crime of slavery in such a manner as he only could portray them scowls settled upon their brows, contempt curled their lips, and oaths could be distinctly heard hissing between their teeth. This was in the days when southern gentlemen enforced their arguments with an appeal to the duel, and southern ruffians resorted to the bowie-knife and bludgeon. I felt alarmed for him, but he proceeded unembarrassed by interruptions and apparently unconscious of the mutterings of the storm. As, reaching his climax, he spoke of Virginia, the proud mother of Presidents, become a breeder of slaves for the southern market, the anger of her Representatives could scarcely be restrained; yet he was as cool as if addressing a jury in his county court-house.

This conveniently illustrates the last remark I wish to make, namely, that THADDEUS STEVENS was preëminently a brave man, who would do and dare everything in the vindication of what he believed to be the truth. But, Mr. Speaker, he is gone; peace be to his ashes. Vermont has the honor of his birth, Pennsylvania the more enduring honor of having adopted him as her son; for were not her valleys his home, her temples of justice his shrine, her legislative halls his first political prize, her people his constituents, her interests his study, her progress his delight, her honor his glory, and is not her soil his grave? Let us imitate his virtues and cherish his memory.

Mr. MAYNARD. In the awful presence of death every voice is silent except the voice of sorrow and eulogy. The infirmities of mortality are forgotten, the good alone is remembered; criticism is disarmed; censure loses its power; men instinctively concede, as they expect, this sad immunity to the grave. It is, let us believe, an unconscious prefiguration of the better life to come.

While offering my tribute to the memory of our venerable and deceased associate, the late THADDEUS STEVENS, it is proper that I confine myself to that portion of his life spent in the national Capitol. Others knew him, it may be, as a student, a teacher, a lawyer, a neighbor—knew him in the amenities and benefactions of home. My acquaintance with him was formed here, and here, I may say in this building, was our intercourse. I met him the first time at the assembling of the Thirty-Sixth Congress, in the winter of 1859. It was a period of great political excitement. The struggle had already begun which within less than two years developed into civil war. It was a time to call forth the best efforts of the best men. Members then of different political parties, we naturally, necessarily perhaps, pursued what was felt to be a common purpose by different methods and distinct organizations. The scenes of that Congress are not easily forgotten. The almost daily contests between Lovejoy and Corwin and STEVENS on the one side, and Hinman and Barksdale and Branch on the other, speaking alone of the dead; but settled the issues for the coming years of bloodshed and carnage. Some of us, foreseeing the calamitous time, interposed to stay the strife, praying that if it were possible this cup of sorrow might pass. Visions of desolated homes, of screaming women, famishing children, and old men, the victims of torture; fields laid waste, and all that makes existence lovely perverted—visions frightfully realized—were ever present before us whose people occupied what we knew must be the battle-ground in case of

armed conflict. To avert this terrible visitation I need not say we labored with all the earnestness of agonizing natures. The records remain to tell of our labors. I refer to them at this time and in this connection to attest the feeling of confidence we entertained toward Mr. STEVENS. Armed though he was in completest panoply, and ready for every encounter, we all felt that if war should ensue it would not be his generous nature which would strike the first blow. This is not the occasion to dwell upon the remembered incidents of his intercourse with my associates—still speaking alone of the dead—with Gilmer, of North Carolina; Bouigny, of Louisiana; Bristow and Anderson, of Kentucky; and Brabson and Hatton, of my own State. It was not the intercourse of men who expected soon to become enemies. So we separated at the inauguration of Mr. Lincoln full of anxiety, yet not without hope.

When, the next winter, we met again as members of a new Congress all was changed. A million of men were in arms, and the life of the nation hung upon the issue of battles. We were both upon the Committee of Ways and Means, charged, as the House was at that time organized, with the examination of all financial questions, both of revenue and expenditure, and with the preparation of all revenue bills, which, under the Constitution, must originate in this House. The expenditures of the Government, never less than two millions a day, and some times reaching three millions, made a demand upon the public resources wholly without precedent and greatly beyond what many regarded our ability to meet. Besides, intervention by at least two of the great European Powers for months seemed imminent, and a struggle between the Republic and the united civilized world. And what was still more disheartening to one in the position of Mr. STEVENS, he lacked confidence in the ability and skill both of our civil and military leaders, and in some important instances he had little faith in their devotion to the cause so dear to the general heart. The early decisions of the field were not always assuring, and even here there were not a few, timid and unbelieving, ready to flee at the first sign of irresolution on the part of our leader. Yet neither on the floor nor in the committee-room did his courage once weaken or his purpose grow infirm. On the contrary, we saw his energies increase with every new emergency, and his spirit rise buoyant as those around him became more desponding. Among the elements of our final success his unfaltering leadership at this cardinal period was not the least. While events were shaping themselves and the public judgment was baffled by the novelty of the situation, weakness, doubt, instability in that quarter would have been disastrous, might have been fatal. The unabated hostility toward him by the partisans of the rebellion is explained only by their consciousness of his unyielding and overmastering power.

The internal revenue system, the currency system, the national bank system, the form of the national debt originated at this juncture and under his direction. In no instance, I believe, did his individual views entirely prevail, and there were points upon which he was diametrically opposed by the action of the two Houses. Having known his opinions at that time, I could easily appreciate his feeling of injustice at the construction afterward given to certain scattered expressions, used, possibly, in reference to the predominant sentiments of others rather than to his own.

His subsequent career is too recent and too familiar to be dwelt upon. His theory of the rebellion and of the legal consequences of its overthrow, his views upon reconstruction, and the part he took in the late contest for precedence between the Legislature and the Executive are well understood. During the last year we all felt that his sands had nearly run; day by day we saw him borne into the Hall upon the arms of young men, weak as a child, but eager and attentive, whether the discussion

turned upon foreign or home affairs. No subject was above his grasp, none beneath his notice. Treaty stipulations with a great Power and the salary of the humblest clerk alike found in him an advocate. Toward the close of the summer session nature made a final rally. For a few days the old vivacity returned, the brilliant repartee and unexpected sallies that all enjoyed so much. He himself felt the renewal of strength and a revival of hope and the future. It was the last glimmer of the expiring flame. We had scarcely dispersed to our distant homes before the telegraph announced that he was no more. And so he passed away in the mellow autumn of his age, having lived to enjoy the ripened fruits of the spring time planting and summer culture.

A maxim of one of the sages would have us wait until the end of a life before pronouncing it happy. A historian, closing the biography of one of the illustrious men of his time, exclaims, in the spirit of this maxim, "*Tu vero felix, non vitæ tantum claritate, sed etiam opportunitate mortis.*" If a brilliant career be a happy one, and if that career be brilliant, which, unaided by wealth, family, or powerful friends, attains the front rank among the great leaders of a great epoch and makes a name for ban or blessing in every household of the land, then, indeed, is this champion of the oppressed to be accounted happy. But thrice happy in the opportune article of his death. Though the strength of manhood was gone, the babble and drivel of dotage had not supervened. He had seen his country emerge, after a long and painful strife, from the clouds and turmoil of civil war, and resume her place among the nations, freer, richer, stronger, happier, and more honored than before; entering upon a new era of prosperity and growth, excelling them all in the splendor of her renown, even as one star excellet another star in glory. The principles for which he had contended through a lengthened life had been recognized and adopted. His life-work was done, and who shall say it had not been done well? The Son of David has said there is a time to die; a time when to die is better than to live; and fortunate are they who are summoned at this auspicious moment, permitted to attain the full measure of their fame, but not to survive their reputation or their usefulness to mankind.

The character of Mr. STEVENS I shall not attempt. To his life-long friends its delineation will be a work of pathetic pride; I leave it to them, remarking upon two traits which seemed very prominent. The first was manliness as opposed to effeminacy. Not his

"The Dorian mood
Of flutes and soft recorders."

He evinced little respect for mere taste and refinement and delicacy and luxury and sentiment and the whole chapter of exqu Coastism, but delighted rather in the sturdier qualities of the heart and mind. The other trait was his exceeding liberality, extending alike to all, to the unthankful and the evil as well as to the grateful and the deserving. Where could be found a more unselfish friend? And never, surely, was there a more generous foe. Oppression and distress never appealed to him in vain. The humblest obscurity did not escape his notice. Opposition to slavery was a moral necessity of his nature. As a legislator he was liberal to such a degree that his political associates deemed it necessary to provide a counterpoise in natures less impulsive and sympathetic. His last effort in the House, if I mistake not, was an appeal for an appropriation to the public charities of the District of Columbia. Those who knew him in the private walks of life bear testimony to his own continual and abounding charity, and "charity shall cover the multitude of sins." We cannot wonder, therefore, that pious hands were there to close his dying eyes, making intercession with Heaven in his behalf, or that in the supreme hour devoted women should administer the holy chrism, efficacious, let us hope, beyond the teaching of our creeds.

To most men there comes, sooner or later,

a period of inaction, of incapacity for further progress; when the world seems to them incapable of becoming any better, and every change is dreaded as likely to be for the worse. This is the period of conservatism, and usually comes with gray hairs and failing eye-sight. It converses with the past and distrusts the future. Its look is backward and not forward. This period Mr. STEVENS never reached. No good was ever attained without an attainable better. All his life he held the outposts of thought. Even in his closing hours, we are told, he found time for discourse of hopeful temper upon public affairs and to augur the success of an Administration he could hardly have expected to see.

As he was, so he will long be remembered. He has left his impress upon the form and body of the times. Monuments will be reared to his memory. Art will be busy with her chisel and her pencil to preserve his features and the image of his mortal frame. All will be done that brass and marble and painted canvas admit of being done. The records of his official acts will remain in your archives; our chosen words of commemoration will fall into the channels of literature. But the influence of a gifted mind in molding thought and giving direction to events is not to be measured by words of commemoration or by official records. It is as measureless as the soul and enduring as time. Long after the brass and marble and painted canvas have disappeared it will still remain, transmitted from age to age and through successive generations. "*Quidquid ex eo amavimus, quidquid mirati sumus, manet, mansurumque est in animis hominum, in ceteritate temporum, fama rerum. Posteritati, narratus et traditus, superstes erit.*"

Mr. KELLEY. Mr. Speaker, THADDEUS STEVENS was one of the most practical of men, though his whole life was colored and influenced by a vision. Timid men, and those who were without faith, called him dogmatic and impracticable, and others spoke of him as a theorist, who, to gratify a malignant or vindictive spirit, urged extreme measures regardless of the rights, interests, or sentiments of those they were to affect. They knew but little of the man they judged. How thoroughly practical he was is attested by the fact that he earned by teaching the rudimentary branches the means to procure his collegiate training; that having settled in a community in which hereditary wealth was deemed a prerequisite to a respectable position at the bar, he made no concealment of his poverty, and taught school while preparing for the practice of the legal profession and the acknowledged leadership of the bar of a large section of his adopted State; that he commanded the confidence of every judge before whom he appeared in his extended range of practice, and secured the affectionate regard of all his young professional brethren; by the frequency with which the people among whom he settled, whether of the York, the Adams, or the Lancaster district required him, at whatever sacrifice of prejudice on their part or of pecuniary interest on his, to represent them in the Legislatures of the State and nation, and conventions summoned for the consideration of the gravest topics; and, above all, by the commanding influence he exercised in every deliberative assembly of which he was a member.

I heard a prominent member of the Thirty-Eighth Congress say of Mr. STEVENS: "Let him go in what direction he may, it is always to the extreme," implying waywardness and inconsistency, and, in so far, misjudging him. He never labored in adverse directions. He sometimes accepted and supported propositions which were in general accord with his views, but to which he could not yield unqualified assent. He did this, as he once said, "because Congress is composed of men, and not of angels." He was incapable of acting inconsistently upon measures involving general principles. Against this reproach he was almost divinely panoplied. He had in his boyhood dreamed of a republic broader, grander,

and more beneficent than the republic of Plato or the Utopia of Sir Thomas More—a republic in which every citizen might know the chastening influence of the family relations and the joys of home and pursue the secrets of science and the pleasures of literature; and believing, as he continued to do, in the progress of our race and the perfectability of our institutions, his public life was devoted to the realization of this, his boyhood's beautiful dream. When he dedicated himself to this work, in which he never faltered, the southern boundary of our country was near the thirty-first degree of latitude, and the course of the Mississippi defined its western limits; but he believed that the inspiring truths expressed in the Declaration of Independence, and embodied in our State and Federal Constitutions, would regenerate all the governments on the continent.

At the time of his birth the mouth of the Mississippi and the shores of the Gulf of Mexico were under the dominion of foreign potentates. He was, however, old enough to understand and remember the discussion that attended our first acquisition of territory—the Louisiana purchase—which extended from the Gulf along the west bank of the Mississippi to the Lake of the Woods; and though sometimes disapproving of the means by which they were gained, he welcomed each of the several acquisition of territory by which our country has come to stretch from ocean to ocean, to have a longer and more valuable coast line on the Pacific than any other nation, and to encircle the Gulf from Cape Sable to the Rio Grande. Every successive acquisition confirmed his faith and nerved his purpose.

The theory of Mr. STEVENS's ideal republic awarded home and culture to each industrious citizen. With this generous theory slavery was incompatible, and he was, consequently, the sworn and unrelenting foe of that accursed institution. He did not wage war upon slavery because he envied the wealth and power of the master. He was wont to thank God for having blest his youth with poverty, and was ever ready to confront the haughty master because his great heart sympathized with the outraged and helpless slave.

The severance of the Union would have dispelled Mr. STEVENS's faith in the ultimate redemption of the laboring people of the world from the ignorance and ill-paid toil to which they have ever been subjected. The breaking out of the slaveholders' rebellion seemed to rejuvenate him and inspire him with superhuman strength. He was always in his seat; and when sessions were so far protracted, as they sometimes were during the Thirty-Seventh, Thirty-Eighth, and Thirty-Ninth Congresses, that daylight came and dimmed the artificial light in this Hall, the old man's pungent witticisms would rouse many of the younger members from drowsiness and prostration. To maintain the Union he would have exhausted the country's resources in men and materials of war; and when the rebellion had been crushed he proposed measures that, had they been adopted, would have eradicated its cause and rendered its recurrence impossible.

He did not propose confiscation as a punishment to those whose great crime merited it. He was incapable of a vindictive act. He regarded the system of land monopoly, which had prevailed in the South, as the essential support of slavery, and he would obliterate it. He knew that the rebel leaders were conquered but not subdued, and appreciating the power they derived from the ownership of the land on which the body of the people were to labor and live he would deprive them of that power. He knew that the labor of the slave had given the land of the South its value, and he would reward the freedman by giving him a homestead as a slight return for the unrequited work he had done while a slave. He knew that the loyal soldier had saved the South to the Union and freedom, and he would invite him to dwell under his own vine in its midst, and by his counsels assist in its future government. He knew that a landed aristocracy and

a landless class are alike dangerous in a republic, and by a single act of justice he would abolish both. Such were the humane considerations which prompted him to propose and support measures which the weak and time-serving denounced as harsh and vindictive.

The system of labor for wages, as it is exemplified in Great Britain and on the Continent, is as inconsistent with his ideal republic as slavery. Contemplating the ever-increasing volume of pauperism in the British islands, the unnatural and excessive toil demanded from women in the coal mines of England and Belgium, and from the tender children of agricultural laborers in the fen-gangs of England, his emotions might have been expressed in the indignant exclamation of the Abbe de la Menais, "But for labor at wages there is no name out of hell." That is not the freedom of which he had dreamed, which deprives childhood of its buoyancy, home of its charms, and supplants intelligent and sturdy youth by ignorance and premature decrepitude or binds the families of laborious artisans to a given locality by their interest in the parish poor rates or such inadequate wages as precludes the possibility of saving a sum sufficient for their own transportation to better markets for their labor.

Mr. STEVENS always believed that fidelity to republican principles required Government to protect those whose toil is the source of all prosperity against the wrongs and woes endured by the laboring people of countries in which social distinctions are recognized by law, and ancient evils are regarded as vested rights; and with what steadiness and power he endeavored to protect the wages of the American workman, by the imposition of adequate duties on the productions of the under-paid laborers of Europe, every gentleman on this floor knows. But he was no foe to commerce. In the Republic his youthful imagination pictured nature lent all her aids to the people. The fields gave forth rich harvests; the mines yielded their precious or useful stores; and each mountain stream, as it sped its way to the sea, lightened the burden of man by moving the machinery he guided without exhausting labor. The consumer and the producer were neighbors, the most perfect means of transportation facilitated exchanges of commodities, and the taxes imposed by middle men and the many agents required by trade with distant nations were saved to the producer.

Whether in the Legislature of Pennsylvania or the Congress of the United States no project for the development of latent resources or improved transportation that came within his conception of constitutional limits ever failed for the want of his support. In view of our almost limitless range of climate and soil, and boundless and diversified agricultural and mineral resources, he regarded our country as sufficient not only for its present population, but for hundreds of millions of people in the enjoyment of every material comfort and the refinements of a better than Augustan age. Regarding our country as the refuge of all who could flee from the inequalities of other lands, and the intelligence of the people as essential to its perpetuity, he held it to be the primary duty of the State to insure the proficiency of every child in "orthography, reading, writing, grammar, and arithmetic, which, by the experience of the world, are pronounced to be the rudimental branches of all knowledge." He would not consent to withhold the privileges of an elector from a man because he was illiterate, and thus punish him because the State had not done its duty by him in childhood; but he proposed that the Government should provide school-houses, teachers, and other appliances for the education of all children, and then further enact "that no father or guardian shall be permitted to vote at any election for any public officer who shall not have caused at least one half of the number of his children or wards between the ages of five and fifteen years, or if he have but one, that one to attend school during at least

eight months within each of the years they are entitled to attend school."

To those who believe that the thing that has been is the thing that shall be forever, and that that youthful giant, the American Republic, shall never escape from the leading-strings in which he has consented to be held by those bed-ridden hags, the monarchies of Europe, these theories, doubtless, sound like the ravings of one bereft of reason. But those who know the attractive influence of power, and that the theater of our action is a virgin continent, with lakes, rivers, and coast lines capable of accommodating in our internal or domestic commerce a commercial marine far greater than that which now carries the commerce of the world, will regard them as the sure prophecy of the future that is before us. Mr. STEVENS believed in the possibility of the commercial independence of the United States. He also knew that when that should be achieved the people could bring their domestic relations into harmony with the fundamental ideas of their republican Government. Wise men will not think of him as a visionary because he anticipated coming events and proposed beneficent changes before the public mind was ripe for their reception. A great truth bravely uttered is never inopportune. Nor do time and age blunt the aptness of such utterances; and the advanced propositions and fervid words with which THADDEUS STEVENS so often stirred our blood and swayed our judgment will shape the future of the country. When the age is riper other lips will echo them with persuasive and conclusive force. Then the American people, instead of asking the little nationalities of Europe what they may do, will dictate the internal policy those nations must adopt on pain of seeing their most valuable citizens, allured by our happier condition, come to swell the power and grandeur of the great Republic. Then will his dream be fulfilled, and then will the world behold the fitting monument of Pennsylvania's greatest statesman, THADDEUS STEVENS.

Mr. WOOD. Mr. Speaker, I feel no embarrassment in rising to unite my voice with those who thus appropriately pay this last public tribute of respect to the memory of our late distinguished associate. The wide divergence in opinion between us on the leading questions of the times cannot deter me from the expression of a just homage to his character as a man, whether considered as a citizen or as a statesman.

As when living we recognized him as one of the foremost intellects of this House, so now, that being dead, let us forget the controversies which divided us, and remember only the higher qualities and personal attributes which have at all times commanded our attention.

The great poet has said:

"The evil, that men do, lives after them;
The good is oft interred with their bones."

Would that the reverse of this was true, so that the ill which men do should be buried with their bones, that the good, and the good only, will live after them.

Mr. Speaker, this is, indeed, an interesting occasion, not only in the performance of these rites and the personal remembrances it recalls, but in the contemplations and reflections it involuntarily forces upon the mind. It has been said that the disappointments in life are many and the successes tragically few. While this may apply to men in the aggregate, history and observation teach that the special man may make conquests from time, surmount difficulties, and attain the objects of his ambition. The sorrows, the trials, and tribulations of the general man result from the confidence reposed in and the deferred hopes of the eternal to-morrow; while the triumphs of the special man may infallibly be traced to his earnest action in the ever-living present—in the realities of to-day! Time is always capricious and often deceitful! To the youthful it is full of hope and golden promise. In the aged it fosters those fond anticipations, but

prolongs their realization; and, while human expectation is most sanguine, it coquets with our hopes, and, it may be, flits from our grasp.

The force and reason of these remarks are happily illustrated by the life and example of that exalted citizen whose memory we now celebrate, to whose intellect and personal worth we now pay homage. With him there was no to-morrow in life. He was truthful to his instincts, to his nature, and his public career displayed the increasing activity of an ever-present to-day.

Mr. STEVENS was a man of rare natural mental power, which, together with much self-reliance and entire independence of character, rendered him at once the formidable and successful leader. He relied upon these qualities more than upon the common resources of inferior men who yield to the errors and prejudices of the times rather than suffer defeat. Himself a man of conviction, but not of policy, he despised those who sacrificed the former to the latter.

A bold thinker, and yet bolder actor, he had no patience with those who have no higher idea of the noble profession of politics than to obtain success by any means and at every hazard. Of a self-reliant temperament he would not conform to the prevailing conventionalism of the day. He was a candid man. Whatever mistakes of judgment the world may attribute to him, they were not assumed for a purpose. Caring little for popular favor or prejudice, he pursued the even tenor of his way, enforcing the doctrines he advocated with an earnestness and power which no man could have done who did not himself earnestly and honestly believe them to be right. He utterly contemned deception and hypocrisy. Those of us who served with him on committees, and who were brought into frequent personal intercourse with him, will bear testimony to the frankness and malice of his bearing. Though tenacious in adhering to his own view he granted the largest indulgence to the views of others in the discussions in this House.

Well, indeed, may it be said of him that he was a special man, an embodiment of original personal individuality. Whether his influence was exercised for the good of his country this is not the occasion to discuss, nor can it be supposed that the present moment can well decide. Identified with the present revolutionary era, in which he was one of the chief revolutionists and most prominent leaders, time, and time only, can determine whether the talents and characteristics to which I have referred were of injury or benefit to his country. In my judgment, this generation will not survive their unfortunate influence. Be that as it may, he is gone—and gone forever. He has passed to

"The undiscover'd country, from whose bourn
No traveler returns."

That he has left his impress upon the present page of our history none can dispute; that he possessed many many qualities none can deny; that he was a thoroughly honest, as well as a truly great man, all will admit. Let us pass him to the grave as we hope others will pass ourselves—forgetting the frailties incident to our natures, and which appear to be inseparably connected with our being.

Mr. BROOMALL. Mr. Speaker, few statesmen of any country have maintained throughout a long public life the steadfast adherence to principles laid down in early manhood which characterized THADDEUS STEVENS. Universal education, equality of human rights, the elevation of the weak, the poor, and the oppressed were not more ardent aims and objects to him when he first espoused the cause of human progress than when three quarters of a century had rendered his infirm body an ill match for his still young and vigorous mind.

Too frequently in men of all stations the generous impulses and noble sentiments of youth give place, with advancing years and prosperity, to that fossil petrification of humanity called conservatism, which is nothing

more than the want of ability to see the line of progress marked out by the hand of Omnipotence and the want of energy to follow it. But this dry rot of the soul never tainted THADDEUS STEVENS. One of the last acts of his old age was the preparation of a plan for thorough and universal education in the District of Columbia, and among the first of his early manhood was the patronage, almost the parentage, of the common-school system of Pennsylvania. Those who have heard him within a year, and when he required support to stand, denounce, as we know how he could denounce, the bare suggestion of reconstructing the South without providing for universal suffrage, are irresistibly carried back to the period long years before when he stood up almost alone in the constitutional convention of his adopted State the advocate of the cause of self-government against those who found it prudent silently to outvote the man they did not dare to answer. In contrasting the two pictures the mind is led to believe and to wonder that in the lapse of thirty years the man had grown no older.

His conduct in that convention is a lesson to the young statesmen of his country. The cause of universal suffrage, which he espoused was then an unpopular one, and there seemed little prospect of it ever being otherwise. The slaveholders of the South had long seen that if the voice of the black man could be heard in the North their hold upon their human chattels would in time become insecure. With their usual sagacity they had induced northern politicians by flattery and patronage to enter their services as voluntary bondsmen. These bondsmen had created a public sentiment in the North which assigned to the black man a condition something between man and brute, or rather a condition sometimes the one and sometimes the other, as best suited their southern masters: man as an element of political power in his owner, man for the purposes of accountability and punishment, brute for all other purposes.

When the Pennsylvania convention of 1838 sat this public sentiment was at its height, and that body was made up, to a large extent, of these voluntary bondsmen. True to their vassalage they hastened to record their servility to the slave power by silencing, as they believed, forever the voice and the vote of the black man in the councils of the State. They thought it safe to do this. The victims were the few, the poor, and the powerless. It was in vain that STEVENS and those who felt with him protested against the shame and the wrong. The deed was done. Thousands of American citizens were disfranchised; and that, too, upon the spot where Penn. a century and a half before, had founded the purest system of self-government the world up to that time had ever witnessed; upon the spot where the fathers of the Revolution sixty years before had declared that all men are born free and equal, and had bound themselves by the most solemn obligation to write that holy sentence upon American annals with their blood. But when the work of the convention was complete, and the organic law came to be signed by the members, he who had done so much to make it in other respects what it is refused to give it the sanction of his name, and to this day the constitution of 1838 remains in the archives of Pennsylvania with one vacant seat.

Yet the man whose name should be there lived to aid in abolishing the institution in whose interests Pennsylvania had sacrificed her honor, and to see universal suffrage made the cardinal principle of American institutions. That missing name will be remembered with gratitude when the names and principles of those who so degraded their State have long been consigned to merited oblivion. Let the future statesmen of America learn that it is never safe to do wrong. Retributive justice is sometimes slow, but it is always sure.

The memory of THADDEUS STEVENS needs no monument. The imprint of his mind is upon the history of his country, and is more ineffaceable there than would be the image of his

body upon marble. He was among the first to see that the contest into which we were forced in 1861 was war, not mere insurrection to be suppressed in sixty days, and that it must end in victory upon one side or the other with all its rights and disabilities. When that contest was at last over he was among the first to see that all civil relations preëxisting between the victors and the vanquished had ceased to be, leaving the latter wholly without civil government. Brushing away the ingenious sophistries with which a faithless Administration sought to bewilder the public mind in the interests of a fallen institution, he set about the work of reconstructing the conquered country in the interests of loyalty, progress, and the rights of man. To him more than to any other single individual is attributable the fact that eight States of the Union have been organized upon the basis of universal suffrage and three more are about to be. As long as self-government shall remain a principle dear to the American heart THADDEUS STEVENS will be remembered as its great champion. He needs no monument, yet Pennsylvania owes a tribute to her departed statesman. The time will come, and that speedily, when she will purge her organic law of all traces of the unhallowed institution, all evidences of her former vassalage. From a human stand-point it would seem that THADDEUS STEVENS should have witnessed that event; but it suited the purposes of an Inscrutable Power to decree otherwise. Let his beloved State do for him what he did not live to do for himself. When that day comes let the Governor of Pennsylvania, by virtue of a solemn act of her Legislature, on some day sacred to the cause of humanity, in the presence of all that is great and good within her borders, take from her archives the constitution of 1838, and reverently, with humiliation for the past and hope for the future, blot out forever the discrimination between man and man which God never made, and opposite the vacant seat write the name of THADDEUS STEVENS. Then will be accomplished what he lived for. Then will Pennsylvania be worthy to account him among the sons she has loved, honored, and mourned.

I cannot conclude the few remarks I arose to offer better than by quoting the language of my deceased colleague himself, in this Hall, upon the announcement of the death of Mr. Noell, of Missouri, whom he knew and with whom he sympathized:

"Other men more eloquent than he may have been called to the bar of judgment, but no man ever appeared before that dread tribunal with more numerous and ardent advocates. His advocates were the oppressed of every nation, the crushed of the satanic institution of slavery.

"Who would not rather take his chance in the great day of accounts, before that Judge who is the acknowledged Father of all men, than the chance of ordained hypocrites, miserable wretches who, professing to hold a commission from on high, impiously proclaim slavery a divine institution?"

Mr. ASHLEY, of Ohio. Mr. Speaker, in the death of THADDEUS STEVENS this House has lost one of its recognized leaders, and the nation one of her most distinguished sons. In his departure we shall miss another of the uncompromising heroes of our anti-slavery revolution. Elijah and Owen Lovejoy are entombed; the one at Alton, and the other at Princeton, Illinois. Adams and Pierpont sleep beneath the soil of their native Massachusetts; Theodore Parker at Florence, in Italy; William Leggett at New Rochelle, New York; Nathaniel P. Rogers by his native Merrimac; Gamaliel Bailey within the shadow of the national Capitol; Giddings and Morris and Lewis in Ohio; James G. Birney in New Jersey; David Wilmot and James Mott in Pennsylvania; John Brown at North Elba, New York; and there are others whose lives were as heroic and beautiful and unselfish, whose names I do not now recall. To these must be added more than three hundred thousand, the fallen heroes and martyrs of our liberating Army, who sleep on every national battle-field from the heights of Gettysburg to the banks of the Rio Grande. Pre-eminent among all this invincible army of

heroes, prophets, and martyrs is Abraham Lincoln,

"The generous, merciful, and just."

With this grand army of unselfish patriots, his contemporaries and collaborators, we have laid down to rest all that is mortal of our friend in the bosom of his beloved Pennsylvania.

The benediction of millions followed him to his tomb, and to-day in the free home of every black man, and of all men who love liberty, there is sincere sorrow and mourning.

Never again in these Council Halls will he deliberate with the people's Representatives, nor awaken the nation from its lethargy by his genius and wonderful power.

The honorable gentleman whom his constituents have elected to succeed him on this floor, and those who have preceded me, have spoken so fully of his early life, his heroic struggles, and his personal history, that I need not add a single word.

Through some of the most eventful years in our history I have been intimately associated with him on this floor. During all that time, which included the darkest hours in the nation's life—hours which tested the constancy and courage of men—he bore himself with such unquestioned fidelity to the cause of human freedom as to command even the respect of political opponents and the cordial indorsement of all liberty-loving men.

As we engage in the memorial services of this hour, and bear him again in our hearts from this Capitol and the scenes of his struggles and wonderful triumphs, let the nation stand with uncovered head and its bells peal forth the solemn sound of an anthem more appropriate than any words of mine:

"Toll! Toll! Toll!
All mortal life must end.
Toll! Toll! Toll!
Weep for the nations' friend.
Oh! the land he loved will miss him.
Miss him in its hour of need;
Mourns the nation for the nation,
Till its tear-drops inward bleed.
Let bands of mourning drape the homestead,
And the sacred house of prayer;
Let mourning folds lay black and heavy
On true bosoms everywhere!
Toll! Toll! Toll!
Never again—no more—
Comes back to earth the life that goes
Hence to the Eden shore!
Let him rest! it is not often
That his soul hath known repose.
Let him rest!—they rest but seldom
Whose successes challenge foes.
He was weary, worn with watching,
His life-crown of power hath pressed
Off on temples sadly aching—
He was weary; let him rest!
Toll bells at the Capitol,
Bells of the land toll!
Sob out your grief with brazen lungs,
Toll! Toll! Toll!"

Mr. Speaker, though Death come never so often, he casts at the portals of the tomb shadows ever new and mysterious, and ever and always hath for the living his admonitions and his lessons.

By the side of the grave we all realize that there are voices whispering to us out of the shadowy silence beyond the river.

In such an hour we see with the natural eye "as through a glass, darkly," but we have the promise that if faithful we shall see "face to face." As there is no race of men without the idea of a God and a future life, so in the presence of death it is natural for all to pause and think of the life beyond.

What is to be the destiny of our friend in "that undiscovered country from whose bourne no traveler returns," it is wisely not given us to know. Let us hope that he has gone up into the presence of the God of nations and of men bearing in his hands some of the broken fetters which have fallen from the limbs of our four million emancipated bondsmen. These shall testify of his fidelity to justice and to his love of the human race.

In that great day, when the secrets of all hearts shall be revealed, I trust it may be said to him by the Father of all, "Inasmuch as ye have done it unto one of the least of these my brethren, ye have done it unto me." And that it will be said I may without presumption

hope, for whatever may be the theories of men, whatever our hope for ourselves or for others in the life which never dies, let us trust that better than all our faiths, and more comprehensive than our grandest conceptions, an all-wise Creator has ordained a plan as broad as the universe, and as just as it is infinite, which will compensate in the future life every soul which has struggled and suffered for mankind in this.

Mr. Speaker, there are moments in the experiences of all when we cannot convey to other hearts the emotions of our own. To me such a moment is the present. So many reminiscences are crowding upon me, and so many wonderful scenes in which our departed friend was an actor are passing as a panorama before me, that I feel how short I should come of doing them or him justice were I to dwell upon them. No man who loves his country and passed through those scenes in these Halls can ever forget them. When I first entered this House, ten years ago, Mr. STEVENS was one of the first to take me by the hand and welcome me. From that day until the day of his death he was my friend, and often my adviser and counselor. However often I may have differed with him—as I often did—there was one question about which we never differed: the question of the necessity of the immediate and unconditional abolition of slavery. Of the practicability and justice of destroying slavery he never doubted. I am thankful that he was spared to witness the end of that indescribable villainy. I rejoice to know that as the gates of the Eternal World opened up before him he was permitted to look back upon the land he loved and nowhere behold the footprints of a single slave. Because of his unwavering fidelity to the poor bondsmen, who, in the presence of a nation of oppressors, were manacled and powerless and dumb, I came to venerate him; and because I venerated him I come to-day to cast a garland upon his tomb. In this selfish world there is nothing which so strongly enlists my sympathies and so much commands my admiration as a heroic and unselfish life spent in the interests of mankind. To me it is the most touching and beautiful of all human struggles.

In espousing the cause of the slave, more than forty years ago, Mr. STEVENS voluntarily accepted social and political ostracism, and patiently endured the persecutions of ignorant and maddened men, for whose highest interest he was laboring. He did this without fee or hope of political reward, simply because he believed it to be right; and because he was right we shall some day see the children of the men who stoned him gladly join hands with the liberated slave in bearing back the stones, in the shape of blocks of whitest marble, with which to build his monument.

I do not assume to write his epitaph. In a speech delivered in this House January 18, 1865, he said—I read from volume fifty-four of the Globe, page 266:

"I will be satisfied if my epitaph shall be written thus: 'Here lies one who never rose to any eminence, and who only courted the low ambition to have it said that he had striven to ameliorate the condition of the poor, the lowly, the downtrodden of every race and language and color.'"

The grand blows which he struck in his great battle for liberty and justice will long survive him and leave their impress upon all lands, strengthening the purpose of the toiling and struggling millions of earth. His successful life-battle should teach us the value and self-sustaining power of a life consecrated to the best interests of his country and his fellow-men.

In this impressive hour, while reviewing his heroic and unselfish acts, let us renew our vows of fidelity to the great principles which he so long, so ably, and so faithfully maintained. Let us here, and now, pledge our lives anew to the cause of human liberty and human progress, resolving that no obstacle nor selfish interest shall cause us to falter, so that when we descend to the tomb the benedictions of mankind shall bless us, as they now bless him

for whom we mourn, and it shall be said of us as it is now said of him:

"He hath not lived in vain."

After a long and stormy battle, with a record which the friends of freedom will ever cherish, full of years and crowned with honors, he—

"Has gone from this strange world of ours.

No more to gather its thorns with its flowers;

No more to linger where sunbeams must fade;

Where, on all beauty, death's fingers are laid.

Weary with mingling life's bitter and sweet;

Weary with parting and never to meet.

Weary with sowing, and never to reap;

Weary with labor and welcoming sleep.

In Christ may he rest," from sorrow and sin

Happy, where earth's conflicts enter not in.

Mr. MILLER. Mr. Speaker, during the recess of Congress my venerable colleague, Hon. THADDEUS STEVENS, of the ninth district, passed from the turmoils of life to the peace and quiet of the tomb. He was participating with us in legislation when we adjourned on the 27th of July last, and although he was enfeebled in bodily health I joined with many others in an earnest hope that he would be spared to meet with us when we again assembled here for the transaction of business. The realization of that hope has not been vouchsafed to us. On the 12th of August last, at one o'clock a. m., at his temporary residence within a short distance from the Capitol, he died.

THADDEUS STEVENS was born on the 4th of April, 1792, in the town of Danville, Caledonia county, Vermont. The pecuniary circumstances of his parents being limited, they were unable to furnish means for his education. Animated with a purpose to succeed, through his own perseverance and energy he was successful in acquiring a liberal education. Upon the completion of his collegiate course he bid adieu to his native State and home, and in the year 1814, at the age of twenty-two, reached the borough of York, Pennsylvania. Teaching school for a livelihood and studying law in the spare hours that intervened, he gradually prepared himself for the stern intellectual conflicts of his after life. He was admitted to the bar in Adams county, and soon rose to the head of his profession.

His oratorical powers, general information, and keenness of wit gained for him a State-wide celebrity. As an advocate he was quick and powerful. Laying hold of the strong points in a cause he presented them in a succinct and comprehensive manner. A large and lucrative professional practice flowed in upon him, and almost at the outset he displayed that charity and generosity of his nature which distinguished his entire life. He was always an ardent friend of public improvement and universal education, a bitter opponent to human slavery and oppression. In 1833 he became a candidate for the State Legislature, and was elected and reelected almost without opposition up to 1836, when he was chosen a member of the convention to revise the constitution of the State. During his services in the Legislature and constitutional convention the attention of the country was attracted to his peculiar opinions, capacities, and character. With a cultured mind, formidable in debate and fearless in expression, he immediately became a leader and foremost in every movement that contemplated the improvement of the people and of his adopted State. In the convention for the amendment of the State constitution he was a violent opponent to the insertion of the word "white" as a qualification of voters, and opened upon its advocates all the invective of his ardent nature. But the crowning glory of his life is the noble disinterestedness, the manly courage, and the indomitable will displayed and exercised in the advocacy of the common-school system of Pennsylvania. To his tireless efforts are the people of his adopted State indebted for the incalculable blessing of free schools. Seconded in his efforts by the generous assistance of Governor George Wolf, he succeeded in having the school law passed, and when ignorance and prejudice sought and urged its repeal he again stood up in its de-

fense. In a speech which abashed his opponents, and which the young of to-day still read with enthusiasm, he portrayed in a glowing light the grandeur of the system and the importance of mental culture in order to sustain a republican form of government. To-day its benefits are seen and acknowledged. To-day the ostentatious rich and the humble poor drink at its fountain. To-day, standing by the tomb of its originator, thousands pay tribute to his memory and worth.

Mr. STEVENS was prominent in the administration of Governor Ritner, and by him appointed canal commissioner. He subsequently realized that his undivided attention to politics had caused him to neglect his private affairs, and especially his large furnace in Adams county. He found himself involved in debts, said to exceed two hundred thousand dollars, caused mainly by his partner in the iron business. His ardent desire was to liquidate that indebtedness. The practice of the law at the Gettysburg bar offered little prospect for paying so large a sum, consequently he concluded to remove to a more extensive field, and finally selected Lancaster as his future abode. His extensive legal acquisitions and superior abilities secured for him a large and lucrative practice at his new home, which in a few years enabled him to liquidate his entire indebtedness. Standing at the head of his profession, his many generous traits, political tact, and superiority won the confidence and respect of his fellow-citizens. In 1848 he was nominated and elected to the Thirty-First Congress, and in 1850 was reelected to the Thirty-Second Congress. At the expiration of his second term he again devoted his attention to the pursuits of his profession. He was afterward elected to the Thirty-Seventh, Thirty-Eighth, Thirty-Ninth, and Fortieth Congress. Being a member of Congress during the most critical period of the nation's life, he displayed superior statesmanship and unflinching patriotism. Through all this stormy period his voice rang clear and loud, amid the pæans of victory and the glooms of national disaster, for the triumph of liberty and the permanency of the Republic.

Believing in the justness of our cause, fully impressed with the importance of our success, he advanced with a majestic tread toward the realization of his hopes. He lived to see the Federal authority vindicated, rebellion crushed, and the constitutional eradication of that barbaric institution against which for more than half a century he waged his grand but merciless crusade. Then, the nation's power vindicated, its life rescued, its people freed, and its honor maintained, standing in the midst of his intellectual and political triumphs, with his fame national and his name immortal, death intervened and drew the curtain over the drama of his long and eminently useful life. We shall never forget the meteoric displays of his ponderous logic, his burning rhetoric, his withering sarcasm. They are a part of the history and glory of the American Congress. Sleeping in his honored grave in his adopted State, resting from earthly care and toils, the melody of his grand life still is sounding and rolling like the "heavings of the sea." His name, interwoven and commingled with the philosophy of our most momentous history, will flow without interruption down the lapse of ages, the accompaniment of the great drama of human progress. His example, so potent and talismanic in the furtherance of philanthropy, will grow brighter and brighter as time advances and bravery is honored. He passed away "with the calm composure of an old hero of romance who had come into the world with the birth-right of liberty for the peoples." He died nobly, as he had nobly lived, leaving his example as a guiding-star to the world.

"Fleet foot on the corse,
Sage counsel in cumber,
Red hand in the foray,
How sound is thy slumber!
Like the dew on the mountain,
Like the foam on the river,
Like the bubble on the fountain,
Thou art gone, and forever!"

Mr. ORTH. Mr. Speaker, the grave has closed over the earthly remains of one of freedom's most ardent and eloquent advocates. The voice once so familiar in these Halls is hushed in death; its sound no longer greets our ears, but its bold and fervid enunciations will never be forgotten.

That heroic devotion to truth and justice, to equality and fraternity we so often admired, and which is exemplified by countless acts and incidents extending through years and years of an active existence, is a most worthy example for all good men.

The principles which he professed and the work which he performed, professions and practice being in perfect harmony, will in all future time and in all nations render the name of STEVENS a synonym for human liberty.

Living in an age when opportunities for the accomplishment of great deeds abounded, he seized upon and improved these opportunities. His mind grasped the true philosophy of events, and his practical common sense molded it into forms of enduring usefulness. Living not unto himself his life has not been in vain, and the impress of his genius upon the age in which he lived will be as permanent as his fame.

The early history of THADDEUS STEVENS is similar to that of many of our ablest and most prominent public men. His parents were in indigent circumstances, and hence in his youth he was thrown upon his own resources, and taught those lessons of self-reliance which proved so valuable to him and to his country. He was born in the State of Vermont in 1792, and spent the days of his youth and early manhood among her people, whose thrift, energy, and frugality, long since proverbial, made a lasting impression upon his nature. He entered the academy of Peacham, and, by teaching during the vacations of school, he procured the means by which he was enabled to prepare himself to enter upon a collegiate course of studies at Dartmouth College, where, in due time, he graduated with distinction.

He often referred, with evident gratification, to his academic days at Peacham, and evinced his attachment for the old academy by frequent donations of books to its library, as also by a valuable bequest in his last will and testament. Leaving his New England home, he selected Pennsylvania as his future place of residence, locating temporarily in the town of York, where he engaged in teaching school while prosecuting his legal studies. He was admitted to the bar in 1817, and immediately located in Gettysburg, where he continued to practice his profession with assiduity and marked success for the ensuing twenty-five years. His studious habits, his classic education, his attention to business, and his eloquence and ability soon placed him and kept him at the head of his profession, at a time, too, when he was brought into frequent contact with some of the best legal talent of the State. His bearing in the presence of the court and bar was always dignified and courteous, his cases were thoroughly digested and understood, and while he guarded carefully their weak points, he readily perceived and took advantage of those of his adversary. In the examination of witnesses he was most successful, his pleasing and insinuating address gaining the confidence of the witness and eliciting a truthful recital of the facts, while his intimate knowledge of human nature enabled him at a glance to detect prevarication or dissimulation; and when detected he made the witness writhe under his unmerciful cross-examination.

He was invincible in the presentation of his facts, the application of the law to the testimony, and in the influence of his eloquence over the hearts and minds of the jurors.

Milton, one of his favorite authors, says:

"True eloquence I find to be none but serious and hearty love of truth."

And this love of truth was one of the strongest elements in the character of Mr. STEVENS, and enabled him so successfully to carry conviction to his hearers. He never practiced the arts

of dissimulation, not merely because he was ignorant of their uses, but for the reason that his very nature, whose impulses he followed, led him to deal with perfect frankness and candor on every occasion.

He was equally candid with friend and foe, and nothing could induce him to betray the one or clandestinely injure the other. This virtue he practiced in the privacy of social life, at the bar, in his struggles on the political rostrum, and in the discharge of his severer and more exalted duties in the halls of legislation, and this, more than anything else, formed and increased the attachment of his friends and challenged the respect of his enemies. Did I say his enemies? Justice to his memory requires that I should rather use the words "political adversaries," for it is conceded by all who knew him that no man ever passed through such fierce and embittered contests, running through an active period of half a century, with so few personal enemies during his stay on earth, and no animosities extending beyond the grave. His love of truth made him an earnest man, acting upon the principle that whatever was worth doing at all was worth doing well. He never espoused a cause until he was satisfied of its merits and justice, and then brought to its advocacy all the strength and vigor of a richly cultivated intellect.

The cause of education always received his hearty support. To elevate mankind, to improve their moral, intellectual, and physical condition; in a word, to leave the world better than he found it, was with him a duty which he never neglected.

At the time of his first election to the Legislature of Pennsylvania that State had taken no steps toward the organization of a system of general education. The education of her children had been left to private or individual enterprise, or to the voluntary effort of the people in each particular neighborhood. The utter inefficiency of these spasmodic and limited efforts to educate the youth of the State or to diffuse intelligence among the people was apparent to all reflecting persons, but it belonged to STEVENS to make the inefficiency glaringly manifest, and to propose and carry into effect a proper remedy for the evil. He believed with Aristotle:

"That the education of youth ought to form the principal part of the legislators' attention, cannot be a doubt, since education first molds and afterwards sustains the various modes of government. The better and more perfect the systems of education the better and more perfect the plan of government it is intended to introduce and uphold. In this important object fellow-citizens are all equally and deeply concerned; and as they are all united in one common work for one common purpose, their education ought to be regulated by the general consent, and not abandoned to the blind decision of chance or to idle caprice."

The innovator upon immemorial usage is never a welcome visitor. He meets with obstacles at the threshold of his operations, and difficulties and impediments beset him at every step in his progress.

That education should be universal; that the indigent orphan should have the same opportunity for the acquisition of knowledge with the son of his wealthy neighbor; that the man of affluence should be taxed to educate the child of penury, were ideas at that time not only novel, but repugnant to the views of a large majority of the people of Pennsylvania, and hence the attempt to embody them in the form of legislative enactment met with stern and general opposition.

Mr. STEVENS was not the man to be swerved from his purposes by adverse opinions; he met argument with argument, conquered prejudice by the presentation of truth, and crushed the demagogue with his withering and irresistible sarcasm. Amid difficulties which might have appalled more timid men he entered upon the advocacy of the principle that all children are the wards of the Commonwealth, and that it is alike the interest and the duty of the Commonwealth to provide for their education.

The habits and opinions of a century do not readily yield to the demands of advancing

ideas, and for years this question of universal education was the subject of animated and frequently of acrimonious discussion. It entered into the political contests of the day, and to such an extent was the opposition manifested that the motto "No free schools" was emblazoned on many banners, and became the shibboleth of partisan warfare. The contest was of long duration; but in all contests with error truth will eventually triumph, and his adopted State now justly exults in having, through his instrumentality, one of the best systems of popular education in the Union.

Many of his best friends at the time feared the effect of his bold advocacy of so unpopular a measure on his future political prospects; but this was a consideration which never entered his mind, and his course on this question, like all the great acts of his life, exhibited the unselfishness of his nature.

In addressing his constituents at Gettysburg, while this question was agitating the people, he said:

"I shall feel myself abundantly rewarded for all my efforts in behalf of universal education if a single child educated by the Commonwealth shall drop a tear of gratitude on my grave."

During his residence at Gettysburg an academy or gymnasium was organized by a few of the prominent citizens, and STEVENS soon conceived the idea of building on this modest foundation an institution of more enlarged pretension and of much wider usefulness. Through his influence as a member of the Legislature a charter was obtained changing the gymnasium to "The Pennsylvania College;" and what is most remarkable, he also secured a donation from the State of an amount of money sufficient to erect for the college its principal and most costly edifice. The consideration for this munificent grant was the gratuitous education by the college of a specified number of indigent young men who might from time to time avail themselves of this privilege, and the further condition that the German language should constantly be taught in the institution, which conditions have at all times been most faithfully performed. He was prominently and actively connected with the material and educational interests of the college, as a member of the board of trustees, from its organization to the time of his death.

The trustees have recently erected an additional edifice to be used in connection with the college, which, in honor of his friendship for the institution and the interest he manifested in its success, has most appropriately been named "Stevens's Hall."

He was a zealous advocate of free speech, concurring fully in the sentiment of Jefferson, that "error of opinion can safely be tolerated so long as reason is left free to combat it."

To him the idea was most preposterous that there shall be any subject so sacred as to forbid examination or debate. Whatever seeks to avoid scrutiny or shrinks from investigation is justly subject to suspicion, and that which cannot bear the test of thorough discussion is in its nature inimical to republican institutions.

I remember an incident, which occurred during my schoolboy days at Gettysburg, at once illustrating his devotion to the cause of free speech and his influence over the minds of those with whom he was brought in contact.

In 1837 the anti-slavery question began to be agitated in various parts of the country, and Professor Blanchard, of Cincinnati, one of the earliest advocates of emancipation, visited Gettysburg for the purpose of delivering a series of anti-slavery lectures. The very announcement of his purpose created an intense excitement in the community, for Gettysburg is situated within a few miles of the old Mason and Dixon's line, and an abolition lecturer would have been just as welcome in Maryland as in the border counties of Pennsylvania.

The professor called his meeting and challenged discussion. The challenge was accepted by two of the most prominent citizens of the borough; but at the close of the debate resolu-

tions were passed deprecating any further agitation of the subject, and plainly intimating to the professor that his presence was no longer desirable in that community—a hint which in those days was very generally understood.

Mr. STEVENS had been absent on professional business; but on his return, learning what had been done, another meeting was called, and the court-house was soon filled with an angry and excited audience. He requested some friend to move a reconsideration of the resolutions, and then proceeded to address the meeting. Those who heard his effort on the occasion will never forget it. His manner was calm, deliberate, impressive, and the excited crowd listened with earnest attention. To listen was to be convinced. Warming gradually with his subject, he enforced the right of free discussion on all subjects with a power and an eloquence which his audience had never heard. The sacred rights of American citizenship, secured by constitutional guarantees, were defended by a master hand. In turn he used persuasion, entreaty, argument, wit, and sarcasm, until finally, turning to his old neighbors and friends, he appealed to their sense of honor and justice, to their individual reputation and the reputation of their community, as deeply involved in their contemplated proceedings; and when he took his seat the resolutions, which had been previously adopted without a dissenting voice, found no one bold enough to advocate their passage. On the contrary, a new set of resolutions were introduced and passed with singular unanimity affirming the right of free discussion and inviting this early anti-slavery missionary to continue his labors.

The triumph was complete, not only for Mr. STEVENS, but, what was infinitely more gratifying to him, it was a triumph of reason over prejudice; and I need hardly add it was the last attempt to apply the "slaveholder's gag" in that portion of our country.

He was the firm friend of the oppressed and the implacable enemy of the oppressor. Like the great Wesley before him he regarded the institution of American slavery as "the sum of all villainies," and suffered no occasion to pass unimproved, when in his power, to expose its monstrosity or destroy its vitality.

He was ever ready "to proclaim liberty throughout the land and unto all the inhabitants thereof;" and when the institution began to crumble and fall, amid the crackling flames of that rebellion which it had instigated, he felt like exclaiming, with one of old:

"Lord, now lettest thou thy servant depart in peace, according to thy word, for mine eyes have seen thy salvation."

While practicing his profession at Gettysburg the cases of fugitive slaves were quite numerous, and where arrests were made which came to his knowledge he invariably volunteered his services to defend the alleged fugitive; and it is among the reminiscences of the neighborhood that he seldom if ever failed to secure the freedom of his clients.

On one occasion, while journeying to Baltimore for the purpose of replenishing his law library, he stopped for the night at a hotel in Maryland, kept by a man with whom he was well acquainted. Soon after his arrival he discovered quite a commotion among the servants at the hotel; and a woman in tears approached him and implored his assistance to prevent the contemplated sale of her husband, who was a slave. On inquiring who and where her husband was, she replied, "Why, Massa STEVENS, he is the boy who took your horse to the stable." STEVENS knew the "boy," and at once went to his owner and expostulated with him in reference to his sale, and at length offered to pay him \$150, half the price, if he would restore him to liberty. The landlord was inexorable, and STEVENS, knowing the relations between the slave and his master, replied, "Mr. —, are you not ashamed to sell your own flesh and blood?" This stinging appeal only brought forth the response, "I must have money, and John is cheap at \$300."

Prompted by his generous nature STEVENS purchased and manumitted "John," and then retraced his steps to Gettysburg, without completing his journey to Baltimore. At that time \$300 was a large sum of money for one who had been but a few years at the bar, and he postponed the replenishing of his law library to a more convenient season.

The word charity in its broadest sense fails to express the boundless benevolence of his heart. He was never so happy as on those occasions when he could assist the suffering, relieve the distressed, and comfort the needy.

No one ever applied to him for assistance and was refused. While struggling with poverty himself he gave the widow's mite, and when afterward success attended him his bounties were increased in corresponding ratios. He was not only "a cheerful giver," but in these matters he was not willing that the right hand should know what the left hand had done. He preferred that his charities should descend quietly as the dews of heaven, and like the summer breeze, be felt but not seen.

Like Cornelius, he "gave much alms to the people;" in fact he was the almoner of Gettysburg during his long residence there, with this wide difference, that he made distribution only of his own means, and never limited his benefactions to the tenth of his income.

When lurking treason, which had been nursed for years in our country, by men high in favor with the people and high in official station, culminated in civil war, STEVENS was a most prominent and influential member of this House. His whole life had witnessed his devotion to the country, to those fundamental principles proclaimed in the Declaration of Independence, and his faith in their ultimate incorporation into the national Constitution.

The first hostile gun of the rebellion convinced him that the accursed institution of slavery would be overthrown, that the Union would survive the shock of battles, and that the conflict would evolve a purer republicanism and an advanced spirit of humanity.

His efforts in and out of Congress were devoted to a vigorous prosecution of the war, to devising ways and means for such prosecution, and to keep the public mind firmly fixed upon the true nature of the assault upon the Union and its defense, and thus to have it prepared to accept those truths which he foresaw would inevitably result from a victory for the Union.

The patient, self-sacrificing endurance of our people and the valor of our soldiers at length crushed the rebellion, and reestablished, so far as military power could reestablish, the authority of the national Government. With the cessation of hostilities came questions of civil polity, as important as they were novel, requiring solution and permanent adjustment. The public mind was unsettled, conflicting opinions most naturally forced themselves to the surface, while political theories, formed on the narrow basis of old passions and prejudices, claimed public attention. Here was a field for the statesman, and STEVENS entered it with that self-reliance with which a consciousness of his own power and the strength of his political convictions invested him. Others doubted and hesitated, but to him the future was as unclouded and as certain as the past. He was no revolutionist, but, penetrating through the gloom of battles and the uncertainties which troubled most minds, he perceived the end from the beginning, and when the end came he was prepared to meet its demands and its responsibilities.

The apparently popular heresy that the States in rebellion had not by that act changed their "proper practical relations" to the Union, and hence were at once restored to their former position, was soon dissipated by the sturdy blows it received under his leadership.

With the abandonment of this theory the true policy to be pursued toward the States and people lately in rebellion was easily ascertained, and the emphatic indorsement of that

policy by the voice of the nation, together with the gradual accomplishment of its purposes, have demonstrated alike its wisdom and its justice.

He is gone. He has finished his course on earth, but the great work to which he devoted so many hours of patient thought and honest toil is not yet finished. The high aim of his life, that to which he brought all the energies of his nature, which enlisted the warm sympathies of his noble soul and engaged the powers of his vigorous intellect, was to have his country free and all her people equal, to have a land

"Where manhood reigns alone,
And every citizen is king."

Freedom has been obtained, but freedom has not yet been secured, and will not be secured until all our people shall have the full enjoyment of perfect equality by the law and before the law. Freedom without secured equality of rights is a delusion and a snare; and although his countrymen have in his memory and in his deeds a rich legacy which they will always cherish with pride and with honor, yet with this legacy is coupled a responsibility, and that is to proceed with the work in which he was so zealously engaged, to complete the structure in the spirit of its master workman. So complete it that from foundation-stone to turret, in all its parts and designs, there shall be no fault and no blemish; that the eye of the critic can discover no defects, and the heart of the patriot desire no change. So complete it that when finished it will meet with the approbation of all good men and the approval of a just God!

He is gone! That frail tenement of clay so lately moving among us is mingling with its kindred dust, but the name and fame of THADDEUS STEVENS will never die.

In all the coming years of time, so long as patriotism has a votary and freedom an advocate, his name will be lisped and his fame will be cherished by the countless millions of the future, and while his countrymen linger around his consecrated grave their aspirations will ascend to Heaven that a kind Providence who rules over the destinies of nations may grant to our beloved country many more such men.

Mr. KOONTZ. Mr. Speaker, the ordinary business of the day is suspended, that the House of Representatives may pay its tribute of respect to the memory of its departed leader. Since the last session of this Congress Hon. THADDEUS STEVENS, Representative from the ninth congressional district of Pennsylvania, ripe in years and in wisdom, and honored with the confidence and love of his fellow-countrymen, has passed from time into eternity. No word in commendation of his distinguished services to the country or in praise of his great talents is needed in this presence, where he was so well known; nor are the eulogies that are pronounced here on this occasion necessary to convey to the nation a correct idea of the characteristics of the deceased. A prominent actor in the mighty events which have transpired within the last eight years, he stands out in marked distinctness before a people who have watched with intense pleasure his devotion to country, with unbounded admiration, the exhibition of his commanding talents, and who have on frequent occasions been swayed by his resistless, burning eloquence.

But if the tear of sorrow is shed for and the word of tribute spoken of the less distinguished of earth who have passed from the stage of life, with how much more sorrow should we mourn those who are numbered among the nation's dead! When they who have achieved distinction in war, statesmanship, oratory, poetry, science or philosophy have "shuffled off this mortal coil," the rivalries that were begotten in the busy arena of life are remembered no longer, the peculiarities of character that excited hostility in the breasts of others are forgotten, and a generous people remember only the ability and virtue of the deceased and treasure them as evidence of the nation's advancement in civilization; and as the enduring monuments of her own greatness and glory.

The many years of distinguished public service of the deceased, his skill as a parliamentarian, his recognized ability as a leader, and the powerful influence he wielded in the councils of the nation gave him such prominence in the eyes of the American people that since his death they remember him not only as the leader of a great party, but as a great American statesman, whose name will be inscribed on the historic page along with those whom the nation delights to honor.

Of the prominent men of this generation perhaps none have greater claims to public gratitude than Mr. STEVENS. In Pennsylvania his name will ever be associated with the beneficent system of common schools, the establishment of which was owing to his ability, perseverance, and energy. The humblest lad in the rudest cabin within the limits of the State will live to bless the memory of THADDEUS STEVENS, for having placed within his reach the means of an education. If, according to the distinguished historian, Macaulay, the gift of Athens to mankind of intellectual knowledge constitutes her chief glory, and will perpetuate her memory, even in the decay of her language and the degeneracy of her people to the remotest posterity, amid the rise and fall of kingdoms and empires, may it not truthfully be said that the people of Pennsylvania owe a debt of gratitude to Mr. STEVENS for this great gift to her sons, which will exist as long as her mountains stand, and that his memory will be preserved by them while their language remains to speak his praises?

But, passing beyond the confines of his adopted State, we find that his name is widely known throughout the country, and that by his public course he has earned a nation's gratitude. A gigantic civil war threatened the life of the nation and its public men were put to the severest test. Mr. STEVENS at once rose into marked prominence by his determined and powerful hostility to the rebellion, its aiders and abettors; and his opposition, after its overthrow, to all measures looking to the political ascendancy in the Government of those lately in arms to destroy it, made him the idol of the loyal millions of the country. Other men might be misled either by a mistaken notion of what was due to traitors, or a false philanthropy, or wicked ambition, or desire for party predominance, but there was an abiding faith in the loyal people of the country that in THADDEUS STEVENS there was "no variability or shadow of turning," and that in all the mutations of time and tergiversations of men, he would be true to the cause for which their sons and brothers had fallen. His career to its close vindicated fully the popular confidence in his fidelity to principle.

In foreign Governments the noble men who are inaugurating movements looking to the disenfranchisement of the masses from kingly and aristocratic rule lament his death, and in this hour of sadness and sorrow we have their deepest sympathy. There is always a strong tie between men of enlarged minds and comprehensive intellects, although there may be wide differences of opinion between them as to the best mode of advancing the interests of society and the promotion of the welfare and happiness of mankind; but how much stronger the tie that binds the men who are moving together in the great cause of humanity! The champions of liberal principles in every clime realize that one of their noble band is no more, and not only a State and nation, but oppressed humanity everywhere, deplore the death of the great advocate of human rights.

But his memory will be fondly cherished by that large body of people so recently liberated from human slavery. An early opponent of that institution, he battled against it with all the power of his gigantic intellect, until the last shackle of the last slave was broken, and this day he is revered by them next only to the immortal Lincoln. His name is a household word in the humble cabins of four million people whom he has helped up from the de-

grading condition of bondage into the blessed light of freedom, and will be inseparably linked with that great act of national justice by which the emancipation of a race from servitude was achieved.

As a private citizen he was kind and generous, and always ready to lend a helping hand to the needy and distressed. In public life he was remarkably candid and unreserved in expression of opinion. There was as little danger of mistaking his views on any subject of public interest, as that his antagonists would not feel the strength of his powerful intellect in enforcing them. He has been aptly styled the great Commoner of the United States. In many respects he was like the great Commoner of England. Like him he was bold and fearless in the advocacy of the measures he espoused. Like the elder Pitt he was not sordid. His worst enemy could not say of him that he enriched himself at the expense of the public. Like him he carried his measures often by his terrible earnestness, often by his withering sarcasm and fiery invective. Like him he rose into great and commanding influence in the nation, and successfully carried out the measures he had so dauntlessly advocated.

But, sir, time does not permit me to extend these remarks. A great man has fallen. This Hall will no longer resound with his eloquence or the nation be thrilled with his patriotic utterances, but in the ages to come, the heart of the patriot and lover of humanity will swell with joy and gratitude, at the mention of the name of THADDEUS STEVENS.

Mr. DONNELLY. Mr. Speaker, as a representative of one of the new Commonwealths of the great West, I would add a few words to the tributes which have already been paid to the memory of Mr. STEVENS. The West owed him much. Although born amid the mountains of Vermont, and representing here an inland district of Pennsylvania, his heart was as broad and liberal as his brain, and embraced in its great scope every portion of the continent. His sympathies were especially active in behalf of those new communities whose destiny has been to subdue the wilderness and spread in constantly widening circles the domain of society and civilization. It is especially fitting, therefore, that the West should add to the wreaths which already adorn his bier.

In every aspect in which we consider him Mr. STEVENS was a great man.

No one who ever knew him could doubt the prodigious force and vigor of his intellect. It seemed to embrace all the diversified subjects of legislation incident to a great country and a high degree of civilization. While there might be here and there a member who, upon some special topic, surpassed him, there was no man in Congress who was so thoroughly conversant with such a multitude of subjects. A singularly retentive memory held ever ready for use the experience and the learning acquired during a long and industrious life. The movements of his mind were as original and peculiar as they were rapid and accurate. His power in debate was unequalled. His replies were such as could not be anticipated. He flashed back upon his opponent from some new standpoint, or with some quaint conceit that astonished while it confused him. His irony was terrible; it was withering; it denuded sophistry to the bones. It left no room for reply. The adroitness acquired during long practice at the bar was everywhere manifested in his conduct of debate. He knew when to strike and when to loosen his hold, and when to yield the non-essentials to save the essential, but he never forsook his purpose.

An intellect of this nature, accompanied by a degree of physical vigor which carried the vivacity of youth and the endurance of manhood far into the domain of old age, would have made Mr. STEVENS a marked man in any position in life and in any age of the world. But behind this intellect there was a character

still more remarkable. Behind this brain-power there lay a will-power which has rarely been equaled among the sons of men; an intensity of purpose which no obstacle could arrest, no defeat daunt, and a determination of character which brightened with every encounter and rose freshened from every overthrow. Nothing could stand in the path of his purpose. That grim face never turned aside to catch the fickle murmurs of popular applause. Public opinion had no terrors for him. It should be written over his tomb that "he never played the demagogue." He never stepped down upon the lower plane of popular error, but at all times and on all occasions he dared to do right, looking heaven in the face and fearing no man. He never flattered the people; he never attempted to deceive them; he never "paltered with them in a double sense;" he never courted and encouraged their errors. On the contrary, on all occasions he attacked their sins, he assailed their prejudices, he outraged all their bigotries; and when they turned upon him and attacked him he marched straight forward, like Gulliver wading through the fleets of the Lilliputians, dragging his enemies after him into the great harbor of truth.

But all his intellect and character were secondary to the principles which underlaid them. These were, indeed, great and noble.

Nature had given Mr. STEVENS a generous heart. He was emphatically the friend of man. He seemed to feel that every wrong inflicted upon the human race was a blow struck at himself. He could not understand that a wrong could have any rights. He denied the power of time to sanctify injustice. The dust of antiquity could not screen from his indignant glance the horrible proportions of cruelty. He seemed to feel that there should be no peace in this world until every wrong was righted, and he believed that the true end of government was to right all the wrongs men suffer. He was the embodied spirit of revolution. In the great French struggle his oratory would have outblazed Mirabeau. He would have exulted in the glorious work of tearing to shreds monarchy and aristocracy, and lifting to their feet the poor, degraded, oppressed peasantry of France.

He would admit no compromise with wrong. It could neither smile nor frown, nor coax nor bully him into submission. Even the dark shadow of assassination could not turn him a hair-breadth from his path. He brought the spirit of John Brown into the work of the statesman. He led the assault against an embattled host of wrongs and errors, and under the providence of God they went down before him and left the field clear almost to the horizon. All honor in the day of peace to the gallant leader whose ringing voice never faltered amid all the surging uncertainties of the terrible struggle.

Against slavery as the mighty embodiment of all human wrongs Mr. STEVENS threw the force of his intellect and character from the very first. He felt with Mr. Lincoln that "if slavery was not wrong nothing was wrong." Its presence under the American flag he regarded as an outrage; it polluted the very air; it cried out with a million tongues to heaven; no fact, no incident connected with it but was a perpetual appeal to the human heart. Mr. STEVENS was from the first an uncompromising abolitionist—not yesterday alone, but thirty, forty, fifty years ago, when slavery was a sacred thing and its opponents were ranked among the criminals of the land.

Such sentiments for a long time excluded him from public life. At length came the great revolution. The blind wrong had dragged down upon itself the pillars of the temple. The curtain rose upon the grandest drama of the world; and the grim, iron-willed old man stepped forward to do his appointed work. His was the most striking figure of all the illustrious group gathered in that great scene. He had no doubts; no scruples; he did not weep over his opportunities; he exulted in

them. He seized ax and brand and set himself to work to burn and hew out the giant wrong of American society, and the rigid lips never relaxed while he thought a single root or branch retained vitality. It was his privilege to live until the work of legislation was completed and the institutions of the country placed on the broad basis which his heart and judgment approved. His dying ears heard only the growlings of the turbid and bloody waves of rebellion as they settled and subsided into peace forever.

Mr. STEVENS regarded his labors in behalf of popular education as the crowning glory of his life. He was right. Here his enlarged philanthropy and his far-reaching statesmanship had fullest scope. The school-houses of Pennsylvania are his noblest monument. Innumerable generations yet unborn will, in that illustrious Commonwealth, preserve his name in perpetual remembrance as their first and greatest benefactor.

A life so complete does not ask our tears. Here is room only for pride and admiration, and gratitude to God that in the hour of our deadly need he raised up such a man to lead our national councils, and to infuse into a wavering nation his own indomitable spirit and his own magnificent love of right and horror of injustice. He passes into history, and the love of a great people gathers around and accompanies and hallows him. It can be justly said of him "he was the friend of man." The world holds no prouder eulogy.

Mr. CAKE. Mr. Speaker, the public man who works for fame rarely achieves it. If he does, he soon finds it a perishing uncertainty. After all, posterity is an inexorable judge, and no matter how the paid eulogist or the partial historian exaggerates what is good or palliates what is bad, Time's ultimate verdict is always discriminating and just.

THADDEUS STEVENS was a fine illustration of this theory. No statesman in any age so often took issue with what is called public opinion, but what might be better styled public prejudice. Emigrating to Pennsylvania more than half a century ago from New England, that normal school of the continent, and settling down among the retrogressive German population on the borders of a slave State, and sharing much of the intolerance of slavery, the very first thing he did was to take up arms for education and freedom. These were the pole stars of all his politics, and in following them he encountered more obstacles than ever beset the pathway of a public man. There is something sublime in his struggle with these obstacles. Undismayed he pursued the bitter path; undaunted he met the organized foe. No expediency, no compromise, no party turned him aside from his grand objective point. His efforts for universal education were crowned with victory earlier than his efforts against slavery.

But he was, if possible, more intense in his hostility to slavery than in his championship of education. Here he was the foremost teacher of the middle States. With a heroism that outlived censure and defied majorities, he maintained the unequal fight through more than a generation. Caring nothing for himself and nothing for party, if he could not mold the latter according to his principles, he aroused the most violent enmities and dared the most formidable combinations. If freedom won he was content; to secure that he was always ready to sacrifice everything else.

And now, Mr. Speaker, as we look back over the past eight years, is there one Republican who will not admit that if we had followed his lead from the first much of the resulting treachery, bloodshed, and death would have been avoided? We have reached the remedy at last; and what is that which gives us safety, which secures the rights of millions yet unborn, but that great remedy of THADDEUS STEVENS: justice, equality, and freedom to all men, irrespective of race, color, or nativity?

Mr. Speaker, our great leader did not work for fame. He did not play the courtier; he did not deal in the currency of compromise; he did not flatter the people; he never was a beggar for their votes. And yet, behold! He is remembered, and honored in his remembrance, by friend and foe. Look at this House to-day. Recall the loud acclaim of sorrow that mourned his death while it conceded his matchless attributes, and tell me, sir, if this is not genuine fame, the fame resulting from a bold, manly, rugged, and unselfish career, unsought, untolled for, yet freely tendered by a proud and grateful country, without distinction of party, sect, or creed?

Mr. Speaker, it is not often that one man can do so much for any people as THADDEUS STEVENS has done. But for him Pennsylvania would have been, perhaps, the last of the old free States to establish a system of education based upon taxation of the whole population. But for his example our seminaries of learning would have been inferior and few. Half a million of young men and women within our borders are this day chiefly indebted to him for the blessings of a sound education. I freely acknowledge my own indebtedness. When he delivered his great speech in the house of representatives of Pennsylvania in 1835 I was seven years old. All my schooling was attained in the institutions established under his policy, and I shall never forget him.

Reared in another political party, I never failed to cherish and honor his name; and when I entered the printing office in my thirteenth year, found myself equipped for a rapid and thorough understanding of the mysteries of that art of all arts. Later in life, when the war dissolved old party prejudices, and when, a democratic journalist, I found that as one of the advocates of Judge Douglas for President the honest logic of my convictions placed me in association with the Republican party, it was a natural progress for me to become one of the followers of THADDEUS STEVENS, and to oppose slavery as I had opposed all the antagonism of the school law.

Coming into this House at the close of the war, in which I did but my duty as a soldier and citizen, I looked up to him as my leader and my friend. I had never met him till I saw him on this floor; but there was no occasion that I did not find him a kind, intelligent, and generous mentor. Once, for reasons that I deemed conclusive to my mind, I voted against an appropriation to one of the colleges in this District. It was very nearly lost, when Mr. STEVENS asked me to change my vote, saying that he would give me his reasons for the request after the bill was disposed of. Upon the announcement of the result he turned to me and said: "Young man, let me implore you in all your after life never to oppose any measure for the education of the people. Follow this advice and you will never regret it."

Mr. Speaker, it is never becoming to cover the dead with unmerited eulogy, and in speaking these honest words of THADDEUS STEVENS I am not trying to make him a perfect character. Like all strong men he had his faults, and he neither denied nor defended them; but in the sterling traits of manhood he was a conspicuous example. The eloquent gentlemen who have preceded me have told you how brave he was in public life, how true to his convictions, how fearless in his support of all measures intended to elevate the people and to develop the resources of the country.

Not to-day, but in the time to come, will THADDEUS STEVENS be fully appreciated. His whole life was devoted to the cause of humanity, and he lived to see the fruition of his hopes in the most complete victory over the enemies of education in Pennsylvania and of freedom throughout our land. Congratulating himself upon his two great victories, he could peacefully fold his arms in the sleep that knows no waking upon earth, secure in the belief that he had accomplished a great work, and that those who profit by his life will revere his

memory forever. The men and women who have been and are yet to be educated in the free schools of Pennsylvania, the bond who have been made free, and to free whom he gave the labor of his best days, are the beneficiaries of his noble life.

That which will stand to his honor as long as his record as a statesman are these proofs of his love for his fellow men. No great benevolence ever appealed to him in vain. No poor man struggling with adversity, no young man who sought his aid in the beginning of his career, no penitent rebel, impoverished by the war, ever asked THADDEUS STEVENS in vain for assistance. What is this but a religious example? How much better, Mr. Speaker, than the hollow profession which contents itself with words, and never ripens into glorious deeds! Leigh Hunt's beautiful allegory has often been applied to others, but it seems to have been written for THADDEUS STEVENS. Bear with me as I read it to you, and tell me if it be not a faithful picture of the great mind which, though the body it animated is dust, still lives to guide and strengthen the children of men:

"About Ben Adhem (may his tribe increase)
Awoke one night from a deep dream of peace,
And saw, within the moonlight in his room,
Making it rich, and like a lily in bloom,
An angel writing in a book of gold,
Exceeding peace had made Ben Adhem bold,
And to the presence in the room he said,
'What writest thou?' The vision raised its head,
And with a look made of all sweet accord,
Answered, 'The names of those who love the Lord.'
'And is mine one?' said Abou. 'Nay, not so,'
Replied the angel. Abou spoke more low,
But cheerily still, and said, 'I pray thee, then,
'Write me as one that loves his fellow-men.'

The angel wrote, and vanished. The next night
It came again with a great wakening light,
And showed the names whose love of God had bless'd,
And, lo! Ben Adhem's name led all the rest."

Mr. WOODWARD. Mr. Speaker, my acquaintance with Mr. STEVENS began in 1835. He was a man of mark from his first appearance in the Legislature of Pennsylvania, and he advanced at once in that body to the front rank of debaters, though the best talents of the State were then in the Legislature.

I well remember the passionate appeals by which he lashed our staid old Commonwealth into a frenzy of prejudice against the Masonic institution for its guilty agency, supposed or actual, in the abduction and murder of Morgan, not long before, in western New York. Mr. STEVENS made himself the great champion of the Anti-Masonic party, and the leader of those who elected Joseph Ritner Governor in 1835. Having accepted the office of canal commissioner from Governor Ritner, and retaining his seat in the Legislature as the representative of Adams county, he carried measures with a high hand for three years. Beyond all question he became the most influential man in Pennsylvania. The star of his fame culminated to its zenith. Doubtless his bold and earnest nature hurried him into many excesses of opinion, but it is creditable to his memory that in that day of his greatest power he was the eloquent advocate of a system of common schools which, though vehemently opposed in its origin, has grown into great favor with the people of Pennsylvania. Governor Ritner, like many of the Germans of our State, regarded the system with distrust, while Governor Wolf, who was Ritner's competitor for gubernatorial honors in 1835, favored its introduction. Mr. STEVENS staked his political fortunes on this measure. Alluding to the contest between Wolf and Ritner, and to its possible turn upon the school question, he exclaimed: "If this is to be a struggle between the powers of light and the powers of darkness, I go for him whose banner streams in light." His significant threat brought the Anti-Masonic party into the support of the school law.

It was during this period that I met Mr. STEVENS in a popular convention held in the court-house at Harrisburg, and which was called the "Integrity of the Union Conven-

tion." Alarmed at the tendency of the measures of New England abolitionists the people of Pennsylvania sent delegates to Harrisburg to strengthen the bands of the Union. Mr. STEVENS ridiculed the convention into nothingness. Affecting excessive solicitude for the "integrity of the Union," he brought his matchless powers of invective and sarcasm to bear against every measure that was proposed, and, with the adoption of some unimportant resolutions, the convention vanished.

I next met him in the "Reform Convention," a body elected in pursuance of law to propose amendments to the constitution of Pennsylvania. At first he took a very active part in the organization and debates of this body, but gradually his interest in its proceedings subsided until he withdrew himself almost wholly from its deliberations. He declined to sign the new constitution because the word "white" had been introduced into the suffrage clause before the word freeman, thus limiting suffrage to white freemen. On no subject were his opinions more firmly fixed than in favor of the social and political equality of the African with the Caucasian. Of this his course in Congress, which is known and read of all men, has afforded abundant illustration.

In the fall of 1838 the great political contest came on between David R. Porter, the Democratic candidate for Governor of Pennsylvania, and Governor Ritner, who was up for reelection on the Anti-Masonic ticket. Mr. STEVENS did his utmost for Ritner. He brought into full play not only all his great resources of eloquence, wit, and sarcasm, but as canal commissioner, having the control of considerable patronage, he also inaugurated a system of colonization for political effect, which politicians have improved upon and practiced more or less ever since. Porter beat Ritner in 1838, and then Mr. STEVENS made the capital mistake of his life in determining to treat the election as if it had not occurred. This brought on the "buckshot war." That disturbance made no strain upon our political institutions. Indeed, it is doubtful if it excited as much attention from the people of the other States as its importance demanded, but abroad it was looked upon as a portentous event. The late Mr. Dallas, our then minister at the Court of St. Petersburg, told me he was annoyed by daily notes from the whole diplomatic circle anxiously inquiring for the news from Harrisburg, while his correspondents at home treated the subject as too insignificant to allude to, and therefore he had no information to communicate. But the buckshot war, if it wrought no great political revolution, took Mr. STEVENS out of political life for many years. He removed to the city of Lancaster and addressed himself with great ability and success to the practice of his profession. It was my privilege to know much of him as a lawyer, and it affords me far more pleasure to contemplate his professional than his political career.

As a Pennsylvania lawyer he had learned to appreciate that greatest luminary of the bench, Hon. John B. Gibson, and at the May term of the supreme court, in 1863, Mr. STEVENS announced the decease of Judge Gibson in brief and exquisite terms. His neat speech, together with the more elaborate eulogy of Chief Justice Black, is printed in the seventh volume of Harris's State Reports, and both productions will well repay the perusal.

As a lawyer Mr. STEVENS was bold, honorable, and candid, clear in statement, brief in argument, and always deferential to the bench. He was not copious in his citation of adjudged cases. I think he relied more upon the reasons than upon the authorities of the law. Indeed, his tastes inclined him rather to the study of polite literature than of the black letter. He loved Pope's Essay on Man more than Siderfin's Reports. Yet he betrayed no defect of preparation at the bar. He always came with a keen discernment of the strong points of his case, and he spoke to them directly, concisely,

and with good effect. His humor was irrepressible and trenchant; sometimes it cut like a Damascus blade. He was a lucky lawyer who would go through an argument with Mr. STEVENS without being laughed at for something. Mr. STEVENS's legal sagacity was exhibited here, in the presence of all of us, when he suggested the eleventh article of impeachment, which came nearer costing the President his official life than all the other articles together.

But, Mr. Speaker, I have said enough to indicate the high regard in which the deceased was held as a lawyer in Pennsylvania. Differing from him, *totò calo*, in politics and religion, I cannot think that the final influence of his great talents upon the public mind was salutary, nor do I think posterity, to whom the arbitrament belongs, will rank him as a benefactor of his race. But, nevertheless, there was much in him to admire. His honesty and directness of purpose, his courage, his scorn and contempt for the low arts of political tricksters; his generosity to the poor, for his hand and his heart were as open as the day to them; his learning, his eloquence, his temperance, his industry, his firm will, his self poise—these were the qualities that constituted his greatness and his excellence; and if his fame outlasts the age in which he lived, it will be because it is built on these foundations. "*De mortuis nil nisi bonum.*" Dr. Johnson thought that for "*bonum*" we should read "*verum*." I approve the criticism, and I esteem it high praise of Mr. STEVENS that it can be said of him he so passed through life that his name can endure the application of the maxim even in its improved reading.

Mr. ROBINSON. Mr. Speaker, among the people of Ireland, whose legends and poetry are frequently fringed with the silver foam of superstition, there is a venerable and ever-to-be-venerated custom, in the observance of which on meeting a funeral you turn with it, and for a time, however brief, become a part of the solemn procession. It matters not who treads the dark pathway to the grave, whether Death's footbeats have knocked at the castle or the cabin, to the rich and the poor, to the lowly and the lordly, is paid this universal homage, by to-day's living and to-morrow's dead.

Athwart my weary footsteps over life's rugged highway this funeral procession to-day occurs. He who in life provoked such enmities and secured such friendships is now beyond the reach of both, but as this pageant passes I uncover my head and mingle my footsteps in its solemnities.

Of his political opinions, his loves and hatreds, his passions and his prejudices, it is not for me here to speak. With many of them I never could, nor is it likely I ever shall, sympathize. My prejudices against him were as strong as his against others, and I must confess that on taking my seat here I should not have regretted had I been able to provoke a controversy with him, however much the odds might have been against me; and upon two or three occasions when he expressed dissent from my views I did not hesitate to intimate that it would not be disagreeable to me to receive his attack and break a lance with him. I had even gone so far as to look into the public records of his adopted State, over which his words and works are voluminously written, to see if I could find a crevice in his armor through which I might more successfully assail him. Had I provoked a controversy with him my temerity might have been made manifest to all, and might have betrayed me into language which to-day and for all time would be a cause of regret to me and mine. On two or three occasions when I addressed this House he came over to this side of the Hall and took a seat in front of mine, sometimes interrupting me with a playful or more serious observation, but seeming to give a pleasant refusal to my rash challenge, and to wish rather to encourage than to wound.

Is it unbecoming in me, therefore, now that his ear is forever closed to censure or to flattery, to say that my search for inconsistency in his public career was in vain; that he above all men seemed at least consistent in his opinions and singularly bold in expressing and defending them:

"To cowards and despots a hatred undying,
For freedom a passion intense and relying,
A pride in the resolute hand;
A hope that could see not a danger to shun
When bonds should be broken and liberty won."

Radically as we differed on measures in defense of which most of his time recently was occupied, there were many subjects on which we had kindred sympathies. For the oppressed people of Ireland, for the vindication of the rights of American citizens, for the speedier extension of citizenship and suffrage to our immigrant population he had strong and pronounced opinions. And to me it is a source of regret that his voice will not be heard nor will his influence be felt in the discussion and settlement of these questions; that in the great contest which I fear is approaching on one of them his clarion voice will not be heard as it would have been had he lived, rallying his followers and partisans to the defense of the Declaration of Independence, which he contended guaranteed to the governed the right of choosing their governors by universal manhood suffrage, as well for recent emigrants from despotisms in Europe as for immediate emigrants from slavery everywhere.

We have all observed the frail and yet tenacious hold which he appeared to have on life. Nature had given him many difficulties to conquer; society had bestowed on him but few of its smiles. His life seemed to me a life of sorrow sufficiently marked to explain, if not to excuse, his apparent bitterness. No kindly voice to whisper comfort in his sorrows; no hand to soften the asperities with which this world's conflicts will harden the downiest pillow; no kindred heart in whose sympathetic throbbings he could read the alphabet of love. He seemed like an eagle, perched alone upon a blasted oak in sullen and defiant majesty, scorning alike the chatter and the scream of other birds around him; his eye sometimes seemingly covered with film as of down from the passing wing of death, but in a moment shooting into pinions on which he proudly soared to the sun.

That proud and defiant spirit, often fierce, sometimes unforgiving, and always bold and honest, has passed away. Is it presumption to hope that beneath all his outward apparent harshness there was an undercurrent of benevolence; that the thunder-cloud which hung upon his rugged brow and from beneath which flashed the lightning of his sunken eye, melted into the rainbow of hope and the light of love, and that the closing scenes of his life, the holy influence, pure prayers, and sacred rites of the pious sisters, to whom both here and at Emmitsburg, in Maryland, he had shown many favors, and who repaid him tenfold in the deep devotion of their unselfish love, as they wafted his departing spirit to the gates of Heaven on their trembling petition, and closed his eyes in death; with the blessing of the venerable octogenarian priest of Lancaster, still living, who loved and honored him through life, cleansed his soul from sin, and that his spirit was admitted to the mansions of the blest?

But, Mr. Speaker, I am apparently forgetting that I turned my footsteps only for a moment with this sad procession, not to deliver any eulogy or to recall his frailties. I rose simply to fling upon his passing bier a flower—would that it were worthier—a daisy or a shamrock, wet with the dew-drop of a sincere and sympathizing tear; and join in the prayer which thousands waft to Heaven to-day that his spirit may rest in eternal peace.

Mr. SYPHER. Mr. Speaker, the character of Mr. STEVENS in his relations as a fellow-townsmen has been most ably and appropri-

ately commented on by the gentleman from Pennsylvania who succeeds him in this House. His distinguished services in the State of his adoption, both in the cause of common schools and the construction of public works, may with just propriety be cited as among the most honorable achievements of his life. I pass over the period given to fostering and building up the institutions of the great Commonwealth which he so highly honored and come immediately to lay upon the grave of this great champion of freedom the grateful thanks of an emancipated race, of a disenthralled people, and of States regenerated. It is not unnatural that the loyal constituency of myself and colleagues on this floor from the South should have regarded Mr. STEVENS as the foremost as well as the most earnest and trustworthy defender of their rights. These people have ever been in the peculiar situation of living within the lines of the enemy, and, therefore, during all their days of hope and nights of despair, looking northward for deliverance, the stalwart form of him who always led the advance guard, and who never retired behind the picket line, was ever most prominently in view.

THADDEUS STEVENS was born a leader. Men, policies, and parties were not allowed to stand in his way. His life was devoted to the cause of humanity, and whatever race or individual wrongfully oppressed strove to rise above the oppressor, found in him a true and faithful friend and able advocate.

Thirty years' active participation in the anti-slavery movement in this country and a thorough analysis of the character of the slaveholder had fully prepared him to enter into an armed struggle against treason and traitors. He had no sympathy with peace conferences, compromises, and resolutions of pacification. In the autumn of 1860 he wrote to a young man then in Memphis, Tennessee, "The only way to end this rebellion is to conquer the rebels." From the first hour when secession was proclaimed in South Carolina and the property of the nation was seized by southern rebels his voice was for war. In State and in national council, in his place on the floor of this House, in private conferences with the President and the Cabinet, he advocated a vigorous prosecution of the war on war principles. His propositions were so bold that timid men were startled and stood fixed in amazement. Before the sound of the first gun fired in the cause of treason and rebellion had reached the northern border of the Republic he declared that freedom should be proclaimed to every slave in the land, and the loyal men of the South, both white and black, should be invited to enroll themselves in defense of the Union. He maintained that public safety demanded nothing less. The brave old man would have called a million of men into service and would have marched amid the clash of steel and the roar of artillery from the Potomac to the Gulf.

Thus he would have swept treason before him, and behind him he would have left an unquestionable guarantee of perfect equality of rights before the law. In the spring of 1862 he declared upon this floor in favor of immediate emancipation. President Lincoln plainly and emphatically expressed his disapprobation of this measure, and avowed that the Administration was not in sympathy with that movement. Late in the summer, after the nation had been disciplined by the failure of the peninsular campaign, President Lincoln turned to the speech in which this great and wise measure was advocated. He sent for Mr. STEVENS, apologized for the opposition made to him, and declared himself in favor of emancipation. These two great men of the nation were agreed as to the fact, but differed as to time. STEVENS favored immediate emancipation; Lincoln thought best to give the rebels due notice that they would lose their slaves if they did not lay down their arms. Fortunately, thrice fortunate for the nation and especially for my constituents, the God of

nations hardened the hearts of the enemy and they did not cease to make war, and therefore, at the expiration of one hundred days, came the proclamation of freedom that STEVENS would have issued three hundred days before.

Following the emancipation came the struggle on the question of arming the colored men of the South who had just obtained the right of self-ownership. STEVENS again boldly advanced to the picket-line and lashed his tardy compeers up to the duty of self-preservation. When the last terrible blow had crushed armed rebellion, the work of the soldier ended, and that of the statesman began, then the doctrine of universal amnesty was promulgated from the highest places in the nation; it was preached from the pulpit; it was recommended in Cabinet; it was advocated in the most powerful journals in the land. In the mighty struggle that followed, wherein all that had been won by force of arms was about to be sacrificed by the sophistry of diplomacy, STEVENS was again the bulwark of the nation, almost the sole defender of the rights of the loyal millions of the southern States. But for his services in the work of reconstruction a whole race of people, upon whom the first rays of the light of freedom had just dawned, would have been surrendered unconditionally into the hands of the enemy.

Step by step he fought his way up, dragging the nation after him, until he attained, by the aid of many able and brave associates in Congress, the organization and establishment of governments in the rebellious States upon the basis of a loyal citizenship and perfect equality of rights. In this final labor of his life, when victory dawned upon the nation, the heroic old man died at his post beckoning the people forward to higher and nobler achievements. Never will the services of this great man be duly appreciated by those in the defense of whose rights he so manfully struggled. His name, with that of Lincoln, will ever be remembered with the warmest emotions of gratitude by this and succeeding generations of the emancipated people of America, when others now esteemed great shall have been forgotten. He needs no statue of bronze, no pillar of marble with carved inscriptions to tell posterity his fame. The labors and achievements of his life have rendered him immortal. In the name of the loyal South, whose fertile fields have been opened to free and skilled labor; in the name of toiling millions seeking homesteads; in the name of States now no longer cursed by slavery; in the name of a people struggling from abject slavery up to perfect freedom; in the name of a race once declared possessed of no rights which white men were bound to respect, but now clothed with the full rights of citizenship which the whole power of the nation is pledged to defend, I thank God that THADDEUS STEVENS lived and labored and triumphed.

Mr. WHITTEMORE. I cannot expect, nor do I endeavor, to excel the words so "fitly spoken," eulogistic of the life, character, influence, and worth of "the great commoner," whose name has dwelt so often upon the lips of the whole people, whose words and works have become a part of the history of our national greatness, whose good and generous heart beat in sympathy for all humanity, whose every effort was inspired for the elevation, improvement, and prosperity of the race; but I can express somewhat the grief which the people of my State, in common with our whole country, have felt in the loss of him who was the friend of all men, who loved his neighbor as himself, who was an invincible pioneer in all the noble measures which have become the security of our hopes and the ark of safety of our national unity. The emancipated, the enfranchised, the reconstructed, the restored States, the millions redeemed from the house of bondage, once chattels, now freemen, with their title-deeds of citizenship guaranteed, who owe so much to his untiring efforts in their

behalf, his uncompromising fidelity to the right, felt in his loss that a peer of Abraham Lincoln had fallen; and in their memories will ever live sacred associations clustering around the counsels he has given, the hope and courage he has inspired, the glorious fruition of his life-long wish and labor. In the homes of the lowly, in the hearts of the emancipated, he has been enshrined.

When the sad news of the death of THADDEUS STEVENS reached my State the General Assembly of South Carolina passed appropriate resolutions and draped her legislative halls in the semblances of mourning. Throughout the Commonwealth expressions of sorrow upon countenance and lip were the true exponents of the solemn bereavement that had been visited upon the nation. South Carolina, with her sisters, restored to her place in the councils of the Republic by his persistent endeavor and patriotic labor, weeps for the mighty dead, thanking the Giver of all good for the examples of his life, the sterling honesty of his nature, and unflinching devotion to right, justice, and truth.

I saw him, when he was yet among us at the close of the session in July, weak in body, true to the last, at his post, yet powerful in mind. Upon informing him of the results which had been accomplished in South Carolina through the policies he had so unceasingly advocated and triumphantly secured he said to me, "Go on, sir; never fear to do right." I shall ever remember his, to me, last words. His voice will ever be heard inspiring me in the future of my life toil, my private and public responsibilities.

Let the exhortation of the nations, "well done, good and faithful servant," influence us in all the legislation before us which he may have left unfinished, to be true to our God, our country, ourselves, and our fellow-men.

Mr. COVODE. I cannot hope to add anything to the mournful interest of this occasion, or to contribute to a true appreciation of the character, services, and merits of Mr. STEVENS; but my intimacy with him was so close and long continued, my admiration for him so sincere and thorough, and my sorrow at his death so deep, that I feel constrained to offer a humble tribute to his memory.

The beginning of his public career antedates most of the men now active in the politics of Pennsylvania, and his career was stormy, eventful, and remarkable, for it covered more than forty years of ceaseless activity. Few men have ever aroused so intense feeling; his friends were drawn to him by an irresistible fascination, and were bound to him by the indissoluble tie of admiration and love. His enemies were ever repelled by the undaunted, almost haughty manner in which he met their advances. By nature a thorough, logical, and consistent radical, he cordially spurned every species of compromise, and he utterly condemned that truckling policy which so generally bartered solid principle for temporary advantage. He despised every form of time-serving, and was absolutely scornful in his contempt for tricksters. His path was ever straight to the goal of his ambition over every obstacle and hindrance. He never deviated in his faith or his purpose, save when a modification of means might hasten and insure the accomplishment of his purpose. He was loftily and heroically devoted to the ideas which possessed him, grandly true to the great thoughts which filled and animated his noble soul. He was a sincere lover of mankind, a keen sympathiser with poverty, an honest hater of injustice, a friend of the downtrodden, and faithful fighter for the rights of all men to freedom, protection, and security. This was the key-note of his public career, and the path he trod is illustrated all along with proofs of his fidelity to those principles which were early implanted and which quickly ripened into animating motives.

In his private relations he was eminently

large-hearted. He was a truthful man, an honorable man, a thoroughly manly man. His charity was as extensive as his knowledge of suffering, and was princely in its liberality. He was in his personal relations kindly, affectionate, tender, and winning. No man excelled him in the brilliancy of his conversation, none left his presence unimpressed by his ever-active sympathies. The devotion to his mother of this lion-hearted man was at once a proof and an illustration of his capacity for the deepest and tenderest feeling. Absorbed most of his life in the keen pursuits of politics, some hardening of the nature might naturally have been expected, for none but those who knew him in closest intimacy knew how his weary heart yearned for loving objects to rest upon.

But he has gone. Whatever we may have felt in life we all now realize how large a space he filled, how sagacious and true he was, how nobly and unselfishly devoted to his country, how sedulously careful he was to guard it from prospective dangers, and how comprehensively he realized what measures were necessary to give the country security for the future. Let us go forward in the policy he traced, fortify the buttresses of the nation, and let the Republic, thoroughly reconstructed upon the principles of the Declaration of Independence, and thereby dedicated to immortal life, be worthily his ever enduring monument.

The resolutions were unanimously adopted; and thereupon (at four o'clock p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. ALLISON: The petition of wholesale tobacco dealers of Dubuque, State of Iowa, relative to the tax on tobacco.

Also, the petition of citizens of McGregor, State of Iowa, relative to the tax on tobacco.

Also, the petition of citizens of Lansing, State of Iowa, relative to the tax on tobacco.

Also, the petition of citizens of Decorah, State of Iowa, relative to the tax on tobacco.

By Mr. DAWES: The petition of R. Hathaway and 147 others, employes in the Springfield armory, praying that their compensation may not be diminished under the eight-hour law.

Also, the petition of William H. Pinney and others, citizens of Springfield, Massachusetts, in aid of the petition of R. Hathaway and others.

By Mr. ELIOT: The petition of William H. Haskell and Thomas Cole Anderson, of Louisiana, praying for relief from political disabilities.

By Mr. GARFIELD: The petition of William Hart and W. J. Redstrake, in relation to the management of Howard University, in the District of Columbia.

By Mr. JULIAN: The petition of numerous citizens of Starke county, Indiana, praying the establishment of a mail route between the towns of Rushville, Indiana, and Milroy, in the same county.

By Mr. KELLEY: Two petitions from citizens of Greencastle, Pennsylvania, asking Congress to propose an amendment to the Constitution that will secure to all the citizens of the several States equal political rights, privileges, and immunities.

By Mr. MYERS: The memorial of the Universal Peace Union on behalf of the Indians.

By Mr. SCHENCK: The petition of Joseph Fadler, for an invalid pension.

By Mr. VAN HORN, of New York: The petition of Hon. Augustus Frank and 81 others, of Warsaw, New York, asking a revision of the naturalization laws in order to prevent frauds in election.

By Mr. WELKER: The petition of La Fayette Ward, asking compensation for "Ward's mail catcher," now used by the United States Post Office Department, and the patent therefor.

IN SENATE.

FRIDAY, December 18, 1868.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. GRIMES, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented resolutions adopted at a meeting of the Detroit Manufacturers' Association, in favor of so amending the national banking act as to make it a free banking law, and extending the privileges of the system to meet the requirements of the country and a reduction of the interest on the national debt; which were referred to the Committee on Finance.

Mr. HOWE presented a petition of citizens of the United States, praying for a repeal of so much of sections seventy-eight and ninety-four of the act entitled "An act imposing taxes on distilled spirits and tobacco, and for other purposes," as relates to the tax on tobacco manufactured after the passage of the act, and that the Department furnish stamps, free of charge, for all tobacco, snuff, and cigars manufactured previous or subsequent to the passage of the law; which was referred to the Committee on Finance.

He also presented the memorial of the Mercantile Mutual Insurance Company of New York, asking for the use of certain legal-tender notes instead of others destroyed in the United States mails; which was referred to the Committee on Claims.

Mr. STEWART. I present the memorial of Charles Weile, setting forth certain outrages committed upon him by the citizens of Tumbes, in Peru, while he was acting as United States consul there, and asking that they may be investigated. This appears to be a very hard case. The people of that city treated him very roughly. I do not know what action can be taken on the subject, but I will ask the Committee on Foreign Relations to examine the question, and if need be refer it to the State Department. There ought to be something done about it. We have a large number of our whalers that go there. This gentleman is from my State. He is a very worthy man, a man who was trying to do his duty as consul at this place. There is a state of anarchy there, and they mobbed him, and treated him very roughly. It ought to be regulated in some way. There ought to be some redress. I move that the memorial be referred to the Committee on Foreign Relations.

The motion was agreed to.

Mr. HARLAN presented the petition of M. E. Black and others, of Iowa, praying for the establishment of a daily mail route from Casey, on the Chicago, Rock Island, and Pacific railroad, to Fontanelle, Iowa county, and thence to Queen City, Iowa; which was referred to the Committee on Post Offices and Post Roads.

Mr. WILSON presented a petition of late soldiers of the volunteer army, praying for a repeal of a part of section seven of an act to establish a national asylum for disabled soldiers which gives the managers of the asylum the power to stop the pensions of certain inmates for the benefit of the asylum; which was referred to the Committee on Pensions.

He also presented the petition of Simeon Putnam, of Chelsea, Massachusetts, praying that the Constitution be so amended as to have the President and Vice President elected by a direct vote of the people; which was referred to the Committee on the Judiciary.

Mr. MORTON presented a memorial of certain Miami Indians, of the State of Indiana, in relation to the payment of annuities to the Miami Indians of Indiana; which was referred to the Committee on Indian Affairs.

He also presented a memorial of the Indiana yearly meeting of Friends, praying for the confirmation of a certain piece of land granted to them by the Shawnee Indians for school purposes; which was referred to the Committee on Indian Affairs.

Mr. ABBOTT presented a petition of citi-

zens of North Carolina, praying that provision be made for the payment of claims of loyal citizens; which was referred to the Committee on the Judiciary.

Mr. HENDRICKS presented the petition of A. W. Smith, of Virginia, praying for the removal of the political disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

Mr. WILLEY presented the petition of William H. Ragan, of Montgomery county, Virginia, praying for a removal of the political disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

He also presented the petition of James M. Wade, of Montgomery county, Virginia, praying for a removal of the political disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

Mr. NYE presented the petition of Charles Weile, praying for compensation for services rendered as consul at Tumbes, Peru; which was referred to the Committee on Finance.

Mr. VICKERS presented the petition of Mrs. Philip Johnson, praying for the passage of a law to compel landlords to comply with their leases; which was referred to the Committee on the Judiciary.

Mr. PATTERSON, of Tennessee, presented additional papers relating to the claim of Paulina Jones, for a pension; which was referred to the Committee on Pensions.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. CRAGIN, it was

Ordered, That the papers of McKean Buchanan, a purser in the Navy, be withdrawn from the files of the Senate and referred to the Committee on Naval Affairs.

ORDER OF BUSINESS.

Mr. CHANDLER. If there are no further memorials I move that the Senate proceed to the consideration of House bill No. 1460.

Mr. SHERMAN. I hope the Senator from Michigan will allow me to submit a motion for a short executive session, which it is necessary to have before the anticipated message is received from the House of Representatives. The message may come in at any moment, and therefore I trust he will give way for a short executive session.

The PRESIDENT *pro tempore*. The Senator from Michigan moves to proceed to the consideration of the bill indicated by him. The motion can only be entertained by unanimous consent during the reception of the morning business.

Mr. TRUMBULL. I should like to make some reports first.

The PRESIDENT *pro tempore*. If it is objected to the motion cannot be entertained until the morning business is disposed of. Reports of committees are in order.

REPORTS OF COMMITTEES.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom were referred the following resolutions and petition, asked to be discharged from their further consideration, and that they be indefinitely postponed; which was agreed to:

Resolutions by Mr. SUMNER, declaring certain further guarantees required in the reconstruction of the rebel States;

A joint resolution (S. R. No. 183) to extend the provisions of the act of July 4, 1864, limiting the jurisdiction of the Court of Claims to the loyal citizens of the States of Louisiana and Arkansas; and

A petition of S. C. Mayberry, praying for the passage of a law providing for the election of President and Vice President of the United States by ballot.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom was referred the bill (S. No. 657) to abolish the franking privilege, reported it without amendment.

He also, from the same committee, to whom was referred the joint resolution (S. R. No. 186) declaratory and amendatory of the act

entitled "An act to provide for an American line of mail and emigrant passenger steamships between New York and one or more European ports," passed July 27, 1868, reported it with amendments.

Mr. FERRY, from the Committee on Patents, to whom was referred the bill (S. No. 704) to extend the letters-patent originally granted to John Young, reported it without amendment.

BILLS INTRODUCED.

Mr. MORTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 706) in relation to a site for an Executive Mansion; which was read twice by its title.

Mr. MORTON. I wish to state that I present this bill by request, and do not know myself anything in regard to the merits of the proposition. I move its reference to the Committee on Public Buildings and Grounds, and that it be printed.

The motion was agreed to.

Mr. HOWE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 707) granting lands to the State of Wisconsin to aid in the construction of a breakwater and harbor and ship-canal at the head of Sturgeon bay, in the county of Door, in said State, to connect the waters of Green bay and Lake Michigan, in said State; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. EDMUNDS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 708) to repeal so much of the act passed June 25, 1868, as provides for the admission of the State of Georgia to representation in Congress, and to provide for a provisional government therein, and for other purposes; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 709) to provide for the better administration of justice in the Territories of the United States; which was read twice by its title, referred to the Committee on Territories, and ordered to be printed.

Mr. ABBOTT asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 710) to provide for the payment of claims to loyal citizens of the States lately in rebellion; which was read twice by its title, referred to the Committee on Claims, and ordered to be printed.

BILL RECOMMENDED.

Mr. SAWYER. I ask the unanimous consent of the Senate to call up the bill (H. R. No. 907) to provide for the sale of certain lands and lots on the sea islands of Beaufort district, South Carolina, and for other purposes, which was reported from the Committee on Public Lands, with an amendment, on the 20th of July last, for the purpose of moving a recommitment of it to the committee.

The motion to take up the bill was agreed to.

Mr. SAWYER. Now I move that the bill be recommitted to the Committee on Public Lands.

The motion was agreed to.

EXECUTIVE SESSION.

Mr. SHERMAN. It is necessary to have a short executive session before the message which is expected is received from the House of Representatives. That motion is always in order. I therefore move that the Senate proceed to the consideration of executive business. It will take but a few moments.

Mr. HARLAN. Before that motion is put I desire to inquire whether that will cut off the morning business?

Mr. SHERMAN. Not at all. It is always in order during the morning hour.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Ohio.

The motion was agreed to; and after some time spent in executive session, the doors were reopened.

DUTIES ON IMPORTED COPPER.

Mr. CHANDLER. I now move that the Senate proceed to the consideration of House bill (H. R. No. 1460) regulating the duties on imported copper and copper ores.

Mr. FERRY. I hope the Senator will not insist upon that bill being taken up at the present time. One of the Senators from Maryland, not now in his seat, [Mr. WAYTE,] I am informed is interested in the bill on behalf of a very heavy interest in his immediate constituency, which is seriously affected by the operations of the bill. I desire myself, whenever the bill shall be under consideration in the Senate, to present some statistics and facts, which I have been unable as yet to collect fully, in opposition to the bill. The bill, I would state for the information of such Senators as are not aware of its history, was reported to the House of Representatives on the first day of this session, and immediately, without any explanation, under the operation of the previous question passed the House. It did not at that time attract my attention, until it came into the Senate. It was referred to the Finance Committee, and has been by them, within two or three days last past, reported to the Senate. It is a bill affecting very large and varied interests, not only manufacturing, but commercial, and affecting them, in the belief of those engaged in them, most disastrously. I do not wish to say anything now in regard to the details of the bill; but having these considerations to suggest, and statistics which I am now engaged in collecting to present to the Senate, I hope it will not be pressed upon our consideration at the present time.

Mr. CHANDLER. This bill was reported and was before the House of Representatives and thoroughly discussed at the last session of Congress. They were calling the yeas and nays upon it when the House adjourned. When the hammer fell they had proceeded half way through the roll-call. It is the same bill, *verbatim*, that was thoroughly discussed here two winters ago and passed by this body. It has received, perhaps, more consideration than any other bill before either House of Congress. It passed the House of Representatives by a vote of more than two to one. It is a matter of vital importance to a very large class of people, not only in the State of Michigan, but in other States. The copper interests of the Lake Superior region are almost ruined. They have been running at a loss for the last two years hoping that this identical bill would pass. As I said before, the Senate did act upon it two years ago after thorough discussion and passed it precisely, *verbatim*, as it is in this bill. It was thoroughly discussed in the other House during the last session, and after a full discussion it passed that House by a vote of two to one. I hope the Senate will proceed to its consideration.

Mr. SUMNER. I shall not say anything against the bill which the Senator has in charge, but I must ask that its consideration shall not be proceeded with to-day. I have some amendments to propose to it. I had them here yesterday, ready, if the bill were proceeded with then, to present them. I carried them home with me last night, not expecting that this bill could be proceeded with to-day. I understood that this day was set apart to another object. I am not, therefore, prepared to proceed with the consideration of this bill.

Mr. SHERMAN. I think it is perhaps due to the Senate that I should state the circumstances connected with this bill. I feel bound to do it, as I reported the bill. The bill came to the Committee on Finance, and we are in favor of it. I believe it fixes the same rates that were imposed by the tariff bill two years ago. The chief objection of the committee, however, to the bill was, not as to the rates—they are the same that have been passed two or three times by the Senate—but as to detaching this interest from other interests and passing it as a separate bill; and the committee at one time concluded that it was not advisable at present to report the bill, but after-

ward changed their decision. I make this remark simply for the reason that after the first action of the committee I informed the parties who took an interest in the bill that the bill would probably not be reported until after the holidays. The committee, however, thought afterward that it was better to report the bill; but now I am not disposed to vote to crowd it upon the Senate until after the holidays, so as to give parties who have interests against it an opportunity to examine it and oppose it if they choose. I am in favor of the bill, and shall vote for its passage. I think the rates proposed are not too high. They are about twenty per cent. on the gold value of the copper—the same rates that were agreed upon in the revision of the tariff two years ago. I think myself the Senator from Michigan had better not press the bill now, because I know there are various motions in the form of amendments that will be offered that will lead to more or less debate here, and but a few moments will elapse before we shall be called to another duty.

Mr. CHANDLER. I am exceedingly anxious to pass this bill before we adjourn for the holidays; but as the Senator from Massachusetts says he has amendments prepared which he desires to offer of course I shall not press it now.

Mr. SUMNER. My amendments will not interfere with the bill at all.

Mr. CHANDLER. I therefore give notice that I shall call it up to-morrow morning and try to have a vote upon it. It is really a matter of too much importance to the State which I have the honor in part to represent and to other States to let it go by. I will state that the mining arrangements are usually made before or on the 1st of January, and it is very important for those interests that they should know what is to be their fate on or before that day, and I shall ask the Senate to-morrow to proceed with the bill to a final vote.

The PRESIDENT *pro tempore*. Does the Senator withdraw his motion to take it up?

Mr. CHANDLER. Yes, sir, I withdraw it; but I give notice that I shall renew it to-morrow morning.

RECENT INDIAN BATTLE.

Mr. HARLAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior be requested to send to the Senate any information in the possession of the Department in relation to the hostile or peaceful character of the Indians recently killed or captured by the United States troops under the command of Colonel George A. Custar; and to inform the Senate whether said Indians were at the time of said conflict residing on the reservation assigned them under treaty stipulations; and if so, whether they had taken up said residence in pursuance of instructions emanating from the Department of the Interior.

PAYMENT OF PUBLIC DEBT IN COIN.

Mr. DAVIS. I wish to call up joint resolution No. 66, merely for the purpose of submitting an amendment to it. For that purpose I move that the Senate proceed to the consideration of the joint resolution (S. R. No. 66) pledging the faith of the United States to the payment of the public debt in coin or its equivalent.

The motion was agreed to.

Mr. DAVIS. I now offer my amendment, and I ask to have it read and printed.

The amendment was read. It proposes to strike out the preamble, and all of the resolution after the word "that," in the third line, and to insert:

The equitable and true liability of the United States upon their bonds is the value in gold and silver coin of what was received upon the sale of those bonds; and the amount of that value, with a fair rate of interest upon it, ought to be paid to the bondholders in coin; that the expenses and disbursements of the Government should be reduced to this scale: for the civil service, \$40,000,000; pensions and Indians, \$30,000,000; the War Department, \$25,000,000; Navy Department, \$20,000,000; miscellaneous and contingencies, \$10,000,000; and interest upon the public debt, \$50,000,000; that the existing aggregate amount of taxes upon the people should be reduced \$100,000,000 annually; and that a reasonably early day should be fixed for the resumption of specie payments.

The amendment was ordered to be printed.

Mr. DAVIS. I now move that the joint resolution lie on the table for the present.

The motion was agreed to.

BILLS INTRODUCED.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 712) to provide for the appointment of recorder of deeds and warden of the jail in the District of Columbia, and for other purposes; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

METROPOLITAN RAILROAD COMPANY.

Mr. HARLAN asked; and by unanimous consent obtained, leave to introduce a bill (S. No. 711) relating to the Metropolitan Railroad Company.

Mr. HARLAN. I ask for the present consideration of the bill.

By unanimous consent, the bill was read three times and passed. It proposes to allow the Metropolitan Railroad Company, in the District of Columbia, five years from and after the passage of the act for the completion of its lines of street railways authorized by the acts of July 1, 1864, and March 3, 1865.

POLITICAL DISABILITIES IN ALABAMA.

Mr. SPENCER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Whereas the bill removing the political disabilities of certain citizens of Alabama therein named was passed by the Congress of the United States before the amendment to the fourteenth article of the Constitution was ratified by the Legislatures of three fourths of the States, including both rebel and loyal: Therefore,

Be it resolved, That the Judiciary Committee be requested to inquire and report to the Senate, at its earliest convenience, whether said bill removed the political disabilities of said persons which were imposed upon them by the said amendment to the fourteenth article of the Constitution, or those political disabilities which were imposed upon them by the reconstruction acts.

STATIONERY PAGE.

Mr. RAMSEY submitted the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the page in the stationery-room of the Senate receive the same compensation per diem as the pages on the floor of the Senate, to date from January 1, 1863.

SYMPATHY TO SPAIN.

Mr. SUMNER. I move that the Senate proceed to the consideration of the resolution relating to Spain, which was under consideration yesterday.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. R. No. 178) tendering sympathy and best wishes to the people of Spain, the pending question being on the amendment reported by the Committee on Foreign Relations as amended.

The amendment, as amended, was agreed to.

The joint resolution was reported to the Senate, as amended, and the amendment was concurred in.

Mr. TRUMBULL. I ask that the resolution be read as it now stands amended.

The Chief Clerk read the resolution, as amended, as follows:

That the people of the United States, sympathizing with the people of Spain in their effort to establish a more liberal form of government, express the confident hope that it will be conducted to the end in such way as to promote the triumph of liberal institutions; and they earnestly appeal to the people of Spain not to allow the present opportunity to pass without securing the immediate emancipation of slaves and the final abolition of slavery throughout the Spanish dominions.

Sec. 2. And be it further resolved, That the President of the United States is charged with the duty of communicating this resolution to the Government of Spain.

Mr. DAVIS. I shall vote against the resolution in the form in which it has been read. I have contemplated with a great deal of interest the movement lately inaugurated in Spain in behalf of liberal institutions against a monarchical form of government. I think the movement has been characterized by singular

moderation, judgment, and patriotism; but I have no idea that we should recommend to the people of Spain, or any other people whatever, what should be their particular institutions and what should be their internal policy upon any subject. The people of every country, if they have virtue and intelligence enough to form liberal and popular institutions, are the best judges of the particular form of government they should adopt, and of the internal policy which should accompany that government. It is a piece of officious interference on the part of the Congress of the United States to offer to volunteer its advice in relation to those matters. It is time enough for us to offer our wise counsels to Spain in relation to some particular subjects embraced in the resolution when we are asked for that advice. But, sir, there is no greater breach of friendship than for one man or one nation to be volunteering officiously and impertinently with advice in relation to the concerns of other men and other nations.

I hope it is the purpose of the people of Spain to establish a republican form of government and popular government. I should be gratified myself if the people of Spain would take it into their heads to emancipate their slaves. But in relation to these particular matters it seems to me that the people of Spain are the best and the exclusive judges of what befits best their own interests and condition, and that it is officiousness upon the part of the Congress of the United States of America to offer its counsels to them. I shall therefore vote against the resolution in its present form.

The joint resolution was ordered to be engrossed for a third reading; and was read the third time.

Mr. SAULSBURY. I ask for the yeas and nays on the passage of the resolution.

The yeas and nays were ordered.

Mr. SAULSBURY. Mr. President, there is a piece of good advice given somewhere—I have seen it in the course of my reading—to this effect: "Physician, heal thyself." If such a communication should be sent back to the American Government by Spain in response to this resolution, I think it would be as apt and as just as one as could under any circumstances be sent. We have a vast territory now, twice as large as Spain, where our love of liberty and just and wise institutions is being daily illustrated, and I hope it is not meant to commend the example which we have set in that section of country for the imitation of the Spanish Government. But as I see, there is a communication from the House of Representatives awaiting delivery, I will not say anything further now.

The PRESIDENT *pro tempore*. The question is on the passage of the joint resolution, and upon that question the yeas and nays have been ordered.

The question, being taken by yeas and nays, resulted—yeas 41, nays 5; as follows:

YEAS—Messrs. Abbott, Cameron, Cattell, Chandler, Cole, Corbett, Dixon, Drake, Ferry, Fessenden, Frelinghuysen, Grimes, Harlan, Henderson, Howard, Howe, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Osborn, Patterson of New Hampshire, Patterson of Tennessee, Pool, Ramsey, Rice, Robertson, Ross, Sawyer, Sherman, Spenger, Sprague, Stewart, Sumner, Thayer, Trumbull, Van Winkle, Wade, Warner, Williams, and Wilson—41.

NAYS—Messrs. Davis, McCreery, Saulsbury, Vickers, and Whyte—5.

ABSENT—Messrs. Anthony, Bayard, Buckalew, Conkling, Connors, Cragin, Doolittle, Edmunds, Fowler, Harris, Hendricks, Kellogg, McDonald, Morton, Norton, Pomeroy, Tipton, Welch, Willey, and Yates—20.

So the joint resolution was passed. The title was amended by striking out the words "and best wishes," so as to read, "A joint resolution tendering sympathy to the people of Spain."

DEATH OF HON. THADDEUS STEVENS.

Mr. McPHERSON, Clerk of the House of Representatives, appeared below the bar and announced that he was directed to communicate to the Senate the resolutions adopted by the House of Representatives on the announcement of the death of Hon. THADDEUS STEVENS,

late a member of the House from the State of Pennsylvania.

The resolutions of the House of Representatives were read.

Mr. CAMERON. Mr. President, it is my sad duty to announce to the Senate the death of that eminent statesman, THADDEUS STEVENS, a member of the House of Representatives from Pennsylvania. This great man died at midnight on the 11th of August last, at his residence in this city, during the recess of Congress.

THADDEUS STEVENS was born on the 4th of April, 1792, at Danville, in Vermont, where he received his primary education. He afterward went to Burlington and Dartmouth, where he completed that portion of his education which the schools can confer. After leaving college he followed the American instinct to move westward; and so came to Pennsylvania, residing first at York, afterward removing to Gettysburg, and finally settling at Lancaster. His adopted State received him in a different spirit from that with which many States now receive men of talent, energy, and ability; and the veneration in which his public character is held in Pennsylvania is a fitting rebuke to the stupid bigotry which repels such material.

Shortly after his arrival in York, Mr. STEVENS, at the age of twenty-two, began the study of the law, teaching a school in the mean time to maintain himself while prosecuting his studies. Born and reared in the free mountains of Vermont, where slavery was a tradition merely, and coming to the Maryland border, where its effects could be seen in the fence-corners, it was natural for a man of THADDEUS STEVENS's sturdy and combative nature to detest that institution. It was impossible that he could uphold or quietly tolerate so unjust a system. He became an anti-slavery man, of course; and it is questionable if so uncompromising a foe to slavery or an abler one ever lived in America. He was a powerful defender and a terrible opponent; and it may be justly said of him that he was more successful in sustaining than in originating measures, more powerful to overthrow than to build up institutions.

After his admission to the bar he rose steadily until he reached a leading place in his profession; and he maintained this conspicuous position until he ceased the active practice of the law. His intellectual grandeur always commanded admiration. He was always thorough. His conduct of a case in the petty sessions was not unlike his management of a great debate on questions affecting the deepest interests of mankind. Without wasting his own force or wearing out the patience of his auditory, he went directly to the core of the subject in hand. Never dissipating his thought over a great variety of points, he fastened upon those most important and essential, and pressed these home with resistless vigor, logic, eloquence, and wit; and from the time of his entry into public life no man assailed him without danger or conquered him without scars. He retained his mental vigor to the last, and with his eye undimmed by age he has passed from the scenes of a busy and a useful life full of years and of honors.

In 1833 Mr. STEVENS was elected to the Legislature of Pennsylvania, and at once took a prominent part in the deliberations of that body. His most signal service was the defense of our common-school system from the attacks of its enemies. A system of public education had been provided for in Penn's frame of government for the province, by the provisional government framed after the Declaration of Independence, and by the constitution of 1790. By virtue of this authority the provincial council organized a school in Philadelphia on October 26, 1683, the date of Penn's charter being April 25, 1682. Other schools were instituted as they became necessary. In 1752 an effort was made to provide for a comprehensive system of public instruction; but the colonial wars first and the Revolution afterward frustrated this wise design. But public opinion was never

wholly diverted from this scheme. All the Governors of our State under the constitution, I think, pressed the importance of this great measure of the Legislature, and none with greater force and pertinacity than Governors Snyder, Shultz, and Wolf, three representatives of that good and too often neglected German element in the population of Pennsylvania.

Until the year 1834 our public schools suffered from a radical defect. They only provided for the education of the poor gratis. The advancing intelligence of the age demanded a more enlightened policy. A committee of the two Houses of our Legislature, containing, among others, Dr. Samuel Breck, James Thompson, and Wilmer Worthington, of West Chester, framed the law of 1834, the foundation of our admirable school system. The first-named of these gentlemen has passed away, but his then youthful colleagues still live to enjoy the lasting honors in which their fellow-citizens hold their services in the cause of education. Hon. James Thompson now adorns our supreme bench, and Hon. Wilmer Worthington is the speaker of the senate of Pennsylvania.

The change from the "pauper" system—as it was called—to one of general education impressed many with a belief that the additional burdens of taxation consequent on such a change would prove too onerous, and a furious opposition to the law of 1834 arose in some parts of the State. In 1835 this feeling had gained such strength that there was danger that the law would be repealed, in obedience to the popular clamor. But this noble act had a noble refuge. Governor Wolf had determined to veto any legislation which attempted its repeal. When the contest came THADDEUS STEVENS defended the school law with great power, and the repealing act was defeated by a large majority. To the honor of Mr. STEVENS it must be remembered that this popular outcry against the school law gave him the opportunity to gain a signal advantage over his political opponents, but he scorned to use it for such a purpose. The time gained for reflection by the defeat of the repealing act saved our common-school system from annihilation. The general sentiment now restrains opposition to this institution, and the advanced and steadily advancing intelligence of our people stands as the monument to the wise framers of the law of 1834 and its able defender.

The importance of our public improvements was discussed and established in the latter part of the last and the system was inaugurated early in the present century. Its active and successful advocate in the Legislature was William Lehman, of Philadelphia, who entered the Legislature in 1818. Active operations were begun in 1826, and continued under the able direction of Governor Shultz, John Sargent, William Darlington, David Scott, Joseph McIlwaine, Daniel Montgomery, Abner Leacock, James Clarke, Jonathan Knight, Charles Mowry, and Francis R. Shunk, during the twelve years of the administrations of Governors Shultz and Wolf. The works were in full operation in 1835, and in 1838 THADDEUS STEVENS was appointed canal commissioner by Governor Ritner. His success was not equal to his abilities. During his administration of this office additional works were undertaken, but they proved complete failures. Various causes combined to prevent his success. Intense opposition always confronted him, and an impatience of details operated against him in everything of a business character, except in his profession, where he was consummate in his preparation and use of every means of victory.

In referring to the life and public services and character of such a man as THADDEUS STEVENS it is unbecoming to indulge in loose statement and bombastic praise. There is enough of the man to furnish materials for a truthful and an honorable encomium without claiming for him exclusively honors which mainly belong to his contemporaries. This should be especially avoided in the case of Mr. STEVENS, for no man more thoroughly despised

such injustice. He always resented being dressed in borrowed robes. An observance of this rule would doubtless have prevented injudicious admirers from claiming for Mr. STEVENS the paternity of our common-school system, and our system of public works. Eulogies of this character, pronounced on the spur of the moment, though inexcusable, are innocent when compared with elaborate obituaries, for it is to these last that historians are most apt to refer. And thus the ungracious task is thrown on some one of correcting errors and misstatements which should never have been made.

In 1836 Mr. STEVENS was chosen a member of the convention to amend the constitution of Pennsylvania, and here, as everywhere else, he displayed high ability. Under our constitution of 1790 negroes enjoyed the right of suffrage. The aggressions of the slave influence demanded that this right should be stricken down. The besotted majority in the North were everywhere inclined to yield the point. In our convention this feeling actuated the majority of the members, but THADDEUS STEVENS battled with all his might against the outrage. He was overcome. The rights of a portion of our citizens were sacrificed to the prevailing sentiment, and the word "white" was inserted in our constitution as a condition to the right of suffrage. With characteristic independence Mr. STEVENS refused to sign a document containing such an unjust discrimination against peaceable and law-abiding men, and he bravely determined to forego the distinction of having his name go down to posterity on that document. Few young men would have shown the contempt for position which he then exhibited, and fewer can understand that true fame can be found more surely in doing right than in being in conspicuous company.

In 1850 Mr. STEVENS was elected to Congress. His ardent love of liberty and his inextinguishable hatred of American slavery threw him headlong into an opposition to that institution as determined as it seemed hopeless. The sentiment and conscience of the nation was blunted and debauched, and the forlorn hope which THADDEUS STEVENS then led did not suffer themselves to hope for a view of the bright and swiftly coming day which his old eyes were permitted to see in its full glory. Failing to secure a re-nomination, he retired from Congress in 1852, and resumed the practice of the law. His public career seemed to have closed in the very prime of his vigor. But a mighty change was at hand.

In 1854 the slaveholders, unsatisfied with anything short of absolute dominion, shocked the lulled conscience of the nation by attacking and destroying what demagogues called the "settlements" of the slavery question, and what wise men knew to be but a postponement of an inevitable trouble. This high-handed outrage on the vast majority by a numerically contemptible minority produced a revulsion in our politics compared with which all others are insignificant. Old parties melted away. Old thoughts gave way to new vigor. The respectability claimed for the slaveholders was laughed at in the light of their degrading attitude before the astonished country. Their highly extolled honor became a jibe when compared with their Punic faith. New organizations wrested the Legislature from the men who had used it for our disgrace. Old leaders, remembered for their courage and audacity, were recalled. In 1858 THADDEUS STEVENS returned to Congress, and the foremost men of the now powerful Opposition accepted him as their leader.

This crime of the slaveholders culminated in a terrible war that ended in the destruction of the cause which provoked the conflict. During that period of our national trials the history of Mr. STEVENS is inextricably interwoven with the history of his country. Space and propriety alike require that I should leave any elaborate reference to his services during that period to those whom time and freedom from

partiality shall enable to do the subject full justice.

Since the death of THADDEUS STEVENS I have been pained to notice the vulgar fury with which his character has been assailed. I had indulged the hope that vituperation had exhausted itself on him during his long life, but I have been mistaken. If malignant and merciless abuse could destroy the usefulness of men the services which Mr. STEVENS has rendered to mankind would have been prevented. Men every way his inferiors set themselves up as critics and censors of his private life. The manner in which they have performed their self-imposed duty shows they never knew, or had forgotten, that the strongest virtue consists in successfully battling against ever-present temptation, and that those who overcome are more to be honored than those who lack the inclination to go astray. We have forgotten the bravery of the Gascon, and only use his name now to describe a braggart. A mere reference to the fact proves the injustice; and the same injustice will be perpetuated if we remember only the caustic sarcasms of the dead statesman and forget his life-long love and devotion to a downtrodden race.

Mr. President, I move the adoption of the following resolutions:

Resolved, That the Senate has received with profound sensibility the announcement of the death of Hon. THADDEUS STEVENS, late member of the House of Representatives from the State of Pennsylvania.

Resolved, That from a sincere desire of showing every mark of respect for the memory of Hon. THADDEUS STEVENS, the members and officers of the Senate will go into mourning by the usual mode of wearing crape on the left arm.

Resolved, That as a further mark of respect for the memory of Mr. STEVENS, the Senate do now adjourn.

Mr. BUCKALEW. Mr. President, New England has given to Pennsylvania two men of great distinction, though of unequal merit.

In provincial times Franklin came from Boston to Philadelphia, a fugitive youth, and entered upon that career which has been given to the history of the world. As author and publisher, as representative in the Colonial Assembly of Pennsylvania, as member and president of the State constitutional convention of 1776 and chief executive officer in the government established by that convention, as colonial agent in Great Britain, as delegate in the Continental Congress and signer of the Declaration of Independence, as organizer of the postal service in this country under the Confederation, as a scientist and member of learned bodies at home and abroad, and finally, as our illustrious and successful minister at the French court in the dark hours of the Revolution, he is known of all men and his name will go down to future ages. It is the pride of our people to contemplate the colossal reputation which he achieved and left behind him, and they dwell with pleasure upon the minutest particulars concerning him from that hour when, obscure and friendless, he appeared in the city of his adoption to the time when "full of years and full of honors" he passed away to his appointed repose.

THADDEUS STEVENS came from Vermont to Pennsylvania at the age of twenty-one. He came, unheralded and unattended, to carve his way to fortune among strangers.

Adams county, Pennsylvania, lies upon the Maryland border, and Gettysburg is the county town—the seat of justice for the county. At that place Mr. STEVENS settled after a short residence at York, and commenced the practice of the law. It was not a place to make great gains at the bar. The town was not large, the county was not populous, the people were not wealthy. It was a rural section of the State; railroads were unknown, manufactures, except in a small way, had not been established; farmers and shopmen mainly were the clients of men "learned in the laws." But there were sound elements of population in the town and county—the German and Scotch-Irish being prominent—distinguished for industry, frugality, fidelity, and sound sense. And it was a pleasant region, broken but fertile, farm and woodland alternating in the

landscape, with hill and mountain in the distance, forest-clothed from base to summit. There were a few scattered villages for the convenience of merchants, blacksmiths, carpenters, and other traders and workmen, and mills sounded along the streams. Cemetery Hill then, as now, overlooked the town of Gettysburg; but no war—at least no war of civilized man—had ever echoed upon its heights, nor had its soil received, as a harvest of battle, the bodies of our patriot dead.

Mr. STEVENS's long residence in a rural district, such as I have described it, influenced in a great degree his subsequent character and conduct. And it gave him a wider knowledge of men and affairs than he could have acquired if he had been at all times the resident of a city. He knew the men of the country as city men cannot know them, and with him always "knowledge was power," and he gave it practical application to the management of men.

Mr. STEVENS entered public life at the ripe age of forty as a Representative in the Pennsylvania Legislature from Adams county. I shall not detail with exactness or at length the facts of his public career; nor shall I pronounce an eulogium upon him or express emotions of personal grief at his removal by death from a field of action and service in which he was conspicuous. His labors will be detailed more fully by others, and his character is one not so much for eulogium as for analysis and for reflection. And as to manifestations of sensibility at this time, I have to say that I think it will be proper to regard somewhat his example upon like occasions and his general views concerning funeral solemnities. He did not respect insincere or undue praise of the dead, and he always refused to wear crape in honor of their memory.

But some notice of his life and character by the two Houses of Congress is most becoming in view of his eminence and of the influence which he exerted upon legislation and upon popular thought. And such notice may be made instructive to men of the present and to men of future times.

The first knowledge I recollect to have acquired of Mr. STEVENS was in 1838. It was from a speech which had been delivered by him in the Legislature of Pennsylvania upon the subject of education. After the lapse of thirty years I can remember that he spoke of the time when "the atoms of creation shall bubble in the crucible of the Almighty," meaning the time of the final destruction of the earth. When I read that I thought, with the taste of a boy, that it was a most eloquent and admirable passage. I do not think so now.

Mr. STEVENS for many years (both within and without the Legislature) conducted or assisted to conduct a war upon the institution of Free-Masonry, and eventually set on foot a legislative investigation of its mysteries. In those years he showed himself to be an able and eloquent leader of party, and obtained for the first time distinction and influence. But his efforts were unsuccessful. Masonry stands as it has stood for ages among the benevolent institutions of civilized States.

Mr. STEVENS contributed some brilliant speeches to the cause of education in Pennsylvania, though his influence in the establishment and support of our common-school system has been somewhat exaggerated.

His service in the canal board of Pennsylvania, to which he was appointed in 1838, provoked much denunciation, particularly as regarded the making and abrogation of contracts upon the public works and the uses of a fund provided for their repair; and his connection with the difficulties at Harrisburg in 1839 provoked still more.

The question in 1839 was one of party power in the Legislature, and it arose upon the election of members from Philadelphia county.

There was a great excitement, and the public peace was imperiled. Troops were brought to Harrisburg, and citizens flocked there in large numbers from all parts of the State. Eventually the difficulty was composed by a

recognition of the members really elected, and the disturbance was given to history under the name of the "Buckshot war." I believe there is now but one opinion upon what then took place, and that is that Mr. STEVENS and those who acted with him were entirely wrong, and that an honest decision was reached under the pressure of popular opinion.

Mr. STEVENS was prominently connected with the creation of the public debt of Pennsylvania, as he was with that of the United States. I think that one third of the former was due to his efforts and influence in the passage of appropriations not always well considered or judicious. Struck by the advantages of public works in increasing the general wealth of the State and the prosperity of particular districts, his habit of mind was to overlook particular obstacles and cautious deduction. His imagination kindled in contemplating remote but grand results, and he scorned the reasonings of prudence, and was indifferent to the means by which he wrought. I know it may be said that it is easy now, with results before us, to condemn such improvements as the Gettysburg railroad, the Erie extension, and the Wiconisco feeder, and that the men of 1838 should not be judged in the light of our present information. But I must declare my fixed conviction that the conduct of public men in their appropriations of public money and creation of public debts should be judged by stern rules. They are the trustees of property interests not their own, and their errors and improvidence must not go uncondemned.

Mr. STEVENS was a member of the constitutional reform convention of 1838, but was not an active member during the latter part of its proceedings, nor did he sign the amendments proposed by it for popular adoption, for the reason already stated by my colleague.

I turn, however, from his State to his congressional career. He came into Congress twenty years ago as a Representative from the Lancaster district. After a service of four years he was absent eight, and then, being again returned, was a leading member of the House until his death. These words—a leading member—are not an exaggeration. He led others, and was not led by them; and he had two capital qualifications for mastership in the House. He had a very vigorous will, and he had wit also, which was to him a powerful instrument for both aggressive and defensive debate.

Mr. STEVENS was in the latter part of his career sometimes pleasantly called "the great Commoner;" but this invitation to a comparison between him and Chatham was not well advised. Perhaps it does not deserve serious treatment, but as there is no eminent public man in our political history with whom Mr. STEVENS can be compared—none essentially like him—we may be excused for pausing upon this invited comparison with a foreign statesman of a former age. Pitt, unlike Lord North, was not a man of wit; but his general powers of intellect for parliamentary service were unrivaled. Besides, his abilities were well suited to executive service, as was shown by him when chief minister of the Crown. He united prudence with daring, and was as sagacious as he was bold. Burke has told us of his achievements when he first held the powers of the sovereign and enjoyed the confidence of the Commons; and the subject was worthy the hand of that great master. It is true that points of resemblance may be mentioned between the British statesman and the American leader. Both were men of strong will; both had large influence in representative bodies; both were greedy of applause, though proud, self-sustained, and undemonstrative in its enjoyment; both were leaders of party, but often exhibited independence of party control; both had the great gift of eloquence, though in different manner and in unequal degree. Pitt's elocution was sonorous and commanding, his sentiments lofty, his language, "drawn from the wells of English undefiled," was polished, vigorous, and pure. Besides, he had a moral

weight which is sometimes wanting to public men. For he was deeply attached to a lawful spouse, and he respected all those proprieties of private life and of public station which go to make up admired character.

Mr. STEVENS had not a high opinion of men with whom he was brought in contact. His eye was keen to all their defects, and he felt his own mental superiority. This gave him coolness and confidence for debate. Besides, his training at the bar had taught him forensic art and had exercised and strengthened his logical powers. He had the great merit of speaking with directness and of controlling his topics instead of being controlled by them. Therefore he was not tedious, and was always instructive.

Among the measures supported by Mr. STEVENS in Congress was one to regulate the price of gold, or to prevent speculative sales of gold, a measure to which there was but one objection, which was that it undertook to accomplish that which was impossible. It was repealed soon after its passage.

He was early in the war an advocate for the issue of Government notes, and carried through the House the first bill for that purpose. Long afterward he desired to issue \$500,000,000 in addition to the great volume of Government currency then in circulation, but did not secure the adoption of his views. He had more confidence than most men in paper money, and denied always the liability of the Government to pay its obligations in coin except where expressly stipulated by contract.

He was sincere and earnest in pursuing his objects and not scrupulous in the use of means for their accomplishment. Party was with him but a means to an end, and he never hesitated to unite with political opponents to secure his purpose. There were many notable instances of this conduct during his service in the House. His impatience with political associates when they differed from him was often strongly manifested; in private discourse without restraint, and in public with emphasis, though with more of decorum. Nor did he withhold himself upon occasion from directing his shafts of satire against particular members of this body.

Upon the conclusion of the war Mr. STEVENS announced his theory of conquest and the policy to be predicated thereon. There was a doctrine of forfeiture involved in the former, which, being written in no code nor illustrated by any American example, was slowly accepted in the counsels of his party and in the debates of Congress. It was that the southern States had forfeited all right to self-government and to their civil institutions by rebellion against Federal authority. Assuming, next, that this Government as conqueror of those States had by virtue of the laws of war complete power over them, the way was opened for propositions of policy concerning them. Gradually his theory prevailed, and many measures founded upon it have been passed and executed. He lived long enough to see his theory accepted and his policy triumphant. In his own party doubters had become resolved, the timid emboldened, the refractory subdued, and all opposition intimidated or silenced. His passions and his will had their complete gratification, except in the two important particulars of confiscation and impeachment. From all this it will appear that he died at a fit time to be canonized as a great and successful leader of party.

Mr. President, for what will men care to remember Mr. STEVENS? He will be remembered for his wit and humor, which were genuine and constant; suited to enliven a dull debate or a tedious trial; to charm a social circle or an occasional companion.

He will be remembered as a lawyer, able, eloquent, and careful; fit for the rough work of a *non propter* trial or for grave debate in a court of error. Men of the legal profession will hold in memory one who adorned that profession and won its triumphs.

He will be remembered for some generous acts to persons in misfortune; acts magnanimous and noble, which he did not publish

abroad, but which have transpired through the gratitude and admiration of others.

He will be remembered as a parliamentary leader; as the man who, beyond any example since Randolph and Clay, gained the ear of the House and held it for many years against all competitors—in all the years of the war and since the war—and resigned his influence only with his life.

Lastly, he will be remembered for his support of emancipation and colored suffrage, great questions which, whatever may be their merits, will be of enduring interest. He projected some and supported all the measures by which they were established and upheld during his life, and left his name to be associated with debate and discourse upon them hereafter.

Sir, men will be apt to forget his imperfections of temper, his defective moral organization, his disregard of proprieties in speech and conduct, his occasional defiance of public opinion, and generally the errors and faults of a lifetime of contest, in contemplating his true and undoubted titles to future fame. If in examining his character I have spoken with freedom and have not withheld the truth which told against him, it has been done in all loyalty to our common manhood and in view of those purposes of instruction with which my task was begun. And thus I leave the subject and the man.

Mr. MORRILL, of Vermont. Mr. President, THADDEUS STEVENS was a native of Vermont, taught and a teacher in her schools, but ultimately a graduate at Dartmouth College, New Hampshire, and removed in his early manhood to Pennsylvania, where for many years he ranked as a well-seasoned politician and something more than a prominent citizen of that flourishing State. Like so many other men of our country, with an experience not discreditable here to proclaim, as it has been and still may be in other lands, he raised himself, unaided by fortune or family, from obscurity to distinction and honor.

It having been my fortune to serve in the House of Representatives, and for some years on the same committee, with Mr. STEVENS, receiving from him uninterrupted courtesy and kindness while long seated in the House by his side, it was impossible to have been unmindful of those characteristics which so often challenged public attention, and it will be excused, perhaps, if I venture to give, however imperfectly, some of the impressions made upon me by a man whose career has been so notable as to secure prominence in the history of a great people and in movements which it may be said, like the traces of glaciers on mountain tops, notch the age.

It is too soon after the storm, and we are too near the waves of contending principles and parties to review the merits of particular acts with which Mr. STEVENS has been more or less identified; and the humbler task will be mine, therefore, of giving an outline picture of the man, or of sketching some of his most distinctive features and traits as they appeared to a near and not uninterested observer.

In the early moments of tenderness and grief for the memory of associates and friends removed from conspicuous spheres of action, plain truth and just discrimination speak in muffled tones, and panegyric alone ventures forth in full voice. Christian charity and the instincts of the human heart would portray only the brighter tints, avoiding shade though of the most veritable sort. But the safety of the public requires that the faults of the statesman shall not be concealed even though the faults of the man receive more generous charity. The disgraceful coalition of Fox with Lord North history still impales, but the personal faults of the former, hereditary or educational, are imputed to the age or charged to Lord Holland, the father. Could we, in the present instance, consult the deceased, as we may by referring to his own example, although he was an unbeliever in the pomp and grief of all

congressional eulogies, we should find he would have been unwilling that the sun itself should be represented without its spots; or, if a wart had been on his face he would have objected with Cromwellian sturdiness to its suppression in his picture; and his fate, like that of many other distinguished men,* has been to die leaving no lineal successors, none to feel the joy which well-earned praise bestowed upon an illustrious ancestor inspires, and none to shrink from the touch of impartial justice when the final judgment of posterity is pronounced. But simple justice, even the sharp espionage of criticism, will not dwarf the man. Strike from him a limb, and still something of Hercules will remain.

Beneath a rugged exterior Mr. STEVENS had a heart that loved children, the down-trodden, and the poor; and he could not fail, in spite of differences of policy or of principle, to secure the affection and respect of a multitude of friends; but being at the same time a frank man, who bravely accepted the last link in the chain of his logic; never concealing the rough edge of his judgments upon public measures or public men, and being ever more ready to risk a fall in a wrestle with his foes than to conciliate them by any soft concessions, the muster-roll of his enemies grew almost equally large and formidable.

While the aims of Mr. STEVENS were noble—rarely petty or inconsequential—and his measures, if we do not include his financial idiosyncracies, were almost invariably on the highest planes of morality and philanthropy, or at least of national breadth and gravity; such as the educational system, successfully championed in his adopted State; such as his earnest efforts to secure the largest sum of wages to American workmen through his advocacy of a protective tariff; such as his broad and unstinted support of works of intercommunication from the Atlantic to the Pacific; such as his life-long and persistent hunting down of slavery; yet he cannot be said to have been fastidious, possibly not always over-scrupulous, as to the means used to accomplish the end.

Economy with him rarely rose to the dignity of a great public virtue, as in his estimation it was too cheap and often too nearly allied with demagogism and niggardliness to be treated with constant hospitality. The work of cutting down appropriations was foreign to his taste, and he appeared unhappy when the Government or its officers got less than they asked for. To see the demands of public or private claimants cut short was as painful to him as would have been the sight of bloody surgery. When any measure of great utility, as he understood it, was to be consummated and ordinary means seemed inadequate, then it justified prodigality. Public treasure and public lands were seldom too precious in his eyes to be scattered for objects national in their scope, and he had no apprehensions, not being a jobber himself, that, so scattered, surrounding jobbers might harvest the major part of the future blessings to spring up from such broadcast dispensations. He was an ultra partisan, not, however, of men, nor of parties, but of measures, and he rarely discovered many virtues in men except among those holding coincident and coextensive views and purposes with himself. He was a bold and sometimes a successful party leader.

Popular assemblages, no less than military, revere audacity, and no infirmity, nor age, nor defeat, nor all combined, ever impaired the imperial will or the dauntless courage of this redoubtable leader of the House of Representatives, though he was often confronted by the angriest elements of political antagonism, and sometimes even by the sour and fixed determination of a majority of his own party. It mattered little whether he carried the measures he had in charge upon their own merits—confident that they had merits—or by the swifter enigma of parliamentary tactics, or by a sneer, not less swift and possibly more irrefutable, at

some weak argument of an indiscreet opponent. On the road to Jerusalem himself, he did not regard it his fault if others, tugging at the same load, supposed they were on the journey to Rome. At all times equal to debate, the force of "the previous question" was to him no less pertinent. Though equal to argument, the torture of his wit he found equally unmaneuverable and often easier and briefer. For all trimmers he exhibited the fiercest scorn, and his pulverizing and merciless assaults upon opponents inspired his own followers with courage, or they assumed it if they had it not, dreading the rigor with which he drummed out of camp the rear of his own party, or those who, not ambitious to be in advance of public opinion, evinced cowardly and balky symptoms in the closing conflict of the yeas and nays.

Though he aspired to lead and was never an apt follower, nor to be counted upon much as a coadjutor of measures not advised or devised by himself, he was wholly untinctured by vanity, and seemed nearly as oblivious to the praise of friends as to the censure of enemies. Without self conceit and iron-clad against criticism, especially newspaper criticism, he never courted flattery nor counted it as any part of his wages. Envious of nobody, careless of his own reputation, he was wholly satisfied when satisfied with the result, and neither revised his own speeches nor paid much attention to the revised speeches of anybody else. Though deaf himself to personal compliments, he cordially praised and remembered all those who voted rightly, and was an inexorable hater of those who did not or dodged. Rarely wounded in any contest his wounds never bled, but healed without scars, as he had no memory for the blows he provoked and received, still less apology or regret for such as he had given. It may be added that whoever attacked him with such spirit as to show he might be regarded as having been bitten, and not merely barked at, was commiserated as one shortly to appear at some whipping-post, as all knew such attacks were likely to be repaid with vengeance of some sort, and curiosity was on tip-toe to see whether by pungent logic or by a stunning left-handed word charged with an explosive and pitiless sarcasm.

There was a marvellous versatility in his resources both offensive and defensive. When he rose—all unperplexed as to what he should say or by what had been said—none could predict to what weapon from his miscellaneous arsenal he would resort, but whether it proved to be of pagan or Christian temper, of ancient or modern invention, it was likely to be thrust to the quick. He was respectable in pathetic and even eloquent appeals; excellent in the impregnable logic of statement; superb in the indignant flashes of denunciation; unrivaled in repartee; and always at home in rude and burly satire. With much pith and marrow in his discourse he had little of the mere rhetorician, never running out of his way after dainty words nor elaborating graceful sentences, and might have been expected to risk his unsounded capabilities in song with less reluctance than a poetic quotation. Not unfamiliar with the classics, and resorting to them occasionally with felicity, he could yet stoop to sources less refined in order to overwhelm, if not to bedaub, an adversary. He was a chief dreaded by many and admired by more. He could be courtly and dignified in his manner—generally was so—or put on a rough and bantering style amusing to friends but rather terrific to those who were not. General courtesy in debate, however, was his prevailing habit, and toward those who annoyed him most when it might have been presumed that he felt the least inclined to gentleness, he had a knack of loading his manner, by way of irony, with a suavity slightly exaggerated and visible to all save the party thus unconsciously afflicted. He never wearied his hearers by too frequent or too protracted speaking, and was far too sagacious to make a weak or unnecessary speech, or to tender inflated or spurious wit for the genuine coin. But with all his affluence as a debater, his

* Burke, Sam. Johnson, Washington, and Jackson.

temperament could not restrain some eccentricities of his nature, or slips of the tongue, which exposed him to bitter reproaches as well as friendly regrets. Human grievances and oppressions roused his passions, and when roused he could not be warranted against eruptions of temper as likely to throw stones into the gardens of friends as of enemies. Having a tough and wiry constitution, he bore any amount of fatigue and some excesses with little pain or injury. Punctual in his attendance at the committee-room, not inattentive to a multifarious correspondence, watching with sleepless vigilance all bills on the Calendar, and preparing to mend or maim the leading propositions of every committee, taking part in the daily debates, and though weary at evening from labor and the languor of more than three-score years and ten he yet in the morning, "dreaming he was a boy again," would often have in unexpected readiness a carefully-prepared speech, written in his own rapid, scrawling, thorn-hung style, upon such subjects as he felt to be important and to which he wished to direct the attention of the country; but when he aimed merely to carry the House his speeches were extemporaneous and of marked brevity. Barren of oratorical ostentation, he not only never gave the House a surfeit of himself, but was visibly impatient when others became tedious, silencing all legislative loquacity, if the temper of the House permitted—and of that he was an expert judge—by any parliamentary device within his reach. Weakening no cause by learned length or refinement he yet always appeared to have a reserved force ready to repel unlooked-for attacks from any quarter.

Not always averse to the exhilaration and late hours of a diner-out, nor of jubilant company and occasional diversions anywhere, he was, nevertheless, sure to be at his post when wanted, and seldom lacked luck or vigor in the closing rubber of debate.

Mr. STEVENS was a little lame, having a defect hardly to be concealed—an imperfect foot—similar to that of Scott and Byron, though, unlike the latter, he never attempted its concealment, and being unaccustomed to all borrowed aid consented reluctantly to lean even upon a cane. Like John Quincy Adams and some others, he never required the aid of glasses, for "his eye was not dim, nor his natural force abated."

Having been a life-long bachelor, for years extensively engaged in business as an iron manufacturer, as well as in the practice of the law, whatever may have been his habits of study they were not likely to have been systematic, yet they certainly cannot have been marked by idleness; and his memory, retentive and capacious, enabled him to grasp beyond the learning appropriate to his profession the general store of a scholar, but a scholar without pedantry or nicety, as he grasped general principles with little knowledge of and less taste for minor details. He sought for comprehensive results in the briefest time, and in his devotion to literary and professional reading never could have been a drudge. The quickness of his apprehension, indeed, was so great that he could almost afford to cast off the pain of slow and careful study.

When speaking Mr. STEVENS, notwithstanding his infirmities, stood erect and firmly poised, as if conscious that his foundation reached to the very center of the earth. His strongly cast head, surmounted by a dark and rather ponderous wig, and his stern visage, with brow, eye, mouth, and chin, indicating the "sign and signet of the Almighty to command," all helped to make him a grand and central figure in the House of Representatives; but there was little grace or polish in his periods or gestures—only fire or force or jocularity. An angular and jerky gesticulation, with his lean and bony hands often clenched together, gave point to his words, and he strongly pictured their meaning by the changing moods of his face, which played, whether grave or gay, in gruff harmony with the tone of his voice and argument. His countenance had more the stony features of

authority than of sweetness. A beholder would have found it easy to believe him a man of matchless vigor and potent will and not difficult to rank him among the great.

His running undertone commentary upon the debates—sometimes, though rarely, caught up by the reporters—and upon occurrences of the day while in his seat, as well as his occasional talk in the first half hour in the committee-room, was characterized by wisdom and fun mingled and lost in the whirl of business hand in hand with levity. Never, indeed, was wit of all the varieties, coarse and fine, exhibited in more bewildering profusion. Could any Boswell have treasured up all these pithy sallies and ceaseless corruscations, the sportiveness of a genius less sugary than sour and bitter, they might have been found to be surpassed in purity of sentiment or in elegance of phraseology, but surely not in terse severity nor in wealth and heartiness of humor. He daily wasted in this private and semi-grotesque distribution of mirth, sense, and satire, often indiscriminately among friends and foes, a capital sufficient, could it have been preserved, to rival almost any of the acknowledged masters among the colloquial wits of this or possibly of any age. But the gusto with which he let loose his riotous and sparkling fun could not reduce him to the level of a weak and trivial joker, for the reason that he had a depth and seriousness of purpose, a bitterness of resolve, never out of sight, which did not permit him, even in sport, to trifle with the master questions of the day nor with those principles which held indisputable empire over his head and heart.

His wit was all his own, and he had no skill in working ores mined by others, failing even in the common art of story-telling. When his witticisms—and his attempts at wit were rarely failures—were rehearsed in his presence, as would often happen, and when, with the usual fate of such brittle and brilliant wares, they were sadly broken and dimmed by the clumsiness of the retailer, I never knew him to reset the dislocated parts of his jokes or to correct even the baldest blunders; nor did I ever know him to reproduce or to give a new edition of the good things of which he was the constant and prolific author. Born in a jovial moment, often glowing with passion, they were foundlings never after to be nursed by parental solicitude.

Through life he adhered mainly to the same political principles, and no more thought of rattling from his party when unblest by majorities than when in the heyday of its prosperity.

Whenever he stood forth, as he often did, in behalf of some of the immortal principles underlying liberty or human rights, he rarely failed to make conspicuous his full strength, displaying at once the profundity of his convictions and the breadth of his philosophy, the energy of his invective and the flash of his wit, as well as the power and earnestness of his speech. His style was clear, yet abrupt and concise; animated, yet massive; and though lacking idealism, never lacked vigor. Whether he led a conquering majority or a forlorn hope he never watered the truth to make it more popular; but waving the banner of a paramount idea, and self-assured sooner or later of victory, he bid defiance to foes, to time, and fate.

Mr. STEVENS retained his intellectual activity to the end of his days, and could not at the latest moment be persuaded to forego any position, however irksome, to shield himself from labor or responsibility, as if determined "to die like a camel in the wilderness, with his burden on his back." Age brought for him no quietude; success no abatement of his indomitable spirit; and never could it have been truly said of him as of Wilkes, in his old age, that he was "a volcano burnt out." Carried at last to the House of Representatives for months in a chair, he clung to his prerogatives as chairman of committees with as unquenchable tenacity as the Pope of Rome clings to the scepter of secular power. Death came when tired nature itself surrendered. He was released from life at an auspicious moment,

when the highest object of his desire—the abolition of American slavery—had been completed; and if he loved life too well to contemplate death with the Christian's faith and joy, he yet was able calmly to appreciate the triumphs of his political philosophy—knowing that at last his country, founded on a rock, was whole and wholly free. The teachings of Socrates and Plato were to him scarcely less inspired than those of the Author of the "Sermon on the Mount," whose doctrines he politically seemed to obey as divine.

We have had but one Franklin, but one John Randolph, and we are not likely to have more than one THADDEUS STEVENS; but the latter, adorned with no title save that of a common Representative of the people, and chiefly after the autumnal age of sixty-five, when men are usually expected to shun both physical and intellectual toil, has won his niche of fame in the Capitol of his country as assuredly as either of the former well-defined but widely different national celebrities.

The practical benevolence of Mr. STEVENS to those in want within his own neighborhood was of that kind which is "not puffed up and vaunteth not itself," nor did it spend its force in a theoretical universality to the practical exclusion of everybody in particular; but the fires which he supplied to many hearthstones of the poor, shielding them from the hard exposures of a rigorous climate, will forever warm the hearts of the recipients, and some tears will bedew the grave of one who declared, (January 13, 1865,) in a brief speech which finely exhibits his robust manner, that he would be satisfied if his epitaph should be written thus:

"Here lies one who never rose to any eminence, and who only courted the low ambition to have it said that he had striven to ameliorate the condition of the poor, the lowly, the down-trodden of every race and language and color."

The memory of Mr. STEVENS will not perish, because he never permitted his humanity to grow old, and because, in spite of any other deductions, he wasted no time in self-seeking displays, but devoted his highest faculties to measures alive with liberty, loyalty, and love of his country.

And yet, Mr. President and Senators, there is no fame more fleeting than that acquired even by veterans in political service. The whole body of congressional debates for any fifty years, after a brief flight of time, will be compressed into a volume not larger than that now required for a single session, and the volume so abridged may, perhaps, "fit readers find though few." Those of us who are in this process to be dropped out, like the bad poems in a revised edition, may reckon it some advantage that we are to be little known. Of all the wan and weary candidates eager for the fame of the political forum few can hope to leave the world so much better than they found it as to secure the perpetual and grateful remembrance of after ages. It is obvious, then, that to become the early prey of oblivion is the doom of nearly all who are led, by the "infirmity of noble minds," to seek reputation through ephemeral services in the field of politics; no registry here on the rolls of fame secures to any name a place in the book of life; and, after all, the highest reward that can await the true patriot, the wisest, and the best—the elevation really to be coveted—is the approval of that Being to whom we are indebted for present life and the hope of such an immortality as will not be dependent upon the frail memory of coming generations, destined to be too busy with their own times to look curiously back upon the personal history of those who will have become almost invisible in the long receding procession of the past.

Mr. SUMNER. The visitor, as he paces the corridor leading to the House of Commons, stops with reverence before the marble statues of the men who, during two centuries of English history, adorned that famous chamber. There are twelve in all, each speaking to the memory as he spoke in life; beginning with

the learned Selden and the patriot Hampden, with Falkland so sweet and loyal in character. Somers so great a defender of constitutional liberty, and embracing in the historic group the silver-tongued Murray, the two Pitts, father and son, Fox always first in debate, and that orator whose speeches contribute to the wealth of English literature, Edmund Burke.

In the lapse of time, as our history extends, similar monuments may illustrate the approach to our House of Representatives, arresting the reverence of the visitor. If our group is confined to those whose fame has been won in the House alone, it will be small; for members of the House are mostly birds of passage only perching on their way to another place. Few remain so as to become identified with the House, or their service there is forgotten in the blaze of other service elsewhere, as was the case with Madison, Marshall, Clay, Webster, and Lincoln. It is not difficult to see who will find a place in this small company. There must be a statue of Josiah Quincy, whose series of eloquent speeches is the most complete of our history before Webster pleaded for Greece, and also a statue of Joshua R. Giddings, whose faithful championship of freedom throughout a long and terrible conflict, make him one of the great names of our country. And there must be a statue of THADDEUS STEVENS, who was, perhaps, the most remarkable character identified with the House, unless we except John Quincy Adams; but the fame of the latter is not that of a Representative alone, for he was already illustrious from various service before he entered the House.

All of these hated slavery and labored for its overthrow. On this account they were a mark for obloquy and were generally in a minority. Already compensation has begun. As the cause, which they upheld so bravely, is exalted, so is their fame. By the side of their far-sighted, far-reaching and heroic efforts, how diminutive is all that was done by others at the time! How vile the spirit that raged against them!

STEVENS was a child of New England, as were Quincy and Adams; but, after completing his education, he found a home in Pennsylvania, which had already given birth to Giddings. If this great central State can claim one of these remarkable men by adoption only, it may claim the other by paternity. Their names are among its best glories.

Two things STEVENS did for his adopted State, by which he repaid largely all her hospitality and favor. He taught her to cherish education for the people, and he taught her respect for Human Rights. The latter lesson was slower learned than the former. In the prime of life, when his faculties were in their highest vigor, he became conspicuous for earnest effort, crowned by most persuasive speech, whose echoes have not yet died away, for those common schools, which, more even than railroads, are the hand-maids of civilization, besides being the true support of republican government. His powerful word turned the scale, and a great cause was won. This same powerful word was given promptly and without hesitation to that other cause, suffering then from constant and most cruel outrage. Here he stood always like a pillar. Suffice it to say that he was one of the earliest of abolitionists, accepting the name and bearing the reproach. Not a child in Pennsylvania conning a spelling-book beneath the humble rafters of a village school, who does not owe him gratitude; not a citizen, rejoicing in that security which is found only in liberal institutions, founded on the equal rights of all, who is not his debtor.

When he entered Congress it was as champion. His conclusions were already matured, and he saw his duty plain before him. The English poet foreshadows him when he pictures—

—“one in whom persuasion and belief
Had ripened into faith and faith become
A passionate conviction.”

Slavery was wrong and he would not tolerate it. Slave-masters, brimming with slavery, were

imperious and lawless. From him they learned to see themselves as others saw them. Strong in his cause and in the consciousness of power, he did not shrink from any encounter, and, when it was joined, he used not only argument and history, but all those other weapons by which a bad cause is exposed to scorn and contempt. Nobody said more in fewer words or gave to language a sharper bite. Speech was with him at times a cat-o'-nine-tails; and wo to the victim on whom the terrible lash descended.

Does any one doubt the justifiableness of such debate? Sarcasm, satire, and ridicule are not given in vain. They have an office to perform in the economies of life. They are faculties to be employed prudently in support of truth and justice. A good cause is helped, if its enemies are driven back; and it cannot be doubted that the supporters of wrong and the procrastinators shrank often before the weapons he wielded. Soft words turn away wrath; but there is a time for strong words as for soft words. Did not the Saviour seize the thongs with which to drive the money-changers from the Temple? Our money-changers long ago planted themselves within our temple. Was it not right to lash them away? Such an exercise of power in a generous cause must not be confounded with that personality of debate which has its origin in nothing higher than irritability, jealousy, or spite. In this sense THADDEUS STEVENS was never personal. No personal thought or motive controlled him. What he said was for his country and mankind.

As the rebellion assumed its gigantic proportions, he saw clearly that it could be smitten only through slavery, and, when after a bloody struggle, it was too tardily vanquished, he saw clearly that there could be no true peace, except by founding the new governments on the equal rights of all. And this policy he urged with a lofty dogmatism, which was as beneficent as uncompromising. The rebels had burned his property in Pennsylvania, and there were weaklings who attributed his conduct to the smart at his loss. How little they understood his nature! Injury provokes and sometimes excuses resentment. But it was not in him to allow a private grief to influence his public conduct. The losses of the iron-master were forgotten in the duties of the statesman. He asked nothing for himself. He did not ask his own rights except as the rights of man.

I know not if he could be called an orator. Perhaps, like Fox, he were better called a debater. And yet I doubt if words were ever delivered with more effect, than when, broken with years and decay, he stood before the Senate, and in the name of the House of Representatives and of all the people of the United States impeached Andrew Johnson, President of the United States, of high crimes and misdemeanors in office. Who can forget his steady, solemn utterance of this great arraignment? The words were few, but they will sound through the ages. The personal triumph in his position at that moment was merged in the historic grandeur of the occasion. For a long time, against opposition of all kinds, against misconceptions of the law and against apologies for transactions without apology, he had insisted on impeachment; and now this old man, tottering to your door, dragged the Chief Magistrate of the Republic to judgment. It was he who did this thing; and I should do poor justice to his life if on this occasion I failed to express my gratitude for the heroic deed. His merit is none the less because other influences prevailed in the end. His example will remain forever.

In the House, which was the scene of his triumphs, I never heard him but once; but I cannot forget the noble eloquence of that brief speech. I was there by accident just as he rose. He did not speak more than ten minutes; but every sentence seemed an oration. With unhesitating plainness he arraigned Pennsylvania for her denial of equal rights to an oppressed race, and rising with the theme,

declared that this State had not a republican government. His explicitness was the more striking because he was the Representative of Pennsylvania. I presume the speech will be found in the Globe. Nobody, who has considered with any care what constitutes a republican government, especially since the definition supplied by our Declaration of Independence, can doubt that he was right. His words will live as the courageous testimony of a great character on this important question.

The last object of his life was the establishment of equal rights throughout the whole country by the recognition of the requirement of the Declaration of Independence. I have before me two letters in which he records his convictions, which are, perhaps, more weighty because the result of most careful consideration, when age had furnished experience and tempered the judgment. “I have,” says he, “long and with such ability as I could command reflected upon the subject of the Declaration of Independence, and finally have come to the sincere conclusion that universal suffrage was one of the inalienable rights intended to be embraced in that instrument.” It is difficult to see how there can be hesitation on this point, when the great title-deed expressly says that governments derive their just powers from the consent of the governed. But this is not the only instance in which he was constrained by the habits of that profession, which he practiced so successfully. A great Parliamentarian of France has said: “The more one is a lawyer the less he is a Senator,” *Plus on est avocat moins on est Sénateur*. If STEVENS reached his conclusion slowly it was because he had not completely emancipated himself from that technical reasoning, which is the boast of the lawyer rather than of the statesman. The pretension that the power to determine the “qualifications” of voters, embraced the power to exclude for color and that this same power to exclude for color was included in the asserted power of the States to make “regulations” for the elective franchise, seems at first to have deceived him; as if it was not insulting to the reason and shocking to the moral sense, to suppose that any unalterable physical condition, such as color of hair, eyes, or skin, could be a “qualification,” and, as if it was not equally offensive to suppose, that under a power to determine “qualifications” or to make “regulations,” a race could be disfranchised. Of course, this whole pretension is a technicality set up against Human Rights. Nothing can be plainer than that a technicality may be employed in favor of Human Rights, but never against them. STEVENS came to his conclusion at last, and rested in it firmly. It was his final aspiration to see it prevail. He had seen much for which he had striven embodied in the institutions of his country. He had seen slavery abolished. He had seen the freedman lifted to equality of political rights, by act of Congress; he had seen the colored race throughout the whole land lifted to equality of civil rights by act of Congress. It only remained that he should see them throughout the whole land lifted to the same equality in political rights; and then, the promises of the Declaration of Independence would be all fulfilled. But he was called away before this final triumph. A great writer of antiquity, a perpetual authority, tells us, that “the chief duty of friends is not to honor the departed by idle grief, but to remember their purposes and to carry out their mandates.” These are the words of Tacitus. I venture to add that we shall best honor him whom we now celebrate if we adopt his aspiration, and strive for its fulfillment.

It is as a defender of human rights that THADDEUS STEVENS deserves our homage. Here he is supreme. On other questions he erred. On the finances his errors were signal. But history will forget these and other failings, as it bends with reverence before those exalted labors by which humanity has been advanced. Already he takes his place among illustrious names, which are the common property of mankind. I see him now, as I have so often seen him during

life. His venerable form moves slowly and with uncertain steps; but the gathered strength of years is in his countenance and the light of victory on his path. Politician, calculator, time-server, stand aside! A hero-statesman passes to his reward.

The PRESIDENT *pro tempore*. The question is on the adoption of the resolutions.

The resolutions were unanimously adopted, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, December 18, 1868.

The House met at twelve o'clock m.

The Journal of yesterday was read and approved.

COLUMBIA RIVER AND HILLSBORO' RAILROAD.

The SPEAKER, by unanimous consent, laid before the House a joint memorial asking Congress to aid in the construction of the Columbia river and Hillsboro' railroad; which was referred to the Committee on the Public Lands.

OREGON, ETC., NAVIGATION COMPANY.

The SPEAKER also laid before the House a joint memorial asking aid of Congress for the Oregon and Washington Navigation and Improvement Company; which was referred to the Committee on Roads and Canals.

WILLAMETTE AND COLUMBIA RAILROAD.

The SPEAKER also laid before the House a joint memorial asking Congress to aid in the construction of a railroad from the Willamette valley to the mouth of the Columbia river; which was referred to the Committee on the Pacific Railroad.

COLLECTORS OF INTERNAL REVENUE.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury, relative to increased compensation to certain collectors of internal revenue, and recommending the same; which was referred to the Committee of Ways and Means.

J. W. MENARD.

The SPEAKER. The Chair has had handed to him a paper signed by Randell Hunt, in relation to the claim of J. W. Menard to a seat in the House of Representatives from the State of Louisiana.

The paper was referred to the Committee of Elections.

DEATH OF HON. THADDEUS STEVENS.

Mr. PETERS, by unanimous consent, offered the following resolution; which was referred to the Committee on Printing, under the law:

Resolved, That there be printed for the use of this House thirty thousand copies of the eulogies delivered in the House on Hon. Thaddeus Stevens, deceased, ten thousand to be bound in cloth.

PHILADELPHIA NAVY-YARD.

Mr. KELLEY. I ask unanimous consent to make a report from the Committee on Naval Affairs, in answer to a resolution of inquiry in relation to the purchase of tools by the chief engineer at the Philadelphia navy-yard, merely to have the report printed and recommended.

Mr. GETZ. One of my colleagues desires that this report should not be made to-day, and on his account I object.

PAYMENT OF FEES IN BANKRUPTCY.

Mr. TIFT, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Whereas many worthy citizens have not been able, on account of poverty, the large fees required, and other causes, to avail themselves of the benefit of the general bankrupt law:

Resolved, That the Committee on Revision of Laws of the United States consider and report, by bill or otherwise, the justice and propriety of extending the time in which bankrupts may avail themselves of the benefit of the present provisions of the said law, and of reducing the fees.

PENSION APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois, from the Committee on Appropriations, reported a bill (H. R. No. 1564) making appropriations for

the payment of invalid and other pensions of the United States for the year ending June 30, 1870; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HAMLIN, one of its Clerks, announced that that body had passed an act (S. No. 700) for the relief of Joseph Moorehead, in which he was directed to ask the concurrence of the House.

The message further announced that the Senate had passed without amendment the following bills and joint resolution of the House:

An act (H. R. No. 1537) to repeal certain provisions of section six of an act entitled "An act making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes," approved March 2, 1867;

An act (H. R. No. 1555) to amend an act entitled "An act imposing taxes on distilled spirits and tobacco, and for other purposes," approved July 20, 1868; and

Joint resolution (H. R. No. 388) explanatory of the act to create an additional land office in the State of Minnesota, approved July 25, 1868.

The message further announced that the Senate had passed a bill (H. R. No. 1556) to relieve certain persons of all political disabilities imposed by the fourteenth article of the amendments to the Constitution, with amendments, in which the concurrence of the House was requested.

AGRICULTURAL DEPARTMENT.

Mr. MORRELL, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Commissioner of Agriculture be requested to transmit to the House of Representatives a report showing the deficiency in appropriation, if any, for erecting the new agricultural building, with cost of constructing the same, together with any papers and evidence he may have relating thereto since his last annual report.

PENSION AGENCY IN TENNESSEE.

Mr. BUTLER, of Tennessee, by unanimous consent, introduced a bill (H. R. No. 1565) to establish an additional agency for paying pensions in the State of Tennessee; which was read a first and second time, and referred to the Committee on Invalid Pensions.

DRAWBACK.

Mr. BUTLER, of Tennessee, also, by unanimous consent, introduced a bill (H. R. No. 1566) to provide for drawback in certain cases; which was read a first and second time, and referred to the Committee of Ways and Means.

PAY OF ARMY AND NAVY OFFICERS.

Mr. SCOFIELD, by unanimous consent, introduced a bill (H. R. No. 1567) giving to officers in the military and naval service of the United States who were commissioned but not mustered pay according to rank and commission; which was read a first and second time, and referred to the Committee on Military Affairs.

REPRESENTATIVE FROM LOUISIANA.

Mr. SYPHER presented the credentials of J. Willis Menard, Representative-elect from the second congressional district of Louisiana; which were referred to the Committee of Elections.

JOSEPH MOOREHEAD.

Mr. SCHENCK. I desire to make an appeal to the House to take up from the Speaker's table and pass a bill which has just come in from the Senate to provide for the care of an insane person. It is a very distressing case and requires immediate action. It is the bill (S. No. 700) for the relief of Joseph Moorehead. I ask that it may be read.

The Clerk read the bill, which provides that Joseph Moorehead, of Ohio, lately a passed midshipman in the United States Navy, now insane, shall be admitted as a patient into the Naval and Military Asylum for the Insane at

Washington, District of Columbia, and remain therein so long as he shall continue insane and his guardian shall so desire.

Mr. SCHENCK. I simply desire to say that this application is made in consequence of the burning down of the lunatic asylum in Ohio and the return of this man to his family, where he endangers their peace and lives. He is a retired officer of the Navy, and receives such half pay as will support him in the asylum. I presume he ought to have been admitted to the lunatic asylum here under the law according to the design in the establishment of the institution, but there seems to be some construction of the law that prevents his admission. The Senate passed this bill in order that this man may be got into the asylum before the recess, if possible.

Mr. DAWES. I suggest to the gentleman that the bill had better be amended so as to provide that this man be admitted "in conformity to the rules of the asylum." There may be some rules governing the asylum.

Mr. SCHENCK. The passage of this bill is asked because, on account of some construction of the rules, he cannot be admitted without special legislation.

Mr. DAWES. I suggest the words "otherwise in conformity to the rules." There may be something in reference to the government of the institution with which this would conflict.

Mr. WASHBURNE, of Illinois. I hope the gentleman from Ohio will explain how this changes the existing law on the subject, because we ought to act with care in a matter like this.

Mr. SCHENCK. I will send to the Clerk's desk, and ask to have read, a note which I have received from one of the Senators from Ohio upon this subject.

The Clerk read as follows:

SENATE.

DEAR SIR: I have had passed, without objection, a bill to admit Joseph Moorehead, an ex-officer of the Navy, for twenty years insane, and all that time confined in the Columbus Insane Asylum, to the asylum here. He draws full pay now, and his admission here costs nothing, as his pay is reserved for his support. It is a pressing and distressing case, as he is now at large and endangers a family in Zanesville. Please have it passed before the recess.

Truly yours,

JOHN SHERMAN.

General SCHENCK.

Mr. SCHENCK. I have only to say in relation to this man that he became insane while he was an officer in the Navy. I do not know what construction of the law prevents his being admitted to the asylum here. But being a resident of Ohio, he has been for about twenty years kept as an insane person there. The Ohio asylum having been burnt down, he has been returned to his friends at Zanesville. It is right that, being an officer of the Navy, he should be admitted to the asylum here provided by the General Government.

There being no objection, the bill was taken from the Speaker's table, received its several readings, and was passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ELECTION IN LOUISIANA.

Mr. NEWSHAM. I ask unanimous consent to submit the following resolution for consideration at this time:

Resolved, That a select committee of seven be appointed to investigate the irregularities and frauds alleged to have occurred in the State of Louisiana and city of New Orleans affecting the recent election for Representatives to Congress and electors for President and Vice President, and report thereon to this House; and that the said committee may hold sessions in the State of Louisiana by a quorum or by sub-committees of such number as the committee shall designate; and that they have power to swear for persons and papers, to administer oaths to witnesses, and to employ a clerk and messenger, with such stenographic assistance as they shall find necessary.

Mr. WASHBURNE, of Illinois. I would like to have this resolution referred to the Committee on Reconstruction before we are called upon to act upon it.

Mr. FARNSWORTH. It seems to me that my colleague ought not to object to this reso-

lution. We passed a resolution the other day without objection from him to investigate the election in New York.

Mr. NIBLACK. I object to the introduction of the resolution for any purpose.

DEPARTMENT OF EDUCATION.

Mr. BAKER, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the report of the Commissioner of Education, with the accompanying documents, be referred to the Committee on Education and Labor.

REMOVAL OF POLITICAL DISABILITIES.

On motion of Mr. BOUTWELL, the amendment of the Senate to House bill No. 1556, for the removal of political disabilities from the persons therein named, was taken from the Speaker's table, and referred to the Committee on Reconstruction.

POSTAL SERVICE IN SOUTHERN STATES.

Mr. NORRIS, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of further legislation to secure greater efficiency in the mail service in the States lately in rebellion against the United States, and to report by bill or otherwise.

PENSION AGENCY, DECATUR, ALABAMA.

Mr. HAUGHEY, by unanimous consent, introduced a bill (H. R. No. 1568) for the establishment of a pension agency in the town of Decatur, in the State of Alabama; which was read a first and second time, and referred to the Committee on Invalid Pensions.

EXPENSE OF TAKING CENSUS OF 1860.

Mr. PRINCE, by unanimous consent, introduced the following resolution: which was read, considered, and agreed to:

Resolved, That the Secretary of the Interior be, and is hereby, instructed to communicate to this House the amount of claims against the Government for services rendered in taking the United States census in 1860, and the amount, if any, necessary to be appropriated to pay such claims.

ASSIGNEES IN BANKRUPTCY.

Mr. WILSON, of Iowa, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Revision of Laws be, and are hereby, instructed to inquire into and report on the legality of the appointment of official or general assignees by certain United States district judges in contravention of the spirit and provisions of the bankrupt law and of the mode adopted by said courts of transferring all bankrupt estates within the limits of their judicial districts to such official or general assignees; also, as to the propriety of so changing the bankrupt law as to prevent any settlement of bankrupt estates by any other than the assignees duly elected by the creditors of estates.

NATIONAL BANK OF THE METROPOLIS.

Mr. ELA, by unanimous consent, introduced the following preamble and resolution; which were read, considered, and adopted:

Whereas it appears from the report of the Comptroller of the Currency that the National Bank of the Metropolis, of Washington, District of Columbia, has been in voluntary liquidation since October, 1886, then owing the United States for deposits \$552,712 45; since reduced to \$470,954 70, which was secured by a deposit with the United States of \$400,000 interest-bearing bonds of the United States; and also that a further deposit of \$202,000 of interest-bearing bonds were held to secure the circulation of said bank, all of which is still outstanding; and whereas this bank further appears by said report to have become a depository of United States disbursing officers since it has been in liquidation:

Resolved, That the Committee on Banking and Currency inquire and report what legislation, if any, is necessary to enable the Comptroller of the Currency to wind up the affairs of a bank which has no office or place of business, and stop the payment by the United States of interest to a bank upon a debt which the bank owes to the United States, and to prevent an insolvent bank from becoming a depository for United States officers.

FUR SEAL IN ALASKA.

Mr. STARKWEATHER, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be directed to inquire what legislation is necessary for the protection of the fur-seal in Alaska, and to regulate the taking of the same, and to report by bill or otherwise.

AMENDMENT OF HOMESTEAD LAWS.

Mr. JULIAN, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Public Lands be instructed to inquire into the expediency of so amending the homestead acts as to allow parties who have availed themselves of the benefits of said acts to make final proof of settlement before clerks of courts of record; also that in all cases where parties have made entries and have failed to comply with said acts, persons desiring to contest such entries may make proof of the fact before such clerks; and that said committee report by bill or otherwise.

TESTIMONY IN FEDERAL COURTS.

Mr. CHURCHILL, by unanimous consent, reported back from the Committee on the Judiciary, a bill (H. R. No. 220) to perpetuate testimony in courts of the United States, with an amendment in the form of a substitute, and moved that the bill and substitute be ordered to be printed and recommitted.

The motion was agreed to.

FELONIES AND MISDEMEANORS.

Mr. CHURCHILL also, by unanimous consent, reported back from the Committee on the Judiciary a bill (H. R. No. 1258) to define felonies and misdemeanors, and to regulate peremptory challenges in the courts of the United States; and moved that it be ordered to be printed and recommitted.

The motion was agreed to.

Mr. BENJAMIN. I move to reconsider the votes by which the various bills have been referred this morning; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WILSON, of Iowa. I move to reconsider the votes by which the various resolutions have been adopted this morning; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

OFFICERS, ETC., ON DUTY IN NEW YORK.

Mr. SCHENCK, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be directed to inform this House how many commissioned officers of the Army are detailed for duty in the quartermaster's, subsistence, pay, medical and other departments of the service in and about the city of New York, and how they are each and severally employed; also, how many enlisted men and civilians are detailed or employed in connection with such service in and about the said city; and whether the number of such officers, enlisted men, and civilians cannot with advantage to the public interests and due consideration of economy be reduced.

Mr. SCHENCK moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

COURT BUILDING, ETC.

Mr. JONES, of Kentucky, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be directed to inquire into the necessity and probable cost of erecting a suitable building for United States circuit and district courts of the United States, revenue offices, and post office in the city of Covington, Kentucky, and report to this House as soon as practicable.

MARTIAL LAW IN REBEL STATES.

Mr. MULLINS. I ask unanimous consent to submit the following resolution, which I would like to have adopted; or, if there be objection to its adoption, let it be referred to the Committee on Reconstruction:

Whereas the armies of the United States have, at an enormous cost of treasure and of human life, captured and suppressed the rebel armies under the lead of Jefferson Davis, R. E. Lee, and other rebel leaders; and whereas a large number of said leaders and the confederate soldiery did, as agreed upon, take an oath to be a peaceful and law-abiding people, and to peaceably attend to the ordinary and peaceful avocations and pursuits of life; and whereas great numbers of said rebel leaders and an innumerable number of their former soldiers, together with others of perhaps much more wicked and infamous purposes, have since the surrender of the said rebel armies banded themselves together in an organization known as the Ku-Klux Klan, and perhaps other organizations of a like character and wicked pur-

pose, and have engaged in unlawfully marauding and wickedly murdering our peaceable and law-abiding citizens, spreading terror and alarm in vast portions of the entire South; and whereas it is manifest from the reports of divers persons and the military commanders in portions, if not all, of the late rebel States, that it is now and has been for months past wholly impossible by civil law to suppress those bands and persons so wickedly disposed and give protection to life and needed security to property in those parts of the country which the United States are bound to guaranty to their peaceable citizens: Therefore,

Be it resolved, That the civil law in the State of Texas or other portions of the late rebel States be, and is hereby, declared suspended, and that martial law be, and is hereby, declared to exist in said State or other southern States, to the end that the military authority now occupying said State or other parts of the South, or that may hereafter be ordered to said States, suppress and dispose of said wicked and lawless persons according to the military laws and as the necessity of the case demands, so as to restore peace and order so desirable to all good people.

Mr. ELDRIDGE. I object to the introduction of the resolution. It is very scandalous upon the gentleman's friends.

UNION-PACIFIC RAILROAD.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting copies of certain papers in relation to the Union Pacific railroad, called for by resolution of the House of Representatives adopted on the 15th instant; which, on motion of Mr. PRICE, was referred to the Committee on the Pacific Railroad, and ordered to be printed.

ORDER OF BUSINESS.

Mr. MAYNARD. There is a bill upon the Speaker's table in which the gentleman from Massachusetts [Mr. BOUTWELL] is interested, and after the morning hour has commenced I should be glad to have it taken up and acted on. I will now yield to the gentleman from New York to make a statement.

COMMITTEE ON RETRENCHMENT.

Mr. VAN WYCK. I ask unanimous consent to be allowed on Monday to submit a report from the Committee on Retrenchment, merely for the sake of having it printed and recommitted.

There was no objection, and it was ordered accordingly.

MISS VICTOR.

On motion of Mr. WASHBURN, of Indiana, leave was granted for the withdrawal from the files of the House of the papers in the case of Miss Victor.

GEORGIA CONTESTED-ELECTION CASE.

Mr. PRINCE. I ask leave to submit the following preamble and resolution:

Whereas John A. Wimpy and John H. Christy both claim to have a right to represent the sixth district of Georgia in the House; and whereas the returns show the said John H. Christy had a majority of the votes cast, and the said John A. Wimpy claims that enough fraudulent votes were cast for the said John H. Christy to invalidate his election: Therefore,

Resolved, That the said John A. Wimpy be authorized to give to the said Christy notice that he shall contest the election on the grounds of fraud; that said Christy have ten days thereafter to answer the same, and have thirty days to take testimony from the date of said answer; and that in all things else the testimony be taken and returned in conformity to existing law.

The SPEAKER. This is a privileged question, relating, as it does, to the right of a member to his seat, and it is now before the House.

Mr. WOODWARD. Do I understand the resolution is before the House?

The SPEAKER. It is before the House, being privileged.

Mr. WOODWARD. Is not this matter at this moment pending before the Committee of Elections?

The SPEAKER. The committee can probably answer that question.

Mr. WOODWARD. I will ask the chairman of the Committee of Elections whether the question between these two gentlemen from Georgia is not now before his committee?

Mr. DAWES. It is.

Mr. WOODWARD. I think that is sufficient answer to the resolution, and I move that it be laid on the table.

Mr. DAWES. I did not hear the resolution distinctly; but as I heard it at my desk it proposes to bring some new matter before the Committee of Elections.

Mr. WOODWARD. I move that it be referred to the Committee of Elections.

The motion was agreed to.

WILLIAM A. GRIFFIN.

Mr. BOUTWELL. I ask unanimous consent to take from the Speaker's table Senate bill No. 648, for the relief of William A. Griffin, for action at this time.

The bill appropriates \$2,325 to William A. Griffin, to reimburse him for moneys expended and materials and tools furnished in fitting up the National Cemetery at Andersonville, Georgia, and protecting the remains of Union soldiers in said cemetery.

Mr. SCOFIELD. Has that bill been reported from a committee?

The SPEAKER. It is a Senate bill which has not been referred.

Mr. BUTLER, of Massachusetts. It has been fully examined. The appropriation is only \$2,000.

Mr. ELDRIDGE. I think the bill should be referred to the Committee of Claims.

The bill was taken up, read a first and second time, and referred to the Committee of Claims.

NAVY ESTIMATES.

The SPEAKER laid before the House a communication from the Secretary of the Navy, in answer to a resolution of the House, stating that no reduction can be made from the estimates heretofore submitted; which was referred to the Committee on Appropriations.

MARINE CORPS.

The SPEAKER also laid before the House a communication from the Secretary of the Navy, transmitting a letter from Major W. B. Slack, of the Marine corps, relative to a deficiency in the appropriation for provisions for Marine corps; which was referred to the Committee on Appropriations.

PRIVATE BILL DAY.

The SPEAKER stated that this being Friday, and the morning hour having commenced, the first business in order was the call of committees for reports of a private nature, beginning with the Committee on Commerce.

JOSEPH A. INGHAM.

Mr. JULIAN. I ask unanimous consent to report back, from the Committee on the Public Lands, House bill No. 1192, for the relief of Joseph A. Ingham, with a substitute general in its provisions.

Mr. WASHBURN, of Illinois. Let us hear the bill read first.

The original bill was read a first and second time. It authorizes Joseph J. Ingham, son of a deceased Illinois volunteer, being under the age of twenty-one, to enter eighty acres of public land under the provisions of the homestead act.

The substitute for the bill is entitled "An act to extend the provisions of the homestead act to the orphan children of deceased soldiers who are under the age of twenty-one years." It extends the provisions of the act of Congress of May 20, 1862, and of the acts supplementary thereto to all minor children, not less than sixteen years of age, of soldiers of the United States who died in actual service, upon satisfactory proof as to their ability to fully comply with the requirements of the homestead law as to actual settlement and cultivation.

Section two provides that in such cases the payment of the ten-dollar and five-dollar fee now required shall not be exacted of the person making such entry, and effect shall be given to the foregoing provision according to such regulations as may be prescribed by the Secretary of the Interior.

Mr. JULIAN. I have a letter from the Commissioner of the General Land Office, which I send to the Clerk to be read.

The letter was read, as follows:

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE, June 24, 1868.

SIR: I have the honor to state that I have examined the bill filed by you for our opinion granting homesteads to children of deceased soldiers over the age of fifteen years.

We commend the purpose of the bill, but propose the substitute herewith inclosed. In this the ages has been limited to sixteen years, because the five years' residence and cultivation required will thus bring the party to the legal age of twenty-one years before proving up; an age essential to the requirements of citizenship, &c., imposed by the original act, and to the legitimate responsibilities demanded by general statutes.

I am, sir, very respectfully,

JOSEPH S. WILSON,
Commissioner.

Hon. G. W. JULIAN, House of Representatives.

The substitute was agreed to; and the bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. JULIAN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEWIS D. SMITH.

Mr. FERRY, from the Committee on the Post Office and Post Roads, reported a bill (H. R. No. 389) for the relief of Lewis D. Smith; which was read a first and second time.

It authorizes and requires the Postmaster General, in settling the accounts of the claimant, postmaster at Iona, Michigan, to allow him a credit of the amount of moneys and stamps belonging to the United States intrusted to his care and stolen from his possession, not exceeding the sum of \$1,861 28.

Mr. FERRY. I ask that the report of the committee be read.

The report was read. It states that by affidavits submitted and verified by several of the most prominent and reliable citizens of Iona it appears that the claimant has held the office of postmaster at that place since April, 1865. During that time the post office has been kept in the rear of the ground story of a brick building, sixty feet of which was occupied by L. D. and M. C. Smith as a drug store, and communicating with the post office by a door. The moneys and valuables of the Government were uniformly deposited in one of Lilly's best burglar and fire proof safes, with a combination lock, in which also all the valuables of the firm were kept. On the night of October 15, 1867, not only was this safe, but other safes of business friends in the same place broken open. This safe contained \$600 in cash belonging to the Government, and \$1,476 in postage stamps, together with \$325 in cash, belonging to L. D. and M. C. Smith. Every exertion was made to arrest the burglar and recover the money, but without success. The Postmaster General, in reply to the application for relief, replies that the regulations of the Department will not allow it, but deeming the case an exceptional one commends it to Congress for special consideration.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. SCOFIELD. I believe we have no precedent of this kind; and as the Committee of Claims have had all these things under consideration, it seems to me that committee ought to examine and report upon it. Simply because a man alleges that he was robbed and happens to be a postmaster and had possession of Government funds does not entitle his case to be taken from the ordinary channel and referred to the Committee on the Post Office and Post Roads. There are a great many claims somewhat similar to this that are now before the Committee of Claims, and I hope the gentleman of the Post Office Committee who has this case in charge will allow it to take the same course, so that all our constituents may be treated alike. If I understood the report as it was read rapidly by the Clerk, there is no positive evidence as to the amount which this

man had in the safe that night except his own statement.

Mr. FERRY. In answer to the gentleman from Pennsylvania, I will state that, so far as precedent is concerned, when the Committee on the Post Office and Post Roads last had the floor the past session they reported a similar case for a different amount. It was so far similar as to be one of money stolen from the safe of a postmaster, and the House passed a joint resolution granting him relief. The case was reported by my colleague on the committee from Pennsylvania, [Mr. LAWRENCE.] These cases are all properly within the province of the Post Office Committee and of the Post Office Department. The committee have given this case a careful examination, and find the facts verified by several prominent individuals. I hold in my hand a statement verified by them, and the committee and the Postmaster General deem this case an exceptional one and that it merits the relief proposed. I ask, therefore, that the joint resolution be passed.

Mr. COBB. Will the gentleman yield to me for a moment?

Mr. FERRY. For what purpose?

Mr. COBB. Well, sir, I desire to say something in the same strain as that said by the gentleman from Pennsylvania, [Mr. SCOFIELD.]

Mr. FERRY. I yield to the gentleman.

Mr. COBB. In the absence of the chairman of the Committee of Claims, I desire to say that there are a great number of cases similar to this now pending before the Committee of Claims. The committee have given this class of cases great attention, and have, as they think, adopted a very safe rule for their government in disposing of them; and if it is to be the understanding that cases of losses connected with the Post Office are to go to the Post Office Committee, and losses connected with the Navy to the Committee on Naval Affairs, and so on, the Committee of Claims desire to know it, so that they may ask that these cases—not only those that may hereafter come before the House, but those already before the Committee of Claims—may be referred to the other committees for consideration. I think that the Committee of Claims is the proper committee to consider such claims, and that they are more likely to receive consideration upon settled principles from that committee than at the hands of the other committees. I would, therefore, ask permission of the gentleman from Michigan [Mr. FERRY] to move that this joint resolution be referred to the Committee of Claims, if he will yield to me for that purpose.

Mr. FERRY. I cannot yield for that purpose.

Mr. WASHBURN, of Illinois. I would ask the gentleman from Wisconsin, [Mr. COBB,] who is a member of the Committee of Claims, in regard to a case of this character which I think was sent to his committee, the case of Mr. Bragton, postmaster at Mount Morris, Illinois, which rests on precisely the same principles as the case which the gentleman from Michigan [Mr. FERRY] has reported. His safe was broken open and some four or five hundred dollars' worth of stamps stolen.

Now, I think there ought to be some general rule in regard to the matter. We ought to determine whether the Government is to become an insurer. If it does it in one case it ought to do it in all. There should be no discrimination. I think the passage of separate cases is unjust to a great many other men standing in precisely the same position.

Mr. FERRY. I answer the gentleman from Illinois by stating that the committee examine these cases very carefully and have adopted a rule excluding all except such as are recommended by the Postmaster General and based upon ample and undoubted verification. In accordance with this rule this case has been submitted, and among the papers will be found a recommendation from the Postmaster General for this relief. I was unable to hear all that the gentleman from Wisconsin [Mr. COBB] said, but I will state to him that this case

properly belongs to the Post Office Department and to the Post Office Committee. When a postmaster has used due precaution, as in this instance, where the money was deposited in a safe which was considered perfectly secure and that safe blown open, and not only this money but other money stolen, we have deemed it a proper case for relief. Such cases the committee have deemed to be properly within their province and not necessary to be referred to the Committee of Claims. I now demand the previous question.

Mr. SCOFIELD. If the House shall not sustain the demand for the previous question, will it then be in order to move that this joint resolution be referred to the Committee of Claims?

The SPEAKER. That motion would then be in order.

Mr. SCOFIELD. I hope the previous question will not be seconded.

Mr. FERRY. I will withdraw the demand for the previous question in order to remind members that the House has already established a precedent by the passage of a measure to which I have alluded, reported by my colleague on the committee, the gentleman from Pennsylvania, [Mr. LAWRENCE.] As the committee have adopted a rule concerning these cases, one which fixes properly the character of the cases recommended by them for the favorable action of Congress, so that care is taken not to impose upon the House, I think we should now act upon this joint resolution.

Mr. SCOFIELD. I recollect the case to which the gentleman now refers as a precedent. I objected to it at the time because I thought it would be claimed as a precedent. But the gentleman in charge of the case said that it was an exceptional one, and so it was passed. It was brought before the House at a time when there was a slim attendance of members, as is the case to-day. Now I do not know why a better case of this kind from Michigan or from Pennsylvania should be treated as an exceptional case. Let all those cases receive the same treatment and be referred to the same committee that considers the other cases in which the rest of us are interested. Then, if it is right that claims of this character should be allowed, each section of the country will receive its proportion of compensation.

Mr. FERRY. I will now yield to the chairman of the Committee on the Post Office and Post Roads.

Mr. FARNSWORTH. It seems to me that nothing can be gained by sending this case to the Committee of Claims, unless it be the desire of the House to establish the rule that every claim of every nature against the Government shall go to that committee. If that rule shall be established, in my opinion the Committee of Claims will have its hands full. That has not been the practice heretofore. Claims growing out of the war have, in a great many cases, been referred to the Committee on Military Affairs. Claims growing out of our intercourse with other nations are sent to the Committee on Foreign Affairs. Claims in reference to our postal service, embracing cases of loss of money by postmasters in consequence of robbery or burglary, are sent to the Committee on the Post Office and Post Roads, to be passed upon by that committee. Claims in connection with the revenue, growing out of mistakes in the administration of the revenue laws, are sent to the Committee of Ways and Means. And so in cases of claims of different kinds.

Now, if all these claims of every description, growing out of the administration of the law, and in connection with all the Departments of the Government, are to be sent to the Committee of Claims, in my opinion that committee will have more business than it can properly attend to. Besides, when the facts of a case are reported from a committee, as in this case has been done by the gentleman from Michigan, [Mr. FERRY,] is not the House as well prepared to determine upon and settle the principle to govern it as they will be if the

case should be reported upon by some other committee? Does it make any difference in that respect what committee happens to report upon a case, unless it be that the House has more confidence in one committee than in another? If that be the principle upon which we are to act we will change our practice in each Congress as we happen in one Congress to have more confidence in a particular committee than in another.

As stated by the gentleman from Michigan, [Mr. FERRY,] the Committee on the Post Office and Post Roads have established the principle that they will allow none of these claims for the loss of money or stamps by postmasters in consequence of robbery or burglary without other proof than the evidence of the postmasters, or without an investigation by some agent of the Post Office Department, and a favorable recommendation by that Department. In some cases it has been required that the Postmaster General shall send a special agent to thoroughly investigate the case at the place of the alleged robbery before we will consider and pass upon it.

Mr. FERRY. I wish to state, in addition to what has been said by the chairman of the committee, [Mr. FARNSWORTH,] that this case is more thoroughly fortified than ordinary cases. I hold in my hand a statement of the facts made upon oath by an ex-attorney general of the State, a State senator, the judge of the circuit, and other prominent citizens of the State. We have required, in addition to the oath of the postmaster, a verification by other persons of standing cognizant of the facts.

The committee, before making a recommendation in any case, have required that it should be supported by a recommendation from the Post Office Department. Other claims of this character have been rejected by the committee for lack of such proof and support, and under that rule adopted by the committee. I demand the previous question.

Mr. SCOFIELD. I hope that the gentleman from Michigan [Mr. FERRY] will yield to me, that I may say a word in reply to the gentleman from Illinois, [Mr. FARNSWORTH,] the chairman of the Committee on the Post Office and Post Roads.

Mr. FERRY. I demand the previous question.

On seconding the call for the previous question, there were—ayes 45, noes 22; no quorum voting.

ORDER OF BUSINESS, ETC.

The SPEAKER. Before ordering tellers, the Chair will announce that, under the authority given him by the House, he has asked the gentleman from Illinois, [Mr. WASHBURN,] the senior member of the House, to preside as Speaker *pro tempore* on next Monday. The Chair doubts whether a quorum is now in attendance, and asks consent that if the count by tellers should disclose the absence of a quorum, the remarks in regard to the late member from Pennsylvania, Mr. FINNEY, may proceed, no further business being transacted to-day, the pending bill going over as unfinished business till next private-bill day.

There was no objection.

REMOVAL OF DISABILITIES.

Mr. BOUTWELL. I ask unanimous consent to report back at this time from the Committee on Reconstruction Senate amendments to the bill (H. R. No. 1556) to relieve certain persons of all political disabilities imposed by the fourteenth article of the Constitution of the United States. The House will recollect the statement made on a former day as to the necessity for removing the political disabilities of certain men in South Carolina and North Carolina who have been chosen to office and whose duties will commence on the 1st of January next. The committee have received the strongest evidence that all the persons named in the bill and amendments ought to be relieved. I hope the House will consent to allow the amendments to be reported and acted on immediately.

There being no objection,

Mr. BOUTWELL reported back, without amendment, from the Committee on Reconstruction, Senate amendments to the bill (H. R. No. 1556) to relieve certain persons of all political disabilities imposed by the fourteenth article of the Constitution of the United States.

The amendments were read, as follows:

Insert after the words "Charleston county," in the twelfth line, the following names:

A. L. McCaslan and William Hill, of Abbeville county; John F. Porteous, of Beaufort county; C. W. McFadden, of Chester county; R. H. Edmunds, of Fairfield county; Alexander McBee, H. M. Smith, and William E. Earle, of Greenville county; W. H. Langston, of Laurens county; John C. Secrest, of Lancaster county; Julius L. Shanklin, of Oconee county; Thompson L. Cooke, George Boliver, and William N. Mount, of Orangeburg county; Spartan D. Goodlett, R. E. Holcombe, John W. Singleton, L. N. Robins, and James E. Hagood, of Pickens county; John Heart and William H. Talley, of Richland county; P. Quin Camp and A. E. Smith, of Spartanburg county; R. L. Heriot, of Sumter county; and Charles W. Geddes, of Charleston county, South Carolina; Edward Cantwell, of Hanover county, and W. J. Clarke, of Craven county, North Carolina.

Amend the title so as to read as follows:

A bill to relieve certain persons of all political disabilities imposed by the fourteenth article of amendments of the Constitution of the United States.

The amendments were concurred in.

Mr. BOUTWELL moved to reconsider the vote by which the amendments were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RECONSTRUCTION.

Mr. BROOKS. I ask unanimous consent that the Committee on Reconstruction be authorized to send for persons and papers in conducting the examination relative to reconstruction in Georgia, Mississippi, Texas, and Virginia.

The SPEAKER. If there be no objection the committee will have that authority.

There was no objection.

LEWIS D. SMITH.

The SPEAKER. The question recurs upon the demand for the previous question upon the bill (H. R. No. 389) for the relief of Lewis D. Smith. On this question no quorum voted. The Chair appoints as tellers the gentleman from Michigan [Mr. FERRY] and the gentleman from Pennsylvania, [Mr. SCOFIELD.]

The House divided; and the tellers reported—ayes 65, noes 38; no quorum voting.

The SPEAKER. No quorum having voted, the bill, in accordance with the understanding agreed to by unanimous consent, goes over as unfinished business till next private-bill day.

DEATH OF HON. DARWIN A. FINNEY.

Mr. PETTIS. Mr. Speaker, since the adjournment of this body last July an event other and beside the one solemnized yesterday has occurred, which I suppose it becomes this House to notice. But for its occurrence I should not now occupy a seat upon this floor, and but for the proprieties of life in this connection, the silence now broken by my stranger voice I should now, at least, have studied to keep. I, of course, refer to the death of Hon. DARWIN A. FINNEY, late a Representative from the twentieth congressional district of Pennsylvania.

Mr. FINNEY was born at Shrewsbury, in the State of Vermont, in the year 1814, and I believe was fifty-four years of age at the time of his death. He removed from the State of Vermont to that of Pennsylvania about the year 1838, locating at Meadville, which was ever afterward his home. He graduated with high honors at Alleghany College, in the city of his adoption; afterward reading law, and, I believe, being admitted to its practice about the year 1842.

Mr. FINNEY was elected to the Senate of the State of his adoption in 1854, was reelected in 1857, and served his constituents acceptably until 1860. In 1866 he was elected a member of this Congress, but I believe was in his seat but a few days during the short session of 1867. The condition of his health while he was in this House was not such as to enable the

members to form a correct estimate or obtain a full measure of the man. There were, however, gentlemen on this floor on both sides of this Chamber who had had professional and legislative association with him in his palmier days, and who, I may safely say, will take pleasure in testifying to his ripeness as a scholar, his success as a legislator, his aptness in debate, his power as a reasoner, his ability as a lawyer, and his nobility as a man. The principles of humanity, benevolence, and charity, I suppose I might say, were the distinguishing traits of his character. Many a destitute fireside circle that has been warmed and brightened up by the liberality of his benefactions now dwells in sadness and gratitude upon his memory, while the desolation of his absence gathers like a deep shadow of gloom.

His clear-eyed sense of justice, tempered with that mercy which always lived in his own warm heart, endeared him to all with whom he became acquainted.

He had as a lawyer few equals and no superior in western Pennsylvania. He was not great in the sense by which the greatness of "the great commoner" was measured; but yet, Mr. Speaker, he was a great man, and only differed from Mr. STEVENS as one star in the heavens differs from another.

It cannot be said of Mr. FINNEY that he strayed or lingered by the way for the purpose of selecting bright or beautiful flowers for the purpose of adorning his expressions, and yet few men either of the present or the past could submit their views on humane and professional questions with greater force or more peculiar and characteristic eloquence. There was more weight in his arguments and speeches than poetic diction in their surrounding, and his success came chiefly from the prodigious power of his reason.

Even after disease had fastened upon his vitals death for him had no terrors. Encouraged with the belief that a voyage to the Old World would have a healing and restoring effect upon his shattered constitution, and assured if warmer climes and more bracing breezes did not restore lost or impaired health he could return home to die upon the soil he loved best, he consented to try the experiment; and in pursuance of that resolution sailed from New York, I believe, in the autumn of 1867, accompanied only by his devoted and accomplished wife. He continued, I am informed, his travels in the Old World until, not only paralyzed but prostrated by the ravages of disease, on the 25th day of last August, at Brussels, Belgium, he died of disease of the heart. He was deprived of the consolation of dying at home amid the scenes and associations that would have steadied his heart and assured his faith; and although his death was not entirely unexpected in the State of his adoption, yet the intelligence of the sad event was received in that State and the city in which he had lived from his young manhood, and where he was more than loved, with profound sorrow.

It may not be proper, Mr. Speaker, for me to invade the sanctity of the private circle for the purpose of referring to the more ennobling traits of this man's character; but this much I trust I may be permitted to say: that it was there that he was loved the best, and for him in life that circle had the strongest attachment of earth.

Months have elapsed since he yielded up his spirit to God who gave it, and yet the anguish which his death caused to a devoted and amiable wife and loving brothers, who still survive him, has only given place to that silent sorrow which still hovers over the virtuous dead.

I might have found, Mr. Speaker, all the consolation in silence that this earth can afford to sorrow that nestles about the soul and chills the heart when an associate in life's struggle has passed from a state of suffering and pain to one of glory which is everlasting. But I have, under the circumstances, deemed proper this audible testimonial on my part to departed worth, and I have, I believe, nothing to add outside the resolutions which I ask leave to

introduce, and request that they may be read by the Clerk.

The Clerk read the resolutions, as follows:

Resolved, That the House has heard with deep emotion the announcement of the death of Hon. DARWIN A. FINNEY, a member of this House from the State of Pennsylvania.

Resolved, That this House tender to the relatives of the deceased the amount of its sympathy on this afflicting event, and as a testimony of respect for the memory of the deceased the members and officers of this House will go into mourning by wearing crape on the left arm for the period of thirty days.

Resolved, That the Speaker appoint a committee of nine to attend the remains of the deceased on their arrival at New York from that city to the place of interment.

Resolved, That the Clerk communicate a copy of the foregoing resolutions to the widow of the deceased.

Resolved, That as a further mark of respect to the memory of the deceased the House do now adjourn.

Mr. O'NEILL. Mr. Speaker, I second the resolutions. Intimate associations in personal and political life are necessary to impart interest to whatever may be said of a deceased friend; hence I have listened to the remarks of my colleague, who has just taken his seat, with great pleasure and with increased admiration of DARWIN A. FINNEY, who after a triumphant election to this House was so soon removed by lingering illness and death. Yesterday we devoted ourselves to embalming in the memory of our fellow-countrymen the ripe statesman, the time-honored patriot; to-day we speak of one of far less matured years, who, coming from the State of Vermont, as did Mr. STEVENS, was welcomed to Pennsylvania and was honored long ago by her citizens and known everywhere within the limits of the Commonwealth. Office sought him, and in the important trusts confided to him his record is clear, untarnished, distinguished. As a State senator he was the leader of a body of able men, and when he retired from the responsible duties of that position his colleagues regretted that one so prominent among them was leaving the seat he had so well filled.

During his two terms, covering six years, he sustained a reputation of which any one might be proud, and those who served with him have borne unreluctant testimony to his freedom from envy and jealousy, too apt to be engendered in political life. He despised small things. He loathed the man who attempted to mount to fame regardless of feeling or personal friendship, and utterly detested the tricks of the mere schemer seeking the applause of the public. He eschewed selfishness; and the idea to him that promotion to high places was so often its reward that the call of his fellow-citizens alone brought him from the domestic retirement he so greatly enjoyed. Never did he voluntarily consent to enter the arena of strife for office, but yielded when necessity demanded it and when those who knew best the requirements of the public service put him before the people as the exponent of sound principles at times when success was impossible, with as little reluctance as when with certainty of an election he consented to bear the cares from which representative life is never free.

In fact, he looked upon representation as an honor, and to him the free choice of the people to any position, however limited in importance, was a compliment to be regarded and a commission to be accepted in their behalf, whatever might be the range of duties to be performed. With him the principle was representation, deeming it the very vitality of our institutions, and not waiting to consider whether his name was to be known beyond the limits of his county or State. Thus he never hesitated, but proceeded, and without faltering in that thorough independence of action, the result of a well-balanced mind and so marked a characteristic of his temperament, to the fulfillment of the humblest or highest duty, encroaching often upon his valuable time and interrupting him in his very extended practice of the law in all the courts of his neighborhood. Yet his generous disposition and his utter disregard of self made it impossible for him to interfere with the proper ambition of others. This trait of

character, so clearly visible in Mr. FINNEY, endeared him to his friends, gave him the respect of the community in which he lived, and from the Allegheny to the Delaware his death was deplored as of one lost, whose manliness, unselfishness, and integrity in office could not well be spared. If there were no other reason why we should honor him, this total discarding by him of selfishness as the means of success should be enough for us to order an imperishable impression to be made upon our Journal of the condolence of the House of Representatives on the decease of a member so high-toned and of such rare personal dignity.

Mr. FINNEY had many warm friends among my constituents, and in the other Philadelphia districts. I had known him by reputation as a sound lawyer some years before I met him at the capital of Pennsylvania. I speak of him to you just as I have known him, and although my intimacy was not of long continuance while he was a Senator of our State, yet, after I had left official position at Harrisburg, I was quite frequently in the habit of seeing him and of enjoying his pleasant society. His friendships were lasting. His warmth of feeling and social attachments were greatly to be admired. Plain in his expressions of good will, with nothing offensively demonstrative in his evidences of affection and regard, his devotion to a friend was never clouded, but was clear, bright, and unconcealed; his manliness was ever apparent, and deceit and cunning never for a moment held a place in his noble heart. How it rejoices me, my fellow-members, when I think that had he lived to make your acquaintance, you would have cherished him as his friends did. You would have been charmed, as all who knew him well were, and would have added a word on this solemn occasion in praise of such a character, while you would have lamented that his death had severed an attachment you would have wished never to have been broken. Those of us who believe that republican principles are the only true principles upon which our Government can be carried on have been deprived of the companionship of one who, at an early day and to the hour of his death, had been devoted to their advocacy. His republicanism was outspoken and uncompromising. Just as you knew from the manner of the man that he was your social friend, so in your political associations with him you would have recognized how his very heart and mind were exercised for the success of the doctrines of the party to which he belonged.

He was a thinker. He investigated a subject thoroughly, and when convinced his thoughts came from him with a concentration scarcely ever excelled. He was not an orator in the strict sense of the term. He was more, for he possessed that power of thought and reasoning which gave to his words an overwhelming force. With no want of language he riveted the attention of his audience by his directness, earnestness, and the feeling he always created in his hearers of his desire to bring before them the subject he was discussing compactly and pruned of every ambiguous and unnecessary word. The short time he occupied his seat afforded him no opportunity here of debate. I regret it, not that I would intimate in the slightest degree that he had any taste for mere speech-making, but that I would have been delighted to have heard his voice in this Hall, for I am sure he would have commanded your attention. His colleagues felt proud of him, and they knew you would have done justice to his ability. His loss to them is great, indeed, and the State of Pennsylvania suffers in his death, for her interests were always safe in his hands. She gave him to the Republic, which he would have loved to have been spared to serve in the national councils. Yesterday and to-day our beloved Commonwealth deeply deplores her afflictions. She has some consolation, for the remains of her elder son are buried under her own soil; but she still weeps because her hills and valleys did not receive the dying breath of the younger.

Mr. RANDALL addressed the House. [See Appendix.]

Mr. WOODWARD. Mr. Speaker, yesterday was devoted to funeral eulogies on the late Mr. STEVENS; to-day we are called on to mourn the untimely taking off of a younger and less distinguished, but nevertheless a very estimable Representative of Pennsylvania—one who had already done the State some service, and had given promise of larger usefulness in the future. In my judgment, Mr. Speaker, it is well for us to pause in the midst of the excitements and bustle of our daily lives to contemplate these frequent instances of mortality, and to realize "what shadows we are and what shadows we pursue." Very soon these places that know us now will know us no more. The lesson to be learned from the dispensation that has stricken down two of our Pennsylvania Representatives since last session is that if we would sleep well in death, if we would rest from our labors and have our works to follow us, we must be faithful to the duties of life. It may not be possible for us to perform so distinguished a part in the drama of life as those who have gone before us, but we can be as believing, as industrious, as honest, as courageous, as humble as they.

Mr. FINNEY lived in a part of the State remote from me, and I never had any opportunity for social intercourse with him. I knew nothing of him in private life, but I can easily believe that the sterling qualities of character which the public were permitted to see, were powerful magnets to draw private friendships very close to the heart. I would not wonder if he were an idol of the domestic circle. And there are no doubt silent mourners, who do not like us waste grief in words, to whom he was unspeakably precious, and who will hold him in affectionate remembrance long after our poor words are forgotten.

Mr. FINNEY first attracted my attention while he represented one of the western districts of our State in the senate. The judges of the courts, feeling that they were overworked, had asked for an increase of salary. They encountered the customary objections to such measures, but Mr. FINNEY met the objections and the objectors with an energy that overcame them utterly, and secured, not all he sought, but such increase of judicial salaries as laid all the judges, and I may add all the people of Pennsylvania, under lasting obligations to him.

As a lawyer I had opportunity to observe that he was an honorable and skillful practitioner. There is no profession or occupation which brings out character into such sharp outlines as the practice of law; and in the interior counties of Pennsylvania the lawyer is a man of all work. Not only is he an attorney and barrister, but he is a special pleader, a conveyancer, a land agent, a collector of debts, and very frequently the executor of his client's will or administrator of his estate and guardian of his minor children. Besides all this, he is expected to lead in every local improvement. He is to be the foremost man in the community in building churches, school-houses, turnpikes, and other internal improvements; and he is to sympathize with and direct all the movements of the social life by which he is surrounded. Mr. FINNEY fulfilled faithfully all these multifarious conditions. That he made himself acceptable to his fellow-citizens and neighbors is shown by their persevering preference of him for high and honorable positions. And in these positions, as in the practice of his profession in the courts, he exhibited a high order of talents, as well as an exalted standard of manhood. Had he been spared to the usual age of man he would no doubt have achieved a national reputation like that he had already won in our great State, and which will descend as a rich legacy to his family.

The resolutions were unanimously agreed to.

The SPEAKER. The resolutions authorize the Chair to appoint a committee of nine to attend the remains of the deceased, when they arrive at New York, to the place of interment.

The Chair is informed that they will probably arrive during the recess. He therefore appoints as the committee the following-named members:

Messrs. PETTIS of Pennsylvania, O'NEILL of Pennsylvania, RANDALL of Pennsylvania, WOODWARD of Pennsylvania, LAWRENCE of Pennsylvania, DAWES of Massachusetts, BLAINE of Maine, CULLOM of Illinois, and BECK of Kentucky.

In pursuance of the order of Wednesday last, the House (at one o'clock and forty minutes p. m.) adjourned until Monday next.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BALDWIN: The petition of Mrs. Susan E. Alger, of Worcester, Massachusetts, for a pension.

By Mr. BOUTWELL: The petition of David Smith and James McGerrish, praying for an alteration in the bounty acts.

By Mr. CALLIS: A memorial from the judge of probate, county commissioners, and other loyal citizens of Marshall county, in the State of Alabama, asking reimbursement for certain public property, destroyed by the United States forces during the late war, namely, the court-house at Guntersville, Marshall county, in the State of Alabama.

By Mr. CULLOM: A petition, signed by Berthold Hahn, of Springfield, Illinois, asking for a pension and for pay for military service during the late war.

By Mr. ELIOT: The petition of Andrew Jordan and others, of North Carolina, praying for the continuance of the Freedmen's Bureau.

By Mr. JONES, of Kentucky: The petition of certain citizens of Harrison county, Kentucky, praying Government aid for the early completion of the Northern Pacific railroad.

By Mr. JULIAN: A memorial of the Indiana yearly meeting of Friends, praying a delay in ratifying the late treaty with the Shawnee Indians, and for other relief.

By Mr. SPALDING: The petition of Mary B. Fowler, of Cleveland, Ohio, praying for an additional pension.

By Mr. WELKER: The petition of John E. Schmidt, private company K, twelfth New York cavalry, for a pension.

Also, the petition of Margaret Fox, widow of Matthias Fox, late corporal company H, one hundred and forty-seventh Pennsylvania volunteers, and also sixtieth company, second battalion, Veteran Reserve corps, for a pension.

Also, the petition of Theophilus Jones, father of George Jones, private company I, eighty-sixth New York volunteers, for a pension.

By Mr. WHITEMORE: The petition of Jesse H. Griffin, assessor of fourth division, second district of Georgia, that his pay accounts, which have been suspended since August, 1866, in consequence of his not having filed the oath of office required by act of July 2, 1862, may be allowed.

IN SENATE.

SATURDAY, December 19, 1868.

On motion of Mr. POMEROY, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

CREDENTIALS.

Mr. NYE presented the credentials of Hon. ABRAHAM GILBERT, chosen by the Legislature of Florida a Senator from that State for the term commencing March 4, 1869; which were read, and ordered to be filed.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented the memorial of C. Anderson Hultquist, in behalf of the poor people of Stockholm, Sweden, who desire to emigrate to this country, representing that they have no means to bring them here, and asking Congress to pro-

vide means by which they can work out their passage after they get here; which was referred to the Committee on Agriculture.

He also presented a memorial of a committee on behalf of discharged employes of the custom-house in New Orleans, presenting a statement of facts in connection with their discharge, and the class of men appointed in their stead; which was referred to the Committee on the Judiciary.

He also presented a memorial of the Legislative Assembly of Oregon, asking an appropriation to aid in the construction of a railroad from the Willamette river to the Columbia river; which was referred to the Committee on Public Lands, and ordered to be printed.

He also presented a memorial of the Legislative Assembly of Oregon, asking an appropriation to the Oregon and Washington Navigation Improvement Company, for the improvement of the navigation of the Columbia river; which was referred to the Committee on Commerce, and ordered to be printed.

Mr. WILLIAMS presented a memorial of the Legislative Assembly of Oregon, in favor of a grant of land along the line of a military and post wagon-road from Tillamook valley to the Portland road at La Fayette, in that State; which was referred to the Committee on Public Lands.

He also presented a memorial of the Legislative Assembly of Oregon, asking aid of Congress for the Oregon and Washington Navigation Improvement Company, for the improvement of the navigation of the Columbia river; which was referred to the Committee on Commerce.

He also presented a resolution of the Legislative Assembly of Oregon, in favor of granting to that State a certain piece of land known as the southeast quarter of section seventeen, in township nine, south of range forty east, of the Willamette meridian; which was referred to the Committee on Private Land Claims.

He also presented a memorial of the Legislative Assembly of Oregon, asking Congress to aid in the construction of the Columbia river and Hillsboro' railroad; which was referred to the Committee on Public Lands.

He also presented a memorial of the Legislative Assembly of Oregon, in favor of the establishment of a mail route from Roseburg to Randolph, in that State; which was referred to the Committee on Post Offices and Post Roads.

Mr. WILSON presented a petition of J. M. Forbes and others, praying for remuneration for the seizure and detention of the ship Meteor; which was referred to the Committee on Foreign Relations.

Mr. POMEROY presented a petition of citizens of New York, praying that in any amendment to the Constitution to extend or regulate suffrage there be no distinction made between men and women; which was referred to the Committee on the Judiciary.

Mr. SPENCER presented the petition of Walter H. Crenshaw, praying a removal of the political disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

Mr. RAMSEY presented a petition of citizens of the United States, praying a repeal of so much of sections seventy-eight and ninety-four of the act entitled "An act imposing taxes on distilled spirits and tobacco, and for other purposes," as relates to the tax on tobacco, snuff, and cigars manufactured after the passage of the act, and for other amendments of the law; which was referred to the Committee on Finance.

Mr. SUMNER presented a memorial of the medical faculty of Harvard University, praying the passage of an act to organize and increase the efficiency of the medical department of the Navy; which was referred to the Committee on Naval Affairs.

DEATH OF HON. THADDEUS STEVENS.

Mr. KELLOGG. I present to the Senate resolutions passed by the Legislature of the State of Louisiana, in August last, touching the death of the late Thaddeus Stevens. I

regret, in consequence of the delay of the mail, that they did not sooner arrive. I ask that they be read.

The Secretary read the resolutions, as follows:

Joint resolutions expressing the respects of the General Assembly of the State of Louisiana in memory of the death of Hon. Thaddeus Stevens, late member of Congress from the State of Pennsylvania, and tendering their sympathy to the many friends and relatives of the deceased.

Whereas it has pleased an all-wise Providence to remove from the councils of the nation one whose identity with the interests of the common country he has left the heritage of the people; and whereas it is meet and proper that an expression is due the memory of the deceased: Therefore,

Be it resolved by the senate and house of representatives of the State of Louisiana in General Assembly convened. That in the death of Hon. Thaddeus Stevens, late member of Congress from the State of Pennsylvania, the country has lost an able son, the cause of republicanism an ardent advocate, and the people a sincere friend.

Be it further resolved. That the sympathy of the senate and house of representatives is hereby tendered the relatives of the deceased. That these resolutions be entered on the minutes of both houses of the General Assembly, and published in the official journal of the State of Louisiana, and that copies thereof be transmitted to our Senators and Representatives in the Congress of the United States.

Be it further resolved. That the desks of the president of the senate and speaker of the house of representatives of the State of Louisiana be draped in mourning for the space of thirty days.

Adopted in General Assembly, in the city of New Orleans, this 14th day of August, in the year of our Lord 1868.

C. W. LOWELL,

Speaker of the House of Representatives.

OSCAR J. DUNN,

Lieut. Governor and President of the Senate.

[SEAL.]

H. C. WARMOTH,

Governor of the State of Louisiana.

A true copy:

GEORGE E. BOVEE, *Secretary of State.*

The resolutions were ordered to lie on the table and be printed.

REPORTS OF COMMITTEES.

Mr. WILLEY. The Committee on Patents, to whom was referred the letter of the Commissioner of Patents containing detailed statements of expenses, &c., of the office, have had the same under consideration, and directed me to report a bill, and also to ask that so much of the communication of the Commissioner as printed as consists of his letter and abstracts of expenses accompanying it.

The bill (S. No. 713) providing for the payment of salaries and miscellaneous and contingent expenses of the Patent Office for the current year was read twice by its title, and referred to the Committee on Appropriations.

The document referred to by Mr. WILLEY was ordered to be printed.

Mr. HARRIS, from the Committee on the District of Columbia, to whom was referred a memorial of soldiers in the service of the United States residing in the city of Washington, praying that they may be granted the elective franchise, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred a petition of citizens of Vermont, praying a repeal of the charter granted to the Masonic Hall Association of Washington, District of Columbia, asked to be discharged from its further consideration; which was agreed to.

BILLS INTRODUCED.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 714) granting lands to the State of Oregon to aid in the construction of a military and post road from La Fayette to the Tillamook Bay; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 191) explanatory of an act of Congress approved March 3, 1865, entitled "An act extending the time for the completion of certain land-grant railroads in the States of Minnesota and Iowa, and for other purposes;" which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

He also asked, and by unanimous consent

obtained, leave to introduce a bill (S. No. 715) to legalize certain land locations; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. HOWE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 717) to amend an act entitled "An act to aid the construction of certain railroads in the State of Wisconsin," approved May 5, 1864; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. ABBOTT asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 718) to authorize and require the reissue of land scrip to the State of North Carolina; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

CONDITION OF GEORGIA.

Mr. POMEROY. I ask leave, without previous notice, to introduce a bill relating to the State of Georgia. I would not have introduced this bill if I had seen in any of the other bills on this subject a mode of relief, which I thought would be the most easy of attainment for that State. I find that the constitutional convention of Georgia did not dissolve, but adjourned for one year, subject to be called together if Congress should require anything further in relation to reconstruction. But the difficulty with the constitution of Georgia is that it prescribed no qualifications for holding office. This bill simply provides for the reassembling of that convention, requiring of them to put in a qualification for holding office not in conflict with the amendment of the Constitution of the United States called the fourteenth article, and then to submit that constitution thus amended to Congress; and when approved, then for the reassembling of their State Legislature organized according to the constitution. That, I think, will reconstruct the State of Georgia; at any rate that is my bill.

By unanimous consent, leave was granted to introduce bill (S. No. 716) to provide for the reassembling of the constitutional convention of the State of Georgia, and prescribing the duties of the same; and it was read twice by its title.

Mr. EDMUNDS. I wish to say, in connection with the observation of my friend from Kansas; that I think one of the chief virtues of the constitution of Georgia, which has been recently adopted, is that it does not have any qualifications touching the right to hold office, but gives that right to every citizen of the State "without regard to race, color, or previous condition," as the technical phrase is. If my friend means to say that he thinks its construction is to legalize the conduct of that body that called itself a Legislature which met there a while ago, and to hold that that body acted in accordance with its fundamental law in expelling nearly one third of its members because there was a different shade of complexion to them, then I think he is decidedly mistaken.

Mr. POMEROY. If the Senator, as I presume he has, has read the constitution carefully, he will see that it is silent on the question of holding office.

Mr. EDMUNDS. Exactly.

Mr. POMEROY. What the Senator says is only implied. The facts are that that constitutional convention before it adjourned legalized, if any constitutional convention can do it, all the laws of the State not in conflict with the constitution; and the constitution expressly providing nothing in relation to holding office, it legalized, as they construed it, the old law of the State, which was that no colored man should hold office. The constitution which we accepted legalized that old law. There being nothing in the constitution against it, they have construed that that was binding on the Legislature.

Mr. EDMUNDS. Do you think that is a correct construction?

Mr. POMEROY. I do not think it is; but that is their construction.

Mr. STEWART. I think the constitution of Georgia is a little more than silent. I do not think it is silent on this subject. The first section provides who shall be citizens of the State: all who are born in the State and all who are naturalized under the laws of the United States. Then the section that does prescribe the qualification of members of the Legislature says that they shall be citizens.

Mr. POMEROY. They are all citizens. Women are citizens, but not voters.

Mr. STEWART. It says all male citizens over the age of twenty-one years; so that I think the constitution of Georgia, by a fair construction, guarantees to all the male citizens of the State over the age of twenty-one years, not convicted of crime and laboring under no disabilities of that character, the right to hold the office of member of the Legislature. I think that is very clear. It can bear no other fair construction.

Mr. POMEROY. The fact that a constitution provides that all the citizens of the State shall have equal rights is not construed in any of the States to mean that they have equal political rights. The constitution of Georgia does say that all male citizens of a prescribed age may vote; but it is not all the voters who are entitled to hold office, as they construe it, because they had a law legalized by this constitutional convention prohibiting a certain class from holding office. We accepted the constitution with that provision, and I want the constitutional convention to reassemble, it having provided for its reassembling if called together, and adjust that question. I do not want it left to construction. One lawyer or judge may construe it in one way and another in another. This question of holding office should not be left to construction.

Mr. HOWARD. I merely rise to make an inquiry of the honorable Senator who last addressed the Chair, whether the bill he has now presented contemplates any alteration or change in the operation of the act which we passed at the last session authorizing the readmission of the several recently insurrectionary States into the Union?

Mr. POMEROY. The provisions of that act are held in abeyance.

Mr. HOWARD. Let me call the Senator's attention to a clause in the first section of that act: "That each of the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida, shall be entitled and admitted to representation in Congress as a State of the Union when the Legislature of such State shall have duly ratified the amendment of the Constitution of the United States proposed by the Thirty-Ninth Congress and known as article fourteen," upon certain fundamental conditions which do not relate to this subject. The query which I wish to put to the honorable Senator is this: whether or not the right of that State has not already become fixed and unalterable by our own legislation; and by the compliance on the part of the Legislature of Georgia with those terms? It is, I think, an important question. I desire to know whether the bill he has now introduced has in view the alteration of the act to which I have alluded, and if so, upon what ground he bases it.

Mr. POMEROY. The bill which I have introduced suspends the action of that law until after the State has been recognized by the reception of its members in both branches of Congress. The reconstruction act that we passed did not contemplate that our action should be final on the question until their members were received; but when the members from those States were received in the two Houses of Congress that completed the work of reconstruction so far as Congress had anything to do with it. Until that period, however, they are still subject to the legislation of Congress; and indeed I do not know but that they are afterward. They certainly are up to that time. This bill contemplates the reassembling of the constitutional convention of Georgia to complete this work. They anticipated that other things might be required of

them, and they adjourned to another time for that purpose. The year is not out.

Mr. DAVIS. Mr. President, I understand that the reconstruction laws have been carried out by the State of Georgia; that a portion of her people have formed a constitution in obedience to the mandates of the reconstruction laws, as they are termed. The honorable Senator from Kansas nods his assent. I would modify that by saying "the destruction laws," if he would accept the modification. Now, what is the main purpose and principle of the bill introduced by the honorable Senator? It is to dictate to the people of Georgia, through their convention, which has continued its existence by an adjournment, a particular principle or clause in their constitution. The honorable Senator from Kansas is a very able statesman and a very able constitutional lawyer, and I should be obliged to him if he would suggest to me and to the Senate from whence the Senate derives the power to pass such a bill. If he will give me a legitimate authority for the exercise of such a power, and satisfy me that it is wise, just, and prudent to exercise that power in the form which he proposes, I will vote for the measure.

Mr. POMEROY. The form which I propose is simply the form which has been used in the reconstruction acts. The bill does not require of them any particular qualification for holding office, but only that they shall make a qualification in harmony with the Constitution of the United States as amended by the fourteenth article. If they refuse or neglect to do it, it will still be in the power of Congress to receive or reject their members.

Mr. DAVIS. The honorable Senator has ignored my question. I did not ask him what the reconstruction laws were, or what the convention of Georgia had done in their effort to execute the reconstruction laws, but to tell me the source of power which would authorize Congress to pass the bill which he has now introduced.

Mr. POMEROY. The source of power I apprehend to be the same that existed in Congress at the time of the passage of the reconstruction acts. I hold that we obtained the right to legislate for the States in rebellion by the surrender. The difficulty between the Senator from Kentucky and myself is that I believe the Union cause triumphed, and that in that triumph the rebels surrendered everything that was in controversy between the parties; and one of the things in controversy between the parties was the dogma of State authority over the General Government. They held, and the Democratic party generally have held, that in this Government of ours there were some thirty-seven sovereigns, and that therefore Congress could not legislate for a State; but I apprehend that that dogma of State rights and State sovereignty was surrendered when they gave up their old horses and commissary stores to General Grant and General Sherman; that is, they surrendered not merely the materials of the war, but they surrendered the elements of the war, all that went to make up the controversy and the issues between the parties. They surrendered what they went to war about. They surrendered the question of State rights over slavery, State sovereignty as against the General Government. We acquired the right to legislate for them by that surrender.

Mr. DAVIS. That is the most extraordinary explanation of the principle I have ever yet heard, that a State raising an insurrection or rebellion against the General Government may upon its military coercion surrender its sovereignty and all of its rights into the hands of the General Government. Will the honorable Senator inform me whence the General Government derives its authority to become the depository of such power, and whence States acquire their power to surrender the sovereignty and the reserved rights of the people in the hands of the General Government or any victorious generals acting under the authority of the General Government?

Mr. POMEROY. It does not follow that

the State surrenders the reserved rights of the people. It is in regard to State rights that the difficulty with the Democratic party has been from the beginning. I was here when five States had gone out of this Union, and the question was submitted to Mr. Buchanan and his Cabinet what can we do? They met in full Cabinet counsel and discussed it. They adjourned until the next day, when they met and discussed it again, and finally, on the third day, they came to the conclusion, and Mr. Buchanan promulgated it, that there was no power under the Constitution in the General Government to coerce a State; that if rebellion assumed State authority they could not help it, and they had no remedy for rebellion when it assumed the authority of a State organization. They believed that we could put down individual rebels or a rebellion like the Dorr rebellion in Rhode Island; but if rebellion assumed State authority, the State had a sovereignty that the General Government could not coerce. That was the dogma; and it was one of the great difficulties that led to the immense proportions of the recent rebellion.

It was the feeling with men in the South that they owed supreme allegiance to their State. As General Lee said, when he was serenaded at Arlington, the State of Virginia had called him; he deprecated war; he hated above all things civil war; but the State of Virginia, the mother that bore him, had called him to lead her troops, and he owed his first allegiance to the State of Virginia. It was that dogma of his that led him to war against the authority of the national Government, and it was this dogma which the Democratic party have held that led to the dissolution of this Union, so far as State rebellion could dissolve it. My own belief is that State rebellion against the General Government by a State as a political organization is State suicide; that when that political organization rebels, when it forms another government, when its officers swear allegiance to that other government not known to this country, its political organization has committed suicide. That is where we get the right to legislate for these communities, because we conquered them. We were the party that took their surrender; we did not surrender; and in that surrender we took everything that was in controversy, and they submitted. I ask that the bill be printed.

Mr. FESSENDEN. I came into the Senate late, and I am not aware what the question is that is now before the body. Will the Chair be kind enough to state it?

The PRESIDENT *pro tempore*. The question is on referring the bill introduced by the Senator from Kansas to the Committee on the Judiciary.

Mr. DAVIS. Mr. President, I have only one word to say to my honorable friend, the Senator from Kansas. His final refuge is now in an opinion expressed by President Buchanan at the time the rebellion had its inception. I think the honorable Senator is in a great strait when he resorts to that opinion of Mr. Buchanan as authority for the introduction and passage of this measure; but the more the honorable Senator is urged upon this subject the more his confusion becomes confounded, the more his darkness is intensified; at least it is so to my mind, and for that reason I shall not follow up this discussion with the honorable Senator.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Kansas, that the bill be referred to the Committee on the Judiciary, and printed.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLINTON LLOYD, its Chief Clerk, announced that the House had passed a bill (H. R. No. 1192) to extend the provisions of the homestead act to the orphan children of deceased soldiers, who are under the age of twenty-one years, in which it requested the concurrence of the Senate.

RENT OF LIBBY PRISON.

Mr. HOWE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President be requested to inform the Senate, if not incompatible with the public interest, whether any of the public money has recently been expended in payment of rent for the use of the building known as the "Libby Prison," in the city of Richmond, Virginia; and if so, how much was paid, to whom, and under what authority of law.

STEAMER WREN.

Mr. MORRILL, of Maine, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President be requested to inform the Senate whether or not instructions have been given or proceedings instituted to prevent the payment to John Laird & Company, builders of the Alabama, or their representatives, of the proceeds of the steamer Wren, belonging to said Laird or the confederate government, and now in the hands of the Assistant Treasurer at New York; and what is the condition of any proceedings that may have been commenced to secure to the United States or to the owners of vessels destroyed by the Alabama, the proceeds of said steamer Wren.

NEW REPRESENTATIVE APPORTIONMENT.

Mr. HARLAN. I offer the following resolution, and ask for its present consideration:

Resolved, That the Committee on the Judiciary be instructed to report a bill for the apportionment of representatives in compliance with the provision of section two of the fourteenth amendment to the Constitution of the United States.

Mr. TRUMBULL. I think that is a pretty strong resolution. I have no objection to it if the phraseology is changed somewhat; but to instruct the committee to report a bill on so important a subject as that, without any consideration whatever, would seem to be a little unusual in the Senate. I suggest to the mover of the resolution that he modify it so as to direct the committee to inquire into the propriety of reporting such a bill.

Mr. HARLAN. I have no objection to the modification.

The PRESIDENT *pro tempore*. The resolution will be so modified.

The resolution, as modified, was agreed to.

DUTIES ON IMPORTED COPPER.

Mr. CHANDLER. I move that the Senate now proceed to the consideration of House bill No. 1460, regulating the duties on imported copper and copper ores, according to the notice I gave yesterday.

Mr. WHYTE. I trust that the bill to which the attention of the Senate has been called by the Senator from Michigan will not be taken up to-day for consideration. Representing in part here a very large interest in the copper mining and smelting of the United States, and desiring that the objections of that interest to the passage of this bill, which, in their opinion, is a species of class legislation for the benefit of a favored few to the injury of the many, should be presented to the Senate, I applied to the distinguished chairman of the Committee on Finance on Thursday last, and inquired of him when the bill would be considered. I applied to him, as I supposed was usual in such cases, presuming that it was the habit of the Senate to allow the chairman of a committee having charge of a measure to control it to a certain extent, or, at least, that a statement made by him would have due weight with his brother Senators. I applied to him and asked him whether this bill would be considered before the recess. He informed me that while it had been reported, and reported much earlier than I had supposed it would be reported from the committee, it was not the intention of those having it in charge to call it up until after the expiration of the holiday recess. Relying upon that, I told a number of gentlemen who were interested in the subject that it would not be called up before the holidays, and therefore the information which they desired to communicate to my colleague and to myself, representing them here, was not then communicated, and they left the city, and the most important one of the number went directly to the city of New York. I have had no means of communicating with him since

the announcement yesterday by the Senator from Michigan that he intended to call the bill up to-day, and therefore we are unprepared, at least those from Maryland who are in this Chamber are unprepared, to state the views and objections of those who are better informed upon the subject than we are.

I presume I must have erred in supposing that the chairman of the committee could make any statement which would have even the slightest binding effect upon other members of the committee or the Senate; but really I was under the impression that a statement from the chairman that a bill would not be called up until a certain period would be respected and honored by every member of the Senate. I am at fault in so acting, but I appeal to the Senate—as a few days' delay can certainly do little damage to the bill—to allow this bill to go over until the reassembling of the Senate. I shall make no objection to its being called up on the first day of our session after the holiday recess has expired.

Mr. CHANDLER. Mr. President, the parties in interest in the State of Maryland have been frequently heard before this body. Their argument has been spread upon the table of every Senator session after session heretofore, and their whole argument, I believe. The real point at issue is this: Chilian ores, the product of penal labor, are brought in at a nominal duty. When the product of the year 1868 was ascertained a certain smelting company, with a small amount of capital, perhaps a million or two, I do not know how much, went into the market and sold thousands of tons of copper when they had neither the ore nor the copper, at a loss if this bill passes, for the purpose of breaking down the copper mining interests of the United States. They immediately telegraphed and sent over the world for copper to come in from abroad to fulfill these contracts which were intended to break down the copper-mining interests of the United States.

It is now, sir, in my judgment, of vital importance that this be headed off, and that it be done now. The amount of capital invested in the copper-mining interests is over fifty million dollars. The amount invested in these smelting works is very small. I cannot say how much, for I have not had occasion to investigate it; but it is comparatively small. The cost of mining and delivering a pound of copper is twenty cents; \$400 a ton. The cost of smelting it is a cent and a quarter a pound; twenty-five dollars a ton. Now, sir, is all this vast capital to be sacrificed for the benefit of a single smelting company? I hope that immediate action will be taken. I gave notice yesterday, and I have given private notice heretofore, that I should call up this bill at the earliest possible moment and press it to a vote if the Senate would permit me to do so. I hope the bill will be taken up, and that it will be pressed to a vote to-day.

Mr. SHERMAN. I am in favor of this bill, and I think the copper interest ought to have some relief; but I think it would be extraordinary in the face of the statement already made by the Senator from Maryland and in the face of the statement I made yesterday to take it up in violation of the understanding at the time it was reported. I do not suppose the Senate will do that. This bill was reported by my vote, and I heartily approve of it; but there are two interests that are very strongly opposed to it: one is the smelting interest in Baltimore, smelting the ores of Vermont, Tennessee, and other States, and also foreign ores; another is the commercial interest represented before the Committee on Finance by several members of the House of Representatives, who say they were taken by surprise by the passage of this bill in the House. The Committee on Finance at first determined to lay the matter aside and not to act upon it, but on subsequent reflection and on the urgent representations of the Senator from Michigan, who stated that this interest was in a distressing state, we concluded to report it, as we were in

favor of the bill, but with an understanding that it should not be called up until after the holidays, so as to give those parties opposed to the bill an opportunity to make their statements through their Senators to the Senate. Now, for us to take up and pass now this bill, sent to us at this session, would be rather extraordinary. I suppose the Senate will not do it. I should regard it myself as a very harsh thing, and it would place me in a very unpleasant attitude. I am in favor of the bill, and shall support it and urge its passage with the Senator from Michigan; but to pass it now in the face of these representations would place the Committee on Finance in a very embarrassing position. It would look like a trick on these parties, which certainly was not designed.

Mr. HOWARD. Mr. President, of course I am unaware, except as informed by the honorable Senator from Maryland, of the understanding between himself and the honorable chairman of the Committee on Finance in regard to the time of taking up this measure for discussion, but such is the pressing, urgent nature of the bill, and such is the inconvenience to the mining companies engaged in that kind of business in my own State, as well as other States of the Union, that I must ask the Senate most earnestly to take this bill up for consideration and not to delay it. Delay at this time cannot but be injurious in the end to this great mining interest, which it is one of the objects of this bill in some degree to protect. Why, sir, delay the consideration of this bill, delay its passage for ten days or more or less; let that be announced to the country as the action of the Senate upon the subject, and orders will pass over the cable from Baltimore, and perhaps other places in the United States, to Swansea, in Wales, and other copper exporting ports of Great Britain, and before we can act upon the bill as it becomes us to act the American market will be glutted with copper from foreign countries at a very small rate of duty.

Now, sir, while I am up let me state a few facts in regard to the necessity of taking up this bill. The amount of money actually invested in my own State in mining, not smelting, copper is at the present time undoubtedly not less than \$67,000,000, including the capital stock which has been paid in by the companies for the last twenty years, and including also the improvements which they have been obliged to make upon their mines in working and in protecting them. The number of mines in the Lake Superior country alone within the last two or three years, I do not remember exactly the period, has not been less than eighty, which have been operating at no great advantage to themselves. The occurrence of the war was a great drawback upon their prosperity, and at the present time such has been the want of protection against the foreign article that only eleven of those mines are in operation. They have been obliged to close up their works, to dismiss their hired men, who have gone to other places to seek employment, and I am told by a very intelligent gentleman, who is better acquainted perhaps with this branch of business in my own State than any other, that at the present time there are not less than fifteen hundred tenements in the Lake Superior country once occupied by miners and the employés of the mines which are now tenantless, boarded up, and their families have gone away and are seeking elsewhere for employment because they can no longer be employed by the companies which once employed them. In short, the present state of things, in regard to the copper mines of Lake Superior particularly, threatens immediate and certain ruin to the companies, and unless Congress shall come to their aid speedily they will be obliged to abandon all their works and this immense amount of capital will be almost totally lost and destroyed.

I appeal to the friends of American industry, I appeal to the friends of protection to a reasonable degree, to take this great interest not only of my own State but of other States of

the Union into consideration, and give those companies the aid which they honestly deserve. I hope, sir, that the bill will be taken up and that we shall proceed to its consideration and pass it. I know of no measure at the present time more urgent or more necessary for the protection of one of the great branches of the industry of the country.

Mr. VICKERS. I hope that this bill will be postponed. The reason assigned by the Senator from Michigan who was last up with regard to the amount involved in it is, I think, the strongest reason why it should be deferred. The interest seems to be of great magnitude; and, if it is so, it is important that the Senate of the United States should act with due consideration, and not hastily. It is more important that they should have full information, that their action may be judicious, than that they should act without full information and hastily, perhaps to the prejudice of other interests.

I do not perceive that if telegrams are sent over the cable for the introduction of copper ore it could be brought into this portion of the country within two weeks. It would be impossible for it to be shipped and landed within two weeks; and if this bill is taken up on the first day of the session after the recess surely no great injury can result from the delay.

But again, the Senator seems to assume that the Senate is to pass this bill as a matter of course. Sir, that assumption should not be entertained for a moment. Although the Senators from Michigan may favor the bill, and properly favor it, it does not follow that the Senate of the United States shall adopt their views. It may be important to modify this bill to some extent; the duties proposed may be too high. Now, without going into the merits of the bill, I understand that if it should pass, the increase of duty, estimating the ton of fine copper at twenty-two hundred and forty pounds, will be from \$16 80, the present rate, to \$39 80 per ton of fine copper. That would seem to be an enormous increase, if this estimate which has been furnished me is a correct one. Is the Senate hastily to pass a bill by the passage of which such an enormous increase of duty shall be brought about?

Again, how is it to affect the shipping interest? That is an important matter. The tonnage and shipping of the country, in which this copper is used, are entitled to consideration.

I say, then, the magnitude of the interest is a motive for the postponement of this bill. It is to affect other interests beside those of the State of Michigan, and in a different way perhaps. When the bill is duly considered it may, perhaps, be modified to some extent, so as to suit the interests of all the different sections of the country. If it can be so modified, I shall be very glad. I was not in the Senate when the bill was discussed at the last session, if it was discussed then. I had to leave two days before the expiration of the session on account of sickness, and it certainly was not discussed while I was in the Senate. My then colleague is now representing this country on a foreign mission, and my present colleague and myself are new members, not having a full comprehension of the subject.

Then, the understanding which my colleague had with the honorable chairman of the Committee on Finance certainly induced him not to expect that the Senate would take up the bill before the holidays, and therefore he is not prepared. Now, shall the Senate, without full information, and without the possibility of obtaining that information which my colleague will at the proper time be prepared to furnish; shall the Senate, now when the interests of different States are to be affected, take up the bill at this particular period? I should hope that a lapse of two weeks would not produce any injury to the mining interests of Michigan, and I hope the Senators from that State will not urge the bill upon the consideration of the body at this time.

Mr. MORRILL, of Vermont. I have no doubt that the copper interests need some

relief, and at any time when I have an opportunity I propose to vote that relief; but in saying this I do not wish to be understood as favoring this bill in precisely the shape in which it now stands; that is to say, I prefer to have it amended. I suggest to the Senators from Michigan that the bill if passed in its present form will not give any protection whatever, in my judgment, to the copper interests. It is necessary to go further and embrace something more in order to give any protection to those interests. For instance, this bill raises the duty upon pig and other ore in the form of the raw material from two and a half to five cents per pound; and yet it leaves the duty upon copper sheathing and copper plating at three and a half cents per pound. It raises the duty upon copper, but it does not raise the duty upon brass. The duty upon brass is now fifteen per cent., and copper forms the chief alloy of brass. It would follow, therefore, if this bill should be passed in its present shape, that the manufacturers of brass would no longer use American copper for that purpose, but would import the brass.

There are several points wherein this bill should be amended, even to meet the views of those of us who think that copper should have some relief at the present time; and, if it shall be amended, the bill must necessarily go back to the House of Representatives, and cannot be acted upon there until after the recess, because, as I learned a few moments ago, the House has already adjourned from yesterday until Monday, and there is no longer a quorum of the House present in the city. I hope, therefore, that the Senators from Michigan will consent to let this bill remain until after the recess.

Mr. PATTERSON, of Tennessee. I hope the Senator from Michigan will consent to postpone this bill until after the holidays. I feel inclined to go for his bill, but it is very evident it cannot be passed to-day.

Mr. CHANDLER. I have no doubt we can pass this bill to-day. If there are any amendments that are requisite they can be made by the Senate. But this bill, as I will inform my friend from Vermont, precisely as it is, does furnish a very material relief to the copper-mining interest. It is the introduction of foreign ores that troubles us, not the importation of sheath brass. I admit that there should be an advance of duty on sheath brass and sheath copper, and have no objection to placing them in this bill. My friend from Vermont has an amendment covering that ground; that amendment can be offered, and it may be adopted. I hope that the bill will be taken up and its consideration proceeded with, and that it will be passed to-day, as I have no doubt we can pass it. I ask for a vote on taking it up.

Mr. FERRY. Mr. President, it is apparent, from the statement which has been made by the Senator from Maryland and also by the chairman of the Committee on Finance, that although it is possible if this bill be taken up that it may be passed to-day, in a manner after the fashion of the whip and spur of the previous question in the House of Representatives, it is clear that the bill cannot be passed to-day with fairness to the parties interested in its provisions and to be affected thereby, nor with full information before the Senate of the considerations which ought to be presented to it. Why do I say so? The bill having passed the other House on the first day of the session in the manner which I have indicated, and remained but a short time in the hands of the Finance Committee of the Senate before it was reported here within three days last past, the authorized exponent of the views of the Finance Committee informs the parties most affected disastrously by the bill that it is not understood by that committee that the bill shall be considered by the Senate until after the holidays; and upon this statement the gentlemen who are interested, and whose interests may be, as I said, disastrously affected by the passage of the bill, have gone to the city of New York to obtain information in an authentic form to lay

before the Senate. Now, it certainly does seem to me that any Senator considering these admitted facts will find it difficult to vote to proceed to the immediate consideration of the bill.

When the bill passed the other House, knowing that it would affect to some extent the interests of my constituents, I addressed a letter to a very intelligent gentleman in a large manufacturing town in my State, requesting information upon the subject; and from him I have received a reply from which I wish to read a few words in reference to the question now before the Senate as to the propriety of taking up the bill at this time. He writes:

"I earnestly hope that the copper tariff bill that passed the House will be defeated in the Senate, as it ought to be. It is passed professedly in the interest of the copper miners of Lake Superior, but really in the interest of speculators in mining stocks and copper. Quite an active movement has occurred in copper within the past ten days, and the price has advanced under large purchases by speculators, with no reason for an advance except speculative ones. The interests of the whole country demand cheap copper, and there is no reason for any increase in the tariff growing out of the relation of production to consumption. But, besides, there is a large amount of capital invested on the Atlantic coast in smelting copper from ores, and while more copper and copper ore both are now exported than are imported, the smelters from ore are obliged to have copper ore enough from Chili to make in ordinary times four million pounds of fine copper per annum, in order that they may mix it with the American ore and make good copper. On the other hand, more than this amount of ore is exported to England annually from California."

He refers to the statement made by Mr. Martin, of Maryland, which has been referred to by one of the Senators from that State, and says:

"The positions of Mr. Martin, of the Baltimore company, are inconceivable. He does not state them as strongly as the facts well warrant. I was president of the Detroit and Lake Superior Copper Company for more than a year, from March, 1867, to June, 1868; and am now individually and as trustee largely interested in it, and therefore know whereof I write. This company smelts and refines more copper than any other in the country. It is all from native mineral, none from ores."

"It is true, also, that the effect of the bill is to destroy the business of smelting from ores; at least, I have no doubt of such being its tendency, and I know such is its object. None of the Lake Superior miners deny it, and a very large New York operator in copper and copper-mining stocks told me that such would be its effect, and ought to be."

"Notwithstanding the smaller cost of smelting the Lake Superior native mineral, copper can actually be produced cheaper from ores than from the Lake Superior mineral, the whole cost of mining, &c., being included, at the present rate of duty. This advantage the smelters from ores must be deprived of, because they must have an admixture of foreign ores with the American to produce good copper, unless the smelting is done, as at the Tennessee furnace, by charcoal. Who is harmed by this small importation of ores when an equal or greater amount both of ores and fine copper is exported?"

Now, sir, I desire to produce and present to the Senate proofs of the statements which are made by this gentleman, and I desire to produce and present to the Senate statistics in relation to these Lake Superior mining companies and mining stocks; and also in relation to the shipping and commercial interests involved in this bill. It does seem to me that after the representation which has been made from the Committee on Finance that we who oppose the bill ought to have an opportunity to make this presentation to the Senate.

Mr. HOWARD. Mr. President, I do not know who is the author of the paper from which the honorable Senator from Connecticut has read. He speaks with great confidence of the necessity of foreign ores in order to the proper smelting of our native ores. That appears to be the great point of his effort; the absolute necessity of the foreign carbonates to be used in smelting our native ores, and hence the necessity of letting in those foreign ores free or subject to a very trifling duty. I do not propose to go at any length into the consideration of that subject, but as a reply to the statements of the writer, whose letter has just been read to us, I beg leave to read from a letter dated the 20th of June last, written by Mr. C. Raht, secretary of a copper-mining company in Tennessee, who, I understand, is a very intelligent gentleman—

Mr. FERRY. If the Senator will allow me he will find that the letter I read referred to

this Tennessee furnace as one where the smelting was done by charcoal. If he listened to the letter I read he would see the distinction it made in reference to the Tennessee furnace.

Mr. HOWARD. I will read a part of this letter, and only a part of it is necessary to be read. Addressing Hon. HORACE MAYNARD, the writer says:

"I duly received your esteemed favor of the 18th instant. The bill proposed in the Committee of Ways and Means will give to the copper-mining interest all the protection needed. The copper production of this country is fully equal to its consumption. Foreign copper, refined or in ores, is not needed for any branch of industry for which our own production would not answer better."

"The assertion made by the Atlantic smelters, that they require foreign carbonates of copper in order to smelt up the native sulphurets and oxides, is a fallacy. We have manufactured at our mines, in Tennessee, during the last year, over two million pounds of fine copper out of sulphurets mainly, and produced an article the quality of which none of the Atlantic smelters have reached."

There is the opinion of one expert upon this subject directly against that of another. If it becomes necessary I can introduce other proof upon this subject which will make it overwhelmingly conclusive. There is no necessity whatever for the use of foreign carbonates of copper in the smelting of our native ores; and the experience of all the native mines in the country is in accordance with this statement. The idea is, as this writer very properly designates it, a fallacy. I hope, sir, that the bill will be taken up and acted upon at once.

Mr. CAMERON. I trust we shall take up this bill now and act upon it. This is the second day that it has been pressed upon the attention of the Senate. It has passed the other House, and if we are ever to take it up we should do it now, and bring before the Senate all the questions in connection with the tariff system. This is an interest in which my State has very little concern—none at all, except that we send coal up to Michigan and they bring down their ores. I know something about the furnaces in Baltimore. There are only two of them, I believe. They are small interests compared with the great mining interest in the Northwest. I have no doubt, with the knowledge I have before me, that unless we pass a bill like this the miners of Michigan will be driven out of employment entirely. The furnaces in Maryland are among the very few in the country. There are two there, I believe, and there are but very few anywhere else in the whole country. They can get their ore, if they will, as cheaply from Michigan as they do now from abroad. It will come down by the lakes to Erie, and down the canal to Pittsburgh, and from thence to Maryland at very little cost; but they have been in the habit of getting it from abroad, and like all other habits it is hard to change.

But my reason for desiring to take up the bill now is, that we have nothing before us of importance to-day. We have met mainly for the purpose of discussing and disposing of this bill, and we had better pass it or defeat it now, and thus save time hereafter. If we do not, it will occupy not only a day, but days, and perhaps even weeks when we reassemble. My desire is to have as little business of this kind, after we come back, as possible. I hope that the Senate will take up the bill, and pass it or not, as they see fit, to-day.

Mr. DIXON. I doubt very much whether business can be very much expedited or hastened by taking up the bill to-day. If it should be taken up to-day, although in a somewhat unprepared state, I shall deem it my duty to discuss it. I shall think it my duty to make some remarks upon it, and offer some reasons why the bill, in my judgment, ought not to pass. If the Senate insist upon it to-day, I, unless some other Senator does so, shall be compelled to go on in opposition to it. I would take up less time of the Senate with greater preparation. I had no idea that it would be insisted upon at this period of the session, and I trust the Senate will not require those who are disposed to discuss the bill to go on with that discussion to-day.

In regard to what the Senator from Pennsylvania has said of the interests in Baltimore and other places, in my judgment they are not so very small as he has intimated. He says they can get their ore in Michigan. Everybody knows it is a very different kind of ore, requiring no smelting, native copper most of it; whereas the other is of an entirely different character—sulphurets, or something of that kind. All these things I propose to go into, and I propose to attempt to show the Senate that the bill ought not to pass. I think the great interests of the country, the shipping and manufacturing interests, do not require it. But I dislike very much to go on to-day, and I hope the Senate will give time for the discussion. I think, as I said in the beginning, that the bill can reach a final conclusion and receive the deliberate action and decision of the Senate better and perhaps even earlier than if it should be pressed at this time.

Mr. FRELINGHUYSEN. It seems perfectly apparent that no time can be gained by pressing this bill to-day. I understand the Senator from Vermont [Mr. MORRILL] proposes an amendment, which the Senator from Michigan intimates he will accept. Then it must go back to the House of Representatives, and of course no action can be taken upon it until after the recess. My sympathies are with this bill, as they are always for any tariff bill. I confess, however, I do not like this system of legislation, picking out first wool, then copper, and then some other article, and leaving the general manufacturing interests of the country without that protection to which they are entitled, and thus dividing the strength which those great interests ought to have; but still, if a bill is introduced which gives proper protection to copper, trusting to the magnanimity of the representatives from the West, who have wool and copper protected, I should probably vote for the bill.

Mr. CHANDLER. I desire to say that this matter will be greatly expedited by pressing it to-day. The House has not adjourned; it will be in session on Monday, and if we adopt the amendment proposed by the Senator from Vermont the House can concur in it and still make the bill a law on Monday next. The Senator from Maryland [Mr. VICKERS] says that the bill proposes to increase the duty on copper some eighty odd dollars. He must see at a glance that he is very much mistaken. The whole duty proposed is only \$67 20, three cents per pound on the ore. He has been misinformed on the subject. I hope, sir, that the bill will be taken up and passed to-day, so that it may become a law before the recess of the Senate.

Mr. MORRILL, of Vermont. If the Senator from Michigan will allow me—I see he rather controverts a statement made by me—the House, I understand, have adjourned over until Monday. They had not a quorum yesterday, and there is no probability of their having one, as I am informed, on Monday.

Mr. CHANDLER. I have received my information from a member of the House of Representatives since the Senator made his statement. I hope that the bill will be taken up and considered.

Mr. WHYTE. Mr. President, I do not recognize the wisdom of the reasons given by the Senator from Michigan [Mr. HOWARD] for pressing this bill at the present time. If the mining interests upon the shores of Lake Superior are suffering so much that the houses are closed and the men have gone away to look for employment elsewhere, surely during the Christmas holidays they will not return to their houses to look for that employment which they have already lost. Therefore, but little harm can be done to the men themselves if this bill does not pass before the 5th or 6th of January.

In regard to the other statement, that if this bill does not pass at once orders will go from Baltimore to foreign ports to buy largely of copper and thereby to glut this market, I can say nothing, for I know nothing of any such proceeding having taken place before. I do not

believe it; however. The interest in Maryland to which I refer, amounting to more than a million dollars, is held almost exclusively by gentlemen high in influence in the Republican party there, better known to the Senators from Michigan than to me personally; but they are gentlemen who stand high in our community, and I am here in their behalf to ask the Senate not to turn men from the Senate Chamber unheard. They came here in the early part of the week and asked respectfully that they might simply be heard. They were told that it was not necessary for them then to speak; time would be allowed them after Congress reassembled in January; and, as I stated before, relying upon this promise or this understanding of Senators—an understanding which ought never to be tarnished—they have gone home. And now, having heard that this bill is sought to be brought up for consideration by the Senate, in utter astonishment they telegraph across the wires, pleading with the Senate not to put them at such disadvantage. I ask permission of the Senate to read the telegram which I hold in my hand. It is addressed to the Senator from Ohio, [Mr. SHERMAN,] who has kindly handed it to me:

"Agreeably to understanding, as we supposed, mining, smelting, and shipping interests have been notified that they would be heard after the holidays, and have all responded that they will then be in Washington. Upon this assurance they have acted and rely. We certainly hope you will not allow the tariff bill to come up in the Senate till we are heard."

With this understanding these gentlemen have gone away; and when parties interested as manufacturers and as miners and as shippers and as ship builders have relied upon the assurance of Senators that no action would be taken, and without lodging the information with us which they wished to communicate to the Senate, have returned to their homes relying with perfect security upon that assurance, will the Senate of the United States take up that measure, and, without the information which we desire to communicate, press it to a vote to-day? I am a young member of the Senate, but I have had a traditionary respect for the calm and considerate legislation of which it has heretofore always been an exemplar, and I shall be surprised if on this occasion I shall see any action not in consonance with the reputation that it has heretofore held.

Mr. CHANDLER. I gave notice yesterday that I should call up this bill to-day and press it to a vote. These parties are within two hours' ride of this city, and they could all have been here this morning after that notice was served on them. I ask the Senate for a vote, and I call for the yeas and nays.

The yeas and nays were ordered.

Mr. CATTELL. On this bill I am paired with Senator GRIMES. If he were present he would vote against taking up the bill, and I should vote for it.

The question being taken by yeas and nays, resulted—yeas 22, nays 25; as follows:

YEAS—Messrs. Abbott, Cameron, Chandler, Corbett, Drake, Harlan, Howard, Howe, Kellogg, Morgan, Morton, Nye, Patterson of Tennessee, Pomeroy, Pool, Ramsey, Rice, Stewart, Wade, Warner, Williams, and Yates—22.

NAYS—Messrs. Buckalew, Cole, Davis, Dixon, Edmunds, Ferry, Fessenden, Fowler, Frelinghuysen, Harris, McCreery, Morrill of Maine, Norton, Patterson of New Hampshire, Ross, Sherman, Spencer, Sprague, Sumner, Trumbull, Van Winkle, Vickers, Whyte, Wiley, and Wilson—25.

ABSENT—Messrs. Anthony, Bayard, Cattell, Conkling, Conness, Cragin, Delittle, Grimes, Henderson, Hendricks, McDonald, Morrill of Vermont, Osborn, Robertson, Saulsbury, Sawyer, Thayer, Tipton, and Welch—19.

So the motion to take up the bill was not agreed to.

HOUSE BILL REFERRED.

The bill (H. R. No. 1192) to extend the provisions of the homestead act to the orphan children of deceased soldiers who are under the age of twenty-one years, was read twice by its title, and referred to the Committee on Public Lands.

MISS SUE MURPHEY.

Mr. HOWE. I move, if it be necessary to make such a motion, that the Senate resume

the consideration of the bill (S. No. 225) for the relief of Miss Sue Murphey, of Decatur, Alabama.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill.

Mr. EDMUNDS. I think this bill is of so much importance in its principles and in the precedent it will establish for a very large number of cases, and for the expenditure of a very large amount of money, that it ought to be reconsidered by the committee who reported it, and that we ought to have a written report which shall discuss the principle upon which it proceeds, and which shall govern it and the other cases like it. I have certainly no opposition to this specific claim; I dare say it may be meritorious in a mere intrinsic sense; certainly I know nothing against it; but when I reflect how vast is the sum of money that entering upon this course of legislation involves, and how difficult it will be to distinguish between just and unjust claims all over this wide expanse of southern territory where war and rebellion have raged, I cannot refrain from calling the attention of the Senate to it again, and from moving, as I do now, that the bill be recommitted to the Committee on Claims.

Mr. FRELINGHUYSEN. I agree with the Senator from Vermont as to the importance of this question, and as to the large amount that may be involved in the decision of it; but I do not agree with him in the propriety of having it recommitted to the committee at this time. The Committee on Claims have had this question before them repeatedly. There is a written report in this case. What the committee now ask, and what I think they are entitled to, is to have this subject discussed before the Senate and to have a vote of the Senate upon it. Whether this period of the session is the most propitious time for that discussion, I am not prepared to say. When the question is discussed I hope to have a little to say on the subject, but my remarks shall be very brief.

Mr. EDMUNDS. I certainly had the impression the other day, from something that fell from the lips of my friend from New Jersey, that this subject, as involving this principle, had not been considered in the committee, and that this bill might well be recommitted. I evidently misunderstood him, and therefore I withdraw the motion that I made to recommit; and as he says it needs to be further discussed, I move that its further consideration be postponed until the 5th of January.

Mr. HOWE. Now, Mr. President, I have a few words to urge against that motion. It may be that the principle involved in this bill is of immense moment to the country, because of the amount of money that hangs upon the decision of it. I do not concede that. I do not believe that any such amount of money hangs upon the decision of it as is urged here. But what I ask of the Senate is a consideration of the question now, and a decision of it. That I ask in the name of the committee.

Senators say that we ought to be careful about settling this precedent. Sir, there is no question of precedent about it. The precedent, so far as the action of the committee or the action of the Senate is concerned, is settled, if a precedent can be settled—settled in this, that the Senate has already passed this very bill in this very case. There cannot be any mistake, then, about the want of precedent. But it has also passed another bill involving all that is involved in this bill, and a little more. In the case of Ames, after repeated debate, the Senate and the House passed a bill appropriating money for a building which we did not take and use, as is the case here, but which was destroyed in battle, if I recollect the fact.

Mr. WILLIAMS. I think that was so; but it was inside of our lines. That was the point.

Mr. HOWE. That is another question. It was actually destroyed by our guns in the course of a battle, if I am not mistaken as to the facts in that case.

Mr. FOWLER. Was not the house taken for the purpose of building a fort there?

Mr. HOWE. Not in that case; but in this case it was.

Mr. FOWLER. In the Armes case also.

Mr. HOWE. No, I think not in the Armes case; but in this case it was taken for the purpose of building a fort.

Now, Mr. President, what is the principle involved here? Senators say that upon principles of public law we ought not to pay for the property of our friends taken within the rebel districts by the Government and for its use. I deny that upon principles of law we are prohibited from paying such claims, or that upon the principles of public law we are permitted to refuse the payment of such claims. I say again, we have legislated upon this question. The question whether we would or would not claim the ownership of property down there, and to what extent we would claim it has been before Congress in a number of instances. It was before Congress in 1861, and you then decided, and put your decision into a public act, that you would confiscate, seize, and appropriate, not the property of your friends in the rebel districts, nor the property of your enemies in the rebel districts, but simply the property which was used by the enemy and for the purposes of the insurrection. That is the extent to which that the first bill on the subject went. If this Government intended to assert the right to appropriate all property down there would there have been any such law as that put upon your statute-books?

But the Senator from Maine [Mr. FESSENDEN] the other day said that if we could find any principle of law or any authority in public law for the settlement or adjustment of such claims as this, he would cheerfully, as I understood him, vote for the payment of this claim. I think there are several precedents. I have already said that the Senate has passed this very bill. I have already said that both Houses have passed another bill involving this principle. But I wish to call the attention of that Senator and of the Senate to another piece of legislation on this subject. In 1862 you undertook to pass a law and you did pass a law to confiscate certain property down there and to punish certain persons down there. The Senator asserted the other day—and it has been asserted before that day on this floor—that upon well-recognized principles of public law all persons residing within that rebel district were enemies of ours, and therefore that they had no rights which this Government was bound to respect, no rights of person or property. I say that in 1862 you undertook to pass a law to define what you deemed to be their true relations to this Government. What did you say? That you would take all their property and appropriate it to the use of the Government—the property of those who were rebels and the property of those who were loyal also? Certainly not. You said that of certain classes whose guilt you considered the most flagrant you asserted the right to confiscate their property; and in order to discourage the rebellion, in order to intimidate the rebellion, you did incorporate in the same law a provision to the effect that if they did not lay down their arms and cease to fight us within a certain time after notice given by the President, you would confiscate the property of all classes of those, not who lived there, but of all classes who were engaged in prosecuting the rebellion, who were positive, actual enemies.

That is the extent to which the law of 1862 went; and I believe it is within the recollection of the Senator from Maine that he was not particularly in favor of that bill. I certainly was not; and I have not seen the entire wisdom of it up to this time. We both thought then, although it did not propose to strike a single item of property belonging to any friend of ours, that it was an injudicious measure; at least I did, and I understood such to be the opinion of the Senator from Maine at that time. I thought that was going further than it

was judicious for us to go then. But, sir, do you suppose, if the public law made us the owners of all the property within that district, we should have stood here haggling over a question about confiscating the property of those who were actually fighting us, who were rebels in fact as well as in law? It seems to me not.

But we had other legislation upon this subject. Recollect the principle asserted here is that all those within that district are our enemies, and to be regarded as the enemies of this Government; and it is said that such is the judgment of the Supreme Court. I deny it. The Supreme Court has not asserted any such doctrine. The Supreme Court did say in the prize cases that all the property owned by the residents of a hostile country—and they applied that doctrine to the rebel districts—was by the prize law to be regarded as enemies' property, and when found upon the high seas it was subject to forfeiture in the prize courts; but whether the Government would avail themselves of the proceeds of such property when forfeited and when the proceeds were paid into the Treasury rested with the Government to say, and they would retain the proceeds or refund them according as the owners of the property were actually enemies or actually friendly. That is the extent to which that decision in the prize cases went.

And why did they assert that this property was regarded as enemies' property? Simply because it was property which was liable to feed and to strengthen the enemy. No matter what might be the disposition of the owner, being a resident within the rebel district his property was liable to seizure for rebel purposes; but what the degree of liability is, it is manifest, depends upon what the property is. The property in this case was the homestead of a woman, consisting of a few acres of land and the house she lived in, erected upon it. That homestead was not capable of being made to furnish much strength to any cause which was being prosecuted by war.

But there was one kind of property down there, Mr. President, which you know, which the Senate knows, which the courts have said, constituted the very sinews of the rebel cause; and that is cotton. To mark the judgment of the national Legislature as to the disposition that ought to be made of that kind of property you passed an act in 1863 by which you declared, what? That the Government should have it all? No, sir; but you said that whatever of that kind of property was captured by our Army or was abandoned by its owners and found down there so abandoned should be turned over to the agents of the Treasury Department. What for? To be sold and the proceeds to be paid into the Treasury? What for? To meet the exigencies of this Government? No, sir; but to meet the judgment of law upon the question whether it belonged to us or to our friends; and you declared there that so far as those proceeds came from cotton which belonged to the friends of the Government, no matter where they lived, they should have the right to follow those proceeds into your courts; you threw the doors of your courts wide open, and allowed them to sue to establish the fact that they were the owners of the cotton and that they were the friends of the Government, and not its enemies; and upon such proof being made your law provided that that money should be paid back to them.

Mr. YATES. Will the Senator allow me to ask him a question?

Mr. HOWE. Yes, sir.

Mr. YATES. I wish to ask the Senator from Wisconsin whether he intends to assert the proposition here broadly that wherever the property of a loyal owner has been taken by the Government compensation must be made to him, or whether the case which he now proposes is an exceptional one? I ask that question because the broad proposition would involve a question of thousands of millions of dollars.

Mr. HOWE. I do not claim that this is an exceptional case at all. I say if there is any

honesty in this Government; if there is honesty in this Government to enable it to face its bonds and pay them, it will pay every one of its loyal citizens for every dollar of their property which the Government has had the use of. That is not my proposition exactly, whether it involves thousands of millions or thousands of dollars. If you owe more than you can pay, you should do like any other bankrupt. That does not excuse you for falling back and saying you will not do anything. Do as every other honest bankrupt does: pay as far as your funds go, and then ask a discharge of a bankrupt court for the balance. I do not know of any other honest way of getting along.

I was calling attention to this cotton bill. I say, in that bill you declared that you would not assert any ownership over cotton, the sinews of the rebellion, if it was proved to belong to your friends. In the administration of that law a great deal of cotton was seized and turned over to the Treasury Department. Cotton to the amount of \$35,000,000, if I remember aright, was sold, and the proceeds paid into the Treasury. Under the force of the law every one of the loyal owners of that cotton had a right to sue in the Court of Claims. That was the only right preserved to your friends under that law; but they secured another right; and I wish to call the attention of the Senator from Maine particularly to that. I say, in addition to the right preserved to them in the statute they secured another right, and that was, by the adjudication of the Treasury Department money which, according to the theory asserted here and asserted by the Senator the other day, belonged to our enemies, to the amount of more than two million dollars was paid out of the Treasury, and cotton amounting to almost three thousand bales, if I remember aright, was surrendered up to those who, as I understand the Senator's theory, were the enemies of the Government; not enemies in fact, but enemies in law. This was not done under the authority of that statute, for the statute only provided for them to sue in the Court of Claims. Now, I think here is a precedent. If it was right to give up this cotton or to pay out this cash derived from the sale of cotton to those people living down there because they were our friends, is it not right to pay for their homesteads or any other property when we take it and convert it to our own use?

But, Mr. President, the facts in this case, if the Senate will attend to them, will relieve it from all these questions. This property was not in a rebel district. This property was in Decatur, Alabama, which, when we took possession of it, was occupied by our troops, and over it our flag has floated ever since. It was outside of the rebel districts.

Mr. HOWARD. Taken during the war as an act of war.

Mr. HOWE. It was taken during the war. It was taken by order of an engineer officer, and the value assessed by a board of officers convened for that purpose by the officer in command of the district. I do not understand that it was taken as an act of war. Of course it was taken for war purposes, as all commissary stores are.

Mr. HOWARD. Taken during the flagrancy of the war.

Mr. EDMUNDS. *Flagrante bello.*

Mr. HOWE. So it was. So was Mrs. Alexander's cotton taken during the war. It is true that the court held that the proceeds of that cotton, although it could not be regarded as lawful prize, must be paid into the Treasury. They held it by force of the act of 1863; but they said and they held in that case that that cotton did come within the purview of the law, notwithstanding our troops were occupying the country at the time that the property was taken; but they held so because our troops only held there for something less than eight weeks; it was just a raid made into the country, the troops holding for a short time and being then driven back. The court held, the Chief Justice pronouncing the judgment of the court,

that that was not such an occupation of the country by our troops as wrested it from the operation of this principle of law. But that is not this case. Our troops occupied Decatur when this property was taken, and our Government has exercised full control over that territory from that day to this; and the Supreme Court, in the prize cases and in the case of Mrs. Alexander's cotton, and all the courts whose judgments I have read on this point, rest the whole doctrine of the right over enemy's property upon the fact that it is within the control of the enemy, and therefore liable to be appropriated to their use. That was not the case with this homestead; there was nothing like it in this case.

Now, Mr. President, it is said that this is going to involve us in thousands of millions of dollars. I beg leave most respectfully to call the attention of the Senate to one very little experience that the Committee on Claims have had here. The most fearful struggle I have had to get through a bill reported from the Committee on Claims I encountered on a bill that appropriated \$400 to the widow of an officer who was shot down in one of your battles, for property taken by the Indians when he was in your service out in New Mexico, and property which he claimed upon the faith of a public statute as plain, as clear, as palpable as any provision in any of your laws under which your bonds have been issued. But what was the objection? Not that that \$400 ought not to be paid, but that if we did pay it we were assured there were millions and millions of dollars resting upon just such grounds as that which we should have to pay. It was some two years ago that you appropriated that sum of \$400, and I never have heard of any other claim like that before or since.

Now, how much are you likely to be called upon to pay if you accept this principle for which I contend in this case? I do not know how much exactly. I know this, that the war has been closed for something more than three years, and the Committee on Claims have been at work pretty hard during those three years. I know they have reported one bill in favor of Mr. Armes, which, I think, appropriated some fifteen or sixteen thousand dollars. That has passed. They have reported this bill which appropriates \$7,000. They reported at the last session another bill which appropriates, if I remember aright, \$50,000. And I know of three or four other cases now pending before the Committee on Claims which will involve this principle. I am not sure that there are not as many as half a dozen. Of course I do not undertake to be familiar at the present time with all the facts in all the cases now standing on the calendar of that committee, but I have no belief that there are \$500,000 involved in all the claims which are embraced by this principle now pending before the committee three years after the war has closed.

Mr. YATES. Will the Senator allow me to ask him a question?

Mr. HOWE. Certainly.

Mr. YATES. I wish to submit to the Senator whether, in these cases which involve the fact of loyalty, and also the amount and value of property which was taken by the Government and the circumstances under which it was taken, it would not be safer for the Senate and better in every way that they should be referred to the courts? Would not that course relieve us of a difficulty which must involve the Government in a very great outlay of money? for this precedent once established, as has already been stated, involves millions of dollars. I would not say that the Government should not respond and pay every dollar that is lawfully due, but certainly the courts, it seems to me, would be the proper tribunal to determine the facts in these cases.

Mr. HOWE. Now, I have to say that I think the Senator from Illinois is sensible in that conclusion; it is mine exactly. But the misfortune is that Congress believes right the other way, and you passed an act in 1864 excluding the jurisdiction of the Court of Claims from

every one of these cases in express terms. The court cannot touch one of them. That is the decision of Congress, against my judgment.

Mr. EDMUNDS. It was intended to deny the right.

Mr. HOWE. Not at all. In my judgment it was intended to keep this jurisdiction to yourself because you meant to have it exercised, I suppose, more religiously than it could be exercised in any court. I know of no other reason.

The Senator from Kansas [Mr. POMEROY] the other day took some part in this debate, and he prefaced his remarks, I remember, by saying that he never liked to mingle in debate unless he knew something about the subject; but this he happened to know something about. He will pardon me for saying that the questions he went on to put indicated rather what he did not know than what he did, for he went on to ask why we did not have a general bill to provide for all the cases in Decatur, Alabama; and he informed us that he understood there were something like a thousand of them just like this, and he asked, why not provide for them? He wanted to know if Miss Murphey was any better than all the rest of the people down there in Decatur. Now let me say to my friend from Kansas, in all sincerity, that I do not know that Miss Murphey is a whit better than any of the rest of the people in Decatur, but there are several reasons why we have not put the rest of the cases from Decatur into this bill. One is that I had not heard of any other cases from Decatur, and I never report bills here in favor of people that I have not heard of. Another reason is that I could not very well get up an omnibus bill here to provide for all the claims in the rebel country; and I suppose if we had included all from Decatur, the thousand from Decatur that the Senator spoke of, he would not have been satisfied; he would have wanted to know why all of the rebels in all other towns were not also included.

Sir, the only way in which we can exercise this jurisdiction with any sort of safety is to wait until people make their claims and then hear the proofs in support of those individual claims, and report each case by itself, and let each case stand upon its merits and upon the proof in support of its merits. I hope my friend from Kansas will consider that a sufficient apology for not holding back Miss Murphey until all of his friends from Decatur had filed their claims here and had substantiated them by proof. I think—and such I believe was the opinion of the Committee on Claims—that when one friend of the Government had presented his claim and substantiated it by proof which established, in our judgments, the right to an appropriation, we had no business to tell that claimant "It is all right; you are to have your money; but we cannot pay it until everybody else who has as good a claim as yourself comes forward and satisfies us of the justice of it."

Sir, I was commenting a little time ago upon the amount of expenditures that this principle, if agreed to, would probably involve us in. I have cited you to the past experience of the Committee on Claims upon this point. In 1864 you passed an act authorizing the commissary department to audit and allow claims up to \$500 for subsistence stores taken with or without vouchers and not paid for, but you excluded them from those regions down there; and you authorized the quartermaster's department to audit and allow all claims for quartermaster's stores up to \$500. It was generally supposed that these two little provisions would involve us in the expenditure of untold millions of money; but the recent report from the War Office shows us that the whole amount of claims preferred to the commissary department has been less than three million dollars, and that on that three millions they have allowed only about five hundred thousand dollars in all the time since that act passed, and they have rejected all the rest except about six hundred thousand dollars, which is yet unad-

justed; and although I do not remember the figures as to the quartermaster's department, they are somewhat larger than those, but I think that the amount that has been disbursed by the quartermaster's department is only about two million dollars.

Mr. President, I discredit the idea that this Government plundered from our friends during the rebellion and in the rebel districts more than we have appropriated by national legislation in support of the war. I do not believe any such thing. Undoubtedly we took some property that belonged to our friends. We have had evidence of that in two or three cases already. I think it is the part of wisdom, and I think it is the part of honesty, to pay such claims. But if the Senate says otherwise, if it is the deliberate judgment of Congress that you cannot afford to pay or will not pay these claims, I only ask you to say so; and I give you my word that so far as I am concerned in the administration of the business before that committee I will abide by your decisions; there shall be no other claim involving this principle reported from that committee with my consent. I will say, however, upon that point, that I do not believe there are ten Senators on this floor who, if you were to settle the principle to-day that you would not pay these claims, would not ask to have it within a year from this time unsettled and ripped up. That is my belief; I may be mistaken about it. However, I ask to have the question settled, and settled without further delay, because if you say these claims shall not be paid then we shall be relieved from the labor of examining other cases pending before the committee, and which involve this principle.

Mr. POMEROY. The Senator from Wisconsin has seen fit to reply to some feeble remarks which I made the other day.

Mr. HOWARD. Will the Senator from Kansas give way for a motion to adjourn?

Mr. POMEROY. I will make that motion myself in a few minutes if the Senator desires to adjourn. I only wanted to say, in a single word, that I made those remarks in great innocence, thinking the Senator from Wisconsin himself made out a case against his bill. He said the case of Miss Murphey grew out of an order issued by the commanding general to vacate the town of Decatur, and in support of that read the order, if I recollect aright, that every citizen of Decatur should vacate his premises by a given day because they were wanted by the military authorities; and Miss Murphey vacated with all the other citizens. That suggested to me a very innocent, as I thought, inquiry why, if this claim arose under that order, she alone was to be compensated. I was certainly green enough to suppose that if we undertook to make compensation to one loyal citizen in Decatur suffering under one order we should extend it to other loyal citizens in the same town suffering under the same order. But the Senator says he has not heard of any other case. If there were no others that fact might have been stated in his report, and I should not have meddled with it.

For myself, I can hardly see why the Government should not compensate the losses of an individual who was faithful to it, who acknowledged that he owed it supreme allegiance, and to whom the Government, as a consequence, owed protection, and a loss occurred because it did not protect him. On the theory upon which we prosecuted this war, that it was not a rebellion of States but only of individuals, of course the individual is not committed to the condition of his State, because the State assumes no authority in the matter. What has been urged against this class of claims is that the claimants followed the fortunes of their State, and that the rebellion of the State committed the citizen to rebellion. But that was not the theory upon which Mr. Lincoln and those who were early in proclamations conducted the war. It was that the people and not the States had gone into rebellion. If the State as an organized political body did not go into the rebellion it did not

commit its citizens, and only the individuals who went in should be made to suffer. I know nothing about this case of Miss Murphey. I only say that I want equal, even, exact justice dealt out to loyal citizens in Decatur, and if one hundred of them suffered under the same order I want them all compensated if one is.

Mr. FRELINGHUYSEN. Mr. President, I have—

Mr. HOWARD. With permission of the Senator from New Jersey, I ask whether he will not yield to a motion to adjourn?

Mr. FRELINGHUYSEN. I have a few remarks to make on this subject; but I have no disposition, if the Senate wish to adjourn, to proceed now.

Mr. HOWARD. I move that the Senate adjourn.

Mr. FRELINGHUYSEN. I simply wish to say that I do not expect to be here on Monday. I do not know whether it is expected that there will be a quorum here on Monday or not. If so, I should like the subject laid over until we come together again.

Mr. EDMUNDS. There is no danger of anybody being here on Monday.

Mr. HOWE. It is only a little past two o'clock, and I think the Senate ought to settle this question this afternoon.

Mr. FESSENDEN. It is Saturday afternoon; and this is an important question.

Mr. BUCKALEW. Mr. President—

Mr. HOWE. I ask for the yeas and nays on the motion to adjourn.

The yeas and nays were ordered.

Mr. BUCKALEW. Before the question is put I ask the indulgence of the Senate to be allowed to make a remark. I think there should be some understanding that no general business shall be transacted on Monday beyond that of the morning hour. As many of our members have already gone and others are about to leave, I hope before we adjourn to-day, it will be understood that no general business shall be taken up on Monday; that the morning hour will be gone through with.

Mr. FESSENDEN. That is already understood. There will be no quorum here on Monday.

Mr. BUCKALEW. Let it be understood that the morning hour will be gone through with; and I believe there is a death to be announced that day. ["Yes."] Then members who desire to go home can go with the assurance that no important business will be called up on that day.

The yeas and nays being taken, resulted—yeas 24, nays 19; as follows:

YEAS—Messrs. Buckalew, Cameron, Chandler, Cole, Drake, Edmunds, Fessenden, Harlan, Harris, Howard, Kellogg, McCreery, Morgan, Norton, Patterson of New Hampshire, Patterson of Tennessee, Ramsey, Rice, Sherman, Stewart, Trumbull, Van Winkle, Vickers, and Williams—24.

NAYS—Messrs. Corbett, Davis, Dixon, Ferry, Fowler, Howe, Morrill of Vermont, Nye, Osborn, Pool, Ross, Spencer, Sprague, Sumner, Thayer, Wade, Warner, Whyte, and Wiley—19.

ABSENT—Messrs. Abbott, Anthony, Bayard, Cat-tell, Conkling, Conness, Cragin, Doolittle, Freling-huysen, Grimes, Henderson, Hendricks, McDonald, Morrill of Maine, Morton, Pomeroy, Robertson, Sanisbury, Sawyer, Tipton, Welch, Wilson, and Yates—28.

So the motion was agreed to; and the Senate adjourned.

IN SENATE.

Monday, December 21, 1868.

Prayer by Rev. E. H. Gray, D. D.

The Journal of Saturday last was read and approved.

CONTINGENT FUND OF THE SENATE.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Senate, communicating, in obedience to law, a detailed statement of the payments from the contingent fund of the Senate for the year ending December 6, 1868; which was ordered to lie on the table and be printed.

PETITIONS AND MEMORIALS.

Mr. SUMNER. I present a petition from a mass meeting of Republican citizens of the

town of Norfolk, which was held some time during July. The petition was sent to me shortly afterward, but I have had no occasion to present it until now. It sets forth that a bill was introduced in the Senate of the United States by me some time in July, 1867, to strike the word "white" from the naturalization laws, and that that matter was afterward referred to the Judiciary Committee of the Senate. It then sets forth that there are actually persons of foreign birth, of African descent, who have rendered the country efficient service during the rebellion, and that they have no other way of becoming citizens except by the process of naturalization. After setting forth those facts the petition proceeds to ask that Congress would pass the bill introduced by me, or some similar bill, so as to strike the word "white" out of the naturalization laws of the United States.

In presenting this petition I desire to say, that if I remember rightly the bill introduced by me was referred to the Committee on the Judiciary, when I was pressing its passage, by the Senator from Vermont, [Mr. EDMUNDS.] He led me to suppose at the time that the bill would shortly be reported back from the committee and put on its passage. It has not been reported back, and, so far as I know, is now slumbering among the papers of the committee. I hope that it may be reported back and put upon its passage. I believe that our naturalization laws are the only laws which now contain the word "white," and I think that word ought to be expunged from them. I ask the reference of this petition to the Committee on the Judiciary.

Mr. EDMUNDS. I wish to say, in reply to what the honorable Senator from Massachusetts has said, that I believe he is correct in saying that the bill to which he alludes was referred to that committee on my motion. I wish to assure him that the fact that it has not been reported—that is, in its principle; I do not say in its form—is not imputable to me; nor, under the circumstances, do I think it is to the committee. That committee has been overwhelmed with labor connected with reconstructions and that sort of business which has precluded it from keeping up with its Calendar.

Mr. SUMNER. I hope, however, as the bill is short, that the committee will call it up and proceed with its consideration.

Mr. EDMUNDS. And make short work of it.

Mr. SUMNER. Yes, make short work of it. The PRESIDENT *pro tempore*. The petition will be referred to the Committee on the Judiciary.

Mr. SUMNER. I also present the memorial of the Universal Peace Union, an elaborate document in behalf of the Indians. This document contains a very complete argument in favor of justice to the Indians. I ask its reference to the Committee on Indian Affairs.

It was so referred.

Mr. SUMNER. I also present a petition from citizens of Kansas living on lands known as the Osage lands, in which they earnestly pray Congress that a treaty with reference to those lands may be ratified only so far as to place the title of the land in the United States, so that it may be disposed of to actual settlers as other public lands are. I ask the reference of this petition to the Committee on Indian Affairs.

It was so referred.

Mr. MORRILL, of Vermont. I present the petition of Samuel W. Porter and fifty other citizens of Springfield, Vermont, praying that Congress will—

First. Pass the civil service bill of Hon. THOMAS A. JENCKES.

Second. Complete and pass the new tax bill, reducing taxation wherever possible.

Third. Reduce expenses in all Departments, and decrease the proportion of costly officers in the Army and Navy.

Fourth. Put all Indian affairs in charge of the War Department, to save cost and stop fraud.

Fifth. Let lands required by treaty from the Indians be sold at public land offices, and not in large tracts to speculators.

Sixth. Grant no subsidies in money or bonds to railroads.

Seventh. Stop large and useless appropriations for custom-houses and hospitals.

Eighth. Adopt such measures as in your wisdom you deem best to turn the balance of trade in our favor, that our coin may be left at home as a means of resuming specie payments.

I ask the reference of this petition to the Committee on Finance.

It was so referred.

Mr. RAMSEY presented a petition of citizens of Minnesota, praying for the establishment of a mail route from Glenwood to Chippewa City, by way of Isaac Thorson's, of Hazel Lake, Six Mile Timber, Big Bend, and Chippewa Crossing; which was referred to the Committee on Post Offices and Post Roads.

Mr. WILSON presented a memorial of inmates of the Soldiers' Home, located at Washington, District of Columbia, praying for the consolidation of that home with the national homes at Dayton, Ohio, Milwaukee, Wisconsin, and Augusta, Maine; which was referred to the Committee on Military Affairs.

Mr. OSBORN presented the petition of James D. Green, of Florida, asking for pay for services in the Army of the United States as captain of cavalry from March, 1864, to April, 1865; which was referred to the Committee on Claims.

Mr. THAYER presented the petition of Henry C. Whitney, in behalf of the leading citizens of southern Kansas and of the half-breed Osages, against the ratification of the Osage treaty, except on such terms as will entirely exclude monopolists; which was referred to the Committee on Indian Affairs.

Mr. CORBETT presented a resolution of the Legislative Assembly of Oregon, in favor of a commission to investigate and take proof as to the losses sustained by citizens of Oregon on account of Indian depredations; which was referred to the Committee on Claims.

He also presented a resolution of the Legislature of Oregon, relating to the railroad land grant from the Central Pacific railroad, in California, to Portland, Oregon; which was referred to the Committee on Public Lands.

Mr. CAMERON presented a petition of citizens of Pennsylvania, praying for the repeal of so much of sections seventy-eight and ninety-four of the act entitled "An act imposing taxes on distilled spirits and tobacco, and for other purposes," as relate to the tax on tobacco, snuff, and cigars manufactured after the passage of that act, and for other amendments of that law; which was referred to the Committee on Finance.

Mr. HARRIS presented the petition of George F. Brott, praying for compensation for the value of the model barge Brott and Davis, impressed into the military service of the United States and lost; which was referred to the Committee on Claims.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. RAMSEY, it was

Ordered, That the petition of the postmaster at Meadville and others, citizens of Pennsylvania, be taken from the files of the Senate and referred to the Committee on Post Offices and Post Roads.

LIBRARY OF CONGRESS.

Mr. MORGAN. I am instructed by the Committee on the Library to present the report of the Librarian to Congress, showing the condition of the Library during the year ending December 1, 1868, and to offer the following resolution on the subject:

Resolved, That the annual report of the Librarian of Congress, showing the condition of the Library during the year ending December 1, 1868, be printed for the information of the Senate, with three hundred additional copies for the use of the Library.

I ask for the present consideration of the resolution. It is precisely like the one that was adopted last year, and I think there is no objection to it.

Mr. EDMUNDS. That resolution must go to the Committee on Printing, under the rules.

Mr. MORGAN. I hope it will not be referred, because that would carry it over until January, and it ought to be disposed of now.

The PRESIDENT *pro tempore*. It can be

done by unanimous consent. Is there any objection?

There being no objection, the resolution was considered and agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLINTON LLOYD, its Chief Clerk, announced that the House had passed the bill (S. No. 700) for the relief of Joseph Moorehead.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore* of the Senate:

A bill (H. R. No. 1555) to amend an act entitled "An act imposing taxes on distilled spirits and tobacco, and for other purposes," approved July 20, 1868; and

A bill (H. R. No. 1556) to relieve certain persons of all political disabilities imposed by the fourteenth article of amendment to the Constitution of the United States.

BILLS INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 719) relating to the judges of the Supreme Court; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. PATTERSON, of New Hampshire, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 720) to reorganize and increase the efficiency of the medical department of the Navy; which was read twice by its title, referred to the Committee on Naval Affairs, and ordered to be printed.

Mr. ROSS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 721) to establish certain post routes in the State of Kansas; which was read twice by its title, referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

LIGHT-HOUSES ON THE PACIFIC COAST.

Mr. CORBETT. I offer the following resolution:

Resolved, That the President direct the Secretary of the Treasury to detail an officer to select such prominent points upon the coasts of Oregon, Washington Territory, and Alaska, as in his judgment may be necessary for light-house purposes, in view of the future commercial necessity of the Pacific coast, and to reserve the same for exclusive use of the United States.

I ask for the present consideration of this resolution. It is a matter of great importance that such points should be set aside before they are taken up by settlers.

Mr. EDMUNDS. Is it a resolution of inquiry?

Mr. CORBETT. It is a Senate resolution requesting the President to direct the Secretary of the Treasury to detail an officer for the purpose mentioned.

Mr. EDMUNDS. How can the Senate direct that?

The PRESIDENT *pro tempore*. The Senator from Oregon asks for the present consideration of the resolution. It requires unanimous consent.

Mr. EDMUNDS. It was, I think, generally understood on Saturday that we should not do any business to-day except the mere introduction of petitions, bills, and things of that kind, and therefore, without the slightest objection to or knowledge of the proposition of the Senator from Oregon, I think it is not right toward those who are absent upon that understanding, and who may be interested in everything that we take up, that we should take any action to-day. Upon that ground I object.

Mr. POMEROY. There are valuable spots on the Pacific coast that ought to be taken possession of for light-house purposes before they are squatted upon.

Mr. EDMUNDS. They will not be squatted upon before the 1st of January.

The PRESIDENT *pro tempore*. Objection being made, the resolution goes over, under the rule.

THE METRIC SYSTEM.

Mr. SUMNER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be requested to report to the Senate what has been done in pursuance of joint resolution of July 27, 1866, authorizing and directing the Secretary of the Treasury to furnish to each State one set of the standard weights and measures of the metric system for the use of the States, respectively.

Mr. SUMNER also submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Postmaster General be requested to report to the Senate what has been done in pursuance of the act of July 27, 1866, authorizing and directing the Postmaster General to furnish to certain post offices postal balances denominated in grams of the metric system.

COMMITTEE ON THE PACIFIC RAILROAD.

Mr. RICE. I desire to call up the resolution that I submitted a few days ago, to add two members to the Committee on the Pacific Railroad. I then stated the reason for it to be that in the organization of that committee the South was not represented. The southern States are now represented here, and have some important bills before that committee that need their attention, and I know of no very good reason for not adding some representatives from the southern States to that committee.

The PRESIDENT *pro tempore*. The Senator from Arkansas asks the unanimous consent of the Senate to take up the resolution indicated by him. It will be read for information.

The Chief Clerk read the resolution, as follows:

Resolved, That the Committee on the Pacific Railroad be increased by adding two members thereto.

Mr. EDMUNDS. At the risk of making myself obnoxious I must, on the understanding we had on Saturday, object to that resolution. It is certainly a matter of importance. I have not the least objection to the proposition; I wish the Senator from Arkansas to understand; but a great many members went away on Saturday with the explicit understanding, as I understood it, that nothing but the routine business of the morning hour, the introduction of petitions and bills, should be done to-day.

Mr. POMEROY. I do not know anything about such an understanding on Saturday. I never heard of it, and I was here all day Saturday.

Mr. EDMUNDS. I had such an understanding, and it so appears in the Globe.

Mr. POMEROY. I am not a party to any such understanding.

Mr. EDMUNDS. I do not know that you are.

Mr. RICE. At the suggestion of the honorable Senator from Vermont I allowed this resolution to lie over on two different occasions, waiting for the arrival of the Senator from Michigan, [Mr. HOWARD,] the chairman of the Committee on the Pacific Railroad, and it was agreed between the chairman and myself that it should be taken up this morning, and I have called it up in obedience to that understanding.

Mr. EDMUNDS. If that was the understanding I withdraw my objection, and let the chairman of the committee take the responsibility as to that.

The PRESIDENT *pro tempore*. No objection being made, the resolution is before the Senate, and the question is on agreeing to it.

Mr. WARNER. I think a glance at the constitution of the committee, as printed, will satisfy every Senator of the propriety of adding two additional members to it. It will be seen that the committee is constituted entirely of Senators from one section of the country. A large section of the country which is now represented on this floor has a very vital interest in this subject of the Pacific railroad, and it is but just and right that their interests should be regarded in the constitution of such an important committee.

Mr. HOWARD. Of course it is a matter, perhaps, of no great importance to the present

members of that committee whether their number shall be increased or not. I rise merely to make a statement. That committee is one of the standing committees of the Senate, and now consists of nine members, which is the greatest number belonging to any one of the standing committees of the Senate; the other standing committees consisting of seven or five members. The question appears to be rather one of utility than otherwise. It is for the Senate to determine whether the business that properly belongs to that committee will probably be expedited by increasing the number from nine to eleven. We all know that a committee may be too numerous as well as too few. I have no further remark upon the subject to make except this, that I fear the increase of the number would render the committee too unwieldy and perhaps less efficient than it is already. It is for the Senate, however, to determine the question.

Mr. SHERMAN. Mr. President, in my judgment the Committee on the Pacific Railroad ought to be increased during this session by the addition of two members. The reason given by the Senators from Arkansas and Alabama, that the southern States are not represented on this committee and that they have interests in the Pacific railroad, is conclusive to my mind that they should be represented on the committee, especially as the committee is the representative mainly of local interests. The present constitution of the committee is manifestly unjust, because it excludes the interest represented by them from consideration by the committee. My own impression, however, is that this increase ought not to be of a permanent character, and I think if the Senator will modify his resolution so as to allow the increase only for this session there will be but little objection to it. At the next session the committees will naturally be reorganized. Perhaps it could not be done now at the beginning of this session. At the next session the committee by reorganization might be reduced. Some of the present members will not be members of the next Congress, and there will be no difficulty, probably, in reducing the number of the present Pacific Railroad Committee to nine members and yet giving every section of the country a fair representation upon it. Probably by confining the increase to this session it will compel the reorganization of the Pacific Railroad Committee, which I think ought to be done, at the next session.

Mr. RICE. I have no objection to that modification.

The PRESIDENT *pro tempore*. That modification will be made.

Mr. CORBETT. I am in favor of the increase of this committee to eleven members, and when such an increase is made I think the southern States ought to be represented on the committee, and also the northern portion of the Pacific coast. There is no one upon that committee representing the interest of the Northern Pacific railroad upon the Pacific coast, its termination; and I trust that when the committee is increased the South will be represented, and also the northern portion of that section of the country which I have the honor in part to represent.

Mr. WILSON. In reply to the Senator from Oregon I wish to say that it seems to me that section of the country is pretty well represented on this committee. The chairman of the committee is the Senator from Michigan, [Mr. HOWARD,] then I find on the committee Mr. SHERMAN from Ohio, Mr. CONNESS from California, Mr. RAMSEY from Minnesota, Mr. STEWART from Nevada, Mr. HARLAN from Iowa, and Mr. DRAKE from Missouri. I should think that part of the world was pretty well represented on this committee now.

Mr. CORBETT. I spoke only of the Northern Pacific road, which is located some seven hundred and fifty or eight hundred miles north of San Francisco. The present representatives of the Pacific coast on the committee is upon the Central road as now constructed—Nevada and California—but Oregon, Washington Territory, Puget sound, and that portion of the

country is not represented at all upon the committee.

Mr. WILSON. I thought the Senator from Minnesota [Mr. RAMSEY] was on the line of that road, and a faithful representative of the interests of that part of the country.

Mr. CORBETT. It may be that upon the Atlantic coast the northern section of the country is represented. I only speak of the northern portion of the Pacific coast, which is interested in having a large section of country there developed, and which has never had any representation upon that committee. We have a large country there. It is settled up by people who went to that country in 1835 and 1838, and we have been blocked up there and have not had any communication with the eastern States. Those people who settled there early were the means of our acquiring that large extent of country, as large as all the New England States and New York, Pennsylvania, and Ohio combined, by their industry and energy, crossing the mountains and settling in that country, which was but little known and but little developed. They have been the means of our acquiring a vast extent of country which at one time was likely to be ceded by us to the English Government. The heroism of the early settlers there has been the chief means of our acquiring that territory. I desire that that people should have a representation upon this committee. I am in favor of the development of this vast country and every portion of it by such internal improvements as the Government may think it best to grant. I only ask that the people on the northern Pacific coast may have a representation on this committee.

The PRESIDENT *pro tempore*. The resolution will be read as modified.

The Chief Clerk read it, as follows:

Resolved, That the Committee on the Pacific Railroad be increased by adding thereto two members; this addition not to extend beyond the present session.

Mr. WILSON. There are six Senators from the Pacific coast, and two of them are on this committee already. Does the Senator from Oregon propose to put another upon it?

Mr. CORBETT. The proposition now before us is to add two more members to the committee. As I understand the Senator from California [Mr. CONNESS] represents the Southern Pacific railroad as well as the Central, but the northern section of that country has no representation upon the committee, and I thought it would be nothing more than just that one member from that section of the country should be placed upon it until the reorganization of the committee, when I am in hopes that this matter will be remedied. One member of that committee will not be a member of the next Congress.

Mr. WILSON. Mr. President, here is a committee consisting of nine members. Five of them represent States west of the Mississippi river, and four of them represent States east of that stream. There is something in this country east of the Mississippi river. I do not know that there is anything east of the Alleghany mountains, but there is something east of the Mississippi. Now, sir, if we are to add to this committee, and I do not know but that it would be right to do so, I think the two Senators placed upon it temporarily for this session should be taken from the southern section of the country, which is not represented upon the committee. I think that two members from the Pacific coast on this committee will do very well for that section, and as we have a good member of the committee who understands the subject very well, living on the line of the Northern Pacific railroad, I think that is a fair representation of that interest. Then, when we reconstruct this committee next year, I think it would be very well to scatter the location of the committee over the whole country, so as to make it represent the whole Union, and not locate it quite all on the Pacific coast, or a majority of it west of the Mississippi river. I think we ought to understand that there is something east of that river.

Mr. MORRILL, of Vermont. Mr. President, I am quite disposed to reject the idea of localities in the appointment of committees in the Senate. I think, on the contrary, we ought to represent the opinions of the Senate and of the country. This subject of the Pacific railroad involves great and controverted questions. Some portion of the Senate and of the country believe that we ought to continue the policy inaugurated by the first railroad bill, and not only give lands, but subsidies, where ever they are demanded. Another portion of the Senate believe that this is reckless legislation, and that we have already gone as far as we ought to go in that direction, and have paid twice as much as it ought to have cost to accomplish what we wish to accomplish by the present legislation already on the statute-books. There is another portion of the Senate and of the country who believe that we ought to pursue this business of opening communications with the Pacific coast with some degree of economy, to ascertain what we have already done, and, if we do anything more, that we shall do it properly, in the right places, and for the least possible expenditure. In my judgment, the localities of the representatives of the country upon this committee are wholly unimportant; but it is important that we shall give all these various shades of sentiment in the Senate and in the country a fair representation on that committee. That is all that I ask for as a member of the Senate.

Mr. CORBETT. I do not desire anything more than a fair representation upon that committee. Senators should remember that there is a vast country bordering there upon the northern Pacific coast, although it consists of but one State and one Territory. We should also remember that the distance from San Francisco to Puget sound and that section of country is greater than the distance from New York to New Orleans. It is a distance of some seven hundred or eight hundred miles. Not only that, but we have a vast country beyond there which will eventually be opened up by the Northern Pacific railroad. I think it is important that there should be a member of the committee from that section of the country who can give information as to the importance of the country and the importance of developing it to the committee. If there is no representative from that section upon the committee the committee in discussing these questions can have no information in regard to it. During the discussion of railroad bills it is frequently necessary to refer to a member of the committee the question as to the extent of the country and the importance of such a road.

Now, sir, I submit, in all candor to the Senate, that it is important that a member should be placed upon that committee to represent that country which is some eight or nine hundred miles north of the present line of the Pacific road, and to explain to the committee the necessity and importance of either establishing a branch road to that country or a northern Pacific road. I have not suggested any amendment to the resolution, but merely stated that I thought that the northern Pacific coast ought to be represented upon that committee.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution, as modified.

The resolution, as modified, was adopted.

The PRESIDENT *pro tempore*. How shall the additional members of the committee be appointed?

Mr. RICE. If it be in order I move that the President *pro tempore* of the Senate appoint the additional members of the committee. By unanimous consent I believe that can be done.

The motion was agreed to.

INDIAN SUPERINTENDENTS AND AGENTS.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior be

directed to report to the Senate the names of the Indian superintendents and agents, and whether any, and if so, which of said superintendents and agents are absent from their posts.

EXAMINATION OF PACIFIC RAILROAD.

Mr. THAYER. I offer the following resolution, and ask for its present consideration:

Resolved, That the President of the United States be requested to instruct the same special commissioners who have examined the Union Pacific railroad west of Omaha and the Union Pacific railroad, eastern division, to complete the examination of all the Pacific railroads as far as constructed under the same instructions under which examinations have already been made by them, and report the amounts necessary to complete said roads according to the standard of a first-class railroad, as required by law.

Mr. STEWART. I object to the present consideration of the resolution.

The PRESIDENT *pro tempore*. Objection being made, it lies over under the rule.

UNION PACIFIC RAILROAD REPORTS.

Mr. HOWARD submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be requested to communicate to the Senate the reports of the Union Pacific Railroad Company and its branches, as requested by the Senate resolution of the 3d of July last.

Mr. EDMUNDS. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned, to meet on the 5th of January next.

HOUSE OF REPRESENTATIVES.

MONDAY, December 21, 1868.

The House met at twelve o'clock m., Mr. WASHBURN, of Illinois, occupying the Chair as Speaker *pro tempore*.

The Journal of Friday last was read and approved.

ENROLLED BILLS.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 1556) to relieve certain persons of all political disabilities imposed by the fourteenth article of the amendments to the Constitution of the United States; and

An act (H. R. No. 1555) to amend an act entitled "An act imposing taxes on distilled spirits and tobacco, and for other purposes," approved July 20, 1868.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, one of its clerks, announced that that body had passed a bill and joint resolution of the following titles; in which he was directed to ask the concurrence of the House:

An act (S. No. 711) relating to the Metropolitan Railroad Company; and

A joint resolution (S. No. 178) tendering sympathy to the people of Spain.

MESSAGE FROM THE PRESIDENT.

A message from the President, by Mr. WILLIAM G. MOORE, his Private Secretary, informed the House that he had approved and signed a joint resolution (H. R. No. 375) donating condemned cannon for the erection of a monument to Major General Kearny.

ORDER OF BUSINESS.

Mr. CULLOM. I ask unanimous consent to introduce some bills.

The SPEAKER *pro tempore*. The Chair would state to the gentleman from Illinois that is not in his power to receive any bills to-day. It was the order of the House that no business whatever should be transacted to-day except to receive a report from the Committee on Retrenchment.

Mr. CULLOM. I did not understand that such was the order.

The SPEAKER *pro tempore*. That was the order of the House.

Mr. SPALDING. I ask to have the order read.

The SPEAKER *pro tempore*. The Chair

would state to the gentleman from Ohio that it is a matter of record on the Journal. The Journal is in the Clerk's office, but will be sent for if the gentleman from Ohio desires it.

Mr. SPALDING. I understood the Chair to say that no business can be transacted.

The SPEAKER *pro tempore*. That is the order of the House made on Wednesday.

Mr. MULLINS. It was my understanding clearly that no business was to be done to-day.

The SPEAKER *pro tempore*. That was the order of the House, but, after that order was made, by unanimous consent, the gentleman from New York [Mr. VAN WYCK] was authorized to make a report to be recommitment and printed.

Mr. CULLOM. I understand that that order was proposed; but failed to be adopted.

The SPEAKER *pro tempore*. It was adopted.

Mr. McKEE. I merely want to make one remark in reference to the order of the House. I do not wish, of course, to differ from the Speaker *pro tempore*, but in regard to that agreement on Thursday last I remember very distinctly that I myself objected to the general consent asked for, and insisted upon that objection. I was appealed to by a dozen gentlemen around me to withdraw it, and declined to do so. I was very much astonished on the succeeding morning to find it entered on the Journal that the order had been made. It was stated in all the reports in the public journals and in the Associated Press dispatches that objection was made, and I want to state now that I objected at the time and refused to withdraw the objection.

The SPEAKER *pro tempore*. It is a matter about which the Chair has no knowledge except from the Journal. The Chair is informed that the Speaker understood the gentleman from Kentucky to withdraw his objection, and so announced; and the order was entered on the Journal, and the Journal was not corrected.

Mr. McKEE. That is true. I notified the Speaker, however, on the following morning that I intended to rise and make the correction, but the announcement of the death of Mr. Stevens prevented me from doing so. I merely make this statement in justification of myself.

WHISKY FRAUDS.

Mr. VAN WYCK. Under the unanimous consent given in the House on Friday last I present a report from the Committee on Retrenchment, and move that it be recommitment to the committee and ordered to be printed.

The motion was agreed to.

Mr. VAN WYCK. As the report contains what I intended hereafter to embody in a speech, I ask that it be printed in the Globe.

The SPEAKER *pro tempore*. The Chair cannot entertain that motion. It would involve a vote of the House, and would be business.

Mr. GETZ. If there is to be no further business transacted I move that the House now adjourn.

The motion was agreed to; and thereupon (at twelve o'clock and twenty minutes p. m.) the House, in accordance with the concurrent resolution, adjourned until Tuesday, January 5, 1869.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BECK: A petition of dealers in tobacco, cigars, and snuff, residing in Nicholasville, Jessamine county, Kentucky, praying for the repeal of portions of sections seventy-eight and ninety-one of the act of July 20, 1868, imposing taxes on distilled spirits, tobacco, &c.

By Mr. CULLOM: A petition signed by Hon. J. C. Conkling and several others, citizens of Springfield, Illinois, asking the Gov-

ernment to grant financial aid to the Northern Pacific railroad.

By Mr. FERRISS: The petition of George Courtenay and others, backlers, praying for an increase of duty on dressed flax.

By Mr. FERRY: The petition of J. T. Elliott and 13 others, of Michigan, praying for the passage of Jenckes's civil service bill, for the reduction of current expenses of the Government, prohibition of subsidies, and such legislation as will turn the balance of trade in our favor.

By Mr. GARFIELD: The memorial of Norman Wiand, in relation to amendments of the steamboat law.

Also, the petition of C. Phelps, for pension to the minor heirs of Dewitt C. Morton, forty-first regiment Ohio volunteers.

By Mr. NIBLACK: The petition of Charles Weierbacher & Co. and 55 others, of Boonville, Indiana, praying for a modification of the tax on tobacco and cigars.

By Mr. PETTIS: A petition of citizens of Crawford county, Pennsylvania, for a post route from Shaw's Landing to Custard's, a distance of five miles, all in Crawford county.

Also, a letter of Colonel J. Patton Lyon and citizens of Clarion county, Pennsylvania, for a daily mail route from Parker's Station, on the Alleghany Valley railroad, to Carlsville, in Clarion county.

Also, a communication in relation to paving Pennsylvania avenue with Smith's patent concrete pavement.

IN SENATE.

TUESDAY, January 5, 1869.

Prayer by Rev. E. H. GRAY, D. D.
The Journal of Monday, December 21, 1868, was read and approved.

Hon. ALEXANDER McDONALD, of Arkansas, appeared in his seat to-day.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of December 14, 1868, a statement in relation to the number of troops employed in connection with Indian hostilities and in protecting the Missouri river traffic and the Union Pacific railroad; which was referred to the Committee on Military Affairs, and ordered to be printed.

He also laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of July 10, 1868, a description of the Presidio reservation, including Black Point, lying upon the bay of San Francisco; which was ordered to lie on the table and be printed.

He also laid before the Senate a letter from the Secretary of War, recommending the passage of a joint resolution to drop from the rolls of the Army Second Lieutenants Daniel Hitchcock, fifth regiment of cavalry, and William G. Mackey, twenty-ninth regiment of infantry, for desertion; which was referred to the Committee on Military Affairs.

He also laid before the Senate a report from the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate of December 21, 1868, information in relation to the reports of the Union Pacific Railroad Company and its branches; which was referred to the Committee on the Pacific Railroad.

He also laid before the Senate a letter of the Secretary of the Interior, submitting an appropriation required for medallions of U. S. Grant, President of the United States, for distribution to Indian tribes; which was referred to the Committee on Indian Affairs.

He also laid before the Senate a letter of the Secretary of the Interior, asking the authority of Congress to select lands for half-breeds of the Sac and Fox Indians, whose allotments were erroneously sold by the Indian office; which was referred to the Committee on Indian Affairs.

He also laid before the Senate a letter of the Secretary of the Interior, in relation to a deficiency in the appropriation for pay of the commissioners appointed under the treaty of April 28, 1866, with the Choctaw and Chickasaw Indians, and communicating an estimate for the same; which was referred to the Committee on Indian Affairs.

He also laid before the Senate a letter of the Secretary of the Interior, communicating information in relation to the destitute condition of the Kansas tribe of Indians, and asking an appropriation for their relief; which was referred to the Committee on Indian Affairs.

He also laid before the Senate a letter of the Secretary of the Interior, relative to the removal of a certain band of Creek Indians from the Cherokee nation to their own country; which was referred to the Committee on Indian Affairs.

REVENUE REPORT.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of the Treasury, communicating the annual report of the Special Commissioner of the Revenue; which was referred to the Committee on Finance.

Mr. SHERMAN. I offer, in connection with that document, a resolution to print it, which will go to the Committee on Printing:

Resolved, That there be printed for the use of the Senate ten thousand copies of the report of the Special Commissioner of the Revenue, with the appendices, complete.

The resolution was referred to the Committee on Printing.

TERRITORIAL LAWS.

The PRESIDENT *pro tempore* laid before the Senate a letter of the secretary of New Mexico, communicating a copy of the laws of that Territory, passed at the session of the Legislature in 1868, and also a copy of the journals; which was referred to the Committee on Territories.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented the petition of W. W. Webb, of Virginia, praying the removal of political disabilities imposed upon him by acts of Congress; which was referred to the Committee on the Judiciary.

He also presented the petition of H. H. Moore and Thomas R. Roach, of Vicksburg, Mississippi, minors during the late war, praying the removal of political disabilities incurred during such minority; which was referred to the Committee on the Judiciary.

He also presented the petition of George E. Grisham, of Jonesborough, Tennessee, praying to be allowed pay as captain of company I, eighth Tennessee cavalry volunteers, from September 5, 1863, to April 21, 1864; which was referred to the Committee on Military Affairs.

He also presented the petition of H. Ogle, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. SUMNER. Mr. President, I offer the petition of Hungarians, citizens of the United States, praying for the establishment of a United States consulate general at Buda-Pesth. In this petition they set forth reasons for our having a consul general there. The reasons certainly are very strong, and refer to the present condition of Hungary and the importance of opening business relations with Hungary. I will say, in presenting the petition, that I have my doubts whether there is an occasion for what the petitioners ask for—a consul general; but I do think that we ought to have a consul there. I move the reference of the petition to the Committee on Commerce.

The motion was agreed to.

Mr. SUMNER presented the petition of professors and students of Lincoln University, Oxford, Pennsylvania, praying for an amendment to the Constitution which will secure to all citizens equal political rights; which was referred to the Committee on the Judiciary.

He also presented the petition of the University of Virginia, praying for the remission

of duties on certain apparatus, &c., for which the university has sent to Europe; which was referred to the Committee on Finance.

He also presented a petition of citizens of Philadelphia, praying Congress to propose a constitutional amendment which shall secure political rights to all citizens independently of race or color; which was referred to the Committee on the Judiciary.

He also presented a petition of citizens of the United States living in Louisiana, praying for an amendment to the Constitution to secure to all citizens equal political rights; which was referred to the Committee on the Judiciary.

He also presented a petition of William Wood, of Macon, Georgia, praying to be allowed a pension as heir and assignee of his mother-in-law; which was referred to the Committee on Pensions.

He also presented resolutions adopted at a meeting held on the 11th day of December, 1868, in the city of Columbus, Georgia, signed by J. S. Powell, chairman, and Robert Battey, secretary, setting forth the terrible state of affairs in Georgia, submitted to Congress in the nature of a petition; which were referred to the Committee on the Judiciary.

Mr. STEWART presented a petition of citizens of Augusta, in the State of Georgia, praying for relief against violations of the reconstruction acts of Congress in that State, and for security of life and property; which was referred to the Committee on the Judiciary.

Mr. SHERMAN presented the memorial of Andrew Stewart, of Steubenville, Jefferson county, Ohio, praying that certain provisions of the laws of New Mexico which prevent the collection of a judgment he has recovered against a citizen of that Territory be annulled; which was referred to the Committee on Territories.

Mr. WILSON presented the petition of Otis Hemennay, praying to be allowed a pension; which was referred to the Committee on Pensions.

He also presented a petition of pensioners and inmates of the national asylum at Milwaukee, Wisconsin, praying the repeal of an act giving to the managers of the asylum the power to collect and manage all pensions due to the inmates; which was referred to the Committee on Pensions.

Mr. PATTERSON, of Tennessee, presented the petition of John Davis, of Madison, North Carolina, praying that he may be granted a pension; which was referred to the Committee on Pensions.

Mr. POMEROY presented the petition of William Rose, praying to be allowed compensation for expenses incurred in raising a regiment; which was referred to the Committee on Claims.

Mr. POMEROY. I present also a petition from various citizens of the United States, in which they ask that Congress will pass the civil service bill, a new tax law, reduce the expenses in all departments, and decrease the proportion of costly officers in the Army and Navy; and also that the Indian Bureau be put under the War Department; that all lands acquired by treaties from the Indians may be sold at public land offices; that no more subsidies be granted to railroads; to stop the useless appropriations for custom-houses and hospitals; for the adoption of such measures as in the wisdom of Congress may be deemed just. This petition seems appropriate enough to go to any of the committees; I move that it be referred to the Committee on Appropriations.

The motion was agreed to.

Mr. COLE presented a memorial of citizens of California, praying that there may be no further legislation in relation to the public lands in township seven, south of range one, west of the Mount Diablo meridian in that State; which was referred to the Committee on Public Lands.

Mr. EDMUNDS. I present a joint resolution, passed by the Legislature of the State of Vermont, on the subject of public lands;

which I ask may be read and referred to the Committee on Public Lands.

The Secretary read the resolution, as follows:

Joint resolution concerning grants of the public lands of the United States.

Whereas the Government of the United States has from time to time granted large tracts of valuable land to various and almost all of the western and southern States, for the purposes of aiding education or internal improvements in those States; and whereas the State of Vermont, although at all times fully and completely doing her duty to the United States, has in only one instance been the recipient of such bounty and favor from the United States; Therefore

Resolved by the Senate and House of Representatives, That our Senators and Representatives in Congress are hereby requested to use their best endeavors to procure from the Government of the United States such grants of unappropriated public lands, for the aid and advancement of education and for the promotion of internal improvements in the State of Vermont, as will be just and equitable.

Resolved, That the Secretary of State be, and is hereby, directed to transmit an authenticated copy of these resolutions to each Senator and Representative for Vermont in the Congress of the United States.

GEORGE W. GRANDLEY,
Speaker of the House of Representatives.
STEPHEN THOMAS,
President of the Senate.

The resolutions were referred to the Committee on Public Lands.

Mr. FERRY presented the petition of R. H. Riddick, of Suffolk, Nansemond county, Virginia, praying for relief from disabilities under the reconstruction acts and the fourteenth amendment to the Constitution of the United States; which was referred to the Committee on the Judiciary.

He also presented the petition of Washington L. Riddick, of Suffolk, Nansemond county, Virginia, praying for relief from disabilities under the reconstruction acts and the constitutional amendment; which was referred to the Committee on the Judiciary.

He also presented the petition of Peter P. Prentiss, of Nansemond county, Virginia, praying for relief from disabilities arising under the reconstruction acts of Congress and the fourteenth amendment to the Constitution of the United States; which was referred to the Committee on the Judiciary.

Mr. HOWE presented a petition of citizens of Wisconsin, praying that aid be granted for the speedy construction of the Northern Pacific railroad; which was referred to the Committee on the Pacific Railroad.

AMNESTY PROCLAMATION.

Mr. FERRY. I offer the following resolution:

Resolved, That the President of the United States be requested to transmit to the Senate a copy of any proclamation of amnesty made by him since the last adjournment of Congress; and also to communicate to the Senate by what authority of law the same was made.

Mr. President, in introducing this resolution, I wish to say that while I approve the act of amnesty which purports to have been made by the recent proclamation of the President of the United States, I at the same time entertain serious doubts as to the authority of the executive department to make such proclamation of general amnesty; and in order that a precedent may not be made which hereafter shall be unsafe, and that an authoritative exposition of the law relative to proclamations of general amnesty in our system may be made for the future guidance of the Government, I desire to obtain a copy of the proclamation and a statement of the authority upon which it has been made by the Executive, for the purpose of referring the document to the Judiciary Committee and receiving a report thereon. I ask for the present consideration of the resolution.

By unanimous consent the Senate proceeded to consider the resolution.

Mr. HOWARD. I was about to inquire of the Senator from Connecticut whether the proclamation to which his resolution refers does or does not rest upon the confiscation act, so called, of 1862? If so, I suppose that has been repealed.

Mr. FERRY. I have a copy of the proclamation before me, which purports to proclaim

and declare "full pardon and amnesty for the offense of treason against the United States, or of adhering to their enemies during the late civil war, with the restoration of all rights, privileges, and immunities, under the Constitution and laws which have been made in pursuance thereof." This proclamation purports to have been made "by virtue of the power and authority in me"—that is, the President—"vested by the Constitution and in the name of the sovereign people of the United States." I doubt, myself, any power of the executive department to issue a proclamation of that kind to be effectual.

Mr. HOWARD. I am very glad that the Senator from Connecticut has called the attention of the Senate to this subject. I entirely concur with him as to the importance and gravity of the question thus presented, and I hope the committee to whom this resolution will be referred—I suppose it will be the Judiciary Committee—will make a very thorough—

Mr. FERRY. This is a call on the President for information, and upon the reply of the President, that, I suppose, will be referred to the committee.

Mr. HOWARD. I hope we shall take some step to satisfy ourselves in the first place, for that is perhaps most important, and the country as to the legal right of the President of the United States to issue such a proclamation, founded, as it appears to be, solely upon the language of the Constitution itself. It has become rather important, I apprehend, that the people of the United States should understand whether or not the Executive of the United States has a dispensing power; whether he can, after the commission of an offense such as treason, or murder, or whatever it may be, by a proclamation, or by anything else in the form of a pardon, take away from the ordinary courts of the country jurisdiction to try and punish such offense or offenses. For one, sir, I am very free to say that I do not believe that he possesses any such authority, and that the authority which he has here attempted to exercise is entirely unwarranted by the Constitution of the United States. It seems to have been a sort of Christmas present to the recent president of the confederate States of America and his confederates. I hope this body will make a thorough and careful investigation of this great question, and that we shall endeavor to settle it at least in our own minds, for it is one of great gravity and importance.

Mr. FRELINGHUYSEN. I suppose the question is more important as a question fixing the powers of the Government than as to its results upon the persons whom it is intended to benefit by this proclamation. I am glad the subject has been stirred up, for I think it very important. I do not find in the Constitution any power given to the President to grant an amnesty at all. The word is not used in the Constitution. The Constitution does authorize the President to grant pardons in cases of offenses. Now, what an offense is is the question. By the law of England, inasmuch as the king is the sovereign and the offense is committed against the sovereign, I think the cases show that he has a right to grant pardons before conviction. That has been very much questioned in this country. I think in a case in the State of New York Governor Seward refused to exercise that power until there had been a conviction. But the case in this country is not only different from the cases in England, inasmuch as the Executive here does not represent the sovereign. The suit is not "The President of the United States against A. B.," as it is "The king against A. B." Therefore the whole subject, inasmuch as it affects the principles of our Government rather than because it is proposed to pardon those whom perhaps it is too late to punish, ought to be investigated.

Mr. CONKLING. Mr. President, I am neither disposed nor prepared to discuss this subject now, but I wish to make a remark suggested by the observations of the honorable Sen-

ator from New Jersey. I think in recent years in England it has never been insisted that the king had a right by general proclamation, nominating nobody but applying to everybody suspected of certain species of crime, to exercise what the Senator from Michigan calls a dispensing power. Yet the assertion of such a power is implied by the proclamation of the President; he insists, not that he has a right to pardon or reprieve A B, or to forego his punishment, he being charged but not convicted of an offense; ignoring individuals and instances he assumes to dispense amnesty to communities. The power thus insisted on is very broad and very high. In England such acts have been in modern times embodied in public laws, in acts of Parliament alone. Such great dispensations have been claimed by the British people as their own prerogative—a prerogative above the Crown.

If the President has this authority it resides in the Constitution of the United States. It is conveyed in familiar words—words oft-repeated in other constitutions and laws. The Governor of the State of New York, for instance, has, I think, the same power, conveyed in identical words. To illustrate, then: under words like these, construed by the President, the Governor of the State of New York may not only pardon A B, C D, and E F, culprits charged but not convicted of offense, but he may proclaim or ordain or enact that all persons whatsoever at the time suspected of murder, arson, treason, and burglary be forever invested with immunity from punishment.

If such a power resides in the Executive of the State of New York under equivalent terms it has never, I think, dawned upon the imagination or speculation of any human being. On the contrary, if in time of peace, executing his civil and executive functions alone, the Executive of that State had ventured upon such a proposition, I think I am not mistaken in supposing it would have shocked the public judgment and the public sense.

The argument is not that the President of the United States, as Commander-in-Chief, or in any other capacity during a war, may make terms with public enemies or military offenders; but that in time of peace, as to any felony whatsoever, murder on the high seas, rifling the mails, or the other acts denounced as crimes in the national jurisprudence, he may interpose in no case in particular, but in all cases in general, without in any way individualizing them by a public act or edict, in effect by a public law of amnesty, and forego and forever bar all prosecutions for past offenses.

As I said, I do not wish to discuss the question now. I rose for the purpose of calling the attention of the honorable Senator from New Jersey to the fact that the act of the President is a step in advance of the ground referred to by him as held in England or in this country.

The inquiry is not whether the Executive has power to pardon before conviction in one case or in any number of individual cases. It is a question far in advance of that, far wider than that. Such a power must be spelled out by a process more extended and difficult than that resorted to in establishing the right by pardon to outrun the conviction of a culprit, or of any number of culprits treated as individuals.

Mr. DOOLITTLE. Mr. President, I should not engage in this discussion or express any opinion whatever on the question if Senators had been content to ask for the information without going into the discussion; but on this subject nothing is more clear than that it has been expressly decided by the Supreme Court of the United States that under the clause in the Constitution which gives the President the power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment, the President has the power, at any time after the offense has been committed, before legal proceedings are taken, or during their pendency, as well as after judgment and conviction, to grant pardon by general proclamation; and that this benign

prerogative of clemency which the Constitution of the United States has reposed in the President, and in which the President does represent the sovereign people of the United States, cannot be limited by Congress or subjected by Congress to any restrictions whatever.

Mr. CONKLING. In what case was that decided?

Mr. DOOLITTLE. I refer to the decision of the Supreme Court in the case of Garland, where the court held clearly and unequivocally that by general proclamation the President could pardon offenses.

Sir, it is premature to enter on a general discussion of this question, but I did not think it right that the matter should leave the Senate and go out to the country with the expression of the opinion of Senators that there was some doubt as to the power of the President. I shall not go into the discussion at length nor take up any further time. I simply state the fact of the decision. I have sent for the volume containing the decision in Garland's case, and there is one other case which came before the court prior to that, where the principle to which I have referred was expressly decided. In Garland's case Mr. Justice Field, delivering the opinion of the court, uses language which, I think, I quote almost *verbatim*, if not entire, wherein he says, speaking for the court, that this is a power which may be exercised at any time before legal proceedings are taken, or during their pendency, as well as after judgment and conviction.

Mr. TRUMBULL. Allow me to suggest to the Senator that that was decided by the Supreme Court years ago. It has been the practice of the country for fifty years to pardon before conviction as well as after.

Mr. FERRY and others. There is no question of that.

Mr. DOOLITTLE. I supposed so. There is no question, Senators say, that the President may, before any legal proceedings are taken, grant reprieve or pardon, and that he may during their pendency grant it as well as after judgment and conviction. And if the President has power to do it before legal proceedings are taken, what is the objection to his stating in a general proclamation that he grants reprieve and pardon to those who have been engaged in a given offense?

Mr. TRUMBULL. That is another question.

Mr. CONKLING. Allow me to make an inquiry of the honorable Senator from Wisconsin. Does he state that in the Garland case, or any other case of which he knows, he understands that the Supreme Court has said that the President may do this thing of which we are speaking; that is, by general proclamation dispense to persons not named what the Senator from Michigan called an indulgence?

Mr. DOOLITTLE. The case arising in the Supreme Court was, I think, a case which arose under just such a general proclamation. The man was not pardoned by name; he was pardoned under a general proclamation of amnesty.

Mr. CONKLING. Does the Senator say that the Supreme Court decided this question?

Mr. DOOLITTLE. Nobody raised this question. It is a mere question of form. It is "sticking in the bark." If the President has the power to pardon every man who has been guilty of an offense, he can name those men one by one, or in general words he can say, "I pardon them all." Is it to be supposed that in the exercise of a constitutional power, where the Constitution gives the President the power without any limitation and the courts say expressly in their opinion that Congress has no authority to limit it—is it to be supposed that the mere form of exercising it makes any difference? It is a power reposed in the President, and reposed in the President by the Constitution, and the Constitution is just as much above Congress as it is above the President; and when the Constitution has reposed in the President this power it is not for Congress to usurp the right to limit it when it

is given unlimited by the Constitution. There is but one restriction upon it, and that is with reference to cases of impeachment.

Mr. FERRY. I should like to ask the Senator a single question. The proclamation declares a full pardon and amnesty. Does the Senator from Wisconsin make any distinction between a pardon and an amnesty?

Mr. DOOLITTLE. I conceive that the word "reprieve" and the word "pardon" contained in the Constitution are the words which will cover all that is meant by the word "amnesty."

Mr. FERRY. There I differ from the Senator entirely.

Mr. DOOLITTLE. But if the President has power to pardon all persons who have been engaged in a common offense, suppose six have been engaged in it, is it necessary that he should name those six in the paper-writing by which he extends to them their pardon, or may he say that he pardons all those persons who were engaged in that offense? What is the difference? There is no difference in effect. True, the Supreme Court did not decide that precise question, for nobody raised that question in the court; nobody thought of raising it. It is too immaterial a question whether the men be named by name Richard Roe, John Doe, and John Jones, who have been engaged in the commission of an offense, or whether the President says in general language, "I pardon the men who were engaged in that offense, and all the men who were engaged in it." It makes no difference whatever. If the power is in him to do it; if he has expressed his intention to do it in a form which can be understood by the plainest common sense, it gives effect to it. There is no ambiguity about it. There is no doubt about the meaning.

But, Mr. President, I do not wish to be drawn into a discussion which I deprecated in the beginning, and I would not have expressed these opinions on the subject but that I did not desire the opinions of other Senators which have been expressed to go out without notice.

Mr. DAVIS. Mr. President, I think the resolution introduced by the honorable Senator from Connecticut a very proper one, and I think that he very properly proposed the direction which it should take. It seems to me that the debate which has sprung up on it is premature, and that Senators ought not to have gone into the discussion of a question of so much moment and gravity without full research and reflection. I will, however, make one or two general remarks.

Everything that the President may do in the way of pardon or amnesty must be covered by the words expressed in the Constitution. If an amnesty is a different matter from what those words in their literal meaning and spirit were meant to comprehend, of course the President has no power to grant general amnesty.

I will remark, further, that the whole power of reprieve, and pardon, and amnesty, if you please, is vested by the Constitution in the Executive, the President of the United States, and that Congress has no authority under the Constitution to exercise one particle of the power of pardon, reprieve, and amnesty. If "amnesty" is simply the synonym of "reprieve and pardon," the power of amnesty is vested exclusively in the President of the United States. If it is not vested in him it does not exist in our Government at all. All the authority, all the power of the Government appertaining to that subject, is vested in the President, and in the President alone, according to my reading and understanding of the Constitution.

The honorable Senator from New York, I think, fails to illustrate this subject when he speaks of the attempted exercise of the power of amnesty or pardon before the offense is committed. Every man will concede that whether the power may be exercised before or after trial it cannot be exercised before the act of crime;

and therefore the argument drawn from that supposed analogy of the honorable Senator from New York I think has no application.

In relation to the point suggested by the honorable Senator from New Jersey, whether a pardon may be granted by the chief executive officer of the nation or of a State before trial and after an offense is committed, I conceive there cannot be a doubt. The power is exercised of pardoning before trial in most of the States; and whether it should be exercised before or after trial in my mind is more a question of expediency than of power. The only point upon which my mind at present feels any hesitancy at all is the power of pardon by description without naming the individual or individuals pardoned; and upon that proposition I have not much doubt, but I am disposed to concur in the opinions expressed by the honorable Senator from Wisconsin.

Of the power of the President to pardon for a crime or an offense before the trial of the party who has committed the crime or offense I entertain no doubt; and I do not entertain much doubt that where a particular crime has been committed by a large number of individuals, the President, by his proclamation, as well as by his writ of pardon, naming individually each person who has committed the offense, may grant a pardon under the name and phrase of "pardon and amnesty." And if the terms used in the proclamation be of such a character as certainly to comprehend and include a large class of persons who have committed a particular offense, it is, under our Government, a legitimate and constitutional exercise of power by the Executive.

But, Mr. President, I would have preferred that this grave subject had been postponed in its discussion and examination until Senators could come into the Chamber after mature investigation and deliberation, fully prepared to give the most considerate judgment upon so important a question.

Mr. CONKLING. Mr. President, I concur with the honorable Senator from Kentucky, that this debate is premature, and I wish to take to myself a full share of the not discountenanced censure which he visits upon it. Nevertheless I should not like to sit down under the added weight of condemnation implied by the remarks of the honorable Senator from Wisconsin, [Mr. DOOLITTLE.] If he is right in all he told the Senate, a rude offense has been committed by me in thrusting crude and unconsidered suggestions upon the attention of the Senate.

The honorable Senator from Wisconsin denounces as those who "stick in the bark" all such as think they see a grave distinction between the power to pardon A B charged with a given offense, and the power to put forth a general sweeping act of condonation toward all men collectively suspected or guilty of similar offenses. The men who have made England's history illustrious, according to the Senator, stuck in the bark when they set up great landmarks on the path of constitutional liberty. They deemed such distinctions as the Senator disparages so grave that their arguments and protests shook the British throne.

But we are told that besides being trivial the whole matter has been adjudicated by the Supreme Court, and so is not open to debate.

The Senator said the very question and all of it had been passed upon in Garland's case. That was his first declaration; and when pressed with inquiry he says the court did not decide this precise question, because nobody raised it; but the court did decide that the power of pardon and reprieve was well exercised when a general amnesty had been proclaimed naming nobody. He said it was under such a proclamation of amnesty that Garland claimed immunity. I have the case before me. Let us see whether the Senator is right. I read from the statement of facts:

"In July, 1865, Mr. Garland received from the President a pardon, by which the Chief Magistrate, reciting that Mr. Garland 'by taking part in the late

rebellion against the Government, had made himself liable to heavy pains and penalties,' &c., did thereby 'Grant to the said A. H. Garland a full pardon and amnesty for all offenses by him committed, arising from participation, direct or implied, in the said rebellion, conditioned as follows: this pardon to begin and take effect from the day on which the said A. H. Garland shall take the oath prescribed,' &c."

Thus the Senator will see that he is widely mistaken in supposing that any such point as this could have been in judgment. The simple question was whether Garland, having taken part in adopting the ordinance of secession of his State, and being disqualified by the statute on account of that act, could be pardoned by the President of the United States before he had been judicially ascertained to be guilty. What did the court say on that question? Nothing more than was conceded by the honorable Senator from New Jersey. Just what has been said in England, and what was said by the Supreme Court, in effect, long ago. The opinion of the court was delivered by Mr. Justice Field, and this is the language as to the power to grant pardons:

"The power thus conferred is unlimited, with the exception stated. It extends to every offense known to the law, and may be exercised at any time after its commission, either before legal proceedings are taken or during their pendency, or after conviction and judgment."

That is all that the case decided, all that the case could have decided. Thus you see, Mr. President, that no light has fallen upon the question whether an Executive, of his own motion, without a statute enabling him, may put forth a public act of amnesty. I do not mean, as the Senator from Kentucky seems to suppose, to illustrate this by taking the case of a pardon in advance of offenses not already committed or charged. I made no such suggestion. I agree with him that such an act of pardon would present still other questions. The point, I repeat again, is not whether the President may pardon an individual or different individuals charged with an offense or offenses, but whether he may acquit all men collectively and all communities charged with offenses, and this by a public proclamation.

Mr. DOOLITTLE. In relation to the case referred to, that of Garland, I agree that a pardon was granted to him by name. When I was on the floor before I was under the apprehension that he came in under the general pardon which was granted to certain classes of offenders. In that it seems that I was mistaken. But the language made use of by Mr. Justice Field in delivering the opinion of the court is almost *verbatim* what I repeated when on the floor before, and I am not, therefore, under the necessity of repeating it again. He decides the point that the power of the President to pardon and grant reprieves, except in cases of impeachment, is unlimited. The Constitution does not say that he can grant a pardon to A B by name, or C D by name, but that his power to grant pardon for an offense against the laws of the United States is unlimited. What is the offense here? Treason against the Government of the United States. The President has the unlimited power to pardon those who are guilty of it. If he has the power to pardon one he has the power to pardon two or six or one hundred or one thousand, and he can do it all in one act. By one act of the executive will he can pardon a thousand. All that the honorable Senator contends for is this: that he must name them in order to give effect to the pardon. Why, sir, that is not necessary at all. If he has the power to pardon a thousand men who have been engaged in rebellion, he may name them, it is true, but if he does not name them, but uses general terms to pardon all who were engaged in the late rebellion, of course "all" embraces those who would be named.

Mr. President, I have no intention to take up time nor to discuss this question prematurely; but inasmuch as some Senators had expressed such a decided opinion that this was an unconstitutional exercise of power on the part of the President I desired not to allow

this resolution to pass from the Senate without expressing my opinion on the subject.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution.

The resolution was adopted.

PACIFIC RAILROAD REPORTS.

Mr. HOWARD submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior is respectfully requested to communicate to the Senate copies of the last annual reports of the Union Pacific Railroad Company and its several branches, required by the twentieth section of the act of July, 1862; that he also communicate to the Senate copies of any report or reports made to him, or now in his possession, from the Northern Pacific Railroad Company, the Atlantic and Pacific Railroad Company, and the Southern Pacific Railroad Company, and all reports of engineers, superintendents, or other officers who make, annually, reports to any of the three last-named railroad companies.

FORTIFICATIONS AT LAWRENCE.

Mr. ROSS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President be requested to transmit to the Senate such information as is furnished by the files of the War Department in relation to the erection of fortifications at Lawrence, Kansas, in 1864 and 1865.

BILLS INTRODUCED.

Mr. SUMNER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 722) to amend an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," by extending certain penalties to accessories; which was read twice by its title.

Mr. SUMNER. I ask the reference of that bill to the Committee on Finance. It might go properly either to the Committee on Finance or to the Committee on the Judiciary; but considering that the Finance Committee has jurisdiction of the general subject I move its reference to that committee, and that it be printed.

The motion was agreed to.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 723) to amend an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," which was read twice by its title, referred to the Committee on Finance, and ordered to be printed.

Mr. SUMNER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 724) to declare the meaning of the first section of an act entitled "An act in relation to the competency of witnesses, and for other purposes;" which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 725) to regulate prosecutions under the laws of the United States for embezzling, and kindred offenses; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 726) to authorize imprisonment with hard labor as a punishment in certain cases; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 727) to provide for the trial and punishment of accessories to criminal offenses; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 728) to repeal the act of February 28, 1803, prohibiting the importation of certain persons into certain States; which was read twice by its title.

Mr. SUMNER. I move that that bill be

referred to the Committee on the Judiciary, and printed; and in making that motion I would say that the act which I propose to repeal is one of the old pro-slavery enactments which still lurk in our statute book, and it ought to be expelled.

The motion was agreed to.

Mr. SUMNER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 729) to provide for the execution in the District of Columbia of commissions issued by the courts of the States and Territories of the United States, and of foreign nations, and for taking depositions to be used in such courts; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. THAYER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 730) supplementary to an act entitled "An act to confirm the titles to certain lands in the State of Nebraska;" which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. CONKLING asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 731) to authorize the New York, Newfoundland, and London Telegraph Company to land its submarine cable upon the shores of the United States; which was read twice by its title, and referred to the Committee on Commerce.

Mr. STEWART asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 732) to declare certain post roads in the State of Nevada; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 733) to enable the people of Georgia to form a State government republican in form; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. COLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 734) to create an additional collection district in the State of California; which was read twice by its title, referred to the Committee on Commerce, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 735) to prevent the extermination of fur-bearing animals in Alaska, and to protect the inhabitants thereof; which was read twice by its title, referred to the Committee on Commerce, and ordered to be printed.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 736) to authorize the establishment of ocean mail steamship service between the United States and Mexico; which was read twice by its title, referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

Mr. RICE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 737) to incorporate the Central Indian Railroad Company in the Indian territory; which was read twice by its title, referred to the Committee on the Pacific Railroad, and ordered to be printed.

Mr. MORTON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 192) to prevent the landing of any foreign submarine cable without authority of Congress; which was read twice by its title.

Mr. MORTON. I move that the resolution be referred to the Committee on Commerce.

Mr. GRIMES. The Committee on the Judiciary is the proper reference.

Mr. MORTON. The Senator from Iowa suggests the Judiciary Committee. I have no preference, but I thought the Committee on Commerce was the proper committee.

Mr. EDMUNDS. The Committee on Foreign Relations.

Mr. SUMNER. It might go to the Committee on the Judiciary, the Committee on Com-

merce, or the Committee on Foreign Relations. Either might take jurisdiction of it.

Mr. MORTON. I suggest, on reflection, that the Committee on Foreign Relations would be the most proper.

Mr. GRIMES. I am content; but it seems to me the question that is going to be presented by this resolution will be the conflict of jurisdiction between the Federal and State Governments. That is a judicial question, and it ought to go to the Judiciary Committee to settle it.

The PRESIDENT *pro tempore*. The question will be taken first on the first-named committee. The question is on referring the resolution to the Committee on Foreign Relations. It was so referred.

DISABILITIES OF JOHN G. STOKES.

Mr. WARNER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 738) to relieve from disabilities John G. Stokes, a citizen of Alabama; which was read twice by its title.

Mr. WARNER. I ask for a suspension of the rule, that this bill may be immediately passed; and I will state to the Senate briefly the reason for this somewhat unusual action. Mr. Stokes has been elected to the office of county solicitor, or prosecuting attorney of the county of Montgomery, Alabama. The court meets next Monday, and it will be impossible for him to enter upon the discharge of the duties of his office without this relief. If a reference of the bill is made it will probably delay it so as to be too late to meet the wants of the case. I will state that Mr. Stokes is known to me personally, living in my own town, and is also well known to my colleague, and we both can vouch unqualifiedly for his loyalty and for the propriety of relieving him. I hope that present action on the bill may be taken under the circumstances.

Mr. FOWLER. I wish to amend the bill by inserting the name of a gentleman situated under similar circumstances.

The PRESIDENT *pro tempore*. The question now is on proceeding to the consideration of the bill, which requires unanimous consent.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which proposes to remove all political disabilities imposed on John G. Stokes, a citizen of Alabama, by reason of the fourteenth article of the Constitution of the United States.

Mr. FOWLER. I move to amend the bill by inserting after the word "Alabama" the words "and De Witt C. Senter, of Tennessee." Mr. Senter is now a member of our Legislature, and he is supposed to labor under disabilities. He has been a thoroughly loyal man since the reorganization of the State. I hope the amendment will be agreed to without objection.

Mr. STEWART. If the bill is to be amended I shall feel compelled to move its reference to the Committee on the Judiciary.

Mr. PATTERSON, of Tennessee. Will the Senator allow me to make a statement?

Mr. STEWART. One word. The Senator from Alabama explained the particular circumstances of this case, that Mr. Stokes was about to enter upon the discharge of the duties of his office almost immediately, and it being an exceedingly hard case I thought I would make no objection to it if the bill could go through in that form; but if the bill is to be loaded with amendments I shall insist on its reference. If one amendment is put on now there will be a dozen upon it before it gets through the other House. If the bill can be passed, allowing this man to enter on the discharge of his duties without amendment I have no objection, because I think it ought to pass. But if you add names to it it will be back here again in a day or two with a large number of additional names from the other House. Under the circumstances, therefore, if amendments are to be insisted upon, I think the bill had better be referred to the Committee on the Judiciary. If the amendment is insisted upon the bill will

not accomplish its original purpose, because it will be loaded down with a dozen names before it gets through, and will come back here for concurrence, and this man will not be relieved in time to answer his purpose. I think, therefore, it had better be considered in the usual way.

Mr. PATTERSON, of Tennessee. It is, perhaps, proper to state that Mr. Senter is now president of the senate of the Legislature of Tennessee, and upon the resignation of Governor Brownlow, which must occur prior to the 4th of March, he will succeed him as Governor of the State. I think the case of Mr. Senter is quite as strong as that of Mr. Stokes, of Alabama. Under our constitution the president of the senate succeeds the Governor in case of his resignation. Governor Brownlow is my successor, and will take his seat in the Senate on the 4th of March next, and of course he must resign the governorship between this and the 4th of March, and then Mr. Senter will succeed him. I think a stronger case can be made out for Mr. Senter than for Mr. Stokes, of Alabama. Perhaps the Senator from Nevada was not aware of these facts.

Mr. STEWART. I was not aware of those facts; but still I think the bill had better be referred to the Committee on the Judiciary. The committee meet to-morrow; these two names can go there, and we can report immediately.

Mr. PATTERSON, of Tennessee. I suppose there can be no objection to inserting the name of Mr. Senter. I have stated the facts. He succeeds Governor Brownlow as Governor of the State; he is now president of the senate. Governor Brownlow will certainly resign the governorship between this and the 4th of March and Mr. Senter will succeed him as Governor of Tennessee.

The PRESIDENT *pro tempore*. The question is on referring the bill to the Committee on the Judiciary.

Mr. FOWLER. Rather than interfere with the bill I will withdraw the amendment. I do not want any personal objection to me to interfere with the relieving of this citizen, who ought to be relieved.

The PRESIDENT *pro tempore*. The Senator from Tennessee withdraws his amendment. Does the Senator from Nevada withdraw his motion?

Mr. STEWART. Yes, sir.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. RICE. I suggest, as a two-thirds vote is required to pass the bill, that the yeas and nays will have to be called.

The PRESIDENT *pro tempore*. The Senator is right in supposing that it requires a two-thirds vote; but a unanimous vote is certainly equivalent to that. The bill is passed.

COPIES OF PAPERS AS EVIDENCE.

Mr. TRUMBULL. There is a bill on the table that has passed the House of Representatives, and has been reported by the Committee on the Judiciary, which it is important should pass at an early day in order to have it take effect with reference to matters that are now pending in court. It is House bill No. 1428. I move that the Senate proceed to its consideration. It will take but a moment.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1428) authorizing the admission in evidence of copies of certain papers, documents, and entries.

The Committee on the Judiciary reported the bill with amendments. The amendments were, in line three to strike out the words "any and" and to insert the word "official" before "papers;" and after the word "documents" to insert the words "belonging to and;" in line six to strike out the words "any and" before the word "all," and after the word "all" to insert the word "official;" and in line nine, after the words "United States," to strike out the words "and shall have, as evi-

dence, the same force and effect as the original papers, documents, or entries;" so that the bill will read:

Be it enacted, &c., That copies of all official papers and documents belonging to and filed or remaining in the office of any consul, vice consul, or commercial agent of the United States, and of all official entries in the books or records of any such office, shall, when certified under the hand and official seal of the proper consul, vice consul, or commercial agent, be admissible in evidence in all the courts of the United States.

The amendments were agreed to.

Mr. HOWARD. I beg to inquire of the honorable chairman of the Committee on the Judiciary whether this bill would cover criminal cases? If it is intended to embrace criminal trials there may possibly be a difficulty in it. The Constitution requires that the witnesses shall confront the accused face to face.

Mr. TRUMBULL. I do not suppose that it would cover any such cases.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to a third reading, and was read the third time, and passed.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolution; and they were thereupon signed by the President *pro tempore* of the Senate:

A bill (H. R. No. 1537) to repeal certain provisions of section six of an act entitled "An act making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes," approved March 2, 1867;

A bill (S. No. 700) for the relief of Joseph Moorhead; and

A joint resolution (H. R. No. 388) explanatory of the act to create an additional land office in the State of Minnesota, approved July 25, 1868.

MISS SUE MURPHEY.

Mr. HOWE. At the adjournment before Christmas there was a bill pending for the relief of Miss Sue Murphey, of Decatur, Alabama. I suppose that to be the regular order for this afternoon. If it is, I should like to have the Senate proceed to its consideration. If it is not, I move that the Senate proceed to the consideration of it.

The PRESIDENT *pro tempore*. The question is upon the motion of the Senator from Wisconsin.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 625) for the relief of Miss Sue Murphey, of Decatur, Alabama.

Mr. HOWE. I made some remarks on this bill the other day when it was before the Senate, and intended then to explain what I omitted to explain, the relation of the Committee on Claims to this particular bill. It was reported from the committee at the last session of the Senate, but upon reflection since it was called up I am inclined to think that the present members of the Committee on Claims are not committed to this bill, but only consented that the bill should be reported to the Senate. I am not very clear in my recollection about it. It was once reported upon full consideration by a former Committee on Claims, and then it was passed by the Senate. I remember to have been urged strenuously during the last days of the last session to have this bill reported. I had not, as my recollection is now, time to consult the different members of the committee upon the merits of the bill, and I rather think I only had their consent to report the bill. That is my present recollection about it, and it is due to the members of the committee that that statement should be made.

Mr. FRELINGHUYSEN. Mr. President, when the Senate was about adjourning for the

purpose of taking a recess I had taken the floor briefly to consider this subject. I will now ask the attention of the Senate while I submit my views in reference to it. The question is one of much importance.

I cannot avoid the belief that the allowance of this claim will open the door for enough of similar claims from the lately insurrectionary States seriously to affect the Treasury. Miss Murphey was a loyal lady. Her house was destroyed by direction of General Sherman, in order to erect a fortification. Whether the claim be a good one or not, her case cannot be distinguished from that of loyal citizens in the enemy's country whose houses were raked by artillery, whose fields were ravaged, whose granaries were emptied, whose cattle were driven off, and whose houses were occupied by our troops, so that this bill brings before the Senate the whole question of these southern claims. All this damage was done under the *jus belli*, to strengthen our own power in the war and to weaken that of the enemy.

It is said that her case is peculiar in that she was loyal. I answer I do not know that there were not a multitude of loyal people at the South. At all events, I have no doubt that there is a multitude that could now bring proof which we could not controvert of their loyalty; and I do not see but that a person residing at the South who was as loyal as he possibly could be under the surroundings has not as meritorious a position as one who was perfectly loyal. And hence, so far as the number of such claims is concerned, her loyalty does not distinguish her case.

Neither is the importance of this question shaken by the observation of my friend from Wisconsin, that we have hitherto had very few such claims presented. We have not yet, by the establishment of any precedent, advertised that our doors were open to claims of this character; and I would remark that if it is our purpose to establish the principle here involved when asked to do so by loyal citizens residing in the enemy's country, we must be prepared to admit the claims of the citizens of friendly Powers who had property or who were residing there, and by our so doing we may recognize a large amount of indebtedness to be set off against our Alabama claims.

The question, as I have said, is of importance because of the effect a determination that the Government is under obligations to pay would have upon our Treasury. But I would remark that the amount of these claims can be properly urged only to make us careful in our judgment, and not as a reason why we should not pay them. If they are legal and just they should be paid, no matter what is the amount. The Treasury of the nation is of less value than the nation's faith.

But, Mr. President, I submit that this is not a legal claim on the Government. The general proposition "that it is the right of one belligerent not only to coerce the other by direct force, but also to cripple his resources by seizure and destruction of his property," will not be disputed. The right of belligerents to take property in the enemy's country for fortifications and sustenance will not be disputed. And again, it is settled that "whether one is an enemy or not is to be determined, not by his or her state of feeling toward the invading power, but by his or her residence and citizenship."

Mr. HOWE. Will the Senator tell me his authority for the last proposition?

Mr. FRELINGHUYSEN. I will presently give the Senator references to the authorities on which I rely. The letter of Mr. Dana takes the ground that the question is not as to the state of feeling of the individual, but as to residence and citizenship. The same doctrine has been held by our Supreme Court, as I will show.

Mr. HOWE. Allow me to remark, however, that it was the purpose of Mr. Dana's letter to explain not upon what the question of enmity rested, but to explain that the question of personal enmity had nothing to do with this

matter; that the guilt attached to the property, not to the individual.

Mr. FRELINGHUYSEN. Then the letter of Mr. Dana sustains me in the position that the liability of property to be treated as "enemy property" does not depend on the state of feeling entertained toward the Government by the owner of the property. The Supreme Court of the United States have gone further, and said in several decisions, which I shall refer to, that it is a question of residence, of citizenship, and of location of the property.

But it is insisted that the recent rebellion differs from a war between foreign nations in this, that the Government of the United States was bound to protect its loyal citizens and their property, or to indemnify them for its failure to do so. Is it so clear, I ask, that the national Government is under the obligation to protect the property of the citizens of any State? Is not the province of the Federal Government rather to preserve the integrity of the external relations of the nation, and to address itself to the duty of seeing that the States maintain their proper relations to the central Government? Have not the States the dominion over the domestic interests of the citizen? And if the obligation to indemnify for a breach of the public peace rests anywhere, is it not with the States rather than with us?

But the obligations to indemnify for the results of a breach of the peace, for a rebellion or a riot, never rests with any sovereignty, be it a monarchy, or a republic, or a State. A State, to secure greater assiduity on the part of the local municipal authorities, sometimes holds them to indemnify for the results of a breach of the peace; but no State, no sovereignty ever undertakes to indemnify for the result of a rebellion or a riot. The sovereignty assumes that it has done all its duty, executed to the fullest extent its power to preserve the peace, and that in so doing it has done all that it is bound to do; and this theory in the case we are considering has been made practical by hundreds of thousands of lives and millions of treasure expended to preserve the peace. So that if we are only dealing with the war as an insurrection or as a rebellion, there existed no obligation to indemnify.

We are, however, dealing with the recent contest as a war with all the incidents of a war, and not with an insurrection. It was the dictate of humanity to treat the conflict as a war with its incidents, and not as a rebellion with its incidents. If a rebellion merely we should have had the right and we should have been under the obligation to execute as rebels the prisoners that we took, and the enemy by captures and reprisals would have retaliated, and the war on this principle would have been cruel, indeed, and would every day have been more and more destructive. We treated the conflict as a war, and then came the exchange of prisoners, the sanctity of the truce, and the other courtesies incident to a public national war.

We are not, as the Supreme Court has substantially said, to come to the absurd conclusion that insurgents who have risen in rebellion against the sovereign, expelled the courts, established a revolutionary government, organized armies, and commenced hostilities, are not enemies because they are traitors; and that war levied on the Government by traitors, in order to dismember and destroy it, is not war, because it is an insurrection. Neither are we to hold that the contest is not war with all its incidents because it is a civil war. The highest authority settles it that the contest in which we have been engaged was a civil war, and that the property within the enemy's country was "enemy property;" and so far from there being any obligation to indemnify for its incidental destruction the nation had a perfect right to make its destruction, even when belonging to loyal citizens, a means of weakening the enemy.

Vattel says, page 293, margin:

"Civil war breaks the bands of society and government, or at least suspends their force and effect: it

produces in the nation two independent parties who can consider each other as enemies and acknowledge no common judge. Those two parties therefore must necessarily be considered as constituting, at least for a time, two separate bodies, two distinct societies. Having no common superior to judge between them they stand in precisely the same predicament as two nations who engage in a contest and have recourse to arms."

The Supreme Court, in the prize cases, 2 Black, 674, say:

"All persons residing within this territory, whose property may be used to increase the revenues of the hostile power, are in this contest liable to be treated as enemies, though they are not foreigners."

Further:

"The products of the soil of the hostile territory, as the source of its wealth and strength, are always regarded as legitimate prize without regard to the domicile of the owner, and much more so if he reside within their territory."

In the case of Mrs. Alexander's cotton, 2 Wallace, 419, the Chief Justice says, delivering the opinion of the court:

"It is said, that though remaining in rebel territory Mrs. Alexander had no personal sympathy with the rebel cause, and that her property therefore cannot be regarded as rebel property; but this court cannot inquire into the personal character and disposition of individual inhabitants of enemy territory; we must be governed by the principles of public law so often announced from this bench as applicable alike to civil and international wars, that all the people of each State or district in insurrection against the United States must be regarded as enemies until by the action of the Legislature and the Executive, or otherwise, that relation is thoroughly and permanently changed."

As it is clear that there is no legal obligation to indemnify for the destruction or use of property in the rebel territory, so it is clear that such claim is not founded in justice. It is a misconception to hold that the property of loyal citizens in enemy territory when taken for war purposes, is taken under the governmental right of "eminent domain" and to be compensated for. It is a principle of the common law too familiar to be questioned, that in emergency, as to prevent pestilence, shipwreck, loss of life, starvation, or in case of public calamity, private property may be taken and destroyed without the party destroying it being liable in damages. All men hold their property subject to this rule, and as an equivalent have the benefit of the rule. (12 Coke, 62; 1 Dallas, 357.) The maxim is, *Necessitas quod cogit defendit*. What necessity compels necessity defends. If a canker is eating at the finger and sending its virus through the body, you may cut off the finger or arm so as to save the body and the finger cannot complain, for it would have died with the body. I do not deny that this property of Miss Murphey was, on the principles adopted by the commission, worth \$7,000, but I do insist that on true and correct principles it was worth nothing. If this Government had not exerted its power and put down the rebellion the confederacy would have been established. The claimant is to be assumed to have been a loyal woman; such is her claim. She is to be assumed to have been the enemy of the confederacy; she was our friend. It is only on that assumption that she has any standing here; and by the law of nations as well as by the then existing statutes of the confederacy her property would, on the success of the rebellion, have been confiscated by the confederate government. This was done in many States after the Revolution before the adoption of the Federal Constitution. Her property was worth nothing to her if the United States had not successfully interfered.

And what justice is there in calling on this Government to pay for the destruction or use of that which if they had not used or destroyed would have been valueless?

It is said again, if we refuse to recognize the claims of the loyal we make no discrimination in favor of loyalty, and that there is no profit in possessing that virtue. A pestilence when it enters a town does not discriminate in favor of loyalty or of any other virtue, and this Government is as irresponsible for the rebellion as for the pestilence.

Again, I insist that the Government of the United States is not the responsible cause of

taking Miss Murphey's property. The instigators of the rebellion by making war on us took her property. General Sherman went down there to protect that country, to protect her and her property, and he put his foot upon her house and destroyed it. He is not the responsible cause of the destruction of her property. One might as well hold the brave men who come to extinguish the fire and save your house and family from destruction responsible for the damage the saving stream does to your household goods. It is the fire, not the water; it is the incendiary, not the fireman, that causes the damage. This Government is not the responsible cause of the destruction of any property in the enemy's territory.

If we are to begin to pay for the results of the rebellion why shall we not as well pay those who suffered within our own lines? Why should not the merchant whose shipping has been destroyed be paid? Why not pay the estate of Thaddeus Stevens for his loss? Yes; and as life is more favored in the law than property, why not pay the widows and orphans of the North the pecuniary value of the lives of their husbands and fathers?

As to the plea that the Government was bound to protect the loyal citizens, I will only add to what I have said that this nation did all it could to protect the property, and it never entered into any contract with any citizen to do more than that. If there is no neglect there is no claim growing out of neglect. But besides, the injury complained of results from the very act of affording that protection which it is insisted we were bound to render, and affording it successfully, too.

It is insisted, and was urged by my friend from Wisconsin, that the Government in making provision for payment for cotton of loyal citizens seized in the enemy's country has established a precedent that covers this claim. That I must deny. It was wise legislation that authorized the seizure of cotton wherever found, inasmuch as cotton constituted the chief means by which the rebels were furnished with the munitions of war. It was wise to remove it, and it was wise to remove the cotton of loyal citizens, for that was subject to be seized by the rebel government, and it was impossible for us to discriminate that which was the property of the loyal from that which was the property of the disloyal. It was wise for the United States to seize and sell it and then pay the net proceeds to loyal owners, because it kept the cotton out of rebel hands, and because it cost the Treasury of the United States nothing. Does the paying of damages incident to the war, such as this case, cost the Treasury of the United States nothing? If that be true I will vote for the payment of the claim. Who cannot see the broadest distinction between these two cases? When I as a trustee receive a fund for the benefit of my *cestui que trust*, and pay it out to him, the receiving of it does not increase, and the payment of it does not diminish my estate; but when I am called on as a wrongdoer to pay the value of property that is destroyed, that directly affects my interest.

Paying the net proceeds of cotton to loyal owners has not cost the nation anything; it has only paid what it received. The establishment of the principle involved in this claim might exhaust the Treasury. There is a difference in the two cases, I think.

The only precedent on this subject that I know of is, that by a vote of Congress the Court of Claims were forbidden from taking jurisdiction of any claim whatever arising in the rebel territory. If the Government desire to pay any claim of this character it can only do so as a matter of generosity. I insist that it should not do so on the ground that the claim is either legal or founded on justice. There may be cases that appeal to the generosity of the Government, but when we come to act on that principle we should remember that we are the trustees, guardians of the nation's Treasury, and should not forget that even such an exercise of governmental favor might easily be per-

verted into a precedent to prove that the United States had acknowledged its obligation in law and in justice to pay for the injurious results of the war to those who claim to have been loyal in the enemy's territory.

Mr. HOWARD. Mr. President, as a member of the Committee on Claims it is perhaps becoming in me to say a few words on this subject. The ground upon which the honorable Senator from Wisconsin, if I understand him correctly, places this claim is that it is the duty of the Government to protect all loyal citizens.

Mr. HOWE. No, Mr. President, the Senator did not understand me correctly if that is the way he understood me.

Mr. HOWARD. I certainly so understood the honorable Senator.

Mr. HOWE. By no manner of means.

Mr. HOWARD. I certainly understood that from the remarks which the honorable Senator made a few days ago when this bill was under discussion, but I probably misunderstood him. However, I apprehend that whatever may be the ground upon which he chooses to place it, that in the end will be discovered to be the only plausible ground upon which it can be rested.

Now, sir, I entirely deny the proposition that in time of war or at any time it is one of the duties of the government of a nation or the government of a State to indemnify citizens for the losses which may have occurred in the course of a war offensive or defensive, or in the event of a riot or any public disturbance which endangers the peace of the community or the property of the community.

The honorable Senator must be aware that the Committee on Claims have already passed on quite a number of claims involving the same principles upon which this must rest. That committee had before them the claim of the New York and Virginia Steamship Company, and for the information of the Senate I beg leave to read a few passages from the report of the committee on that case. The committee say:

"The petitioners claim compensation for the destruction and loss of the Yorktown and the Jamestown, two steamships belonging to them, and employed in the year 1861 and previously in the business of navigation between New York and Richmond, and in transporting the United States mail between those two ports under a contract with the Government. They allege that on their regular trips from New York to Richmond the Yorktown was seized on the 17th of April, and the Jamestown on the 18th of April, 1861, the former at Richmond and the latter at City Point; that these seizures were made by the Governor of Virginia, and that the two steamships were converted into gunboats by the rebel authorities, used in the rebel service, and finally blown up and destroyed on the capture of Richmond; that soon after these seizures certain persons representing the authorities of Virginia proposed to pay the company the value of the two steamers, with damages for their detention, but that on consulting with the secretary of the State the company were informed that such a settlement would be illegal and treasonable, for the reason that it would be converting the seizure into a formal sale of the property to the enemy."

That, perhaps, is a sufficient statement of the facts of the case. There is no doubt about the fact that the rebels in Virginia seized those two valuable steamers, converted them in the first place to the use of the government of Virginia, then in rebellion against the United States, and afterwards turned them over to the Confederate States of America, by which government they were used during the pendency of the war until the final capture of Richmond, at which time they were blown up by the enemy and utterly destroyed. This company was a corporation existing under the laws of the State of New York. The steamers were the property, not of enemies, but of friends residing in the loyal portion of the United States. Their property was found at the commencement of hostilities within the limits of the hostile territory; it was there seized by the public enemy, converted to his use, and ultimately destroyed. The Committee on Claims of this body, in investigating the question and reporting to the Senate upon it, used the following language:

"The question whether the Government ought to indemnify persons residing in and citizens of the loyal States for damages done to their property by

the rebels or under rebel authority during the war, is one which embraces the principle on which the present claim appears to be founded. The committee do not recognize such an obligation. Cases may, it is true, arise in which it would be proper and just for the Government to come to the relief of innocent sufferers, but they must, we think, embrace some peculiar fact or element giving them an exceptional aspect. War is a great calamity, making little discrimination between the good and the bad, the well-doer and the ill-doer, the innocent and the guilty. It is a scourge from which few in the nation escape, and its blows fall with pitiless severity upon all.

"Municipal laws are the instruments by which Governments ordinarily protect their subjects against wrongs done to them by others, and a faithful administration of them is ordinarily the measure of protection which can be demanded of a Government. But war usually interrupts their administration to a greater or less extent; and no Government on earth, however prudent and however powerful, can avert the calamities it brings upon individuals. One nation may, if it sees fit, make a sudden and unannounced invasion of another, and seize and carry off private property as the spoils of war, or seize and detain the persons of its owners. History abounds with such instances; but we do not understand it to be a duty of the insulted Government to make good the damage done in all such cases. Our own history proves the contrary; and the numerous claims for indemnity to our citizens for wrongs done them under the authority of other Governments, without having first made good the damage, constitute a long chapter in our diplomacy."

The committee, in this report, as well as in other reports which have been made to this body, have substantially, and I insist sufficiently, rejected the idea that the Government of this country is liable to indemnify loyal persons residing in the South for the destruction of their property during the war, whether that destruction was produced by the acts of the enemy or by the necessary acts of our own military forces in prosecuting the war to put down the rebellion.

Sir, it is not the function of a Government to indemnify its citizens against losses of property in this way. It is not a principle of public law that any such obligation rests upon a Government. There may be some exceptions to the general rule; but the duty of the Government is ordinarily, generally speaking, to furnish the usual and necessary means for the protection of life, liberty, and property, by the proper administration of its laws in courts of justice, and having furnished such instrumentalities it has discharged its duty to the citizen. The war through which we have passed was, as has been very justly remarked by the honorable Senator from New Jersey, a civil war. It was a war to which there were distinct parties belligerent. In its prosecution, on both sides, it was attended by the enforcement of all the ordinary rules and usages of war pertaining to the code of war when waged between independent nations. Humanity required that both parties should recognize those usages. Hence we find that blockades were established, exchanges of prisoners were established, and indeed all the incidents growing out of a state of national war were recognized by our own courts. The territory of the belligerent States was to all intents and purposes, as has been more than once recognized by the Supreme Court of the United States, enemy's territory, and all persons residing within the limits of that territory, and all property situated there, have been regarded by our courts of justice as, in the sense of the laws of war, enemies and enemy property.

Now, sir, I deny that by the principles of public law or any law it is incumbent upon the Government of the United States to indemnify a loyal person residing in the insurgent States for the loss of property taken by the Union armies in the regular prosecution of the war. You might as well say, in my judgment—and you must say if you recognize such a principle—that it is the duty of the Government of the United States to indemnify and pay every ship owner whose vessel was captured upon the high seas or elsewhere by the pirates that roamed the ocean and who emigrated from England or any other foreign country. It will be, if we recognize this claim, Mr. President, it seems to me—I do not see how we are to avoid it—incumbent upon us to pay off every cent of the claims which we now make against England for the destruction of our shipping by

their Alabamas. How are we to avoid it, sir? Where is the distinction between the two cases? Here we are called upon to indemnify this lady whose house was destroyed, it seems, by General Sherman in the regular prosecution of the war. Why are we called upon to do this? Because, it is said, that we owed to her the duty of protection; that she being a loyal woman was to be protected in the enjoyment of her property, and if that was taken from her, either by our own troops or by the enemy—for there is no distinction between the two cases—then she is to be indemnified. And so will the owners of the ships that have been destroyed by the Alabamas present their claim; they will say to us that we owed them protection in the same sense and upon exactly the same principle that we owed it to this lady.

Sir, we are under no such obligation; the Government itself is under no such duty, and there is no principle of public law that I can discover that would authorize us to tax the people of the United States for the payment of such claims. We did our duty when we organized regular governments in the South and kept them up there. It was a misfortune both to the people of the South and the people of the North that this war broke out; but it did break out, and it raged like a flame upon the prairie, destroying everything within its reach; and I insist that this controversy is to be treated as a war, and that no person is to claim indemnity at our hands simply upon the ground that at heart he was a loyal person residing in the southern States. Suppose he should be loyal to-day and to-morrow he should become in his heart disloyal, what are you to do in such a case as that? And these cases, of course, must be very numerous. Sir, we can take cognizance of no such feeling of the heart among the people at the South during the war; we must adopt the language of the Supreme Court which has just been read, and say that it is not competent for us to make any inquiry into the feelings of the claimant whether he is loyal or disloyal. We can only take cognizance of the fact that he resided or that his property was situated in the hostile territory, and if either the one or the other was there it was subject, by the laws of war, to be seized or to be destroyed as the exigencies of the war might require.

Mr. HOWE. Mr. President, I wish, if I can, to make the Senate understand—certainly I shall be able to make my friend from New Jersey and my friend from Michigan understand—that I do not defend this claim for a moment upon any such pretense as that the Government is bound to indemnify its friends in any section of the country against damages sustained through the act or action of its enemies. Not at all; I impose no such duty upon the sovereignty. Whatever loss Miss Murphey or anybody, my friend from New Jersey even included, has sustained by the action of our enemies, this Government is not bound to pay for. What I do insist upon is, that because the neighbors of Miss Murphey or the neighbors of the Senator from New Jersey happen to turn traitors at any time, that gives no license to the Government of the United States, whose loyal friend the Senator from New Jersey is, and whose loyal friend Miss Murphey was, to plunder him or her.

Miss Murphey asks this Government to pay for property which this Government has taken and used, and the Senator from Michigan reads here as authority against it the decision of the Committee on Claims refusing to pay for two steamboats which the rebel government took and converted to their use, confounding the conversion of property by the rebel government with the conversion and use of property by the Government of the United States. It seems to me that the distinction is as broad as distinctions can possibly be. I do not insist upon the duty or obligation of indemnity; I simply say that the Government should pay for this property because they took it, and took it from a loyal person; and I do not care where that person resided,

within or without the district occupied by the rebellion, I say, in justice the Government is bound to pay for it. But in point of fact Miss Murphey did not reside within the district occupied by the rebellion any more than the Senator from New Jersey did, or any more than I did. She was living at Decatur; it was in Alabama, to be sure; but that portion of Alabama was under the flag of the United States, and Decatur was occupied by the troops of the United States, and the rebellion had no more force or authority over Decatur than it had over Newark or over Detroit.

Mr. FRELINGHUYSEN. I will ask my friend whether his attention has been called to the view the Supreme Court took of the point he is now upon, in the case of Mrs. Alexander? Her cotton was also within our lines; but the Supreme Court said in that case that although temporarily it was within our lines, the territory had not acquired that character, by means of legislative action or otherwise, which took it out of the rules which applied to enemy territory. There the great river where the cotton was taken had been, I think, three weeks in our possession under Banks's expedition, but it afterward went back to the enemy.

Mr. HOWE. My attention has been called to that precise point, and I cited the case of Mrs. Alexander's cotton the other day as authority upon that point, and I called the attention of the Senate then, as I call the attention of the Senate now once more, to the distinctive ground upon which this whole doctrine rests. The Senator was right when he said that the question of the personal feeling of the owner of the property had nothing to do with the question of the liability to pay; but it was the predicament of the property, it was the question whether the property was liable to serve the purposes of the enemy or not.

Mr. EDMUNDS. Then we must pay rebels as well as loyal people if their property comes under the same conditions.

Mr. HOWE. I do not understand the Senator.

Mr. EDMUNDS. If the motive, if the state of feeling of the particular person who owns the property has nothing to do with the question, then a rebel whose property was taken under the same circumstances in Decatur has the same right to compensation that Sue Murphey has.

Mr. HOWE. I say the question whether the person is friendly or hostile has nothing to do with the question of our liability; it is the question, what is the predicament of the property, what is the position of the property, what is the situation of the property? If the property is so situated that it is liable and likely to be made to serve the purposes of the enemy, then the Government is not liable to pay, let it be owned by a friendly or hostile individual.

Mr. EDMUNDS. Then, I ask my honorable friend if the result is not that the question of the loyalty or disloyalty of the owner of property that is taken has nothing whatever to do with the question whether we ought to pay for it? That is the proposition my friend asserts, as I understand him. Then the result would be, on his line of reasoning, that if there was a rebel owner of property in Decatur who until our flag stood there had been resisting it with all his might, the moment we came in and occupied his property after the enemy had been driven away then we should be bound to make him compensation just as well, because the rule is that it is the status of the property, not of the owner, that is to govern the duty of compensation. I do not agree to it at all.

Mr. HOWE. Well, Mr. President, I do not think that it is a fair comment upon the statement I made. When you take the property of a rebel you take it under a right to confiscate it, or you take it and exclude him from all your tribunals upon the ground of his personal enmity. That is the way you get rid of paying him; but you cannot exclude your friend from your tribunals; he has a right to

come here, a right to be heard here, and a right to be heard in your courts.

Mr. EDMUNDS. Then the question whether he is friendly makes some difference, does it not?

Mr. HOWE. Not to the principle I am discussing.

Mr. EDMUNDS. It does with the result.

Mr. HOWE. Not with the result in this case. There is, Mr. President, a great variety of cases in the books; several of them I have seen; and it is impossible for me to consider them all in discussing this case of Miss Sue Murphey. I say once more that the courts have taken particular pains to say that the question of liability is not controlled by the personal disposition of the claimant, but it is to be controlled by the attitude and predicament of the property; and therefore it was claimed in the case of Mrs. Alexander's cotton that that did not come within the rule of enemy's property, or enemy property, which is the better form of expression, because that territory at the time the cotton was taken was in the possession of our troops. But, said the court, although our troops were there temporarily at the time the cotton was taken yet the result showed that they had not that permanent occupation of the country which took the property from that predicament in which it was liable to serve the purposes of the enemy. Our troops were there, but they could not stay there. They were driven out; and if the cotton had been left there it would have been left there to contribute to the uses of the enemy in war. So the courts said that that temporary occupation did not relieve the property from the operation of the rule.

But it was no temporary occupation of Decatur. Our troops were there when this property was taken possession of, and they had been there until this time, or at least our flag and our authority had been there; and standing upon the history of events since this property was taken by our troops we are authorized and we are bound to say that there was no more guilt in the predicament of this property than there was in the property owned by my friend in the State of New Jersey. If our armies had been driven from New Jersey the property of my friend would have been as liable to contribute to the uses of the enemy as was the property of Miss Murphey. Hers could only relieve the enemy in case they drove back our troops, and they did not drive back our troops. If they had driven back our troops out of New Jersey then the property of the Senator would have been in the same condition that hers was.

Mr. President, there is a case illustrating this principle which I am trying to enforce. When war was declared between Russia and Turkey in 1854 a ship from Wallachia, one of the Turkish provinces, undertook to run out of the Danube, and was captured by a British war vessel at the mouth of the Danube. She was running the blockade, the mouth of the Danube being under blockade at the time. Moldavia and Wallachia were occupied by Russian troops; Great Britain was at war with Russia; and it was claimed that this vessel coming from a province occupied by the armies of the enemy, the armies of Russia, was enemy property, and was liable to forfeiture. But the British courts held that it was not; that the occupation of the Russian forces was temporary, and was so explained that it was not for the purpose of permanent conquest, it was a mere temporary occupation; and therefore that this property was not liable to contribute to the strength of Russia, and so there was no occasion to apply this principle.

So when Great Britain was at war with France, and France owned the island of San Domingo, a negro insurrection broke out in San Domingo against the French Government, and the negroes got possession of a large portion of the island; Great Britain at once fraternized with them as with the enemies of France. Still the British courts held that this temporary occupation by the negro authorities there of a portion of the island did not prevent

the whole island from being still enemy's property, because it was a temporary occupation, was not permanent, was not accompanied by any recognized and legal right.

Here, Mr. President, was a hostile force at one time, long before this property was taken, occupying this one district belonging to our jurisdiction; that hostile force was removed, our own authority was reinstated there, our troops took possession; and after they took possession, and after our authority was fully and permanently restored, (for our right over the place we never conceded was subjected to any doubt in the world,) after our occupation was complete again, this property was taken possession of by our Government and for its use. Now I ask, in the name of common sense, putting all the authorities that ever were written and published into the fire or under your foot; I ask in the name of plain, honest common sense, what right or pretense of right this Government had for taking the property of Miss Murphey at that time, in that place, for its use, that it had not for taking my property or the property of the Senator from Vermont?

If you say that the Senator from Vermont was loyal the case says that Miss Murphey was loyal. If you say that the Senator from Vermont resided within a loyal State, I say that there is not a book in the world that makes that a circumstance in determining this thing. If you say that the Senator from Vermont resided within the jurisdiction and the authority of the United States, I say that Miss Murphey resided just there and nowhere else in the world, as completely under the jurisdiction and authority of the United States as did the Senator from Vermont or anybody else.

Mr. President, beyond all question it is an extreme right recognized in the laws of war for one belligerent Power to take the private property of its enemies in a hostile country, and to that extent, irrespective of the personal dispositions of the different residents in that country, to treat them all as enemies in that one respect; but it is an extreme right of war. There is not a civilized nation on the face of God's earth that dares prosecute war to-day upon that principle thus broadly stated in the books. When General Scott led your armies from Vera Cruz to Mexico he was in a country every citizen of which was supposed to be hostile to us and every citizen of which was bound to be hostile to us; but although General Scott was obliged on that march to supply his forces from the enemy and from that enemy's country, yet his orders were express to pay for every pound and every bushel that was taken.

Mr. EDMUNDS. That was a matter of policy.

Mr. HOWE. Yes, as justice always is: and this I think is a matter of policy for the same reason. I think we should be as cautious against asserting the right of this Government to take the property of our friends, even in rebel districts, as General Scott was against asserting the right to take the property of Mexicans when he was marching through their territory. What was the policy in that? Why, this: that if he asserted the right to take property without compensation the Mexicans would struggle a little harder to prevent his progress toward Mexico, and might destroy the property. You assert the doctrine to-day that when a portion of the people take up arms against the authority of this Government you have a right and are bound to treat all the people within that neighborhood, within that district, within that State—call it by what name you please—as your enemies; and how many friends do you think you will find in any State when the standard of rebellion has once been raised again? You advertise and put it upon your statutes that whenever a State shall raise the flag of secession hereafter it is the bounden interest, the first and highest interest of every one of those citizens to put himself into the ranks of your enemies and to fight your armies step by step. Why? Because it is only by defeating their own Government that they have

any protection for themselves. They must whip you or they must suffer. That is the doctrine you are invited to put upon your statute-book.

Mr. President, I insist upon it that the adjudications of our courts are not open to the reproach of sanctioning any such doctrine as this; and I am bound to say, in justice to my own sense of right and wrong, that if all the courts that have ever been commissioned from the foundation of the Government down to this time had sanctioned such a principle as that, I would, to the extent of my power, stand here and resist it as monstrous.

Mr. CONKLING. Will the Senator allow me to make an inquiry of him for information?

Mr. HOWE. Certainly.

Mr. CONKLING. I do it that I may understand how far he ignores as an element in the case the existence of war, such as it was. Suppose this woman, living where she did, situated as she was, by reason of her conspicuous loyalty had become a mark for the enemy, and the case showed that they destroyed her property, their motive and the moving cause being that she was conspicuously a friend of the General Government; does the Senator think that that case or this, upon its equity and its legal merits, would be the strongest? In other words, if we pay this claim, could we refuse to pay if the case was so far changed as I suggest? I admit this question is somewhat foreign; but I put it as a test to see what part, in the estimation of the Senator, is played by the fact that a war did exist, and how thoroughly he puts this claim upon the ground that the Government having taken private property for public use compensation is to be made.

Mr. HOWE. I will answer the Senator's question as candidly as I can. I must say to him in all frankness that in the view I take of the matter I can see no possible relationship between the case that he suggests and the case that I am presenting to the Senate. I can see no more connection between the two than I could see between a proposition that the Senator from Vermont should pay his own note and another one that he should pay mine because he is held bound to pay his own note. I ask that the Government shall pay for this property because this Government took it for its own use; and the Senator asks me, as I understand him, if I mean to carry that principle so far as to say that this Government should pay for it if the rebels had destroyed it.

Mr. CONKLING. No; I mean to ask whether the Senator carries it so far as to render entirely invisible the fact that a war existed, and to put it on all-fours with the case of private property taken by the Government for public use in time of peace; whether he means to leave it simply there.

Mr. HOWE. Yes, Mr. President, I mean to put it on all-fours with the case now suggested, upon the precise condition that no war existed in the world; and why? Because I say that the obligation to pay for property which this Government takes for its use is an obligation as sacred in time of war as in time of peace; and no matter with whom the war is waged, it is not waged with the parties from whom you take it. If it be not so, then I say your armies were just as much at liberty to forage in New York as in Decatur; you are no more bound to pay for commissary and quartermaster stores in that city than in this town. So far as this question is concerned, I lay out of view entirely the fact that war existed.

I must say one thing more before I sit down. We have contracted a pretty considerable debt in the course of this war. A good deal of it is evidenced by bonds executed in accordance with law, and which are express promises to pay certain sums of money. The Senator from New Jersey and other Senators about me agree with me in thinking that those bonds ought to be paid, that those obligations ought to be recognized, ought to be sacredly preserved. Why? Every one of those bonds has been issued simply because the Government has got property

of its friends to use in the prosecution of this war, because the Government has taken property from some of its friends just as it did the property from Miss Murphey. Why should we pay one of those bonds? Because the promise is expressed and put on paper; is that the reason? Certainly that is not the reason the Senator from New Jersey would urge. The Senator from New Jersey knows very well, as we all know, that the courts never enforce a promise simply because the promise itself is made. If there is no consideration upon which the promise is made, the promise is of no value whatever; but if there is a consideration no court cares whether the promise is expressed or not, because the promise is implied, and the courts will say that the law implies the promise from the fact that the consideration has passed. There is no promise in the case of Miss Murphey; but her property is gone; the Government has got the consideration, and the courts would imply a promise to pay for it.

Mr. EDMUNDS. If they took it without agreement with her, by the strong hand?

Mr. HOWE. No; I suppose in the case of an individual the court would not imply a promise to pay for it; and yet I am not so clear about that. There are a great many cases in which the courts will allow the party to waive the tort and to sue upon an implied promise; and no doubt the court, in such a case as this, would allow the party to waive the tort and to sue upon the implied promise, the promise implied by the fact that a consideration had passed.

Mr. President, I do not know but that I ought to apologize for occupying the time of the Senate so much as I have done. I am in earnest about the principle. I care nothing about this case in particular, but I want to see the question settled right.

Mr. MORRILL, of Vermont. Mr. President, if the Senator from Wisconsin had asked my consent to report this bill, such is my respect for him that I should have undoubtedly given it; but I have no recollection of such a fact, nor of the bill. The bill comes here, so far as I am concerned, as a surprise; for I had supposed that the Committee on Claims were thoroughly committed against the principles upon which this bill is based. If not, if the argument of the Senator from Wisconsin be correct, then wherever General Sherman, upon his march passed across the field of a loyal man and took possession of any property, the Government is bound to pay for it; for that, as I understand, is the sole ground upon which the Senator presses this claim: that it is the claim of a loyal person, and that the property was taken for public use.

Now, Mr. President, I had supposed that the Committee on Claims had laid it down, clearly and distinctly by an almost unanimous vote of the committee, that parties residing in States in rebellion were to be considered as rebels and their claims treated as such. Certainly I had the honor myself to make one or two such reports, and I will take the liberty to read from them. One was the claim of the Sisters of Charity in Charleston, South Carolina, where our fleets had bombarded and destroyed an institution erected for the purposes of charity only. They claimed compensation. The report which was adopted by the committee, and so far as I know without any dissent, reads, after reciting the facts, as follows:

"The committee, however, are compelled to examine the petition in a different attitude, and to decide whether the United States can be properly held to make reparation for all damages sustained under similar circumstances. They reluctantly conclude that the petition comes within a class of cases where justice to the nation must deny relief. A just rule must now and for all time make a discrimination between those who unfortunately suffered within the boundaries of the rebellious States and those within the Union lines.

"The destruction of the building we are now asked to restore was one of the misfortunes of the war. The siege of Charleston was desperately resisted, and its capture was most expensive in time, treasure, and blood of Union men. The orphan asylum was within the enemy's lines, and could not be separated from the enemy's property. Any rule that would bind

the United States to replace this building would include all charitable and religious edifices so destroyed. The loss was a casualty that good men everywhere may lament, but the Government cannot acknowledge any responsibility therefor."

Now, Mr. President, so far as the loyalty or the non-belligerent character of parties is concerned, that case is decisive that they must follow the status, the condition of the people where they reside.

Mr. HOWE. Will my friend allow me to make a word of explanation here?

Mr. MORRILL, of Vermont. Certainly.

Mr. HOWE. In his opening the Senator conveyed the intimation that this report, which I had explained, was made rather upon my own responsibility, though I had said with the assent of the members of the committee, was not only made without the approval of the committee, but was made in defiance of the recognized doctrine of the committee. I wish to call the Senator's attention to a fact which I guess he will remember—other members of the committee will—that this identical question has been discussed in the committee, composed as it was during the last session, I think in two cases: once when the report from which the Senator from Michigan [Mr. Howard] read some extracts was before the committee. There was a clause in that report when first presented to the committee which asserted the very doctrine that is contended for here, and it was struck out by the vote of the committee; and I think a similar amendment was made to a report that was once drawn up in the case of somebody whose name I do not recollect, but who claimed pay for sugar that was destroyed in Vicksburg at the time that place was captured, where the distinct question was presented on a motion to strike out, and the motion was approved by the committee.

Mr. MORRILL, of Vermont. I was not finding fault with the Senator in relation to the bill. I was only, so far as I am concerned, professing ignorance of the bill in all its parts. But, Mr. President, so far as any discussion of the principle is involved, I think the chairman of the committee will not contend that it has ever been assented to by a majority of that committee. It has always been voted down whenever the question has come up, and by a very decisive majority, so far as I recollect.

Mr. President, I propose to read for a moment an extract from another report, which I think was adopted, and so far as I remember without dissent from any member of the committee. This is the case of the claim of Dennis Sullivan, who had accumulated a large amount of cotton in Louisiana, which our troops took possession of and destroyed. They did not use it, but they burnt it up, and burnt up some of his buildings. The only difference between the two is that in the one case the buildings were destroyed by fire, and in the case of Miss Murphey they were taken down by hand, as I suppose. The report reads as follows:

"But granting that the commanding officer was willing, as he undoubtedly was, to afford the petitioner all the protection in his power, he could not save him from the vicissitudes of war, nor even from the lawless acts of soldiers, without orders or in disobedience of orders. It was a calamity not only to the petitioner but to the nation that the Union forces were unable to hold possession of Louisiana after they had marched into it; and if, by accident or design—and there is no proof whatever on this point—the military forces set fire to and destroyed the town of Alexandria, including valuable property belonging to this petitioner, it is a matter of deep regret, but it would be contrary to all the rules of civilized nations, when thus fighting to put down an unprovoked rebellion, to pay for the damages inflicted in the enemy's country even to parties admitted to be non-belligerent.

"The character of individuals is derived not only from their own acts but from those of the Government *de facto* ruling and controlling for the time being. The people of Louisiana were not only disloyal, but a superior army confronted the Union forces, and the latter may have exercised the usual rights of war by destroying such property as they supposed would strengthen the enemy if it should fall into their hands."

"This being one of a large class of cases, it has been treated at considerable length; and notwithstanding it throws upon a worthy and enterprising citizen the entire burden of his personal losses resulting from the rebellion, and the legitimate efforts of the United States to conquer it, your committee are unable to perceive how this burden can with

any propriety be thrown upon the Treasury of the United States. It may not be a good reason for reaching this conclusion that a precedent allowing claims of this character would most discouragingly expand the national debt, but it is satisfactory to be able to arrive at it upon the principles of justice and national law."

I think that the chairman of the committee assented to this report. I so understood at the time. I do not see why it does not cover the case of Miss Sue Murphey. Certainly, I am very sure that if this case shall pass into a precedent our present public debt will expand much beyond the proportions intimated by the Senator before the last adjournment; and so far as it rests on the precedent of the Armes case or the Segar case I consider that those precedents ought to be trampled under our feet.

Mr. CONKLING. Mr. President, the honorable Senator from Wisconsin, [Mr. Howe,] with that candor which he always displays and with that logic of which he is always master, says that for the purpose of reaching his conclusion he ignores altogether as an element in the case the existence of war or rebellion. That is an easy process, it seems to me, of disposing of this case; easy because it reaches a conclusion which, conceding the premises, no intelligent man can deny. If this be a simple instance in which a citizen has been deprived of property to the end that it might be applied or devoted to the public use and he has received no compensation, his rights are clear. But I have a great many difficulties in reaching those premises, all of which I will not stop to state, but one or two of which I venture to suggest to the honorable Senator.

I submit, in the first place, that if you ignore the fact of the war, Miss Murphey was never deprived of her property for any public use. Why? Because in that view General Sherman was a naked wrongdoer; never was there one who stood more in his own wrong. What right had he to apply the torch to Miss Murphey's house—to blow it up, if he had done that—to desolate her property? None whatever, any more than you, Mr. President, or I.

Mr. HOWE. It will perhaps be satisfactory to the Senator if I remind him of the fact that General Sherman did not blow up the house, but the fact is that he took the land on which she lived to put a fort upon it, and used the materials of the house in building the fort. I think the Senator will admit that the Government can do that in time of war or in time of peace. Its right to build forts is just as complete in time of peace as in time of war.

Mr. CONKLING. I was giving the Senator the benefit of the inaccuracy of my statement, because I was making a supposed case stronger against myself. I say, taking the case of General Sherman having gone and put a keg of powder under Miss Murphey's house and scattered it in a thousand fragments, that case would be better than this. But now I will take it as the Senator likes me to take it, precisely as it is. General Sherman occupied the premises of Miss Murphey and he incorporated her building materials into a fort. That is the case as the Senator now states it. Now, I ask the Senator if there was not a war, if General Sherman had not occupied the relation which he there occupied solely by reason of the existence of a war and his commission to carry it on, whether he would not have been a naked tort-feasor? Certainly he would. How was this property taken for public use? If with the law behind him in time of peace he had been the person to execute the orders of the Government to make a fort there, of course a very different case would exist; but he was acting, do not let us forget, solely upon his discretion in this particular act. No law said that he should occupy Miss Murphey's premises; nobody had said so. He alone adjudicated there and then that it was useful in the prosecution of the war that this occupation should take place.

Thus I say you cannot wink so hard as not to see that the war stands in the forefront of this case as one of its elements. Why, sir, as well, I submit, might the Senator refer to

another thing which is found in the same Constitution; nay, in the same juxtaposition, not divided by a line, as the language he refers to: "No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation."

You might just as well say that this provision of the Constitution, the whole of which I have now read, covers this case, and that it was utterly illegal for General Sherman to possess himself of this property at all. Why? Because Miss Murphey was being deprived of life, liberty, or property—property in this case—without due process of law. Now, Mr. President, have we not all said times too numerous to make it necessary to say it in this case that in the midst of arms laws like this were silent? Have we not said in our votes, and have we not said in our declarations a thousand times—notwithstanding the ponderous shake of the head which the honorable Senator from Wisconsin now gives to the Senate—have we not said, I repeat, in a thousand instances that during the existence of the rebellion under which the continent quaked it was not true legally or ethically that either of the provisions of the Constitution which I have read were operating, and that you could not fire a man's house or shoot at him if he stood with arms in his hands unless you did it by due process of law? Are we not all of us estopped from arguing that it ever was necessary to swear out a peace warrant against this rebellion, or sue it by summons and complaint?

Now, sir, for other reasons which I might give, I cannot divest this case for the purpose of determining my vote from the fact that this woman's property was occupied by a military leader conducting a great war in the very midst of the existence of that war.

Then, upon what principle are we to pay this claim? Are we to say, as some Senators understand the Supreme Court has said, without qualification, that this was a public war dividing two belligerents? I use the term "belligerents" in the sense of the public law. Are we to take that theory and pay this claim? Upon what principle? If, being within our lines, the Government of the United States occupied the property of Miss Murphy as a barracks, as a magazine, as an emporium of some sort, and thereby subjected it to an attack from which otherwise it would have been exempt, and the enemy destroyed it, we can all find a principle of public law upon which she may be paid. It was that principle strained to a great length, under the advocacy of a very dexterous and able man from my own State, which was made to cover the case of the village of Black Rock, burned on the frontier of New York during the war of 1812. It was rather difficult, and required, as I say, great ingenuity to bring the facts up to the requirement of the law, but Congress virtually determined there that that village was destroyed owing to its selection and occupation for the military purposes of the United States, in consequence of which a fire was drawn upon it which otherwise it would have escaped. That will not do here. I mention it partly because the Senator thought the question I put to him a very remote one.

Now, I submit to him that if it is to be treated upon principles of public law this woman's case would be far stronger if the enemy had destroyed her property. If, by reason of occupation by the United States, the enemy had been led to destroy her property manifestly the case would have been stronger.

But I submit that in ethics and in principle her case would be stronger if owing to nothing but her loyalty, nothing but the fact that she was singled out as an adherent of the Government, she had been visited by the enemy with destruction, because there would be a distinction somewhat minute, somewhat technical, between her case and plenty of cases in which compensation has been given. But that will not do. She was, the Senator says, for this purpose within the lines of the United States, and she was blotted out by the United States.

How? Because her property was taken for public use under circumstances, and in a sense making operative the provision of the Constitution to which I have referred. I say, and I think the two Houses of Congress have said over and over again, in effect, that her property was destroyed in the conduct and progress of the war just as my house may be blown up, although it is not on fire, if it stands next to the house of my friend and other houses which are in danger unless it is blown up, to the end that the connection by which the flame creeps from house to house may be broken. A necessity like that overtook this woman, and she went down, as the honorable Senator from New Jersey, I think, well said, awaiting destruction from the other side, which would have been inevitable had not this march and this progress of our armies taken place.

Now, if this was a public war is there any principle upon which she can recover? On the contrary is it not well settled that as the tree fell so it must lie; that it was her fate and her misfortune that not she but her country was scourged by this great public calamity?

What other principle is there? A principle of protection, that the Government of the United States, speaking within the States, was bound, if I appreciate the argument, to guarantee public order and the preservation of property to every citizen in the State.

Mr. HOWE. Whose argument was that?

Mr. CONKLING. Not yours. The argument was suggested by the Senator from New Jersey as a possible argument that might be made in favor of this claim; the argument embraced in his suggestion that upon some theory of generosity or equity it might be paid. I do not say that any Senator in the vote he shall give means to stand upon it, but I want to consider it for a moment. First, I deny utterly any such theory, any such element, any such principle being inwrought in our Government. Our whole history denies it.

Did anybody suppose when the whisky rebellion took place in the State of Pennsylvania that the Government of the United States could be called upon to pay citizens for property which they lost? When convents were burned in Maryland and elsewhere did anybody suppose that the Government was to be called upon? All the analogies of the common law, of the most ancient history of law, are against any such theory. If you take the charge made upon the English hundreds for crimes committed in their midst; if you take the statutes charging upon municipal corporations losses which occur in their midst, the whole theory militates with the idea that the Federal Government, that Government which exists as between us and foreign nations, and in some other respects, is the party in the first or in the last instance to be called upon to indemnify citizens because disorder has injured or destroyed their property.

But suppose it were so, Mr. President; suppose this is a domain for us to occupy in our discretion, a question for us to consider: first of all we ought to consider the magnitude of that question. Where is it to stop? Under the narrow enactments of 1815 and 1816 I know a neighbor who told me he heard Mr. Monroe say that the damages proposed arising from the war of 1812 were greater than the whole cost of the war itself; and yet how narrow those provisions were. I wish I had time to show the Senate, standing as they were allowed to stand only about eighteen months, according to my recollection, narrowly restricted, carefully guarded, and still found to have hoisted a flood-gate of claims and demands which would have beggared any Government. Now, here, with half a continent having been in revolt, with hundreds and hundreds of battle-fields thousands of miles apart, with a sea-coast guarded and blockaded three thousand miles in length, what is to be the magnitude of this question if there was some trusteeship existing on the part of the Government to act as watch-dogs for the property of every citizen?

What, I ask the honorable Senator, becomes, in the presence of such an argument as this, of the class of cases which I suggested to him? Is it to be said that those persons who clung to the flag, who stood by the country, and who, solely because they did so, were destroyed in their property and left in the midst of the ashes of their homes by the enemy, have no right to the protection of their Government, that they are not to be paid because, forsooth, the hand which struck the blow, the hand which applied the torch, was not the hand of a Union general, but of a rebel, scourging and crucifying them solely because they were true to their allegiance? Is that to be said?

The honorable Senator from Wisconsin said he did not put it upon the ground of protection. I think that if I were going to put it upon any ground at all I should put it upon a general ground made up of what is right and what is not wrong, which would begin by giving an attentive ear to the cases of those whose property was destroyed by rebels because they were true to their country. This woman's property certainly was not destroyed because she was loyal. Her case is diluted in that respect. She was loyal, but that was an immaterial circumstance. The people to whom I now refer are those whose homes were desolated merely because they were loyal. It seems to me that they have superior equities, and if they would only become diligent creditors of the Government they would have all the elements which ought to entitle them to preferential adjustment and consideration.

Mr. HOWE. The Senator does not, I suppose, really mean to insist that we are more responsible for the acts of our enemies than we are for our own?

Mr. CONKLING. I mean to insist on this—I will state it very broadly, I am quite willing to take the responsibility of stating it—I mean to say that if you once concede the doctrine of protection, the doctrine that the Government is the guardian of the property of the citizens, and bound to indemnify the citizens against the effects of public disorder, then, in my judgment, ethically speaking—speaking in the sense of what is morally right—the superior equity would exist in behalf of a person who stood by the country, who fought for the flag, and whose property, owing to that circumstance alone, was destroyed by that enemy against whom the Government was bound to protect him. I say an equity would exist there superior to that of the person who, not because of loyalty, but because of accident, had his property taken and the building materials put into a fort and the ground used to drill soldiers upon. I am willing to go as far as that. I think if you concede the premise, the doctrine of protection, it applies more strongly in ethics to the case I have just stated than to that on which the Senator insists.

Mr. HOWE. I should not object to that application of the doctrine of protection after the doctrine of protection was fairly established; but what I object to is the argument of the Senator insisting that the Government is more bound to protect the property of its friends against the assaults of its enemies than it is to pay for property we take ourselves.

Mr. CONKLING. That after all, Mr. President, is little more than a very ingenious and well chosen way of repeating in a somewhat different form the cardinal idea of the Senator that this is to be regarded as a mere abstract case of taking property by public authority, incurring at the same time the obligation to make compensation. I have departed from that in the remarks that I have made, and I base my admission to the Senator of what I think to be the superior equities of the case I have suggested, upon the assumption all the time that we are talking about a state of war. If he is talking about a state of peace, or any other state of things upon which this constitutional provision operates, then I agree with him we should be responsible for what we take ourselves, and not for

what somebody else took. But when talking about the doctrine of protection, if there is anything against which we are bound to protect citizens it is the lawless inroads of enemies whom we ought to banish as the very first act of protection, and especially should we take care of those who are destroyed by enemies, not by accident, not merely because in general terms they are citizens, but because, especially, they are faithful citizens in their fealty to the Government.

Mr. President, I do not understand any principle upon which this claim can stand; and I did not two or three years ago when with a good deal of labor I examined this whole question and stated the results of my examination. I regret that I have them not here; but I came to the conclusion then that some new principle must be devised—I speak now of a legal principle—some admixture must be made to fit this case; that it could not be found in the cases familiar to us as illustrations, nor in the principles stated in the textbooks upon which those cases were decided.

Somebody has suggested in this debate that as a matter of generosity we might do this. I do not understand any such principle as that applicable at all to the places we hold. Every man has a right to be generous with his own; every man has a right to contribute of his substance to Miss Murphey, and to every other applicant and every other individual; but we sit here only as trustees administering a trust estate; and because we feel generous have we any right to put our hands into the public Treasury and make presents or relieve wants in any form? Not at all. I submit, on the contrary, we must be able to lay our finger upon some authority in the Constitution, in the frame or genius of our Government, upon which we can stand regardless of our feelings of indifference or sympathy, and say: "Here we rest this appropriation; upon this we rely for the precedent which we are setting." Otherwise, not to speak of graver objections, the whole matter of claims would be a matter of caprice; like kissing, it would go by favor. That, I think, will hardly do.

Now, sir, I am persuaded that there is no principle familiar in the legislation of this Government upon which an appropriation of this money can rest; and I am persuaded that by its appropriation we should establish a precedent which would bring in a following that would dizzy all arithmetic. No man can compute, at the end of such a war as this, the amount that could be asked with a plausibility as great as that which sustains this case. That it is a hard one I have no doubt; and I should be very glad to vote following the lead of the distinguished Senator from Wisconsin; but with the lights we have before us I shall have to give a vote which has in it not as its chief motive the generosity or the sympathy which in some other capacity I might feel disposed to extend to this claim.

Mr. HOWARD. I do not wish, sir, that the Committee on Claims should be either placed or left in a false position in regard to this measure and the doctrine upon which it is sought to be supported. I said when I was up before that the Committee on Claims had on several occasions adopted reports involving principles utterly inconsistent with this present claim. I did not say that the honorable chairman of the committee was entirely aware of those reports; perhaps he was not; but that the committee as a committee have acted upon grounds inconsistent with the principles upon which this claim rests is a certain fact. Now, let me call his attention to only two more reports made by that committee to the Senate. The first is the one to which he himself has alluded as having been modified in committee. It was the claim of Margaret A. Russell for a quantity of sugar which was consumed by the Union forces at Vicksburg after its capture and surrender. The report is very short, and I will claim the indulgence of the Senate while I read it:

"It appears that the mercantile firm of Campbell & Bennett, of Mobile, Alabama, were the owners

of the property in question; that they assigned it to Crutcher & Co., at Vicksburg, before the siege of that place by the Union troops; that it was in the possession of the consignees on the 25th of May, 1863, and that on that day the owners at Mobile delivered to the petitioner a bill of sale of the sugar, amounting to one hundred and seven thousand two hundred and forty-six pounds net, for \$64,347 60, which was at the rate of sixty cents per pound. The proof is satisfactory of the real character of the transaction, though it is evident that payment was made in Confederate money. The Union army was at that time holding Vicksburg in close siege, the result of which was its capture in the following July and the surrender of the entire rebel garrison. On the surrender it appears that the sugar was taken possession of by the Union troops and consumed by them.

"The claim of the petitioner is based upon her allegation, which we do not deny, that she was a loyal person, attached to the Government, never having given aid, comfort, or encouragement to the rebellion.

"But the committee think that in the then existing state of things the United States incurred no liability to indemnify the petitioner.

"We therefore recommend that the claim be rejected."

Here was a case where the Union troops took possession of the property of a loyal citizen, and a woman living in the insurgent States. Another case is perhaps still stronger against this bill, and somewhat peculiar in its features. As that report, also, is very short I will claim the privilege of reading it:

"The Committee on Claims, to whom was referred the petition of James Narcom, of North Carolina, asking compensation for property destroyed by Union troops in 1862 at Edenton, make the following report:

"It appears that the petitioner was a resident and mayor of Edenton, and was a loyal man.

"While he was absent from home on a Government transport, and as the committee are satisfied, acting in the interest of the United States, a body of Union troops, upon the false suggestion of certain rebels there that the petitioner was a secessionist and his house deserted, entered it and took and carried away his personal property to the amount, as he claims, of \$1,487. We are satisfied that Mr. Narcom was a true loyal man and that he uniformly showed himself such during the rebellion.

"But we find it impossible to recognize this claim without departing from the general principles which we have recognized in other instances of a similar kind, and therefore recommend that the claim be disallowed."

There are two cases directly in point, and reported from the committee, where the claimants were confessedly loyal, where their property was taken possession of and consumed or destroyed by Union troops in the regular prosecution of the war, and in both cases the committee held, as I trust the Senate will also hold, that the claimants had no just foundation for their claims.

Mr. HOWE. I wish to say a word in reply to these adjudications that are urged as a sort of estoppel, a plea in bar here to Miss Murphey's claim—

Mr. HOWARD. Not at all; but to set the committee right.

Mr. HOWE. I tried to set the committee right, so far as this claim is concerned, before the debate began this afternoon, by stating that I did not understand the committee to have assented to the merits of this case. I do not think myself they were consulted upon them, and therefore they did not assent any further than that the case should be reported to the Senate. That, I think, set the committee right.

Mr. HOWARD. The Senator will excuse me, and allow me to say that I have no recollection of this claim having been before the committee, and no recollection, of course, that any such agreement was entered into by the committee or any member of the committee. For myself I must say that I never should have consented to report this bill if I had known its true character.

Mr. HOWE. My recollection does not enable me to state that the permission of the Senator from Michigan was asked, though I am very strongly inclined to think it was asked if he was in the Senate at the time—during the last days of the last session—because he sits near me, and I should be very likely to ask his permission to report the bill; and I think, with all deference—

Mr. HOWARD. I will not deny that such permission was asked, but certainly I have no recollection of it; and I must repeat that if I had known that such was the real character of the bill, so strong have been my convictions

against the principle which is involved, that I should not have given my assent.

Mr. HOWE. The Senator undoubtedly did not assent to any principle involved in the bill; but I think he would have consented still to allow the bill to be reported if he had understood the exact merits of it.

Now, in regard to these adjudications the Senator reads two. One was where a person asked payment for some sugar taken on the capture of Vicksburg. The report states that the claimant was loyal. The report says that the committee decided against the payment. The report is, I suppose, accurate in both statements; but I very well recollect, and I think the Senator remembers, that the case shows that the reasons why we refused to pay for the sugar were these two: first, that the sugar was not taken for the use of the Government in any sense.

Mr. HOWARD. It was taken for the benefit of the Army.

Mr. HOWE. The sugar was appropriated to the use of the soldiers. I suppose it was mere plunder.

Mr. HOWARD. A regular account of it was kept by the quartermaster.

Mr. HOWE. I never understood that it was accounted for in any way.

Mr. HOWARD. Oh, yes.

Mr. HOWE. I may be wrong, but, after all, I think I am right in that respect. But the other great reason—

Mr. WILLEY. With the Senator's permission I will say that the ground on which I consented to that report was that there was no evidence to satisfy me that the sugar really belonged to the woman who was the claimant, but reason to believe that disloyal persons were seeking to recover through her name.

Mr. HOWE. I was just going to state that other reason. The committee were inclined to believe that the claimant was a mere nominal owner, and that the true owner was a person in Mobile who was a rebel, instead of being a loyal person.

Mr. HOWARD. I must beg leave to say that there was not a particle of proof to that effect, nor any intimation of it. I examined the claim myself, and reported upon it. There was not a scintilla of evidence that there was any collusion between the claimant and anybody else.

Mr. HOWE. But there was evidence that she had obtained it from a party in Mobile.

Mr. HOWARD. By regular sale; and there was a bill of sale in proper form duly authenticated.

Mr. HOWE. Yes, there was a bill of sale there; but this was a young lady, and the purchase-money was a very large sum, and the party from whom she purchased was a rebel, and the law had prohibited all such transfers.

Mr. HOWARD. What law?

Mr. HOWE. A law on the statute-book of 1861 or 1862.

Mr. HOWARD. In the rebel country?

Mr. HOWE. Oh, yes.

Mr. HOWARD. Oh, no.

Mr. HOWE. I beg the Senator's pardon. The other case cited by him was a case arising in Edenton, North Carolina, where our troops, not for the benefit of the Government at all, but wantonly, destroyed personal property in a house. They were under the apprehension that the party was a rebel, but it turned out that he was loyal. The Government got no benefit whatever from the property; it was a mere wanton destruction of property; and we have not established the precedent of paying for property destroyed ruthlessly. The ravages of war I believe no member of the committee is in favor of committing the Government to the payment of; but I do not hold this to be within that principle at all, since it was property taken for the use of the Government in the prosecution of the war.

Mr. WILLEY. Mr. President, I do not suppose this case will be decided to-day; and therefore, if it is agreeable to the Senate, I will move an adjournment.

Mr. SHERMAN. I desire a short executive session.

Mr. WILLEY. I give way for that purpose.

Mr. SHERMAN. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, January 5, 1869.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BONTON.

The Journal of the 21st of December last was read and approved.

ORDER OF BUSINESS.

Mr. WASHBURN, of Illinois. I am instructed by the Committee on Appropriations to report a bill, and ask that it be referred to the Committee of the Whole, ordered to be printed, and made the special order for to-morrow after the morning hour.

Mr. MULLINS. I rise to a point of order.

The SPEAKER. The gentleman will state his point of order.

Mr. MULLINS. This House is now about to enter upon its last session. The country we represent, both North, East, West, and South, expect it to be done according to the fundamental principles laid down in the Constitution and in the rules of this House. I therefore move that the roll of members be now called.

The question was taken upon the motion that there be a call of the House; and it was not agreed to.

Mr. MULLINS. It appears that the noes have it. Nevertheless, I am of opinion that when the matter is tested it will perhaps be found that there is not a quorum present. The country, at whose expense we meet here, will demand of us that we proceed properly.

Mr. WASHBURN, of Illinois. Is there any question before the House?

The SPEAKER. There is not.

CONSULAR, ETC., APPROPRIATION BILL.

Mr. WASHBURN, of Illinois, from the Committee on Appropriations, reported a bill (H. R. No. 1570) making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1870, and for other purposes; which was read a first and second time, referred to the Committee of the Whole, ordered to be printed, and made the special order for to-morrow after the morning hour.

Mr. MAYNARD. I desire to reserve my right to make a point of order upon any matter not properly embraced in this bill.

WELLS, FARGO AND COMPANY.

Mr. WASHBURN, of Illinois. I am directed by the Committee on Appropriations to offer the following preamble and resolution for consideration at this time:

Whereas the House of Representatives on the 16th December, 1868, referred to the Committee on Appropriations the letter from the Postmaster General in answer to the resolution of the House of the 7th of December, relative to the contract for carrying the overland mail; and whereas it appears by a communication from D. B. Ball, special agent of the Post Office Department, to Hon. George McClellan, Second Assistant Postmaster General, that Wells, Fargo & Co., the contractors for the transportation of said mail, have not provided adequate facilities for such transportation, and that express matter has been carried to the exclusion of the mail, which has been left upon the route "day after day and week after week, both day and night, entirely unprotected;" and that "on the 15th of November some six thousand pounds of mail matter lay piled up in an open stock yard at the head of Echo cañon;" and whereas it is reported by the said agent that "there are strong indications that the agents of Wells, Fargo & Co. or their employes had a hand in rifling the letter mail;" Therefore,

Be it resolved, That the Postmaster General be directed to make no payment to said Wells, Fargo & Co. until a full investigation can be made by the House in regard to the character of the contract made by said Wells, Fargo & Co. with the Post Office Department, and the truth of the charges of the said special agent of the Post Office Department touching the delinquency of said firm in carrying the mail.

Mr. JOHNSON. I object to the introduc-

tion of the preamble and resolution at this time.

Mr. WASHBURN, of Illinois. I hope the gentleman will not object to the passage of this resolution at this time. The state of facts set out in the preamble shows that this money should not be paid.

Mr. JOHNSON. I have no objection to a resolution of inquiry. But I think we should have more information before we pass such a resolution as this.

Mr. WASHBURN, of Illinois. I then give notice that on Monday next I will move to suspend the rules in order to ascertain whether the House will pass the resolution at that time.

REGISTRY OF VESSELS.

Mr. ELIOT, by unanimous consent, introduced a bill (H. R. No. 1571) to extend the laws relating to the registry of vessels; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

CONSULAR FEES.

Mr. WASHBURN, of Illinois, from the Committee on Appropriations, reported the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be directed to inform this House if any consular officers of the United States have demanded and received, or are demanding and receiving, for the verification of invoices and other papers which they are required by law to verify, fees greater in amount than are provided by law; and if so, what consular officers have done so, how long such practice has continued, and what is the amount so illegally received by such consular officers respectively; and also that he further inform this House what consular officers now in office have failed or neglected to make return of the business of their offices, according to law, and if any have so neglected to make returns, for how long a time; and that the Secretary of the Treasury further inform this House of the probable amount of money due to the United States now in the hands of such consular officers.

Mr. MAYNARD. I suggest to the gentleman from Illinois [Mr. WASHBURN] that this inquiry with reference to the reception of illegal fees should not be restricted to a single branch of the public service. Why not make the inquiry broad enough to include all malfeasance of this kind?

Mr. WASHBURN, of Illinois. I prefer to have this resolution stand in the form in which I have offered it. If the gentleman from Tennessee [Mr. MAYNARD] desires further information the better way will be for him to introduce another resolution. The resolution I have offered has been drawn up with a good deal of care, in order to get some specific information which the committee desire.

The SPEAKER. The resolution has been adopted.

WELLS, FARGO AND COMPANY—AGAIN.

Mr. FARNSWORTH. In view of the charges made in the resolution reported from the Committee on Appropriations with reference to Wells, Fargo & Co. and their mail contract, I desire to ask the permission of the House that a resolution may be adopted for the appointment of a special committee to investigate those charges. I do not desire, however, to be a member of the committee, if it should be appointed.

Mr. WASHBURN, of Illinois. The gentleman from New Hampshire, [Mr. ELA,] who has examined this subject, holds in his hand a resolution calling for the appointment of a committee to investigate this whole matter. The Committee on Appropriations, who have the question before them, desire the appointment of a special committee. I hope that the gentleman from New Hampshire will be permitted to offer his resolution, and that it will be adopted by the House.

Mr. ELA. I ask unanimous consent to offer the following preamble and resolution:

Whereas the Postmaster General, in a communication to the House December 16, asks "to have a committee appointed to investigate this whole matter," (of the Wells, Fargo & Co. contract,) "and to examine into the great expense of this transportation through an uninhabited wilderness during the fall and winter seasons, so that in case an application is made for

relief Congress can act understandingly on the subject;" and whereas the regular correspondent of the Boston Traveler of December 16, 1868, makes the following charges:

"Among the post routes established during the reign of our Alexander was one two years ago in the Territory of Arizona. At least it is supposed the route was established, from the reason that a contract was awarded to one Mr. Paston, a brother of the Delegate from that Territory, to carry the mails over said route for the handsome sum of \$90,000 per year.

"Everything was going on smoothly, and not a murmur of discontent was heard about this contract, for no one knew of it at the time it was made except the parties directly interested. Now for the sequel. The bill for the first year's service came in, and was promptly paid by the Department. The affair now is no longer a secret; but Governor McCormick, of Arizona, learns in an indirect manner that \$90,000 a year is being expended to carry the mails over a route in the Territory of which he is Governor. He examines into the matter, and in a letter to the Post Office Department, signed in his capacity of Governor, and with seal attached, he reports that "not a single letter or an ounce of mail matter has ever been carried over the route," pronounces it a swindle from beginning to end, and protests against the payment of any more money. The contractor becomes alarmed, and hastens at once to Washington to fix up matters. The second year's bill is presented for payment, but the pay clerk, with Governor McCormick's letter before him, refuses to pay it. An intimate personal friend of Randall's appears on the scene; has several interviews with him. On the day following one of these interviews the pay clerk has a note laid before him. It reads: 'Pay this bill. A. W. R., Postmaster General.' The bill is paid, and the contractor leaves in high glee.

"But this is not all. The Postmaster General within a year has made a contract with a line of Baltimore steamers, running to Havana and touching at Key West, to carry the mails, two trips a month, for \$1,000 a trip, when the regular ocean postage by all other lines is only seven cents a letter. The line running from New York was found amply sufficient for the public needs at the regular price. Now for the result:

"During the month of October, 1868, the steamer Maryland made two trips. All told she carried both to and from Havana—including newspapers—mails which estimated at rate paid for 'sea service' would amount to \$169.04; but instead of this amount, she received the sum of \$2,000.

"The steamer Cuba also made two trips, carrying mails which would have entitled her to \$73.48; but instead of this a check is sent by the Post Office Department for \$2,000.

"Again I say, let a committee be appointed which will investigate the inner workings of Mr. Randall's Department, and not seek to cover up, and evidence will be found which will startle the whole country. Give me such a committee and the evidence will be forthcoming."

Mr. FARNSWORTH. I must object to that preamble, which embraces simply extracts from newspaper reports.

Mr. WASHBURN, of Illinois. Let the resolution be adopted, then, without the preamble.

Mr. FARNSWORTH. I am willing that a resolution should be adopted for the appointment of a special committee to investigate these charges.

Mr. ELA. I ask consent, then, to submit the following resolution:

Resolved, That a special committee of five be appointed to investigate the matters and charges called for and above set forth, and also the manner in which the mail service has been performed; and whether any mail service has been increased which was not warranted; and if so, to what extent and at what cost; and whether any money has been paid to contractors without certificate of service performed; and if so to whom, and by whose order and to what extent; with power to send for persons and papers, and to employ a clerk and stenographer, and report at any time.

Mr. McKEE. I object.

Mr. WASHBURN, of Illinois. I hope, then, the gentleman from New Hampshire [Mr. ELA] will on Monday move to suspend the rules, that his resolution may be offered and adopted.

SITE FOR EXECUTIVE MANSION.

Mr. MILLER, by unanimous consent, introduced a bill (H. R. No. 1574) in relation to a site for the Executive Mansion; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

LINCOLN ART ASSOCIATION.

Mr. CULLOM, by unanimous consent, introduced a bill (H. R. No. 1572) to incorporate the Lincoln Art Association of Washington city, District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

ARTHUR M. LEE.

Mr. CULLOM also introduced a bill (H. R. No. 1573) for the relief of Arthur M. Lee; which was read a first and second time, and referred to the Committee on Invalid Pensions.

RESUMPTION OF SPECIE PAYMENT.

Mr. BARNES. I ask unanimous consent to submit the following resolution:

Be it resolved by the House of Representatives, &c., That it is the imperative duty of this Government to develop its resources, increase its revenue, and retain its surplus gold, with a view to as speedy a return to specie payment as is possible; that it will retard this purpose, disturb values, and interfere with the revenue to contract the currency or to fix the day by law when specie payments shall commence until natural causes have more nearly approximated the values of legal-tender notes and gold.

Mr. BOUTWELL. I object.

IMPORTED ANIMALS FOR BREEDING PURPOSES.

Mr. BECK introduced a bill (H. R. No. 1575) to repeal so much of former laws as impose duties on animals imported from foreign countries for breeding purposes; which was read a first and second time, and referred to the Committee of Ways and Means.

JACOB BAUGHMAN.

Mr. KOONTZ introduced a bill (H. R. No. 1576) granting a pension to Jacob Baughman; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ADDITIONAL BOUNTY.

Mr. KOONTZ also introduced a joint resolution (H. R. No. 389) giving additional bounty under the act of 28th July, 1866, and the several acts amendatory thereof, to persons who served three years and were honorably discharged, notwithstanding they may have been borne upon the rolls as slaves; which was read a first and second time, and referred to the Committee on Military Affairs.

NEW MAIL ROUTE IN ALABAMA.

Mr. CALLIS introduced a bill (H. R. No. 1577) to provide for the establishment of a mail route from Scottsboro, in Jackson county, in the State of Alabama, to Cottonville, in Marshall county, in the same State, and for the establishment of certain post offices therein named; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

UNITED STATES SCOUTS.

Mr. CALLIS also introduced a joint resolution (H. R. No. 390) for the relief of loyal citizens of Alabama who acted as United States scouts during the late war; which was read a first and second time, and referred to the Committee on Reconstruction.

PERSONAL EXPLANATION.

Mr. LYNCH. Mr. Speaker, I ask unanimous consent of the House to make a personal explanation.

The SPEAKER. For what time?

Mr. LYNCH. Perhaps five minutes.

There was no objection.

Mr. LYNCH. It is with great reluctance that for the first time since I became a member of this House I feel compelled to occupy its time in the consideration of a matter personal to myself, but which at the same time must interest, if it does not in some degree affect, all the members of this body. I hold in my hand an editorial article cut from the Cincinnati Gazette of the 23d ultimo, headed "An Abuse of the Franking Privilege," which I send to the Clerk's desk, and ask to have read the portions which I have marked.

The Clerk read as follows:

"Members not only frank their own letters and documents, but they frank the correspondence and publications of other people. They go so far even as to sell their franks for money. This is a direct fraud upon the people, and it should disgrace the members who practice it."

"Let us state a case in point: there came to the Cincinnati post office yesterday five mail bags filled with a paper called the New York Mercantile Journal, amounting in all to about five thousand copies. Each of these papers bore the frank of JOHN LYNCH, M. C. Upon referring to the Congressional Directory

we find that JOHN LYNCH, M. C., is from Portland, Maine. We also find that his name is not written but stamped upon the wrappers. Now, how did the New York publisher come into the possession of Mr. LYNCH's stamp? Did he forge the name? Did he purchase it of Mr. LYNCH? Or how did he come to use it? On the papers sent to this post office alone the postage of which the Government has been defrauded amounts to \$100. Probably one hundred thousand copies of the paper were sent out altogether, on which the postage would be \$2,000. The New York publisher could well afford to pay Mr. LYNCH \$1,000 for the use of the stamp, and if Mr. LYNCH's stamp is in the market he doubtless realizes a handsome income from the sale of it."

Mr. LYNCH. I should, perhaps, have passed this matter by, contenting myself with the brief explanation made through the telegraph by the correspondents of the leading newspapers of the country, had not this explanation been called in question and the charge, in substance, reiterated by the journal which originated the libel; and had not my attention also been attracted to an editorial article of similar import in a paper edited by a member of this House, (the Worcester Spy,) which paper I also send to the Clerk, and ask that the paragraphs which I have marked may be read.

The Clerk read as follows:

"In the case of JOHN LYNCH, M. C., mentioned above, who, by the way, is a Representative from Maine, the postage on the five thousand newspapers which were fraudulently smuggled through the post office by means of the *fac simile* of his signature stamped upon them, was, of course, \$100. The New York publisher probably evaded the postage in the same way on copies of his paper sent to other offices beside Cincinnati. What proportion of his issue went to the latter city cannot be told with accuracy, but it would probably be much within bounds to say that fifty thousand copies were sent out altogether, the postage on which would be \$1,000. Of course he could well afford to pay Mr. LYNCH half that sum for the use of his stamp on this single occasion, and if Mr. LYNCH's stamp is in the market he doubtless realizes a handsome income from it."

It may be, and we hope is, the case that Mr. LYNCH's stamp has been counterfeited and that he has never authorized this use of it. If he has sold or lent his stamp to this publisher, or given him authority to counterfeit it, he has, of course, stolen just so much from the Treasury, and merits expulsion from Congress for the fraud."

Mr. LYNCH. Mr. Speaker, this gross libel upon myself in particular, and by innuendo upon every member of this House, it will be observed has no other foundation or excuse, save the fact that a large quantity of newspapers were received at the Cincinnati post office for distribution under my *fac simile* frank, directed by full name and address to certain postmasters and business men. The attention of the editor having been called to the matter, probably by the postmaster or mail contractor, (the only parties whose interests are affected by the increase of mail matter, the Department incurring no additional expense by the increased quantity,) he immediately, without inquiry into the facts, either by examining one of the papers, or by asking me through the telegraph whether the franking was authorized, proceeded to publish the article which I have had read, calling attention to the remarkable fact that newspapers bearing my stamped frank had been received at the Cincinnati post office; hinting that possibly the frank might have been forged, but intimating very broadly that it had probably been sold, (as that was a very common practice with members,) and that I was realizing a large income from such sale; and calling upon Congress to expel me. Is not this a very gross libel to be fabricated out of such small material—to be founded upon such slight grounds of suspicion?

The facts in regard to this matter are briefly these: a speech made by me in this House on introducing some financial bills attracted the favorable attention of the editor of the New York Mercantile Journal, and was published in that paper. As one of the bills is made a special order for an early day in the present session, and as financial questions are now attracting much attention, I desired to give the bills and the speech explaining and advocating them as wide a circulation as possible, and franked a large number of copies of the paper to postmasters and business men in the same manner and for precisely the same reason that I had previously franked pamphlet copies of

the same speech. I presume I was influenced by the same motives that govern members generally in circulating speeches made by them in this House.

The franking was done under my own personal supervision. The right of members to frank newspapers when they please, where they please, and to whom they please, whether containing speeches made by themselves or not, has been uniformly practiced, and I have never before heard the right questioned or its exercise characterized an abuse by any one; and, as in the present case, the papers franked contained a speech delivered by me, I not only conformed to the uniform practice, but to the strict letter of the law, using the privilege for one of the very purposes for which it was conferred.

I presume there is not a member of this House, desirous of circulating his speech, who would not prefer to do so through the medium of a respectable newspaper rather than by pamphlet if he could do so on the same terms. I certainly shall avail myself of this medium whenever I choose to, so long as the law authorizes it. The right to do so is precisely the same as that by which a newspaper publisher sends and receives all his exchanges free, and also sends his paper free to subscribers within the county where the same is published.

This explanation is all I should feel called upon to make if the paper which first published the libel had made a frank and honest retraction, and had not some other journals, in their zeal to expose the abuse of the franking privilege, seized upon this case, and continued to use it as an illustration of such abuse, after all the facts in regard to it had been made public.

As it is, I desire to say this much further:

1. That *fac simile* franks, as is well known, are used by all heads of Departments and heads of bureaus, and very generally by members of Congress, and members who do not use them authorize clerks to write franks for them.

2. That during the presidential campaign just closed the stamps of members of both political parties were left with national, State, and other committees here and in various parts of the country, and used by such committees in the absence of the members to frank political documents.

Tons of newspapers, speeches, essays, and compilations of political matter, not one tenth part of which was by law entitled to be franked at all, were circulated through the mails free under cover of these franks.

3. All these facts were perfectly well known to the Cincinnati postmaster, whose office must have received from the committee-rooms here and distributed large quantities of such documents; they were equally well known to the editor of the Cincinnati Gazette, who had received such documents from the congressional committee-room through the mails—as I am informed by his own order—and to every editor who has commented unfavorably upon my sending papers containing my own speech under my own frank. All knew of this unauthorized use of the franking privilege, and knew that campaign papers and other documents published in their own offices were circulated through the mails under it, and yet never called attention to it as an abuse.

The statement I have made shows the unfairness of the attack upon myself to which I have called attention; and here, right here, I leave the matter without further comment.

Mr. BALDWIN. I ask unanimous consent to make a statement in regard to this matter, which will not require five minutes.

There was no objection.

Mr. BALDWIN. I desire to say to the gentleman from Maine, in the first place, that he cannot suppose I am in any manner responsible for the appearance of that article in the Worcester Spy with comments; and, in the second place, that when this statement appeared in the Cincinnati Gazette, and especially after it was copied into the Spy, I felt a special interest in the matter. My knowledge of the gentleman from Maine made it impossible for me to believe

that the facts, as set forth and construed in the Cincinnati Gazette, could be true. It seemed to me impossible. I could not believe they were true in the manner and to the extent represented. I felt moved to make inquiry in regard to the matter. The result of my investigation was, that in that case the whole thing consisted in the franking of his own speech printed in a newspaper, and that therefore the act was entirely within the law and legitimate. Whatever criticism shall be made on the case should be made on the law itself, and not on the use of it. For the rest, I say confidently that no one who knows him believes the gentleman from Maine capable of selling his frank. Moreover it is undoubtedly true that there are abuses of the franking privilege which are not warranted or rather occasioned by law. They are uses of the franking wholly outside of law, and have no legitimate warrant whatever. These abuses of the franking privilege, as well as certain other uses of it which are entirely legitimate, make it necessary, in my view, that we should take into consideration the duty of so restricting and reducing that privilege, by modifying the law, as to prevent these abuses and confine the matter of franking to what may absolutely be required by the public service.

PRESIDENT'S MESSAGE.

Mr. JONES, of Kentucky. I ask unanimous consent to offer the following preamble and resolutions:

Whereas resolutions have been introduced and passed in both Houses of Congress severely condemning the late message of the President of the United States, especially upon the subject of the national finances and his suggestions relative to the alleviation of the national embarrassment; and whereas it is the right and duty of the President to "give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall deem necessary and expedient:

Be it therefore resolved, that such resolutions are an infringement upon the rights of the Executive, and calculated to obviate the faithful discharge of his constitutional duty; and that however much the Congress may differ with the President upon his recommendation in regard to the discharge of the national debt, it involves a question which should be maturely considered by every American citizen, and which the American people have the right to determine, as they doubtless will in their own good time, governed by the precedents and principles which have controlled the enlightened nations of the world, and according to the exigencies which surround them, and in a manner, too, which will vindicate their own credit and honor.

Resolved, That one hundred thousand copies of the late annual message of the President be published for the benefit of the people of the United States.

Mr. MULLINS. I object, unless the gentleman can show the authority for the President to repudiate the national debt.

Mr. BOUFWELL moved to reconsider the votes by which the various bills and resolutions were referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

POOR OF THE DISTRICT.

Mr. WASHBURNE, of Illinois. I call for the regular order.

Mr. BUTLER, of Massachusetts. I ask the gentleman to withdraw that call for the purpose of taking up from the Speaker's table the bill (S. No. 693) for the temporary relief of the poor and destitute people of the District of Columbia.

Mr. WASHBURNE, of Illinois. There is great destitution and suffering in the District, and if any appropriation is made it ought to be made now. I will yield to allow that bill to be passed.

The bill was accordingly taken from the Speaker's table, and read a first and second time.

It appropriates \$30,000 for the relief of the poor of the District, to be expended under the direction of the mayors of the cities of Washington and Georgetown and the president of the levy court of the District.

Mr. McKEE. I object to the consideration of the bill at the present time.

Mr. BINGHAM. I appeal to the gentleman to withdraw his objection.

Mr. McKEE. I decline to withdraw it.

Mr. INGERSOLL. Is it in order to move to suspend the rules to-day?

The SPEAKER. It is not.

ENROLLED BILLS.

Mr. CALLIS, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill and joint resolution of the following titles; when the Speaker signed the same:

An act (H. R. No. 1537) to repeal certain provisions of section six of an act entitled "An act making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes," approved March 2, 1867; and

A joint resolution (H. R. No. 388) explanatory of the act to create an additional land office in the State of Minnesota, approved July 25, 1868.

Mr. WILSON, of Pennsylvania, from the same committee, reported that it had examined and found truly enrolled a bill (S. No. 700) for the relief of Joseph Moorehead.

REVENUE COMMISSIONER'S REPORT.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, transmitting the annual report of the Special Commissioner of the Revenue for 1868; which was referred to the Committee of Ways and Means, and ordered to be printed.

Mr. SCHENCK, by unanimous consent, offered the following resolution; which was referred to the Committee on Printing, under the law:

Resolved, That there be printed for the use of the House twenty thousand copies of the report of the Special Commissioner of the Revenue, with the appendices, complete, and for the use of the Treasury Department one thousand bound copies of said report with the appendices.

PARAGUAYAN DIFFICULTIES.

The SPEAKER also laid before the House the following message from the President of the United States:

To the House of Representatives:

In answer to the resolution of the House of Representatives of the 14th instant, requesting the correspondence which has taken place between the United States minister at Brazil and Rear Admiral Davis, touching the disposition of the American squadron at Rio Janeiro and the Paraguayan difficulties, I transmit a report of the Secretary of State upon that subject.

ANDREW JOHNSON.

WASHINGTON, December 16, 1868.

The message and the accompanying report were referred to the Committee on Foreign Affairs, and ordered to be printed.

UNION PACIFIC RAILROAD.

The SPEAKER also laid before the House the following message from the President of the United States:

To the House of Representatives:

I herewith communicate a report of the Secretary of the Interior, in answer to a resolution adopted by the House of Representatives on the 16th instant, making inquiries in reference to the Union Pacific railroad, and requesting the transmission of the report of the special commissioners appointed to examine the construction and equipment of the road.

ANDREW JOHNSON.

WASHINGTON, December 13, 1868.

The message and the accompanying report were referred to the Committee on the Pacific Railroad, and ordered to be printed.

IMPROVEMENT OF THE DES MOINES RAPIDS.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting, in compliance with a resolution of the House of Representatives of the 16th ultimo, a copy of a report from Brevet Major General James H. Wilson, concerning the improvement of the Des Moines rapids, and stating that no special report concerning the Rock Island rapids has been lately received.

On motion of Mr. ELIOT, the communication was referred to the Committee on Commerce, and ordered to be printed.

BRIDGE OVER BOSTON HARBOR.

The SPEAKER also laid before the House a communication from the Secretary of the Navy, transmitting the report of the commis-

sion appointed to examine Boston harbor relative to the construction of a bridge between Boston and East Boston, &c.

On motion of Mr. ELIOT, the communication was referred to the Committee on Roads and Canals, and ordered to be printed.

EMPLOYÉS IN WAR DEPARTMENT.

The SPEAKER also laid before the House a letter from the Secretary of War, in answer to a resolution of the House of the 18th ultimo, stating that no reduction of the number of officers and employés in his Department can now be made, nor any reduction of their salaries; which was referred to the Committee on Appropriations, and ordered to be printed.

BRIDGE OVER THE MISSOURI RIVER.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting, in compliance with a resolution of the House of Representatives of the 16th ultimo, the report of Brevet Major General Suter on the bridge over the Missouri river at Kansas City.

On motion of Mr. GARFIELD, the communication was referred to the Committee on Commerce, and ordered to be printed.

SURVEYORS GENERAL.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, inclosing estimates for compensation of the surveyors general of Louisiana and Florida and the clerks required in their respective offices for the fiscal year ending June 30, 1870; which was referred to the Committee on Appropriations, and ordered to be printed.

LIEUTENANTS HITCHCOCK AND MACKAY.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting, with his approval, a communication from the Adjutant General of the Army, recommending the passage of a joint resolution dropping from the roll of the Army Lieutenants Daniel Hitchcock, fifth cavalry, and William G. Mackay, twenty-ninth infantry, for desertion; which was referred to the Committee on Military Affairs.

REPORT OF COMMITTEE ON RETRENCHMENT.

The SPEAKER also laid before the House a communication from the Commissioner of Internal Revenue, requesting for the use of his office one thousand copies of the report of the Committee on Retrenchment, made to Congress December 21, 1868; which was referred to the Committee on Printing.

LEAGUE ISLAND.

The SPEAKER also laid before the House a communication from the Secretary of the Navy, transmitting papers relative to League Island; which were referred to the Committee on Naval Affairs, and ordered to be printed.

REGISTER OF DEEDS, DISTRICT OF COLUMBIA.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, in relation to furnishing and refitting an office for the register of deeds in the District of Columbia; which was referred to the Committee on Appropriations.

EXPENSES OF CENSUS OF 1860.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting, in compliance with House resolution of the 18th ultimo, a statement showing the total amount due and necessary to pay certain United States marshals for services in connection with the census of 1860; which was referred to the Committee on Appropriations.

GREAT AND LITTLE OSAGE INDIANS.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting, in compliance with House resolution of the 18th ultimo, a report by the Commissioner of Indian Affairs relative to the last commission appointed to treat with the Great and Little Osage Indians; which was referred to the Committee on Indian Affairs.

FREEDMEN'S BUREAU, VIRGINIA.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting a letter from a committee of the colored people of the fifth congressional district of Virginia, praying for the continuance of the Freedmen's Bureau in that State; which was referred to the Committee on Freedmen's Affairs.

CHOCTAWS AND CHICKSAWS.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of Indian Affairs, relative to a deficiency in the appropriation for the pay of commissioners to treat with the Choctaw and Chickasaw Indians; which was referred to the Committee on Appropriations.

REMOVAL OF CREEK INDIANS.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of Indian Affairs, with inclosures, relative to the removal from the Cherokee country of certain Creek Indians; which was referred to the Committee on Indian Affairs.

INDIAN MEDALLIONS.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of Indian Affairs, submitting an estimate of appropriations required for medallions for distribution to Indian tribes; which was referred to the Committee on Appropriations.

DESTITUTE KANSAS INDIANS.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of Indian Affairs, relative to the destitute condition of Kansas tribes of Indians, and recommending an appropriation for their relief; which was referred to the Committee on Appropriations.

SACS AND FOXES.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, relative to certain selections of land made by the mixed and half-bloods of the Sacs and Foxes under treaty stipulations; which was referred to the Committee on Indian Affairs.

DEPARTMENT OF AGRICULTURE.

The SPEAKER also laid before the House a communication from the Commissioner of Agriculture, transmitting, in compliance with House resolution of the 18th ultimo, a report relative to the cost of erecting the new Agricultural Department buildings; which was referred to the Committee on Appropriations.

ROCK ISLAND ARSENAL BRIDGES.

The SPEAKER also laid before the House a communication from the Secretary of War, relative to additional appropriations for bridges at Rock Island arsenal; which was referred to the Committee on Appropriations.

JAMES CHEW.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting the petition of James Chew, for the removal of political disabilities, recommended by the General of the Army and the commander of the first military district; which was referred to the Committee on Reconstruction.

J. WILLIS MENARD.

The SPEAKER also laid before the House a duplicate certificate of the election of J. Willis Menard as a Representative from the State of Louisiana; which was referred to the Committee of Elections.

LAWS OF NEW MEXICO.

The SPEAKER also laid before the House a copy of the laws of the Territory of New Mexico; which was referred to the Committee on the Territories.

LEAVE OF ABSENCE.

Leave of absence until the 19th instant was granted to Mr. PRUYN.

COMMITTEE ON EDUCATION AND LABOR.

Mr. BAKER, by unanimous consent, was excused from further service on the Committee on Education and Labor.

FRANKING PRIVILEGE.

Mr. CARY. I rise to a personal explanation for five minutes, if there be no objection. No objection was made.

Mr. CARY. I find that the gentleman from Maine [Mr. LYNCH] is not the only member of this House who has been the object of attack by the Cincinnati Gazette. I send to the Clerk, and ask to have read, an extract from that paper, in which I find myself charged with similar delinquencies.

The Clerk read as follows:

"It is probably true that many of the stamps made for members of Congress are duplicated, and the duplicates used without authority. In so far as franks are thus forged the frauds may be detected by requiring postmasters to report all cases of probable fraud to the Department. In the case of the five thousand papers received in this city from New York it was evident that some one had committed a fraud. This might have been detected at once by reporting the case to Washington.

"Since public attention has been called to this matter, frauds are likely to be exposed to such an extent that Congressmen will exercise some caution, for a while, at least. Here is another case, in which Hon. S. F. CARY is concerned:

"COLUMBUS, OHIO, December 26, 1863.

"To the Editor of the Cincinnati Gazette:

"You called public attention to an abuse of the franking privilege recently. I inclose another sample received in this city yesterday. It comes here covering a paper from West Chester, Pennsylvania, and has been used for that purpose for some months past. Perhaps my old friend, now your 'working-man,' may have found his name worth something.

Here we have a paper published at West Chester, Pennsylvania, circulated free through the mails under the frank of 'S. F. CARY, M. C.' This has been done regularly for some time past, our correspondent informs us. Thus publishers are able to send their papers to subscribers free of postage—a very economical way for publishers, but a fraud upon the people."

Mr. CARY. I simply wish to say, Mr. Speaker, that my genuine frank has been used for no such purpose as that stated in this article. I know of no newspaper published in West Chester, Pennsylvania. I have never given my frank to any paper published there or elsewhere. Knowing the Gazette as well as I do, if the article had not been copied into respectable papers like the New York Tribune and commented upon, I should have taken no notice of it whatever, as I do not consider that paper capable of slandering me where its character and my own are known. The Gazette seems to have the franking privilege "on the brain." I addressed a letter to the postmaster at West Chester, Pennsylvania, inquiring about this matter, and in his reply (which I hold in my hand, but which I will not occupy time by reading) he says that no such use of my frank has been made at that office. I have no further remarks to make upon this subject.

DESERTION.

Mr. NIBLACK, by unanimous consent, submitted the following resolutions; which were read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of making more liberal provisions by law for the removal of the charge of desertion not of a serious or aggravated character against soldiers in the late civil war, and particularly as to the propriety of relaxing the rule withholding bounty from otherwise meritorious soldiers who have received honorable discharges, but against whom charges of desertion rest.

Resolved, also, That the Committee on Invalid Pensions be instructed to inquire into the expediency of relaxing the rule withholding pensions from soldiers or their widows or heirs on account of charges of desertion, when such soldiers have received honorable discharges or may have lost their lives while in the Army and in the line of their duty.

Resolved, also, That each of said committees be instructed to report by bill or otherwise.

WAR CLAIMS OF IOWA.

Mr. WASHBURN, of Illinois. I call for the regular order.

The SPEAKER. The House, as the regular order, resumes the consideration of the bill reported on the 10th of December last from

the Committee on Military Affairs, being the bill (H. R. No. 1491) fixing the amount found to be due to the State of Iowa on account of certain claims against the United States.

The bill, which was read, recites in the preamble that Congress, by an act approved July 25, 1864, directed the President to appoint a commissioner to examine and report upon the claims of the State of Iowa for forage, transportation, subsistence, and clothing furnished by that State to volunteers; also for repayment of certain moneys paid by the State in raising, arming, and equipping, paying, and subsisting certain troops of the State during the late rebellion; and also the claims of the State for certain forage procured, barracks built and turned over to the United States; and that the commissioner appointed by the President, after examination of said claims, has reported that there is due the State of Iowa \$229,848 23, and recommended the payment of the same. The bill, therefore, provides that the amount so found due to the State of Iowa shall be paid to the State out of an appropriation hereafter to be made.

The SPEAKER. When this bill was last under consideration the gentleman from Illinois [Mr. WASHBURN] moved to amend by adding the following:

Provided, That no payments shall be made until all the accounts have been examined and approved by the Secretary of the Treasury.

The gentleman from New York [Mr. WOOD] moved that the bill be referred to the Committee on Appropriations, with instructions to report a general bill comprehending similar claims of all the States, and the provisions of a substitute proposed by the gentleman from New York [Mr. PRUYN] and accepted by his colleague, [Mr. WOOD.] The proposed substitute will be reported by the Clerk.

The Clerk read as follows:

Be it enacted, &c., That the following clause be, and the same is hereby, added to the provisions of the act approved the 27th day of July, 1861, entitled "An act to indemnify the States for expenses incurred by them in defense of the United States," to wit: "But if any such vouchers are not in the form ordinarily in use in the War Department, or do not strictly correspond with the regulations now prescribed by or in pursuance of law, the amount of any such vouchers may be allowed and paid on such evidence that they are just and correct as may be satisfactory to the Secretary of the Treasury. This act and the act hereby amended shall apply to the city of New York, and to any costs, charges, and expenses incurred by it for any of the objects or purposes above mentioned."

Mr. WASHBURN, of Illinois. I am appealed to by members to withdraw the demand for the previous question; and I do so, and yield to the gentleman from Iowa to offer an amendment.

Mr. RANDALL. In order to learn whether a quorum is present I give notice that I shall call for a division on the next vote.

Mr. WILSON, of Iowa. I desire to offer an amendment to the instructions submitted by the gentleman from New York, for the reason that under those instructions the Iowa claim would be excluded. I propose to have it included in this examination. And I wish to say that the Iowa delegation have no disposition to prevent examination of this claim. All we desire is that if we refer it to the committee they will examine it and submit a report during this session.

I move to add to the substitute of the gentleman from New York [Mr. PRUYN] the following:

And also to all the claims of the State of Iowa which were presented and passed upon by the commissioner appointed under the act approved July 25, 1866.

That, of course, refers to claims embraced in this bill.

Mr. WASHBURN, of Illinois. I now renew the demand for the previous question; and pending that I will yield to gentlemen to introduce bills for reference, with the understanding that they are not to be brought back by motions to reconsider.

AMERICAN RAILROAD IRON.

Mr. PRICE, by unanimous consent, introduced a bill (H. R. No. 1578) to secure the

use of American iron in the construction of land-grant railroads; which was read a first and second time, and referred to the Committee on the Pacific Railroad.

FREEDOM OF TRANSIT WITHIN UNITED STATES.

Mr. BUTLER, of Massachusetts, by unanimous consent, introduced a bill (H. R. No. 1579) to secure and protect the freedom of transit within the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

CAPTAIN GEORGE E. GRISHAM.

Mr. BUTLER, of Tennessee, by unanimous consent, introduced a bill (H. R. No. 1580) for the relief of Captain George E. Grisham, of Tennessee; which was read a first and second time, and referred to the Committee on Invalid Pensions.

SARAH BARRY.

Mr. BUTLER, of Tennessee, also introduced a bill (H. R. No. 1581) for the relief of Sarah Barry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ELIZABETH HOCKADAY.

Mr. BUTLER, of Tennessee, also introduced a bill (H. R. No. 1582) for the relief of Elizabeth Hockaday, of Tennessee; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MECHANICS' AND FARMERS' BANK, ALBANY.

Mr. HOOPER, of Massachusetts, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be directed to inform this House of the condition of the National Mechanics' and Farmers' Bank of Albany, New York, and whether any proceedings have been instituted against that association for evasion of the law and omission to comply with the national currency act.

NEW POST ROUTES IN MISSOURI.

Mr. NEWCOMB, by unanimous consent, introduced a bill (H. R. No. 1583) to establish certain post routes in the State of Missouri; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

NATURALIZATION OF ALIENS.

Mr. CHURCHILL, by unanimous consent, moved that the Committee on the Judiciary be discharged from the further consideration of House bill No. 1274, concerning the naturalization of aliens; and that the same be referred to the Committee on Revision of Laws of the United States, and ordered to be printed.

The motion was agreed to.

Mr. CHURCHILL also moved that the Committee on the Judiciary be discharged from the further consideration of House bill No. 1429, to amend an act entitled "An act to establish a uniform rule of naturalization," &c., passed April 14, 1802; and that the same be referred to the Committee on Revision of Laws of the United States.

The motion was agreed to.

UNION PACIFIC RAILROAD.

Mr. CHURCHILL, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Interior be directed to transmit to this House a copy of the report of the special commissioners on any of the branches of the Union Pacific railroad which has been received since the date of his communication in answer to House resolution of the 15th ultimo.

JANE FINLEY.

Mr. JULIAN, by unanimous consent, introduced a bill (H. R. No. 1584) for the relief of Jane Finley; which was read a first and second time, and referred to the Committee on Invalid Pensions.

NATURALIZATION LAWS.

Mr. JULIAN also, by unanimous consent, introduced a bill (H. R. No. 1585) to amend the naturalization laws of the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

NAOMI ADAMS.

Mr. BENJAMIN, by unanimous consent, introduced a bill (H. R. No. 1586) granting a pension to Mrs. Naomi Adams; which was read a first and second time, and referred to the Committee on Invalid Pensions.

POST ROUTES IN MISSOURI.

Mr. BENJAMIN also, by unanimous consent, introduced a bill (H. R. No. 1587) establishing certain post routes in the State of Missouri; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

Mr. ELDRIDGE. I call for the regular order.

IOWA WAR CLAIMS—AGAIN.

The House resumed the consideration of the bill (H. R. No. 1491) fixing the amount found to be due to the State of Iowa on account of certain claims against the United States, the pending question being on seconding the previous question, on which Mr. RANDALL had demanded a division.

The House divided; and there were—ayes 51, noes 18; no quorum voting.

Mr. WASHBURNE, of Illinois. I suggest to the gentleman that he will accomplish his object by consenting to consider the previous question as seconded and calling the yeas and nays on ordering the main question.

Mr. RANDALL. I accept the suggestion.

The previous question was accordingly seconded; and, on ordering the main question,

Mr. RANDALL demanded the yeas and nays; which were ordered.

The question was taken; and it was decided in the affirmative—yeas 100, nays 24, not voting 97; as follows:

YEAS—Messrs. Allison, Anderson, Arnell, Delos R. Ashley, Bailey, Baker, Baldwin, Beaman, Benjamin, Bingham, Boles, Boutwell, Bowen, Boyden, Broomall, Buckland, Benjamin F. Butler, Roderick R. Butler, Cake, Callis, Churchill, Sidney Clarke, Cobb, Coburn, Corley, Covode, Culom, Delano, Dewese, Eila, Elliot, Farnsworth, French, Goss, Gravely, Haughey, Heaton, Higby, Hill, Hooper, Ingersoll, Johnson, Alexander H. Jones, Judd, Julian, Kelley, Kellogg, Kelsey, Ketchum, Kootz, Laffin, Logan, Longbridge, Lynch, Mallory, Maynard, McCarthy, McCormick, McKee, Mercer, Miller, Moore, Morrell, Mullins, Newsham, Norris, O'Neill, Paine, Perham, Pettis, Pierce, Poland, Polsley, Price, Prince, Randall, Robertson, Roots, Schenck, Shanks, Spalding, Starkweather, Stewart, Stokes, Storer, Sypher, Taffo, Thomas, John Trimble, Upson, Elihu B. Washburne, Henry D. Washburn, Welker, Whittemore, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—100.

NAYS—Messrs. Archer, Barnes, Beck, Boyer, Cary, Chandler, Eldridge, Getz, Grover, Haight, Holman, Hotchkiss, Jencks, Thomas L. Jones, Knott, McCullough, Niblack, Robinson, Stone, Taber, Tift, Lawrence S. Trimble, Van Trump, and Woodward—24.

NOT VOTING—Messrs. Adams, Ames, James M. Ashley, Axtell, Banks, Barnum, Beatty, Benton, Blackburn, Blaine, Blair, Bromwell, Brooks, Buckley, Burr, Reader W. Clarke, Clift, Cook, Cornell, Dawes, Dickey, Dixon, Dockery, Dodge, Donnelly, Driggs, Eckley, Edwards, Eggleston, Ferriss, Ferry, Fields, Fox, Garfield, Glossbrenner, Golladay, Gove, Griswold, Halsey, Hamilton, Harding, Hawkins, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Hunter, Kerr, Kitchen, Lash, George V. Lawrence, William Lawrence, Lincoln, Loan, Marshall, Marvin, Moorhead, Morrissey, Mungen, Myers, Newcomb, Nicholson, Nunn, Orth, Peters, Phelps, Pike, Pile, Plants, Pomeroy, Pruyn, Raun, Ross, Sawyer, Seafield, Selye, Shellabarger, Sitgreaves, Smith, Stevens, Taylor, Trowbridge, Twichell, Van Aernam, Van Auker, Burt Van Horn, Robert T. Van Horn, Van Wyck, Vidal, Ward, Cadwalader C. Washburn, William B. Washburn, Thomas Williams, Wood, and Young—97.

So the main question was ordered.

The question then recurred on agreeing to the amendment of Mr. WILSON, of Iowa, to add to the instructions the words "and also to all the claims of the State of Iowa which were presented to and passed upon by the commissioner appointed under the act approved July 25, 1866."

The amendment was agreed to.

The question recurred on agreeing to the motion of Mr. WOOD, to refer the substitute of Mr. PRUYN to the Committee on Appropriations, with instructions to report a general bill comprehending similar claims of all the States, as just amended on motion of Mr. WILSON, of Iowa.

The motion, as amended, was agreed to.

Mr. WASHBURNE, of Illinois, moved to

reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WASHBURNE, of Illinois, also moved to reconsider the votes by which the various bills, &c., were referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER then proceeded with the call of committees for reports.

PURCHASE OF TOOLS.

Mr. KELLEY, from the Committee on Naval Affairs, made a report in writing in response to the resolution of the House instructing the committee to inquire into the legality and regularity of the purchase of tools by Theodore Zeller, chief engineer of the Philadelphia navy-yard; and moved that the report be recommitted and printed for the use of the committee.

Mr. STEWART. I wish it understood that that is not the report of the Committee on Naval Affairs. It is the report of a sub-committee.

Mr. KELLEY. My colleague is in error. The committee appointed a sub-committee to proceed and make a personal examination and to examine witnesses. That sub-committee reported, and the Naval Committee at a regular meeting, by formal vote, instructed me to make this report as the report of the committee, and ask that it be printed for the use of the committee and recommitted to the committee. I am not acting as one of the sub-committee, but as the organ of the Naval Committee in this matter.

Mr. STEWART. My colleague will excuse me, but, as I understand, the Committee on Naval Affairs has not as yet taken any action on that report excepting to give leave that the report may be made to the House, to be printed for the use of the committee for further action.

Mr. KELLEY. The gentleman is right and wrong. It is not the final report of the committee, or they would not ask that it should be recommitted, but it is, in so far as wanting it printed and recommitted, the report of the Naval Committee, whose representative I am in asking this. It is not presented as a final report.

Mr. STEWART. The Committee on Naval Affairs did not take any definite action on this report. I have not read it, nor have several members of the committee. The understanding was that it should go back for further consideration.

Mr. KELLEY. And that is precisely what I am asking.

The SPEAKER. Does the gentleman from New York insist that this report was not authorized to be made by the committee?

Mr. STEWART. Oh, no; I do not; but as I understand it the committee desire the report printed for the use of the committee alone.

Mr. KELLEY. That is what I have asked.

Mr. STEWART. It is no expression of the committee.

The SPEAKER. The gentleman will find on page 55 of the Digest that "if it is disputed that a report has been ordered to be made by a committee, the question of reception must be put to the House."

Mr. STEWART. I do not in that sense object.

The report was then recommitted to the Committee on Naval Affairs, and ordered to be printed for the use of the committee.

BUREAU OF STEAM ENGINEERING.

Mr. KELLEY, from the same committee, reported back, with the recommendation that it do pass, the bill (H. R. No. 728) relating to the Bureau of Steam Engineering in the Navy Department.

The bill proposes to provide that from and after this date, to secure the further efficiency of the Navy, a civilian may be appointed by the President, by and with the advice and consent of the Senate, to fill the position of chief of the Bureau of Steam Engineering of the Navy Department.

Mr. KELLEY. There were many considera-

tions moving the committee to the approval of this bill. I beg leave to state a few of them. There is no branch of science in which more progress has been made within the last quarter of a century than that of engineering. The science of engineering and the tools and appliances used by engineers or in the construction of steam engines have probably improved more rapidly than any other department of science or the useful arts. The engineer corps of the Navy is necessarily a small one. The number of chief engineers is but fifty-two. There are many men of mark in that corps. But the field of their operations is circumscribed. There is a much wider field for the development of engineering skill and judgment in the general civil service of the country, in the development of our mechanical and material resources, and in the wide field of the steam commercial marine. The committee believe that the Government should have access in selecting an engineer-in-chief to this wider field of experience and study than the Navy with its formulas and, to use a popular phrase, red tape affords. It is not believed by the Naval Committee that our Navy exhibits the highest character of engineering. Reports come to us from line officers on every station and other observers that our vessels move by steam alone, while those of other nations with more adequate steam apparatus resort to their sails while cruising on stations, and thus save the fuel ours consume and the wear and tear of machinery they are undergoing. Line officers report to us from every station that our vessels, when they move impelled by our style of engines, move only to look at the sterns of competing vessels, even of those of the little South American States which have navies.

It was therefore believed that great good would accrue to the service by authorizing the head of the Navy Department or the President of the United States to look over the whole field of engineers and select, if he can find one, a Stephenson or an Ericsson, that we might in our naval service enjoy the economy that is practiced and the efficiency attained by other nations. These are some of the views that controlled the Committee on Naval Affairs in instructing me to report this bill.

So far as I am personally concerned I am, however, ready to enforce its adoption by other suggestions. But if any gentleman desires information on any special point in connection with this subject I will gladly yield to him, to hear and answer his question.

Mr. WASHBURN, of Illinois. I really should like some further information than the gentleman has given us before I vote for the creation of another office. The gentleman from Pennsylvania [Mr. KELLEY] very well understands the number of bureaus in the Navy Department. I believe they amount to no less than nine, and among them all this Bureau of Steam Engineering has been the source of more trouble, complaint, and expense to the Government than all the other bureaus there; and I cannot, with the explanation of the gentleman, so far as I have heard it, assent to the creation of another bureau with another salaried officer. I did not catch the gentleman's idea of what particular benefit he expects the Government will receive from this office, and therefore I do not fully understand why we should create another bureau in the Navy Department at the present time.

Mr. KELLEY. The bill does not contemplate the creation of another office; it does, however, open the possibility, as the gentleman has suggested, of adding one to the number of chief engineers. The office of engineer-in-chief is now a distinctive office; but that officer must, under existing laws, be selected from the engineer corps of the Navy. I apprehend that there would have been a saving to the Government of tens, indeed I think I may say of hundreds of millions of dollars, if we had had such an engineer-in-chief, as might have been selected from civil life instead of having the engineer department of the Navy managed as it has been during the war.

I ask the gentleman whether, among the numerous complaints of which he speaks, he has not heard those to which I have alluded, namely, that we have the slowest Navy in the world; that in the strife between the engineer corps and the line the engineer corps, endeavoring to exalt itself above the line, have made our ships depend entirely upon steam, fuel, and machinery, so that the engineer shall be the important man on the ship, and subordinate to him the naval officer to whom the command belongs?

The result of this attempt of the engineer corps to subordinate the line has been that while the vessels of other nations sail to distant stations and from point to point while on stations, using steam as an auxiliary and in exigencies, our vessels have not adequate sails and rigging to move them, burdened as they are with machinery and fuel, even with fair breezes. When they change their location they must resort to coal, no matter how many hundred dollars per ton it may cost us. The saving in this matter alone will equal the salary not only of an engineer-in-chief but the pay of a large part of the engineer corps.

Has not the gentleman from Illinois also heard that under the management of our present engineer-in-chief, the cherished head of the engineer corps of the Navy, we have a ship said to be the fleetest on the ocean, the Wampanoag, but which cannot carry her own fuel for a month together with food for the competent number of officers and men for the same time? So much of her room is taken up by engines, coal-bunkers, fire-room, &c., that the officers in command of what is boasted of as the fleetest ship in the world are compelled to occupy quarters less commodious than are allowed on ordinary merchant ships moved by steam. It is possible that in selecting some future Stephenson or Ericsson an additional office may be created; but if he shall give us a navy which, when on stations, doing merely watch duty, can move as the ships of other navies do, under sail—which, when merely making formal cruises can, as other vessels do, move under sail—you will find that he will, as I have already intimated, save each day to the Treasury of the country more than the annual salary of the engineer-in-chief of the Navy.

Mr. WASHBURN, of Illinois. Mr. Speaker, I do not doubt the truth of what the gentleman says. His remarks only corroborate what I have already stated as to the complaints, the just complaints, which have been made in regard to this Bureau of Steam Engineering. But I differ with the gentleman as to the remedy. I do not conceive it necessary for us, in order to obtain a remedy for these things, to create a new officer.

Mr. KELLEY. Will the gentleman state the remedy he would suggest?

Mr. WASHBURN, of Illinois. I would turn out the present officer and put in a better man.

Mr. KELLEY. Can you find such a man in the engineer corps?

Mr. WASHBURN, of Illinois. I do not know. I presume a good man can be found in the engineer corps.

Mr. KELLEY. Now, Mr. Speaker, I want to say that thus far I have been speaking for the committee, and expressing the views which I heard expressed around me in the committee-room when the bill was under consideration. I will now speak for myself, and present some facts that impel me to support the bill which I was directed by the committee to present and advocate. I say that the *esprit du corps*, as disclosed in a series of stupid or corrupt transactions, is so widely diffused in our engineer corps of the Navy that I would not trust the corps to indicate its own chief or advise the head of the Government as to his selection.

Sir, the steam navy depends upon its machinery. I reiterate what I have already said, that the progress of science with reference to appliances for erecting and managing machinery exceeds the progress made in any other

branch of useful science during the last quarter of a century. Yet, I tell the gentleman from Illinois and you, Mr. Speaker, that within the last two years your engineer corps have been buying out old machine-shops and converting the machine-shops of your navy-yards into old-junk-shops. I tell you that at the Philadelphia navy-yard, under the shadow of the shops of the most celebrated tool-makers in the country, William Sellers & Co. and Bement & Dougherty, they have purchased within eighteen months tools that were superannuated twenty years ago; that they have bought tools such as you cannot find in any modern workshops in the United States or Europe; that they have paid \$20,000 for three superannuated or worn-out tools which any practical engineer in the country would swear would not be worth in a machine-shop the space they occupy if the proprietors had the means of buying adequate tools. And, sir, I tell you more, that they have paid for scrap-iron which still retains the general form of machines more money than would have bought new tools in Philadelphia, Newark, New Jersey, Providence, Rhode Island, Worcester, Massachusetts, or at any other point in the country at which tools for the manufacture of steam engines are made. These facts will hereafter come before you, sir, officially, though I now state them on my personal authority only.

My argument is, sir, that for the purpose of breaking up—whichever it may be—the complicity in crime or the *esprit du corps* of the engineer corps we should allow the incoming Administration to select an engineer-in-chief from the widest field. I ask the attention of the gentleman from Illinois to this suggestion: that so widely diffused is the *esprit du corps* in the engineer corps, or so complete is the complicity in wrong among its head and certain members, that we should let the light of practical judgment and the general integrity of the community go into that Department and endeavor to reclaim, if possible, our Navy from its destroyers and our Treasury from those who are bleeding it to death.

I beg leave to remark to gentlemen from New England that if they will go to the navy-yard at Portsmouth they will find there boxed up under sheds, for which the Government has no use, and which, though bought more than eighteen months ago, have not been set up, old tools bought from an engine manufactory, which was being abandoned, not because the proprietor was giving up the business, but because he had bought a new shop, and it was better for him to sell his old tools to the engineer department of the United States Navy than to remove them to his new shop near by the old one. For the Philadelphia yard they have bought a planer after eleven years' use, part of the time in the city of Philadelphia, part in the city of St. Louis, and part in the works of John Roach & Son, New York, from whom it was bought for \$6,600, when they could have bought a new one from Bement & Dougherty, its makers, or the Gould Machine Company, Newark, New Jersey, or any of the manufacturers of such tools, for \$6,000. So, eleven years of use, transportation about the country, and repairing damage, made that old tool worth to the engineers of the Navy \$600, or ten per cent. more than a first-class new tool fresh from the shop of its makers or their rivals in business.

These are some of the reasons which I urge personally. The broad comprehensive reasons are those by which the committee were governed. The information I am laying before you had not reached any of the members of the committee when they acted on the bill under consideration, and therefore I am not at liberty to speak for other members of the committee on this branch of the subject. But on my personal responsibility I state these facts, and stand prepared to prove them before the House in conjunction with a vast mass more damning than any I have referred to; and I think the gentleman from Illinois will probably find that he will promote economy even if

the incoming Administration should add a chief engineer to the corps, and save countless millions of dollars.

Mr. MAYNARD. Cannot the Secretary now secure the best engineering and skill outside?

Mr. KELLEY. No, sir; he is confined to the selection of the engineer-in-chief to the limited corps of chief engineers in the Navy; and, as pertinent to the gentleman's question, I will say that two naval boards, two boards of engineers—and from that fact I derive my conviction of complicity—two naval boards, with these facts staring them in the face, with this evidence drawn from the files of the department of steam engineering at Philadelphia navy-yard, with no conflict of testimony between individuals on several of the points, the papers speaking for themselves, and I have them here—two boards of engineers have found these transactions honest and honorable and advantageous to the United States Government. It appears from the papers in the engineer department, official copies of which I hold in my hand, that in August, 1866, when the decline in prices in such things after the close of the war had but begun, William Sellers & Co. offered the department twenty-five ton cranes, wood-work, iron-work, the machines all complete, for \$2,000; and here, under the same certificate of the department, from papers furnished by the same office, it is in evidence that in 1868, when the average of fifteen per cent. fall had taken place, they bought from John Roach & Sons inferior cranes of the same size for \$2,250, the price of William Sellers & Co. at the same date for the same cranes having fallen to \$1,690. They paid John Roach & Sons \$2,250 when they had official evidence before them that William Sellers & Co., the men who carried off the gold medal at the recent International Exposition, would furnish them for \$1,690. Again, sir, the same official papers show that they received on the 24th of August, 1866, offers from Bement & Dougherty, the rivals of William Sellers & Co., for fifteen-ton cranes at \$1,500, and that eighteen months thereafter, with a declining market, they paid to their favorites, John Roach & Sons, \$1,750 each for five of these cranes.

Mr. MAYNARD. I do not know what this has to do with my question.

Mr. KELLEY. I am coming to the point. Citizens of Philadelphia were outraged by seeing the navy-yard gorged like a "junk-shop" with old tools brought from different parts of the country. They appealed to the Navy Department, and the Navy Department appointed a board of naval engineers to investigate the matter, and with these facts before them they whitewashed the transaction and reported that they saw nothing dishonest in these things. An appeal from their decision was made to the Secretary of the Navy, and another board of engineers was appointed and gave these transactions their approval. That is the reason I wish to go outside of the corps for an officer to indicate boards of inquiry. I will not further delay action on this bill, but will hereafter discuss the matters I have broached in the Committee of the Whole on the state of the Union. I now demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. HOLMAN demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 97, nays 23, not voting 101; as follows:

YEAS—Messrs. Allison, Archer, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Banks, Barnes, Benjamin, Botes, Boutwell, Bowen, Boyden, Boyer, Broomall, Buckland, Roderick R. Butler, Cake, Callis, Chanler, Churchill, Sidney Clarke, Cobb, Coburn, Corley, Cullom, Delano, Dewese, Easley, Edwards, Eggleston, Elna, Edot, Farnsworth, French, Garfield, Goss, Gravely, Hawkins, Heaton, Higby, Hooper, Hotchkiss, Chester D. Hubbard, Ingersoll, Jenckes, Johnson, Alexander H. Jones, Judd, Kelley,

Kitchen, Koontz, Lash, Logan, Loughbridge, Mallory, Maynard, McCarthy, McKee, Mercer, Miller, Moore, Morrell, Mullins, Newcomb, Newsham, Norris, O'Neill, Paine, Perham, Pettis, Pierce, Polkey, Price, Prince, Robinson, Roots, Schenck, Shanks, Starkweather, Stevens, Stewart, Stokes, Stover, Sypher, Tift, John Trimble, Upson, Elihu B. Washburne, Welker, Whittemore, William Williams, James F. Wilson, John T. Wilson, and Windom—97.

NAYS—Messrs. Beaman, Bingham, Cary, Eldridge, Getz, Grover, Haight, Holman, Thomas L. Jones, Kelley, Ketcham, Laffin, McCormick, Niblack, Randall, Robertson, Spalding, Stone, Taber, Lawrence S. Trimble, Van Trump, Woodbridge, and Woodward—23.

NOT VOTING—Messrs. Adams, Ames, Anderson, Axtell, Barnum, Beatty, Beck, Benton, Blackburn, Blaine, Blair, Bromwell, Brooks, Buckley, Burr, Benjamin F. Butler, Reader W. Clarke, Clift, Cook, Cornell, Covode, Dawes, Dickey, Dixon, Dockery, Dodge, Donnelly, Driggs, Ferriss, Ferry, Fields, Fox, Glossbrenner, Golladay, Gore, Griswold, Halsey, Hamilton, Harding, Haughey, Hill, Hopkins, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Hunter, Julian, Kellogg, Kerr, Knott, George V. Lawrence, William Lawrence, Lincoln, Loan, Lynch, Marshall, Marvin, McCullough, Moorhead, Morrissey, Mungen, Myers, Nicholson, Nunn, Orth, Peters, Phelps, Pike, Pile, Plants, Poland, Pomeroy, Pruyn, Baum, Ross, Sawyer, Seefeld, Selye, Shellbarger, Sitgreaves, Smith, Taft, Taylor, Thomas, Trowbridge, Twichell, Van Aernam, Van Anken, Burt Van Horn, Robert T. Van Horn, Van Wyck, Vidal, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Thomas Williams, Stephen F. Wilson, Wood, and Young—101.

So the bill was passed.

Mr. KELLEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. RANDALL moved to reconsider the vote by which the report of the Committee on Naval Affairs was recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

POST OFFICE DEPARTMENT.

The SPEAKER, by unanimous consent, laid before the House a communication from the Postmaster General, in answer to House resolution of the 16th ultimo, stating that no reduction can be made in the force of employees in that Department, &c., and that the continual increase of business will soon require the employment of additional force; which was referred to the Committee on Appropriations.

NATIONAL BANKS.

The SPEAKER also laid before the House a communication from the Comptroller of the Currency, transmitting, in compliance with House resolution of May 25, 1868, a statement of the amount of dividends declared by the national banking associations since their organization, &c.; which was referred to the Committee on Banking and Currency, and ordered to be printed.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McDONALD, its Chief Clerk, announced that that body had passed an act (S. No. 738) to relieve from disabilities John G. Stokes, a citizen of Alabama, in which the concurrence of the House was requested.

Also, that the Senate had passed an act (H. R. No. 1429) authorizing the admission in evidence of copies of certain papers, documents, and entries, with amendments, in which the concurrence of the House was requested.

PRESIDENT'S MESSAGE.

Mr. WASHBURNE, of Illinois. I move that the House resolve itself into the Committee of the Whole on the state of the Union on the President's message of the last session.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. CULLOM in the chair,) and proceeded to the consideration of the President's annual message of 1867.

NORTHERN PACIFIC RAILROAD.

Mr. WINDOM. Mr. Chairman, I rise to advocate the claims of a great national enterprise in which the people of my State and of

the whole country have a profound interest; an enterprise which I will endeavor to show is in all respects practicable and meritorious; one that will cost the Government no money, but will save vast sums to the Treasury, and which will strengthen the public credit, largely augment the public revenues, and reduce the public burdens. My time is limited and my facts are numerous; I will, therefore, proceed at once to its discussion. When Mr. Edwin F. Johnson, Governor Stevens, and others, first presented the claims of the Northern Pacific railroad they encountered many objections and obstacles interposed by those who were not well informed in regard to it. Since then, however, the discussions here and the surveys and explorations of the country through which the road is to pass have thrown a flood of light upon the proposition, and to-day there is no great enterprise which lies nearer to the hearts of the people than this.

In attempting to point out some of the peculiar advantages of this route I would not be understood as depreciating the merits of others for I fully admit their inestimable value to the country, and will go with him who goes furthest in conceding to them every necessary and proper encouragement.

The Central line, born in the darkness and agony of the nation's struggle, and matured with an energy unprecedented, will ever stand one of the proudest monuments of American courage, enterprise, and statesmanship.

The Kansas Pacific road, yet in its infancy, with only some four hundred miles completed, has, in its beneficial results to the Government, far surpassed the hopes of its most sanguine friends, and fully demonstrated the wisdom of that policy by which it has been thus far aided, as well as the propriety, safety, and necessity of granting to it such additional assistance as may be required to insure its completion to the Pacific.

But while thus conceding the merits of other roads I insist that, in regard to its length, its gradients, climate, its water communications and facilities for construction and operation, its agricultural and mineral resources, its relation to foreign and domestic commerce, its probable influence in promoting immigration, its effect upon the "Indian question," and upon the general development and prosperity of the country, the Northern road has merits and advantages which demand the prompt and efficient recognition of the Government.

ITS LENGTH.

This route seems to have been pointed out by nature as the line of communication between the waters of the two oceans. Toward the west the St. Lawrence and the great lakes reach half way across the continent, while on the same parallel of latitude the Pacific, trending eastward, extends an arm to the great inland sea of Puget sound, leaving a distance of only 1,775 miles between the waters of the two oceans. By the Central route, from San Francisco to Chicago, the distance from ocean to lake is not less than 2,400 miles, making a difference in favor of the Northern route of 650 miles. Governor Stevens has shown by carefully prepared tables that from New York city to the Pacific ocean the difference in distance as between the Northern and Central routes is 420 miles in favor of the former, and that the average distance by this route from Puget sound to the principal ports of the Atlantic and the Gulf is 316 miles less than the average distance from San Francisco to the same points; and that if equated distances are compared, the difference in favor of the Northern route will be increased 137 miles, making a total of 483 miles.

ITS GRADIENTS.

In its gradients, also, the Northern route has superior advantages. On this point I beg leave to read from the report of a select committee of this House made in 1864:

"The sum of ascents and descents from St. Paul to Seattle (on Puget sound) is 21,737 feet against 29,387 on the Central. These figures give the best practical index of the effect of the gradients to

increase the cost of transportation. Engineers allow one mile for every 52.08 feet of rise or fall, as denoting the additional working expense over a level route, which would add to the Northern route 412 miles, and to the Central route 550 miles."

The highest elevations on the Northern route are 5,330 feet, (Cadot's pass,) and 3,000 feet at the Snoqualmie pass. The greatest elevations on the Central route (already overcome by the Union and Central Pacific roads) are Evans's pass, 3,242 feet; Rattlesnake pass, 7,560 feet, and Bridger's pass, 7,534 feet; making a difference between the two greatest elevations on either road of 3,912 feet in favor of the Northern line. I make this comparison with the Central road because that road having been constructed demonstrates the practicability of building the Northern, where the gradients are far lighter.

And in order that my motives may not be misunderstood, I wish to state explicitly that in the foregoing comparisons, and in all others that may be made of this with the Central route, I have selected the latter solely because of my desire to compare the Northern with one the practicability and entire success of which is no longer doubtful.

CLIMATE.

The greatest obstacles which it was once imagined the Northern route would encounter were the extreme cold and deep snows. That we have nothing to fear from these causes is now so well settled that discussion is unnecessary, and I will content myself with quoting a few items from the volume of testimony on the subject.

Lieutenant Mullen, who spent four winters surveying and constructing a wagon-road extending over a considerable portion of the Northern route, says:

"The temperature of Walla Walla in 46° is similar to that of Washington city in 38° latitude; that of Clark's Fork in 48° to that of St. Joseph's, Missouri, in latitude 41°; that of the Bitter Root Valley in 46° is similar to that of Philadelphia in latitude 40°, with about the same amount of snow, and, with the exception of a few days of intense cold, about the same average temperature." * * * "From Fort Laramie to Clark's Fork I call this an atmosphere of heat, varying in width from one to one hundred miles. On its either side, north and south, are walls of cold air, and which are so clearly perceptible that you always detect them when you are upon its shores.

"This affects the kingdoms of natural history, botany, and climatology to such an extent that herein we find mild winters, vigorous grasses, even in mid-winter, that enable stock to be grazed upon the hills, and gives a facility for travel during the severest seasons of the year."

This remarkable meteorological condition is accounted for by the fact of the existence of an "infinite number of hot springs at the headwaters of the Missouri, Columbia, and Yellowstone rivers," and hot geysers similar to those in California at the head of the Yellowstone, together with the peculiar conformation of the Wind River mountains, and other mountain chains in that region, which "stand as a curvilinear wall to deflect and direct the currents of atmosphere which sweep across the continent. (By the bye, whence arises the name of the Wind River chain?) All their slopes are well located to reflect back the direct rays of the heat of the sun to the valleys that lie at their base. These valleys, already warm by virtue of the hot springs existing among them, receive this accumulative heat, which, driven by the new currents of cold air from the Plains, rises and moves onward, in the form of a river, toward the valleys of the Rocky mountains, where it joins the milder currents from the Pacific, and diffuses over the whole country a mild, healthy, invigorating, and useful climate."

Mr. Philip Ritz, a gentleman who resides in Washington Territory, and who is represented to be entirely reliable, informs us that he has passed over this part of the mountains at various times in midwinter, and "so free from snow are these passes, from the effects of the wind currents coming from the great plains of the Columbia and the Pacific ocean, that I (he) found no difficulty in crossing at any time." He adds:

"The most surprising feature of the country is the

small amount of snow that falls, and the fact that cattle winter here and keep fat on the natural pastures. Mr. T. M. McCoy wintered two hundred head within a few miles of the summit without any food whatever except what they had by grazing on the dry grass."

He states further:

"That there never has been a winter, with all their horses and men, and stations ten and twelve miles apart, on the Central route, that the Overland Company have carried the mail through on time; while on this route, from Hell Gate to Walla Walla, a distance of four hundred miles, and that a new route, with stations in places fifty miles apart, Messrs. Clark and Witchee carried the mail on horseback; and not only carried it through every trip, semi-weekly, during last winter, but were never once behind schedule time."

Governor Stevens says:

"In the winter of 1854-55 the Flathead Indians passed through these passes in January, February, and March; whole tribes, with their women and children, and their pack animals laden down with meat and furs."

Victor, head chief of the Flathead nation, states that—

"Since the memory of the Indian they had passed these mountains year after year through the winter months, the sole trouble being that there were some places where the snow was deep enough to cover up the grass; but in those places it was in the wooded portions, and two and a half feet was the greatest depth."

From Fort Benton eastward the climate is somewhat more severe than on the western portions of the route. The coldest weather, however, and the deepest snows to be found on any part of the route are in my own State, where it is well known they do not interpose any serious obstacles to the working of railroads.

"The mean winter temperature of Fort Benton in 1853-54 was 25° 33' above zero. At Montreal, on the Grand Trunk railroad, for the same year, it was 13° 22', and for a mean of ten years 17° 30' above zero. On the great Russian railroad from St. Petersburg to Moscow the comparison is similar. For a series of twenty-one years at Moscow the mean winter temperature was 15° 20', and at St. Petersburg, for the same time, the mean was 18° 10' above zero. At Fort Snelling, in Minnesota, the mean winter temperature of 1853-54 was 11° 46', and the mean of thirty-five winters was 16° 10' above zero. Thus in the remarkably cold winter of 1853-54 Fort Benton was 15° warmer than Montreal, 11° warmer than Fort Snelling, 10° warmer than Moscow, and 7° warmer than St. Petersburg."

The fact that railroads are operated without serious obstruction from cold and snow at Montreal, Moscow, and Fort Snelling is sufficient evidence that no difficulty will be encountered in the much warmer climate of Fort Benton.

"At Fort Benton and Fort Campbell, on the Upper Missouri, ever since they were established, some twenty-five years ago, the fur companies have taken their goods to their winter trading posts on the Milk and Marias rivers in wagons, there not being snow enough for sleds."—Letter of Governor Stevens, April 30, 1860.

Professor Hind, in an official report to the Canadian Legislature, says:

"That at the Red River settlement the mean winter temperature in 1856-57 was 6° 35' above zero, and the total fall of snow for that year was 39.5 inches, when for the same year the fall of snow in Toronto, Canada, was 72.9 inches.

"The prevailing character of the winter months at this point are long continued intense cold, with a clear, dry atmosphere." * * * "The half-breeds, and of course the Indians, camp out in the open plain during the whole winter, and the only protection they enjoy consists of a buffalo-skin tent and an abundance of buffalo robes."

Rev. John West, late chaplain to the Hudson Bay Company, remarks of the winter at the Red River settlement:

"The winter is nearly the same, as to the time it sets in and breaks up, as that of Montreal, but the frost is rather more intense, with less snow and a clearer air."—West's Journal, p. 114.

The Red River settlement thus described lies more than two hundred miles north of the line of this road and a thousand miles east of the mountain passes just mentioned, and is entirely beyond the reach of the peculiar meteorological influences which produce such remarkable effects there.

By Blodgett's rain maps it is shown that from St. Paul, Minnesota, to the Rocky mountains the total annual fall of snow averages only about twenty inches. In Canada the average is fifty inches. In New England, from seventy inches in the interior to one hundred inches on the sea-board.

It is therefore obvious that neither the cold nor snows of the Northern route interpose any obstacles to the construction or successful operation of the road. Indeed, the snows are much deeper, and the cold more intense on the elevated portions of the Central route than on the Northern, owing to the fact that the country about the headwaters of the Missouri and the Clark's branch of the Columbia is so much lower and the air so much dryer than in the passes of the Sierra Nevada and Rocky mountains selected for the Central route, and to the additional facts that the mountain portions of the Northern route lie so near the Pacific as to be affected by the warm winds from that ocean and by the "river of heat" described by Lieutenant Mullen. The chief engineer of the Union Pacific road confirms this statement of the comparative mildness of the climate on the Northern route, by the declaration, on page 10, of a report made in December, 1867, that the Oregon branch, which he advises his company to construct, "avoids the Wasatch and Sierra Nevada ranges, with their troublesome snows and inhospitable winters."

On Fremont's Peak, in latitude 43°, the limit of perpetual congelation was reached at an elevation of ten thousand feet. A large part of the elevated portions of the Central route is so near this limit as to account for the "troublesome snows" and "inhospitable winters," which it is sought to avoid by a line running further north, but through the warmer depression in the mountains. In fact, the altitude of the Central far more than counterbalances the latitude of the Northern line.

ITS WATER COMMUNICATIONS AND FACILITIES FOR CONSTRUCTION.

Considered with reference to its intermediate water communications, as well as to those at its termini, the Northern route commends itself most forcibly to public favor. Passing westward from the head of Lake Superior it crosses the Mississippi river at or near St. Cloud, Minnesota. Next it strikes the Red river of the North, connecting with the navigation upon it, and thereby with Lake Winnipeg and the Saskatchewan and Assinaboine rivers and their tributaries, making over three thousand miles of navigable waters, and opening to settlement and to our commerce the great northern basin containing over four hundred thousand miles of valuable territory. Thence it continues to the Missouri river, which it reaches at a point four hundred and eighty-five miles distant from the head of Lake Superior. Thence it follows the general direction of the Missouri for a distance of five hundred miles to the Great Falls near Fort Benton, to which point the Missouri is navigable. Thence to the navigable waters on Flathead and Clark's rivers, a distance of two hundred miles. Thence along the navigable waters of the latter river one hundred and seventy-five miles. Thence to Lewis river, at the mouth of the Paluse, one hundred and forty miles, and thence down the valleys of the Lewis and Columbia to Portland.

From this it will be observed that only eight hundred and twenty-five miles of road are necessary to be built at different points in order to make a complete steam route from ocean to ocean. The advantages for construction afforded by these navigable streams cannot be overestimated. No other route presents such engineering facilities, for it can be worked simultaneously from four different divisions, the extremity of each division resting on water lines, and thus the road can move on simultaneously on eight different sections—the longest division being the one from Fort Benton to the Columbia, and the longest distance of road from a single point accessible by water being three hundred miles. On every other route the distance between water lines will be fifteen hundred to two thousand miles. This route follows the timbered valley of the streams nearly the whole distance, thus affording an ample supply of pure water, timber, and fuel. Starting, as it does, from the head of Lake Superior, the iron and other heavy materials for its construction can be brought to its own

depot by water, as well as supplied at the various points of intersection of the navigable rivers on its line.

ITS AGRICULTURAL AND MINERAL RESOURCES.

The agricultural resources and mineral wealth of the country along the line of this road are not surpassed, if they are equaled, by any other part of the public domain. John Wilson, Third Auditor of the Treasury, and late Commissioner of the General Land Office, an eminent authority on all questions appertaining to the topography and resources of the country, says:

"The lands along the Northern are all fit for cultivation, and consequently the local business will support the road. In fact it is one of the most beautiful sections of country in the world, and you travel comparatively a short distance west from St. Paul till you feel the influence of the Pacific winds and strike the isothermal line of southern Illinois, and where cattle can pasture the whole year. The mineral wealth along the Northern is almost incalculable."

Governor Isaac I. Stevens, who surveyed the entire route, and spent several years in exploring the country contiguous to it, says:

"In the whole distance from Breckenridge to Seattle, a distance of fifteen hundred and forty-four miles, the route passes through only about three hundred and twenty miles of uncultivated country. East of Breckenridge to St. Paul and Lake Superior the country is exceedingly rich and inviting to the settler."

Lewis and Clarke, under date of May 17, 1805, and while encamped on the Rocky mountains, state in their journal:

"The country along the Rocky mountains, for several hundred miles in length and about fifty wide, is a high level plain, in all its parts extremely fertile. This plain is chiefly interrupted near the streams of water, where the hills are steep and lofty, but the soil is good. Nearly the whole of this widespread tract is covered with a profusion of grass and plants, which are at this time as high as the knees."

Grass and plants as high as the knees on the 17th of May! Gentlemen from New England and the northern parts of the Middle States will please note this date. But the agricultural character of the northern part of our territory is so well known that it is unnecessary to adduce further evidence. There is, however, upon our northern border, a vast territory capable of making eight States the size of New York, the whole of which would be tributary to this road, about which there is less general information, and to which I may briefly refer.

The English explorer, Hind, writes of this country:

"Of the valley of the Red river I find it impossible to speak in any other terms than those which may express astonishment and admiration. I entirely concur in the brief but expressive description given to me by an English settler on the Assinaboine, that the valley of the Red river, including a large portion belonging to its great affluents, is a paradise of fertility." "The Saskatchewan, which gathers its waters from a country greater in extent than the vast region drained by the St. Lawrence and all its tributaries from Lake Superior to the Gulf, is navigable by either the north or south branch for more than a thousand miles of its course. So mild is the climate on the south branch of this river (two hundred miles north of the line of this road) that the Indians hunt the buffalo on horseback all winter, and so little snow is said to fall that snow-shoes are seldom used. That this extensive territory drained by the Saskatchewan and its tributaries is fit for settlement, in as far as regards climate, is fully proved by the success which attends the farming operations which are carried on, though on a small scale, at the various trading posts, and by the fact that cattle and horses at these establishments are generally left to forage for themselves during the winter. As regards the soil, from what is yet known of the country there is not, perhaps, on the globe so great an extent of country so little broken by barren tracts. Regarding the territory in its general aspect there is not in the universe a finer field for colonization. It has a salubrious climate, and the soil in many places, as at Red river, is unsurpassed for fertility. Iron ore, lead, and salt are to be found in abundance, and the whole territory, from Lake Winnipeg to the base of the Rocky mountains, is intersected by navigable rivers and lakes."

He mentions some specimens of farming on the Assinaboine river, and says that one farmer had "grown fifty-six measured bushels of wheat to the acre. Forty bushels to the acre is a common return on new land. His turnips were magnificent; four of them weighed seventy-two pounds. A portion of the potato crop was still in the ground. They far surpassed in quantity, quality, and size any I had ever seen before. I counted thirteen, fourteen,

and sixteen potatoes, averaging three and a half inches in diameter, at each root." "Indian corn, if properly cultivated, and an early variety selected, may always be relied on. The melon grows with the utmost luxuriance without any artificial aid, and ripens perfectly before the end of August."

This fertile district, which is destined at no distant day to be the wheat granary of the world, contains an area of about four hundred thousand square miles, the whole of which will be tributary to the Northern road, as will readily appear upon an examination of the map of that region. The revenues of the road will not only be immensely increased by the commerce of that great country, but its construction within our own territory will prevent any attempt to build one by the British Government, and will guaranty the speedy annexation of British Columbia to the United States without conquest or purchase.

Returning to an investigation of the mineral wealth of the States and Territories on the Northern road, I find it stated by the mining commissioners of the Treasury Department, J. Ross Browne and J. W. Taylor, that the product of gold and silver for the year 1867 was as follows:

Montana.....	\$12,000,000
Idaho.....	6,500,000
Washington.....	1,000,000
Oregon.....	2,000,000
	<hr/> \$21,500,000

It will be remembered that the Delegates from Montana and Idaho protested from their places on this floor against the order to print J. Ross Browne's report on the ground of the injustice alleged to have been done their Territories by the great undervaluation of the product of gold and silver. The entire product of the precious metals in Oregon and the said Territories since 1862 is estimated as follows:

Montana.....	\$65,000,000
Idaho.....	45,000,000
Washington.....	10,000,000
Oregon.....	20,000,000
	<hr/> \$140,000,000

All this has been done at enormous cost and great disadvantage. Mining in Montana and Idaho has hardly begun. They are doubtless immensely rich in minerals, but so long as it costs \$600 per ton to transport mining machinery there we may not expect a thorough development of this wealth.

But notwithstanding all these advantages of distance, gradients, climate, soil, water communications, and mineral wealth, the question still remains, "Is it safe, expedient, and necessary for Congress to grant the proposed loan of national credit at this time?"

IS IT SAFE?

It is, and for these reasons: the bill provides that the issue of Government bonds shall *ipso facto* constitute a mortgage upon the road and all its appurtenances; and upon the failure or refusal of the company to pay the interest, or to redeem the bonds or any portion of them when due, the Secretary of the Treasury is to be authorized to take possession of the road, with all the rights, functions, immunities, and appurtenances thereto belonging, and also all the lands granted to said company which at the time of such default shall remain in their ownership, and hold the same for the full indemnity of the United States. The Secretary of the Treasury is also required by the Pacific railroad law to retain one half of the compensation for services rendered by the road as a fund for the redemption of the principal of the bonds, and also, as an additional sinking fund, five per cent. on the net earnings of the road. It can be shown conclusively that if the Government should actually donate the entire amount of bonds asked for, and thereby secure the construction of the road, it would be a most profitable investment for the United States; but fortunately the Pacific roads already partially built demonstrate the fact that the Government

will never be called upon to pay one dollar for them.

The President of the Kansas Pacific road states officially that—

"The Government is receiving directly into its Treasury from that company more than the interest on all the bonds issued to it, added to a sinking fund that will extinguish the principal at maturity. This is altogether irrespective of the economy arising from the substitution of rail for wagon-road in the transportation of mails, troops, and supplies for the Government."

The Committee on Military Affairs of this House, to whom was referred the letter of Lieutenant General Sherman, dated March 4, 1868, recommending Government aid to extend the Kansas Pacific road, as a "military necessity" and a measure of public economy, reported the following facts and conclusions drawn from official records:

The cost to the Government for transportation on the Union Pacific Railway, Eastern Division, in 1867, was..... \$511,906 24

If the military supplies had been wagoned, and the mails carried by stage, and the troops marched, (taking the average rates at which the Government made its transportation contracts for that year, as shown by certificates of the departments of the Quartermaster General and Postmaster General,) the cost would have been..... 1,358,291 02

Saving to the Government in 1867..... \$846,382 78

"At this rate of saving," say the committee, "all the United States bonds issued in aid of this road, principal and interest, would be extinguished in less than four years."

It appears, therefore, by this report and from official records, that from the first year's actual business of this unfinished road—its average length being only two hundred and one miles—the company have paid all the interest due on the United States bonds issued to aid it; that they have deposited the necessary sinking fund, and that, in addition, it has saved to the Government in a single year over twenty-five per cent. on the entire amount of aid it has received. It should be borne in mind, also, that this saving will be much greater when the road shall be completed, and that it will not be for a single year, but for all time.

Equally favorable results have been produced by the Union Pacific road, as will appear from the following statement, compiled from the official records of the Quartermaster General's office. In 1866 wagon transportation over the route now occupied by this road cost an average of 28.4 cents per ton per mile; in 1867, an average of 39.4 cents per ton per mile; while for the season from January 1, 1868, to March 31, of the same year, the lowest contract that could be obtained was fifty cents per ton per mile. The cost of Government transportation over this road is 10.5 cents per ton per mile. The amount paid by the Quartermaster General to this railroad in 1867, for Government transportation, was \$699,698 81. Had this same freight been transported by wagons at the contract price for that year, 39.4 cents, the cost would have been \$2,625,536 41. So that the money actually saved to the Government in one year, with the road in operation an average distance of only three hundred and eighty-seven miles, was \$1,925,837 60. This is the actual profit to the Government, for the company has paid into the United States Treasury the full amount of interest due on the bonds received, and also the percentage of sinking fund required by law.

The Central Pacific, I am informed, presents an equally good balance sheet as between the company and the Government, but I have not the official figures at hand. It appears, therefore, that from two of these roads, having an aggregate of only five hundred and eighty-seven miles completed, the Government received a net profit of \$2,772,140 42 in one year. The saving made by the Central Pacific will doubtless swell this aggregate net profit to the sum of \$3,500,000 for 1867, making an actual net profit large enough to pay in five years the entire amount of Government bonds loaned for the construction of these portions of said roads. The business necessity for all these roads is

clearly demonstrated by their extraordinary success while yet in an unfinished condition. I know nothing in the history of railway construction that is at all comparable to it. Nor can we avoid the conclusion that these favorable results to the Government will be largely augmented when the roads shall be completed. Their wonderful success demonstrates also the statement already made, that the Government will never be called upon to pay one dollar for them. The companies owning them will, at no distant day, become among the richest private corporations in the world, and it is by no means probable that they will, by default in payment permit the Government to foreclose her mortgages and take possession of this immensely valuable and productive property for one third of its cost. If they should do so even that would be a transaction by which the nation would gain many million dollars. The same reasons which insure the safety of the Government in regard to the roads just referred to apply with equal if not greater force (as we shall hereafter see) to the Northern Pacific. The amount of the loan asked for is about fifty million dollars, which is to be a second mortgage, the first being for the same amount.

Mr. Edwin F. Johnson, chief engineer of the road, and one of the safest, most reliable, and intelligent engineers in the country, officially estimates the entire cost of construction and equipment at \$156,847,500. That he has probably not overestimated this cost will appear from the letter of the Secretary of War in answer to the Senate's resolution of July 24, 1866, in which he transmitted to the Senate reports from A. A. Humphreys, chief of engineers, and General J. H. Simpson, lieutenant colonel of engineers. The former officially estimates the entire cost of construction and equipment at \$215,806,208; the latter estimates it at \$206,600,840.

Hence, though the Government shall take a second lien, it is rendered secure by the fact that the company will have to expend of their own money from fifty to a hundred million dollars in addition to the amount of the liens of the first mortgage bondholders and of the Government, which amount thus to be expended by the company will be subsequent to the lien of the United States. It is, therefore, a transaction which, on the part of the Government, is absolutely safe.

IS IT EXPEDIENT UNDER EXISTING CIRCUMSTANCES?

When I entered upon the investigation of this subject the questions that arose in my mind were: "Are we as a nation sufficiently careful and discreet?" "Are we not in danger of going too fast?" "May we not be overconfident of our powers, and too ready to undertake great and costly enterprises, from which older and more experienced peoples, with so heavy a burden of debt, would shrink?" With these conservative queries in mind I began the comparison of the United States with Great Britain and France, in order that I might profit by the wisdom of the statesmen who control the destinies of those great nations. I earnestly solicit the attention of the House to a statement of the results of that comparison.

Since 1860 Great Britain has aided the construction of forty-six hundred miles of railroad in India, at an estimated expense of \$440,000,000, for which sum the credit of the imperial Government was granted to private companies, guaranteeing five per cent. interest on all money invested in Indian railroads. The public debt of Great Britain in 1863, at the time she was thus loaning her credit for the construction of said roads, was \$3,915,000,000, and her population a little less than thirty millions, making a debt to each person of \$130 40. I speak, of course, of Great Britain proper, for it is well known that her dependencies are not sources of any considerable net revenue.

The standing army of Great Britain, in 1863, on a "peace establishment," was 108,518 officers and men and 27,331 horses. The current expenses of the British Government that year

were about the average of other years of peace, and amounted, when reduced to the basis of our currency, to \$460,000,000.

Within the last ten years France, also, has loaned her credit for the construction of railroads to the amount of \$620,000,000, which was authorized to be raised by private companies by debentures, "on which the Government guaranteed four per cent. interest, and sixty-five hundredths sinking fund, for the paying them off in fifty years." The public debt of France in 1862 was \$2,206,000,000, and her population 37,000,000, making a debt to each person of \$59 65. The standing army of France, as estimated for in 1863 was, "peace establishment," 404,195 men and 86,368 horses; "war establishment," 757,725 men and 143,238 horses. The current expenses of the French Government for that year, on a peace basis were, when reduced to the standard of our currency, \$515,900,000.

The public debt of the United States, as officially reported by the Secretary of the Treasury, was on the 1st of September, 1868, \$2,535,614,813, and our population is about forty millions, giving, as the indebtedness of each person, sixty-three dollars. The standing Army of the United States does not exceed, I believe, forty thousand men, and our current expenses, including payment of interest on debt, are within \$350,000,000 per annum. Our Army, therefore, is only about one fifth as large as that of Great Britain and less than one tenth that of France. The expenses of Great Britain exceed ours by \$119,000,000 per annum; those of France are greater than ours by \$165,000,000 per annum. Consider, now, the probable resources of these three great nations, on which the future may rely to meet their financial burdens. Their past increase in population and in wealth will furnish the surest guide to a safe estimate for the future. On this point I submit a table showing the actual increase in population of the United States by decades from 1790 to 1860; of Great Britain from 1793 to 1861; of France from 1801 to 1861:

	United States.	Great Britain.	France.
1790.....	3,929,827	-	-
1793.....	-	14,500,000	-
1800.....	5,805,937	16,000,000	-
1801.....	-	-	27,349,000
1810.....	7,239,814	-	-
1812.....	-	18,000,000	-
1820.....	9,638,191	-	-
1823.....	-	21,193,438	-
1821.....	-	-	30,461,000
1830.....	12,866,020	-	-
1833.....	-	24,304,799	-
1831.....	-	-	32,569,000
1840.....	17,089,453	-	-
1841.....	-	27,041,031	34,230,000
1850.....	23,191,876	27,300,000	-
1851.....	-	-	35,233,000
1860.....	31,445,000	-	-
1861.....	-	29,334,788	37,400,000

Increase in the United States for seventy years, 700.41 per cent.

Increase in Great Britain for sixty-eight years, 102.30 per cent.

Increase in France for sixty years, 37 per cent.

It will be observed that the percentage of gain by the United States over Great Britain and France has been very much greater during the latter decades than during those at the beginning of the century. For instance, from 1800 to 1810 this increase in the United States was thirty-six per cent., while from 1800 to 1812 the increase in Great Britain was twelve per cent., the percentage of gain in the former being three times as great as in the latter nation.

The increase in the United States from 1850 to 1860 was thirty-five per cent., and in Great Britain for the same period it was only seventy-one hundredths per cent., making a percentage of gain in the United States for that decade fifty times greater than in Great Britain.

This comparison will disclose still more remarkable results as between the United States and France, but my time will not permit its further extension.

I beg the attention of the House to another table showing the estimated increase in wealth in the United States by decades, from 1790 to 1860, and the estimated increase in Great Britain

at various periods from 1793 to 1860, compiled from the Annual Record for 1861:

	United States.	Great Britain.
1790.....	\$750,000,000	-
1793.....	-	\$7,132,000,000*
1800.....	1,072,000,000	8,753,400,000†
1810.....	1,500,000,000	-
1812.....	-	10,212,300,000‡
1816.....	-	10,400,000,000
1820.....	1,882,000,000	-
1823.....	-	10,698,600,000
1830.....	2,453,000,000	-
1833.....	-	17,199,458,400§
1840.....	3,764,000,000	-
1841.....	-	19,452,000,000¶
1850.....	7,135,780,000	22,564,320,000
1858.....	-	29,178,000,000
1860.....	16,159,000,000	-

(*) Joseph Lowe. (†) Sir W. Patteney. (‡) Colquhoun. (||) Joseph Lowe. (§) Pebrer. (¶) G. R. Porter.

In my printed remarks I will annex to each estimate of the wealth of Great Britain the name of the statistician upon whose authority it is stated. You will observe that during the period of twenty-five years, from 1833 to 1858, the increase in Great Britain was sixty-six per cent.; and in the twenty years from 1840 to 1860 the increase in the United States was over three hundred and thirty per cent. From 1800 to 1858 (fifty-eight years) Great Britain's increase was two hundred and thirty-three per cent., while from 1800 to 1860 (sixty years) this nation's increase was fourteen hundred per cent. During the forty years from 1793 to 1833 the increase of wealth in Great Britain was one hundred and fifty-one per cent. During substantially the same period, namely, from 1790 to 1830, the United States' increase of wealth was two hundred and fifty-three per cent. From 1833 to 1858 Great Britain's increase in wealth was sixty-nine per cent. From 1830 to 1860 (the railroad era) the increase of wealth in the United States was five hundred and eight per cent.

It will be seen that during the first period, including the infancy of our country, when our percentage of increase would be supposed to be greatest, our gain was less than double that of Great Britain; while during the thirty years from 1830 to 1860, since we entered upon railroad development, it has been more than seven times that of Great Britain.

Compare the growth of the two countries in their annual products:

In 1858 the products of Great Britain were \$2,917,800,000
In 1833 the products of Great Britain were 2,503,564,248

Increase in twenty-five years..... \$414,235,752

Percentage of increase in twenty-five years, seventeen.

In 1860 the products of the United States were \$3,804,000,000

In 1840 the products of the United States were 1,063,135,000

Increase of annual products in twenty years..... \$2,740,865,000

Percentage of increase during same time, two hundred and fifty-six.

Gain in the value of annual products during this period more than eighteen times greater than in Great Britain.

Take one other period.

In 1800 the value of Great Britain's products was \$1,313,000,000, which, deducted from that of 1858, shows an increase in fifty-eight years of \$1,604,800,000, or one hundred and twenty-two per cent.

In 1800 the value of the products of the United States was \$300,300,000, and in 1860 \$3,804,000,000; making an increase in sixty years of \$3,504,700,000. Gain during this period nine times greater than in Great Britain.

From a comparison of the gains of these various periods it will be observed that during the later years it has been very much greater relatively in the United States than during the earlier part of the century, thus proving that this vast disparity in our favor is likely to increase rather than diminish in the future.

The relative ability of the two nations to bear their respective burdens may be seen in the light of another fact. When our war ended, three and a half years ago, the entire debt,

liquidated and unliquidated, amounted to over \$3,300,000,000; and on the 1st of last September it was only, in round numbers, \$2,500,000,000—a reduction by actual payment in three and a half years of \$800,000,000. In 1816 the debt of Great Britain was \$4,200,000,000; and in 1863 it was, in round numbers, \$3,900,000,000—a reduction of only \$300,000,000 in forty-seven years.

I have not the data nor the time to extend these comparisons as to increase of wealth to France, but they would not, I think, be very dissimilar from those just made between the United States and Great Britain.

I have presented these somewhat voluminous statistics for the purpose of showing that we are far more able than either Great Britain or France to pay the debt resting upon us, and to incur such further liabilities as may seem necessary for the development of our country, and also for the purpose of introducing the example of those old conservative nations to refute the arguments of those who say "Now is not the time; we are too much in debt to undertake any of these great enterprises."

Great Britain, with a debt much larger than ours; with a smaller population; with a far less ratio of increase in population, wealth, and annual products; with a standing army at least five times as great as ours to support, loans her credit to the amount of \$440,000,000 to build four thousand six hundred miles of railroad for the purpose of developing one of her remote dependencies; and yet we pause and question our ability when it is proposed to loan the credit of our Government to the extent of only about fifty millions, in order to insure the construction of two thousand miles more of railroad, which will develop in the very heart of the great Republic the incalculable wealth that now lies but half concealed in its vast prairies and mountains. If it be prudent for Great Britain to do so much for far-distant India; if France, with a debt almost as large as ours, with a population that in sixty years has increased only one-twentieth as rapidly as ours, with a standing army of from four hundred thousand to seven hundred and fifty thousand men to support—if France, under these circumstances, acts wisely in granting her credit to the extent of \$620,000,000 in order to develop the resources of a country not larger than one of our States, shall it be said that we are injudicious and reckless of the nation's credit when we propose a loan of only about fifty million dollars to open up a great highway for the world's commerce and to develop the wealth of five hundred thousand square miles of the richest mineral and agricultural territory on the globe?

Why, sir, since I began the investigation of this question I have been astonished to find that with incalculably greater inducements to engage in these giant enterprises of the century we are far behind the other nations in the encouragement given to them. Young America is really old foggyish on this point. The wise statesmen of the Old World see that in the full development of their national resources consists the ability to meet their national obligations. Shall we profit by their example?

IS IT NECESSARY AT THIS TIME?

It is for several reasons.

1. The road is a "military necessity." All our efforts thus far to secure permanent peace with the Indian tribes have proved disastrous and costly failures. The treaty system has been tried until its palpable absurdities are apparent. Treaties have been so often violated by both parties that the Indian, at least, has come to regard them as binding only so long as necessity or self-interest compels obedience. Without stopping now to ask which party is most at fault, I will content myself with the assertion of the fact so often demonstrated within the last twenty years, that lasting peace cannot be obtained by the treaty system.

Can it be secured by war? Not with the facilities we now have for conducting such wars. It is often said that the Indians should

be turned over to the War Department and annihilated if they will not cease their outrages. It is not difficult to turn them over by law to the military authorities, but for the military authorities to get possession of their property is quite another matter. Catching the hare is in order before eating him. And as to the proposition to "annihilate them," often so glibly uttered, it will when tried be far more likely to annihilate the Treasury than the Indians. I hold in my hand a report from the Secretary of War, dated December 30, 1866, which states that the attempt to suppress Indian hostilities in 1864 and 1865 cost \$30,580,942 93. An estimate, made at the time, of the number of Indians killed by those expeditions showed about one dead Indian for every \$2,000,000 expended. At that rate of expenditure the "annihilation" of two thousand Indians will cost as much as the suppression of the rebellion.

The Indian war expenses of 1864 and 1865 certainly did not exceed, if they equalled, the average expenses for that purpose during the last six years. For several months in 1866 the cost (as stated by General Grant) was about one million dollars per week. The total expenditure, therefore, for Indian wars during the last six years will doubtless largely exceed \$100,000,000.

For all this vast expenditure what has been done toward securing a permanent peace? Absolutely nothing. The savages are far more turbulent and troublesome than they were six years ago. Our dispatches from the plains are still burdened with accounts of all sorts of plundering, mail-robbing, scalping, and murdering. For every Indian killed a dozen soldiers have been sacrificed. The experiences of the last six years, therefore, are not such as to justify a very strong confidence in the "annihilation" or even in the thorough chastisement of the savage by our present mode of warfare. I believe in punishing him when he does wrong, and I am entirely satisfied that in no other way can we have peace. He regards no compact that he does not fear to break. He knows no law but the law of force. He respects no authority but that in which he sees the power to enforce obedience.

It is no fault of the Army, or of the generals in command, that we have so utterly failed. The Army is a portion of the same that won imperishable glory on the bloody fields of the South. The commanders are among those most renowned for tact, dash, and energy. The names of Sherman, Sheridan, and Hancock, are a sufficient guarantee that nothing within the range of possibilities has been left undone. Why, then, have we so signally failed? The answer is found in the inherent difficulty of the situation, namely, the impossibility of "getting at" the foe. Infantry are worse than useless. Cavalry scour the plains for a few hundred miles from headquarters, but do not find the enemy. A million and a half square miles of unsettled prairie and mountain fastnesses offer him a sure and safe retreat. A score of these wild horsemen of the plains, accustomed to subsist by the chase, and mounted on their fleet ponies, with no baggage but a gun and blanket, with no tents to pitch and no base of supplies to guard, can bid defiance to whole regiments of cavalry. The Indian system of warfare is to divide into small predatory bands, strike a blow at some defenseless frontier settlement, plunder and murder some emigrant train, or rob the United States mail, and before our troops are aware of their outrages they are hundreds of miles away in the interior, or at some other remote quarter, committing new depredations. It is this immunity from danger, this certain and ever open door of escape from punishment, that makes the Indian so troublesome; and it is the impossibility of finding him that makes all our military expeditions such utter failures.

So long as he has behind him this vast unoccupied territory, into which he can flee and be safe, the Government will be powerless to enforce his obedience, and will continue to

squander untold millions in fruitless efforts to conquer a peace. What, then, is the remedy? There is but one—the construction of railroads across the continent, whereby troops can be speedily moved, and self-protecting settlements be made.

All of our generals who have commanded in the Indian country, and whose opinions are most valuable on this subject, agree that this is the true solution of the "Indian question."

In his report as Secretary of War *ad interim*, General Grant says:

"During the last summer and summer before I caused inspection to be made of the various routes of travel and supply through the territory between the Missouri river and the Pacific coast: the cost of maintaining troops in that section was so enormous that I desired, if possible, to reduce it. This I have been enabled to do, to some extent, from the information obtained from these inspectors; but, for the present, the military establishment between the lines designated must be maintained at a great cost per man. The completion of the railroad to the Pacific will materially reduce this cost, as well as the number of men to be kept there. The completion of those roads will also go far toward a permanent settlement of our Indian affairs."

On the 4th of March, 1868, Lieutenant General Sherman, writing in regard to the Kansas Pacific road, says:

"This road is a military necessity, and will very much stimulate the settlement of that region of our public domain."

Major General Sheridan wrote, on the 2d of May, 1868, concerning the same road, as follows:

"I know that pecuniarily it will be to the advantage of the Government to help this road."

"But, in addition, it almost substantially ends our Indian troubles by the moral effect which it exercises over the Indians, and the facility which it gives to the military in controlling them."

"No one, unless he has personally visited this country, can well appreciate the great assistance which this railroad gives to economy, security, and effectiveness in the administration of military affairs in this department."

Major General Hancock, under date of June 4, 1868, says:

"From my personal experience, obtained while I was on the plains, with respect to the transportation of troops and supplies by the railroad in question, (the Union Pacific, Eastern Division,) as well as its great importance in connection with the settlement of the country, I feel that I can speak in strong language as to the necessity of this road being extended as rapidly as practicable to Fort Wallace, where I have lately been."

Major General Sanborn, a member of the peace commission, and a gentleman of large experience in Indian affairs, on the 31st of October last wrote:

"Railroads, more than all other things, extend our civilization over near and remote regions, and will do more in a single decade to civilize Indians, and to compel them to abandon nomadic habits, than could be done in a century without them. The members of the commission, so far as I know, are all advocates of two more lines of road to the Pacific."

Precisely the same reasons on which these eminent generals base their recommendations of aid to the Kansas Pacific road, as a "military necessity," apply with equal or greater force to the Northern Pacific. Between the forty-fourth degree of north latitude (a line about half way from the central to the northern routes) and our northern boundary there resides over one hundred thousand Indians, being one third of the entire Indian population of the West. Of this number thirty-five thousand are Sioux, confessedly the most warlike and dangerous of all the tribes. Some fifty thousand more belong to the Oregon, Washington, Montana, and Idaho tribes, with many of whom we have been in a state of chronic warfare for years. In British America, adjacent to our northern boundary, are thirty-five thousand more, who, in the event of war, readily cross the line and join the tribes on this side.

Now, including British America, there is a vast, unoccupied country north of the line of the Union and Central Pacific roads at least a thousand miles in width by twelve hundred miles in length into which, when pursued, the savage can retreat. Twelve hundred thousand miles of prairie, wilderness, and mountain solitude for a place of refuge! Surely he can desire no more certain immunity from punishment.

So far as these warlike northern tribes are concerned, the construction of only one road across the continent will have the effect to irritate without furnishing the means to control them.

They will sweep down upon the line of the Union Pacific, murder and scalp a train of passengers, and escape unharmed to their northern refuge, where it will still be almost as impossible to "get at" them as it is now. The cheapest, and in fact the only way to protect the road now nearly finished, will be to construct two more. Complete the Central, Northern, and Southern roads, and three lines of settlements, not more than from four hundred to six hundred miles apart, will span the continent. Towns and cities capable of self-protection will spring up at convenient distances; troops can be speedily transported and cheaply subsisted. War may then be made effective, if war shall be necessary. But the fact that it can be effective will be apparent to the Indian and will soon teach him that in obedience is his only safety. He will then peaceably submit to the only law he recognizes—the law of force—and our Indian wars will be "substantially ended."

2. *It is necessary as a measure of retrenchment.*

In the words of General Grant, "The construction of a road by the proposed route would be of very great advantage to the Government pecuniarily."

But I can present no argument on this point half so forcible as the quotation of the entire letter of that far-seeing statesman and great soldier:

HEADQUARTERS ARMY OF THE UNITED STATES,
April 20, 1866.

The construction of a railroad by the proposed route would be of very great advantage to the Government pecuniarily, by saving the cost of transportation to supply troops, whose presence in the country through which it is proposed to pass is made necessary by the great amount of emigration to the gold-bearing regions of the Rocky mountains. In my opinion, too, the United States would receive an additional pecuniary benefit in the construction of this road by the settlement it would induce along the line of the road, and consequently the less number of troops necessary to secure order and safety. How far these benefits should be compensated by the General Government beyond the grant of land already awarded by Congress I would not pretend to say. I would merely give it as my opinion that the enterprise of constructing the Northern Pacific railroad is one well worth fostering by the General Government, and that such aid could well be afforded as would insure the early prosecution of the work.

U. S. GRANT,
Lieutenant General.

Aside from the testimony of this eminent authority the facts will demonstrate that the prompt construction of the Northern Pacific road is a necessary measure of retrenchment. We have just seen that the cost of our fruitless Indian wars has reached the enormous sum of \$100,000,000 in six years. The papers inform us that Mr. A. H. Jackson, of New York city, has compiled from the official records and will soon publish an exhibit of the cost of the several Indian wars during the last thirty-seven years, which will show the loss of over twenty thousand lives, and an expenditure of more than seven hundred and fifty million dollars, making an average annual loss during that time of more than six hundred soldiers and \$20,000,000. I have not been able to make a minute personal examination of these records, but having been chairman of the Committee on Indian Affairs for six years I have given much attention to this subject, and I am satisfied Mr. Jackson's statement is not an exaggeration. But in order that I may be indisputably within the bounds of truth I will place the estimate of expense in this regard at the average of \$15,000,000 per annum for the last thirty-seven years.

The highest military authorities of the nation have unanimously advised us that in our Pacific railroad system will be found the peaceful solution of the "Indian question." In the words of General Grant, in his official report as Secretary of War *ad interim*, "the completion of these roads will go far toward a permanent settlement of the Indian question," or,

in the still more emphatic language of General Sheridan, just quoted, they will "almost substantially end our Indian troubles." Says General Ingalls:

"Nothing would so much conduce to the settlement of the difficulties with the Indian tribes as the facilities afforded by railroads for a speedy communication through this country. In my opinion, from an experience of many years in the quartermaster's department in the West and Northwest, it is of the utmost importance to the nation that this road (the Northern Pacific) should be constructed at the earliest moment possible."—*Extract from letter dated April 25, 1866.*

In April, 1866, Quartermaster General Meigs wrote of the Northern Pacific road:

"The enterprise is one worthy of the nation. As a military measure, contributing to national security and defense alone, it is worthy the cost of effectual assistance by the Government."

The entire Indian population of the West numbers about three hundred thousand, one third of whom, as already stated, reside north of latitude 44°. As to the comparative expense of wars against them and the southern and central tribes, I request the Clerk to read from an official report of the quartermaster general, in response to a resolution offered by myself on the 7th of June, 1866. I have italicized the items which are in whole or in part chargeable to the northern tribes.

The Clerk read as follows:

1864.	
<i>Northwestern Indian expedition</i>	\$5,236,000
Apaches.....	757,908
Walnut creek.....	73,487
Smoky hill.....	83,341
Little Blue.....	23,786
North Platte.....	213,810
California and Oregon.....	1,018,034
Plum creek.....	80,495
Sand creek.....	182,624
Kiowa.....	311,617
Republican river.....	47,596
New Mexico.....	101,774
Total per year.....	9,110,372

1865.	
<i>Northwestern expedition</i>	\$1,394,190
New Mexico.....	298,349
<i>Districts of the Plains</i>	13,470,957
Kiowa expedition.....	100,703
California and Oregon.....	1,553,616
Republican river.....	30,173
<i>Northwest territory</i>	2,415,168
	19,263,856
Total for the two years.....	\$28,374,228

Mr. WINDOM. Of the above items those designated, respectively, "northwestern Indian expedition," "northwestern expedition," and "northwest territory," are all, manifestly, for expeditions against the northern tribes. To those items may be added one half of the sums mentioned for California and Oregon, though much the largest part was doubtless expended in the latter State. I add, also, only one third of the item for the "district of the Plains," though the detailed statements of said report will show that this will fall below the actual proportion chargeable to these tribes. It appears, therefore, that of \$28,374,228 expended in two years on account of the quartermaster's department, \$14,888,268, or more than fifty per cent. of the whole, was for military expeditions against the Indians living north of latitude 44°. I have no official statement of the comparative costs for other years since 1862, but the proportion to be charged to the northern Indians will exceed that for the years mentioned in said report.

It may, therefore, be safely asserted that more than one half of the \$100,000,000 expended during the last six years is properly chargeable to the futile efforts against Indians on or near the line of the Northern Pacific road. I will, however, estimate the proportion thus chargeable to them during that time at forty per cent. of the whole. Had the three roads been completed six years ago they would have "substantially ended our Indian troubles," and the proportion of saving that could have been credited to the Northern Pacific would have been at least \$40,000,000 during that time, or at the rate of over six million five hundred thousand dollars per annum.

That my estimate of the retrenchment which

would have been effected by this road is below the actual amount will conclusively appear by reference to the following facts, substantiated by official records, namely: the number of military posts now established on the line and in the vicinity of this road is twenty-eight. The entire number of troops about 4,500. The amount of supplies necessary for their subsistence is 22,995 tons per annum. The cost of transportation alone of these supplies for the year 1867, under the contracts of that year, estimating the distances as officially stated by the Quartermaster General, was \$6,158,972, to which must be added the pay of the soldiers and officers, and other large incidental expenses, which will swell this sum to nearly \$8,000,000, making almost one sixth of the entire amount of the Government loan asked for to construct the road.

It is stated, on good authority I believe, that a cavalry force of 5,000 men, under command of General Sheridan, is now moving in pursuit of the Indians. This, including the troops at the various posts, is a larger force than was employed in the summer of 1867, when General Grant estimated the expenses at \$1,000,000 per week. Winter is also a far more expensive season than summer for Army movements on the prairies and in the mountains. May we not, therefore, safely estimate the present current expenses of Indian wars at \$1,000,000 per week—\$144,000 per day? And it must not be forgotten that the money thus expended is a total loss, while in the case of the contemplated railroad aid it is a mere loan of credit requiring no actual outlay. Let it be remembered also that this vast fruitless drain upon the Treasury, ranging from \$15,000 to \$144,000 per day, as just shown, is to continue indefinitely until the true remedy is applied. Shall we apply it, and thereby lighten the burdens of the people, or, under the false pretense of economy, continue the profligate "penny-wise and pound-foolish policy of the past?"

A very great additional saving, amounting to many hundreds of thousands of dollars per annum, would be effected by the construction of this road, in mail transportation to and from the northwestern States and Territories.

But one of the most important economical features of this measure may be seen in the facilities it will afford to the people of the Northwest for retrenchment in their business expenses, and in the diversion of labor it will effect, from present unproductive channels into pursuits that will add to the wealth of the nation.

During the year 1865 the aggregate shipments of twenty-seven firms, from the town of Atchison alone, amounted to 21,531,830 pounds of assorted merchandise, requiring for its transportation 4,917 wagons, 7,154 mules, 27,675 oxen, and employing 5,256 men. The total amount of capital invested in wagons, mules, oxen, horses, &c., employed in that trade was over six million dollars. It is the opinion of those best informed upon the subject that this trade has doubled every year since 1865. Add to this the shipments over the plains from all the other points, and what an army of men, horses, wagons, &c., and what a vast amount of capital may, by the construction of railroads, be discharged from this unproductive business, and employed in some pursuit that will increase the wealth of the country!

IT IS A NECESSARY REVENUE MEASURE.

In other words, the national credit and national revenues will be greatly benefited by the construction of the road, and for reasons which will appear from the following considerations:

1. *It will stimulate immigration.*

One of the chief causes of the wonderful increase of the United States in population and wealth, as already shown, is our unparalleled immigration. There is nothing in the history of nations to which it can be compared. The causes which impel this vast tide of humanity to our shores are of course various, but, next to the attractive principle of universal freedom, the most potent among them is the rapid

development of our railroad system. I do not refer alone to the direct influence upon those who come to find work in the actual construction of our roads, but to the indirect and far wider influence exerted upon those who come to make homes for themselves and their children upon our public domain, which railroads open for settlement and bring within reach of markets.

It may be instructive to notice for a moment how immigration has kept pace with railway development in this country:

Decades.	No. of miles of railroad constructed.	No. of immigrants during same time.
From 1820 to 1830.....	41	244,490
From 1830 to 1840.....	2,156	552,000
From 1840 to 1850.....	5,289	1,553,300
From 1850 to 1860.....	21,295	2,707,624

Thus it will be seen that prior to the railroad era immigration was very small, and that during the last decade (the period of greatest railway development) immigration correspondingly increased. Since 1863 the average number has been about three hundred thousand per annum. It is not difficult to understand why, in a country like ours, this correspondence between the increase of railways and immigration should exist. Had it not been for the facilities they afford the lands in the vicinity of water communication would have all been occupied, and those at a distance would have been worthless. The immigrant would have had none of the inducements to come here which are now presented to him. In fact, without railroads Chicago and most of the other great cities of the West would be only second-class villages, and Minnesota, Iowa, and Wisconsin would, to a great extent, be Indian hunting-grounds. It is because railroads annihilate the distance between cheap lands and good markets, and thus enable the farmer to dispose readily of his products, that the people of the Old World are so anxious to make homes among us. It is for that reason that among the people of my own State to-day will be found more than a hundred thousand hardy, honest, industrious Germans, Norwegians, and Swedes, who rank among the best farmers of the State.

Of course no mathematical estimate can be made of the money value of these immigrants to our country, but it is usually placed at about one thousand dollars per head. This estimate is based upon the assumption that each free person adds as much to the wealth of the nation as the former slave did to his master—an assumption evidently unjust to the free citizen. But in order that my calculation may be beyond the reach of cavil, I will estimate the money value of each immigrant at only \$500, which will give an aggregate increase of national wealth from this source alone of \$750,000,000 within the last five years. It is also stated by John A. Kennedy, formerly superintendent of the Castle Garden immigration depot in New York, that "a careful inquiry, extending over a period of seventeen months, gave an average of \$100 (almost entirely in coin) as the money property of each man, woman, and child" landed at New York. At this estimate, the amount of gold and silver added to the circulation of this country every year since 1863 is about thirty million dollars, or the enormous sum of \$150,000,000 in five years. Add this to the increase just mentioned and we have \$900,000,000 as the result of immigration during that time—a sum much greater than the entire estimated wealth of the United States in 1790. Dr. Engel, the Prussian statistician, says:

"Estimated in money, the Prussian State has lost during sixteen years, by an excess of 180,994 emigrants over immigrants, a sum of more than one hundred and eighty million thalers. It must be added that those who are resolved to try their strength abroad are by no means our weakest elements; their continuous stream may be compared to a well-equipped army, which, leaving the country annually, is, after having crossed the frontier, lost to it forever."

Says Dr. Engel:

"A ship loaded with emigrants is often looked upon as an object of compassion; it is, nevertheless, in a politico-economical point of view, generally more valuable than the richest cargo of gold dust."

What Prussia has thus lost we have gained. But why will the Northern Pacific railroad prove peculiarly valuable in stimulating immigration? First, because it will open to settlement the best portion of the public domain; second, because it will influence the best class of immigrants, by offering them the kind of lands they want, and in the climate they prefer. This human tide which sets toward our shores instinctively follows its own parallels of latitude. That part of Europe which lies north of the forty-eighth degree of north latitude has furnished, probably, four fifths of the foreign population now in the United States, and very much the greater part of that population came from Norway, Sweden, Prussia, and other parts of northern Germany, all of which countries lie north of latitude fifty degrees.

An immigrant from Spain, Portugal, Turkey, Italy, or any of the countries south of the forty-eighth degree would be a curiosity to the people of the Northwest, except that they may have occasionally made the acquaintance of some gentleman from the latter country, as he plied the enterprising avocation of "organ grinder." The intelligence, the energy, the thrift, the money, and the progress, all come from northern Europe, and from a parallel of latitude further north than the line of this road. The census reports show, also, that but few of this class of immigrants seek the southern portions of the United States. The construction of this road will open up a vast extent of fertile territory, which, in climate and natural productions, exactly meets the wants of the populations of northern Europe, and hence it will exert a most powerful influence upon them. Let the Northern Pacific railway and the homestead law march hand in hand across the continent, and in less than a decade you will see along its line at least two millions of the hardy farmers, miners, and mechanics of northern Europe, in whom alone the Government will find an increase of wealth a hundredfold greater than the cost of the road, and who will bring with them enough gold and silver to pay five times over the amount of the proposed loan. If the United States are to advance in wealth in the future as they have done in the past, we must keep wide open the doors to those people who bring with them, and who dig from our soil, so large a proportion of this wealth. And as no other road can, for the obvious reasons just named, supply the inducements to immigration which will be afforded by the Northern Pacific, it seems to me that this alone is conclusive as to the merits of its claim for aid.

2. *It will be the means of developing our agricultural and mineral resources.*

We are sometimes told that "this is doubtless a meritorious and beneficent enterprise, but the Government cannot afford to aid it because of our immense national debt." We have already seen what other nations similarly situated have done, and how the results have demonstrated their wisdom. Let us now examine this objection by the light of the facts alone, unbiased by their example.

It is true our debt is large, but our resources are also immense. The true way to pay the former is to develop the latter.

The farmer who should refuse to incur the expense of plowing and sowing his fields because he is in debt would be voted an idiot by all his neighbors. Wherein does he differ from the statesman who, aware of the inexhaustible wealth of our soil and of the countless treasures that crop out on almost every mountain side, can yet refuse on grounds of economy (?) the perfectly safe loan of Government credit to the comparatively small extent necessary to develop that wealth and gather up and appropriate to the public benefit those treasures?

The public debt of a nation is great or small according to the proportion it bears to the public wealth. A debt that would have crushed the United States in 1800 would not be felt to-day. Hence, in the exact proportion that our wealth increases our debt diminishes. For

instance, in 1840 the entire national wealth was valued at \$3,764,000,000. At the close of the rebellion the national indebtedness reached over thirty-three hundred millions. Hence, to have paid the debt of 1865 twenty-eight years ago would have required ninety per cent. of all the property, real, personal, and mixed, in the country. In September, 1868, our debt was \$2,585,614,818; and according to the most reliable estimates the wealth of the nation had reached \$30,000,000,000. While, therefore, the debt of 1865 would have consumed almost the entire property, public and private, owned by the nation in 1840, the payment of the debt of 1868 would require only about eight per cent. of its present wealth. It is therefore apparent that the burden of the debt of 1868 is only about one-twelfth as great on our present property as the debt of 1865 would have been on the property of 1840. Prospecting the future by a just analogy with the past, let us see what will be the relative burden of our debt in the year 1900, on the assumption that the actual amount of the debt remains unchanged, and that the ratio of increase in wealth shall continue as great hereafter as it was from 1850 to 1860. The ratio of increase during that decade was one hundred and twenty-six and forty-five hundredths per cent. I will assume, however, that the decennial increase will be only one hundred per cent., and the following table will express the result:

	National wealth.	Percentage of debt to property.
1860.....	\$16,159,000,000	
1870.....	32,318,000,000	7.84
1880.....	64,636,000,000	3.92
1890.....	129,272,000,000	1.96
1900.....	258,544,000,000	.98

For the data of this table I am indebted to Hon. D. A. Wells, who shows by a document published in 1864 that it is by no means an unreasonable estimate of our prospective wealth.

I think no one can reasonably doubt that our national capacity for growth in the future is quite equal to what it has been, and that with wise statesmanship we may confidently expect to realize the increase just estimated. It will, therefore, be seen that in 1900 our debt will be only one eighth as great a burden as it is now, or only about one ninetieth what it would have been on the property of 1840. In 1900 a tax of only one per cent. will wipe out the entire indebtedness, while now it requires one per cent. to pay the current annual expenses of the Government. Is it not, therefore, clear that the burden of debt diminishes in exactly the same ratio as the wealth of the nation increases?

Let us now inquire more particularly how we shall best promote this increase of wealth, and thereby strengthen the public credit and reduce the public burdens. What has been the chief cause of this wonderful increase heretofore? Let facts and figures answer. A reference to the table of property already submitted will show that the decennial increase of wealth from 1800 to 1840 averaged only about thirty-six and seven tenths per cent., while for the next decade it suddenly ran up to eighty-nine and six tenths per cent., and for the last one, from 1850 to 1860, it sprang forward to one hundred and twenty-six and forty-five hundredths per cent. The secret of this great increase in the ratio may be found in the fact that the last two decades were the periods of railroad construction.

The relative growth in wealth with the increase in railroads is shown in the following statement:

Time.	Miles constructed.	Increase of wealth.	Increase of wealth per mile of road.
From 1830 to 1840.....	2,818	\$1,111,000,000	\$390,000
From 1840 to 1850.....	6,203	3,371,780,000	540,000
From 1850 to 1860.....	21,615	9,023,220,000	410,000

The entire accumulation of national wealth for two hundred years, from the settlement of the country down to 1830, (when the first railroad was opened,) was estimated at only \$2,653,000,000. From 1830 to 1860, there were

constructed thirty thousand six hundred and thirty-five miles of railroad in the United States, and during that period our national wealth was increased to \$16,159,000,000. Thus it appears that during the thirty years of railroad development there has been added to the nation's wealth an amount more than six times as great as the entire accumulations of the two hundred years prior to the inauguration of this wonderful engine of progress. In other words, the average annual increase of wealth prior to 1880 was only about thirteen million two hundred and sixty-five thousand dollars. The average annual increase from 1850 to 1880, the period of greatest railroad development, was \$902,822,000, showing an average annual increase sixty-eight hundred per cent. greater during the last railroad decade than before 1830. Such astounding results might seem to belong to the domain of fiction were not their correctness demonstrated by the dry and incontrovertible logic of the census tables.

A little reflection will disclose the secret of this wonderful influence of railroads upon our national prosperity. The chief bases of wealth in this country are lands, mines, labor. Separated they are each of little value. Combined they produce the astonishing results we have seen. Railroads afford the only means of combining them successfully, and hence to railroads must these results be mainly attributed. Without them neither lands nor mines can be adequately supplied with labor, nor labor with a market. They are, therefore, the true philosopher's stone, which turns our mountains and prairies into gold.

In a very able work, entitled "Manual of Railroads of the United States," by Henry V. Poor, of New York city—a work, by the way, which should be in the hands of every railroad man and political economist in the country—I find this statement:

"The cost of transporting wheat for three hundred miles over ordinary highways will equal its average value at the point of consumption. Indian corn will bear transportation over earth roads only about one hundred miles."

Hence all the land outside of a radius of three hundred miles from the sea-board or river markets, would be, without railroads or canals, wholly worthless for the purposes of agriculture, and that which lies within such radius would depreciate in value, just in proportion as it approximated that verge of worthlessness. Take a map of the United States, and with scale and dividers mark out those little circles of trade which the wagon-roads would accommodate, and then compare them with the present vast sweep of commerce on this continent, and you will be able to understand why the augmentation of national wealth bears so remarkable a relation to the increase of railroads. Strike from our great cities the support of those vast fertile empires that lie outside of the earth-road radius, and from the prairies and rich valleys of the West take away the markets that are more than three hundred miles distant, and ruin, utter, hopeless ruin, will brood over almost every hearthstone in the land, and national bankruptcy will stare grimly from the steps of the Treasury Department. The same causes which have thus strengthened our national credit and augmented the public revenues will continue, if properly encouraged, to produce similar results. Whether aided by the Government or not the necessities of trade will eventually compel the construction of the road I advocate; but the cost is so great that private capital will hesitate to undertake it, and years will elapse before it will be done. It is only a question of time, it is true; but that question is an all-important one to the nation. It is a question whether we, who are now burdened with debt, shall take means to decrease that burden at once, and let the present generation reap the advantages that are so sure to result from the consummation of this great enterprise, or by a false economy refuse and postpone the incalculable benefits that court our acceptance.

Consider for a moment what will be the effect

of the construction of this particular road upon the credit and revenues of the country, by the development of the lands and mines in its vicinity. Take Montana as an illustration. So rich are the mines of that new Territory that since 1862 the population has increased from a few hundreds to sixty thousand, and towns of from four thousand to ten thousand inhabitants have sprung into existence. Its gold and silver products alone are estimated at \$65,000,000 in six years. Observe under what disadvantages, and at what ruinous cost, this great addition has been made to the coin of the country. In 1867 twelve thousand tons of freight were delivered in Montana from various distant points, on which the freight and insurance charges averaged twenty-five cents per pound, amounting in the aggregate to \$6,000,000. This, in addition to the heavy expenses of travel to and from the Territory, and the loss of the use of capital for many months in the year by merchants and other business men, while goods are in transit, may enable us to form some conception of the burdens borne, for want of railroads, by those who open our mines and lay the foundations of States. The above statement of the cost of transportation is confirmed by Quartermaster General Meigs, who, under date of April, 1866, wrote:

"From St. Louis to Helena, a town of four thousand inhabitants, which has sprung into being in Montana within the past year, the estimated cost of transportation of freight by river and wagon trail is five hundred to six hundred dollars per ton."

And he adds:

"How much must these enormous rates interfere with the opening and development of the rich mining, grazing, and agricultural regions of this Switzerland of America."

Is it unreasonable to assume that with the reduced transportation and cheap labor this road will furnish the gold and silver products of that Territory will be quadrupled, and that, instead of \$12,000,000, as reported by J. Ross Browne for 1867, we shall have an annual production of at least \$50,000,000?

The estimate for Idaho by the Government commissioners was, for 1867, \$6,500,000. This has been produced under disadvantages as great as in Montana. Her products would doubtless show as great an increase by the construction of the road and the facilities it would afford. We may, therefore, I think, safely estimate the increase in gold and silver along the line of the road, which will result from its construction, at \$50,000,000 per annum. Give to those people in Montana and Idaho (who, with freight at \$600 per ton, have produced \$20,000,000 of gold and silver per annum) reasonable facilities for the transportation of heavy mining machinery, cheapen labor and food by opening up easy access to the mining regions, and the next ten years will witness a development of mineral wealth that the most sanguine among us cannot now anticipate. The safe and sure road to specie payment lies in this direction.

According to Redan, the average yearly production of gold and silver in all Europe is \$29,024,000. We have seen that in the States and Territories on the line of this road the production in 1867 was over twenty-one million dollars. Are not its resources such as to justify the claim now made for it?

Let my own State illustrate the effect of railroads upon the increase of national wealth by means of the facilities they afford for the settlement and cultivation of public lands. Without railroads to convey our products to the East the rich lands of Minnesota would to-day be as valueless and tenantless as are those which lie a thousand miles to the west of her. With them, see what has been accomplished! In 1861 Minnesota sent more soldiers into the field to fight for the Union than she had white inhabitants in 1861. In 1857 we imported our breadstuffs, and in 1867 we exported of wheat alone twelve million bushels, which sold at an average of about two dollars per bushel, making in actual production of this one article an increase of national wealth amounting to \$24,000,000; this, in addition to the amount

consumed and retained for seed, and also in addition to the large exports of corn, beef, pork, potatoes, and other articles, which would amount to probably five or six millions more. President Polk in his message of December, 1846, stated the value of all the exports of the United States at \$102,141,833. Minnesota, then unknown, except as a supposed inhospitable, frigid, unexplored region somewhere near the north pole, in twenty-two years thereafter exported more than one fourth as much as the entire national exports of 1846.

The average annual exports of the United States for sixteen years, from June 30, 1847, to June 30, 1863, were, of all kinds of agricultural products, (except cotton and tobacco,) \$55,452,190, and of domestic products of every kind, \$234,314,468.

These statistics, taken from the Annual Record, disclose the astonishing fact that in 1867, when only nine years old, the State of Minnesota exported of wheat alone an amount equal to four tenths of the average annual value of all the agricultural products (excepting cotton and tobacco) of the nation from 1847 to 1863; and an amount equal to one tenth of the average annual value of all the domestic exports of the United States of every kind, including those of the sea, the forest, the mines, of agriculture, and of manufactures during said sixteen years. The total exports by the United States of domestic produce of all kinds from 1800 to 1863 were \$7,381,318,194, making an annual average for sixty-three years of \$117,163,780, or only about four times the value of Minnesota's wheat exportation for the year 1867. I make these comparisons with my own State because I am proud of her, and because it is by such comparisons we are able to form a correct estimate of the vast addition the settlement and cultivation of our western Territories will make to the material wealth of the nation. The Governor of Minnesota estimates that only two per cent. of her lands have yet been brought under actual cultivation. Judge what she will do when one half, or the whole, shall be cultivated!

The Northern Pacific road, by its intersections of the Red river, the Missouri, the Yellowstone, and the various other navigable streams on its line, will form a connecting link between the navigable waters within the boundary of the United States at least a thousand miles in length; so that the combined length of the road and the river navigation with which it connects will be not less than three thousand miles. It will open to settlement the country on its own line and on said rivers to the extent of from fifty to a hundred miles on both sides, making within said limit of fifty miles an aggregate of more than one hundred and fifty million acres. Deducting one half for uncultivable lands, a very much larger deduction than the facts justify, we have seventy-five million acres of good, fertile land, such as that of my own State, that would be opened to settlement. Allowing that only one third of the good land shall be actually tilled, we will have twenty-five million acres under cultivation. The great results in Minnesota to which I have referred were produced by the cultivation of only two per cent. of the whole, or about one million acres. Multiply the products of Minnesota in 1867 by twenty-five and we have three hundred million bushels of wheat per annum, which, at one dollar per bushel, will add \$300,000,000 yearly to the nation's wealth; an amount six times greater every year than the proposed loan.

It will be observed that this estimate is only for the time immediately succeeding the construction of the road, and is, by no means intended to represent even a tithe of what the productions of that country will amount to twenty years hence. It also excludes all that vast augmentation of wealth which the road will effect outside of the said narrow limit of fifty miles, and which will probably amount to very much more than I have estimated within such limit. Even in my own State the value of every acre of land will be doubled by

the construction of this great thoroughfare, and her present magnificent contributions to the national resources will be many times multiplied. Instead of being on the borders of civilization she will then be in the very center of that continent which is destined to be the center of the world's commerce. When the main trunk line shall be completed private enterprise will gridiron every part of that magnificent domain with branch roads, as it has done in the older States. Instead of one hundred and fifty million acres of land, now valueless, being brought within its influence, an area of five hundred thousand square miles of fertile territory will be transformed from the solitude in which it has slept for centuries into the teeming fields and prosperous homes of happy millions.

Consider also the value of the lands retained by the Government. Within the said fifty miles limits the Government would own over a hundred million acres. Estimating only one half to be good, we have fifty millions of acres, now worth nothing, that would be made at once, by the construction of the road, worth from \$1 25 to \$10 per acre, making an aggregate addition from this source alone of at least \$100,000,000. The fact that the Government donates her lands to actual settlers does not affect this estimate, for the reason that such donation is made because the consideration of settlement and cultivation is clearly more profitable to the Government than the money price the land would bring.

4. *It will augment our imports and exports, and thereby increase the public revenue.*

On this point I ask the attention of the House to a few facts and figures taken from a paper read before the Statistical Society of London, in November, 1866, by R. Dudley Baxter. He assumes it as an "axiom that the commerce of a country increases in exact proportion to the improvement of its railway system, and that railway development is one of the most powerful and evident causes of the increase of commerce."

The following statistics are adduced, together with other important facts, in proof of that proposition. Any one who will give this paper a careful reading will, I think, be convinced that there is much truth in his theory:

Proportion of Exports and Imports to Railways and Navigation in Great Britain.

	Miles of railway and navigation.	Total exports and imports.	Exports and imports per mile.
1833.....	4,000	\$85,500,000	\$21.275
1840.....	5,200	110,030,000	22.884
1845.....	6,441	135,000,000	20.959
1850.....	10,773	171,800,000	16.006
1855.....	12,334	209,234,000	21.098
1860.....	14,433	375,052,000	52.935
1865.....	17,289	490,000,000	28.341

In 1833 there were about four thousand miles of navigation, and exports and imports had been for some time stationary before that period.

Similar results are produced in France, as shown by the following table:

Proportion of Exports and Imports to Railways and Navigation in France.

	Navigation (7,700 miles) and railways.	Exports and imports.	Exports and imports per mile open.
1840.....	8,264	\$82,520,000	\$9.985
1845.....	8,547	97,000,000	11.338
1850.....	9,507	102,204,000	10.750
1855.....	11,015	173,076,000	15.712
1860.....	13,286	232,192,000	17.476
1865.....	15,830	293,144,000	18.518

Here there is a steady rise in the amount per mile, checked only by the revolution of 1848.

Perhaps the most remarkable illustration of the relative increase of foreign commerce to railways may be found in Belgium.

Proportion of Exports and Imports to Railways and Navigation in Belgium.

	Canals (910 m.) and railways open.	Exports and imports.	Exports and imports per mile.
1839.....	1,055	£15,680,000	£14.862
1845.....	1,295	26,920,000	22.340
1850.....	1,500	17,753,000	30.037
1855.....	1,807	72,120,000	37.818
1861.....	2,220	97,280,000	42,919

Compare Belgium with Holland. Holland was possessed of immense advantages in the

perfection of her canals, which were the finest and most numerous in the world; in the large tonnage of her shipping; in her access by the Rhine to the heart of Germany; and in the command of the German trade, which was brought to her ships at Amsterdam and Rotterdam. The Dutch relied on these advantages and neglected railways. The Belgian Government adopted a wise and extensive system of railway improvements. Observe the results. In 1839 the Dutch exports and imports were £28,500,000, nearly double those of Belgium. In 1862 they were £50,000,000, when those of Belgium were £78,000,000. Thus, while Holland had doubled her commerce Belgium had increased fivefold. The former possessed a territory thirteen thousand eight hundred and ninety square miles in extent; the latter eleven thousand three hundred and thirteen miles. Their populations were not far from equal.

Various other statistics are given, proving conclusively that in all commercial nations a distinct correspondence exists between the means of internal communication and foreign commerce; but I will content myself by referring to those of our own country.

Proportion of Exports and Imports to Railways and Canals in the United States.

	Canals (6,000 miles) and railways.	Total exports and imports.	Exports and imports per mile.
1830.....	6,011	\$21,000,000	\$5.130
1844.....	10,310	45,739,000	4.437
1850.....	13,475	63,738,000	5.102
1855.....	23,398	111,797,000	4.778
1860.....	34,770	158,810,000	4.567

In 1830 the imports and exports were..... \$155,000,000
In 1793 the imports and exports were..... 57,109,000

Increase in the thirty-seven years preceding the railroad era..... \$97,891,000

Average annual increase, \$2,646,243.
Average annual per centage increase, 4.63.

In 1861 the imports and exports were..... \$762,238,550
In 1830 the imports and exports were..... 155,000,000

Increase in the thirty-one years of railroad development..... \$607,238,550

Average annual increase, \$19,589,950.
Average annual per centage increase, 12.57.

Showing an average annual increase more than two and a half times greater since the beginning of the railroad era than before.

But I must not extend these comparisons. Arrange the statistics of imports and exports in any way you choose, compare their increase with railroad development during any given period that may be selected, and similar results will be disclosed.

These statistics certainly show a very remarkable correspondence between the increase of railways and the increase of imports and exports, and nowhere is it more apparent than in the United States. This increase will doubtless be much greater per mile when we shall have completed the proposed Pacific roads, for the reason that they will develop an immensely rich mineral region, and be the great highways for the commerce of the world. The foreign commerce of a nation depends mainly upon the value of the products of its soil, its workshops, and its mines, and upon the facilities it affords for the internal interchange of those products for the commodities of other countries. Hence, considering the vast extent of the United States, the millions of square miles wholly undeveloped, the sparseness of the population, and the difficulty in exchanging commodities between distant points, we may reasonably expect to find that the relation between the increase of imports and exports and railway development will be more striking in this country than in any other. Since 1830 every additional mile of road has been followed by an additional twenty to twenty-five thousand dollars of foreign commerce. May we not, therefore, safely assume that the construction of the Northern Pacific, with all the advantages and probable results I have enumerated, will add to our imports and exports at least \$20,000 per mile, or an aggregate of \$40,000,000 per annum? As imports are generally about equal to exports, we shall have from this cause an

additional \$20,000,000 of imports, on which a tariff equal to the present will yield an annual revenue of over eight million dollars.

THE NORTHERN PACIFIC ROAD IS A COMMERCIAL NECESSITY.

First, because one road will not be adequate to the business of the country; and second, because no other route will so certainly control the commerce of Europe and Asia. I have conversed with some gentlemen on this subject who seem to fear that there will not be room and business for more than one road. Let us briefly examine this objection. It is only fifteen years since, by the opening of the Cleveland and Toledo railway, a continuous line was formed between Chicago and the eastern seaboard. Now there are no less than five double-track roads connecting that city with New York and Boston, and all of them are overwhelmed with business. The increase of the tonnage of these great through lines furnishes one of the most remarkable illustrations of the wonderful material progress of the United States, as well as a conclusive answer to the objection under consideration. The following table, copied from the Manual, will show the increase of tonnage on three of those lines for ten years:

Roads.	1857. Tons.	1867. Tons.	Increase, percentage.
New York Central.....	838,791	1,607,926	98.55
Eric.....	978,069	3,484,546	256.26
Pennsylvania.....	530,420	4,060,538	654.24

Some half dozen or more roads connecting with these great lines are pushing forward as rapidly as possible to form a connection with the Omaha and San Francisco road, which, it is supposed, is to do the business not only of the Pacific slope, but also of Europe and Asia. Now, sir, in view of the fact that fifteen years ago there was no railroad connection between Chicago and the East, and in view of the immense increase of internal commerce that now crowds all the five great thoroughfares between those points, is it not absurd to suppose that one road can accommodate the trade between the people of the Atlantic and Pacific slopes, and between the six hundred millions of Asia and the two hundred millions of Europe? The fact is, that the commerce of our own country will, in less than ten years, crowd with business two more Pacific roads. There is ample room for three. Mr. Baxter, from whose paper I have quoted, demonstrates that in Great Britain railroads will pay that have three and a half miles of country on each side to support them. The question we debate is, whether a territory fifteen hundred miles in width will not be crowded if we build three roads across it.

But it is in regard to its relations to foreign commerce that the advantages of this road are most conspicuous. The most intelligent statesmen of Europe concede that the day is not far distant when the trade between that continent and Asia will be carried on across this country.

In 1864 a paper was read before the British North American Association by Colonel Sygne, of the queen's royal engineers, in which he makes this statement:

"America is geographically a connecting link between the continents of Europe and Asia, and not a monstrous barrier between them. It lies in the track of the nearest and best connection, and this fact needs only to be fully recognized to render it in practice what it unquestionably is in the essential points of distance and direction."

Says Lord Bury:

"Our trade (English) on the Pacific ocean with China and with India must ultimately be carried on through our North American possessions. At any rate our political and commercial supremacy will have utterly departed from us if we neglect that just and important consideration, and if we fail to carry out to its fullest extent the physical advantages which our country offers to us and which we have only to stretch out our hand to take advantage of."

English statesmen and capitalists are alive to the importance of this subject, and their Government has already sent out a corps of engineers, which has made a careful survey of the whole country from Canada to the Pacific, and reported that a railroad through the British North American possessions is entirely practicable. And in furtherance of this scheme she has granted \$20,000,000 to aid in the con-

struction of the Grand Trunk road to Halifax. While, therefore, it is substantially settled that the commerce of Asia and Europe is to find its pathway across this continent, it is by no means conceded that that pathway is to be upon our soil, or that its incalculable benefits are to be enjoyed by our country. Great Britain, ever on the alert to increase her power and continue her commercial supremacy, can compete with us for this great carrying trade by a railroad through her own possessions. That she will do so unless prevented by our superior diligence no one who has studied her history can doubt. In view of these facts, and of the immense "physical advantages" the United States enjoy, important considerations arise in regard to the location of our Pacific railways.

It is now simply a question of statesmanship whether the United States or England shall monopolize and control the transcontinental commerce of the world, and whether the vast fertile country on our northern border shall become tributary to us, and eventually a part of our own territory, or remain forever under British dominion.

Commerce seeks the shortest and cheapest transit, and the nation that can supply these conditions will control it. We have seen that the northern route has the advantage of over six hundred miles in its connections with the navigable waters of the Atlantic and Pacific, and that the distance from New York to the Pacific is four hundred and twenty miles less by this than by the Central route. In addition to this important fact it is also true that Puget sound is some eight hundred miles nearer than San Francisco to the principal Asiatic ports. This last statement is confirmed by all the well-informed persons from the Pacific coast with whom I have conversed on the subject, and the fact is accounted for by the prevailing ocean winds and currents. It is also confirmed by Hon. G. M. Dodge, chief engineer of the Union Pacific railroad. In a report made to that company in December, 1867, urging the adoption of a line to connect the Union Pacific with Puget sound, Mr. Dodge says:

"This inland sea includes the whole body of water flowing into the Pacific at the Straits of San Juan de Fuca, and surpasses the Mediterranean in the safety of its navigation and the security and anchorage of its harbors. For all the China, Japan, and India trade coming down the Pacific coast it would save the water transportation for the entire length of coast line from the Straits of San Juan de Fuca to San Francisco, as all ships coming from China, India, &c., make our coast near the mouth of these straits."

Turning to the map of the world we find the Amoor river taking its rise in Central Asia and flowing eastwardly to the Pacific on a parallel of latitude some two or three degrees north of Puget sound. This river is navigable for a distance of two thousand six hundred miles into the interior of that continent. Its most considerable southern branch, the Soungaree, is also navigable to within a few hundred miles of Pekin. The Amoor is the Mississippi of the East, and through its waters we may have access by steam to the very heart of the Asiatic continent. Some conception may be formed of the commerce soon to spring up on that river from the fact that at Kyachta and Mai-Mat-tschin, Chinese and Russian trading points, situated four hundred miles west of its head of navigation, the imports and exports amount to \$21,000,000 per annum. The Chinese trade has already assumed gigantic proportions. The exports of tea and silk from the single port of Shanghai for the year ending July 1, 1860, were as follows:

	Tea, lbs.	Silk, bales.
Great Britain.....	31,621,000	19,084
United States.....	18,299,000	1,554
Canada.....	1,172,000	
France.....		47,000
Total.....	51,092,000	67,638

The Amoor river, but recently opened to commerce, is destined at an early day to become the chief outlet for the teas and silks of China and for the skins, furs, and other com-

modities of Russia. Taking into the account the ocean winds and currents before referred to, and the fact that the mouth of this river is two or three degrees north of the latitude of the straits of San Juan De Fuca, it is evident that the western terminus of the northern road must necessarily be the point at which the commerce of the country it drains will strike our shores. Beginning, therefore, at a point twenty-six hundred miles in the interior of Asia, and only a few hundred miles from Pekin, we will have by way of the Northern Pacific road almost an air line of steam communication to the principal ports of Europe, and only seventeen hundred and seventy-five miles of the entire distance will be by rail. Or, if we estimate the navigable rivers on the line of the road and having the same general direction with it, we may, by the construction of an aggregate of only eight hundred and twenty-five miles of road at different points, as already shown, furnish connected steam transportation between the interior of Asia and Liverpool. If it be true that commerce seeks the shortest and cheapest transit surely this route is indicated as the great highway of the nations.

But if the English Government shall build the contemplated road through British America it will have nearly all the advantages of shortness of line between the waters of the oceans and also of proximity to the Asiatic continent possessed by the Northern Pacific. If our Government shall neglect the claims of this road, and Great Britain shall construct hers, with the advantage over all others of more than a thousand miles in distance, aided, as it will be, by the commercial dominion of England on the seas, British America, and not the United States, will own and control the chief thoroughfare of the nations. The only road that can prevent the construction of the British line, or which can compete with it if built, will be the Northern. Its prompt construction will indefinitely postpone the other, and will in a short time, by means of emigration from this country to British America and the affinities and necessities of trade between the two localities, peacefully and without expense annex that country to ours, where it belongs, and thereby secure forever to the United States the incalculable advantage of controlling the channels of the world's commerce. We will then be prepared to successfully challenge England's boasted commercial supremacy, and to gather the profits of our superior "physical advantages."

In addition to the many great pecuniary advantages and benefits to which I have referred our Pacific railways may be made to furnish

A SINKING FUND FOR THE PAYMENT OF THE NATIONAL DEBT.

This proposition contains nothing new or chimerical. France, Spain, Portugal, Italy, Austria, and Holland, following the example of Belgium, have all adopted a system whereby their railways furnish a sinking fund for such purpose. A large portion of the public debt of all those nations will by the application of the fund thus raised be extinguished at the end of various terms of eighty-five, ninety, and ninety-nine years.

In France it will in less than ninety years entirely relieve the people of the whole burden of the national debt of \$2,206,000,000.

This sinking fund is raised in the countries named by the imposition of a small tax or duty on the earnings of their roads. Why may we not act upon this principle, and thereby make our railways the means of still greater relief to the tax-payers of the nation? The principle involved has been found practically successful in other countries; may it not be so in ours? Why shall not those great and profitable enterprises which demand so largely the aid of the people be made to reciprocate by assisting directly as well as indirectly to bear the burdens of the people? This would seem to be especially proper and expedient when it is borne in mind that these roads are to supply to Europe and Asia the shortest,

quickest, and cheapest means of communication, and that, in consideration of the benefits thus to be conferred, it is but just that the people of those countries should pay a reasonable tribute.

It would perhaps be improper to attempt it upon roads built wholly by private enterprise and private capital; but not so in regard to the Pacific roads, which are so largely aided by the Government, and which are national in their character. They are the recipients of the nation's favors, and it is eminently proper that they should contribute directly to the discharge of the national obligations.

A Government tax of only two per cent. on gross earnings will prove no burden to the companies and no injury to the business of the roads, but if properly applied as a sinking fund for the payment of the public debt it will in a few years produce astonishing results. I suggest gross earnings instead of net for the reason that there will be less opportunity for fraud in making returns.

The average gross earnings of the New York Central, Pennsylvania, Erie, and Michigan Central roads for 1867 were \$26,200 per mile. The aggregate length of their trunk lines to the Pacific will be, in round numbers, six thousand miles. Their gross earnings, estimated at the same rate with the four roads just named, will amount to an aggregate of \$157,200,000 per annum. This is doubtless far below what such earnings will be a few years hence; but for the purpose of illustrating my proposition I will estimate them at only \$100,000,000 per annum, on which a Government tax of two per cent. will yield an annual sinking fund of \$2,000,000. This fund, if invested every year for ninety years at four per cent. compound interest, will at the end of that time amount to \$2,530,812,000, a sum exceeding the entire debt.

If this sinking fund of \$2,000,000 per annum be applied annually to the purchase of United States bonds drawing four per cent. interest, it will in ninety years (if the interest accruing on all bonds purchased be annually reinvested in bonds at the same rate) result in placing in possession of the Government every dollar of its bonds and in relieving the people of the entire burden of the debt; provided only that other means shall be used for the payment of the interest. In other words, if a sufficient sum be raised by taxation or otherwise to pay the interest on the debt, this railway sinking fund will if it be annually invested and reinvested in the manner proposed, in ninety years absorb the entire principal of the debt.

If, instead of being used as a sinking fund as just proposed, it be applied when received to the redemption of the bonds, it of course will not effect the entire extinguishment of the debt within the period named, but the relief it will afford to the people by the retirement of the bonds and the consequent reduction of annual interest will in the aggregate amount to the same sum.

Now, sir, I would authorize the funding of our entire bonded debt into American consols, having ninety years to run, drawing four per cent. interest, principal and interest expressly payable in specie. I would then, by a temporary loan of Government credit properly secured, aid the construction of at least two more roads to the Pacific, and impose upon them a tax such as suggested. The money raised by this tax should constitute a sinking fund, to be applied to the purchase of the four per cent. consols in the manner prescribed, the result of which would be an entire absorption of the debt in ninety years. Certain and adequate provision being thus made for the accumulation of a fund sufficient to pay the debt, capitalists at home and abroad would readily invest in so desirable a security. While bearing a higher rate of interest than the debts of other nations, the security would be equal to theirs, and the duration of the consols would commend them to those who desire to invest on long time. In this way our entire bonded debt may be speedily funded at four per cent.

interest, which reduction of interest will at once diminish the current expenses of the Government more than \$42,000,000 per annum. The effect therefore of this proposition, if adopted, will be to reduce the taxation of the people to the extent of \$42,000,000 per annum, and at the same time provide a sinking fund that will ultimately relieve them of the entire burden of the debt.

The fact, therefore, that we have an immense debt, which these roads will so largely assist in paying is one of the strongest arguments in favor of the aid proposed. We have already seen that the burden of the debt decreases in exactly the same ratio that the national wealth increases. The relation of the debt to our present property is as one dollar to twelve dollars. Double the amount of national wealth, and it will be as fifty cents of debt to twelve dollars of property. In other words, the increase of property one hundred per cent. is equivalent to the decrease of the burden of the debt fifty per cent.; that is to say, the addition of \$1,200,000,000 to the wealth of the nation is equivalent to the actual payment of \$50,000,000 on the debt. In the same manner and in the same ratio the increase of wealth will diminish the burden of annual interest on the debt. Hence, while by the construction of these roads the national wealth will be increased many hundred millions, and the burden of annual interest will be thereby proportionately diminished, they may also be made to furnish a sinking fund which, properly applied, will greatly reduce the rate of interest and finally pay the debt itself.

Of course this system cannot be adopted unless the tax to be imposed shall be the same on all the Pacific roads, including those already aided by the Government. To impose it upon one and not upon all would be to make a distinction that would work injuriously. There will be, I apprehend, no practical difficulty on this point.

In calculating the period within which the proposed sinking fund will extinguish the debt I have assumed that the interest on our bonded debt is to be reduced to four per cent, if the rate should be higher the time required for such absorption would be proportionately shorter.

I have assumed that the probable grossearnings of the Pacific roads will be for the next ninety years \$10,000 per mile less than the present average aggregate earnings of the New York Central, Erie, Pennsylvania, and Michigan Central roads. A moment's consideration will show that this estimate is unreasonably low. Forty-one years ago the entire tonnage crossing the Alleghany mountains both ways did not exceed thirty million pounds per annum. Thirty-two years ago the annual tonnage coming from the West through the Erie canal amounted to only one hundred and twelve million pounds. The Commissioner of the General Land Office states, in his recent able report, that "wagon freights to the Pacific are now estimated at two hundred and thirty thousand tons (four hundred and sixty million pounds) per annum," an amount fifteen times greater than the tonnage crossing the Alleghany mountains in 1827, and more than four hundred per cent. in excess of the tonnage from the West through the Erie canal in 1836. Within the last ten years the business of all the railroads in the United States has increased from one hundred to six hundred per cent. At this rate of increase how shall we estimate the probable earnings of these great inter-oceanic thoroughfares, when, thirty years hence the transcontinental and local business of a nation numbering one hundred million people and owning two hundred and fifty billion dollars of property shall be poured upon them? And to all this must be added the trade of China, Japan, India, and Europe, "a trade along whose slow and painful track, when it was conducted by beasts of burden and by oars and sails, instead of by the iron-horse and ocean steamship, great cities sprang up in the desert sands of Asia and on the coast

of the Mediterranean. Babylon, Nineveh, Palmyra, Bagdad, Damascus, Constantinople, Alexandria, Rome, Venice, Genoa, and London are the outgrowth of this trade in former centuries"—a trade that will hereafter "found such cities in the new, healthful, and inviting regions through which its flow is destined to enrich the world; and Oregon and Washington as well as California, Montana as well as Utah, will hereafter have their San Franciscos, Chicagos, St. Louises, Cincinnati, and New Yorks—great emporia of an internal commerce heretofore unknown, as well as of the world-encircling commerce of the Indies."

Some conception of the extent of this traffic may be formed from the fact that even now, while it finds its tedious way around the Cape of Good Hope, across the Isthmus of Suez, or by weary and painful caravan routes across the eastern continent, its estimated amount is \$300,000,000 per annum; and also by the fact stated in the "Parliamentary Papers" of 1866, volume twenty-six, that the importations of tea alone into Great Britain from China and Japan for three years were, for 1863, 136,803,218 pounds; for 1864, 124,359,243 pounds; for 1865, 121,156,712 pounds; total, 382,319,173 pounds.

In view of all these facts I submit that a tax of two per cent. on the gross earnings of these roads will long before the expiration of the present century be far more likely to exceed \$6,000,000 per annum than to fall below \$2,000,000; and hence the payment of the debt may be in this way effected much earlier than the time named.

I have said that the northern route seems to have been pointed out by the hand of nature as the great highway of the nations. In the words of Governor Fuller, "The road, as projected, follows the wavy outline of the isothermal temperate zone of the northern hemisphere, along which civilization makes the circuit of the globe. This zone contains the zodiac of empires. Along its axis appear the great cities of the world. Along this belt, encircling the globe, we discover the chief center of intelligence and power and the greatest intensity of energy and progress. Along this axis, hardly varying one hundred leagues, civilization has traveled as by an inevitable instinct since creation's dawn." In its topographical and meteorological conditions, also, this route appears peculiarly adapted to the great purpose for which it was evidently designed. Oceans, lakes, and rivers seem to be located for its advantage. The rough and rocky summits of the mountains are depressed to afford it a convenient passage. Warm breezes from the southern ocean meet the tempered winds from the east in its mountain passes and diffuse over them a mild and healthful climate. Ocean currents and winds sweeping over the Pacific from the southwest force the commerce of Asia to its western depot, while one of the finest inland seas of the world affords that commerce a safe and convenient anchorage.

Now, sir, in addition to all these physical advantages, we have seen that this enterprise will require no outlay of money by the Government, but, on the other hand, it will diminish the public expenditures, and, by the development of our immense resources, vastly enlarge the basis of public credit, augment the national revenues, and thereby reduce the public burdens. The people understand these things, and hence their anxiety that Congress shall prove equal to the high statesmanship which can discern the great future before us. State Legislatures have memorialized us to aid it. Boards of Trade in nearly all the principal cities have indorsed it. And but a few days ago the National Board of Trade, which met at Cincinnati, representing the opinions and wishes of the shrewd, conservative merchants, manufacturers, and other business men and taxpayers of nearly every city in the Union, resolved, with great unanimity, "that this national convention earnestly urges upon Congress the patriotic duty of granting immediate and adequate aid to perfect our system of

Pacific railroads," which "system," the resolution says, requires the construction of both the Northern and Southern lines. It is demanded by the whole people: by the merchant, because it will enlarge the area of his trade; by the manufacturer, because it will increase the demand for his products; by the farmer, because it will afford him a market; by the miner, because it will enable him to command the appliances necessary to success; by the laborer, because it will enlarge the field of labor, enhance the value of its products, and necessarily increase its compensation; by the enlightened statesman and true political economist, because it will augment the public wealth and diminish the public burdens; by the philanthropist, because it will afford a peaceful solution of our Indian troubles; by the patriot, because he discerns in it and in kindred enterprises the true secret of national prosperity and progress.

Gentlemen may imagine that a pompous pretense of economy will blind the eyes of their constituents and increase their own temporary popularity; but let them be assured that they who presume upon the ignorance of the people will find themselves sadly disappointed. The people of this Republic are proud of her. They know her resources and are determined to develop them. They foresee the grandeur and glory to which she may attain and resolve to realize them. Development is the watchword of the century! In the world's great onward march America must keep step to the drum-beat of the nations, or fall behind a disgraced straggler from the ranks. We may, by our narrow views and mistaken ideas of economy, retard, but we cannot wholly obstruct the nation's progress.

By that economy which we all profess; by that progress of which we are all proud; and in the name of the people whom we serve, I appeal to gentlemen to give this enterprise their support.

RIGHTS OF LABOR.

Mr. CARY. Mr. Chairman, being indebted for my place in this House to the workingmen of my district, it is both my privilege and my duty to present the views of those whom I have the honor to represent—a privilege because I am proud of my constituency, and a duty the more imperative because I am the only Representative elected in the distinctive interests of the industrial classes independent of party politics.

Who are these workingmen who are claiming to be a political power, and what are the wrongs of which they complain, rendering combination on their part necessary or desirable? In our definition of workingmen we embrace all who are engaged in productive industry; all who are in good faith obeying the Divine decree by eating bread in the sweat of their own faces, and not living upon the honest earnings of others. Not those only who open up and cultivate farms, build cities, construct railroads, and toil in workshops, but those, also, who by intellectual labor extract the principles of science from the great arcana of nature, and give them practical form of art and direct the hand of industry. In short, every human being who, by physical or intellectual labor, contributes to the substantial wealth of the nation and aids in making "the wilderness and solitary place blossom like the rose."

Those who sent me here and multiplied thousands of others in sympathy with them believe that too much of our legislation, State and national, is in the direct interest of capital; that the grasping and insatiable demands of the money power secure improper advantages over the laboring classes; that the interests of the toiling millions are subordinated to those of the few who possess wealth. The great majority of our workingmen are poor, and however provident they may be, unless they engage in some scheme of speculation by which they can appropriate to themselves the earnings of others they live and die poor. There is something wrong when honest, persevering,

patient industry, with temperance, frugality, and economy, brings nothing but a scanty subsistence. I believe with just and equal laws, impartially administered, the sons and daughters of toil would receive a share of their productions beyond a meager living. It is a matter of common observation that the rich are rapidly increasing in wealth, while the poor are as speedily becoming more abject. How is this anti-republican tendency of things to be arrested, or shall we go backward and downward until the industrious poor become the mere vassals of a bloated aristocracy?

The great and good Lincoln truthfully said:

"Capital is only the fruit of labor, and could never have existed if labor had not first existed. Labor is the superior of capital, and deserves much the higher consideration."

He said of workingmen:

"Let them beware of surrendering a political power which they already possess, and which, if surrendered, will surely be used to close the door of advancement against such as they, and to fix new disabilities upon them until all of liberty be lost."

These wise words of one of the noblest men in human history should be heeded by those in whose behalf they were spoken.

The tendency of capital is to centralize, monopolize, and control, and as money is power, its exactions are responded to by legislators. That capital should own labor was the foundation on which the advocates of African slavery based their theory of a perfect social organization. They asserted that to attain a high Christian civilization there must be a privileged class, supported by the sweat and toil of others. Senator Hammond, of South Carolina, was a fearless and able advocate of this doctrine. In a speech of great force and power he made some strictures on northern society which are quite suggestive. In speaking of the laborers of the North he characterized them as "white slaves and the mudsills of society, who perform the drudgery of life, which requires but a low order of intellect and but little skill, its chief requisites being vigor, docility, fidelity." He says:

"That class you must have, or you will not have that other class which leads progress, civilization, and refinement. It constitutes the mudsill of society and of political government, and you might as well attempt to build a house in the air as to build either the one or the other except on this mudsill. We do not think that whites should be slaves either by law or necessity. Our slaves are black, of another and inferior race; yours are white, of your own race. You are brothers of one blood; they are your equals in natural endowment of intellect, and they feel galled by their degradation. Our slaves do not vote; we give them no political power. Yours do vote, and are the depositaries of all your political power. If they knew the tremendous secret that the ballot-box is stronger than an army and would combine, where would you be? Your society would be reconstructed."

This speech contains a valuable lesson to the laborers of the nation. By the simple logic of events, by the overthrow of African slavery, by unequal tax laws, by the establishment of monopolies, by the granting of special privileges, by banking systems, by ten thousand ways in which capital appropriates the products of labor without an equivalent, the masses are being brought to an appreciation of their humbled condition. They are learning in the school of experience that the ballot-box is stronger than an army; and I mistake the signs of the times if the day is not near when our "white slaves" will reconstruct society.

Our terrible civil war has stricken the shackles from the limbs of black men, but slavery has been destroyed only in form. Its spirit still exists and rules with despotic sway. Money does not own the flesh and muscles and bones, but it is the legalized master of labor and appropriates its products with a merciless and insolent power. It has been said that revolutions never go backward, and we may therefore hope that the full results of the late civil strife will not be attained until our northern "mudsills," our white slaves, are emancipated. Labor unions are springing into existence inspired with a lofty and resolute purpose to assert and maintain the rights of labor. The inquiry is being made why it is that those "who rise early, sit up late, and eat the bread of carefulness," are

but little better than mendicants, while the few who live in vicious idleness fare sumptuously every day. The divine law, "if a man does not work neither shall he eat" has been abrogated, and the man who does not work has everything to eat, while the hardest worker often goes supperless to bed.

If white men and women are not bought and sold, they gnaw the bones, eat the crumbs, and wear the cast-off garments of idle and luxurious capitalists. There is, from some cause, an unfair distribution of the products of labor between non-producing capital and producing labor.

We are told that thus it has ever been; men of money have appropriated in their own way and upon their own terms labor and its productions; that there always will be the rich and the poor, and the latter the servant of the former. I am no agrarian, no advocate of an equal division of property or of any division but such as providence and improvidence, industry and idleness, intelligence and ignorance, virtue and vice, create. I am alike opposed to all legislation which discriminates in favor of accumulated wealth. The creation of all monopolies, whether in land or money, is an imposition on the rights of labor and in violation of the spirit of our free institutions. I believe that a Government which has the right to conscript a poor man and put him in the ranks to fight its battles and dictate to him the wages he shall receive has an equal right to seize the rich man's purse to pay the man in the ranks and dictate the rate of interest he shall receive for the use of his money. The rights of persons should be as sacred as the rights of property, and a forced loan, with or without interest, is as justifiable as a conscript law.

I propose to refer more specifically to some of the wrongs of which the workingmen complain, and against which we will protest at the ballot-box, and through the political parties or in spite of them will emancipate ourselves, or in the expressive language of Senator Hammond, "reconstruct society."

In the first place we demand a thorough and radical change in the policy of Congress in relation to the disposition of the public domain. In the ownership of the soil lies the foundation of civilization, liberty, and progress, and our existence as a Republic depends much upon a thorough distribution of the lands among the people. It is said that twelve men own one half the land in Scotland, one hundred and fifty persons one half of England, and four per cent. of our population own one half of the property in this country. Richard Carlisle says:

"On the question of the monopoly of the land I am decided that it is the master evil in our political condition."

Workingmen claim that the public lands are the common property of the whole people; that Congress is only the trustee, and as such is transcending its powers when it undertakes to grant these lands to railroads or convey them to speculators and land pirates. We claim that they should be disposed of only to actual settlers in small quantities, and at a minimum price. "The heavens are the Lord's, but the earth He hath given to the children of men," and whoever wishes to build himself a home and erect an altar under the protection of our flag should be allowed to select a spot anywhere upon the public domain. With equal right might the atmosphere be bottled and the sunshine barreled up and sold out in lots to suit purchasers as the earth to be hacked in pieces and withheld from its rightful owners.

Within a few years Congress has given of the people's patrimony to various western and southern States to aid in the construction of railroads fifty-seven million acres; for canals and other public improvements, seventeen million more. In 1862 Congress granted to the States, for the endowment of agricultural colleges, thirty thousand acres for each Senator and Representative in Congress, making in all nine millions six hundred thousand acres, or enough to make ten States larger than Rhode Island. What has become of these lands, and

where are the schools of agriculture? The land scrip has been sold to speculators at prices ranging from thirty to eighty cents per acre. One individual purchased a half million acres, and one firm in my own State bought and advertises for sale two and a half million acres. Schools of learning are yet to be endowed upon the pittance obtained for the land scrip. Land monopolies are far more certain to be established than colleges!

The Pacific railroad, a giant monopoly which may yet make Presidents and dictate the legislation of the Republic, has or will receive by the criminal prodigality of Congress, in addition to enormous subsidies in bonds, one hundred and twenty-four million acres of land; enough to make four States larger than New York, Pennsylvania, Ohio, and Indiana. How these subsidies in bonds and lands were procured and who are the parties beneficially interested may yet be a subject of investigation. I understand that a hungry swarm of railroad adventurers now fill these lobbies who are pressing their patriotic claims to a large share of the remaining unappropriated territory.

Congress, holding the public lands in trust for the landless poor, has already voted away an area of country larger by five millions of acres than the six New England States, New York, Pennsylvania, New Jersey, Delaware, Maryland, Virginia, and Ohio. It may be necessary for the development of our national resources and make the public lands accessible that these great highways of travel and commerce should be constructed, and Government aid may be indispensable to secure their construction. If so, let the proceeds of land sales to actual occupants or bonds or money be appropriated, but not the fee-simple of the lands. The advocates of the congressional policy tell us that the landless poor may still find good lands at the low price of one dollar and a quarter per acre within convenient distance of these railroads. The fact is, however, that as soon as a road is projected keen speculators at once buy up all the desirable lands within a reasonable distance and hold them at prices beyond the reach of the poor pioneer, and he is driven still further back to find a home. When he has opened up his farm the railroad speculators derive greater benefit than he from his labor by the enhanced value of their more accessible lands, and he is contributing to make their broad acres still more unavailable to the settler of limited means. In the name of the landless million I protest against the creation of land monopolies. In their name and as their representative I ask that every acre not already squandered and every acre that may be acquired by purchase or theft from the Indians be sacredly set apart for homesteads.

Great as are the evils of land monopoly, and however necessary legislative reform may be to secure the rights of the landless in the soil, and however determined we are to persist in our efforts until our end is accomplished, there is a greater evil of which we complain, and which, if not removed, the producers of wealth must remain enslaved, and we shall be a free popular Government only in name. The entire monetary system of this Government, copied as it is from the monarchies of the Old World, is anti-democratic and subversive of the rights and destructive to the interests of the masses of the people. The whole range of legislation on finance is a cunning device to rob labor of its just rewards, and build up and sustain an aristocracy of wealth. Financial reconstruction is now a necessity. With boundless undeveloped resources, with inviting fields for the employment of labor, there are to-day in our land two million men and women who are able, willing, and anxious to work, who can find nothing to do, and who are on the verge of starvation. Tens of thousands more are only partially employed; and those who do toil early and late are scarcely able with niggardly economy to supply themselves and their dependent families with the common necessities of life. While this is the sad condition of the

million, the few capitalists are rioting in luxury and fattening upon the earnings of others.

At the last session of Congress I introduced a bill to establish a uniform currency and provide for the management and liquidation of the public debt. Believing that the adoption of the principles of that bill will be a proclamation of emancipation to the toiling millions of my countrymen, would give them full and remunerative employment, make capital the servant instead of the master of labor, and that relief can only be found in this direction, I shall, in the remaining portion of the hour allowed me, give the reasons for my faith. The change proposed in our entire monetary or financial system is radical and fundamental. While our fathers rejected the political institutions of the Old World, and carved out a new model of civil government, they adopted, and we still retain, the monarchical systems and theories of money and finance.

The system proposed by my bill, and which has been fully indorsed by the National Labor Union, involves the abandonment of the cherished idea that gold and silver are the only fit materials out of which to coin money. The opinion which has obtained and still influences the public mind, that a circulating medium must be coined out of some material which is scarce and difficult to procure, arises from a misconception of the nature and functions of money.

Whatever is endowed by the sovereign power in the nation with the qualities of representing, measuring, exchanging, and accumulating value by interest is money; and any circulating medium not endowed by Congress with all these powers or functions is not money, though the material be the finest gold. The most important function of money is to facilitate exchanges of property, and its value, therefore, is purely legal. The idea that the value of money inheres in the material of which it is made is wholly false and pernicious. When this heathen superstition, this fundamental error, and the mystifications by which interested financiers and political economists have concealed the true nature of money are dispelled, it will be found that its present centralizing power is as gross an imposition upon the common sense of men as it is upon the rights of labor and property. Lexicographers, political economists, bankers, usurers, and even statesmen, tell us that "money is stamped coin of gold and silver," but the necessities of our modern civilization and the emergencies of the people are making it necessary to modify our definitions and revise our theories. Locke and other writers on political economy declare that gold and silver are selected as the most suitable materials for money because of their inherent or intrinsic value. It is true that these metals have an intrinsic value and can be wrought into useful utensils and beautiful ornaments, and when so wrought they become articles of commerce, but when coined and stamped as money their intrinsic value is not considered. Intrinsic value is commercial; money value is legal. A gold dollar is worth one hundred cents only because Congress has so decreed, and it would still be worth one hundred cents if the quantity of gold in the country was quadrupled in an hour. If every gold coin in the United States was annihilated our property, our wealth would remain the same; we would only lose its legal representative, the means of exchange of commodities. Benjamin Franklin truthfully said:

"Gold and silver are not intrinsically of equal value with iron, a metal in itself capable of many more beneficial uses to mankind; and but for the estimation in which they were held a pound of gold would not be a real equivalent for a bushel of wheat. Any other well-founded credit is as much an equivalent as gold and silver."

The same wise man said:

"Gold and silver have undoubtedly some properties that give them a fitness above paper as a medium of exchange, especially when a country has occasion to carry its money abroad."

But he adds:

"The estimation in which these metals are held abroad deprive a country of the quantity of currency that should be retained as a necessary instrument of its internal commerce."

If this was true when Franklin wrote, it is

preëminently true now, when our internal trade and commerce are ten thousandfold greater, and our foreign trade has indefinitely increased without a corresponding increase in the quantity of gold and silver.

In a rude state of society, where articles to be exchanged are few and the exchanges are easily effected, but little money is required. In more complex and cultivated communities, where there is an infinite division of labor and industries are diversified, more money is indispensable. Wampum and beads will answer the purposes of a legal tender among savages. Almonds and shells may purchase the necessities of life in India. Iron nails were once money in Scotland; dried codfish was a legal tender in Newfoundland; sugar in the West India islands; musket balls in Massachusetts; tobacco in Maryland and Virginia, and whisky was the currency with which we paid the Indians for their lands. It is worthy of a passing remark that here in the District of Columbia by un repealed laws tobacco is declared to be a lawful currency, and in some cases to the exclusion of even gold and silver; many fines and penalties are assessed and must be paid in tobacco. The law even prescribes the annual interest which may be taken for the loans of tobacco, and payable only in tobacco. Gold and silver may answer the purposes of exchange among semi-barbarians, but they are wholly inadequate to the demands of our civilization.

Recognizing their insufficiency civilized Governments have resorted to various expedients to supply the needed currency, but they have always kept their eye on the so-called precious metals, and have vainly attempted to subordinate everything to their standard. They have commissioned a few men who had coin to furnish an adequate currency for the people, and clothed this favored few with power to issue five, ten, or fifteen paper promises to pay a dollar for every dollar of gold within their reach. In this way banks have been instituted, those ingenious contrivances to rob labor of its rewards, swindle the masses of the people, and give unjust advantages to wealth.

The object of banks of issue has been to make up for the deficiency in the volume of metallic currency, and their establishment is an acknowledgment that gold and silver are wholly inadequate to supply the necessities of trade and commerce. In creating banks of issue Government has conferred upon a moneyed aristocracy powers which the people only, through their Representatives in Congress, can constitutionally exercise.

I affirm that the entire gold coinage of the world would scarcely be sufficient to answer the legitimate requirements for money in this country alone. Advanced civilization, the infinite division and subdivision of labor, diversified industries and employments, vast extent of territory, great enterprises, extensive exchanges all require an increased and constantly increasing volume of money. If to-day gold and silver were sufficient in quantity, on account of their commercial value they are exportable commodities, to-morrow they may be so reduced as to seriously affect the exchangeable values of all other commodities and injure all kinds of legitimate business.

The sole object and office of money, all that it is wanted for, is to be used as a legal instrument in facilitating exchanges and making payments. It is solely a creature of law, and it is a matter of no moment whatever whether its material has or has not an intrinsic or commercial value. The value of gold and silver as commodities is regulated by the law of supply and demand just like wheat or cotton. As money, however, their value being purely legal, the abundance or scarcity of the metals does not affect it. How absurd, then, is the assumption that the inherent properties of gold, which gives it value as an article of commerce, has anything to do with its being a measure of value as money. As a commodity it is one thing, as money it is another and very different

thing. The legal value of a gold dollar is purely an arbitrary assumption, not absolute or independent of law.

It is said that gold and silver are the money of the world, and as our commercial relations are world-wide we cannot change it; that as all commercial nations have legalized the so-called precious metals we cannot maintain commercial relations with them unless we also legalize them as money. To this I answer that our coin is not current or legal money beyond the limits of our own national jurisdiction. Foreign nations receive our coinage by the standard fixed by their own laws, and greatly prefer bullion to coin. The very fact that other nations use gold and silver as materials for the coinage of money, added to the undeniable assertion that they are insufficient in quantity to answer the necessities of domestic and foreign trade, is an unanswerable argument against our employing them for this purpose.

Legitimate commerce is the exchange of the products of one country for those of another. All beyond mere barter is a matter of debt, and if we imported in excess of our exports \$300,000,000 worth (this being about the sum of our coinage) we must part with all our coin, and we are left without anything to represent our domestic values and make home payments, thus deranging the entire industrial and commercial interests of the nation and involving men of enterprise in hopeless bankruptcy. With money not valuable as an article of commerce, if there are balances of trade against us, and foreign creditors will not receive in payment our corn and flour and cotton, let them have our bullion and welcome. Having no use for it ourselves as a currency, it would be cheap, and we can part with it without producing panics or revolutions or disturbing our own measures of value.

If importations are excessive those engaged in foreign trade only would suffer. One of the indispensable requisites of a safe, uniform circulating medium is that it should be inexportable. In no other way can we avoid being at the mercy financially of every political or monetary disturbance in Europe.

If the Bank of England raises the rate of interest on money, draws a few millions of gold from New York, our great commercial center, discounts are immediately contracted throughout the country, business is deranged, failures occur, the products of the farm, manufactory, and workshop depreciate, labor is thrown out of employment, and tens of thousands of men of enterprise are ruined. This state of things has been brought about more than once by this very cause. These calamities which have produced distress and misery to the remotest cabin in the land have been attributed to short crops, excessive production, overtrading—in short, to everything but the true cause. It is absurd—it is more, it is a crime—for a nation competent to manage its own affairs to so legislate as to leave the industry, prosperity, and welfare of this great people at the mercy of the money kings, stock-jobbers, and gold gamblers of Europe. Thus it will ever be with an exportable money.

To have a staple and uniform currency it should be inexportable, and yet a legal tender for the payment of every debt, public and private, within the limits of our national jurisdiction. To prove the instability and unreliability of gold as a currency we will refer to a fact mentioned in the President's last message. He says "the aggregate product of precious metals in the United States from 1849 to 1867 was \$1,174,000,000, while for the same period the exports of specie were \$741,000,000." He estimates the entire specie in the country now at \$300,000,000. This furnishes the beggarly sum of about seven dollars *per capita* to supply the immense requirements of forty million people scattered over a continent engaged in vast enterprises and in developing boundless resources—a sum much smaller than is required of each individual annually for the payment of national taxes alone.

If gold and silver are insufficient in quantity

and unstable and unreliable as a circulating medium how much more unreliable is a paper currency based upon a metallic coinage, and especially when the volume of paper money is increased five or ten fold beyond the amount of coin available for its redemption? A bank note promising to pay gold is a cheat and deception. It answers a very good purpose as long as payment is not demanded, and is tolerable only because a poor currency is better than none. If the gold is withdrawn by foreign demand, or the holders of any considerable amount of its issues present them for redemption, the bank necessarily closes its doors. It is not possible that a currency legalized as representing coin, when there is not a dollar in coin for every promise to pay a dollar, can be stable, uniform, and adequate to the purposes of exchange and payments. The oft-repeated experiments, with their disastrous failures, demonstrate that paper money based on coin is a fraud and swindle. As the value of money is wholly extrinsic from the material of which it is coined, and is purely legal or representative, it should be made of some substance that is cheap, portable, light, and not easily counterfeited. As a deed for a farm written on paper is just as good as if on parchment or as if engraved on a plate of gold, so a piece of paper which the Government has stamped and declared to be ten dollars, and which it will receive in payment of taxes or duties, and which is a legal tender for ten dollars, will buy a barrel of flour as well as a gold eagle. The latter is more valuable for watch cases and rings, but as money they are of equal legal value. The yardstick is a measure of length and it is of no moment what its material is if it is three feet long. A pound weight is a measure of quantity, and if it weighs a pound who cares whether its material is gold, iron, or lead? A dollar is a measure of value, and if stamped by national authority, and is at all times worth a dollar in the purchase of property, in payment of taxes and debts of every kind, it may be made of gold, silver, paper, or any other convenient substance. Treasury certificates such as are proposed by my bill being a legal tender for all purposes, would constitute a uniform and stable currency, and, like gold, would be redeemed in any property for sale within the limits of the Republic. When a person wishes to travel abroad or purchase goods in other countries he must provide himself with whatever commodities he can best exchange for the legal tender of the country to which he goes; it may be the productions of the farm, the manufactory, or the mine. Our Government does not and cannot guaranty that its gold and silver coinage will be received in exchange or payment outside its own jurisdiction. Treasury certificates coined by the Government would be a fixed, uniform, adequate, stable, permanent, safe, inexportable national currency, and being secured upon the entire property of the nation would be an unexceptionable legal tender while the Government endures.

While the legal value of a gold dollar is always the same, the sudden withdrawal of one half the amount in circulation by foreign demand reduces the exchangeable values of all the products of labor, involving producers in a loss which they could not sustain with an equal, uniform, inexportable currency. What we desire is but one currency, and that based upon the entire national wealth, which is substantial, and not upon a few millions of gold, which of all earthly things is the most unstable, shifting, and evanescent. When the legal-tender or greenback law was passed many who voted for it did so only because the emergencies of the hour demanded it, and with a full conviction that on the restoration of peace a return to the old order of things would be possible. The people acquiesced for the same reason, although they had so often suffered from irredeemable bank issues that they had strong prejudices against all kinds of paper money. The greenback, though imperfect in form, has educated the people to believe that a paper

money can be made as safe as gold, and adequate to the demands of internal trade and commerce; a money of undoubted credit, which will expand and contract with the expansion and contraction of trade. They believe that with an ample supply of such money it would not be in the power of gold gamblers, bankers, and usurers to make currency plenty or scarce as their cupidity might dictate. Middle men who have capital could not so readily form "rings" and determine what price the farmer should receive for his produce, and what the consumer should pay for the necessities of life.

The fundamental mistake in the legal-tender act was that greenbacks were not receivable for custom duties and for all other purposes. These exceptions have placed the Government and people too much at the mercy of Wall street, that great national gambling hell, which should be cleaned out as effectually as Christ emptied the ancient temple of gold gamblers. This cleansing process would be effected by making gold in law what it is in fact, a commodity.

By the provisions of my bill national bank notes are called in and canceled and their places necessarily supplied with actual money. This disposes of those despotic institutions, which are a powerful element in controlling elections in the interest of capitalists. The despotism of an organized money power is as cruel and inexorable as was ever African slavery.

By the withdrawal of the national bank currency, and the immediate payment of the bonds now redeemable in lawful money, the volume of currency would not be as great as when the contraction scheme was inaugurated, and would then be insufficient for the absolute needs of productive industry. When other bonds are redeemable pay them in the same manner, or if the holders prefer give them other bonds drawing an interest of not more than three per cent., and convertible into lawful money on presentation at the Treasury. The money should in like manner be convertible into bonds in sums of not less than \$100. This convertibility principle will give that elasticity or flexibility to the circulation which banks of issue are supposed to give. When there is a plethora of currency, a supply beyond the requirements of business, it will be changed into interest-bearing bonds, and at seasons of the year when wheat, corn, cotton, tobacco, and other productions are to be exchanged the bonds would be converted into money. Will any member on this floor undertake to say that a currency based upon the entire wealth of the nation, receivable for all purposes as a legal tender, and which can be converted in an hour into an interest-bearing security, will or can depreciate?

By this convertibility clause and fixing the rate of interest Congress will perform an imperative constitutional duty which it has never undertaken to discharge, namely, "regulate the value of money."

The value of money is determined by the rate of interest which it accumulates. The rate of interest on money determines what proportion of the joint earnings of capital and labor shall go to each. As capital is only accumulated labor, it is plain that if it receives a greater interest than the increase of wealth by production, labor is robbed of its just reward, and is in a state of vassalage. Taking agriculture as a safe basis of calculation, it will be found that our national wealth has increased in a long series of years a fraction over three per cent. per annum compounded. This enables us to fix a rate of interest which labor can pay without exhaustion. The interest which money commands determines the rent which the poor man must pay, and the wages he must receive for his labor.

At the present time, the Government being a borrower of money at an interest largely in excess of the growth of wealth by productive industry, and thereby fixing a still higher rate of interest on capital not invested in Government bonds, the results are that no houses for

laborers are being built, but they are being crowded closer and closer together in uncomfortable apartments at exorbitant rents. Few men will be guilty of the financial folly of erecting tenements for workmen, or building manufacturing factories, or opening up farms, when they can make more by putting their surplus in bonds and be relieved from the annoyance of superintending employes, paying taxes and insurance, and collecting rents. If money is scarce and high the farmer gets less for his produce, the laborer receives less wages and pays more for his bread, because the intervening capitalist determines what the producer shall receive and the consumer pay. Rows of stone-front buildings in our cities are oftener evidences of how labor has been swindled out of its honest dues than of the frugality and industry of their own owners.

With money at a rate of interest corresponding to the growth of wealth by production, overgrown fortunes without labor would be few. Those who sow will reap, and many of those who are living by their wits will be turned into manufactories and workshops and upon farms to earn their bread by their own labor.

The system proposed by my bill cannot be controlled by capitalists. The machine is self-regulating, and could not be run by banks but by the people. They determine for themselves whether or not there is an ample supply of money. With our boundless undeveloped resources, our rapidly increasing population, our many young States and others in embryo rapidly maturing, who can doubt that every five-twenty and ten-forty bond will be needed in money as soon as redeemable. Thus an overtaxed and an unequally-taxed people will be delivered from bondage, and the army of tax-gatherers, informers, and spies, many of them fattening upon spoils obtained by dishonest practices, can be mustered out of service.

I see no other way out of our financial difficulties except by repudiation, and every honest man shudders at the idea of such a dread alternative. Peace has its necessities as well as war, and he gives evidence of insanity who believes that such a debt as ours, contracted in a paper currency, will be paid in coin. The claim of the holders of the five-twenty bonds that they must be paid in gold, is unjust, dishonest, and insolent, and if persisted in will peril their whole debt by weakening the sense of moral obligation on the part of those who by hard labor must pay the national indebtedness.

By the plain provisions of the law the five-twenty bonds are payable in legal-tender notes, and to ask payment in gold is to treat the law as a nullity, and set an example of bad faith and lawlessness, which an outraged people will not be slow to follow. If we take the estimates of the expenses of the different departments of the Government for the ensuing year, including interest on the public debt, pensions, &c., and compare these with the probable amount to be realized from tariff and internal revenue laws, the result will not be very encouraging to the advocates of resumption of specie payments and gold bonds.

If greenbacks sustained our armies in the field, enabled the Government to crush out a gigantic rebellion and overthrow African slavery, may not the lessons we have learned enable us to inaugurate a monetary system which will emancipate labor from the cruel exactions and tyranny of capital, and make white as well as black men free. By the adoption of this system we shall be an independent people, and stand unshaken and undisturbed by the political and financial convulsions of Europe. We will so stimulate production and open up new and profitable fields of enterprise that, with or without tariff laws, we will soon call upon other countries to settle their balances with us.

Now is the auspicious time to establish an American monetary system. Oppressed with an enormous debt; our resources taxed to the

utmost limit to defray the ordinary expenses of Government and accruing interest; our coin largely exported; no State or local banks to supply an inferior currency; with a net work of national banks which are, happily, liable to destruction by the very law creating them; with a high appreciation of the value of greenbacks as a legal tender—all these things contribute to make this the favorable opportunity to wipe out the monarchical theories of gold and silver, originate a system that will destroy money monopolies, have a circulating medium made by the people and for the people, and limited only by the necessities of the people.

Neither the Bank of England, nor the moneyed monopolies of our own country, nor the States, nor any other power at home or abroad will be permitted longer to "regulate the value of money," a duty imposed upon Congress by the Constitution. Let us have done with British theories of political economy, the monarchical standard of money and the aristocratic definitions and notions of wealth. Let us rid ourselves of a paper circulation on the mis-called specie basis, for the history of such a currency is a history of instability, uncertainty, demoralization, fraud, bankruptcy, disgrace, and ruin. Give the people an ample currency stamped by national authority as money, based upon national wealth, convertible into three per cent. bonds, and they are self-reliant and independent, and the scepter which the money power relentlessly wields over labor is broken, and the commercial value of a free white man will rise to that at least of a black slave before the war.

The average earnings of our workmen beyond a subsistence is not \$100 per annum. The owner of a United States bond of \$1,000 owns the service of a "white slave," and this is about one half the value of an able-bodied negro eight years ago. The laboring masses North and South, black and white, must remain in a state of practical serfdom, with enormous taxation eating out their substance and crushing out their manhood, and bondholders, bankers, and Shylocks extorting their last cent unless the principles I have advocated be embodied in our financial policy. From the promptness and unanimity with which Congress passed the funding bill at the close of the last session, by which it was proposed to convert all our currency bonds into others payable in gold at a distant day, exempt from all taxation, at a rate of interest greatly in excess of the increase of wealth by production, I conclude that this plan will meet with little favor here. Thanks to the President of the United States, he withheld his signature, and that bill of abominations has not yet become a law. I think it can be shown that the productive industries of the country never can pay the interest and principal of such a funded debt in the manner proposed.

As I have already said, the national wealth has increased through a long period of years at an average of three and one third per cent. per annum compounded. I estimate our entire national wealth at \$20,463,581,000, or about one fourth of that of both England and France. This sum compounded at three and one third per cent. per annum for fifty years will amount to \$84,988,163,000, or a fraction more than the present estimated wealth of England and France. This estimate of our wealth embraces property of every kind, taxed and untaxed, including bonds. Funding our debt of \$2,500,000,000 in bonds at four per cent. exempt from taxation for fifty years, (which is equivalent to seven per cent. bonds subject to taxation as other property,) and the interest on the public debt in the time specified will be \$82,000,000,000, or within a small fraction of our then national wealth. Thus the bondholders would absorb the entire earnings of productive industry and own the entire property of the nation in a half century. Fund the debt at three per cent. per annum for the same time and it would bear the same proportion to the then wealth that it now does to our present wealth.

The cumulative power of money by interest

is not sufficiently considered. Interest at six per cent. accumulates just four times as fast as at three per cent., while at ten per cent. it increases more than eleven times as fast as at three. For example, the interest on \$1,000 at three per cent. is the first year thirty dollars; the interest on the accumulation the second year is ninety cents. The interest on the same sum at six per cent. is sixty dollars, and the interest on the accumulation is \$3 60; the interest at ten per cent. is \$100, and the interest on the accumulation the second year ten dollars. These examples illustrate how labor is robbed in paying exorbitant rates of interest to capital, and also show the utter impracticability of paying the national debt in the manner proposed by the funding bill. There are distinguished statesmen who declare that the general paralysis of the industries of the country now prevailing will be relieved by resuming specie payments and by getting rid of the legal-tender notes in circulation, the only means we have of paying taxes or anything else.

From the clamors of capitalists, stock and bond and gold brokers, and Peter-Funk agents of the Treasury, who are urging the conversion of currency bonds into gold bonds, we may expect any plan for the relief of the people to be ridiculed and denounced. We shall hear about the plighted faith of the Government, the nation's honor, worthless paper money, irredeemable currency, gold and silver the only money known to the world, Christian bankers, patriotic capitalists generously supplying the nation with the sinews of war, repudiation, and resumption of specie payments. Believing, as I do, that the five-twenty bonds never can and never should be paid in gold, that it will be fair to Government creditors, that it involves no dishonor, that it is the only way of avoiding repudiation and national disgrace, and above all, that those who work God's nobility can be emancipated from slavery in no other way, I am prepared for whatever of reproach or obloquy may be in store for me.

The National Labor Union, of which I am proud to be a representative, numbering now over six hundred thousand voters and daily increasing, is in full sympathy with the views I have expressed. The workmen are beginning to understand this mystified subject of finance, and, although attached to our respective political parties the charmed words "Union man" and "Democrat" will not seduce, nor the words "Radical" and "Copperhead" frighten us from our fixed and determined purpose to be heard and heeded in our demand for justice. We fought the battles of the war, and are toiling on the farm and in the workshop to pay the interest on the debt incurred. We are now, as then, loyal to the Government, and are now, as then, ready to maintain its integrity and honor. Without complaint we will pay out of our daily, weekly, or monthly earnings our just proportion of the public debt, but we will prefer repudiation to starvation. I caution bondholders, gold advocates, and their allies here and elsewhere not to press their unreasonable and unjust demands. We know full well that the reduction of the currency and a return to specie payments will enhance the value of the bonds by diminishing the wages of labor and by rendering the productive industries of the country less able to pay the taxes. We understand that the bondholder can hire two men and buy two barrels of flour instead of one with his interest if a gold standard is attained. We are fully aware that all who owe anything on the tools of their trade, or on their houses or farms; in short, all who are in debt to the amount of one third of their property will be made bankrupt. To assume that the taxpayers will acquiesce in the bondholders' policy is to presume either that they do not know their rights or that they have not the manhood and courage to maintain them.

One of our astute financiers and able statesmen thinks that the workmen of the nation are interested in our getting back to a gold basis as soon as possible. He says:

"Bring us at once to a hard-money basis and there

will be a tumble in prices and more ease for the laboring classes in securing the necessities of life. The poor man can buy nearly twice as much with a gold as he can with a paper dollar."

The honorable gentleman fails to tell us where the poor man is to get the gold dollar. He fails to state that the taxes levied upon the articles he consumes remain the same as before; that the interest on his debt is as great as ever, while his resources for its payment are reduced one half; that the tax upon his tobacco is thirty-two cents per pound whether he earns two dollars per day or only one. There is nothing more aggravating and insulting to a poor man than to show him cheap provisions and no money to buy them and no employment. It cannot be denied that when our circulation was the largest laborers were better paid, procured the necessities of life more easily, paid their rent more promptly than at any time since the process of contraction commenced. The poor are always best off when money is abundant and cheap. The harvest for bankers, brokers, and usurers is when money is scarce and high. Those who are clamoring for resumption of specie payment and contraction of the currency may receive the indorsement of capitalists and bondholders, but they are sacrificing the interests of the productive classes.

It will be said that I require Government creditors to receive a money not known when the debts were contracted. To this I reply that Government creditors are no better than other creditors, and the question has been already settled by solemn decision of courts that creditors must receive greenbacks in payment of debts contracted when gold and silver were the only money known to the law. The proposed Treasury certificates being legalized as money for all purposes, and convertible into interest-bearing bonds, must be better than greenbacks, and the bondholders purchased their securities in these when greatly depreciated. Imperfect paper money saved our nation from being disintegrated by civil war, as it saved England during her war with France. Let it be remembered that from 1797 to 1819, when England had no money but irredeemable bank paper, she was financially more prosperous than at any other period in her history. During that long period gold and silver money was obsolete, the Bank of England furnishing the only currency of the empire. Yet labor was better paid, there was less of poverty and distress, and all the interests of productive industry were better secured than at any other time before or since. There was not, during that twenty-two years of suspension of specie payments, a monetary crisis, a financial panic, want of employment or of proper remuneration. When the gold tyrant was again enthroned everybody was a sufferer except the moneyed aristocracy.

Sir Richard Allison says of the act of resumption of 1819:

"No single measure ever produced so disastrous an effect as that has done. It has added at least a third to the national debt, and augmented in a similar proportion all private burdens in the country, while it has taken as much from the remuneration of labor and means of paying it enjoyed by the community."

This lesson of history should not be forgotten. Shall we repeat this folly in our own experience? That this representation of the state of affairs in England will be true to the letter in this country if the resumption policy prevails will not admit of a doubt. Those who shall bring such a calamity upon the people will learn that "the ballot-box is stronger than an army."

The greenback was the almighty arm of our deliverance in war, and an absolute paper money, as a great wealth-distributing instrument, a symbol and representative of value, will be found equally valuable in peace. With a legal-tender money, endowed by Congress with the functions of measuring, representing, exchanging, and accumulating value by interest, sufficient in volume to answer the requirements of business, determinable by the rate of interest which it commands, convertible into

three per cent. bonds, and the laboring millions, black and white, North and South, will be free. Let us be wise in time to prevent repudiation!

It has been estimated that four hours' labor by those engaged in productive industry is sufficient for the mere support of our whole population, and that all their production in their remaining hours of toil is surplus. Who shall have this surplus? It should be equitably distributed between labor and capital. This division can be effected only by a circulating medium at a just rate of interest. Now the fruits of six out of the ten hours of labor are swallowed up in the payment of taxes and in interest paid to capital, leaving nothing to those who earn all. If the working classes can have time for mental and moral improvement and true social enjoyment they will invent new methods and improve old ones for multiplying the comforts and blessings of life. By new discoveries and inventions they will subdue all the elements of nature and make them lay their trophies at the door of every cabin and palace of earth. Then will the sublime but hitherto rejected truth be acknowledged:

"The laboring man, whate'er his task,
To till the soil or raise the hod,
He wears upon his honest brow
The royal stamp and seal of God.
And brighter shines each drop of sweat
Than diamond in a coronet."

Mr. WASHBURN, of Indiana, moved that the committee rise.

The motion was agreed to.

The committee accordingly rose; and Mr. HOOPER, of Massachusetts, having taken the chair as Speaker *pro tempore*, Mr. CULLOM reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly the annual message of the President of the United States, and had come to no resolution thereon.

LEAVE TO PRINT.

Mr. HAUGHEY asked and obtained leave to print some remarks on the claims of loyal Alabamians. [See Appendix.]

ADMISSION OF EVIDENCE.

Mr. WASHBURN, of Illinois. I ask unanimous consent to take from the Speaker's table the amendments of the Senate to the bill (H. R. No. 1428) authorizing the admission of evidence of copies of certain papers, documents, and entries. They are only verbal amendments, and I presume there will be no objection to concurring in them. It is necessary that the bill should be passed immediately.

The amendments were accordingly, by unanimous consent, considered and agreed to.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the amendments were agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CONSULAR, ETC., APPROPRIATION BILL.

Mr. MAYNARD. I ask to withdraw the reservation I made this morning in regard to any appropriations contained in the consular and diplomatic appropriation bill, which has been referred to the Committee of the Whole. I have examined the bill, and I am content to waive the reservation.

Mr. BROOKS. As I have not examined the bill I wish to make the reservation.

Mr. HOLMAN. I make the same reservation, as two members of the committee have made it.

Mr. RANDALL. I move that the House adjourn.

The motion was agreed to; and thereupon (at four o'clock and fifty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rules, and referred to the appropriate committees:

By Mr. ARCHER: The petition of Henry C. Shirrell, praying for relief.

By Mr. BANKS: The petition of Turner Merritt, in relation to a claim for cotton taken by the United States authorities.

By Mr. BENJAMIN: A petition of citizens of Moberly, Missouri, praying for a change in the naturalization laws.

Also, the petition of Captain William Carsen, of Palmyra, Missouri, for relief.

By Mr. BUCKLAND: The petition of F. B. Case and 64 others, citizens of Norwalk, Ohio, asking certain alterations of the law taxing tobacco and cigars.

Also, the petition of Martin & Negeles and 12 others, citizens of Tiffin, Ohio, upon the same subject.

By Mr. BUTLER, of Massachusetts: The petition of Frederick M. Norcross, for renewal of letters patent on planing machine.

Also, the petition of Mary E. Rooney and others, Sisters of Charity of Providence Hospital, for an appropriation of \$30,000 for the completion of their building.

Also, a petition of the Oriental Powder Company, asking return of taxes paid on powder sold on contract with the United States.

Also, the petition of Betsey L. Jackman, for a pension.

Also, the petition of Mrs. Emma Horton, for relief.

Also, the petition of George F. Putnam and 105 others, of Salem, in aid of reform in the system of internal revenue.

Also, the petition of Franz Beuter, for remuneration of damage for a robbery committed by soldiers of the United States Army.

Also, a petition of colored citizens of Norfolk, Virginia, to naturalize Michael Louvert, a colored gentleman of French birth.

Also, the petitions of W. T. Scott, John A. King, Thole Anderson, R. H. Carry, and B. A. Martel, of Louisiana, for pardon and removal of political disability.

Also, a petition of the Salem Board of Trade, for the resumption of specie payments.

Also, the petition of Leonard Pierce, to be reimbursed for money paid by him as consul for the relief of American citizens.

Also, the petition of Charles Wieland and others, for the abolition of the office of President.

By Mr. DELANO: The memorial of Charles Cooper and Goshorn A. Jones, sureties of William and John Hannegan, for relief from terms of contract with the United States for the improvement of Des Moines rapids, in the States of Iowa and Illinois.

Also, the memorial of Mrs. Eliza A. Ratcliffe, for supplies furnished the United States.

Also, the memorial of Robert A. Freuch and others, praying the modification of internal revenue laws.

By Mr. ECKLEY: The petition of Andrew Stewart, a citizen of Ohio, praying Congress to annul an act of the Legislature of the Territory of New Mexico suspending the writ of execution in certain cases.

By Mr. ELDRIDGE: The petition of Frank Tillman and 40 others, for the repeal of certain sections of the internal revenue law relating to the tax on cigars, &c.

Also, the petition of A. Deville and 50 others, for a repeal of sections of the internal revenue law relating to the tax on tobacco.

By Mr. ELIOT: The memorial of George R. Upton and others, shipowners, merchants, and insurance companies, of Boston, praying for Government inspection of chain cables for vessels of the United States.

Also, a memorial of the American Missionary Association, praying for legislative relief to the freedmen.

By Mr. FRENCH: The memorial of E. W. Jones, late collector of internal revenue for the first district of North Carolina, asking remuneration for services from June 25, 1865, to November 13, 1866.

By Mr. INGERSOLL: A petition of 200 employes at Rock Island arsenal, in regard to the eight hour law.

By Mr. JULIAN: The memorial of Julia Finley, praying a special act amendatory of the pension laws in her favor.

By Mr. KELLOGG: The petition of Rev. L. Bissey and 75 others, residing in Portersville, Alabama, praying for an exploration and survey of the harbor of Portersville.

By Mr. KETCHAM: The petition of J. Caywood and others, of Poughkeepsie, New York, members of the Grapegrowers Association, asking for the passage of an act to encourage and protect inventors of new fruits.

By Mr. LYNCH: The petition of Susan Tucker for a pension.

By Mr. PETTIS: A petition of citizens of Pennsylvania, remonstrating against the proposition to open the markets of the United States to the productions of the British American provinces through a so-called "treaty of reciprocity."

By Mr. PRICE: The petition of Mrs. Sarah L. Goodrich, for increase of pension from eight to seventeen dollars per month.

By Mr. SCHENCK: The petition of Hugh Wallace, of the Missouri volunteers, praying Congress to grant him a pension.

Also, the petition of the President of New Haven Chemical Works, praying for a small increase of duty on soda ash.

Also, a memorial of certain line officers of the United States Navy, protesting against the passage of the bill "to reorganize and increase the efficiency of the medical department of Navy."

Also, the petition of R. Y. Lanius, of Eaton, Ohio, praying Congress to reimburse him for money expended in recruiting during the war of the rebellion.

Also, a memorial of certain Republican Senators and Representatives of the Georgia Legislature, who state that they have been obliged to leave their homes and flee to the city of Atlanta for safety from persecution and assassination at the hands of men styling themselves Democrats; and who pray that Congress may take the necessary legislative steps to stop such outrages, and secure to them protection to their property and safety for their persons.

Also, a petition of the Western Union Telegraph Company, praying Congress to authorize the delivery to them, free of duty, of the submarine cable now in the custom-house at the port of New York, which was manufactured for the Behring sea part of the line to connect America and Russia.

Also, the petition of Michael Mulgrene, for an invalid pension.

Also, a memorial of fifty-one persons, informing Congress what legislation is needed on all subjects according to the views of Messrs. Ward and Newberry, committee of the National Manufacturers' Association.

By Mr. SPALDING: A petition for a pension in behalf of the minor brother and sister of Charles H. Hoag, tenth Ohio cavalry.

By Mr. TRIMBLE: The petition of A. Shipmyer and others, praying modification of the revenue laws in relation to inspection and stamps on cigars and tobacco.

By Mr. WASHBURN, of Illinois: A petition of the local inspectors of steamboats at Chicago, Illinois, praying for increased compensation, and showing the increase in business at that port since 1865.

Also, four petitions of citizens of Minnesota, praying that the same subsidies be granted by Congress in aid of the Northern Pacific railroad as were granted to the Central Union Pacific Railroad Company.

By Mr. WHITEMORE: The petition of S. E. McMillan, a citizen of Marion county, South Carolina, for payment of a balance due him for taking the census in the aforesaid county and State.

Also, the petition of Daniel Hauser, a citizen of North Carolina, for a pension.

Also, the petition of George J. Elam, a citizen of Falls county, Texas, for a special act of Congress to relieve him of liabilities as a revenue officer on account of money stolen from him.

By Mr. WILLIAMS, of Indiana: The petitions of manufacturers of tobacco and cigars,

citizens of Indiana, asking an amendment or repeal of parts of sections seventy-eight and ninety-four of the act of Congress approved July 20, 1868.

Also, the petition of C. C. Humphreys, a citizen of Indiana, for relief.

IN SENATE.

WEDNESDAY, January 6, 1869.

Prayer by Rev. H. A. WILDER, of Natal, South Africa, Missionary of the American Board of Commissioners for Foreign Missions.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a letter of the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate of the 15th ultimo, information in regard to the Territory of Alaska and the fur-bearing animals therein; which was referred to the Committee on Commerce, and ordered to be printed.

He also laid before the Senate a letter of the Secretary of the Interior, communicating an estimate of appropriation for the pay of one clerk to the central Indian superintendency; which was referred to the Committee on Indian Affairs.

He also laid before the Senate a letter of the Secretary of the Interior, communicating, in compliance with the resolution of the Senate of the 21st ultimo, a list of the Indian superintendents and agents and designating the absentees from their posts; which was referred to the Committee on Indian Affairs, and ordered to be printed.

He also laid before the Senate a report of the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate of the 16th ultimo, the cost to the Government of the issue of fractional currency since its authorization; which was referred to the Committee on Finance.

PETITIONS AND MEMORIALS.

Mr. HARLAN presented the memorial of J. R. Callahan, a teamster in the war of 1812, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. WILSON presented the petition of William R. Drinkard, of Virginia, praying to be relieved from political disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

Mr. SUMNER presented the memorial of Peter M. Gideon, of Minnesota, praying a change in the policy of the Government toward the Indians; which was referred to the Committee on Indian Affairs.

He also presented the petition of Dr. R. Wiczorek, of New York, praying for the passage of a law to put certain soldiers of the regular Army on the same footing as volunteers with reference to bounty; which was referred to the Committee on Military Affairs.

Mr. POMEROY presented a petition of citizens of Missouri, praying that in any amendment proposed to the Constitution of the United States to extend or regulate suffrage there shall be no distinction between men and women; which was referred to the Committee on the Judiciary.

Mr. SHERMAN presented a memorial of citizens of the United States, praying the enactment of a law restricting the power of conferring citizenship to the courts of the United States; which was referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES.

Mr. EDMUNDS, from the Committee on the Judiciary, to whom was referred the bill (S. No. 691) to prevent the holding of civil offices by military officers, and to prevent the holding of more than one office at the same time, reported it with an amendment.

Mr. HARLAN, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 712) to provide for the appoint-

ment of recorder of deeds and warden of the jail in the District of Columbia, and for other purposes, reported it with amendments.

DEPARTMENT OF AGRICULTURE.

Mr. WILLIAMS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Agriculture be instructed to inquire into the expediency of reorganizing the Department of Agriculture so as to provide for the selection of one person from each State familiar with the agricultural wants and interests of such State to occupy some official position in said Department.

PATENT OFFICE STATIONERY.

Mr. FERRY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior be requested to transmit to the Senate copies of all correspondence between the Secretary of the Interior and the present Commissioner of Patents relative to supplies of stationery to the Patent Office, and the contracts for the same; and also copies of orders by the Secretary appointing committees to examine and report upon such contracts and supplies, together with all reports of such committees thereupon.

BILLS INTRODUCED.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 739) to incorporate the Somes's Patents Company of the District of Columbia; which was read twice by its title.

Mr. POMEROY. I am requested by the mayor and citizens to introduce this bill. I do not know anything about it. I move that it be referred to the Committee on the District of Columbia.

The motion was agreed to.

Mr. HARRIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 740) for the relief of Robert B. Kingsbury, late internal revenue collector for the second district of Texas; which was read twice by its title, and referred to the Committee on Claims.

JOHN YOUNG'S PATENT.

Mr. FERRY. I move that the Senate take up for consideration the bill (S. No. 704) to extend the letters-patent originally granted to John Young, which has been reported from the Committee on Patents. I think it will create no debate. The report of the committee is very brief. I will send it to the Clerk to be read, and it will explain the entire case.

The PRESIDENT *pro tempore*. The question is on the motion to take up the bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to extend the letters-patent granted to John Young on the 19th of September, 1848, and reissued to him July 30, 1861, for the term of seven years from and after the 19th of September, 1869, and directs the Commissioner of Patents to make a certificate of such extension and append the same to the original reissue or any copy thereof.

Mr. FERRY. I ask that the report of the committee be read.

The Chief Clerk read the following report, submitted by Mr. FERRY from the Committee on Patents on the 18th of December last:

John Young, in the year 1848, obtained a patent for "an improvement in washing machines." The improvement consisted in the substitution of India-rubber for other material in the construction of such machines. Owing to his inability to perfect the vulcanizing of India-rubber during the existence of his original patent, he received but \$1,600 during that period of fourteen years. In 1861 he succeeded in obtaining properly vulcanized rubber, and in 1862 his patent was extended by the Commissioner of Patents. He has received substantial benefit from his invention only during the six years which have elapsed since the renewal by the Commissioner, and has received but \$5,000 for that period. He has really had the benefit of his invention since its renewal. The invention is new and valuable. His patent expires in September, 1869, and he asks an extension by Congress. His petition comes within the spirit of the patent laws, and the committee recommend that it be granted by the passage of the accompanying bill.

Mr. MORRILL, of Vermont. I do not know but that there is as much merit in this as in any case of a second renewal; but I am quite opposed to the renewal for the second

time of any patent, and I hope we shall not establish a precedent for the renewal of any patent more than once.

Mr. FERRY. It is too late, Mr. President, to speak of establishing a precedent for the renewal of any patent, as the precedent has been established by repeated renewals for a long series of years. The principle upon which the present Committee on Patents have acted has been, that unless an application for a renewal is really brought by the facts of the case within the spirit of the existing patent laws, they would report against such renewal by act of Congress. In this case, during the whole existence of the original patent, a period of fourteen years, the inventor did not succeed in perfecting his invention for practical use on account of the difficulty of vulcanizing the material which constituted the main improvement in the invention. During six years only has he really received the benefit afforded by the existing patent laws for his invention. Under these circumstances we thought that the case, as the report states, fell within the spirit of the law, and therefore reported in favor of granting the application.

Mr. CONKLING. Will the Senator inform us whether this patent embraces a process for vulcanizing rubber?

Mr. FERRY. It does not.

Mr. CONKLING. What is the materiality, then, of the statement which I understand the Senator to make that the patentee was unable to produce rubber properly vulcanized?

Mr. FERRY. He was unable to procure properly vulcanized rubber during the original existence of the patent, and unless it was properly vulcanized the machine was not of practical benefit to the extent which it has since become. By the perfection of the vulcanizing process, by other patentees I suppose, under the patents which have been issued for that process, he now is able to purchase of them rubber which accomplishes the entire object he had in preparing this machine.

Mr. CONKLING. Then the language of the report is calculated somewhat to mislead those who read it.

Mr. FERRY. It may be so.

Mr. CONKLING. The language is: "owing to his inability to perfect the vulcanizing of India-rubber."

Mr. FERRY. Perhaps that expression is improper. It should properly be, "to procure properly perfected vulcanized rubber."

Mr. CONKLING. So that the patent does not embrace any process for dealing with rubber?

Mr. FERRY. Nothing whatever. It is simply the application of rubber properly vulcanized to this machine for washing.

Mr. CONKLING. As I rose to ask a question, I will avail myself of the occasion to make one remark on this case. Like the Senator from Vermont, I am very averse to a vote in any ordinary case directing the renewal of a patent; and yet I know that there are numerous cases falling, in the phrase of the Senator from Connecticut, within the spirit of the patent laws where such an extension may properly be directed. It would seem to me, however—and to this remark I invite the attention of the Senator from Connecticut—that it must be a very extraordinary case which would demand the exercise of this legislative discretion in favor of the original inventor, he not having died before he realized substantial benefit—in favor of the original inventor who has survived the lifetime of his original patent and of one extension of that patent, particularly where the patent applies to an article such as a sewing-machine or a variety of other articles by which I might illustrate it.

Mr. DIXON. This is a washing-machine.

Mr. CONKLING. This is, as the Senator says, a washing-machine—as I understand it, a machine for wringing clothes; but I speak of a sewing-machine as somewhat analogous—a machine used by the many, used by the poor, used in families; a machine, in short, which goes to give rest to human muscles and to lessen manual labor. It seems to me that in

the case of such an invention a man who has outlived his patent and outlived the extension of his patent, ought to show a case of peculiar merit or peculiar hardship in order to be entitled to invoke this intervention by Congress.

Mr. FERRY. I feel no particular interest in the present case any further than the investigation before the committee developed the fact that owing to circumstances outside of the control of the inventor he failed to reap any pecuniary benefit from his invention during the first fourteen years of the existence of his patent, and that therefore he has really had the benefit of our patent laws only since the extension of his patent by the Commissioner. Therefore, it seemed to us to be a case which would fall within the principle laid down by the Senator from New York, as a case in which Congress might rightly and justly renew the patent again, the inventor having, by circumstances beyond his control, not derived the benefit from it to which he was justly entitled.

Mr. DOOLITTLE. I remember very well since I have been a member of the Senate that this question of the extension of patents was once before the Senate and discussed very fully, at a time, I believe, when Mr. Douglas, of Illinois, was upon that committee. The question whether the Commissioner of Patents should have any power to extend patents was discussed, and finally on full discussion it was decided that no such power should be given to the Commissioner, and it was arranged that a patent when issued should be issued for seventeen years, and that there should be no renewals. That was the result of the judgment at which the Senate arrived at that time, and, I think, for very good reasons. If for seventeen years a patentee has an opportunity to reap the benefit of his patent, it is enough. We know, sir, the pressure which may be brought to bear, not only upon the Commissioner of Patents, but upon Congress, to procure the renewal of some of these great and valuable patents. This patent of a machine for the wringing of clothes, which is used in almost every household in the land, is a patent which may perhaps be worth \$500,000 if it is to be extended. The person who invented it had the benefit of his patent for fourteen years; it was then renewed, and the honorable Senator from Connecticut says the reason why the person did not reap the benefit of his patent during the first fourteen years of its existence grew out of the fact that in the present state of the arts vulcanized rubber could not be produced which would serve the necessary purpose of this material in being used in his machine. In short, for the first fourteen years his machine was a failure. But, considering all this, if the patent has once under the laws then existing been extended for six or eight years, in my judgment that is enough. It would be a dangerous precedent for Congress to interfere on grounds so slight as these, in the extension of this patent, which may involve perhaps millions of dollars. I shall not discuss the question at length, but content myself with voting against the bill and protesting against the policy of renewing these patents after they have run for a whole generation.

Mr. WILLEY. The facts in this case very fully sustain the report of the committee. I beg leave to state so much, as I could not myself concur in the report of the committee. As a member of the committee I was opposed to granting the privilege secured in the bill under consideration. It is very apparent that during the fourteen years, the first term of this patent, the patentee received very little compensation. The reason of it was that the roller or apparatus which he originally invented did not answer the purpose, because it absorbed the water and the dirt out of the clothing, and that was the case until some other person had invented the process of vulcanizing India-rubber; so that, in effect, the extension of this patent would be giving to this individual the advantage of another man's invention, in point of fact. Upon that ground I did not conceive that the case

under consideration presented any very great claims to the clemency and consideration of Congress.

Besides, sir, I have taken it to be the sense of Congress, as referred to by the Senator from Wisconsin, that patents were not to be reissued; that parties were not to have the benefit of their monopoly over seventeen years except in cases of very peculiar hardship, and then Congress might renew them. The law, as it at present stands, takes away from the Commissioner of Patents the right to extend a patent, but it extends the original term from fourteen to seventeen years, leaving it wholly within the discretion of Congress whether there shall be any extension at all. But, sir, upon the ground that it was another man's invention which made the invention of this washing-machine at all valuable, I did not think myself that the case presented any very peculiar claims to the consideration of Congress, and therefore I was opposed to the extension granted in this bill, although the facts as stated in the report were very amply sustained by the testimony before the committee. There was a manufacturer before the committee who verified by his practical experience all the facts stated in this report. It was proved that this gentleman had not received any very considerable compensation for his invention, simply from the fact that the first term had nearly expired before he could avail himself of the use of another man's invention in vulcanizing India-rubber. Therefore, I was opposed to the extension of his patent.

Mr. MORRILL, of Vermont. I remember that we had a proposition for the extension of a patent before the Senate at the last session; I think in relation to some trifling improvement upon woolen machinery. It was a small affair, but a very great inconvenience to the manufacturers throughout the country, and it was rejected. My friend from Connecticut, I think, favored its rejection. Now, shall we use that kind of justice in favor of the rich manufacturers, and when a patent comes up here whose rejection is to benefit the poor women of the country, are we to treat it with favor? I call upon my friend from Kansas, [Mr. POMEROY,] my friend from Massachusetts, [Mr. WILSON,] and my friend from Rhode Island, [Mr. ANTHONY,] who are particularly distinguished for their zeal in defense of woman's rights, to stand up. Here is a question on which they can show their eloquence and their adherence to principle.

Now, Mr. President, it does seem to me that the extension of a patent of this kind is a premium on the lack of enterprise and imbecility of the parties who bring forward their claims for extension. I am utterly opposed either to the extension of patents by the Commissioner of Patents or by Congress in any case whatever. We have some cases of the most meritorious kind that come before us, and yet they are generally rejected. Take the case of Hoe's printing press, one of the most valuable inventions that have ever been produced in the country, and yet the Senate is averse, as I understand, to any extension of that patent. I suppose there are not less than five thousand models in the Patent Office of washing-machines, and if they were built of the usual size the Patent Office would be unable to contain them. This is unquestionably one of the most meritorious that has been invented, but it has had a monopoly for a sufficient length of time, and I hope the Senate will not grant the extension.

Mr. SHERMAN. It is very manifest that the Senate is not in a disposition to pass this bill now. I will therefore move—

Mr. GRIMES. Let us get it out of the way.

Mr. SHERMAN. I will move to postpone it, with a view to take up another bill.

Mr. GRIMES. Move its indefinite postponement.

Mr. SHERMAN. I move to postpone the present bill with a view to take up Senate bill No. 554.

The PRESIDENT *pro tempore*. It is

moved that the present bill be postponed until to-morrow.

The motion was agreed to.

CHARTERING OF RAILROAD COMPANIES.

Mr. SHERMAN. I now move to take up the bill I have indicated.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 554) to promote commerce among the States and to cheapen the transportation of the mails and military and naval stores.

The bill was read at length.

The PRESIDENT *pro tempore*. The morning hour having expired, the unfinished business of yesterday is before the Senate, being the bill (S. No. 625) for the relief of Miss Sue Murphey, of Decatur, Alabama.

Mr. SHERMAN. If the Senator from Wisconsin [Mr. Howe] has no objection, I would rather say what I have to say in regard to this railroad bill to-day, and then let it go over until next Monday; but still, if he desires to go on with the bill, which is the regular order, I shall not interpose.

Mr. SUMNER. I hope that we shall hear the Senator from Ohio on this bill, so that the case may be considered as opened.

Mr. SHERMAN. I do not expect to press a vote to-day.

Mr. HOWE. Certainly I shall agree to forego the regular order for a short time under the circumstances. It may be laid aside informally, I suppose?

The PRESIDENT *pro tempore*. The special order will be passed over informally, if there be no objection.

Mr. DOOLITTLE. I should like very much to accommodate the honorable Senator from Ohio, but I think my colleague will find that if the debate is opened on this great question of building these railroads the speech of the Senator from Ohio may lead to debate; he will never reach his bill.

Mr. SHERMAN. I do not propose to press the railroad bill to a vote now; but when I have said what I have to say in regard to it, to postpone it until Monday.

Mr. DOOLITTLE. Very well.

The PRESIDENT *pro tempore*. No objection being made, the special order is passed over informally; and Senate bill No. 554 is before the Senate as in Committee of the Whole.

Mr. SHERMAN. Mr. President, this bill proposes to charter three railroad companies to construct railroads respectively from Washington to New York, Pittsburg, and Cincinnati. In presenting this bill the select committee did not deem it essential to accompany it with a written report, as numerous reports have been made on similar bills and the constitutional questions involved have been discussed since the formation of the Government.

In opening the argument I will content myself with stating the general reasons which induce me to support this bill, leaving to other members of the select committee the duty of stating their own views and replying to any objections of a legal or constitutional character that may be urged in opposition to it.

The questions involved are—

1. The necessity for new modes of railroad transit to and from Washington.

2. The extent of the power of Congress over existing railroads and its authority to construct new roads.

First. As to the necessity for new modes of railroad transit to and from Washington.

It is a remarkable fact that the only access from the North, East, or West to Washington is by one railroad, and that a feeder or branch of the Baltimore and Ohio railroad.

There are now in the United States over forty thousand miles of railway, and nearly every city or town of importance has the advantage of competing lines, and not one approaching the population of Washington but has several of these great avenues of travel and transportation. This marked isolation of

Washington becomes more striking when we consider it as the political capital of a country of thirty-six million souls, thousands of whom are compelled by public business and duties to visit it, and most of whom naturally desire to visit it as the seat of all the great Departments of the Government. Our constituents, where ever they reside, expect that their capital should be accessible to all by the best modes of transit enjoyed by other cities, and that this transit should be as direct, cheap, and convenient as possible. The demand for such means of transit comes to us with most force from those who reside in the District of Columbia. They are mainly the workmen or agents of the Government, or those who furnish them supplies. They must depend entirely upon Congress for the facilities of travel and transportation. Congress has exclusive jurisdiction over all matters in this District, and this authority involves the duty to secure them modes of transit equal to those enjoyed by other cities within the jurisdiction of a State. Has this duty been performed? Is the access to Washington such as is commensurate with the importance of this city as the home of one hundred thousand persons or as the political capital of the United States? Is the branch of the Baltimore and Ohio railroad a reasonably sufficient agency to transport all those whose business or pleasure calls them here and the supplies necessary for their maintenance? The Baltimore and Ohio railroad is a corporation created by the State of Maryland over which the people of this District have no control. Its main line and branches are five hundred and thirteen miles long, and it leases and controls other railroads probably of an equal length. Its operations extend to and through several States. The latest report we have of its operations is for 1865. By this report it then employed two hundred and forty-three locomotives and three thousand six hundred and thirteen cars. It gross earnings in that year were \$11,771,876. It may be properly classed as one of the great railroads of the United States. It has been managed with ability, and its influence is felt not only in Maryland but in connecting lines with Cincinnati, Chicago, and St. Louis. It competes with rival lines for the business of nearly one fourth the population of the United States, and it has the substantial monopoly of that of the District of Columbia. Like other corporations its chief motive is self-interest. Its great object is, first, the profit of its owners; second, the commercial interests of the city of Baltimore; and third, the convenience of the people of Maryland. It has no motive to promote the local interests of Washington, except as the business done here increases its revenues. Every regulation of the company makes Baltimore the chief terminal point to or near which every person traveling and every article carried over their road must go. All freight to Washington pays the charges to Baltimore superadded to those from Baltimore to Washington, and the delay at Baltimore is constantly complained of. Though Washington is one great source of its business, it gives in return but little to the local taxes or interests of Washington.

It has greatly contributed to the growth and prosperity of Baltimore. By traversing the whole length of Maryland it furnishes the citizens of that State excellent facilities of transit. It depends for its corporate powers upon the Legislature of Maryland, and may, if it abuses its powers or neglects its duties, be called to account by the people of Maryland. That it obeys its obligations to Maryland is shown by the fact that by the acquiescence of the Legislature it possesses a substantial control of the railroad traffic of that State. It pays to that State enormous taxes, and is one of the chief agencies of its wealth and prosperity. Mr. Garrett, the president of the road, in his recent address, very truly boasts of the beneficial effect of this policy to the interests of Baltimore and Maryland. He says:

"This system has enabled you to expend, under

the present administration, after making moderate dividends, more than fifteen million dollars to perfect your road with double tracks, with iron bridges, and the requisite machinery and buildings; to aid in opening the line through the Washington county road to the Cumberland valley of Pennsylvania, through the Winchester and Potomac road to the valley of Virginia, through the Parkersburg road to the Ohio river and to Marietta and Cincinnati, and through Bellaire and the Central Ohio road to Columbus, thus connecting also with numerous radiating lines from great centers of railway improvements. It has enabled you, too, to organize—thus advancing the interests of all regions with which you are connected—lines of ocean steamships to Liverpool and to Bremen, and to assist in establishing lines of steamships between the leading cities upon the southern coast and Baltimore. By economy and prudence and persistent energy this vast sum has been expended, enhancing and developing grand public interests without any strain upon the finances of the State or city, and these expenditures have produced rapidly, and with almost magic power, the largest reactive and most beneficial fruits."

But this road bears no such relation to the people of the District of Columbia. To the latter it is simply a monopoly imposing its own terms, including a tax on each person and on all property transported to Washington, but paid to the State of Maryland. It is a monopoly in that it prevents all rival lines, and indeed every means of railroad transit from the residence of three fourths of the people of the United States to Washington, except over their road. Capitalists and rival interests would have built other railroads to Washington long since, and the only obstruction is this railroad, which has thus far defeated all competition and has monopolized on its own terms the railroad transit to Washington.

A power like this in a single corporation, however wisely exercised, would in time cause serious dissatisfaction. It is inconsistent with the general good of the States and the people, which opposes monopoly and invites free competition. Liberty to devise and employ new agencies of commerce, to build new roads and improve existing roads, is necessary to secure the just exercise of corporate rights. It is, therefore, natural that dissatisfaction should occur with the present exclusive transit, even if it yielded only a fair profit on the capital employed and furnished direct, convenient, and cheap communication.

But we find—

1. That the profit of the Washington branch is grossly out of proportion to the cost of the branch.
2. That it is not a direct route except to Baltimore.
3. That it is not a convenient route, but denies the usual facilities of travel except to Baltimore.
4. That it is not a cheap route, but, though very profitable, is more expensive than any similar short line, and is used to levy for the State of Maryland an unconstitutional tax.

First. The profit of the Washington branch compared with its cost.

The latest return to which I have had access is the report for the year 1865. From this, as stated in Poor's Manual of Railroads, it appears that this branch is thirty miles long, extending from Washington to Relay House, Maryland, where it meets the main line. The gross earnings for 1865 were \$916,287, or over \$30,000 a mile. The expenses of operating it were \$865,294, and the net profits were \$550,992, or equivalent to ten per cent. on a capital stock of \$5,500,000.

I have not a statement of the cost of this branch, but from the comparatively easy grades, road-bed, and curvature, estimate that \$50,000 a mile, or \$1,500,000, would replace the road at the present high prices. The route presents no engineering difficulties, and with the exception of the bridge near the main stem it requires no expensive bridges. The capital stock of this branch is stated at \$1,615,000, and it has no debt. It thus appears that the gross earnings of this branch will nearly refund the stock in twenty months; that its net earnings will refund the stock in three years, and that the net earnings upon the stock in 1865 were thirty-three per cent. on its capital stock, and upon its estimated cost at present prices would exceed thirty-four per cent.

This enormous profit was divided between the stockholders and the State of Maryland—\$165,000 or ten per cent. being paid to the stockholders, \$244,187 to the State of Maryland, and the very large surplus revenue then accumulated, of \$708,013, which was deposited with or loaned to the Baltimore and Ohio railroad.

It is manifest, from this statement, that a monopoly so productive to all the parties concerned will not be willingly yielded, however burdensome it may be to the people of the United States, and especially to so many of them as reside in this District.

Second. The directness of the road.

The general direction of the branch is to the northeast, and therefore furnishes a reasonably direct route to Baltimore, and thence to the northeast Atlantic border. To no other portion of the United States does it furnish a direct route. Passengers to the North, to Harrisburg, and the body of the States of New York and Pennsylvania are required to go to Baltimore and pursue their journey as hereinafter mentioned. The main stem of the Baltimore and Ohio railroad is from east to west. The direct route to those States crosses the Baltimore and Ohio railroad at right angles, and to the people of the West and Northwest the route is still more indirect. By a feasible and direct route to Pittsburg, the center of an existing system of railroads, the distance would be about three hundred miles, while by the present route via Wheeling it is four hundred and ninety-two miles, and via Harrisburg it is three hundred and seventy-four miles. The managers of the Baltimore and Ohio railroad have been authorized for years to build a branch of their road from Washington along the line of the Potomac to Harper's Ferry.

This branch would shorten the distance by their line to Harper's Ferry fifty miles, or from ninety-two miles to forty-two miles. But the fact that so powerful a company has not yet constructed this short branch, and has scarcely commenced it, is explained by the palpable reason that it is not their interest to construct it. Their interest is to prolong the travel over their main line, and if ever constructed by them it will be run subsidiary to their main line. Even now, under the pressure of threatened competition, we scarcely have a promise of its speedy completion. Mr. Garrett, in the address already quoted, says:

"A costly enterprise, largely for the benefit of the capital—the Metropolitan road—is in progress. You will remember that by this line the distance from the Point of Rocks to Washington is reduced from ninety-one to forty-two miles, and that by this expensive though very direct avenue the city of Washington will be placed in most advantageous relations with your entire system of improvements, which have cost more than \$50,000,000. By this road, in connection with the Pittsburg and Connellsville line, the distance is reduced seventy-four miles from Pittsburg, and one hundred and twenty-eight miles from Cincinnati to Washington, as compared with the shortest lines to that city by the Pennsylvania road."

Thus, while admitting the palpable indirectness of the present route, its unprecedented profit, and the fact that they have expended \$15,000,000 to improve their main line and extend its connections, he gives us but little encouragement for what he calls a "costly enterprise" and an "expensive but very direct avenue to Washington." And yet this short road of forty-two miles could be constructed in one year, and from the accrued profits of the Washington branch now loaned to the Baltimore and Ohio railroad. Even when made it will not relieve the chief want of this District, namely, a competing route.

Third. The convenience of the present route.

By the rapid development of railroads in the United States certain facilities of transit are indispensable to the comfort and safety of travelers. These have been secured by the competition of rival lines, and where denied for any reason it is a just subject of complaint. But where this denial is based upon the avowed purpose of obstructing travel over other routes it becomes intolerable.

By the Baltimore and Ohio railroad a passenger to the East may, without change of

cars by horse power, make a connection east of Baltimore; but who can doubt but that if free transit were allowed through Maryland that the necessity for this tedious process of transportation through Baltimore would be avoided? There are no physical difficulties in the way not easily overcome, so that the vast tide of travel from the Northeast to the South might pass by locomotive power near to and around Baltimore, as well as other great cities on the route. The danger of local obstruction in a great city ought to be avoided, especially when actual experience shows it to be constantly imminent.

A President of the United States, to the lasting disgrace of the nation, was compelled, by an organized plot of assassination, to steal through Baltimore at night in disguise. Soldiers duly summoned to the defense of the capital were murdered in the streets of Baltimore. For weeks the railroads in and near Baltimore were in the possession of an armed force in hostility to the United States, and the rolling stock and property of the only railroad to Washington were in the use of the public enemy. At the same time their use was denied to the Government of the United States. Recently an armed mob in the streets of Baltimore took possession of a train of cars and insulted passengers for political opinions. None of these outrages could have occurred if there were free competing railroad lines through and around Baltimore.

But the chief inconvenience of the present system falls upon the transit to and from the West. A passenger to the West has no choice of route in that direction. He must go eastwardly thirty miles toward Baltimore, and if he wishes then to go West he must change cars and take such seats as are unoccupied from Baltimore. If he chooses some other route to the West, he must pursue his journey eastwardly to Baltimore, and then commence a new journey. The Baltimore and Ohio railroad will not connect with the only road from Baltimore to the North. It will not transfer baggage or sell tickets over or to that route. The time tables are arranged to create delay in Baltimore; a rough omnibus or carriage ride across the city one mile, with a scramble for baggage at either end of the transit, are unreasonable, inconvenient, and expensive, but they must be endured. The tracks of the two roads actually meet and connect, but the transfer is not made at the point of connection, and there can be no reason for this except the hostility of rival companies—the desire to force the western travel over the main line of the Baltimore and Ohio railroad, and the fact that passengers are utterly helpless to correct the evil. Tens of thousands of passengers have passed through this experience; many ladies and sick persons have suffered severely. In cold and heat, by day and by night, this antiquated system of transfer goes on. It is estimated that the delay and expense of this transit through Baltimore has already exceeded the cost of a new line from Baltimore to Washington. If this inconvenience could fall upon the citizens of Maryland it would not have been endured, for they could correct it; but all the passengers compelled to undergo this transit are traveling beyond the limits of Maryland, and thus have no remedy unless Congress can give them one. It has been complained of here and everywhere, but the only reply is that it is not the policy of the Baltimore and Ohio railroad to make this connection. Recently, it is said, efforts have been made to reconcile the petty rivalries and jealousies of these roads, but it is not done, and will not be done until competition compels them to regard the convenience and comfort of their passengers. Even when the transit is made at Baltimore the passenger is further from his place of destination than when he started from Washington, and yet this is the only mode by which a citizen can travel between Washington and the Northwest except by the main line of the Baltimore and Ohio railroad, which does not and cannot make his connections.

The same inconvenience occurs in the transportation of supplies to Washington. Its citizens depend mainly on the West for many essential articles. These can only be transported by one route, and therefore from many if not all the cities of the West and Northwest the cost of transportation is greater to Washington than to New York, Philadelphia, or Baltimore, while Washington is nearer the common source of supply than either of these cities. This want of competition in transportation is an essential element of the high cost of living in Washington, and contributes to the demand so often made and granted for increased salaries.

Fourth. The cost of travel and transportation to Washington is greater than the same distance on other roads. The charge is \$1 50 for forty miles, or nearly four cents a mile. This is greater per mile than the charge on the main line—a far more expensive road; but the main line competes with rival lines, while the Washington branch does not. The tax levied by Maryland on the Baltimore and Ohio railroad is mainly levied upon the branch. It is about \$250,000 per annum for thirty miles, or \$8,000 a mile—a higher tax than the average gross receipts of the railroads of the United States. A similar tax levied on the three thousand four hundred miles of railroad in Ohio would yield \$27,000,000, or several times the aggregate revenue of that State. The statements already given show that a mileage of two cents, or eighty cents between Baltimore and Washington, would on the present travel yield a handsome profit, while it would largely increase the travel and traffic on the road; but this can scarcely be hoped for when nearly half of the net receipts must be paid the State of Maryland as taxes.

The rates for transportation are also much higher than on other railroads, and these rates are superadded to the reasonable through rates of the Baltimore and Ohio railroad. The following remarkable statements were made in a report recently adopted by a public meeting of citizens of Washington:

"The Washington branch of that road was built under an act of the Maryland Legislature of 1830 and an act of Congress of 1831; by both of which acts transportation, freight, and passenger rates are limited; but the legal limits are, nevertheless, entirely disregarded by that corporation."

"As an example of the character of the charges for transportation, we have had our attention called to the case of a merchant here who shipped hardware from England; the ocean charges for three thousand miles were less than the railroad freight and charges in and from Baltimore to Washington, thirty-nine miles. Another recent case shows that the charges from Chicago to Baltimore on a parcel of freight (all the way by rail) were less than the charges in and from Baltimore to Washington. We also find that freights are taken from Baltimore to points in Virginia, and from places in Virginia to Baltimore, passing through Washington, at less rates than to and from Washington."

The statements here made, if accurate, demand at once a repeal of the several acts authorizing the Baltimore and Ohio railroad to enter the District of Columbia. Their right to do so is based upon the act approved March 2, 1831. This act limits them "to the same rights, compensation, benefits, and immunities as are prescribed in their said charter." Since the passage of this act their charter has been repeatedly altered by the Legislature of Maryland and the rates of charges greatly enlarged; but these changes cannot increase the rates in the District of Columbia without the consent of Congress. And yet, without such consent, the increased rates allowed by Maryland have been extended to Washington.

Full charges for freight were exacted from the United States without abatement during the war, while all other roads did lower their rates to the Government, and on United States troops the charge was one dollar to one dollar and ten cents.

At the very time the United States was defending Maryland from invasion by the rebels she charged the United States a tax of thirty cents on each soldier who traveled over this road to her protection. The amount thus collected from the United States far exceeded the entire cost of building and running a new road to Baltimore.

It is thus apparent that the railroad transit to Washington is neither direct, convenient, nor cheap, and that from the nature of the existing monopoly no remedy can be expected from the State of Maryland. That State commands every avenue of approach to Washington. It ceded to the United States this District as a national capital. This fact at common law implies a reasonable right of way over her remaining territory to the ceded territory. This is not granted. She obstructs free communication between the capital and the great body of the people. The inevitable tendency of this policy is to unsettle the continuance of the capital at this place. It is now far from the center of population, but its fine location on the Potomac, central between the North and South, the historical associations connecting it with General Washington, and the great expenditure incurred for public buildings, will secure the permanence of this location if direct, convenient, and cheap communication may be had to it from all parts of the country. One chief reason urged for this location was its easy access to the West by the old route of the Potomac and Monongahela and Ohio rivers. This is the great national route to the West—the route of the Indian trails—of the pioneers of Ohio and Kentucky, of Washington as a surveyor and soldier, and apparent on the map as the nearest and easiest connection between the waters of the Atlantic and the waters of the Upper Mississippi basin.

It is the route designated by Mr. Calhoun in his report as Secretary of War in 1824 as the route of highest importance, the improvement of which would do more than any other to bind together the three great geographical divisions of the United States. Apart from local interests it would be selected by any competent engineer.

When the Baltimore and Ohio railroad was built the interests of Baltimore and the Legislature of Maryland diverted this route from its natural course along the Potomac to Harper's Ferry eastward over a difficult country to Baltimore, while westward from Cumberland the local interests of Philadelphia and Pennsylvania prevented its construction to Pittsburgh and forced it over dangerous and difficult mountains to Wheeling. The same adverse local interests have been strong enough thus far to prevent this national route from being occupied. And thus the chief reason for locating the capital of the nation here has been counteracted, so that now this city is more difficult of access from the West than any city on the sea-board. If this anomaly is continued it will be impossible to resist the removal of the capital to a more central location, free from the danger of foreign and domestic violence, and where the policy of the neighboring States invites the freest and fullest competition in modes and routes of transit of persons and property.

The only remedy for all these complaints is free competition in the building and running of railroads to and from Washington. Where this is allowed no legislative restraints or regulations are required. If the surrounding States would adopt the general principle, now nearly universal west of the Alleghenies, of allowing any association to build a railroad wherever local or general interests demand, under general laws applicable to all alike, complaint would cease. The cost of railroads will prevent their unnecessary increase, and even where they are unprofitable as an investment they are greatly remunerative to the public by the development of resources. Railroads are never built except to make money for the stockholders, or to promote competition, or to promote the general interests of the locality. In any case they contribute far more to the general good than the inconvenience or loss they inflict on the individual. Railroads are vast agencies of commerce vitally necessary to modern civilization, and it is as wrong by law to limit the number of them as to limit by law the number of steamboats, cotton-mills, or blacksmith-shops.

Free competition in railroads is necessary in another view. The tendency of the age is to the combination of railroads—the union of connecting and competing lines with a view to prevent the reduction of fares. This process has within a few years, by leases, by divisions of profits, and by running arrangements, united in a single interest, under a common control, over one thousand miles of railroad, reaching through many States. The only way to avoid injury from this combination of capital is to invite new competing lines. The liberty to build these is the only check upon monopolies. But for this, existing railroads would form combinations precisely as they would be formed by merchants and manufacturers if the freedom of new competition did not compel them to gain their business and profit by the cheapness of their commodities and the excellence of their productions, rather than by special privileges.

A greater danger presents itself than mere combinations to regulate freight. It is the combination of great corporations to control Congress. A very marked example of this is presented by the effort of great corporations to oppose this bill. I will ask the Secretary to read a circular letter recently published.

The Secretary read as follows:

PHILADELPHIA, December 26, 1868.

SIR: Two bills (Senate bills 554 and 681) are now pending before the Senate of the United States, each of which incorporates several companies, and authorizes them to build railroads, seven in all, radiating from Washington and extending over seven or eight different States. These bills confer very great powers and impose few restrictions. For example, one of them authorizes the construction of a road to any point on any railroad in Virginia.

It is well understood that this is but an entering wedge to a system of railroad legislation by Congress, intended to extend over every part of the country.

Believing that such congressional legislation will be destructive of existing railroad interests, promote wild and dishonest speculation, and be highly demoralizing in its influence, we call your especial and immediate attention to it.

Many of the corporations named in these bills—some of them officers of existing railroads—have never been consulted. This has given the impression that influential men and companies favor this legislation who in fact are strongly opposed to it.

Under the impression that no such bill can pass, railroad companies generally have not opposed the measure. Prominent Senators, however, say that the danger is great and imminent, and that it calls for immediate and vigorous exertions on the part of existing railroad officers to avert it.

Should this matter appear to you as it does to us, we suggest that you use your influence with your friends in Congress, especially in the Senate, to defeat all such measures.

J. EDGAR THOMSON,

President Pennsylvania Railroad Company.

GEORGE W. CASS,

President Pittsburg, Fort Wayne and Chicago Railway.

T. L. JEWETT,

President Pittsburg, Cincinnati, and St. Louis Railroad.

ISAAC HINCKLEY,

President Philadelphia, Wilmington, and Baltimore Railroad.

CHARLES E. SMITH,

President Philadelphia and Reading Railroad.

ASHBEL WELCH,

General President of United Companies of New Jersey.

A. L. DENNIS,

President New Jersey Railroad and Transportation Company.

WM. H. GAETZMER,

President Camden and Amboy Railroad and Transportation Company.

Mr. SHERMAN. I know the gentlemen whose names appear attached to this paper. They are among the ablest railroad managers in the United States. But, sir, if they make combinations of capital to prevent competition they must expect new competitors. They control powerful corporations, but these corporations are subject to law. They have no exclusive powers, and let me say to them, in all kindness, that this effort of theirs is ill-advised, and if persevered in will result in political combinations, both in the States and in Congress, that will override at once their efforts to prevent new railroads, new combinations, and improved facilities.

Experience has shown that free competition is not only beneficial to the public, but is not injurious to the railroads. A new railroad develops its own business; the reduction of prices caused by competition increases the amount of

business, and often increases the net earnings of a road. Competition promotes economy in railroad management. It destroys corruption, which is usually an instrument of monopoly. In every aspect, and to every interest, a free competition in railroads is beneficial; it develops local resources, it increases subordinate industries, it cheapens the cost of living; while monopoly in railroads has the opposite tendency, and creates a feeling of dissatisfaction which in the end, without regard to legal enactments, will overthrow it.

Marked examples of this policy may be seen in different parts of the United States. Ohio commands every avenue of approach from the East to the West. Lake Erie bends into her northern boundary, while the hills of Kentucky obstruct railroads through her territory. By taxes or monopolies Ohio might have greatly obstructed free communication among the several States. She might have protected her grain markets from the competition of the West. She might have arranged her taxes so as to have levied them on the neighboring States. She adopted, however, the policy of free competition. Railroad charters were granted whenever desired, and finally a general railroad law allowed any association to build railroads anywhere upon regulations applicable to all alike. The result is the building of three thousand and four hundred miles of road, most of which is producing an actual profit to the stockholders, and every mile of which is of greater local benefit than the cost. New roads are being constructed, new competition created, until now cities of the smaller class build railroads merely to secure local competition. All the great lines from the Atlantic to the West are now competing in the different parts of Ohio for local business. They have extended their connecting arms in every direction. The Baltimore and Ohio railroad also avails itself of this policy and of the laws of West Virginia and Pennsylvania to improve and extend its connections. It now reaches with its connections to Cleveland, Chicago, St. Louis, and Cincinnati and the Southwest. It wisely and ably competes with all the great lines from Philadelphia, New York, and Boston. This competition is in the interest of the people, and if left untrammelled by State monopolies will secure cheap transportation. Yet while this road extends its operations into the natural fields of other corporations it carefully guards its monopoly here. Its rivals are not allowed by the State of Maryland to compete here. Washington is excluded from the benefit of this healthy competition. The passenger from the West and Northwest may reach any city of the sea-coast from Portland to Baltimore by his own choice of competing lines, but he cannot approach Washington except through or near Baltimore, and then only by a branch of one of the great competing lines, which, in its public advertisements, declares as an inducement for traveling over its main line to the West that it will not allow the usual facilities in the transfer of passengers and baggage to other lines in that direction. Such a policy naturally produces resentment, which, if it can find no remedy in the power of Congress, will find it in the removal of the seat of Government.

I have thus far considered the question as a local one, affecting alone the citizens of Washington, or those coming to or going from Washington. There is another view far more important. The right of a State to obstruct commerce and communication between the States by imposing taxes on commerce, or by granting special privileges and monopolies, has often been denied in Congress and by the courts, and presents a question of infinitely greater proportions than the dwarfing of Washington or the cost and inconvenience of persons traveling to Washington. It is the same question which mainly led to the adoption of the Constitution, to the formation of the Zollverein of Germany, and to the formation of the present empires of France and Great Britain. It is the struggle between local restrictions and the liberty of commerce. The effort to harmonize

this was attempted by the Constitution of the United States. Local government for local purposes is the primary object of cities, counties, and States; general government for general objects affecting the people of the nation was the object of the national Government.

The precise boundary between these must always be the subject of dispute; and this must especially occur where a specific power is given to both the States and the United States. The power over commerce is of this character: Congress has power "to regulate commerce with foreign nations and among the several States and with the Indian tribes." Here the power of Congress is only limited by the nature of the commerce. The power over local commerce between the citizens of a State is left exclusively to the States, but commerce among the States is to be regulated by Congress. Railroads are the agents both of local commerce and commerce among the several States. This creates the difficulty of defining the limits of the power of Congress and the States. Navigable streams, even if within the limits of a State, have been repeatedly held to be subject to the regulation of Congress. Unnavigable streams within the limits of a State are exclusively within the jurisdiction of a State. (*Veazie vs. Moore*, 14 Howard, 598.) States create railroads for local commerce. May not Congress create railroads for commerce among the States? States prescribe fare and freights for local commerce. May not Congress do the same for commerce among the States? This brings us to the general constitutional question involved in this and all the bills referred to the select committee: does the Constitution confer upon Congress the power by general regulations or by new corporations to control and build railroads?

The general design of the Constitution was to secure to Congress all legislative power affecting the interests of more than one State and essential to the general welfare. The powers reserved to the States, or not delegated to Congress, are such as affect solely the domestic interests and happiness of the people within the States. All questions of education, the domestic relations, of contracts, nearly all questions of municipal law, are reserved to the States, because they affect only the people of the State, and depend upon locality, wealth, density of population, the employment of the people, and a multitude of considerations properly to be judged of by the vicinage or State. But where the questions involved affect the people of other States the Constitution withholds their decision from local authority and intrusts them to Congress as the representatives of the whole people. Thus questions of peace or war, of armies and navies, of foreign intercourse, of commerce with foreign nations and among the several States, are carefully reserved for the consideration of Congress. It may sometimes be difficult to draw the line between local commerce within the State and general commerce between the States, but there can be no difficulty in classifying the vast operations of modern railroads, telegraph, and transportation companies, reaching from State to State, as commerce among the States. Commerce between New York and Chicago, traversing several States, cannot be classed as local interstate commerce, nor is it made so by being carried on by different agents of the several States. Though chartered by different States, if they form a connecting line for a single voyage they are agents of a commerce between States, and are subject to the regulation of Congress. If, by the policy of their State or by local interests, they fail to conduct this commerce between States in a convenient, cheap, and expeditious manner, they may be superseded by other agencies created by Congress. The power to regulate includes the power to enforce regulations. The law of a State cannot obstruct or oppose this power. Nor can its agents, under shelter of the authority of the State, impede, retard, or delay commerce among the States.

Civilization is often a question of communi-

cation. No nation can be really great unless its means of intercommunication are ample. Its comparative influence depends rather upon roads and ships than upon armies. The empires of the past have been great only while they maintained their superiority in modes of transit. The highways of imperial Rome supported her ascendancy as well as her legions. Internal commerce is the life-blood of a nation, as essential to national existence as an army or navy, more essential than separate departments of the Government or the careful division of political power. As an object of government internal commerce is only secondary to the preservation of life and property. This principle was recognized by the framers of the Constitution. They could not foresee the new modes of transit devised in recent times, but they declared the power of the nation, not only over external but internal commerce, when between States. When the canoe, the scow, the keel-boat, and the raft were the agents of commerce on navigable rivers they secured the power of Congress over them. When the sailing vessel owned by private merchants and engaged in free competition on the ocean and lakes were the agents of commerce, jurisdiction over them, the power to regulate them, was carefully reserved to Congress. The control over commerce, the duties levied upon commerce, the necessity for uniform commercial regulations, were leading inducements for the formation of the national Government, and these powers were clearly and fully given to the new Government. If the framers of the Constitution could have foreseen the forty thousand miles of railroads and the steamships, telegraph, express, and transportation companies that now are the agents of commerce, overlapping State lines and extending their operations to the remotest hamlets of the country, they could not have adopted language more clearly conferring upon Congress the power over all these agencies than the language of the Constitution.

Reasoning thus from the nature and character of our Government and the language of the Constitution, I cannot doubt the full power of Congress not only to regulate the commerce among the States conducted by existing railroads, but when it deems it expedient to build new railroads, either directly by the money of the people or by corporations created by it; and this view is strengthened by the history of the Constitution.

The debates in the Congress of the Confederation that preceded the Convention show that the necessity of the regulation of commerce by Congress, and the prohibition of State taxes and restraints on commerce, was a chief cause which led to the national convention, and one upon which there was least division of opinion.

Mr. Hamilton, in No. 11 of the *Federalist*, says:

"The importance of the Union, in a commercial light, is one of those points about which there is least room to entertain a difference of opinion, and which has, in fact, commanded the most general assent of men who have any acquaintance with the subject. This applies as well to our intercourse with foreign countries as with each other."

The debates in the Convention show that the national power over commerce was conceded to be of primary importance, and especially the smaller States of Connecticut and New Jersey demanded for their safety against unfriendly legislation by the great States of New York, Pennsylvania, and Massachusetts, that commerce should be regulated by the General Government. Mr. Dayton, of New Jersey, was very solicitous lest "Pennsylvania would tax New Jersey under the idea of inspection duties, of which Pennsylvania would judge."

It never entered the mind of Mr. Dayton that New Jersey would lay an embargo between New York and Pennsylvania, or, by a monopoly, levy the great body of her taxes on the travel between these great neighboring States. That the power over commerce was a leading power of wide range and subject to abuse was conceded. Efforts were made to limit it to foreign commerce, and to require a two-thirds

vote for commercial regulations; but these efforts failed, and the power was left to Congress in the most comprehensive language.

It was not only conferred in general language, but to avoid the inference that the power might, by construction, be confined to foreign commerce, unusual tautology was adopted by declaring it to extend to commerce among the several States.

Second. Legislative precedents.

The power of the United States to build works of internal improvement within the States has been settled by a series of precedents stretching through our entire legislative history and sanctioned by every department of the Government. The public records show that the policy in some form or other has been coeval with the existence of the Government, and the rapid progress of the nation is evidence of the wisdom of the policy. Vetoes have sometimes limited the general power for a time, but these are exceptions to the general rule. Rivers and harbors have been improved; canals have been made; turnpikes and railroads have been constructed; private property has been appropriated for public use, and almost every form of commercial improvement has been authorized and constructed by the authority of the General Government.

A long list of these appropriations is contained in Professor Baché's report to Congress some years ago, and in Wheeler's History of Congress. From these it appears that appropriations for internal improvement have been made during every Administration, for a great variety of improvement, and varying in character as commercial agencies advanced from turnpikes to canals, steamboats, and railroads.

The Cumberland road was commenced in the time of Mr. Jefferson. In the administration of Mr. Monroe the system of internal improvements was revived. The instructive debates in the Senate in 1824 and 1830 exhausted the constitutional argument. I cannot add to the arguments then made, and I will not consume the time of the Senate in reading extracts here. Mr. Webster, in his second reply to Mr. Hayne, proved conclusively that Mr. Calhoun, the champion of the most limited authority of Congress, had repeatedly conceded and voted for the unlimited authority of Congress over public improvements, with or without the consent of the States. And, sir, when we reflect upon the march of events, upon the debates and acts of this Senate during the last eight years, it seems idle to pause over the exercise of a power to build a national railroad to the capital of the nation when its necessity is so clearly demanded for the public good, and when it is only resisted by the interest of private corporations demanding a monopoly in the name of State rights.

If Senators desire to follow the constitutional argument further, they will find in the memorial to Congress of the Chicago internal improvement convention of 1848, the authorship of which is attributed to John C. Spencer, of New York, an argument that, to my mind, is conclusive upon every objection made to the power of Congress by the several veto messages of Presidents Polk and Tyler. This argument is on the record of Congress, and deserves a place among the ablest State papers of this century. I can add nothing to it.

A claim is sometimes made that though the power of Congress to build railroads is settled by legislative precedents, yet that Congress cannot condemn land for that purpose without the assent of the State. This claim is certainly untenable. The general power includes all the necessary and proper means to carry it into execution. This cannot be done without appropriating land.

It is true that the States within which an improvement was to be made have usually not only consented to the improvement, but have petitioned for and aided in the construction. In some cases Congress has required the consent of the State as a condition precedent to the construction of public works; but this has

been done not from a want of power, but to secure local coöperation and aid.

The Constitution, as adopted, gave the power without protecting the citizen in his right of private property. This was corrected by article five of the amendments, which declares that private property shall not be taken for public use without just compensation. It is a safeguard to the citizen, and not to the State. The general power remains, and in no case does its exercise depend upon the consent of the State or any act of the State, and no act of the State can limit or affect the power of Congress, which, within its constitutional authority, is supreme.

The authority of Congress to build roads, canals, and all forms of internal improvement has been sustained by the Supreme Court whenever questioned before that tribunal. Though the direct question whether Congress may, in disregard of a State law, build a railroad within a State has never been presented; yet the tenor of the decisions of that court has always upheld the power of Congress to adopt its own agencies in the execution of its delegated powers and to disregard any obstructions set up by a State. The United States Bank cases and the *Wheeling bridge* case sustain all that is attempted by this bill. Whether the bank was an agency proper and necessary for the execution of any of the express powers of Congress was a question of doubt, but no man will question but that a railroad between Washington and New York is an agent of commerce between States, essentially and vitally necessary for the postal, military, and commercial service of the United States; and to hold that no such agent shall exist except it be created by a State, controlled by a State, regulated by a State, made a monopoly by a State, and beyond the power of Congress, is to destroy the essential qualities of a supreme national Government. It is secession intensified, for if a State seceded it lost the benefit of the protection of the General Government; but a State that can grapple and control for her own interests merely all communication over her territory could enjoy all the benefits of Union and yet inflict upon her sister States all the injuries of separate governments. The case of New Jersey is a marked and, fortunately for the country, an isolated example of this policy. Her territory lies between the two great cities of the continent. It is generally level, presenting no difficulties for constructing railroads. She receives vast local benefits from her proximity to those cities. One of those cities controls the commerce of the continent, the other is the chief manufacturing city of the continent. The road between them should be open, free, easy, and cheap. Every mode of transit should compete for the exchange of commodities and productions. Yet New Jersey undertakes to declare that but one corporation shall transport all these commodities and productions, and that this corporation shall collect for her a tax on all this commerce. This monopoly has been maintained for years, but expires within the present year. Efforts will be made for its renewal. At all events it will have power enough to prevent State authority for the construction of rival lines. Now, therefore, is the proper time to assert the authority of Congress to regulate commerce among the States by authorizing new lines of transit; by encouraging competition, improvement, and enterprise; by making the construction of railroads as free as the construction of merchant vessels and blacksmith shops, and by guarding by general laws the lives and safety of passengers on railroads as well as steamboats. We have already by a general telegraph law greatly increased the competition in that agency of commerce. We have often exercised our power to regulate commercial vessels, both on the sea and on the rivers. The iron track is now the great commercial road of mankind. Over it the commerce of men is now greater than by all kinds of navigable water. The locomotive is either superseding or revolutionizing the canal-boat, the sailing vessel, and the steamboat. It is

creeping up every valley and overleaping every mountain of our vast country. It is everywhere the agent of commerce and civilization. It has added more to the wealth of our country than all the land and houses and possessions were worth forty years ago. If the railroad and telegraph are not national, then nothing is national. If railroads can only be built by a State, regulated by a State, monopolized by a State; if a State can prevent their construction to promote some local interest or monopoly, then our Government is not national.

The fear of Mr. Dayton, of New Jersey, has come true. A State, under pretense of State law, taxes other States.

It is one of the great beauties of our Constitution, framed by men of rare wisdom, that though man may invent and magnify; though the habits and agencies of their day are swept away by the inventive genius of their children; though our population has increased twelve-fold, and our country extends across the Continent, yet that the general principles and powers they have ingrafted in the Constitution, like the teachings of the Bible, meet all changes, all time, all diversities of condition, wealth, and population, and, applied with a liberal and fair construction, regulate agencies and things of which they had no conception, in harmony with their central idea of a local government for local purposes merely, affecting only the people of the State; a national government for general purposes, affecting the people of different States. I believe, sir, that in authorizing the construction of these railroads we exercise no doubtful power, while if our legislation is followed, as I hope it will be, by their speedy construction, we will have contributed not only to the local interests of this District, but to the common good and general welfare of the whole people of the United States.

Mr. President, in accordance with the notice I gave to the Senate, I now move that the further consideration of the bill be postponed until Monday next at one o'clock.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 728) relating to the Bureau of Steam Engineering in the Navy Department, in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the amendments of the Senate to the bill (H. R. No. 1428) authorizing the admission in evidence of copies of certain papers, documents, and entries.

The message further announced that the House had passed the bill (S. No. 738) to relieve from disabilities John G. Stokes, a citizen of Alabama.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. No. 1428) authorizing the admission in evidence of copies of certain papers, documents, and entries; and it was signed by the President *pro tempore*.

HOUSE BILL REFERRED.

The bill (H. R. No. 728) relating to the Bureau of Steam Engineering in the Navy Department, was read twice by its title and referred to the Committee on Naval Affairs.

MISS SUE MURPHEY.

The PRESIDENT *pro tempore*. The unfinished business of yesterday is now before the Senate as in Committee of the Whole, being bill (S. No. 625) for the relief of Miss Sue Murphey, of Decatur, Alabama, on which the Senator from West Virginia [Mr. WILLEY] has the floor.

Mr. WILLEY. Mr. President, I do not propose to detain the Senate more than a few minutes. In regard to the facts in the case now under consideration I am not familiar with them; but there is a principle involved in this bill that in my estimation is very important, and it is therefore important that we should

now come to a correct decision in regard to it. Before proceeding to notice the question really at issue it would be well enough to divest it of some extraneous matter that Senators seem disposed to throw around it.

Mr. President, this is not a bill to assess the United States for damages done by the armies of the United States, or by any other authority. It is not a question of damages. It is not whether we shall pay for property destroyed incidentally in the prosecution of the war, or accidentally in the prosecution of the war, but it is a bill for compensation for the property of a loyal citizen of the United States, taken under and by virtue of competent authority upon the part of the United States, and appropriated and used for the benefit of the United States. The honorable Senator from New York [Mr. CONKLING] stated yesterday that he thought there would be greater equity in extending the liberality and the pity of Congress to the loyal men who had been persecuted and harassed by the rebels in the South only because they were loyal, for injuries which they had received in consequence of their loyalty, and for no other cause, than to grant the relief asked for in this bill. But, sir, this is a misconception of the principle of the bill, similar to that of Senators who suppose that this claim is one for damages done.

This bill does not predicate the claim to the consideration of Congress upon any wrong done to a loyal citizen within the enemy's territory; it is not for any damages done to any loyal citizen within the enemy's territory; it is not to compensate for any wrong received by a citizen in the enemy's territory either at the hands of the rebels or at the hands of the United States; but it is to make compensation for the benefit which the United States have received. Any matter of wrong to the claimant is wholly a matter outside of this bill. It is for the benefit that the United States have received, not for the wrong that a citizen living in the enemy's territory received. It is, sir, whether, having received the property of a loyal citizen residing within the territory of the enemy, (as is alleged, though incorrectly so,) and used to the benefit of the United States, there is not a moral, a legal, a religious obligation upon the United States to pay a fair compensation for it. Sir, I contend that there is; that by every principle of justice; that by every principle of equity; that by every principle of honor; that by every principle of common honesty, we cannot escape the obligation to pay for property that we have taken belonging to a loyal citizen, no matter where he resides, and have received the benefit of in its use in the support of our armies or in support of the cause of the Union in the prosecution of the war.

The honorable Senator from Vermont [Mr. MORRILL] said that this would raise the question whether we were not bound to pay for every article of property seized by General Sherman as he passed across the fields of the South. Well, sir, so far as I am concerned, I say we are, if it was seized by lawful competent military authority and was the property of a loyal citizen, and was duly and lawfully appropriated to the benefit of our armies in the prosecution of the war.

Why, sir, suppose in the pursuit of those robbers and raiders along the shores of the North, who invaded, I believe, the State of Vermont and seized upon some of its property in its banks, I believe, the United States had sent its Army officers or any other competent authority to seize those men raiding upon the property of citizens of Vermont, and it had become necessary in the prosecution of that proper object to take a horse of the honorable Senator himself, as they passed across his fields, and appropriate it to the use of the party in pursuit of the offenders, and it was so appropriated, and the public authorities of the United States did so receive the use and benefit of that property, would not every obligation rest upon us to pay the honorable Senator from Vermont for his horse or any other property

appropriated under those circumstances? We have done it under similar circumstances, as I shall show hereafter. We are estopped from preferring any such objection by appropriations for payment for property seized in Ohio and property seized in Indiana during the Morgan raid, which we have already paid for out of the Treasury of the United States, or we are still bound to pay for it by our own legislation.

Now, sir, let us look a little more into this matter. Senators seem to think that those general principles referred to the other day by the Senator from Wisconsin [Mr. HOWE] as lying at the foundation of our Government, do not have any application here. Sir, I regard the principle as fundamental and as sacred that the obligation upon the part of the United States to protect and defend its citizens can never be abandoned with honor to the United States so long as the citizen is faithful to his obligations to the Government. The obligation between the Government and the citizen is mutual, and it cannot be pre-terminated; it cannot be dispensed with by one party so long as the other party is faithful to its obligation. While the citizen is faithful, while he holds to his fealty, while he discharges the obligation of citizenship, the theory of our Government is and the principles of justice and right are that the Government shall bring to bear all its powers to the end that that citizen receives no detriment that shall not be redressed. The obligation is as eternal as the Government, and it is as sacred as the eternal principles of justice, that while the citizen is faithful to his obligations to the Government, the Government is bound to see that he is protected, and that he receives no detriment from any source, much less from the fostering and paternal hand of the Government itself. And so, sir, we have incorporated in the great fundamental law of this country that sacred principle that the Government, or its agents, or its authorities, shall in no case take private property for public use without due compensation.

Well now, sir, what is there in this case or in the circumstances surrounding it to take it out of the operation of these general principles and from under the operation of this general rule? Why, sir, it is said that this party lived within the enemy's territory. The honorable Senator from Wisconsin, the chairman of the Committee on Claims, has said enough to disabuse the minds of the Senate of that pretense, because from the time this property was appropriated to this day that section where the property was appropriated has never been within the enemy's lines at all, as I understand. But suppose it was so, what difference would it make?

Mr. MORTON. I ask for information in what way this property was appropriated? Was it by a formal order?

Mr. WILLEY. By the order of General Sherman, as I understand, the commander in authority, seized and appropriated for a lawful military purpose. It was not destroyed in battle, but it was seized to make a fortification to secure our men from the bullets of the enemy, to protect our soldiers and citizens—as lawful a purpose as any that can be designated. It was, as I understand, taken and appropriated for a lawful military purpose. That is all I need say about the facts. It was taken and appropriated for a purpose which in the opinion of the commanding general was a necessary purpose. In the prosecution of the war, in the discharge of his duties as the commander of the troops at that place, by his order, by his authority it was so taken, so used; and by that authority this loyal citizen has been deprived of her property, which has gone to the benefit of the United States; and now the question is whether we will pay this loyal citizen for her property, seized and appropriated in the manner which I have suggested.

Mr. MORTON. If the Senator will permit me I wish to ask him a question, because I have not studied this matter, and do not know how I shall vote upon the bill. I will ask him

to state the difference in principle as to the liability of the Government between a case where property was seized, like this, for the purpose of making a fortification, and where the property of a Union man was destroyed by General Sherman on his march without any formal order; whether there is any difference in principle between the two cases. If there is not, then the payment of this claim would make the Government liable for the property of all Union people destroyed by the march of our armies or in the progress of a battle. If there is a distinction, I should be glad to have the Senator state it.

Mr. WILLEY. I am certain that I shall not be able to state the distinction any more clearly than it must be apparent to the mind of the honorable Senator himself. I have already stated that this bill was not for property destroyed accidentally, incidentally, or by the unauthorized action and trespass of any portion of our armies. It must be apparent to the Senator that there is a wide distinction between such a claim as that and a claim for property seized and taken by competent military authority and appropriated legitimately to the benefit of the United States. Where a soldier or an officer commits a trespass or acts without authority, he is simply a trespasser, and liable to the laws for his trespass; and where an injury occurs incidentally, not by the direct act of the United States authorities themselves, that may be the misfortune of the party upon whom the injury falls; but here is a legitimate order given by legitimate authority to seize property and to apply it to a legitimate purpose for the benefit of the United States, and it creates, as I think, an implied obligation to pay for it, and if the authority that did it, if the United States, were an individual instead of the Government, it would imply such a legal obligation as would sustain a suit and authorize a recovery *in assumpsit* for the value of the property so taken and used. I hold that every honorable obligation rests upon the Government of the United States to be as faithful to its duties and its obligations as any individual would be under our laws.

Now, Mr. President, suppose that this case had occurred within our own lines; suppose it had occurred in the State of Ohio. I need not argue upon that hypothesis, because the Senate has already appropriated money for a case like this that occurred in the State of Ohio. But suppose this very case had occurred in the State of Ohio, within the loyal lines. The Government takes the property of a loyal citizen, has need of it, applies it to a legitimate purpose, and receives the benefit of it; would there be no obligation resting upon the Government to pay for that property? Would not the obligation be complete? How could we escape it? Sir, there would be no pretense that we could escape it. There would be no effort to escape it. We would recognize the obligation at once and make an appropriation to pay for it when the evidence was complete that the property had been so taken, seized, and used.

How is the case different when it occurs within the lines of the enemy? Authorities have been introduced here by the honorable Senator from New Jersey, [Mr. FRELINGHUYSEN.] I propose to examine those authorities; and I shall suggest that those very authorities establish a principle different from that which they were quoted to prove by the honorable Senator from New Jersey. I am willing to recognize the application of the principle of law that we can make no distinction between the loyal citizen and the disloyal citizen within the enemy's lines during the existence of the war; but whenever the war ceases that distinction ceases, and the original obligation between the citizen and the Government resumes its full function and force; and thereafter, when peace is declared and the flag of the Government is again established over the rebellious territory, the rights and privileges and immunities of the loyal citizens resume their functions also, and they thereafter have a standing in court for any legiti-

mate rights which accrued during the existence of the war as between the Government and such citizens.

The first authority quoted by the honorable Senator was that from Vattel, with which I was familiar; but I suggest to the honorable Senator that the law does not bear him out in the position which he has assumed. The authority quoted by him is as follows:

"Civil war breaks the bands of society and government, or at least suspends their force and effect; it produces in the nation two independent parties who can consider each other as enemies and acknowledge no common judge. Those two parties, therefore, must necessarily be considered as constituting, at least for a time"—

Mark that language, Mr. President, "at least for a time"—

"two separate bodies, two distinct societies," &c.

The honorable Senator then proceeded to quote from the prize cases, and came down to Mrs. Alexander's cotton case. I propose to invite his attention and consideration to the extract which he read from the latter case, and also to invite his attention to a further extract from the same opinion of the Chief Justice in that case. The clause of the opinion of the Chief Justice which the honorable Senator from New Jersey relied upon is as follows:

"It is said that though remaining in rebel territory Mrs. Alexander had no personal sympathy with the rebel cause, and that her property therefore cannot be regarded as rebel property; but this court cannot inquire into the personal character and disposition of individual inhabitants of enemy territory; we must be governed by the principles of public law, so often announced from this bench as applicable alike to civil and international wars, that all the people of each State or district in insurrection against the United States must be regarded as enemies until by the action of the Legislature and the Executive"—

Mark that language—

"or otherwise, that relation is thoroughly and permanently changed."

Now, sir, is not the relation between this Government and Alabama, the State where this citizen lives, thoroughly changed? Is not peace restored? Is not the authority of the United States Government, which never was vacated there in point of fact, but was driven away temporarily, reestablished over the territory of Alabama again? Are not her Senators upon this floor? Are not her Representatives in the other Hall? Are not all the functions of the United States Government restored in that State? Why shall not this loyal citizen now, when the relations are thoroughly changed, when the courts of the United States are reestablished there, and the authority of the Government is reestablished there, be recognized in her rights?

Why, sir, let me read a further extract from that opinion; and I invite the attention of the honorable Senator to it. If he had read a little further in that opinion he would have found the following. The court seem to imply that it was only during the war that loyal persons could have no standing in court, for they say, "Being now," that is, at the time when the suit was prosecuted and the case was pending, and the war was still raging:

"Being now a resident in enemy territory, and in law an enemy, she can have no standing in any court of the United States so long as that relation shall exist."

Implying that when that relation ceased she could have a standing in court and would be entitled to recover any just rights that might have accrued to her during the existence of the war. Sir, the cases cited by the honorable Senator from New Jersey do not, therefore, as I think, carry him out to his conclusion. There is a just reservation here. There ought to be a reservation here.

Why, Mr. President, just look at the case. Here is a loyal citizen, standing firm by his loyalty during all these terrible years of strife, persecuted, driven from his home, cast into dungeons, and sometimes threatened with the gallows; still he stands firm by his integrity; his property is seized, his houses are burned by the hands of the rebel over his head, and his family are scattered abroad upon the land, thrust out upon the cold charities of a community who

scowl upon him, and scowl upon his family, because his heart has never faltered in his fealty to his Government. The war ceases, and this firm friend of the country comes out of the smoke of the last battle with glad eyes and bounding heart to salute his old flag, and he is met by the Senate of the United States with the response, "Sir, you are no better than a rebel; any property that we seized and took of yours might as well have been seized and burnt by the rebels; we will not pay you a cent." That is the statement of the case. You may talk about international law, and lawyers may cover over this claim and the principle of this bill by the technicalities of the law; but the sentiment of every right heart revolts at all such injustice, and says that when a great and magnanimous nation like the United States receives from one of its loyal citizens his property and applies it to the benefit of the United States, that citizen must and shall be paid every cent of the value of the property so used.

Why, sir, look at the impolicy of any other course. Suppose we reject this bill; suppose we say to the people of the United States and the world that we will make no distinction between loyal men and disloyal men in insurrectionary districts; what will be the result in time to come? What will be the result when we have another war? Shall we have any loyal person there to make a diversion in our favor? What do we say to loyal men in rebellious districts? We say to them, "You had better succumb at once; your fealty to us is worth nothing; your fidelity to us is only worthy of scorn and contempt when you bring it to bear upon any claim that you have upon the consideration of Congress in the Senate of the United States; you had better go to the rebels and say to them, 'We are with you,' and thereby keep persecution off your head and off your family; you can expect no favor from us; we regard you simply as we regard rebels, not only during the war and under the exigencies of the strife and the battle, but when we have reestablished our authority you are then to be no better than a rebel, and all your loyalty and fidelity to the flag will be of no account and of no avail in your behalf." Sir, there is not a right-minded man on the face of the earth who will not revolt at such a theory on the mere statement of the case; and this is a true statement of the question.

We are told that we cannot pay these claims because the amount will be so large that we shall not be able to meet the demand upon the Treasury of the United States. Sir, there is a mistake here. But suppose the amount is very large, cannot a great and magnanimous nation afford to pay it? In my opinion we can better afford to meet hundreds of millions of dollars in the discharge of our just and equitable obligations than we can afford, as a great nation, in the eyes of the world and of history, to repudiate one dollar of just obligation which is demanded at our doors. Why, sir, this is repudiation, and nothing else. Can it be possible that the Government of the United States will take from its loyal citizens their means, their money, their property, and apply it, appropriate it, use it, receive the benefit of it, and yet repudiate the obligation to make just compensation for it? Sir, is it honorable? Is it honest?

The honorable Senator from New Jersey said yesterday that pestilence cometh sometimes, and it falls upon a city, and it makes no distinction between the loyal and the disloyal, the good and the bad. Let us apply his figure. What was the pestilence in this case? It would seem from the application given to it by the honorable Senator from New Jersey that it was General Sherman's army instead of the rebels. I hold that the rebels were the pestilence, that General Sherman was the physician, and that this lady's house which was appropriated was the apothecary shop, and that the physician seized the medicine—the means—belonging to this lady to drive away the pestilence, the rebels. That is the true application of his figure, if it has any applica-

tion. I hope he will not be so ungenerous as to refuse to pay the apothecary for the medicine we used in driving away this terrible pestilence. Would that be just? Does that consist with the sense of equity and justice of the honorable Senator.

Again, the honorable Senator cited the principle of law recognized so long ago as we learn from the authority he cited, that when a city is in flames and the fire is marching with its devastating track in one direction, you may blow up a house in the line of its progress to arrest the conflagration. So you may; but take care how you do it. You must show beyond all peradventure that the march of the flames would not have stopped until it reached the house, and that if it had remained where it stood without being blown up or removed it would have burnt down; and you destroy it at your peril unless you are able to show that the danger was so imminent that the conflagration could not have been prevented in any other way. Therefore it is, sir, that the party owning the building or the mansion can receive no compensation. Why? Because his building would have been burnt up if it had not been blown up; and it must be shown that the danger was so imminent as to leave no reasonable doubt that it would have been burnt before authority can be presumed to blow it up. There was no such danger here. No such principle is applicable in this case. This is simply a case where the proper authority of the United States, where the Army of the United States, General Sherman at its head, sitting down in peace, with the enemy in his front to be sure, but the facts showing that they never came behind where he was at that time so as to reclaim the territory, and the territory was never again within the enemy's lines, seizes the property of a loyal citizen, takes it, and applies it to the use of the United States, and we get the benefit of it, and this lady now applies at the doors of Congress for compensation for her property; and Senators say that the laws of war, and Vattel, and the prize cases, and the Mrs. Alexander case will not justify us in paying her! The doctrine cited might be applicable if the property of the claimant had been destroyed to prevent its falling into the hands of the enemy and being used to our hurt by the enemy; but no such exigency existed in the case under consideration.

I have shown what this Alexander case means, and what the law in Vattel means; that they contain a reservation in favor of just such a case as this. But if there was no such reservation there is that in every man's heart that says "pay it." Why, sir, to apply it to an individual, suppose any of us had taken this property on our own account and applied it to our own use, any Senator would be insulted if you asked him whether he felt that there was an obligation on his part to pay for it. How is the case changed in morals, or in law, if you please, when the Government of the United States, our great Government, steps in and takes the property of a citizen? It is bound by our theory of government to protect him all the time, and there is no course left but simply to pay for what we receive. There stands our constitutional obligation. We can take no "private property without just compensation." Away with your Vattel! Stand by the Constitution. It is posterior to Vattel. It supersedes Vattel, even if the Senator from New Jersey rightly interprets him. Our Constitution, not Vattel, is our rule of action. Its requirement is founded in justice. It makes no reservation of time or circumstances when this provision is to be or not to be applied. By its terms its force never ceases in war or peace.

Mr. President, I had no design to enter into the discussion so much at length as I have done, and now I desire simply to make one further remark in conclusion; and that is, that this is not a new principle of policy for which I am contending to be introduced into the legislation of Congress for the first time. If we are to pay any regard to what we have done

in the past, not in relation to the Armes case, not in relation to the other cases that were cited here the other day, but in regard to general statutes having reference to this class of cases and to rights like those involved in this controversy; if we are to pay any regard to our own legislation in such cases, we are estopped from denying that there rests an obligation upon us to pay this lady a just compensation for her property.

How was it in 1862? I invite honorable Senators' attention to this, especially the Senator from Vermont, [Mr. MORRILL.] We not only made a distinction in the confiscation of property between the loyal and disloyal, as you will see by the act of 1862, section six, adverted to the other day by the honorable Senator from Wisconsin, the chairman of the committee, but he might have referred to another section, and I will read that section, or part of it—the tenth section:

"That no slave escaping into any State, Territory, or the District of Columbia, from any other State, shall be delivered up, or in any way impeded or hindered of his liberty, except for crime, or some offense against the laws, unless the person claiming said fugitive shall first make oath that the person to whom the labor or service of such fugitive is alleged to be due is his lawful owner, and has not borne arms against the United States in the present rebellion, nor in any way given aid and comfort thereto."

Why, sir, we have here a statute binding us to redeliver slave property to a loyal owner living in the enemy's territory when he escapes; and this in 1862, when the war was raging and in full force and vigor; and to-day what do you say to a loyal lady who comes here claiming the poor pittance of compensation for all, I understand, she had on the face of the earth, which was used by the Government—not slave property, not property in human beings, but the means of livelihood and the place where this lady had her only home and means of refuge and covert from the storm—this was taken from her. She comes here and asks compensation for it, and, with a statute staring us in the face that we were willing in 1862 to deliver slaves escaping from a loyal master living in southern territory back again to bondage, we say to her, "Begone; you have no standing here in the Senate of the United States; we have got your property; we have used it; the United States have received the benefit of it; we do not pretend to deny that, but we do not intend to pay for it."

Now, Mr. President, I hope that will not be the case, and that the Senate will pause before they put upon the records of the nation the fact that the United States, under any circumstances, will avail itself of the use and benefit of the property of any of its loyal citizens and yet refuse a fair and just compensation for it.

Mr. FRELINGHUYSEN. Mr. President, I rise to make a single remark; for I confess that if the view taken by the Senator from West Virginia of the cases by me cited be correct I am in great error in reference to them. If he has got the spirit and meaning of either of the cases to which he alludes I have not.

The Senator calls attention to the reference in Vattel, which is in these words:

"These two parties therefore must necessarily be considered as constituting, at least for a time, two separate bodies, two distinct societies."

And on the words "at least for a time" the Senator draws the conclusion that after civil war ceases what transpired during its continuance is to be judged of as if it had transpired in a time of peace. And the same construction is attempted to be given to the very clear and explicit declaration of the Supreme Court in Mrs. Alexander's cotton case. There the Chief Justice says—and I will assure the Senator that I had read the whole case:

"We must be governed by the principles of public law so often announced from this bench as applicable alike to civil and international wars, that all the people of each State or district in insurrection against the United States must be regarded as enemies until by the action of the Legislature and the Executive, or otherwise that relation is thoroughly and permanently changed."

Now, the idea of the Senator seems to be that when the war ceases everybody has then

a claim for what transpired during the war, as if no war had existed; that the war was only a postponement of the rights of claimants; while it is clear that the court intends and says that the section in rebellion is to be considered as enemy territory, subject to all the incidents of war while war exists, but no longer. The court does not intend that the principles of peace and of municipal law are to be applied to a period when the law is silent and when martial law prevails.

I do not rise to again argue this question. It is too plain. To insist that a victorious belligerent is bound in law to pay for the occupation of property in the enemy territory while war existed is attempting to establish as law that which is in direct opposition to established law, in opposition to the teachings of elementary books, to the doctrine laid down by our own courts. And to insist that after this nation, at the entreaty and prayer of the loyal people of the South, have by the expenditure of millions of money and hundreds of thousands of lives rescued the country, it is to be held liable to make compensation for the injury resulting from the war is to attempt to visit with a punitive return the greatest heroism.

I know that local interests sometimes influence our judgment; but the States recently in insurrection and now reconstructed are intimately interested in the welfare of the country, and the representatives from those States should, I think, be careful not to aid in the adoption of a principle injurious to a nation as dear to them as to any other section. To call upon the loyal North, after its expenditure of blood and treasure and while loaded with taxation, to inaugurate a system of payments founded neither in justice nor in law would, I submit, be making a poor return for the great work that has been accomplished.

Mr. RICE. Mr. President, this debate having taken the turn that it has, bringing up the whole question of the payment of claims of the loyal citizens of the South, I deem it my duty, as my constituents are to some extent affected, to give my views upon the subject. I will do so very briefly, because I have not examined the legal questions in the case with very great care from the fact that I was not aware that this bill would bring up that subject in the manner that it has done.

This bill, as I understand, is for the payment of a single individual for property appropriated by the Government of the United States. There seems to be some question as to the point whether this was an appropriation of property or was simply a destruction of property; but if it is to be regarded as an appropriation, if it is to be regarded in the same light that we should regard the taking of so many horses and appropriating them for the use of the Government, or the taking of so much corn and appropriating it to Government use; if it is to be regarded in that light, and is to be acted upon in that way, then it brings up a question that is very important, and a question that if settled against the payment of these claims cuts off the loyal men of the South from payment for all the forage and all the subsistence stores that they furnished to the Federal Army. If the particular vote on this bill carried with it nothing else but the defeat of the bill I do not know that I should have anything to say, for I am not acquainted with the facts except as stated by the chairman of the Committee of Claims; but if it is to have the effect of declaring the sense of the Senate that they will pay no claims for property used by the Army in the South, then I have something to say.

The only point, as I understand, that is made against the payment of loyal citizens in the South at all, is that they were by the laws of war constructive enemies during the war and are to be treated yet as enemies of the Government of the United States. I know that that is so laid down in the books as being the law of war; but I know that that had its origin in foreign wars, where the invaded country owed no allegiance to the invaders, and where the invaders owed no protection to the country that

they invaded. It may have been extended—and I believe has been—to revolutions in monarch-ical countries; but I cannot see that you can apply that law to our form of government. The power in this Government flows from the people, and when all the people that are loyal to the Government join together to maintain that Government I am unable to see why one loyal man has not the same right to be paid for his property that another has. I cannot see why one loyal man who is a part and parcel of the Government, who goes to make up the power of the Government, has not as much right to payment for his property, if he has furnished any for the use of the Government, as any other loyal man has.

The Government owes some protection to its citizens. It has been stated here that that protection is incidental and not direct; that the main duty of the Government of the United States is with foreign countries, and that the citizen must look to the State for his direct protection. If that be true the converse of the proposition is true also, that the citizen owes no direct allegiance to the Federal Government, but that his allegiance is direct to his State. That is not the doctrine now established. The doctrine now established and believed in, I think, very generally, is that the citizen owes an allegiance direct to the Government of the United States, and that that allegiance is paramount to all other allegiance. If that be true the Government owes him a protection that is direct; and I believe in past times the Government has always recognized the duty of giving that protection whenever it has been required. The Constitution itself contemplated that protection, and authorized the Governors of States to call for Federal troops to suppress insurrection; and the sheriffs of counties under existing orders may now call on Federal troops at any time to protect persons and property within the county, and the commanding officer of any locality in any State, if he sees riot or disorder in the community, has a right of his own motion to suppress it.

Then, if it be true that the Government owes a protection direct to the citizen, the Government should furnish that protection to the extent, at least, of paying for what it receives at his hands. I do not hold that the Government is responsible for any damages that arose from the ravages of war. The Government did all it could to protect the loyal citizens of the country. That is all that could be required of the Government. But having done that, having done its duty in that respect, and no claim being presented for damages, on what principle do you deny to the citizen the right to payment for his property which the Army used and which they would have had to purchase somewhere else had they not got it from the man they did?

It has been said here that the cotton cases, in which Congress has already said that the loyal inhabitants of the South may recover pay for cotton, differ from other cases. Wherein? Wherein do they differ? If a man has furnished \$10,000 worth of cotton, and the Government has appropriated it and put the avails in the Treasury, and pays those avails over to the loyal claimant, wherein does that differ from the Government having received \$10,000 worth of corn or of horses from another individual? Why not pay for them? On what principle do you pay for the cotton and not for the other? It is said to be on the principle that the Government got the cotton, and by paying for it is nothing the loser, because it sold it for the same money that it paid out. On the same principle if it got the corn and used it, although it did not sell it, it got the benefit of it, the avails of it, and if it now pays for it is the Government anything the loser? It seems to me not.

It seems to me that the principle which has been acted on through the whole war has been to disregard this doctrine of constructive enemies. The Government has, in the cotton cases, ignored that law. The Departments

have ignored it. The quartermasters issued vouchers during the entire war to citizens of the southern States, payable upon proof of loyalty. They made that the test instead of locality, as is claimed here to be the true test. The Departments and Congress have recognized that test, that the loyalty of the claimant was what was to guide them in making payment. Those vouchers were issued from time to time from the commencement of the war to its close. The Departments have recognized them, have issued orders as to how loyalty is to be proven, have sent out their blanks, and the quartermasters have taken the proof and have made payments, and Congress has appropriated the money for that purpose. There is no instance in which Congress has not made the distinction upon the ground of loyalty, and not locality, except in the act closing the Court of Claims to the people of the South; and that was only temporary, for the moment that the State of Tennessee was readmitted to representation that moment that law was repealed so far as Tennessee was concerned, showing that it was merely a temporary expedient, to be enforced only until the reconstruction of the State was complete. All we ask is that the same principle be extended to the other States as they from time to time complete their reconstruction.

On what ground of justice—it is said to be on that ground—do you say that the man in the State of Alabama who has furnished ten thousand bushels of corn to the Army of the United States is not as much entitled to compensation for it, if he was loyal to the Government, as the man in Pennsylvania who furnished the same amount? As a question of justice, are not both supporting the Government of the United States? Are not both doing all in their power to sustain that Government? Both are citizens and residents of the United States, belonging to the same common country. I can see no difference in point of justice; and I think, so far as the law is concerned, the theory of constructive enemies has been disregarded from the commencement of the war to the present time by every department of the Government, and I do not think it was ever applied at all except during the war. What is the reason and necessity of that doctrine any way? It is that an invading army going into the territory of the enemy cannot stop to discriminate between the loyal and disloyal; that they cannot stop to protect one man and destroy another; that they cannot inquire which property belongs to a loyal inhabitant and which does not; that they cannot suffer the Army to be without supplies even if they find them in the hands of a loyal man, nor can they leave supplies in his hands for the opposing army to get in case of their evacuation. They have to do these things as a military necessity. That is the true rule and the true principle. Instead of men being constructive enemies because they lived in that locality, from military necessity they have to be treated as such simply. When the war is over, when the necessity has ceased, they are remitted to all the rights that any other loyal citizens have. If they have furnished stores and subsistence to the Army they are entitled, like any one else, to payment for it. Does it cost the Government any more to pay a man in Arkansas, who was loyal, for his corn than it cost across the line in Missouri to pay a man there for his? The principle is the same, and we have acted upon it all the time, that loyalty is the test of a man's rights under this Government, and not his locality.

Now, as to the amount of these claims, some have told me that they would reach \$500,000,000. I have not any idea but that \$25,000,000 would cover every dollar's worth of property taken by the Army in the South from loyal citizens and appropriated for the use of the Army. I think the amount is less, but I have no idea it would reach over \$25,000,000. This estimate of \$500,000,000 is made upon the basis upon which this question has been argued, that we are to pay for

property destroyed in the natural course of the war; but that is not the principle I am advocating. I am simply contending that where the Army or the Government has received the benefit of the subsistence stores, of the horses, the cattle, the corn of a loyal man, wherever he may be, the Government ought to pay for the property which it has thus received from him and used. That is all I claim. We are asking no favors; we are not asking the generosity of the Government to give us as charity anything for our sufferings during the war; but we are simply asking that when they have received the benefit of what we had they should pay a fair valuation for it.

Sir, the loyal man of the South has had a very poor show in this war if he is not to be paid for what the Government of the United States has received from him. He has been subject to the ravages of both armies; they have both run over him, while the disloyal man has only been subjected to the ravages of the Federal Army, his own army, as far as possible, protecting him. So that there were two chances against a loyal man to one in his favor, or rather to none in his favor. He has had no chance either during the war or after the war.

Again: this doctrine of "constructive enemies" has been ignored in the receiving of soldiers in the disloyal States. Ten thousand soldiers enlisted in the Federal Army in the State of Arkansas. Were they, under the laws of war, because of their locality all enemies of the Government? Were they enemies then? Are they enemies still? The Government received them and treated them as friends, notwithstanding their locality. It made loyalty there the test; it received them; it paid them; it is paying them pensions now; it has paid them their bounties. It has recognized in every way it could the loyal men in the South as the friends of this Government and not as its enemies.

Now, on what principle will you say that a man who lives in the State of Arkansas and is in the Federal Army is a friend, and that his property is at the same time enemy property? Would you confiscate his property on this rule or theory of his being a constructive enemy? Would you try and hang him for treason, notwithstanding he served in the Federal Army, on the same principle? No, sir; you would do just as the Government has been doing—wherever you found a loyal man you would protect him. The Government has not waited until the war was over to do this, but it has been careful to do it during the war wherever it possibly could. In traversing the country where the armies moved slowly they always distinguished between the rebels and the Union men; they always protected their friends. They did not wait until the war was over to give time for this protection. Now that the war is over, now that peace is restored and we can look around and see who were the friends of the Government, I do not see why one friend of the Government should be treated better than another. I do not see that one friend of the Government, because he lived in one State, has anything more due him from the Government than a friend of it who lived in another portion of the country.

Taking this view of the question I shall insist at all times upon the payment of the loyal men of the South for property used by the Government of the United States; and I intend before this session is over to present a bill to bring up that simple question that will not be subject to any doubts in regard to the meaning of it, but which shall provide distinctly for payment for supplies, subsistence stores, and things that the Army used and that they would have had to purchase elsewhere if they had not got them there. But this debate having taken the range it has, at any rate that question having been argued, I wished to give my views upon it, that I might not be misunderstood.

Mr. DAVIS. Mr. President, being a member of the Committee on Claims, and having concurred with the majority of that committee

in the report favoring this claim and proposing that it should be satisfied by the appropriation of money, I deem it proper to state the views which controlled my action.

Mr. DOOLITTLE. If the honorable Senator will give way I will move that the Senate do now adjourn.

The PRESIDING OFFICER. (Mr. THAYER in the chair.) Does the Senator from Kentucky yield the floor for that motion?

Mr. DAVIS. I am indifferent as to whether the Senate adjourn at this time or not. I frankly admit that I have made no mature preparation to argue the great principles involved in this case. I think myself that in point of principle there never was a more important bill before the Congress of the United States. That is the estimate in which I hold the principles involved in this bill. The honorable Senator from Arkansas [Mr. RICE] has approximated very closely, if he has not struck plumb, in my judgment, the principles upon which this bill should be considered and decided.

Mr. DOOLITTLE. If the honorable Senator will yield the floor I will make the motion that the Senate adjourn.

The PRESIDING OFFICER. Does the Senator from Kentucky yield the floor for that motion?

Mr. DAVIS. I yield for that purpose. The PRESIDING OFFICER. The question is on the motion of the Senator from Wisconsin, that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, January 6, 1869.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

SOLOMON OLIVER.

Mr. COBB, by unanimous consent, introduced a bill (H. R. No. 1588) for the relief of Solomon Oliver; which was read a first and second time, and referred to the Committee on Private Land Claims.

ENLISTED MEN IN THE SOUTH.

Mr. PAINE, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be directed to inform this House how many enlisted men of the Army now on duty in Texas, Mississippi, and Virginia were citizens or residents of the late rebel States during the rebellion, and how many were soldiers in the late rebel army.

Mr. PAINE moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOINT RESOLUTIONS OF VERMONT.

Mr. POLAND presented the following joint resolution of the Legislature of the State of Vermont; which was referred to the Committee on Commerce, and ordered to be printed:

Joint resolution relating to reciprocity of trade with the Dominion of Canada.

Resolved by the Senate and House of Representatives, That, having an intelligent regard for the best interests of Vermont, it is the duty of our Senators and Representatives in Congress to use their influence against the consummation of any treaty relating to reciprocity in trade with the Dominion of Canada, and to insist that the subject of our trade and commercial intercourse with Canada, as well as with all other foreign countries, is not a proper matter of treaty stipulation, but belongs to Congress, and should be wisely regulated by a judicious tariff.

Resolved, That the secretary of State be, and is hereby, directed to transmit a copy of this joint resolution to each of our Senators and Representatives.

GEORGE W. GRANDEY,
Speaker of the House of Representatives.

STEPHEN THOMAS,
President of the Senate.

STATE OF VERMONT,
OFFICE OF SECRETARY OF STATE.

I hereby certify that the foregoing is a true copy of a joint resolution adopted by the General Assembly at its annual session, A. D. 1868, as appears from the files in this office.

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In witness whereof, I hereunto subscribe my name and affix the seal of this office, at Northfield, this 1st day of December, A. D. 1868.

GEORGE NICHOLS,
Secretary of State.

Mr. POLAND also presented the following joint resolution of the Legislature of the State of Vermont; which was referred to the Committee on the Public Lands, and ordered to be printed:

Joint resolution concerning grants of the public lands of the United States.

Whereas the Government of the United States has from time to time granted large tracts of valuable lands to various, and almost all of the western and southern States, for the purposes of aiding the education or internal improvements in those States; and whereas the State of Vermont, although at all times fully and completely doing her duty to the United States, has, in only one instance, been the recipient of such bounty and favor from the United States: Therefore,

Resolved by the Senate and House of Representatives, That our Senators and Representatives in Congress are hereby requested to use their best endeavors to procure from the Government of the United States such grants of unappropriated public lands; for the aid and advancement of education, and for the promotion of internal improvements in the State of Vermont, as will be just and equitable.

Resolved, That the secretary of State be, and is hereby, directed to transmit an authenticated copy of these resolutions to each Senator and Representative for Vermont in the Congress of the United States.

GEORGE W. GRANDEY,
Speaker of the House of Representatives.

STEPHEN THOMAS,
President of the Senate.

STATE OF VERMONT,
OFFICE OF SECRETARY OF STATE.

I hereby certify that the foregoing is a true copy of a joint resolution adopted by the General Assembly at its annual session, A. D. 1868, as appears from the files in this office.

In witness whereof I hereunto subscribe my name and affix the seal of this office, at Northfield, this 1st day of December, A. D. 1868.

GEORGE NICHOLS,
Secretary of State.

Mr. POLAND also presented the following joint resolution of the Legislature of the State of Vermont; which was referred to the Committee on Commerce, and ordered to be printed:

Joint resolution relating to navigation between the United States and Canada.

Whereas the rapidly increasing commerce between the eastern States and the Northwest is calling for more ample and cheaper transportation; and whereas, also, certain mutual privileges are now enjoyed by both Canada and the United States, touching navigation and transportation, which ought, on the part of the two countries, to be matured into rights: Therefore,

Resolved by the Senate and House of Representatives, That if, by treaty or otherwise, the free navigation of Canadian waters and the use of the Canadian canals by the shipping of the United States upon the same terms as by Canadian and British shipping, and the free transit by land of American merchandise across Canadian territory can be secured in exchange for like privileges to Canadian shipping in our waters and British and Canadian merchandise over our soil, our Senators and Representatives in Congress are urged to use their influence to bring about such an arrangement; and in such negotiation to secure, if possible, the construction of a ship-canal connecting the St. Lawrence with Lake Champlain; and that our Government, in case the State of New York will consent thereto, offer, in exchange therefor, to enlarge the Champlain canal to the same proportions as that which shall connect the St. Lawrence and Lake Champlain, and allow the use thereof upon the same terms as are imposed upon American shipping.

Resolved, That the Governor of this State be, and is hereby, requested to transmit copies of this joint resolution to the Governors of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, Ohio, Indiana, Illinois, Michigan, Wisconsin, Minnesota, and Iowa; also copies thereof to the Governor General of Canada and the President of the United States.

GEORGE W. GRANDEY,
Speaker of the House of Representatives.

STEPHEN THOMAS,
President of the Senate.

STATE OF VERMONT,
OFFICE OF SECRETARY OF STATE.

I hereby certify that the foregoing is a true copy of a joint resolution adopted by the General Assembly at its annual session, A. D. 1868, as appears from the files in this office.

In witness whereof, I hereunto subscribe my name and affix the seal of this office, at Northfield, this 1st day of December, A. D. 1868.

GEORGE NICHOLS,
Secretary of State.

DISABILITIES OF JOHN G. STOKES.

Mr. BOUTWELL. I ask the House to take from the Speaker's table Senate bill No. 738; to relieve from disabilities John G. Stokes, a citizen of Alabama. Mr. Stokes, I believe from the evidence is a true Union man, and has been elected to office, and if he is to be relieved at all, it should be done at once that he may enter upon the duties of his office.

Mr. MILLER. If he is a true Union man what is the necessity for removing any disabilities.

Mr. BOUTWELL. He was a solicitor, being a lawyer previous to the war, and took some part in the war, but he is trusted by the Republicans of Alabama, and is an editor of the leading journal of that State. I believe he is as well entitled to have his disabilities removed as any man on whom the judgment of Congress has been favorably passed.

Mr. NIBLACK. If I understood the gentleman from Massachusetts, he stated that this gentleman now votes the Republican ticket in Alabama.

Mr. BOUTWELL. I presume he does, as he is the editor of one of the leading Republican papers.

Mr. NIBLACK. Well, that ought to be satisfactory, [laughter,] and I hope there will be no objection, at least on this side of the House.

The bill was read. It proposes to remove all political disabilities imposed on John G. Stokes, a citizen of Alabama, by reason of the fourteenth article of the Constitution of the United States.

There being no objection, the bill was taken from the Speaker's table, and received its several readings.

Mr. McKEE. I would ask the gentleman from Massachusetts if this gentleman holds office now?

Mr. BOUTWELL. He is elected to office.

Mr. MULLINS. What office has he been elected to that he wishes these disabilities removed that he may fill it?

Mr. BOUTWELL. I do not know what the office is, but he has been elected to an office in the State of Alabama.

Mr. MULLINS. It is office they all want, and then they are very loyal, and as soon as they get it they will take you and me by the neck and plunge us over where they tried to get us before.

Mr. NORRIS. Mr. Stokes has been elected solicitor of Montgomery county, the duties of which office he will assume on Monday next, and it is important this bill should pass to-day in order to enable him to enter upon the duties of the office. He is indorsed by the entire delegation from my State, and I hope the bill will pass without further discussion.

The question was then taken upon the passage of the bill; and (two thirds voting in the affirmative) the bill was passed.

Mr. BOUTWELL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

COLLECTORS OF CUSTOMS.

Mr. ELIOT, by unanimous consent, introduced a bill (H. R. No. 1589) to provide for cases of vacancies in the office of collector of the customs, and for other purposes; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

SUPERINTENDENTS OF EXPORTS, ETC.

Mr. SCHENCK. I ask unanimous consent to submit the following preamble and resolution for consideration and adoption at this time:

Whereas on the 15th day of September, 1868, the Secretary of the Treasury, upon the recommendation of the Commissioner of Internal Revenue, made an order discontinuing the offices of superintendents of exports and drawbacks at the ports of Boston, New York, Philadelphia, and Baltimore, after September 30, 1868; and whereas it is alleged that by subsequent order he has extended the terms of said offices and on the 4th day of March, 1869: Therefore,

Resolved, That the Secretary of the Treasury is

hereby directed to communicate to this House the reasons which have led him to postpone the time for discontinuing such offices, the amount and character of the work done by the superintendents severally since the 30th day of September, 1893, the amount and character of work to be done during the time the offices are yet to continue, and the expense incurred or to be incurred for salaries, clerk hire, office rent, and other purposes, for keeping up said offices respectively in each of said cities after the 30th day of September last.

Mr. BROOKS. This resolution seems to convey the insinuation that these offices have been not wisely continued until the 4th of March next. I rise merely to remark that it will be found that the reasons for so doing are perfectly satisfactory.

The SPEAKER. Does the gentleman from New York [Mr. Brooks] object to this resolution.

Mr. BROOKS. I do not.

Mr. SCHENCK. In reply to the gentleman from New York [Mr. Brooks] I will give my reasons for submitting this resolution.

Mr. WASHBURN, of Illinois. I will have to object to the resolution if it shall give rise to debate.

Mr. SCHENCK. Very well; let it pass.

The preamble and resolution were then agreed to.

MAUMEE SHIP-CANAL.

Mr. ASHLEY, of Ohio, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be directed to communicate to this House a copy of the report of General T. J. Crane, of the engineer department, upon the examination and survey of a ship-canal on the prolongation of the lower reach of the Maumee river through the shoal waters of Maumee bay, Ohio, directly to deep water in Lake Erie, with plans and estimates of the cost of constructing the same.

DEBTS AGAINST THE UNITED STATES.

The SPEAKER, by unanimous consent, laid before the House a communication from the Solicitor of the Treasury, proposing a section to the general appropriation bill relative to expenses in collecting debts against the United States; which was referred to the Committee on Appropriations.

CENTRAL INDIAN SUPERINTENDENCY.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of Indian Affairs, with an estimate for the pay of one clerk for the superintendent of the central superintendency; which was referred to the Committee on Appropriations.

RECONSTRUCTION TESTIMONY, ETC.

Mr. BECK. I am instructed by the Committee on Reconstruction to submit the following resolution, and ask its adoption at this time:

Resolved, That the Committee on Reconstruction be authorized to cause the report of General Gillem, and appendices B and C attached thereto, relative to elections held in Mississippi, and also such testimony and statements in writing as they may take or receive relative to affairs in Mississippi, Georgia, Virginia, and Texas, under the references made to them, to be printed for the use of the House.

LEAVE OF ABSENCE.

Leave of absence was granted to Mr. ADAMS for one month.

COMMITTEE ON EDUCATION AND LABOR.

Mr. ROOTS was appointed to fill the vacancy upon the Committee on Education and Labor, caused by the resignation of Mr. BAKER.

ORDER OF BUSINESS.

Mr. WHITTEMORE. I ask unanimous consent to introduce a bill at this time for reference only.

Mr. WASHBURN, of Illinois. I call for the regular order. Let the morning hour commence.

The SPEAKER. The first business during the morning hour is the call of committees for reports, commencing with the Committee on Naval Affairs, where the call rested at the conclusion of the morning hour of yesterday.

MEDICAL DEPARTMENT OF THE NAVY.

Mr. STEVENS. I am instructed by the Committee on Naval Affairs to report back

the bill (H. R. No. 1497) to reorganize and increase the efficiency of the medical department of the Navy, with an amendment in the form of a substitute, of which the committee recommend the passage.

The substitute was read, as follows:

Strike out all after the enacting clause and insert the following:

That from and after the passage of this act the President of the United States, by and with the advice and consent of the Senate, shall appoint from the medical officers on the active list of the Navy a chief of Bureau of Medicine and Surgery, who shall be *ex officio* the ranking officer of the medical staff.

SEC. 2. *And be it further enacted*, That the President of the United States shall, in like manner, appoint from the surgeons on the active list of the Navy, in the order of their official seniority, twelve medical inspectors, each with the rank, pay, and emoluments of a commodore in the line of the Navy; eighteen medical directors, each with the rank, pay, and emoluments of a captain; twenty deputy medical directors, each with the rank, pay, and emoluments of a commander; and thirty surgeons, each with the rank, pay, and emoluments of a lieutenant commander; and one hundred and twenty assistant surgeons, including the assistant surgeons now in the Navy, each with the rank, pay, and emoluments of a master: *Provided*, That assistant surgeons of three years' service, who have been found qualified for promotion by a competent board of examiners, shall have the rank, pay, and emoluments of lieutenants: *And provided further*, That no medical officer shall, in virtue of his rank, exercise command or authority in the line of the Navy or in any staff corps belonging thereto, except in the medical staff and over those placed under the control of the medical department of the naval service: *And provided further*, That nothing herein contained shall require the recall of any medical officers under sailing orders or at sea.

SEC. 3. *And be it further enacted*, That medical inspectors and medical directors shall be employed at naval hospitals and laboratories, and as presidents and members of retiring and examining boards and courts, and other duty on shore; and that deputy medical directors shall be employed on board of flagships in fleets and squadrons, and at navy-yards and other naval stations; and that surgeons and assistant surgeons shall be employed on board of vessels commissioned for sea service, in receiving ships, at rendezvous and barracks, and on such other duties as the Secretary of the Navy may direct; and it shall be the duty of medical directors to supervise all matters pertaining to the medical department of the fleet, squadron, navy-yard, or station to which they may be assigned for duty; to receive, take charge of, and distribute on requisition, medicines, stores, and appliances furnished for the use of the sick and hurt of the Navy, and to purchase them, under the provisions of existing law, when not otherwise procurable; to approve all medical requisitions, and to designate medical officers of the fleet, squadron, or navy-yard, for special or general duty, subject to the approval of the officer in command of the same; and every medical director shall, from time to time, inspect the medical department of each vessel of the fleet, squadron, or station, as well as of the temporary camps, or hospitals, and receiving ships which may be attached to the command, and ascertain, as far as practicable, the general condition of the health of the officers and men, and recommend to the commander-in-chief such measures for execution as may be necessary, in his judgment, to preserve the health of the ships' companies and naval stations; and on being relieved from duty, afloat or ashore, he shall report to the chief of the Bureau of Medicine and Surgery what has been, during his term of service, the sanitary condition of the command, and such matters of general or special professional interest as may have come under his observation.

SEC. 4. *And be it further enacted*, That promotion from grade to grade in the medical staff of the Navy shall be in the order of official seniority, after physical and mental examination; and officers of the medical staff on the retired and reserved list may be promoted, if not physically and mentally disqualified, and they shall receive the same pay and emoluments as retired and reserved officers of the line with whom they are equal in rank, and may be employed on such shore duty as the Navy Department may determine.

Mr. STEVENS. Mr. Speaker, I do not propose to detain the House by any intended remarks upon this bill, but simply to say that the question which it presents has been before the Committee on Naval Affairs for the past year, and that the measure which I now report as a substitute has the unanimous approbation of the committee, who have directed me to ask its passage. Unless some gentleman desires to suggest some question in regard to the matter, I will call the previous question, and ask the immediate passage of the bill.

Mr. WASHBURN, of Illinois. I desire to ask the gentleman from New Hampshire [Mr. STEVENS] whether this bill has been printed. It is a long bill and a very important one, introducing very radical changes in the existing system.

Mr. STEVENS. This question has been before the Committee on Naval Affairs for the last year, and parties interested have been

heard. I think the bill in the precise form now reported by the committee has not been printed by the order of the House, but copies of the bill have been circulated and have been accessible to members.

Mr. WASHBURN, of Illinois. In view of the importance of the bill and the discussion which must certainly be had upon it before it passes, and in view of the fact that the bill has not been printed, I suggest to the gentleman from New Hampshire that he should consent to the reference of this matter to the Committee of the Whole on the state of the Union, where it can be fully discussed. I trust the gentleman does not expect to get through a bill of this kind in the morning hour. If it is to come up I certainly desire to be heard upon it, because there are some facts in relation to this subject which I wish to submit to the House. But I have not those facts now prepared in the shape in which I would like to present them to the House. I appeal, therefore, to my friend from New Hampshire to permit the matter to go to the Committee of the Whole on the state of the Union, and allow time for the printing of the bill.

Mr. STEVENS. I desire to say, in answer to the gentleman from Illinois, that I understand the proposition he makes to be one which would probably kill the bill for want of time for its discussion. It is due to the Committee on Naval Affairs, as well as to the principle of the bill, to say that the measure has had a full and fair consideration before that committee, extending over a period of more than a year. I am prepared to discuss the bill at this time; and I understood the gentleman from Illinois to say yesterday that he was prepared to meet the questions presented and to oppose the bill.

I desire to say that the purpose of the bill is to bring the medical staff of the Navy into conformity with that of the line. It is undoubtedly well known to the House that since 1861 the line officers have been lifted up some four or five grades, from that of captain to that of full admiral, and have consequently enjoyed the promotion which attaches to those several ranks; while the medical staff, embracing men as advanced in age and length of service as any line officer, if not older, have been left precisely where they were before the war commenced, and are now, at home and at sea, subordinate in some respects in a most offensive manner to the command of the line, a command sometimes exercised by beardless boys over men who have served their country well and faithfully for more than twenty years.

After a careful examination of the objections to the present system, the Committee on Naval Affairs have unanimously come to the conclusion that justice, equity, and a due regard to the interests of the service demand that this promotion should be offered to the medical staff of the Navy in order that, with reference to the period of their service, their age, their skill and experience, they may stand upon an equality with the line.

I desire, Mr. Speaker, at this time to sustain the principle and the features of this bill by the highest authority which I can bring before this House, and that is a letter from the grand old hero Admiral Farragut, which has been placed in my hands this morning, and which exhibits in that brave and distinguished officer of the line a sense of justice as broad and ample as his hard-earned fame and glory. I will ask the Clerk to read first an original letter from Admiral Farragut, and then a certified copy of a letter, both recommending the principle of this bill to the favorable consideration of Congress, and recognizing plainly and fully the propriety of its details.

The Clerk read as follows:

113 EAST THIRTY-SIXTH STREET,
NEW YORK, January 2, 1899.

MY DEAR DOCTOR: I have read with great care the bill entitled "An act to reorganize and increase the efficiency of the medical department of the Navy," and as far as I have been able to discover it appears to be drawn up in a spirit of fairness and justice to all, and affords to the higher officers of the medical corps employment on shore after having obtained a certain grade. I do not hesitate to say

that I approve of the principal features of the bill, but would insert in the third section, which refers to the employment of the different grades, "except in time of war," when all officers should be available for sea or other service, at the discretion of the Department.

I am, very truly, yours,

D. G. FARRAGUT, *Admiral.*

Surgeon JAMES C. PALMER, *United States Navy.*

NEW YORK, December 31, 1868.

MY DEAR DOCTOR: I have carefully read over the bill "for the reorganization of the medical corps of the Navy, making higher grades," &c., and I find no objections, except that in time of war all persons should be available for duty, only retaining their relative rank in their own corps. Without this clause the services of some of the most efficient medical officers might be lost to the Government when most essential. I am aware that such might not be the case, as they would no doubt volunteer; but while legislating it is best to provide for it on the face of the bill, although I am happy to say that, from my own experience, war is the time when I have always found the medical officers ready and willing to do their duty without regard to personal risk, and it gives me special pleasure to refer to your case in Mobile bay, where you, in the little *Loyal*, carried my orders around the fleet for the ships to run the ram *Tennessee* down, which you did with cheerfulness and alacrity.

I sent the other note to accompany the bill, and this only to explain the objection to leaving the war clause out.

Very truly, yours,

D. G. FARRAGUT, *Admiral.*

Surgeon JAMES C. PALMER, *United States Navy.*

The above is a correct copy.

J. B. TAYLOR,
Surgeon United States Navy.

Mr. STEVENS. I will now yield to the gentleman from Wisconsin.

Mr. PAINE. I would thank my friend of the Naval Committee to inform the House how many officers of the rank of commodore there are in the Navy at the present time?

Mr. STEVENS. The number is ninety.

Mr. PAINE. Mr. Speaker, I am not absolutely certain that when I come to consider this bill in all its details and relations I shall oppose it, although I am strongly impressed with the propriety of adopting the motion of the gentleman from Illinois [Mr. WASHBURN] to refer it to the Committee of the Whole on the state of the Union, so that we may have an opportunity to consider it. I have never had an opportunity to examine its provisions, and they seem to be too important to incorporate into our legislation without having the bill printed.

It seems, sir, that there are already in the Navy—and I knew that fact before—almost one hundred officers of the rank of commodore; that is, of a rank corresponding to that of brigadier general in the Army. There are to-day almost ten times as many brigadier generals in the Navy as in the Army, and yet this bill proposes to add twelve to the number in the Navy and twenty or thirty to the number of the rank of colonel, lieutenant colonel, and major; that is, to the number of captains, commanders, and lieutenant commanders in the Navy who have the assimilated rank of those respective officers. This bill gives the rank of brigadier general to twelve medical officers of the Navy, whereas there are, I believe, in the whole line and staff of the Army only thirteen. In the whole medical department of the Army there is, I believe, only one brigadier general.

Now, it does seem to me that justice to the medical department of the Navy cannot require that we should so largely increase the number of officers of that high rank in the Navy without careful examination of the whole subject. For one, thoroughly as I appreciate the services of the Navy during the war, high as is my estimate of the character of the officers of the Navy from my personal acquaintance with them, I cannot consent this morning, without seeing the bill in print, to add twelve to the number of commodores in the Navy. And I hope we shall not unwisely pass this bill in haste without an opportunity to see its effect.

If justice requires this to be done for the surgeons of the Navy, what, then, shall we say to the paymasters and engineers of the Navy; to the surgeons of the Army, and the paymasters, quartermasters, engineers, and commissaries of the Army? How can we refuse to

advance the medical officers of the Army in rank when we shall have done it for the medical officers of the Navy? If in a comparatively small institution like that of the medical staff of the Navy we shall have increased the number of officers of that high rank until it shall almost equal the entire number of brigadier generals in the line and all the staff corps of the Army, justice to the Army, not merely the medical officers, but also the other staff officers and the line officers, demands that we should increase the number of officers holding that rank in the Army. If we do justice to one we must do it to both. We cannot bestow a compliment upon the medical department of the Navy alone without doing injustice either to other branches of the Navy or to every corps of the Army.

I hope, therefore, sir, that the gentleman who reported this bill will consent to have its consideration postponed so that we may have an opportunity to examine it. I may vote for it, yet it does seem to me rather hard to call upon us to vote upon it this morning. I should be sorry to vote in such a way as to do injustice to or cast in the slightest degree a stigma upon the officers of the Navy, whom I so highly esteem, but I shall vote, if I can, to put this bill into the hands of the Committee of the Whole, and to have it printed, so that we may have an opportunity to consider it. It is not enough to be told that the Naval Committee have considered it fully. That is enough to start with in the House; we require that to begin with; but we certainly do not expect that we shall accept a bill simply because a committee have approved it. We will consider it when it comes before us with that approval, and we will give that approval due weight. But it is not only our right but our duty to ourselves to scrutinize every bill that comes before us.

Mr. STEVENS. I am glad to hear the gentleman from Wisconsin appeal to our sense of justice in this matter, and I now appeal to him in the same spirit, and ask him why he should object to conferring upon those medical officers of a similar scale of service the assimilated rank which Congress has conferred upon the officers of the line for the last six years. *As a question of justice, I say here without fear of successful contradiction, that the principle of this bill is founded in immutable justice, and should it not prevail here to-day it will be pursued and followed until justice shall have its full sway, and these officers of the medical staff shall stand, not in subordination to officers of the line, but on a scale of equality.

Now, sir, in regard to alleged injustice done to the Army, does not the gentleman know that the rank of brigadier general has been conferred upon the representative of the medical staff in the Army? With only ten brigadier generals in the Army we have conferred upon the medical staff one of those positions, while in the Navy there are ninety-nine commodores on the active and retired list; and we ask, as a matter of justice, that twelve of the medical staff shall have their rank raised from captain to that of commodore.

Let me say here, in order to obviate all apprehension, that this rank of commodore is not in fact exactly and practically assimilated to that of brigadier general. It is well known that before the war the highest rank in the Navy was captain. Now there has been added to that the rank of commodore, of rear admiral, of vice admiral, and of full admiral. As regards the expense, let me say that the whole additional expense of these promotions will not exceed \$2,000 a year, exclusive of the increased pay of the assistant surgeons.

I refer once more, as an indication of what the line officers think of this as a matter of compromise between the line and staff on that controverted question, to the letter of Admiral Farragut just read, in which he gives his full approval of the bill, with the amendment that it shall not be in operation during any period of war.

Mr. LOGAN. I would like to ask a question. I have not examined this bill, but I

would like to know how many squadrons we now have in the Navy?

Mr. STEVENS. I am not prepared to say how many.

Mr. LOGAN. I would ask the gentleman how many commodores are required to command squadrons?

Mr. STEVENS. I do not understand that any commodores are required to command squadrons. And I desire to say here, in this connection that under the practice of the Navy a commodore is now commander of a ship, when before the war he was commander of a squadron, being the rank, as I understand, given by courtesy and not existing in fact.

Mr. LOGAN. How many ships of war have we?

Mr. STEVENS. If the gentleman will be kind enough to state the object of his criticism perhaps I can answer his questions without taking so much loss of time.

Mr. LOGAN. The object is perfectly apparent. We have more commodores than we have commands for them. What I was going to remark was this: when the war closed it was a very convenient time to increase the rank in the Army and Navy. But I think the time has passed for doing anything of that kind. We have an Army with one officer of the rank of brigadier general in charge of the medical department. Now, if you desire to give this rank to the medical officer of the Navy you ought to make it to correspond to the Army. So far as I am concerned, I have not examined the bill, but I should certainly be opposed to passing a bill increasing the rank of anybody at this time, either in the Army or Navy, without full deliberation in the House.

It is said that this will increase the pay but a very small amount. Well, the provisions of this bill may not do it, but we all ought to have experience enough to know that whenever you give rank, either in the Army or in the Navy, under your law, and the officers are assigned to duties corresponding to their rank, they receive pay corresponding to their rank, and it is the easiest matter in the world to get that assignment. In nearly every instance they are assigned to duties corresponding to their rank. This matter of increasing rank in the Army and Navy is a very easy thing when it first passes, but in a very short time you find the amount of money that is drawn from the Treasury in consequence of it.

Now, I do not know, as was said by the gentleman from Wisconsin, [Mr. PAINE,] but that I might possibly be willing to vote for a bill something of this character; I will not say that I would not; but I would certainly prefer that the bill should be referred to the Committee of the Whole, where it can be thoroughly examined, because it is a more important subject than gentlemen may imagine.

Mr. O'NEILL. There has been no ground stated why this bill should be postponed or why it should be referred to the Committee of the Whole on the state of the Union. If it should be so referred I doubt if it will ever get into the House again, and these gentlemen in the naval service who I think have been neglected by Congress, these surgeons in the Navy, who, I am sure, deserve some regard from this body, will never reach what they so much desire, and what, I believe, will be of great benefit to the service.

The conferring of the rank of commodore or captain upon these officers does not bring them increased pay. As the gentleman who has charge of this bill has stated to the House, the actual expense to the Government in increased pay will not amount to \$2,000 per annum. I think that is nearly a correct estimate; in fact, I have heard from two or three surgeons of the Navy who have been long in the service, and whom I know well and highly esteem, that the actual expense, if the bill should pass in its present form, would be only about sixteen hundred dollars per annum greater than it now is.

I understand the Navy is not to have an enlarged corps of surgeons. There is to be

no addition to any of the present different grades. The assignment of one of these gentlemen as commodore to a ship could only be a temporary assignment, if such could be made at all, and that for a very limited period, and he would not draw the pay of a commodore. The object is simply to reorganize the corps so as to give these officers positions corresponding to the positions which we have given to many officers of the Army. I hope the House will act on the bill this morning and not allow dilatory motions to throw it, perhaps, beyond its reach.

Mr. WASHBURNE, of Illinois. Will the gentleman from New Hampshire [Mr. STEVENS] now yield to me?

Mr. STEVENS. For how long?

Mr. WASHBURNE, of Illinois. I hope the gentleman will not confine me to any specific time. He knows that he can have as much time as he wants, as this bill must be disposed of before the House passes from the consideration of the bill.

Mr. STEVENS. I will yield the gentleman fifteen minutes, which is more time than has been occupied by any friend of the bill.

Mr. WASHBURNE, of Illinois. I hope the gentleman will not confine me to fifteen minutes. It will do him no injustice to allow me more time.

I desire to say, in the first place, that I took up this bill to examine it with some hope that I might be able to support it. I was called upon by medical gentlemen whom I know, who were interested in this bill, who presented their case to me, and I agreed to examine into it and give it my support if I could do so consistently with the sense of duty I owe to the public.

Upon an examination of the bill, however, I find it one that I cannot support; and I may say here in passing, that we all know the influence which is so apt to control us in all matters which affect individuals. We all know how we listen to appeals from individuals, and how desirous we are to serve our friends who are about us, and this is, perhaps, one of those cases.

But I wish to call the attention of the House to some provisions of this bill which we are now asked to pass in a single morning hour. It is a long bill of four sections, which has not yet been printed, and which the Committee on Naval Affairs have reported here and ask us at once to put upon its passage. While the country is demanding a decrease both of the Army and Navy and a curtailment of the vast expenses of those branches of the service, here is a bill which, as I read it, is very different from what my friend from New Hampshire [Mr. STEVENS] asserts, and which I shall show will add vastly to the expenses of the Government by creating new grades of officers, for it proposes the creation of such new grades to an extent which must arrest the attention of the members of this House and the country.

I will first call the attention of the House to the provisions of the second section of the bill. It creates twelve medical inspectors, each with the pay, rank, and emoluments of a commodore of the Navy; eighteen medical directors, each with the rank, pay, and emoluments of a captain; twenty deputy medical directors, each with the rank, pay, and emoluments of a commander; and thirty surgeons, each with the rank, pay, and emoluments of a lieutenant commander; and one hundred and twenty assistant surgeons—including the assistant surgeons now in the Navy—each with the rank, pay, and emoluments of a master; provided that assistant surgeons of three years' service who have been found qualified for promotion by a competent board of examiners shall have the rank, pay, and emoluments of lieutenants. Now, the act to establish and equalize the grade of line officers of the United States Navy, approved July 16, 1862, fixes the grades of officers of the Navy and assimilates them to grades in the Army. Rear admirals of the same relative rank as major generals, the commodores with brigadier generals, captains with colonels, commanders with lieutenant

colonels, lieutenant commanders with majors, lieutenants with captains, masters with first lieutenants, and ensigns with second lieutenants.

In looking over the bill it will be seen that the number of medical officers of high rank proposed by this bill is entirely in excess of the wants of the service, and will largely increase the expense without any corresponding increase of efficiency. There is no proper duty in our small Navy for so large a number of medical officers of high rank, and it is simply absurd to make commodores (brigadier generals) to take charge of petty hospitals with a half dozen sick. And how many commodores have we now in the Navy with the pay and emoluments of that rank? I understand there are about one hundred. And this with a naval force limited by law to eight thousand five hundred men; and with an Army of sixty to seventy thousand men we have only thirteen brigadier generals, which is the assimilated rank to commodore. In the medical corps of the Army of this great number of men they had only one surgeon general with the rank of brigadier general, and two inspector generals; and that was the permanent establishment during the war. Now, with our Army of sixty to eighty thousand men, we have only one surgeon general with the rank of brigadier general, one assistant surgeon general with the rank of colonel, and five medical purveyors with the rank of lieutenant colonel. In face of this fact, as regards the Army, it seems incredible that we should be asked to add twelve more commodores or twelve more brigadier generals to the number we already have in the Navy. Add to this the other medical officers created by this bill and we shall have more medical officers in our Navy than Great Britain has with a navy of one hundred thousand men.

Now, the question in the first case arises, is there any necessity, does the public service require it, for the establishment of this additional number of commodores or brigadier generals in the Navy of the United States? If not, then the only question is, shall we legislate for the benefit of these individuals, shall we make twelve new commodores or brigadier generals in order to satisfy the very just ambition of very excellent men, I may say, for I have nothing to say against the surgeons of the Navy. I believe them to be men of intelligence, of honor, and of medical skill, who deserve well of their country, and who, even as matters now stand, I cannot but believe are well treated by their country.

Now, sir, what I contend is that it will be seen upon an examination of this bill that the number of medical officers of high rank proposed is entirely in excess of the wants of the service, and will largely increase the expenses of the Government without giving the service any more efficiency. There is no proper duty in our small Navy for so large a number of medical officers of high rank.

The gentleman from New Hampshire has spoken in regard to these surgeons. Now, I ask the House what rights have these men over the paymasters and engineers? If you give this proposed advance of rank to your surgeons you will be bound in consistency and justice to confer the same rank upon your paymasters and your engineers. If this bill should pass we must, if we are to be consistent, follow it with another bill for paymasters and engineers. Thus we should have a navy which would be very much like Artemus Ward's regiment, composed entirely of brigadier generals. We should then have on the active and the retired list an army of officers of high rank drawing high pay.

The gentleman from New Hampshire does not seem to remember that this is a time of peace, when the country demands a diminution instead of an increase in the number of officers in both Army and Navy. The naval surgeons in their petition to Congress say that this bill provides for no increase of medical officers, but they fail to say what will be the amount of the increased compensation; for they claim not only the rank, but the emolu-

ments of the grades to which they seek to be advanced. Now, the gentleman from New Hampshire has said—and the statement was reiterated by the gentleman from Pennsylvania, [Mr. O'NEILL,] who came to his rescue—that this measure will involve an increased expense of only \$1,600. Upon that point I take issue with the gentleman. This matter has been examined by an expert, and he makes a very different report.

Mr. STEVENS. Will the gentleman give me the name of the expert?

Mr. WASHBURNE, of Illinois. I could give the name to the gentleman privately; and when I might do so he will acknowledge that the authority is good. And, sir, the very language of the bill bears out my statement. These commodores are to have the rank, pay, and emoluments belonging to that rank, and that means additional compensation. The increase of expense in the medical department of the Navy will be \$40,000 a year. There will be the same increase in the pay and engineer departments of the Navy, as those officers will claim the same privileges as the surgeons, and have already bills before Congress, and if granted the whole extra expense will be \$120,000 per annum. This amount in ten years would build us two magnificent steam frigates.

Now, sir, it is stated that unless this measure be adopted there will be a difficulty in obtaining medical officers, owing to the want of higher rank in the medical corps. This, I am assured, is a mistake. I understand that if all the surgeons, paymasters, and engineers should leave the naval service to-morrow their places could be filled in forty-eight hours with the best ability of the country. The pay and rank are now such that, as I am told, competent and skillful surgeons would be glad to take the places of these men, and would be glad to have the opportunity to accept and discharge the duties of those positions.

Mr. KELLEY. Will the gentleman yield to me for a moment?

Mr. WASHBURNE, of Illinois. I will if it does not come out of my time.

Mr. KELLEY. Mr. Speaker, as a commentary on the gentleman's statement, which is doubtless correct in theory, I wish to mention the fact that there are now fifty-five vacancies in the medical corps of the Navy, although circulars have been addressed to all the graduating medical colleges. Those places cannot be filled. The degradation of the medical corps of the Navy by the advancement of line officers four grades and withholding advancement from the medical staff has brought it to such a condition that you cannot get any graduates of medical colleges to take commissions as medical officers in the Navy.

The SPEAKER. The fifteen minutes allowed to the gentleman from Illinois have now expired.

Mr. STEVENS. I have no objection to his time being extended.

Mr. WASHBURNE, of Illinois. My information differs from the information of my honorable friend from Pennsylvania. I have heard no complaint from the Admiral of the Navy that we had not sufficient medical officers to supply our ships.

Mr. STEVENS. I will state to the gentleman from Illinois that I have official information there are fifty-five vacancies in the medical corps of the Navy; and this arises exactly from the condition of things described by the gentleman from Pennsylvania, with the outside additional obstacle of want of prospective promotion.

Mr. WASHBURNE, of Illinois. I do not know, Mr. Speaker, but there may be these vacancies. I trust there are, and that they will continue, because we now have medical officers enough in the Navy for the purposes of the Government. If, then, we do not need these officers, there surely can be no reason why we should pass this bill.

Mr. MAYNARD. I would be glad if my friend from Illinois would inform the House

what is the pay now received by the medical officers of the Navy.

Mr. WASHBURNE, of Illinois. I have not a Navy Register before me. I suppose the gentleman from New Hampshire has.

Mr. STEVENS. The highest pay now given to a medical officer in the Navy is to a fleet surgeon, being \$3,300. This bill abolishes fleet surgeons, about seven of them, and leaves the pay of the highest officer at \$3,200.

Mr. WASHBURNE, of Illinois. Now, it will be found by reference to the memorial of the surgeons that they refer to the rank of medical officers in the British navy, and claim that the senior is a vice admiral. There is no such rank in the medical corps of that navy. The regulations say that "after three years service, or full pay as such, inspector generals of hospitals and fleets may rank with rear admirals according to date of completion of service stated." Now there are only seven inspector generals of hospitals, &c., in the whole of the great British navy on the active list, which has in commission over seventy thousand men. There is no proof in the British Navy Register that any of these officers rank with rear admirals; five of them are merely honorary surgeons to the queen. These are high officers in the British navy who never go to sea, and after all are merely honorary titles for attendance on the queen. As we have no queen the case does not apply to us at all.

By the law of Congress of 1846 the rank of surgeons was defined as follows: surgeons of the fleet and surgeons of over twelve years rank with commander; surgeons under twelve years rank with lieutenant; passed assistant surgeons rank next after lieutenant; assistant surgeons rank next after master. This is the rank under which they claim to be laboring now. The facts of the case are these: the chief of bureau ranks with commodore; the fleet surgeon ranks with captain, no matter how short a time he has been a surgeon; surgeons of fifteen years rank with captain; surgeons after first five years rank with commander; surgeons for the first five years rank with lieutenant commander, &c. This is a higher rank than is held by any surgeons in any navy in the world. The Navy Department, without any authority of law, advanced the medical officers one grade, and in some cases two, and this applied to the pay and engineer officers as well.

Mr. KELLEY. I ask the gentleman whether a fleet surgeon is not a ward-room officer; and whether, although forty years in the service, he must not go among the pigsties and chicken-coops on the forward deck to smoke his pipe, if he should indulge in such a luxury, and must not sleep with youth of the age of his grandchildren in a room in common? We ask by this bill to give him such rank as will, in view of his long service, his probably distinguished service, let him escape from the society of the boys of the Navy, and the confinement of the ward-room, from which the lieutenant commander escapes.

Mr. WASHBURNE, of Illinois. I do not know much about the regulations of men of war. I have never been in the service, as I presume my distinguished friend on the Committee on Naval Affairs has; but I know this—

Mr. PAINE. I would like to ask my friend if he refers to midshipmen when he speaks of boys?

Mr. KELLEY. I do, sir.

Mr. PAINE. I would like to ask further whether a midshipman is a ward-room officer.

Mr. KELLEY. I believe all are ward-room officers until they get to the position of lieutenant commanders, when they enjoy their several rooms.

Mr. LOGAN. I wish to ask the gentleman a question. If he supports this bill for the purpose of preventing ward-room officers from sleeping with the boys, I want him to tell me what he is going to do with the boys. With whom will they sleep? [Laughter.]

Mr. KELLEY. Very well; I will answer. As the boy advances in years of service and

dignity I would do what the Government does with the line officers, advance his comforts; not as you do with your medical staff, keep them, though they be sixty years of age, still the associates of the young graduates succeeding from year to year from your Naval Academy. I would give to the venerable physician, the fleet surgeon, that position which would entitle him to his separate room and his hour of privacy—his ability to perform his clerical duties by the light of day, and not keep him in that dark part of the ship, which the sun and the daylight never penetrate. That is what I would do with boy and man.

Mr. WASHBURNE, of Illinois. I do not propose, Mr. Speaker, to be drawn off from the merits of the bill to discuss this outside question very much. We have had a Navy for a great many years; a Navy that went through the war of 1812 and the war of the rebellion; a Navy that has won glory and honor, and I never heard of these great complaints of putting a surgeon in the ward-room, which the gentleman designates as a "pig-sty."

Mr. KELLEY. I beg pardon; I said if he wanted to smoke his pipe he must go to the forward deck among the hen coops and pigsties to do it.

Mr. WASHBURNE, of Illinois. That is a very good place to smoke a pipe. [Laughter.] That, then, is the complaint—that the doctors are not permitted to smoke in the ward-room among the boys, as he calls them, and they are compelled to associate with the "boys." Who are these "boys" that the gentleman alludes to? They are the young men whom the members of this House send to the naval school, the sons of our constituents. Now, I undertake to say that the boys we send to Annapolis are equal to any of these medical gentlemen, without any disparagement to the medical officers of the Navy.

Mr. KELLEY. I ask the gentleman whether he thinks these boys are his equal in years, and whether he would like to be doomed day after day, month after month, and year after year to have no other associates than boys of the age of those who graduate from the naval school. I make no reflection upon boys. Were it not for them we would have few such able men as the gentleman from Illinois, who was once a boy himself but is one no longer. According to the Scripture he has left boyish things behind him, and I think he would not like to be doomed by law to a constant association with them.

Mr. WASHBURNE, of Illinois. I do not care to continue this discussion any longer. So far as the association of boys is concerned I would be entirely willing and satisfied to associate with the young men I have had the honor to send to the naval school, and who have graduated with distinction and are an honor to their profession.

Mr. KELLEY. The question relates to association with youth of their age from year to year, generation to generation?

Mr. WASHBURNE, of Illinois. I will not take up the time of the House much longer. As I said, I have not had time to arrange or digest my remarks. I have looked over the bill and jotted down some things that have occurred to me in regard to its provisions, and have become convinced that it ought not to pass. There are other suggestions which have been made touching this bill which I deem worthy of consideration.

Mr. STEVENS. Are they from the same authority?

Mr. WASHBURNE, of Illinois. Not the same, but equally good. We give to subordinates who are mere adjuncts of the Navy, whose responsibilities are departmental and particular, and which are covered altogether by the responsibilities of their commander and principal, an equal rank with him! The captain of a man-of-war acting under confidential instructions of his Government, negotiating with Governments of other countries, holding peace and war in his discretion, men and guns under his control, the honor of his flag to sus-

tain, the keeper and preserver of all the lives and property placed under his orders by his Government; who cares for and controls the surgeon and his sick and his medicines; who is responsible for the paymaster himself as well as his money chest; who governs the engineer and all under him, is placed there by the Government because his professional education has trained him for the place of command which cannot be filled by a doctor, a paymaster, or an engineer. This captain, so important to his country, is furnished with a ship and guns and a crew wherewith to execute the will of his Government. Incidental to the crew is a doctor to heal the sick, a paymaster to pay the crew and issue the provisions and clothing, an engine-driver to drive the engine. These are all, in the first instance, responsible to the captain to execute his orders, and if they fail he suspends their functions, and regulates when and how they shall perform them. His responsibility covers them all, and all that is done on board his vessel.

Make the doctor, the paymaster, the engineer, the equals of the captain nominally or really, and what comes of it? Is there any one who does not know that anarchy, confusion, insubordination, which are the utter destruction of the Navy, must follow. The Navy was created and maintained for well-known purposes. Destroy its discipline and the power of an officer to control those under his command and all those purposes are frustrated. Here, with your ship under the command of a captain, you by this bill put on board the ship as doctor a superior officer of the rank of commodore.

Mr. STEVENS. Will the gentleman allow me to call his attention to the provision of the bill which says in so many words that no medical staff officer shall exercise any such command as that.

Mr. WASHBURNE, of Illinois. I understand that well; but he is an officer of superior rank in the ship, and drawing higher pay than the man who commands the ship. That does not seem to me to be right, and such a state of things would be destructive of all discipline and lead to ill feeling and bad blood and general insubordination. There are other objections, but I have no time to state them. It seems to me those already suggested are quite sufficient, and I hope the House will now pass the bill.

The SPEAKER. The morning hour has expired, and the bill goes over until to-morrow.

ENROLLED BILL SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (H. R. No. 1428) authorizing the admission in evidence of copies of certain papers, documents, and entries; when the Speaker signed the same.

UNION PACIFIC RAILROAD.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Interior, transmitting, in compliance with a resolution of the House of Representatives of the 5th instant, copies of the reports of the special commissioners upon the Union Pacific railway, eastern division, and the Sioux City and Pacific railroad; which was referred to the Committee on the Pacific Railroad, and ordered to be printed.

LEAVE OF ABSENCE.

Leave of absence for one week was granted to Mr. ROBINSON, on account of a death in his family.

PRINTING OF TESTIMONY.

The SPEAKER. The chairman of the Committee on Election Frauds in New York asks authority that the evidence taken by the committee may be printed for the use of the committee as taken, so that they may report the evidence in print. If there be no objection it will be so ordered.

There was no objection; and the order was made.

PILOTS AND PILOT REGULATIONS.

Mr. FLANDERS, by unanimous consent, introduced a bill (H. R. No. 1591) repealing an act passed by the Legislature of Washington Territory, relating to pilots and pilot regulations; which was read a first and second time, and, with an accompanying petition, referred to the Committee on Commerce.

NAVAL APPROPRIATION BILL.

Mr. WASHBURN, of Illinois, from the Committee on Appropriations, reported a bill (H. R. No. 1590) making appropriations for the naval service for the year ending June 30, 1870; which was read a first and second time, recommitted to the committee, and ordered to be printed.

MAIL ROUTE IN ALABAMA.

Mr. HAUGHEY, by unanimous consent, introduced a bill (H. R. No. 1592) to change the time for carrying the mails on route No. 7177, between Fulton, Mississippi, and Frankfort, Alabama; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

TAXES ON SPIRITS AND TOBACCO.

Mr. BECK, by unanimous consent, introduced a bill (H. R. No. 1593) to modify portions of section twenty of the act approved July 20, 1868, entitled "An act imposing taxes on distilled spirits and tobacco, and for other purposes;" which was read a first and second time, and referred to the Committee of Ways and Means.

PENSION APPROPRIATION BILL.

Mr. WASHBURN, of Illinois. I desire to move to go into Committee of the Whole on the pension bill. Before doing so, I move that when the House shall proceed to the consideration of that bill in Committee of the Whole all general debate upon it shall terminate in half an hour.

The motion was agreed to.

Mr. WASHBURN, of Illinois. I now move that the House resolve itself into the Committee of the Whole on the state of the Union upon the pension appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, (Mr. ALLISON in the chair,) and proceeded to the consideration of House bill No. 1564, making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1870.

The bill was read at length. It appropriates the following sums, out of any money in the Treasury not otherwise appropriated, for the payment of pensions for the year ending the 30th of June, 1870: for invalid pensions under various acts, \$10,000,000; for pensions of widows, children, mothers, fathers, brothers, and sisters of soldiers, as provided for by acts of March 18, 1818; May 15, 1828; June 7, 1832; July 4, 1836; July 7, 1838; March 3, 1843; June 17, 1844; February 2, 1847, and July 29, 1848; February 8, 1858; June 8, 1858; and July 14, 1862, with its supplementary acts, and for compensation to pension agents and expenses of agencies, \$13,000,000; and for Navy pensions to invalids, widows and children, and other relatives of the officers and men of the Navy dying in the line of duty, now provided by law, \$250,000.

Mr. WASHBURN, of Illinois. Mr. Chairman, in proceeding to the consideration of the first in the series of regular appropriation bills to be considered, it may not be deemed inappropriate to submit to the House some observations on the character and extent of the appropriations necessary for the support of the Government for the fiscal year ending June 30, 1870, and other cognate matters.

It must be a matter of profound congratulation to all good citizens that the time is now come when the attention of the people can be given in a greater degree to the material and

vital interests of the country. A gigantic rebellion suppressed; the curse of human slavery abolished; the rebellious States reconstructed, or in the process of reconstruction, on the basis of equal rights before the law to all; a loyal administration of the country secured for the next four years; the bitterness of party feeling assuaged, the earnest attention of the American people will now be turned to questions of the internal administration of the country.

The excitement and passions growing out of the war and out of the contests connected therewith will die away with the lapse of time and the people will compel Congress to confront other and different questions than those which have for so many years overshadowed and swallowed up everything else. With the unreconstructed States admitted into the Union, with full and equal protection for all men in all the States, and with MANHOOD SUFFRAGE secured by legislation or constitutional amendment, the minds of the people will turn to questions of finance, of taxes, of economy, of decreased expenditures, and honest and enlightened legislation, to questions of tariffs, and to questions of railroad, telegraph, and express monopolies, which are sucking the very life-blood of the people, to the administration of the revenue laws and to the robberies and plunderings of the Treasury by dishonest office-holders.

Already the eyes of the people of this country are upon Congress. I may say they are upon the Republican majority in Congress, for that majority is now responsible before the country for the legislation of Congress. It can make and unmake laws in defiance and contempt of Executive vetoes. The Republican party triumphed in the last election because it was pledged to honesty and economy, to the upholding of public faith and public credit, and to the faithful execution of the laws. And those pledges cannot now be ignored without subjecting that party to the censure of the people.

The condition of the country, the vast public debt, the weight of taxation, the depreciated and fluctuating currency, the enormous expenditures of public money, the mal-administration of the Government, the extortions of monopolies, press upon our attention with most crushing force. The people elected General Grant to the Presidency not only on account of the great and inestimable services he has rendered the country in subduing the rebellion; not only on account of his devotion to the great principles of the Republican party, but because they believe him to be emphatically an honest man and an enlightened statesman, who would faithfully administer the laws without fear, favor, or affection.

The time has come when we are imperatively called upon to take a new departure. Added to other terrible evils brought upon the country by the war for the suppression of the rebellion, is the demoralization incident to all great wars and to the expenditures of vast and unheard-of amounts of public money; to the giving out of immense contracts by which sudden and vast fortunes were made, the inflation of the currency, which engendered speculation, profligacy, extravagance, and corruption, by the intense desire to get suddenly rich out of the Government and without labor, and the inventions and schemes generally to get money out of the Treasury for the benefit of individuals without regard to the interests of the Government.

While the restless and unpausing energies of a patriotic and incorruptible people were devoted to the salvation of their Government, and they were pouring out their blood and treasure in its defense, there was the vast army of the base, the venal, and unpatriotic, who rushed in to take advantage of the misfortunes of the country and to plunder its Treasury. The statute-books are loaded with legislation which will impose burdens on future generations. Public land enough to make empires has been voted to private railroad corporations; subsidies of untold millions of bonds, for the same purposes, have become a charge upon the peo-

ple, while the fetters of vast monopolies have been fastened still closer and closer upon the public.

It is time that the Representatives of the people were admonished that they are the servants of the people and are paid by the people; that their constituents have confided to them the great trust of guarding their rights and protecting their interests; that their position and their power are to be used for the benefit of the people whom they represent, and not for their own benefit and the benefit of the lobbyists, the gamblers, and the speculators who have come to Washington to make a raid upon the Treasury. The time has also come, in my judgment, when public men are to be held to a more strict accountability, to a more strict discharge of their duty, and when their actions will be scanned by a more critical eye. It is no new lesson that the public men of this country must learn. It is a lesson which has been taught in other countries and at times even when there was little to boast of in the way of public virtue.

It is recorded in history that during the most terrible days of the French revolution, for it was on the 14th of May, 1793, nineteen days before the passage of the celebrated decree of the national convention on the 2d of June, placing in *accusation* the Girondists, that Buzot, one of the purest and most eminent of those gifted and brilliant men, pronounced these memorable words, which should be engraved in letters of gold over the entrance of every public office and of every hall of legislation:

"No public man can be justified in profiting from the information and advantages of his position. It is his duty to consecrate exclusively to the public interest the knowledge which such position furnishes to him."

Much is expected of the new Administration, and the public expectation will not be disappointed. But as much as General Grant can do, and as much as he will do in his own sphere of action, it is idle to suppose that he can do everything that the country requires to be done to secure those reforms in the public service which are so imperatively demanded. As President, General Grant must have the earnest and cordial support of the other branches of the Government, particularly of the legislative branch. The responsibility of this Congress, so far as the next Administration is concerned, is complete.

We can water-log the ship of State before the President-elect takes command. We can make appropriations and incur liabilities which will go over to the next Administration, which cannot be met by the current revenues and can only be met by imposing additional taxation on the people. We can destroy the confidence of the people in the wisdom, integrity, and purity of the Republican party by yielding to the insatiable demands of the cormorants who have gathered about us and who make requisitions upon us which, if yielded to, will destroy, and ought to destroy, any party. By our recklessness and extravagance we can make appropriations of land and money which will destroy the national credit and make our country an object of scorn to the civilized world.

With neither money nor credit, unable to command respect at home or abroad, we will be held in contempt by the weakest and most pusillanimous nations. Never has the country in time of peace looked to Congress with more intense interest than at the present time. The demand of the great masses of our constituents, the bone and sinew of the country, the men who have no schemes of plunder, and who desire only an honest administration of the Government, the men who fought the battles of the Republic and poured out their blood in its defense, they require of us a decrease of our expenditures and a reduction of taxation. Regardless of the mysteries of finance they see that our credit can be improved, the public faith vindicated, a return to specie payments made certain, a reduction of the interest on the public debt secured, by keeping down the expenditures of the Government to the lowest

possible point, and by the honest collection of the revenues.

It is for Congress to keep down the expenditures, and it is for the President to see that the laws are faithfully executed and that the revenues are collected; but it is for Congress to see also that they do not keep the fetters upon the limbs of the President so as to render it impossible for him to faithfully execute the laws.

It is well to recur to the total expenditures of the Government for the last three years, and it is encouraging to observe that they have been gradually decreased:

In 1865-66 they were.....	\$520,000,000
In 1866-67 they were.....	346,000,000
In 1867-68 they were.....	333,000,000
In 1867-68 they were, exclusive of bounties	334,000,000
In 1867-68, or inclusive of bounties (\$43,- 000,000).....	377,000,000
In 1868-69 they are estimated, exclusive of bounties, at.....	310,000,000
In 1868-69, or inclusive of bounties (\$26,- 000,000).....	336,000,000
For the next fiscal year, 1869-70, these are estimated at.....	303,000,000

and this latter estimate the committee believe will be materially reduced.

The amount for bounties is not properly chargeable to the expenditures of the Government; and it is a matter of congratulation that there are no bounties estimated for the coming fiscal year 1869-70.

The amount voted for deficiencies for the year 1867-68 was \$15,000,000, and that amount is included in the total of expenditures for that fiscal year.

The amount called for as deficiencies for the present fiscal year, and which is included in the total of expenditures as given above, is \$21,000,000.

It is worthy of note that on the 2d day of December, 1867, the Secretary of the Treasury estimated the appropriations required—

For the fiscal year ending June 30, 1869.....	\$372,000,000
On the 6th of December, 1868, he states that	the expenditures for the first quarter of
the same fiscal year were.....	\$105,000,000
He estimates for the next	three quarters an expendi-
ture of.....	231,000,000

Total, including interest and deficiencies..... 336,000,000

Expenditure less than estimated by the Secretary of..... \$36,000,000

DEFICIENCIES.

And I now proceed to the consideration of the interesting question of what this Congress will be called upon to appropriate for deficiencies for the present fiscal year ending June 30, 1869, and to carry on the Government for the next fiscal year ending June 30, 1870.

First, as to the estimates made by the Secretary of the Treasury "of additional appropriations required to complete the service of the fiscal year ending June 30, 1869, and previous years." It is for Congress to inquire rigidly into the necessity and propriety of voting these deficiencies, which the Secretary estimates at the enormous sum of \$21,000,000. Of this amount \$14,000,000 is for the Army, necessitated, in a great measure, by a consuming Indian war, which is entailing extraordinary expenses on the Government. The next current amount is the estimated deficiency for the Post Office Department of over four and a half million dollars, incurred by extravagant contracts for unjustifiably extended mail service.

Then there is the scandalous estimate of nearly \$665,000 for deficiencies for public buildings where we were promised that the large amounts we appropriated last year should finish the buildings. Add this amount of \$665,000 demanded as a deficiency for this fiscal year to the amount demanded for the same purpose for the next fiscal year of \$2,434,000, makes \$3,099,000 which we are asked to vote for public buildings at this session of Congress. And in the present state of the Treasury, or, indeed, in any state of the Treasury, I feel bound to denounce it as one of the most extravagant, unjustifiable, and profligate expenditures of the

public money ever asked of Congress. There are other deficiencies which have been made, and which we are called upon to make up, that are without justification if it be considered that Congress has any power over the public Treasury. In view of the state of our finances, and deeming it indispensably necessary to reduce our expenditures for the present year in every way possible, and in full light of all the facts, Congress appropriated a given amount—which was \$450,000—for the Coast Survey for this year.

In contempt of the action of Congress a deficiency in that appropriation of \$160,000 is now demanded, not one dollar of which, I trust, will be voted. The Columbian Institute for the Deaf and Dumb, a private institution in this District, which has obtained nearly half a million dollars out of the Government, was given \$12,500 for this fiscal year for instruction, &c., which was deemed ample and even generous; but with a familiarity of the whole action of Congress on this subject, the president of this private corporation, with unparalleled effrontery, arraigns Congress for its action and demands of us \$17,500 more as a deficiency for this year!

There are other deficiencies estimated for which will be scrutinized by the Appropriation Committee before it reports any bill. But one thing is clear, if Congress cannot control the expenditures of the Government, if it cannot curb the executive officers of the Government in spending the public money, and if such officers are to be left practically to determine the appropriations, then, I say, let Congress abdicate, and let the people be saved the expense of keeping up this expensive and somewhat ornamental institution.

APPROPRIATIONS FOR THE FISCAL YEAR ENDING JUNE 30, 1870.

The Secretary of the Treasury estimates the following appropriations as necessary for the fiscal year ending June 30, 1870:

For civil service, including the expenses of foreign intercourse, internal revenue, courts, loans, public domain, deficiency in the revenues of the Post Office Department, and all other expenditures except for pensions, Indian, and the War and Navy Departments.....	\$45,140,825 60
For pensions.....	23,250,000 00
For Indian department.....	2,940,382 70
For Army proper.....	52,184,781 97
For Military Academy.....	334,388 88
For armory and fortifications.....	4,684,200 00
For harbor and river improvements, public buildings, &c.....	8,486,018 00
For naval establishment.....	20,993,414 59
	<u>\$158,014,011 74</u>

To the estimates are added statements showing, first, the appropriations estimated for the service of the fiscal year ending June 30, 1870, made by former acts of Congress, of a specific and indefinite character, as follows:

For miscellaneous objects, including the ex-	penditures of collecting the revenue from cus-
oms.....	\$9,749,000 00
For compensation to the Post Office	
Department for mail services.....	703,000 00
For civilization of Indians.....	10,000 00
For arming and equipping the militia.....	200,000 00
For interest on the public debt.....	128,690,676 00
	<u>\$139,349,676 00</u>

2. The estimated balances of existing appropriations which will be unexpended on June 30, 1869, part of which are required for the payment of the liabilities of the present fiscal year, but which will not be drawn from the Treasury until after June 30, 1869, are as follows:

For the civil service, &c.....	\$9,907,636 63
For pensions and Indians.....	24,568,831 49
For War Department.....	20,905,291 44
For Navy Department.....	12,951,043 76
	<u>68,322,803 37</u>

It is estimated that of this sum there will not be required for the service of the fiscal year ending June 30, 1870..... 62,686,491 11

\$5,636,312 26

Total estimated expenditures for the year ending June 30, 1870..... \$303,000,000 00

It will be thus seen that \$303,000,000 is the amount asked for, and it is for Congress to determine how much of that sum it is absolutely necessary to appropriate to carry on the Government. *How much will it be?* I will let the permanent appropriations stand as in the Secretary's estimate, though I believe the amount of interest on the public debt is overstated \$2,000,000. That amount is \$128,690,676, which we must regard as fixed and definite. Then there is the other amount of \$158,014,011 74, made up of the items as set out in the estimate. The question recurs how much can this amount be reduced without detriment to the public service? It is now impossible for me to state how much the first item for \$45,000,000 can be reduced, as the Appropriation Committee has not yet proceeded far enough in the consideration of the various amounts making up the sum.

But we shall report a reduction of more than \$100,000 from what was asked for the expenses of foreign intercourse, and nearly \$1,000,000 from what is asked to go into the legislative, executive, and judicial bill. Pensions, Indian department, and Army proper must remain about the same as stated in the estimates. Military Academy we reduce nearly \$50,000 on the estimates. For armory and fortifications \$4,684,200 are asked, and I believe we can get along with \$1,500,000. For harbor and river improvements and public buildings \$8,486,018. In my judgment \$3,000,000 will be as much as Congress would wish to appropriate under both of those heads. For the naval establishment \$20,993,414 59 are estimated. But in the Navy bill already prepared this is reduced to about \$16,000,000, which, it is believed, will answer every purpose.

Here are some \$15,000,000 which it is thought can be cut off from the estimates of the total expenditures for the year ending June 30, 1870, of \$303,000,000, as submitted by the Secretary of the Treasury. That will leave for the total expenditures for the fiscal year ending June 30, 1870, \$288,000,000. Add to that \$2,000,000 more for various other expenditures, and we have a total of \$290,000,000. It is my belief that the expenditures can be kept down to that point, and that the Government can be administered for that sum, and if that can be done, as it ought to be done, a good showing can be made.

I have made no estimate in relation to the revenue for the next fiscal year, but for the present fiscal year it appears from the Secretary's report that the actual revenues received for the first quarter amount to \$95,000,392, and that the Secretary estimates the next three quarters at \$246,000,000, making the total estimate of the Secretary \$341,000,000. But Mr. Wells, Special Commissioner of the Revenue, who has given this matter great attention, estimates that it will reach \$355,000,000, being \$15,000,000 more than the estimate of the Secretary.

Assuming, therefore, that we shall not collect more revenue for the fiscal year ending June 30, 1870, than the Secretary estimates we shall collect for the present fiscal year, and assuming that our expenditures will not exceed \$290,000,000 there will be a surplus of \$51,000,000 for the year ending June 30, 1870. But with an honest collection of the revenue, and without any increase of taxes, I think we can collect \$450,000,000 of revenue. If this can be done and our expenditures can be kept even within \$300,000,000 we will show a surplus at the end of the fiscal year 1870 of \$150,000,000.

With an exhibit of this character, which is an exhibit that can be made if Congress and the Executive shall act in harmony to that great end, the credit of the Government will be established on an enduring basis, our bonds will go to par in Europe, greenbacks will approximate gold in value; taxes may then be reduced, and the country will enter on a career of prosperity, glory, and power without parallel in the history of nations.

I add a table, just handed me, which illustrates what I have said in regard to receipts and expenditures:

<i>Statement of the expenditures of the United States for the first and second quarters of the current fiscal year, 1865-69.</i>		
	1st quarter, July to October.	2d quarter, October to January.
Civil, foreign inter- course, and miscella- neous.....	\$21,227,106 33	\$10,919,060 35
Interior (pensions and Indians).....	12,358,647 70	5,048,122 98
War.....	27,219,117 02	23,918,873 30
Navy.....	5,604,785 33	6,203,378 80
Interest on public debt.....	38,742,814 37	26,277,879 32
Total.....	\$105,152,470 75	72,367,314 75
Less repayments.....		500,000 00
		\$71,867,314 75
<i>Revenue.</i>		
	July 1 to October 1.	October 1 to January 4.
Internal revenue.....	\$38,735,863 08	\$34,184,916 00
Customs (dull part of year).....	49,678,594 67	*40,000,000 00
Lands (dull part of year).....	714,895 03	*500,000 00
Direct tax.....	15,536 02	
Miscellaneous.....	6,249,979 97	7,822,096 68
	95,392,868 77	\$82,507,012 68
	82,507,012 68	
Total receipts in one half year.....	177,899,881 45	2
Total receipts for one year.....	\$355,799,762 90	

* Estimated.

The CHAIRMAN. By order of the House all general debate upon this bill has now terminated.

Mr. WOOD. Inasmuch as the gentleman from Illinois [Mr. WASHBURN] has made some remarks which we on this side of the House think should receive some notice and reply, I ask unanimous consent to have the time for general debate extended for ten minutes.

The CHAIRMAN. That cannot be done in Committee of the Whole, as it was the order of the House that all general debate upon this bill shall terminate in half an hour.

Mr. WOOD. The gentleman from Illinois [Mr. WASHBURN] has spoken more than half an hour.

The CHAIRMAN. But a minute or two, only enough to enable him to conclude a paragraph. The gentleman from New York [Mr. Wood] can obtain the opportunity he desires by moving an amendment, as the bill is now open to amendment.

Mr. WOOD. Then I move to amend this bill by striking out the first paragraph, for the purpose of making a few remarks.

This House always listens with a great deal of interest, if not with pleasure, to the remarks of the distinguished gentleman from Illinois. But whatever interest has heretofore attached to anything emanating from that quarter has an additional importance at this time, in view of the supposed connection between that gentleman and the incoming Administration. We suppose that the labored and prepared speech which he has just delivered upon the condition of the country, and the necessity for the introduction of great reforms, especially in legislation as well as in administration, more particularly with reference to some details which the gentleman has reported to this committee, we suppose that we are justified in regarding his speech as a sort of introductory message, laying the foundation for the policy of the next Administration. In that view, which I think we are warranted in taking, anything emanating from that gentleman is entitled to a great deal of consideration by this House and by the country.

The gentleman from Illinois [Mr. WASHBURN] has stated that the administration of General Grant has been created by the people—if I quote him correctly, and I speak only from memory—not only in consequence of

the eminent services that General Grant has rendered the country, but also for the purpose of carrying out great reforms in the public affairs of the country. Now, sir, I am sure that I speak the sentiment of the minority upon this side of the House when I say that so far as the administration of General Grant shall in good faith either initiate or carry out any reform we will heartily respond to it, and we will give that administration, to that extent, our support in the Forty-First Congress.

The country wants reform; not reform in speeches merely, not reform in promises alone, but substantial reform, not only by a curtailment of the expenses of the Government, but by the adoption of measures which will restore harmony and promote the general pacification of the country. Sir, we want something more than mere professions. The gentleman from Illinois [Mr. WASHBURN] himself made a speech here yesterday against a measure reported by a distinguished gentleman from Pennsylvania, [Mr. KELLEY,] and subsequently voted for the measure. I trust that is not the spirit which is to actuate the gentleman with reference to the next Administration. This House and the country require something more than mere profession.

The gentleman has also stated that Congress has the power to bring about reforms, and that it is the duty of the Executive to see that the laws are faithfully executed. Now, that gentleman and his friends have had full possession of the legislative department of the Government for the last eight years, yet what reform has Congress attempted to initiate? The minority here have been feeble, powerless. We could neither initiate nor carry through either House of Congress any measures looking to reform in the administration of the Government. While the gentleman and his political friends and the friends of the incoming administration have controlled the legislation of Congress, the abuses to which the gentleman has referred have been not only initiated but carried out in the form of acts of Congress. Hence I have risen for the purpose of saying that if the design is to have reform we on this side of the House will sustain General Grant in bringing back peace and harmony to the nation, in restoring gold and silver as the constitutional currency of the country, and in inaugurating a general reform in every department of the Government.

I withdraw my amendment.

The Clerk read as follows:

For invalid pensions under various acts, \$10,000,000. For pensions of widows, children, mothers, fathers, brothers, and sisters of soldiers, as provided for by acts of March 18, 1818; May 15, 1828; June 7, 1832; July 4, 1836; July 7, 1839; March 3, 1843; June 17, 1844; February 2, July 21, and July 29, 1848; February 3, 1858; June 3, 1858; and July 14, 1862, with its supplementary acts, and for compensation to pension agents and expenses of agencies, \$13,000,000.

Mr. MAYNARD. I move to amend the paragraph last read by inserting after the words "supplementary acts" the words "and under various special acts." As the bill now stands there is no provision for the payment of pensioners who have been placed on the pension-roll in pursuance of private or special legislation. I desire to call the attention of the chairman of the Committee on Appropriations to this matter.

Mr. WASHBURN, of Illinois. The amendment proposed by the gentleman from Tennessee [Mr. MAYNARD] is, I think, entirely unnecessary, because there is a permanent appropriation for paying the pensions provided for by private acts. The bill is now in the shape in which all these pension appropriation bills have been passed. It covers everything.

Mr. MAYNARD. I think the gentleman is mistaken in that regard.

The CHAIRMAN. Does the gentleman from Tennessee [Mr. MAYNARD] withdraw the amendment?

Mr. MAYNARD. No, sir; I think it should be adopted. Without it the pensioners under

special acts cannot, as I understand, be paid under this bill, which I know is not the intention of the committee or of the House.

The amendment was agreed to.

The Clerk resumed and concluded the reading of the bill.

Mr. BROOKS. I desire to inquire why the committee, in framing this bill, have not complied with the rule which requires that the amount of money appropriated shall be appended to the bill?

Mr. WASHBURN, of Illinois. The omission was made inadvertently by the clerk of the committee, and I called his attention to it this morning. The bill, as the gentleman will observe, embraces only three items: one of \$10,000,000, one of \$13,000,000, and one of \$250,000, making an aggregate of \$23,250,000.

Mr. BROOKS. I move that be appended to the bill.

Mr. WASHBURN, of Illinois. That is not to be added to the bill as a part of the bill, but is appended as a note.

Mr. BROOKS. Add it, then, as a note.

Mr. WASHBURN, of Illinois. It was merely a clerical omission. There are notes to all of the other appropriation bills.

Mr. BROOKS. In the consular and diplomatic bill the note not only states the total amount of the appropriations, but also the amount saved, while we have no note to this bill at all.

Mr. WASHBURN, of Illinois. I not only complied with the rule to state the amount of the appropriations, but, for the benefit of my economical friend from New York, I also stated the amount saved. I now move that the pension bill be laid aside, to be reported to the House with the recommendation that it do pass, and that the committee take up the consular and diplomatic appropriation bill.

The motion was agreed to.

Mr. BROOKS. Of course all points of order are reserved.

CONSULAR AND DIPLOMATIC BILL.

The CHAIRMAN. The Clerk will read House bill No. 1570, making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1870, and for other purposes, the first time for information.

Mr. WASHBURN, of Illinois. I move that the first reading of the bill be dispensed with.

The motion was agreed to; and the Clerk then proceeded to read the bill by paragraphs for amendment, as follows:

For salaries of envoys extraordinary, ministers, and commissioners of the United States at Great Britain, France, Russia, Prussia, Spain, Austria, Brazil, republic of Mexico, China, Italy, Chili, Peru, Portugal, Switzerland, Greece, Belgium, Holland, Denmark, Sweden, Turkey, Ecuador, New Granada, Bolivia, Venezuela, Guatemala, Nicaragua, Sandwich Islands, Costa Rica, Honduras, Argentine Confederation, Paraguay, Uruguay, Japan, and Salvador, \$316,000.

Mr. BROOKS. This reduces the estimate from \$823,025 to \$316,000, and I will ask the gentleman from Illinois to state where the reduction takes place?

Mr. WASHBURN, of Illinois. I do not understand the gentleman's question.

Mr. BROOKS. The estimates of the Department call for \$323,025, and the bill appropriates only \$316,000, \$7,000 less, and I ask on what ground that reduction is made?

Mr. WASHBURN, of Illinois. Rome, which was estimated for, is left out.

Mr. BROOKS. Mr. Chairman, I move once more, with a view of arresting the attention of the House, now free, I hope, from all religious prejudice, that the mission to Rome be inserted after "Salvador," and the usual appropriation of \$7,500 be made therefor. I trust now, when the presidential election is over and passions, religious as well as political, are calmed down, the House will, as heretofore, vote the usual appropriation for the mission to Rome. I press it upon the ground that the principality of Rome is the headquarters of a large por-

tion of the religious world. Pilgrims go there not only from all parts of the country, but from all quarters of the globe. Our citizens go there not only for religious purposes, but to study the great works of art collected there, for Rome is not only the headquarters of the Roman Catholic religion, but the center of art. I trust, therefore, that the House will make the appropriation for this mission to Rome heretofore made; and that the proposition will have the approval of the gentleman from Illinois. It is much more important than the missions to San Salvador and Nicaragua; and I do not see why we should keep up missions to these small South American republics and abolish the mission to Rome.

Mr. COVODE. I object to the amendment of the gentleman from New York; and as he has referred to the election being over and no occasion for political or religious excitement, I deem it proper now to call the attention of the House to some of the facts connected with the Roman Catholic church, to which he refers, as interfering with elections in several of the States of the Union, and in doing so I will state that that church was used in Pennsylvania and in my own district as an element of power by the Democratic party in disregard of the election laws of Pennsylvania, as was proved before the Legislature of that State a year ago, in the case of Robison vs. Shugart.

I will state here that in my own county the Catholics congregated from other counties and other States to increase the vote of the Democratic party at the monastery, making a majority of nearly one hundred more than their usual vote, and in doing so it was the Catholics who used fraudulent naturalization papers, as I have the testimony to show, and will be ready to present it at the proper time. Many of those papers were signed by J. Ross Snowden, clerk of the supreme court of Pennsylvania, and sent into my district, where the names of the parties were inserted without regard to whether they had been in this country a week or five years. We have proved them guilty, and in the whole investigation, from beginning to end, not a Protestant was found among them; they were all Catholics. The same outrages were perpetrated in Fayette county, in my district, and I have the affidavits to show that many votes were polled there on papers issued by said Snowden, dated 9th October, in Philadelphia, to persons belonging to the Catholic church who never saw Philadelphia.

Mr. WOODWARD. Will the gentleman allow me to put a question?

Mr. COVODE. Just a question.

Mr. WOODWARD. Do I understand my colleague to say—

Mr. COVODE. I am not through yet. If the gentleman wants to call my attention to where some of these papers came from, I will say that those used to defeat Colonel Robison for the senate in Pennsylvania purported to be issued in my colleague's own district, at Wilkes-barre, although the coffee stains were put on them in Centre county to give them age. These facts have been proved before the Pennsylvania Legislature, and I will prove some of them as already stated and others similar before the Forty-First Congress.

Mr. WOODWARD. I do not see much chance for my question yet. [Laughter.]

The CHAIRMAN. All debate has closed on the pending amendment.

Mr. WOODWARD. I move to strike out the last word, and I make the motion for the purpose of saying, in reply to my colleague, that if he charges the church of Rome with the practices he has specified, it is due to a large body of respectable citizens, and to this House, that he produce the evidence that would convict that church of misdemeanor. Now, I allege that the only individual the gentleman has specified as having issued fraudulent naturalization papers is a Presbyterian, a member of the Presbyterian church, to my certain knowledge. I understand my colleague to allege that the church of Rome had issued fraudulent naturalization papers. I demand

to know when and where, and upon what authority he makes that assertion.

Mr. COVODE. I said they were used by Catholics exclusively; that all such frauds were perpetrated by them and no others in my district.

Mr. WOODWARD. I certainly do not charge it upon the Presbyterian church; I simply say, in reply to the gentleman, that the individual to whom he alludes as issuing fraudulent naturalization papers is a member, and I believe a deacon, of the Presbyterian church.

Mr. WASHBURN, of Illinois. I move that the committee rise for the purpose of closing general debate on the bill.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. ALLISON reported that the committee had had under consideration the state of the Union generally, and particularly House bill No. 1564, making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1870, and had directed him to report the same to the House with an amendment; also that the committee had had under consideration House bill No. 1570, making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1870, and for other purposes, and had come to no resolution thereon.

The amendment of the Committee of the Whole to the pension appropriation bill was concurred in; and the bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WASHBURN, of Illinois. I now move that when the House shall resolve itself again into the Committee of the Whole all general debate shall be terminated in five minutes.

The motion was agreed to.

Mr. WASHBURN, of Illinois. I move further, before the House goes into the Committee of the Whole, to close the debate on the amendment of the gentleman from New York [Mr. Brooks] in five minutes. I think it is an improper place to discuss the matter; it is not germane.

Mr. ELDRIDGE. I think it is quite as germane as the gentleman's speech which he made for half an hour.

The question was put on the motion to close debate; and there were—ayes 68, noes 32; no quorum voting.

Tellers were ordered; and Messrs. WASHBURN, of Illinois, and ELDRIDGE were appointed.

The House divided; and the tellers reported—ayes seventy-nine, noes not counted.

So the motion was agreed to.

Mr. WASHBURN, of Illinois. I now move that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to; and the House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. ALLISON in the chair,) and resumed the consideration of the bill (H. R. No. 1570) making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1870, and for other purposes.

Mr. WOODWARD. When I was up before, replying to my colleague from Pennsylvania, [Mr. Covode,] I omitted to say one thing which I ought to have said. I said that the gentleman to whom he has alluded as issuing fraudulent naturalization papers is a Presbyterian, and not a Romanist. I now wish to say that neither that gentleman nor anybody else implicated, so far as I know, is fairly subject to such a charge or reproach as he suggests. The gentleman to whom he alluded is not only a Presbyterian instead of a Romanist, but he is a man of the highest honor and intelligence, and that he ever set his name to a false or

fraudulent certificate is an assertion that would be treated as idle, if not slanderous, in Pennsylvania. He did no such thing. He never did such a thing. The gentleman's defeat for Congress in his district last fall was not the consequence of any such rascality on the part of Mr. Snowden, or anybody else. It is accounted for on other principles than the machinations of the church of Rome, or of the Presbyterian clerk of the supreme court, to whom he alludes. That is the only explanation I desire to make.

Mr. COVODE. My colleague has certainly misunderstood me. It was with regard to the persons who used the papers that I was speaking, and not of those that issued them. Such papers were used in my district. They were sent there in bundles and filled up there. Some of them were filled up on the election ground, and some of them were voted on by persons who had not been in the country two years. I referred to the persons who thus used them. I knew Colonel Snowden well; but I found his name on a large number of those papers issued on the 9th day of October. The papers I referred to bore that date.

Mr. WOODWARD. What had the church of Rome to do with it?

Mr. COVODE. I say they were members of the church of Rome who voted on these papers, and no Protestant was engaged in the business.

Mr. WOODWARD. You began by asserting that the church of Rome did this wrong.

Mr. COVODE. I say they were members of the church of Rome who used the papers that purported to have emanated from my colleague's district and which they coffee-stained, as shown by testimony before the Pennsylvania Legislature to the country, and they were voted by these new Irish. [Laughter.]

Mr. WOODWARD. I have shown the gentleman that the man who signed the certificates is a Presbyterian and no Romanist. I now withdraw my amendment to the amendment.

The question recurred on Mr. Brooks's amendment.

Mr. JUDD. As I intend to vote against the amendment of the gentleman from New York, I desire to place myself right so that no side issue, either of religion or politics, shall be charged as the motive for my action. I think that the issue between the gentleman from Pennsylvania [Mr. Covode] and his colleague on the other side [Mr. Woodward] will not govern the members of this House in deciding upon this question. The mission to Rome has now no existence, and the adoption of the amendment would revive it. It is not with me a question of religion or religious tolerance or a question of politics, but it is whether there is any usefulness to the country in reviving this mission or continuing it. Since the territory of that Government has become so limited there is no public necessity for a minister residing at that Court. I do not know of any national interest that requires a diplomatic representative to guard or keep watch over or call for the exercise of the powers of such a mission. I think it is purely an ornamental position, to be dealt out to some pleasant gentleman with good political antecedents and a favorite of the powers that be. A consulate at Rome, with a salary of \$1,500, is continued by this bill; and for all practical purposes this grade is high enough to care for all of our interests that may center there. There is nothing that is required to be done at that place by an official of the Government but what can be done by a consul. If we desire to act upon the principle of economy, and to cut off useless expenditures by destroying merely ornamental positions, we might as well begin with the diplomatic service as with any other. I merely arose to say that I shall vote against the amendment, not for the reasons assigned by the gentleman from Pennsylvania, [Mr. Covode,] but for the reasons I have given, that it is useless, and not required by the public interest.

The question was then taken upon the amend-

ment proposed by Mr. Brooks; and upon a division there were—ayes 21, noes 63; no quorum voting.

Tellers were ordered; and Mr. WASHBURN, of Illinois, and Mr. Brooks were appointed.

The committee again divided; and the tellers reported that there were—ayes 31, noes 82.

So the amendment was not agreed to.

Mr. WOOD. I move to amend the pending paragraph by striking out the word "Turkey." I do so for the purpose of saying, in reply to the gentleman from Illinois, [Mr. JUDD,] who himself has held a very high and important diplomatic position, that if the doctrine be right that this Government should be represented only where we have commerce, and where American interests require protection—then I cannot see why we should vote an appropriation to pay for a minister to Turkey, especially when the Government of Turkey has virtually expelled the American minister from its territory. If the majority of this House deny to the oldest Christian Government in the world the consideration of a representative from the United States—I refer to the Government of Rome, the mother of Christianity, then I cannot see why a Christian people, as we profess to be, should continue to send a diplomatic representative to an infidel Government such as that of Turkey.

I want the country to understand that the distinguished gentleman from Pennsylvania, [Mr. COVODE,] in the assault which he has made upon the church of Rome, but represents his party. It is but an intimation of what is to come in this country, perhaps before the coming Administration shall close.

Now, if we want to introduce a spirit of economy in the public service I know of no department of it that more requires it than our diplomatic service abroad. We have reformed every department of the Government but that; but we still adhere to the old idea of keeping a representative at the seat of every Government, so that when any particular question arises there may be a minister plenipotentiary and envoy extraordinary to settle it. We have a minister in Switzerland. Although it is true that many Americans visit Switzerland, as they also do Rome, we have no commerce with Switzerland, and we never had a single diplomatic question with Switzerland since the foundation of our Government, yet we propose to continue a minister there, although we deny one to Rome, for which the gentleman from Pennsylvania [Mr. COVODE] has frankly stated his reasons.

I admire the frankness with which the gentleman from Pennsylvania has stated the reasons for his action in that respect. He has undoubtedly put the boot upon the right leg. He says he cannot consent to send a minister to Rome because the Government there is the Government of the church of Rome, and he considers the church of Rome responsible for the votes given for the Democratic ticket in this country. Now, if the question of religion is to be made the criterion for our action here, then let us strike at infidelity and not at Christianity; let us say that our Christian Government shall not be represented at Turkey, while we refuse to send a representative to the Christian country of Rome.

Mr. JUDD. I desire to say to the gentleman from New York [Mr. WOOD] that in my action upon this question I am governed neither by Christianity, heathenism, or by infidelity. I do not think that such an element should control our conduct here in determining to what places we should send our diplomatic representatives. Do our interest and those of our people demand the residence of an official clothed with the nation's sovereignty to a certain degree, is the question that is asked in opening diplomatic relations with another country. But I would ask that gentleman, as one of the Representatives of the commercial city of New York, if he can see no difference between the interests of this country as connected with the Government of Turkey and the interests of this country as connected with

the Government at Rome? I would ask him whether he intends to say to this House that they stand in respect to the commercial and material interests of the country upon the same platform? If I have rightly observed, they do not.

Mr. WOOD. Does the gentleman desire a reply?

Mr. JUDD. Yes, sir.

Mr. WOOD. Well, I will reply by asking the gentleman a question—I believe that is a northern privilege. What commercial interests has the port of New York directly with Turkey?

Mr. JUDD. If I have been credibly informed ships sail from the port of New York to the Hellespont. Ships going from the gentleman's own city trade in most of the ports under the dominion of the Turkish Government. If I am not mistaken in my knowledge of the commerce of the country the city of New York trades largely with different ports under the dominion of Turkey.

Mr. WOOD. Not directly.

Mr. JUDD. Directly to a large extent, unless I am mistaken: If the gentleman from New York is better informed I would be glad to have him enlighten me.

Mr. WOOD. There is an indirect trade by English bottoms; but there is no direct trade between the city of New York and Constantinople.

Mr. JUDD. Mr. Chairman, that is evading the question. If the goods of the gentleman's constituents go in English bottoms they need protection just as much as if they went in American bottoms. The point I make is that the interests of this country in the country governed by the Sultan are infinitely larger than those which it has with Rome.

Mr. KELLEY. I would like to ask the gentleman from New York whether it is not the Government of Turkey that excludes American vessels from the Black Sea and the Dardanelles until they have paid tribute and humbled themselves?

Mr. JUDD. And all other vessels. The requirement is not applicable to American vessels especially.

Mr. Chairman, I do not suppose the gentleman from New York has made his motion in earnest, but that he simply desired an opportunity to make an issue with the gentleman from Pennsylvania, [Mr. COVODE.] He has charged this side of the House with opposing the amendment because of some religious or political fanaticism influencing its action on this question. Why, Mr. Chairman, the Pope has never reciprocated our civility by sending a minister to this country. It has always been a one-sided affair. More than that, ever since Italy became substantially consolidated under Victor Emmanuel, this mission to Rome has been a sinecure and, to a certain extent, a thorn in the side of the great nation of Italy, which is upon friendly terms with us. This is a fact that should be taken somewhat into consideration by us; but it is not a controlling consideration. I repeat, however, lest the gentleman from New York or any other gentleman should make a mistake as to the position which I occupy, and which I believe is occupied by a majority of the gentlemen who have voted with me upon this question, that we have thus voted because we believe this mission to Rome utterly useless, simply affording a place in which to deposit some favorite to live at his ease at the public expense.

Mr. WOOD. I withdraw my amendment.

Mr. BUTLER, of Massachusetts. I move to amend by adding at the end of the pending paragraph the following:

Provided, That the minister accredited to the Government of Nicaragua shall also be accredited to the Governments of Honduras, Guatemala, San Salvador, and Costa Rica, and shall receive as compensation \$9,000 a year, with a secretary of legation, who shall receive a salary of \$1,500 a year, and no more.

The minister at New Granada shall also be accredited to the Governments of Venezuela and Ecuador, and shall receive a salary of \$7,500 a year, with a secretary of legation, who shall receive a salary of \$1,500 a year, and no more.

The minister at Uruguay shall also be accredited to

the Argentine confederation, and shall receive a salary of \$7,500 a year and no more, with a secretary of legation, who shall receive a salary of \$1,500 a year, and no more.

The minister at Peru shall also be accredited to the Governments of Chili and Bolivia, and shall receive a salary of \$10,000 a year, with a secretary of legation, who shall receive a salary of \$1,000 a year, and no more.

Mr. Chairman, the committee will perceive that this amendment proposes to consolidate the missions in the Central American States, where we now have five missions, and to give the duty to one man. It also proposes to consolidate the mission to Venezuela, New Granada, or the United States of Colombia and Ecuador, where we have three missions, and to give it to one man. It also proposes to consolidate the missions at the Argentine confederation and Uruguay into one. As there is a war between Brazil and Paraguay, in which the Argentine confederation and Uruguay are parties, it is not proposed to consolidate these missions any further. Again, it is proposed to consolidate the missions to Peru, Chili, and Bolivia.

Now, sir, out of the \$316,000 which we appropriate for diplomatic salaries \$114,000 are spent in these South American missions, and by the consolidation I propose, with the assent, I believe, of a majority of the Committee on Appropriations, although we have had no meeting when the whole committee was present since the matter was up—I say the whole business can be done, and much better done, for \$41,000 a year, thereby saving \$78,000 a year.

Mr. Chairman, the reason why we originally established these missions was this: when any one of these colonies declared its independence of the mother country and established a republican form of government, in order to show our sympathy with them and to give them moral aid and support, we sent them a minister. But, sir, that time is now passed. They are quite as able to stand alone as Spain, their mother country; and, indeed, she is much nearer a republican form of government than they are a monarchical form of government. There is no such amount of business with these small South American republics as will justify us in keeping up a diplomatic force there greater than that which we have in the whole of Europe. It costs \$114,000, as I have already said, out of the \$316,000 for the whole of our diplomatic force throughout the world. There can be no reason for keeping it up, except for the purpose of giving office to some men who are to be favored; and, if we are to go into any reform or any economy, I think these salaries are more useless and of less consequence to the Government than any other one of its expenditures. And these salaries, you will remember, are all paid in gold with the addition of the difference in exchange.

In one of the missions, where the salary is \$10,000, the minister has been absent for six months on leave. If they can get along without a minister from this country for six months I would like to have them try whether they cannot get along without a minister to that country altogether.

Having explained the amendment, which I believe has the sanction of a majority of the committee as a measure of economy and reform, I will wait to hear what may be said in opposition to it before making any further remarks.

Mr. CHANLER. Mr. Chairman, I do not rise to object to the amendment exactly, but to express my surprise that gentlemen on the other side, in their efforts toward economy, should begin at the little end instead of the great one. The same principle would apply to European missions that would apply to these South American missions; and if we are to have a consolidation of the South American missions I would suggest to the gentleman from Massachusetts, who has undertaken this work of reform, that instead of having, as this bill provides, separate missions to the European Powers, he should provide a distinct minister for Great

Britain and one at Paris to take charge of our affairs in France, Spain, Belgium and Holland, and another in Russia to take charge of our diplomatic relations with Russia, Prussia, Austria, and Italy. For, sir, the facilities of communication by rail in Europe, and the facilities of concentrating telegraphic messages relating to our foreign intercourse, are greater by tenfold than upon the continent of South America, besides in European States we have established a consular system abundantly able to meet all of our wants, and except so far as our material interests are concerned, we have no connection with the monarchies of Europe or any other part of the world. But we have, or should have, an intimate social connection with the republics of South America, based upon the recognition of the principle of our public international and continental policy known as the Monroe doctrine. There seems to be a manifest objection, therefore, that a Representative from Massachusetts should bring in a system antagonistical to the principle of which Adams has claimed to be the father, and should be blotting out, under the specious or not specious plea of economy, our relations with these republics in South America, while we are keeping up our foreign system at a great expense with the Powers of Europe.

Sir, the facility with which diplomatic relations under the present system of intercourse among nations can be maintained, has been most admirably illustrated in the late mission from China to this Government, and that of Great Britain and France. If the diplomatic relations of the world are to undergo such a revolution as is illustrated by Mr. Burlingame's mission; if a foreign minister of the United States can be converted into a diplomatic traveling agent for two continents, and can be received without umbrage and without difficulty here and in Europe, I hail this effort of the gentleman from Massachusetts [Mr. BUTLER] as one in the right direction, provided he will apply it where the economy can be greatest. I must therefore ask of that gentleman, basing his amendment to some extent as he does upon a principle, why he has not carried out this reform in the direction I have hinted at in the amendment which I suggest to him?

Mr. KELSEY. I move as an amendment to the amendment to strike out the last word.

Mr. MAYNARD. I rise to a question of order. It seems to me this amendment is not germane to the bill as an appropriation bill, inasmuch as it proposes independent legislation.

The CHAIRMAN. The Chair decides that the point is made too late. But the Chair is of opinion that the amendment is germane.

Mr. KELSEY. I yield the floor to the gentleman from Massachusetts.

Mr. BUTLER, of Massachusetts. Mr. Chairman, I desire to call the attention of the committee to the exact reason why I have not ventured to ask to consolidate the various missions in Europe. It is this: we are now making an appropriation for the year commencing the 1st of July next, and ending the 30th of June, 1870. Within that time I look for very great changes in the face of Europe, wherein we may, and probably shall, need diplomatic representation. I have therefore left untouched by my amendment the various diplomacies in Europe, wishing that we may be represented there in every country where the great changes take place, which I have no doubt will occur, and they may do so at any hour.

But, sir, I do not understand that the gentleman from New York [Mr. CHANLER] is quite in earnest. If he is in favor of great economy he certainly will be in favor of small. But one of the most invidious ways of attacking any measure is to ask the question, Why do you not do more? Let us do this. I will vote then to consolidate some of the missions in Europe. And I will here say that I voted against the mission at Rome, and the reason was I thought there might be two or three of these missions

substantially useless, which might easily be consolidated or got rid of. But I ask any man to state, which my friend has failed to do, what use we have for these missions in South America? Why cannot the minister at New Granada do all that is required for Venezuela and Ecuador, where there has not been a diplomatic question raised for the last twelve years? The last minister at Ecuador wrote to the Department that it was very difficult to state the reason why he was there at all. Why cannot the minister in Uruguay do all the business for the Argentine confederacy? Why cannot Peru and Chili, which are now allies against Spain, with a little bit of Bolivia intervening between the two countries, be represented by one minister, their interests being the same? And why shall we not begin now to save this amount? I pledge myself to go as far as the furthest with other gentlemen in abolishing what I believe are useless ministers. In all these countries, at every sea-port and every important place we have consuls, consular agents or commercial agents who will see to it that the interests of this country are protected.

Mr. MAYNARD. Mr. Chairman, I was not in when this amendment was first offered, being called out of the Chamber for a moment, or I should certainly have raised a point of order upon the amendment, on the ground that it changes the existing law. The act of 1856 regulates the whole business of our diplomatic intercourse, and this is a change in the fundamental law regulating our diplomatic affairs. The ruling of the Chair in Committee of the Whole has been different at different times as to the time when the point of order may be made. Sometimes the ruling has been that it should be made at the first introduction of the amendment. Other Chairmen have sustained it at any time before final action. The object of the rule of the House is, that appropriation bills shall be discussed as such, and not in connection with the general legislation of the country. But as the Chair has decided that the amendment is before the committee, I trust it will not be adopted.

The CHAIRMAN. The Chair will state that no Chairman has ever ruled that the point of order can be raised after debate upon the amendment, and the gentleman will remember that in this case two or three speeches were made for and against the amendment before the point of order was raised.

Mr. MAYNARD. It is a difference of recollection between the Chair and myself. Of course, the Chairman states his and I state mine, and it is not necessary to press the point any further. The more recent rulings are, I concede, as the Chairman states. The earlier rulings, according to my recollection, were different. I have always admired the policy of the English Government in her sagacity in extending her influence over the civilized world. There is no place where there is a pound sterling to be gathered up that she has not some one there to represent her interests. That policy is a wise one, and it has helped to make England the great nation that she is. Our policy should be, at least on this continent, to make our influence felt in every part of it, not merely for political reasons, but also for commercial and business reasons. It is important, as I conceive, that for this purpose we should cultivate intimate and kindly relations with these republics of the Latin race, and do everything to prevent that jealousy which difference of origin, difference of religion, difference of climate, is only too apt to produce.

Mr. BUTLER, of Massachusetts. A single question. Does the gentleman understand me as proposing that we shall not accredit ministers to any of these Governments? I only propose to accredit a minister to all of them.

Mr. MAYNARD. I understand the gentleman's proposition. It is to bunch up several governments and treat them as a whole; as a distinguished citizen of his own State once, when a boy, asked his father to say grace over the whole barrel of meat instead of saying it at every

meal. I trust that this policy suggested by the gentleman from Massachusetts will not be adopted, and that we will hold even more intimate diplomatic relations with these American republics than we have done hitherto, and certainly that we shall not do anything to weaken our influence with them. Generally we have been, as I conceive, little careful of the character of the representatives that we have sent and in the style of our intercourse with the other republics on this continent. I would cultivate with them the kindest, the friendliest, the most intimate relations, as I have said, as well for political reasons as for business and commercial reasons. If there are any investments that we can make as a nation that will pay for the making it seems to me that this is one of them.

Mr. KELSEY. I withdraw my amendment. Mr. CHANLER. I move to strike out the last paragraph of the amendment. I do so for the purpose of replying to the gentleman from Massachusetts, [Mr. BUTLER.] I have been asked for reasons. Well, there are very many reasons why I think this measure should not be brought before the House at this time. I do not feel called upon to descend into any personal explanation as to why the gentleman from Massachusetts should be destroying the minister to Chili from this Government. It is very evident that our minister to Chili tried to destroy him, but the fact of his stamping the district in Massachusetts which the gentleman has the honor to represent cannot possibly underlie his motives. Such an idea is not to be insinuated or entertained. I do not say that he has brought in here so long and so well prepared an amendment to this bill for the sole purpose of "feeding fat his ancient grudge." It was in the search for some nobler motive, one more worthy of a Representative amending a bill before this House, that I asked for an explanation why, on the plea of economy, a member of the Committee on Appropriations should seek to do away with a whole set of missions to republics and leave untouched the costly missions to the monarchies of Europe. Why, sir, these missions in South America are and have been, and most likely will be, filled by brigadiers as bold as he.

You must see, Mr. Chairman, that there is a "coigne of vantage," an unfair advantage, which the brigadier who is elected to Congress has over the brigadier who tries to defeat him for Congress, or over that brigadier who, having fought and bled and, perhaps, lost one or more of his limbs, receives no pension and no recognition from this ungrateful Republic other than a foreign mission, and who, after being stripped of his salary as an officer of the Army, after being reduced to the ranks of civil life, is sent abroad to some place on the Atlantic or Pacific coast of South America, there to heal his wounds and preserve his honor. And shall we, under the plea of economy, strip from one of the few brigadiers left the privilege of sporting his uniform in the presence of foreigners? I believe a proposition has been brought forward for the express purpose of enabling General Grant to decorate the heroes of this country in some way equal to the elaborate decorations which the Governments of the Old World bestow upon their heroes.

Now, I warn gentlemen that if this amendment shall prevail it will deprive the families of very many brigadiers of their only means of support. This seems to me to be an act of ingratitude, somewhat an act of personal revenge, probably an act of economy, but at the best a very doubtful one. You will still have these brigadiers upon your hands; the party organization must take care of them; and if a brigadier leaves his position on the coast of South America, receiving his traveling expenses from the committee in charge of the canvass in behalf of General Grant—if he is not to be provided for, where is the gratitude of this Republic? I appeal to the gentleman from Massachusetts [Mr. BUTLER] to withdraw his amendment. What I have suggested has been brought for-

ward upon the impulse of the moment. I do not believe the gentleman entertains any grudge against the minister to Chili, but such may be insinuated.

[Here the hammer fell.]

Mr. BROOKS. I concur with the gentleman from Massachusetts, [Mr. BUTLER,] and hope his amendment or the substance of it will be adopted. I should prefer a division of the various propositions he has submitted; but in the main it is an economical, a wise, and a sound amendment.

It is intimated by the gentleman from Tennessee [Mr. MAYNARD] that in this matter we might imitate the example of Great Britain. Now, what has Great Britain done in Central America, in the states of Guatemala, San Salvador, Honduras, Nicaragua, and Costa Rica, neither of them with one half of the population of either of the three wards of the city of New York which I represent? Great Britain accredits to all Central America only one man to act as consul-general, while we send there five ministers. Guatemala and San Salvador are represented in this country by but one minister plenipotentiary, who resides not in Washington, but in the city of New York. Guatemala has half a representative, not here but in New York; San Salvador has half a representative, not here but in New York; Honduras has half a representative; Nicaragua has half a representative; while Costa Rica is represented only by a chargé d'affaires. Yet here in this bill, following a bad precedent and a bad example, it is proposed to continue our five ministers to Central America when one is all that Great Britain has there and one is more than sufficient to transact all the business of this country there, and better qualified than would be five persons who had the business divided among them with no one to have the business there generally in charge, which might be the case should all the duties of our five ministers there be concentrated in the hands of one person.

Mr. MAYNARD. Will the gentleman allow me to ask him a question?

Mr. BROOKS. Yes, sir.

Mr. MAYNARD. Is not the gentleman aware that these officers while absent always have some one upon the spot to represent them and to act in their name?

Mr. BROOKS. I do not propose to do away with the consuls at any of these places. Duplicate, triplicate the consulates, if necessary, in the various ports of Central America, but let us do away with the expense of ministers plenipotentiary.

Mr. MAYNARD. Does the gentleman propose to endow the consuls with diplomatic functions?

Mr. BROOKS. Oh, no. What I propose, or rather what is proposed by the gentleman from Massachusetts, whose amendment I am advocating, is to have one minister for all Central America, with consuls in the various states composing it. It has been explained that the large number of representatives we have had in Central America arose from the recognition of those states when they first became independent of Spain. I think such is not exactly the fact, but that these numerous positions were created for the purpose of giving offices to certain individuals at a period preceding the administration of the Republican party, though that party has followed the bad precedent thus established. I hope that this proposition of the gentleman from Massachusetts with regard to Central America will be adopted.

One word in reply to the gentleman from Illinois, [Mr. JUDD.] There are in this bill propositions for missions to Bolivia, Ecuador, and Paraguay, neither of which has any representative here in the city of Washington. One of the objections of the gentleman from Illinois to a representation of our country at Rome was that Rome has no minister at this capital. Whatever excellence there may be in that argument, whatever weight it may have

had in the mind of the honorable gentleman who urged it, I demand that he shall, as a consistent man, carry out that line of argument and move to strike out the provision for ministers to Bolivia, Ecuador, and Paraguay. And the gentleman cannot evade the force of this proposition by saying that we have no interests to be cared for in the city of Rome. Sir, we have greater and higher interests in Rome than in almost any commercial country in the world. Rome is the seat of the arts, the place where students of art from every part of the world must resort for the cultivation of their taste by the study of the works of the great masters.

The sculptor must resort there, the architect must resort there, the painter must resort there to study the works of Raphael and others. Unless our artists resort to Rome to perfect themselves in their profession there can be no advancement in this country in any but the coarser branches of industry and art. Why, sir, the State of Connecticut makes the best clocks in the world—clocks which should take the lead in the markets of the world; but those clocks are rarely if ever seen in the parlors or saloons of the rich, because of the incapacity of the manufacturers to make for them cases attractive in design and such as their value as timekeepers demands. Artists educated in Rome, in the midst of the best models, would be able to design such cases for those clocks as would give them a leading place in the markets of the world and cause them to adorn the saloons of Paris as well as those of London and New York.

[Here the hammer fell.]

Mr. CHANLER. I withdraw my amendment to the amendment.

The question recurred on the amendment of Mr. BUTLER, of Massachusetts.

Mr. WASHBURN, of Illinois. I propose that after my colleague [Mr. JUDD] shall be heard, debate on this amendment shall, by the consent of the committee, be closed.

The CHAIRMAN. Is there any objection to the proposition of the gentleman from Illinois, [Mr. WASHBURN?]

There was no objection.

Mr. JUDD. Mr. Chairman, there may be a question of consistency with reference to my action upon the various portions of this bill; but that will depend upon our progress in the further examination of the various sections. But, sir, I can see a broad distinction between the young nations of Central and South America, infantile as they comparatively are, struggling as it were for existence, with material resources limited and bound round in every direction. I say that I can see a very marked difference between that class of governments not being represented here and governments of immense extent of territory and almost unbounded resources.

The gentleman from New York has told us that Rome is the seat of learning and of art. Let us concede that, and also that our pleasure-seekers and students visit that ancient capital of the world in pursuit of their profession. But, sir, in conceding this I do not concede that the protection and safety of our citizens depend at all upon the fact that our representative at that court should be a minister resident, instead of a consul. No American citizen who goes there, either in pursuit of pleasure or study, needs any higher protection than can be afforded to him by a United States consul.

But I do not subscribe to the gentleman's doctrine that there are no other places which students of art visit except the city of Rome. Our students of art and literature visit other capitals in Europe in pursuit of their profession; and I will say that we have in our own borders men who are entitled as artists to rank with the foremost in Rome or anywhere else. For, sir, the progress of art in this country—and no one knows it better than the gentleman from New York—has kept equal pace with our progress in our material interests. Our artists have reputation abroad to-day, and that reputation will continue to increase; and students

of art who go to study at Rome need no further protection than can be afforded to them by our consuls. I am, therefore, opposed to the continuance of the mission to Rome, as I am to all other useless offices.

The question was taken on the amendment of Mr. BUTLER, of Massachusetts; and it was agreed to.

The Clerk read as follows:

At St. Petersburg, Madrid, Berlin, Florence, Vienna, and Mexico, \$1,800 each.

Mr. SCHENCK. I move after the word "Vienna" to insert "Rio de Janeiro." My reason for it is that this bill provides for dropping, or at least does not provide for paying, for a secretary of legation at that court. Now, sir, in the empire of Brazil, with a population of some twelve million inhabitants, where the business of the legation far exceeds that of the one at Berlin at least, and some other places on the continent where secretaries of legation are allowed, this officer is needed. I speak not unadvisedly when I say that it would be impossible for the representative of this Government at Brazil to go on without some aid of this character.

Mr. WASHBURN, of Illinois. I understand that the Department of State is in favor of this proposition, and I do not know that I shall object to it.

The amendment was agreed to.

Mr. SCHENCK. I notice that the bill in another place refers to the republic of Mexico. There was a time when that phraseology was necessary in order to show that we recognized Mexico as a republic, but that is now past, and we might as well say the empire of Brazil or the kingdom of Denmark as the republic of Mexico. I move to strike out the words "the republic of."

The motion was agreed to.

The Clerk proceeded with the reading of the bill.

Mr. KELSEY. I move to insert, at the request of the gentleman from Ohio, [Mr. SPALDING,] who is a member of the Committee on Appropriations, under the heading of "consulates," after line ninety-three on page 5, the words "and a consul at Valencia, Spain, at an annual salary of \$1,500." He informed me that this was agreed to by the committee but was left out by a mistake of the printer.

Mr. WASHBURN, of Illinois. I do not understand that the committee agreed to any such amendment, and I do not see the necessity for any such consul.

Mr. KELSEY. I spoke on the authority of the gentleman from Ohio.

The committee divided; and there were—ayes 22, noes 40; no quorum voting.

The CHAIRMAN ordered tellers; and appointed Mr. KELSEY, and Mr. WASHBURN, of Illinois.

The committee again divided; and the tellers reported—ayes thirty-nine; noes not counted.

Mr. WASHBURN, of Illinois. I am willing to let the amendment be considered as adopted, and we can have a vote on it in the House.

There was no objection; and it was ordered accordingly.

Mr. BROOKS. I will ask the gentleman from Illinois whether in this long list of consulates any new names have been introduced? I see some here which I do not recognize as having been in former bills; I notice the place of Bahia; but the gentleman can say whether any new names have been introduced or not.

Mr. WASHBURN, of Illinois. Not one new name has been inserted.

The Clerk proceeded with the reading of the bill, and read the following item:

For expenses under the act of Congress to carry into effect the treaty between the United States and her Britannic majesty for the suppression of the African slave trade, \$12,500.

Mr. BROOKS. I suggest to the chairman of the committee that he can make something of a saving by striking out this item of \$12,500. We are relieved from all responsibility now as

regards slavery and the slave trade. The treaty to which this article refers, which I have before me, was made for the special purpose of relieving our country from the charge of being connected with the slave trade in order to supply the southern States with slaves. No slave is now found on our soil. Therefore we are no longer under any responsibility of guarding the coast of Africa, and it is quite time, it seems to me, that we should relieve ourselves of any connection with slavery and the slave trade by refusing to appropriate this item, as is here proposed.

Mr. WASHBURNE, of Illinois. In reply to the gentleman I will say that the Committee on Appropriations were not unmindful of the suggestion he has just made. But they found this appropriation to be required by the treaty, which is the highest law. We are bound to carry out its provisions, and hence we put this appropriation in the bill. At the same time the member from New York [Mr. KELSEY] drew up a resolution, which is to be offered as soon as this bill is disposed of, directing the Committee on Foreign Affairs to inquire into the expediency of abrogating or modifying the treaty.

Mr. BROOKS. In that case I suggest, as this session is a short one and in all probability we shall scarcely reach his bill, that we now insert this additional paragraph:

That the Secretary of State be directed to inform the Government of Great Britain that the United States no longer wish to continue in operation article nine of the treaty with Great Britain of August 9, 1842.

What is the objection to that?

Mr. WASHBURNE, of Illinois. I am not prepared to do that unless I know more about the treaty or the necessity of having it continued in force. While the Committee on Appropriations were very desirous of saving this amount if possible, still they did not wish to act in the dark and undertake to legislate here without full knowledge of matters which necessarily belong to the Committee on Foreign Affairs. Whether or not the treaty should be entirely abrogated or modified it is certainly not the sentiment of the American people to neglect to do anything which is to put a complete end to this blot on our nation's history.

Mr. BROOKS. I will waive the amendment and allow the appropriation to go for this year, but I give notice that I will move to strike it out next year.

Mr. SCHENCK. I am opposed to striking out this appropriation, because even with the abolition of slavery in the United States there yet remains the duty to be performed before the world in pursuance of our own fixed public sentiment on this subject in reference to the slave trade, in no way touched, in no way brought into such condition that we are relieved from the obligation by the fact that slavery no longer exists here. That treaty simply provides, as by agreement between nations, that the slave trade shall be held to be piracy, and for the purpose of enforcing the mutual obligations of that treaty mutual agreement is made that the ships of each nation may be overhauled for the purpose of ascertaining the character of the vessel, whether a slaver or not.

Now, I am sorry to be compelled to confess, that within my own personal knowledge, upon the coast of Brazil, long after the slave trade had been held to be piracy by that Government, as well as ours and that of Great Britain, cargoes were actually landed by two New York merchants and carried up into the mountains; and I am still more sorry to add that while one of those captains of slavers was thus engaged his mother, a very excellent woman, was delivering anti-slavery lectures in New York. But what is true no longer perhaps in reference to the coast of Brazil, is probably true even at this time in reference to Cuba and some other parts of the world, and I do not feel like ridding ourselves of all responsibility for its existence by refusing to take our part in the police of the sea in order to prevent this form of piracy from being continued

any longer. I hope the amendment will not prevail.

The CHAIRMAN. The Chair understands that there is no amendment pending.

The Clerk read the second section, as follows:

SEC. 2. And be it further enacted, That no diplomatic or consular officer shall receive salary for the time during which he may be absent from his post (by leave or otherwise) beyond the term of sixty days in any one year: *Provided*, That the time equal to that actually occupied in transmitting mail matter to and from their respective posts to Washington may be allowed in addition to said sixty days, and section three of act of March 30, 1863, is hereby repealed.

Mr. BROOKS. I rise rather to suggest than to make a point of order, and I do it in order to avoid the precedent. I submit that this is legislation on an appropriation bill, and that the Committee on Appropriations had no right to report such a provision.

The CHAIRMAN. The Chair overrules the point of order, as this seems to be a limitation upon an appropriation made, and that is in order.

Mr. BROOKS. I do not appeal from the decision of the Chair, because I do not wish to consume the time of the House. I do not disapprove of this item of the bill, but I should be very sorry to see a right thing put in the wrong place. I think the provision is right, but this is a very wrong place to put it in.

The Clerk then read the third section, as follows:

SEC. 3. And be it further enacted, That the fee provided by law for the verification of invoices by consular officers shall, when paid, be held to be a full payment for furnishing blank forms of declaration to be signed by the shipper, and for making, signing, and sealing the certificate of the consular officer thereto; and any consular officer who, under pretense of charging for blank forms, advice, or clerical services in the preparation of such declaration or certificate, shall charge or receive any fee greater in amount than that provided by law for the verification of invoices, or who shall demand or receive for any official service, or who shall allow any clerk or subordinate to receive for any such service any fee or reward other than the fee provided by law for such service, shall be deemed guilty of a misdemeanor, and shall be dismissed from office, and on conviction before any court of the United States having jurisdiction of like offenses be punished by imprisonment not exceeding one year, or by fine not exceeding \$2,000. And hereafter no consul, vice-consul, or consular agent in the Dominion of Canada shall be allowed tonnage fees for any services, actual or constructive, rendered any vessel owned and registered in the United States that may touch at a Canadian port.

Mr. BROOKS. I raise a question of order on that section, because it creates a misdemeanor in the fourteenth line and prescribes a punishment of fine and imprisonment. It is new legislation in an appropriation bill, and it is not in the power of the House to take the yeas and nays on this section. It is a most dangerous mode of legislation, and I feel it my duty to make the point of order.

The CHAIRMAN. The Chair sustains the point of order, because this is clearly new legislation, creating an offense and providing for the punishment of it.

Mr. WASHBURNE, of Illinois. I will state that this provision was introduced into the bill at the instance of the gentleman from Ohio, [Mr. SPALDING,] who can explain it. It may not be in the right place, but it is certainly a very proper thing to be done, and unless it is done in this bill it will not be done at all.

Mr. BROOKS. Let me suggest to the gentleman that when the bill goes into the House he can offer this section there by general consent, and we can then do the right thing in the right way.

Mr. WASHBURNE, of Illinois. I understand very well that if the gentleman insists on the point of order the section must be stricken out.

Mr. BROOKS. I must insist on it, because it is important legislation, on which the yeas and nays cannot be called.

The CHAIRMAN. The Chair sustains the point of order, and the section will be stricken out.

The Clerk read the next section, as follows:

SEC. 4. And be it further enacted, That the Secretary of the Treasury shall be authorized, in his discretion, to cause examinations to be made into the

accounts of the consular officers of the United States, and into all matters connected with the business of their said offices, and to that end he may appoint such agent or agents as may be necessary for that purpose; and any agent, when so appointed, under the seal of the Treasury Department, shall, for the purpose of making such examinations, have authority to administer oaths and take testimony, and shall have access to all the books and papers of all consular offices. And any agent appointed in this behalf shall be paid for his services a just and reasonable compensation, not exceeding five dollars per day for the time necessarily employed, in addition to his actual necessary expenses, the same to be paid out of the fund appropriated for the expenses of collecting the revenue, but no greater sum than \$5,000 shall be expended as compensation of such agent or agents in any one year. And the said Secretary of the Treasury shall communicate to Congress, at the commencement of every December session, the names of the agents so appointed, and the amount paid to each, together with the reports of such agents.

Mr. SCHENCK. I raise the point of order on that section, and I will accompany it, if the chairman of the committee will permit me, with a suggestion. Here are three or four sections clearly of general legislation, and yet they contain, I think, some very wholesome matter. They might, perhaps, properly have come from the Committee on Commerce; but by whatever committee reported, I think they are entitled to the consideration of the House in some form, this section being one of them. I suggest that they be withdrawn from this bill and be introduced as a separate bill, or else, if they are thought important, that an endeavor be made to get them put in the bill in the Senate, where they have no such rule as we have in regard to matters not germane to the bill; and if they come back from the Senate attached to the bill we can no longer take exception to them. I make this suggestion because the sections are clearly out of order as general legislation.

Mr. WASHBURNE, of Illinois. If the gentleman from Ohio will suspend the point of order for a moment I desire to make a statement. The third section remains in the bill.

The CHAIRMAN. No; the third section is out.

Mr. WASHBURNE, of Illinois. I understood that only a portion of it was objected to.

The CHAIRMAN. No; the whole of it was objected to.

Mr. WASHBURNE, of Illinois. Of course I was fully aware that a point of order could be taken on all the sections, and that they could be excluded from the bill by the objection of any one member; but the provisions of these sections were deemed so important to the public Treasury that the Committee on Appropriations directed them to be reported in this bill; for, whatever we may say in regard to this matter, it is very certain that unless the sections go into this bill they will never become a law. They are cognate to this subject of consuls, and there is no objection except a technical one to their being put in.

The gentleman from New York [Mr. Brooks] has objected to the third section, which is in regard to the verification of invoices and consular fees. It is a matter in which the constituents of that gentleman are more particularly interested, perhaps, than the constituents of any other member upon this floor. It has been ascertained that these consuls abroad, who receive good and sufficient salaries by law for all their services, have been in the habit of charging illegal, unofficial, and unauthorized fees. It is a disgrace to the officers and to the Government. All that we propose here to do is to prevent that being done, and to fix a punishment should it be done. Does the gentleman from New York [Mr. Brooks] still insist upon his point of order?

Mr. BROOKS. I must; and that shows how disinterested I am, if, as the gentleman says, my constituents are so interested in this matter. But I cannot consent to create a new crime and to fix the penalty for it in this manner.

Mr. WASHBURNE, of Illinois. If that is the gentleman's objection to the section, I am entirely willing it should be amended in that respect as he may think proper; I am not particular about the penalties.

Mr. BROOKS. The gentleman can accom-

plish his purpose in a proper manner under the rules.

Mr. SCHENCK. The gentleman from Illinois [Mr. WASHBURN] has appealed to me to withdraw my objection to this fourth section. I would do so except that the third section has already been ruled out, and I think there are other sections of this bill that are not properly before this committee under the rules of the House. Now, I am astonished that the gentleman from Illinois, who is the chairman of the Committee on Rules, should be so strenuous to have us abandon all our rules upon this subject, because, although we may make some wholesome improvements here, it may result in much trouble to us hereafter.

The CHAIRMAN. The Chair is of opinion that all this debate is out of order.

Mr. SCHENCK. I am of that opinion myself; but as I was permitted to go on I thought I would make some remarks.

The CHAIRMAN. The Chair would rule that section four of this bill is in order, because it is a mere regulation in reference to the expenses of the Government for which this appropriation is made.

Mr. SCHENCK. Then I shall make no objection to anything in this bill.

Mr. WOOD. As the Chair has overruled the objection of the gentleman from Ohio, [Mr. SCHENCK,] I desire to say that the provision of this section, which gives the Secretary of the Treasury power to appoint agents to go all over the world to inquire into these accounts, is giving him a power which we should not delegate to him.

The CHAIRMAN. The Chair overlooked the fact that this section authorizes the creation of new offices. The Chair is of opinion that that is not in order, and therefore rules this section out of order.

The next section was read, as follows:

SEC. 5. *And be it further enacted*, That any consular officer of the United States who shall neglect to render true and just quarterly accounts and returns of the business of his office and of the moneys received by him for the use of the United States, or who shall neglect to pay over any balance of such moneys which may be due to the United States at the expiration of any quarter, before the expiration of the next succeeding quarter, shall be deemed guilty of embezzlement of the public moneys, and shall, on conviction thereof, before any court of the United States having jurisdiction of like offenses, be punished by imprisonment not exceeding one year and by a fine not exceeding two thousand dollars, and shall be forever disqualified from holding any office of trust or profit in the United States.

Mr. BROOKS. I raise the point of order that this section embraces independent legislation, and therefore is not germane to this bill.

The CHAIRMAN. The Chair sustains the point of order.

The next section was read, as follows:

SEC. 6. *And be it further enacted*, That no consul general or consul now holding, or who shall hereafter hold either of said offices, shall be permitted to hold the office of consul general or consul at any other consulate, or to exercise the duties thereof; and hereafter there shall only be allowed to any vice consulate or consular agency for expenses thereof an amount sufficient to pay for stationery and postage on official letters.

No amendment was offered.

Mr. WASHBURN, of Illinois. I offer the following additional section, which has had the informal assent of the Committee on Appropriations, and if adopted will save at least a thousand dollars. It is recommended by the Secretary of State. It is as follows:

SEC. —. *And be it further enacted*, That the entire expenses of prison and prison keepers at the consulate of Bangkok, Siam, shall hereafter not exceed the sum of \$1,000; and the salary of the interpreter shall not exceed the sum of \$500; and no salary shall hereafter be allowed the marshal at that consulate; and the salary of said consul at Bangkok shall hereafter be \$3,000.

The amendment was adopted.

Mr. WASHBURN, of Illinois. I move that the committee rise, and report the bill with the amendments to the House.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. ALLISON reported that the Committee of the Whole on the

state of the Union, having had under consideration the bill (H. R. No. 1570) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1870, and for other purposes, had directed him to report the same back with sundry amendments.

Mr. WASHBURN, of Illinois. As there are some matters which the committee want to look over I move that the further consideration of this bill be postponed till next Monday, immediately after the morning hour.

Mr. BROOKS. Why does the gentleman propose that the bill be postponed?

Mr. WASHBURN, of Illinois. For the reason that the committee want to make some further examinations, and perhaps offer some further amendments.

The motion was agreed to.

SUPPRESSION OF THE SLAVE TRADE.

Mr. KELSEY. I ask unanimous consent to submit the following resolution:

Whereas the slave trade has been practically suppressed; and whereas by our treaty with Great Britain for the suppression of the slave trade large appropriations are annually required to carry out the provisions thereof: Therefore,

Resolved, That the Committee on Foreign Affairs are hereby instructed to inquire into the expediency of taking proper steps to secure the abrogation or modification of the treaty with Great Britain for the suppression of the slave trade.

Mr. ARNELL. I object.

E. B. BIDWELL AND SARAH HACKLEMAN.

Mr. JULIAN, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Whereas private act No. 262, granting an increased pension to Emily B. Bidwell and to Sarah Hackleman, approved July 27, 1863, is so framed that in the judgment of the Commissioner of Pensions it cannot be executed: Therefore,

Resolved, That the Committee on Invalid Pensions be instructed to inquire into the justice and expediency of reporting a bill which shall grant the relief contemplated by the said act.

GOVERNMENT SALES OF GOLD.

Mr. MORRELL, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury, be and he is hereby, requested to furnish to this House a statement showing the aggregate amount of gold coin sold by the Government since January 1, 1863, in each year, with the date and amount of each sale, the rate and amount of premium realized, the commissions and expenses attending the same, and to whom paid, and stating particularly to what account such expenses and commissions were charged, and to what account the premiums were credited.

Mr. SPALDING. I move that the House adjourn.

The motion was agreed to; and the House (at four o'clock and twenty-five minutes p. m.) adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of Wallace Wilson, of Lexington, Mississippi, praying that he may be relieved from political disabilities incurred by participation in the rebellion.

By Mr. BURR: The petition of Samuel Birch, of Illinois, for losses sustained by him during the war.

By Mr. HOTCHKISS: The remonstrance of Hon. James E. English and others, of Connecticut, against further increase of duty on imported steel.

By Mr. HUBBARD, of West Virginia: The petition of Charles J. Faulkner and others, attorneys-at-law, practicing in the circuit court of the United States for the district of West Virginia, asking the removal of said court from the city of Parkersburg to the city of Wheeling.

By Mr. INGERSOLL: The petition of Thaddeus Wetmore, of St. Louis, for an increase of pension.

By Mr. KELLEY: A petition of 78 citizens of Pennsylvania, praying Congress to propose an amendment to the Constitution guarantying all the privileges and immunities of citizens

of the United States, without regard to race, color, or parentage.

By Mr. MORRELL: The memorial of F. A. Gibbons, esq., with documents and evidence relating to the new agricultural building.

By Mr. O'NEILL: The memorial of Simon Levine, of Philadelphia, Pennsylvania, guardian of Anna F. Hart, only minor child of Byron Hart, M. D., deceased, late acting assistant surgeon United States Army, praying for a pension.

By Mr. POLAND: The petition of Sophia Clark, praying for a special act granting her a pension on account of the death of her son, William H. H. Clark, a private in company G, fourth Vermont volunteers, who died of disease contracted in the Army in June, 1862.

By Mr. STEWART: The petition of Gustavus C. Stuhr, for relief for loss of four \$1,000 United States bonds.

By Mr. VAN TRUMP: The petition of Robert S. Brock and 146 others, praying that a post road be established from Lancaster, Ohio, via Dumontsville, Basil, and Baltimore, in Fairfield county, and Kirkersville, in Licking county, to Outville, in Licking county; and that mail route No. 9227, from Lancaster, via Dumontsville, Basil, Baltimore, and Millesport, in Fairfield county, to Hebron, in Licking county, be discontinued.

By Mr. WELKER: The petition of Isabella Smith, widow of James Smith, company D, one hundred and sixty-second New York volunteers, for a pension.

Also, the petition of Mary Parker, mother of Amon Parker, private company B, one hundred and second New York volunteers, for a pension.

Also, the petition of Jacob Huggins, company A, ninth Pennsylvania cavalry, for a pension.

Also, the petition of Rudolph Shurrager, company E, one hundred and fifty-ninth New York volunteers, for a pension.

Also, the petition of Captain Thomas P. Graves, company I, fifty-ninth Indiana volunteers, for a pension.

Also, the petition of John P. D. Commerdinger, private, company K, forty-eighth New York volunteers, for a pension.

Also, the petition of Mary Weichsel, the mother of Nicholas Weichsel, company K, one hundredth New York volunteers, for a pension.

Also, the petition of Sarah Fryer, mother of John H. Fryer, a private company A, fifty-third Pennsylvania volunteers, for a pension.

Also, the petition of Michael Cook, a private company D, sixteenth United States infantry, for a pension.

IN SENATE.

THURSDAY, January 7, 1869.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of State, transmitting, in compliance with a resolution of the Senate of the 3d of March, 1868, copies of the reports of the United States commissioners to the Paris Exposition of 1867; which was laid on the table, and ordered to be printed.

He also laid before the Senate a letter from the Secretary of the Interior, communicating, in compliance with a resolution of the Senate of the 14th ultimo, information in relation to the late battle on the Washita river; which was referred to the Committee on Indian Affairs, and ordered to be printed.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of the Interior, communicating, in answer to the resolution of the Senate of the 5th instant, the last annual report of the Union Pacific Railroad Company, and of the companies engaged in constructing branches or continuations of that road; which was referred to the Committee on the Pacific Railroad, and ordered to be printed.

He also laid before the Senate a letter from the Secretary of War, communicating a copy of the report of Brevet Major General Harney, United States Army, upon the Sioux Indians on the Upper Missouri; which was referred to the Committee on Indian Affairs, and ordered to be printed.

He also laid before the Senate a message from the President of the United States, transmitting, in compliance with the request contained in its resolution of the 15th ultimo, a report from the Secretary of State, communicating information in regard to the action of the mixed commission for the adjustment of claims by citizens of the United States against the Government of Venezuela; which was referred to the Committee on Foreign Relations, and ordered to be printed.

He also laid before the Senate a message from the President of the United States, transmitting a report from the Secretary of State, with accompanying papers, in relation to the resolution of Congress approved July 20, 1867, declaring sympathy with the suffering people of Crete; which was referred to the Committee on Foreign Relations, and ordered to be printed.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented the memorial of the Lake Shore Grape Growers' Association, praying the enactment of a law to grant letters-patent on new horticultural varieties; which was referred to the Committee on Finance.

Mr. WILLIAMS. I present the memorial of the Legislative Assembly of the Territory of Idaho, representing that that Territory is producing a very large amount of gold, which is rapidly increasing; that their circulating medium there consists chiefly of gold dust; that they are subjected to great inconvenience and loss in sending their gold dust to San Francisco to have it assayed or converted into coin; and they pray that the bill establishing an assay office in Idaho as it passed the House of Representatives may pass the Senate. I move that this memorial be referred to the Committee on Finance, and be printed.

The motion was agreed to.

Mr. WILSON presented the memorial of the Lake Shore Grape Growers' Association, praying the enactment of a law to grant letters-patent on new horticultural varieties; which was referred to the Committee on Patents.

Mr. DAVIS. I present the petition of John J. Rogers and others, who entered some public lands that had been previously appropriated for the State of Illinois for canal purposes, and had been specially appropriated by the canal company. The petitioners of course lost their lands by the prior right of the canal company, and they now ask that the purchase money which they paid for the lands be reimbursed to them by special act of Congress. I move that the petition and the accompanying papers be referred to the Committee on Private Land Claims.

The motion was agreed to.

Mr. FESSENDEN presented the memorial of J. H. C. Coffin, professor of mathematics in the United States Navy, praying that his pay may be made equal to that of a captain in the Navy on shore duty; which was referred to the Committee on Naval Affairs.

Mr. FESSENDEN. I also present the memorial of James Pratt and a large number of others, clergymen of the Protestant Episcopal church, urgently petitioning Congress to take immediate action for the passage of a law forbidding, under heavy penalties, the carrying of petroleum or other inflammable oil in any public conveyance by land or water where passengers are to be transported at the same time. A private letter from one of the memorialists to me states that two of the agents of that religious denomination have lost their lives in consequence of petroleum being carried on board of vessels. I move the reference of the memorial to the Committee on Commerce.

The motion was agreed to.

Mr. FESSENDEN. I also present the remonstrance of Joseph Lanman, rear admiral, and several captains, commanders, lieutenants, &c., in the Navy, earnestly remonstrating against the passage of a bill now pending to reorganize and increase the efficiency of the medical department of the Navy, and giving their reasons, not at great length, but succinctly. I should like, before this memorial is referred to the Committee on Naval Affairs, to whom it should go, to have it read for the information of the Senate, and more particularly as the bill is now pending in the other House, with a view to have the contents understood. If there is no objection I should like to have it read at the desk.

The PRESIDENT *pro tempore*. The memorial will be read if there be no objection. The Chief Clerk read as follows:

UNITED STATES NAVAL STATION,
PORTSMOUTH, N. H., December 25, 1868.

To the Senate and House of Representatives of the United States of America in Congress assembled:

We, the undersigned, line officers of the United States Navy, respectfully beg leave to represent to your honorable body that we have seen the proposed bill to reorganize and increase the efficiency of the medical department of the Navy; that we also understand it to be asserted by the surgeons that this bill has the approval and support of "all the sensible line officers;" but that on the contrary, in our opinion, the measure is altogether objectionable and opposed to the best interests of the service.

To any one familiar with the history of previous and similar attempts on the part of the staff officers of the Navy it cannot be surprising to find these gentlemen once more advancing their exaggerated pretensions and demanding an inordinate rank for their own personal aggrandizement, apparently either ignorant or regardless of the injury done to the service generally. But hitherto, although the various general orders and enactments procured by them on this subject have not met with our approval, it has not seemed necessary to us that our opinion should be formally expressed; and had it not been claimed to be the exact reverse of what it is, in the present instance we should probably have remained silent, as heretofore. We simply cannot allow the assertion to pass current by any default of our own.

With regard to the merely personal aspect of the question, the persistent encroachments of the staff corps have always proceeded upon the assumption that rank is of supreme importance to them, but have wholly ignored the fact that the line have an equal interest in the decision, inasmuch as the value of any distinction is necessarily lessened by every addition to the number of those who enjoy it.

But we object to the proposed bill upon much higher grounds than these, namely, because it will seriously impair the discipline, the efficiency, and the harmony of the Navy; it creates an additional expense at a time when the energies of all should be directed to an opposite result; it gives positive instead of assimilated rank, (which alone should ever be conceded,) and does this in a degree which is absurdly out of all proportion to their duties or to the requirements of the service. It is an insidious effort to exempt a department from the legitimate and necessary authority and control of the line, and it aims at an invasion of the cabin by a crowd of staff officers, which ought never to be permitted.

We thereupon pray that your honorable body will not pass the proposed or any similar bill without first satisfying yourselves that we are mistaken in the amount of support given to it by line officers, and also that the bill itself is better entitled to that support than we believe it to be.

JOSEPH LANMAN,
Rear Admiral United States Navy,
And other naval officers.

The memorial was referred to the Committee on Naval Affairs.

Mr. CORBETT. I am requested to present the memorial of the Legislature of Oregon, asking Congress to extend a branch of the Union Pacific railroad from Salt Lake by way of Snake and Boise valleys, in Idaho Territory, Powder river, and Grande Ronde valleys, and so on, to Portland in Oregon, on the Willamette, and from thence to Puget sound, Washington Territory, setting forth the importance of such a road to the community and the advantages to the Government. I move its reference to the Committee on the Pacific Railroad.

The motion was agreed to.

Mr. COLE presented a memorial of distillers and liquor dealers of California, remonstrating against the increase of the tax on distilled spirits; which was referred to the Committee on Finance.

He also presented a petition of miners and agents of miners on the Pacific slope, asking for the passage of an act relative to duties on the importation of carbonate ores; which was referred to the Committee on Finance.

Mr. COLE. I also present the petition of numerous influential citizens of Santa Barbara county, in California, asking for the establishment of a southern district court of the United States in that State. They set forth that they suffer great inconvenience by being compelled to take a long sea voyage to reach San Francisco, where the present court is held. I move that this petition be referred to the Committee on the Judiciary.

The motion was agreed to.

Mr. ANTHONY. I present the memorial of William T. Eustis, asking the passage of an act for the settlement of the depreciation of the currency of the soldiers and officers of the Rhode Island brigade, their heirs and assigns, as the same were made to them and ascertained by a committee appointed by the Legislature of Rhode Island at the February session thereof in the year 1784, the report whereof was received by the Legislature at their October session in 1785, in accordance with the principles and promises made to the Army of the Revolution by the resolve of the Continental Congress of April 10, 1780, and of the further resolve of August 12, 1780, and subsequently embodied in an ordinance of the same Continental Congress of 7th of May, 1787.

This subject has been before Congress for a long time. It has been reported upon favorably repeatedly, and I believe a bill for relief has passed one or both branches of Congress several times, but has never become a law. It relates to a most interesting chapter of revolutionary history very creditable to the patriotism of New England, and not very creditable to the justice of the Federal Government. I move the reference of the memorial to the Committee on Revolutionary Claims.

The motion was agreed to.

Mr. CONKLING presented the memorial of shipbuilders and shipowners of the United States, protesting against the passage of the bill providing for an increased duty on copper, and proposing a substitute therefor; which was referred to the Committee on Finance.

He also presented a memorial of manufacturers of tobacco, cigars, and snuff, of Utica, New York, praying the allowance of a discount to purchasers of revenue stamps on such articles; which was referred to the Committee on Finance.

Mr. WILLEY presented the petition of Charles B. Gardner, of Virginia, praying to be relieved from political disabilities; which was referred to the Committee on the Judiciary.

He also presented the petition of Thomas S. Haymond, of Virginia, praying to be relieved from political disabilities; which was referred to the Committee on the Judiciary.

Mr. PATTERSON, of Tennessee, presented the petition of Mary Hodgson, of Tennessee, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. SUMNER presented the memorial of Thomas B. Wales & Co., of Boston, Massachusetts, praying that the register of the ship Agra may be restored; which was referred to the Committee on Commerce.

REPORTS OF COMMITTEES.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the bill (S. No. 385) in part execution of section four of article four of the Constitution, reported adversely thereon, and moved its indefinite postponement; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 524) to facilitate the decision of questions of conflict of jurisdiction between the United States and the States by the Supreme Court of the United States, reported adversely thereon, and moved its indefinite postponement; which was agreed to.

He also, from the same committee, to whom was referred the bill (H. R. No. 263) to extend the jurisdiction of probate courts and of justices of the peace in the Territories of Idaho and Montana, reported adversely thereon, and moved its indefinite postponement; which was agreed to.

He also, from the same committee, to whom was referred the resolution (S. R. No. 150) relative to the payment of certain claims to loyal citizens of the United States, reported adversely thereon, and moved its indefinite postponement; which was agreed to.

COMMITTEE CLERK.

Mr. CONKLING, from the Committee on Revision of the Laws of the United States, reported the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Revision of the Laws of the United States be, and hereby is, authorized to employ a clerk, who shall receive the same compensation as is allowed to clerks of other committees.

BILLS RECOMMITTED.

On motion by Mr. MORTON, the bill (S. No. 712) to provide for the appointment of recorder of deeds and warden of the jail in the District of Columbia, and for other purposes, was recommitted to the Committee on the District of Columbia.

On motion by Mr. PATTERSON, of Tennessee, the bill (S. No. 231) for the relief of Dr. John Templeton was recommitted to the Committee on Claims.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the bill (H. R. No. 1564) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1870; in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (S. No. 738) to relieve from disabilities John G. Stokes, a citizen of Alabama; and it was thereupon signed by the President *pro tempore* of the Senate.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. WILLIAM G. MOORE, his Secretary, announced that the President had, on the 6th instant, approved and signed the bill (S. No. 700) for the relief of Joseph Moorehead.

BILLS INTRODUCED.

Mr. NYE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 741) to encourage and facilitate telegraphic communication between the eastern and western continents; which was read twice by its title, referred to the Committee on Commerce, and ordered to be printed.

Mr. PATTERSON, of New Hampshire, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 742) to continue in force an act entitled "An act to extend the charter of Washington city;" which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 743) to provide a penalty for violating the laws of Congress or the ordinances of the cities of Washington and Georgetown, and of the levy court of the county of Washington, District of Columbia; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

HOUSE BILL REFERRED.

The bill (H. R. No. 1564) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1870, was read twice by its title, and referred to the Committee on Appropriations.

HOLDING OF DOUBLE OFFICES.

Mr. EDMUNDS. I move to take up the bill which I reported yesterday from the Committee on the Judiciary, respecting the holding of two offices at the same time.

The motion was agreed to; and the bill (S.

No. 691) to prevent the holding of civil offices by military officers, and to prevent the holding of more than one office at the same time, was considered as in Committee of the Whole, the question being on the amendment reported by the Committee on the Judiciary, to strike out all of the original bill after the enacting clause and in lieu thereof to insert:

That no person shall hold or shall be receive salary or compensation for performing the duties of more than one office or place of trust or profit under the Constitution or laws of the United States at the same time, whether such office or place be civil, military, or naval; and any person holding any such office or place, or who shall accept or hold any other office or place of trust or profit under the Constitution or laws of the United States, shall be deemed to have vacated the office or place which he held at the time of such acceptance.

Mr. GRIMES. Mr. President, I should be pleased to hear from the Senator from Vermont or other members of the Committee on the Judiciary, who reported this bill, some explanation of the precise scope of the bill and what is its purpose. The law as it now stands, I believe, is the same as is embodied in this bill so far as relates to the compensation of officers who are holding one office and may be designated for another; that is to say, no man can now receive pay for performing the duties of two offices. This bill, as I understand it, prevents the designation of any person either permanently or temporarily—for I think it includes *ad interim* appointments—to perform the duties of a civil office who may, at the time he may thus be appointed, hold a military or naval office.

Mr. EDMUNDS. Mr. President, I will with great pleasure give such explanation as I am able of this proposition. In the first place, my friend from Iowa is mistaken in supposing that the present law as to compensation is merely reenacted in this bill. The law now does permit, at least it does not prohibit, paying the same person the salaries of two offices where those salaries are below a certain sum—\$2,500 per annum. The committee thought it eminently proper that that should be corrected.

Then, as to its including temporary designations, what are commonly called *ad interim* appointments, the committee endeavored to frame the substitute which is reported so as to clearly exclude from the operation of the bill that class of persons, so as not to prohibit the President of the United States or any head of a Department in whom the law should repose the authority to make *ad interim* appointments from selecting any other officer whatever to perform temporarily the duties of the office to which he might be called, as we did not think such mere temporary employment, as distinguished from an appointment, was obnoxious to the grave objections in principle and in practice that relate to complete investiture into two offices by the same person. *Ad interim* appointments, as they are called, are not an investiture of the person thus called to temporary employment into the office the duties of which he is performing, but they are the mere designation of one officer or person to perform the duties of and belonging to some other office that is vacant; and it is only because the office is and continues to be vacant that the President of the United States, within the meaning of what I am now speaking of, would have any authority to permit any other person to exercise the functions of that office, because the appointment to an office must be by and with the advice and consent of the Senate, and we all know that these *ad interim* appointments, as they are called in common parlance, are reposed by law in the sole power and discretion of the President.

We therefore declare in this substitute, so as not to interfere with the statutes upon that subject, and differing probably or possibly from the construction that might have been put upon the original bill, "that no person shall hold, nor shall he receive salary or compensation for performing the duties of more than one office or place of trust under the Constitution or laws of the United States at the same time." That in law plainly means, upon all principles of

construction that I am acquainted with, that the same person shall not have the title and become invested in the possession of two offices at the same time. So I do not think it open to that objection.

Now, as to the principle upon which the bill proceeds, the main principle to which my friend alludes, I am sure, if he has given any attention to them, the considerations upon which such a measure is proposed cannot have escaped the intelligence of my friend's mind. It appears to us, and I think most intelligent and reflecting men will agree, that it is contrary to the essential principles of a free government certainly that the same citizen should hold and possess two public employments at the same time, irrespective for the moment of the question whether those employments are necessarily inconsistent with each other, because the theory of government goes upon the principle, and it is a true one, that every office which is created is created because it is necessary that the duties of that office should be performed in the administration of law for the public good; and therefore, inasmuch as in contemplation of law all the offices that do exist require the attendance and the attention of the person who is to fill them and execute them, if he chooses to take up some other office or employment, is called by his Government to the fulfillment of some other public administration, he must either leave the administration of the office that he did hold vacant and unadministered, or he must give place to be supplied by some other citizen or officer who shall succeed to him in the administration of it. And so clear is this principle, that in the constitutions of many States, my own among the number, there is an enumeration of all the chief offices in the State, executive, judicial, civil, administrative, with the declaration that no citizen shall hold more than one of those enumerated offices at the same time.

Now, to go a step further, look at the dangers—now, they are merely theoretic, of course; I would not wish anybody to suppose that the committee believe that any person, so far as we know, who may be holding two offices is obnoxious to the suspicion of thereby causing any danger to the Republic; but we pass laws of general effect for all time and upon general principles—look at the dangers in this point of view of the consolidation of many offices in the possession of one person; look at the dangers of the consolidation of civil offices in the hands of military officers in times of great excitement and of breaches of the law, where the military officer is bound to obey the orders of his superior under the articles of war, if you please, and under the principles of military law, let them be almost what they may, and where the civil officer, as in almost all our statutes there is power given to him, is empowered to call upon the military officer for aid to enforce his functions. Suppose the marshal of the United States for the district of Vermont is also a colonel in the Army at the same time, and there is stationed in the State of Vermont a regiment of troops. The marshal takes it into his head, with a warrant that he has obtained from some commissioner, to arrest a citizen in violation of law, for instance, and the citizen says, "I have a right to resist illegal process, and I do; I decline to be arrested, Mr. Marshal." The marshal, acting then as colonel, commands his lieutenant colonel to march up the infantry and take him.

It does not need any illustrations, as it appears to me, to show the danger of it. It is the consolidation of military and civil power in the same hands when the spirit of the Government and the spirit of the Constitution, and I do not know but its letter, declares that one shall be subject to and in subordination to the other. There cannot be that subjection and subordination where you place the military power and the civil power in the hands of the same man. In order to control military operations by the civil power as far as it was possible, the Constitution contains a provision, as you know, sir, that the highest civil officer in the United

States, the President, by virtue of his office and not by virtue of being an officer in the Army, shall command the military power as Commander-in-Chief.

These are mere illustrations, but they illustrate, as it appears to me, forcibly and conclusively the theoretic and intrinsic impropriety in a Government of laws and in a Government of liberty of consolidating or permitting the consolidation of separate functions of government in the hands of any one man, whoever he may be. I am happy to repeat, sir, that I know at this moment of no individual instance where there is the practical danger to which I have referred as one that is possible in all Governments, and, as we study history, one that we know is not only possible, but real in the South American republics.

These are briefly an outline of the principles upon which the bill proceeds.

Mr. SHERMAN. It seems to me that this bill does not reach some cases that have occurred, and that ought to be affected by this legislation. The reason for prohibiting a man from holding two offices under the United States does not apply with the same force as where he holds an office under a State government and under the national Government, because the laws of the State may conflict with the laws of the national Government. I happen to know of a case where an officer holding a very high and valuable office under the laws of a State—an office which would require every moment of his time—is now an officer of the United States, receiving a large salary, discharging both offices, receiving the pay of both offices, and under an extraordinary decision, as I think, of the Internal Revenue Bureau, is also authorized to receive his moieties as an informer. It seems to me that that is a case which ought to be affected by this legislation.

Mr. EDMUNDS. I entirely agree, personally, with my friend from Ohio, and I shall certainly make no objection to an amendment which will cover that case. In my own State we have a constitutional provision which absolutely prohibits a State officer from accepting, without giving up his State office, an office under the General Government.

Mr. CONNESS. There is a similar provision in nearly all the States.

Mr. SHERMAN. This is a case that has actually occurred in Ohio.

Mr. EDMUNDS. If there are any such cases they ought to be reached, in my judgment. I cannot speak for the committee, however.

Mr. FESSENDEN. What case is that?

Mr. SHERMAN. The recorder of the city of Cincinnati, in Hamilton county—an office of great profit—is now one of the supervisors of internal revenue under the recent law. He holds both offices, and by a decision of the Commissioner of Internal Revenue he is also entitled to the fees of an informer; but that I have no doubt can be corrected by a change of the law. I propose, therefore, as an amendment, if this will reach it, "nor shall any person holding an office of trust or profit under the laws of a State receive any salary as an officer under the laws of the United States."

Mr. EDMUNDS. Make it go further, that no officer holding an office under the United States shall hold any office under a State.

Mr. SHERMAN. Suppose you draw it up in your own language.

Mr. CONNESS. The constitution of nearly every State, I think, contains a provision against the occurrence of the difficulty pointed out to exist in Ohio by the Senator from that State. The constitution of California provides that no citizen of that State shall hold any office under the State who holds an office under the Federal Government where the compensation exceeds \$500 a year. That enables postmasters holding inconsiderable places, where their salary does not exceed \$500, to perform the functions of State offices in some cases, and it is found to be a public convenience. A provision of the

kind now suggested would unsettle a great many of those trivial cases. It is the duty of the State to take care of this point, as I think, and not leave it to be taken care of or protected by congressional law. If there is an officer, as described by the Senator from Ohio, in that State, holding a lucrative office under the State, now appointed to a correspondingly lucrative place by the Secretary of the Treasury, it is simply a piece of maladministration on the part of the Secretary of the Treasury, and upon his attention being called to it he should promptly correct it.

Mr. SHERMAN. In justice to the Secretary, I will say that the Secretary did not probably suppose, at the time of the appointment, that the officer would continue to hold on to his office under the State. It is carried on by deputy.

Mr. CONNESS. There can be no difficulty about that, because the Secretary can ascertain in twenty-four hours whether the officer intends to hold the two offices or not, and he should be promptly removed if he should continue to hold the two offices. But, I repeat, if a provision of this kind is adopted it will unsettle a great many very trivial cases, but cases of importance to those persons; and it appears to me that the remedy should come from the other side, namely, from the action of the States and not from a congressional law. There can be no difficulty about correcting the case to which the Senator from Ohio alludes, and all or nearly all the Senators sitting about me have replied that in their States there are provisions against such an occurrence.

Mr. CORBETT. I desire to state to the Senate that a similar case has occurred in my State, where the United States marshal, who is holding that office, a very lucrative one, has been elected sheriff of a county, another lucrative office, probably paying \$10,000 a year. It was supposed when he was elected that he would resign the office of United States marshal, but he has not done so, and still holds both offices. It seems to me there should be some provision in this bill to reach such cases. I merely mention this for the information of the Senate.

Mr. FESSENDEN. Mr. President, I do not know but that the general principle that this bill aims at may be well enough to a certain extent, but it strikes me the language is so very general that it would be likely to cover a great many cases which the Committee on the Judiciary did not intend, or would not, on reflection, intend to include in the provisions of the bill. Now it says "any office or place of trust or profit." What do they mean by "place?"

Mr. SHERMAN. "Under the Constitution or laws of the United States."

Mr. FESSENDEN. Well, "under the Constitution and laws of the United States." Take, for instance, a case which has been familiar. It has been customary, for instance, to appoint the collector of customs in certain places superintendent of light-houses, and to give him a small sum in payment for his services in that particular.

Mr. EDMUNDS. He does not have a separate commission, does he?

Mr. FESSENDEN. He is appointed under the law, I suppose, and I presume has a separate commission. If the Senator from Vermont means, and if the committee mean nothing except two separate, distinct commissions emanating from the Government applying to particular offices, let the bill say so, and let us have the matter so that we understand it, and so that it will not cover cases that the committee do not intend to cover. Now, for instance, we are protected well enough. There is no office hardly in the gift of the Government that is not made by nomination to the Senate and confirmation. If you mean such offices as those say so, but do not leave the language so general that it applies to every little appointment that may possibly be made by way rather of a designation of duty than anything else, and

for which some payment may be received and ought to be received. It is a matter of great convenience, and undoubtedly designations of that kind are very frequently made for the reason that the officers are known to the several Departments and their ability and their integrity are known and understood.

Now, sir, with reference to this matter you can take familiar instances if you please. I wish to speak, however, more particularly of the matter of holding State offices. The constitution of Maine provides that no person holding an office under the United States shall be a member of the Legislature, except postmasters. They allow postmasters to be members of the Legislature if I remember the provision rightly. What objection is there to that? The Senator from Ohio says it will not do for a man to hold a State office if he holds an office under the United States. Suppose a postmaster receives a salary, if you please, of \$1,000, or less, or more, and the people in the town where he resides choose to elect him as a member of the Legislature, is there anything objectionable in that? Do you wish to prohibit it in any way? Perhaps such a case as is spoken of by the honorable Senator from Ohio is one that ought to be prohibited for another reason, and that is, that one man cannot attend to the duties of the two offices.

Mr. TRUMBULL. Officers of militia are also excepted in my State.

Mr. FESSENDEN. I do not know but that they are in mine. And so, with reference to the case spoken of by the Senator from Oregon, a man evidently should not be a United States marshal and at the same time sheriff of a county. He cannot attend to the duties of the two offices except by deputy in each case. There may be cases where the prohibition would be a good one; but there may be other cases where it would be a very unreasonable one, and would only make difficulty. The language is any "office or place of trust or profit." I have a familiar illustration in my mind now. Take the case of retired officers of the Army; many of them retired on very small pay, not enough to support them; disabled officers, retired on account of being disabled; and they return home and live in the place where they were born and bred, and their fellow-citizens choose to elect them to some petty office or other. Is there any objection to it? I intimated that I had an illustration, not of an office of profit but a place of trust. I know an officer in my own State and in my own town who is a retired officer of the regular Army, a disabled officer. The people of the city chose to elect him an alderman. He receives no pay whatever. If the people of a man's native city chose to elect him under such circumstances as an alderman, or selectman, as we call it, of the town, he cannot under this provision accept the office and serve them unless he gives up his retired pay and vacates the position which he holds under the United States. Is there anything unreasonable about that, or any danger of allowing it in such a case as that or in a thousand similar cases?

Now, sir, although I confess I do not see the necessity of the prohibition, I have no very great objection to it if it be properly limited and expressed so that it will not do a great deal more harm than good. There are no officers of the United States of any particular consequence that I know of who do not come before the Senate for confirmation. We have, therefore, the whole matter in our own hands, and we can control it at any time. Take any case that you may suppose: take the case of a distinguished officer in the Army or Navy, for instance, who is nominated for minister abroad. We know very well that he would not give up his place in the Army or Navy for the sake of accepting a post which he can only hold until perhaps a change of administration, or for a very short time. We know, however, that as the law stands, if he does accept that post for the time being he cannot receive the pay of the other office. That he might be willing to do. If the name of an officer of the Army or

Navy is sent here for a very important position we understand perfectly well what the question is, and we can reject him if we see fit; we have entire power over it. But if Senators think that with reference to this class of officers it is necessary or advisable to go further and prohibit the holding of both, I do not know, as I said before, that I have any very great objection.

So with reference to the matter of national and State offices, I entirely agree with the honorable Senator from California that that should be left to the State itself. If the State chooses to appoint an officer of the United States or a man holding an office under the United States to a civil office in the State, or if the people of the State choose to elect a man under those circumstances to a civil office in the State, what objection can there be to it on our part? If he accepts that office, and if by the acceptance of that office he has not the time or the ability to discharge properly the duties of the office which he holds under the United States, the power is in the hands of the United States Government at once to remove him, he having elected to hold an office under the government of his State. If the State thinks it will not be injured, there is every reason, then, why the State should set the matter right. It should look out for its own interest. It is not for us, as I suppose, to meddle with it, unless we are satisfied that the holding of such a place is not consistent with the parties holding a place under this Government, when he can be removed, and undoubtedly would be in a proper case.

If any harm has been done heretofore, if any injury has followed, it would be a cause for interfering with the matter by law; but I am not aware that there has been any such injury. The cases suggested by the honorable Senators are such as could easily be remedied at any moment in one of two ways: either the officer can be removed as a United States officer or the State can regulate its own laws; and if it does not choose to make the necessary regulations I do not see why we should interfere with them at all.

But, sir, the principal object for which I rose was to request my friend from Vermont to make the matter more definite, and to go only so far as he really intends to go. At present I think the bill would do a great deal of harm. I wish it to be well understood how far the matter is to be carried. As to the danger to liberty from it, we have been in existence as a nation for a great many years and I do not know that we have ever suffered anything in this way. I have heard no complaints on the part of the people on that score; and I do not think that, with the number of applicants there are for every office of consequence in the gift of the United States Government or of the people of a State, any considerable number of persons will be suffered to hold two important offices. That, if not contrary to the spirit of our institutions, is contrary to the spirit of a very large portion of our people, enough, I think, to control the matter, so as not to have any very essential injury follow from it.

Mr. GRIMES. Mr. President—

MISS SUE MURPHY.

The PRESIDENT *pro tempore*. The morning hour having expired, the unfinished business of yesterday is before the Senate, being the bill (S. No. 625) for the relief of Miss Sue Murphy, of Decatur, Alabama. That bill is before the Senate as in Committee of the Whole; and upon it the Senator from Kentucky is entitled to the floor.

Mr. DAVIS addressed the Senate. [See Appendix.]

Mr. HOWARD. Mr. President, the earnestness and vigor with which this claim is pressed upon our consideration by its advocates indicate to my mind a necessity that it should be resisted with equal earnestness and

equal vigor; for it is not to be denied, as I have once before remarked, that the bill involves a very important principle of public law as well as a vast amount of money which may be claimed against the Government of this country by persons setting up to be loyalists at the South whose property may have been taken and used or destroyed in the course of the war.

The compliment which the honorable Senator from Kentucky in his gallantry—for he is always gallant—has paid to the present claimant may be very well founded. He says she is a very fair claimant. I hope that is the case; I shall not dare dispute that proposition of the honorable Senator. She may be very fair; she may be very unfortunate; she may have been, and perhaps is, still a great sufferer in consequence of the damage done to her property under the orders of General Sherman. But it will not follow, because she is fair or unfortunate or a great sufferer that she therefore is entitled to the money she asks in the bill. That is a question of law, of public law, and we are now acting upon it.

We are now about to settle a precedent either the one way or the other which will be followed in the future. If we pass this bill upon the state of facts on which it is introduced there can be no reason why we should not proceed in the future to make similar allowances to every person in the recently insurrectionary States who shall make out for himself a case of loyalty and whose property may have been taken and used or destroyed in the regular operations of our armies during the rebellion. Whether it be the duty of the Government to respond by way of indemnity in all such cases is the great question now before the Senate; and its importance cannot be concealed. The danger to the finances of the country to arise from an allowance of such a claim cannot be concealed. It becomes more and more evident the more you contemplate it, the more you examine it.

Now, sir, as I remarked the other day, discuss this matter as you will, talk of it as you please, you come back ultimately to this original question: what is the extent of protection which is due from a Government to its citizens in time of war? That question embraces all the other questions which in their nature are questions of law. I do not propose, Mr. President, to read from Vattel or from Grotius or any of the other great writers upon public law; I merely wish to call the attention of Senators to some precedents, one particularly existing in our own history which certainly will not be unfamiliar to the Senators from Vermont and New York.

It is a historical fact that originally Vermont belonged to the colony of New York. Toward the close of the last century the people of Vermont declared their independence of New York and set up independence for themselves. They succeeded by force of arms in establishing and maintaining it. The government of New York, long years previously to the conclusion of that contest, had issued a number of patents for lands lying within the present limits of Vermont, and after the settlement of peace and the substantial recognition of the independence of Vermont by New York the patentees under the latter government made application to the State of New York for indemnity for losses sustained by them as the results of the insurrectionary violence, as they called it, of the Vermonters. They appealed to New York for indemnity for the loss of their lands, their titles, and their personal property; and the question came distinctly and fairly before the Legislature of that State whether it was the duty of New York thus to indemnify its loyal citizens who had been residents of Vermont; and what was the result? Chancellor Kent, in narrating these events, tells us:

"The claimants were heard at the bar of the House of Assembly by counsel in 1787, and it was contended on their behalf that the State was bound, upon the principles of the social compact, to protect and defend the rights and property of all its members"—

The exact doctrine which is now urged upon

us here by the honorable Senator from Kentucky and other Senators—

"and that whenever it became necessary, upon grounds of public expediency and policy, to withdraw the protection of government from the property of any of its citizens without actually making the utmost efforts to reclaim the jurisdiction of the country, the State was bound to make compensation for the loss. In answer to this argument it was stated that the independence of Vermont was an act of force beyond the power of this State to control, and equivalent to a conquest of that territory, and the State had not the competent ability to recover by force of arms their sovereignty over it, and it would have been folly and ruin to have attempted it. All pacific means had been tried without success; and as the State was compelled to yield to a case of necessity, it had discharged its duty; and it was not required, upon any of the doctrines of public law or principles of political or moral obligation to indemnify the sufferers. The cases in which compensation had been made for losses consequent upon revolutions in government were peculiar and gratuitous, and rested entirely on benevolence, and were given from motives of policy or as a reward for extraordinary acts of loyalty and exertion. No government can be supposed to be able, consistently with the welfare of the whole community, and it is therefore not required, to assume the burden of losses produced by conquest or the violent dismemberment of the State. It would be incompatible with the fundamental principles of the social compact. This was the doctrine which prevailed; and when the act of July 14, 1789, was passed, authorizing commissioners to declare the consent of the State to the independence of Vermont it was expressly declared that the act was not to be construed to give any person claiming lands in Vermont, under title from this State any right to any compensation whatsoever from New York."—*1 Kent's Commentaries*, pp. 173, 179.

Mr. RICE. I wish to ask the honorable Senator from Michigan a question. Did the State of New York get the benefit of any of that property?

Mr. HOWARD. She was paid for it in the first instance.

Mr. RICE. Did the State of New York get the property?

Mr. HOWARD. The State of New York got the purchase price, for she patented the lands to the claimants, and of course they could not obtain their titles without paying for them; so that New York did get the benefit of every foot of land she sold in Vermont.

Mr. President, the revolutionary war, from which followed the disruption of this country from the mother country, drove out from among our forefathers a large number of persons known as loyalists. Many of them took refuge in the British provinces, more still in England; and at the close of the war, having been driven out of the country sometimes by means of tar and feathers, sometimes by military force, many of them made reclamation upon the English Government for indemnification for their losses. They were loyalists who adhered firmly to their king. I do not say that there was any merit in that, but such was the fact. They had been deprived of their property as one of the results of the war of the revolution. Some five thousand of them made application to Parliament for the passage of an act granting them indemnity. Of course it is impossible for me now to state with any particularity the nature of their several claims. It is sufficient to say that they established the fact that in consequence of their loyalty to the British crown they were deprived of their property and subjected to heavy pecuniary losses; and nobody can doubt it. In the discussion of the bill in Parliament Mr. Pitt, the minister, in speaking of the claims of these loyalists, used this language:

"He laid it down that however strong might be the claims of either of the several classes into which they were divided neither should regard the relief to be extended as due on principles of right and strict justice."

He denied that there was any principle of right or strict justice attaching to the Government of Great Britain which required it to indemnify the British loyalists who had thus been stripped of their property; but as an act of benevolence Parliament in the end granted to them about fifteen and a half million dollars by way of relief.

Mr. HENDRICKS. I wish to ask the Senator, with his permission, whether that opinion was expressed upon a case where the property had been taken by the British commander for the purposes of his campaigns?

Mr. HOWARD. It was expressed generally on the bill then before Parliament.

Mr. HENDRICKS. I ask the Senator if it was not a case of general indemnity because of losses incident to the war?

Mr. HOWARD. Undoubtedly; I said so.

Mr. HENDRICKS. And not a case of a specific loss occasioned by an appropriation of property on the part of some one that represented the authority of the Government?

Mr. HOWARD. Of course, I am not able to say upon what precise point or what particular fact the remark was based; but the remark applied generally to the bill then before the House.

Now, sir, the case before us must be decided upon its own facts. We have heard much from the honorable Senator from Kentucky and the honorable Senator from West Virginia respecting the lawfulness and justice of this claim. We have been told in very emphatic language that no right-minded man can vote against this bill; that the bill can be resisted upon no recognized principles of public law or public justice; and we are almost branded as robbers for rising in our seats here to resist it. The language, however, is a mere matter of taste; I shall not quarrel with that; I go to the principle of the bill itself.

Now, what were the facts of this case, Mr. President? I wish the Senate and country to understand them distinctly, in order that it may be known upon what facts this claim is based; and now I take the liberty of reading a report made upon this identical claim by the honorable Senator from Rhode Island, [Mr. ANTHONY,] then a member of the Committee on Claims, on the 9th of July, 1866. This report says:

"This is a claim for compensation for a dwelling house, out-houses, stable, carriage-house, &c., the property of the petitioner, situated in Decatur, Alabama, and taken for military purposes under the following order."

Now follows the order of the general in command; and I ask the Senate to mark its date, March 19, 1864:

[Special Order No. 72.]

HEADQUARTERS
LEFT WING SIXTEENTH ARMY CORPS.
ATHENS, ALABAMA, March 19, 1864.

The necessities of the Army require the use of every building in Decatur for Government purposes. It is therefore ordered—

1. That all citizens living in Decatur, or within one mile of the limits of the town, on the south side of the Tennessee river, shall move outside of the lines within six days from the receipt of this order.

2. They will be allowed to go North or South, as they may deem best, and take with them all their personal and movable property.

3. As fast as the buildings are vacated the commandant of the post will take possession of them, and see that they are preserved and no damage done them.

4. No exceptions to this order will be made except in the case of the families of persons in the Army or employes of the Government.

5. Brigadier General J. D. Stephenson will cause this order to be immediately complied with.

By order of Brigadier General G. W. Dodge:
J. W. BARNES,
Assistant Adjutant General.

The report then proceeds:
"General Sherman had previously issued an order to fortify Decatur for a military post."

The committee omit to state what was the date of General Sherman's order directing Decatur to be fortified, but it must, of course, have been previous to the 19th March, 1864, and during the flagrancy of the war. The war was still raging with all its horror and destructiveness in Alabama, as well as in other portions of the confederacy. It had by no means been brought to a close. There was just as much necessity in Alabama at that time for military operations as there had been at any previous time, and so General Sherman understood it, and in view of the public danger issued this order for fortifying Decatur. The report proceeds:

"In the erection and construction of fortifications under these orders it became necessary to remove the buildings and fences belonging to the estate of Miss Murphey in the construction of Fort No. 1, and all the improvements on the property were either destroyed or applied to military purposes."

It was an act of war during the flagrancy

of war in the enemy's territory, before the enemy had become subdued, and in every sense in which it can be viewed was as much an act of military necessity, of war, as the movement of General Grant against Richmond.

Mr. HOWE. Will the honorable Senator from Michigan allow me to ask him what facts there were which constituted Decatur enemy's territory on the 19th of March, 1864?

Mr. HOWARD. I will. I was coming to that. The honorable Senator puts to me the question what facts constituted Decatur enemy's territory in March, 1864. I will tell him. First, the whole of Alabama was included in the proclamation of Mr. Lincoln of 1861, as being in a state of insurrection; and in his proclamation of 1862, declaring the same thing; and, if I mistake not, his proclamation of 1863 reasserted the fact that the State of Alabama was in a condition of insurrection. That is the first fact that constituted it enemy's territory. The second fact is this: that the contest in which we were engaged was not a mere local, irregular, loose insurrection or mob; it was a war, having its military lines as distinctly marked as those that ever distinguished the lines of war between foreign nations. The Supreme Court of the United States has recognized it as a war, having those divisional, jurisdictional lines, and the State of Alabama fell within the enemy's territory. All the rebel States were by our own Supreme Court, after solemn argument, adjudged to be enemy's territory, and the persons residing within them and the property within them to be enemies and enemy property. It arose from the very necessity of the case.

It was impossible for us to conduct that great contest on the one side or the other without recognizing the laws of war in all their amplitude on each side. Foreign nations so recognized it. England and France and the other Powers of the earth granted to the rebels the rights of belligerents, by declaring themselves to be neutral as between the contending parties. The whole world and our own Government in all its acts recognized that territory as being enemy territory in respect to us, treating it as every hostile territory is treated in the prosecution of a war.

Now, sir, if there was war there at that time, if it was enemy territory, if Miss Sue Murphey was a resident of that territory, then, by the well-established rules and usages of war as recognized by the same Supreme Court, she was an enemy and her property was enemy property, liable to be taken and used in the prosecution of the war without any right at all to indemnity.

But the honorable Senator from Kentucky says it was peace then in Alabama, especially round about Decatur; that there was no war there; that the Federal Army had got possession of a small patch of country, including Decatur, and therefore there was no war at Decatur; and inasmuch as there was no war at Decatur, *ergo*, according to his reasoning, that clause of the Constitution became applicable which declares that private property shall not be taken for public use except upon just compensation. Well, sir, the only question is, was it a time of war and a condition of war at Decatur where this property was seized, or was it peace? If it was peace, and this property was taken in a time of peace and not under circumstances necessarily involving the fact of the existence of war, then I concede that the Constitution in the clause to which he refers would require us to indemnify the owner; but, unfortunately for the Senator's argument, such was not the fact.

The Constitution not only declares that private property shall not be taken for public use except upon due and just compensation, but also that the Government of our country may wage and carry on war; and if it may wage and carry on war it may do all those acts which are necessary and usual for the accomplishment of the end and object of the war. If my house is in the way of the march of the Army, my house must be removed, and the commander who gives the order for the

removal is only acting in the line of his duty as a military man.

There is no relation at all between the case supposed by the honorable Senator from Kentucky and the actual facts of this case. If we may prosecute war in hostile territory, we may seize and remove buildings for that purpose without incurring an obligation to compensate the owner.

The argument of the honorable Senator, it seems to me, is a very peculiar one. If I understand him rightly, the current of his reasoning is this: that wherever the Union Army went and established itself during this contest there was peace and not war, because on the appearance of that Army, according to him, peace supervened and the obligation of that clause of the Constitution to which he refers resumed its force. Well, sir, if that be correct doctrine, then it follows that no Union officer had a right to seize a single particle, even of rebel property, wherever he went, for the Federal troops being in possession of the soil, peace was *ipso facto* established, and a Federal officer could not be permitted under the Constitution to seize a house or a horse or an ox, or to forage upon the hostile inhabitants at all, but would be bound to pay the owner, whether loyalist or rebel, for all damage he might happen to do him, and for all supplies he might take from him.

I do not understand, Mr. President, how a war can be waged in that way. It seems to be a very strange description of war, such a one as is not described in any of the books. It is not a war the object of which is to do any person any harm or to injure the property of the enemy. Indeed, it recognizes nobody as an enemy and no property as enemy property. It turns the whole object into a mere boyish sport. It is no war, but, in the cant language of the day, a "slight unpleasantness" for the moment. I regard it very differently, sir. I concur entirely with the rulings of the Supreme Court as to the true character of that contest; and I hold with them that it was a duty of humanity on both sides, a duty the performance of which was indispensable, to recognize and to enforce all the usages and laws of war.

It is unnecessary for me to say that it is one of the laws of war that whatever may be the feelings of a resident of the hostile territory, although he may happen to belong to the invading party, if he has property in that territory it is treated as enemy property, liable to be seized and used by the conquerors at their own will and pleasure; and such is simply the condition of Miss Murphey, whose case is now before us.

Now, sir, I have said all I desired to say upon this bill; but I would again earnestly call the attention of the Senate to the principle upon which it rests. If we pay this unfortunate lady what she claims we shall be compelled in the end to indemnify all persons claiming to be loyalists at the South whose property has been taken by our military officers during their operations in the field, and it will not be long before the rebels themselves will bring forward similar claims against the Government; and we shall have gentlemen upon this floor claiming that inasmuch as it was no war, as it was not the right of a State to secede, they ought to be compensated for their losses, also. Why, sir, you would have more claim agencies at the South than ever existed on the face of the earth. They would be thicker than the frogs of Egypt. The agents would be among you and around you and upon you in all forms. It will be next to impossible to legislate in this body comfortably and intelligently if we invite this multiplication of claim agents and shysters, who would find fat pickings out of these claims. I hope, sir, the Senate will take care not to expose the country to such a calamity.

EXECUTIVE SESSION.

Mr. HENDRICKS. Mr. President—

Mr. TRUMBULL. I rose to move an executive session.

Mr. HENDRICKS. I have no objection to giving way for that purpose.

Mr. TRUMBULL. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, January 7, 1869.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

RACHEL W. HUSTON.

Mr. KOONTZ, by unanimous consent, introduced a bill (H. R. No. 1594) granting a pension to Rachel W. Huston; which was read a first and second time, and referred to the Committee on Invalid Pensions.

FRANKLIN OLIVER.

Mr. MILLER, by unanimous consent, introduced a bill (H. R. No. 1595) to perfect the title of Franklin Oliver, a soldier in the war of 1812, to certain lands which he claims to have covered by military warrants; which was read a first and second time, and referred to the Committee on the Public Lands.

STATIONERY FOR INTERIOR DEPARTMENT.

Mr. ELA. I ask unanimous consent to submit the following resolution:

Resolved, That the Committee on Printing be directed to investigate the stationery contract of the Interior Department, and what articles have been furnished as stationery, and the manner in which stationery supplies have been furnished, and whether any articles have been procured in violation of law, and if so to what amount, and by whose order, and whether any have been paid for and not furnished; and that the Secretary be directed to suspend all further payments for stationery until further action by the House.

If the House will permit me to make a statement, occupying not more than ten minutes, there will be, I think, no objection to the resolution.

The SPEAKER. The gentleman from New Hampshire [Mr. ELA.] asks unanimous consent to make a statement, occupying ten minutes, before the Chair asks for objections to the introduction of the resolution.

Mr. CHANLER. Will there be an opportunity for reply?

Mr. ELA. I shall have no objection to a reply.

The SPEAKER. If there be no objection, the Chair will understand the House as consenting that the gentleman from New Hampshire shall have ten minutes, and that the same time be allowed for reply.

There was no objection.

The SPEAKER. Ten minutes are allowed to the gentleman from New Hampshire, and ten minutes in opposition to the resolution, when the Chair will ask whether or not there is objection to the resolution.

Mr. ELA. Mr. Speaker, I will state briefly the object I have in view in offering that resolution this morning. In the Department of the Interior there have been contracts and purchases in the space of thirteen months to the amount of \$18,000, made in direct violation of law, because the law provides that all printing, binding, and blank books ordered by the Senate and House of Representatives, or by executive or judicial departments, shall be ordered to be done at the Public Printing Office. I hold in my hand a sample of books which have been purchased by that Department at a cost of twenty-five dollars each. It is a simple index book of twelve sheets of foolscap paper, with a printed index alphabet. I am also informed that the Department has purchased one hundred and forty thousand tag cards at forty dollars a thousand, of which one hundred thousand cannot be accounted for. A large number of patent heads, such as the one I exhibit, has been furnished at fourteen dollars a thousand which are now furnished at twenty-five dollars a thousand.

There is also pending before that Department an account, which this resolution proposes to defeat, with an order of the Secretary of the Interior to pay it, for three hundred thousand sheets of bond paper at eight cents a sheet. I have before me the sworn statement of the acting Commissioner of Patents, made last July, that he had never made any such contract while he was acting as Commissioner. I have also his further statement, as follows:

"While acting as Commissioner I have bought and paid for three hundred and fifty thousand sheets of bond paper, and I have never ordered or received any other paper."

Now, I understand that a committee appointed for the purpose of investigating into the contracts for supplying the Patent Office with stationery has come to the conclusion that that bond paper ought to be paid for, when the acting Commissioner declares under oath that he had never ordered it or contracted for it. Upon that report the Commissioner of Patents has been ordered to pay for that paper. The object of my resolution is to stop the payment for those three hundred thousand sheets of bond paper until a full investigation can be instituted into all of these matters. In the investigation before the Committee on Printing last July it was ascertained that this bond paper could be bought for thirty cents a pound or one cent and one third a sheet. We are now asked to pay \$24,000 for paper that can be purchased for \$3,000.

Mr. WELKER. What committee does the gentleman refer to as having investigated into the stationery contracts of the Patent Office?

Mr. ELA. A committee of the Interior Department.

Mr. WELKER. Not a committee of this House?

Mr. ELA. No, sir.

Mr. WASHBURN, of Illinois. The gentleman from New Hampshire has stated what was paid for the book which he has exhibited to the House. I would like to know what that book would absolutely cost?

Mr. ELA. It might possibly cost twenty cents. It contains twelve sheets of inferior foolscap paper, ruled simply, and only with an alphabet printed as an index, and twenty-five dollars each have been paid for them.

Mr. WILSON, of Pennsylvania. What committee did the gentleman refer to?

Mr. ELA. I desire the matter referred to the Committee on Printing.

Mr. WILSON, of Pennsylvania. What committee did the gentleman refer to as having reported in favor of these purchases?

Mr. ELA. A committee in the Interior Department.

Mr. WILSON, of Pennsylvania. Appointed by whom?

Mr. ELA. By the Secretary of the Interior. The resolution was again read.

The SPEAKER. Ten minutes are allowed for opposition to the resolution.

Mr. FARNSWORTH rose.

The SPEAKER. Does the gentleman rise to oppose the resolution?

Mr. FARNSWORTH. I do not. I wish to ask a question.

The SPEAKER. Is there objection?

There was no objection.

Mr. FARNSWORTH. I desire to inquire who made the purchase?

Mr. ELA. The resolution directs the committee to inquire into the purchase.

Mr. FARNSWORTH. And by whose order the contract was made?

Mr. ELA. That is not put in.

Mr. FARNSWORTH. That is what I want in—by whose order.

Mr. ELA. I will modify the resolution accordingly.

The resolution, as modified, was agreed to.

MEDICAL DEPARTMENT OF THE NAVY.

The House proceeded to the consideration of the regular order for the morning hour, being the bill (H. R. No. 1497) to reorganize and increase the efficiency of the medical de-

partment of the Navy, pending at the expiration of the morning hour of yesterday, on which Mr. STEVENS was entitled to the floor.

Mr. STEVENS. I yield to my colleague on the committee, [Mr. ARCHER.]

Mr. ARCHER. Mr. Speaker, I think the gentleman from Illinois [Mr. WASHBURN] and the other gentlemen who oppose this bill misapprehend the intention of the Naval Committee and the object of the bill. Its object is to do away with the difficulties which exist between the line and the staff officers of the Navy. That difficulty arises principally from the fact that the staff officers hold their rank by order of the Secretary of the Navy, while the line officers hold theirs by law. This bill therefore proposes to establish by law the standing for the staff. The committee were careful to investigate the relative cost under the new bill and the cost under the present bill, and they have found that the additional cost by this bill would be only one or two thousand dollars. The difficulty now existing will all be settled by the passage of this bill. The staff will then hold their rank by law instead of by order of the Secretary of the Navy, who can change it at any time by his mere volition.

Now, although the nominal rank of these officers is changed by this bill, yet they really occupy the same position, or almost the same. The cost will be no greater than it was before, and they are entitled to have their rank and position established in the Navy. I hope that all opposition to the bill will be withdrawn, and that these officers will be allowed to have their proper rank established by law, instead of holding it, as they now do, by so uncertain a tenure.

Mr. SPALDING. I ask the gentleman from New Hampshire to yield to me five or ten minutes.

Mr. ELA. I will yield five minutes.

Mr. SPALDING. Mr. Speaker, I am desirous of doing anything in reason which shall add to the comfort or honor of the members of our Navy. Hence I have carefully examined this bill, but my mind is brought to the conclusion that we ought not at this time to pass it, and I must confess I am somewhat surprised to see such a bill offered by so intelligent a Committee as that on Naval Affairs. My respected friend who has just taken his seat [Mr. ARCHER] says this is only intended to settle in a legal way the relative rank of the staff and the line of the Navy; that the additional expense is wholly immaterial, hardly worth our consideration.

Now, I have examined into the relative rates of pay for the line officers and the surgeons of the Navy, and I can show the House in a few words the difference. In the first place, it is proposed to have a chief of this medical staff, whose compensation is not set down, but he is to regulate the whole machinery.

Mr. STEVENS. If the gentleman will allow me a moment I will say to him, in all candor, that it is not money that these gentlemen desire. I therefore make this proposition to him: that he may offer an amendment to strike out all increased pay and emoluments, and I certainly shall not oppose its adoption. I do this at the suggestion of some of these gentlemen that it is not money that they are after.

Mr. SPALDING. I shall be very glad to see that amendment adopted by the House. It will save us at least \$25,000, and probably nearer \$50,000. The bill then resolves itself into this: that our friends, the surgeons in the Navy, are not content with the old-fashioned title of doctor, and they want to be called commodores, captains, and lieutenant commanders. Now, I recollect it is not very long since one branch of the service attached to the Navy, the Marine corps, came forward here and demanded for their commander, who had the rank of colonel, the rank of a brigadier general of the Army. I resisted it at that time because I knew that he would not be content with the rank—that the pay and endowments would follow; and they have followed. And now, before we shall be one week older, there

will be a proposition before this House to set back that officer to his old rank of colonel, which is a rank high enough for the Marine corps of our Navy. I would, therefore, object to this bill because these individuals ask for its passage simply from emotions of pure vanity, to be called "commodores" and "captains" and "lieutenant commanders," rather than "surgeons" or "doctors."

Now, Mr. Speaker, I think I shall offer an amendment, to make this bill more palatable, that if these gentlemen take this stipulated rank in the Navy they shall do it without the increase of one penny to their ordinary pay. That must be stipulated before I can think of voting for the bill.

Mr. STEVENS. I will allow that amendment to be offered.

Mr. SPALDING. I would rather move to lay the bill on the table, and I will do it and call for the yeas and nays.

The SPEAKER. The gentleman from New Hampshire [Mr. STEVENS] is still entitled to the floor.

Mr. STEVENS. Do I understand the gentleman from Ohio [Mr. SPALDING] to say that he will offer the amendment, or does he decline to do it?

Mr. SPALDING. I shall move to lay the bill on the table at the proper time.

Mr. STEVENS. I yield now to the gentleman from Pennsylvania, [Mr. KELLEY.]

Mr. KELLEY. The remarks of the gentleman from Ohio [Mr. SPALDING] and those so elaborately prepared and presented yesterday by the gentleman from Illinois [Mr. WASHBURN] show how little gentlemen understand this bill. The gentleman from Illinois asked that the bill might be sent to the Committee of the Whole that he might have an opportunity to read it, telling the House that he had not read it; yet he was prepared to produce in manuscript, which took him thirty minutes to read, an argument against the provisions of the bill that he did not understand by his own confession, and which by his own confession he had not read.

Mr. WASHBURN, of Illinois. The gentleman certainly could not have understood me to say that I had not read the bill. I said no such thing. On the contrary, I said that I had read it in the hope that I could support it.

Mr. KELLEY. I understood the gentleman to say that he had not read it and had not seen it, and had had no opportunity of doing so.

Mr. WASHBURN, of Illinois. I stated directly the contrary.

Mr. KELLEY. Very well. This bill adds not \$2,000, not \$1,700 to the expenses of the Government for the Navy by way of promotion. It is a bill necessary for the maintenance of our naval service. As I said yesterday to the gentleman from Illinois, there are now fifty-five vacancies in this small corps, and you cannot get fit men to fill them. The gentleman from Illinois said yesterday that we had a Navy in 1812 and other wars and no such complaints had been made. We have since then had the war of the rebellion, during which we advanced line officers four ranks, and did not advance the medical staff a degree, and in that way we have made the senior officers of this branch of the naval service the companions of men younger and lower in rank than they were before the war. We have changed the whole social position of the medical staff. This bill proposes merely to readjust it. It does not propose to add emoluments. It is not a measure to gratify the vanity of the medical corps. It is a measure made necessary by the tributes we have paid to those who carried on our naval war. I wish time would permit me to speak at greater length, but understanding that my colleague on the naval committee desires to call the previous question I yield that he may do so.

Mr. STEVENS. I call the previous question on the substitute and on the bill.

Mr. SPALDING. I move to lay the bill and the substitute on the table; and on that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and it was decided in the affirmative—yeas 93, nays 53, not voting 75; as follows:

YEAS—Messrs. Allison, Ames, Arnell, Bailey, Baker, Banks, Barnum, Beaman, Beatty, Benjamin, Bingham, Boies, Boutwell, Bowen, Boyden, Buckland, Burr, Roderick R. Butler, Churchill, Sidney Clarke, Cobb, Coburn, Corley, Covode, Dawes, Deweese, Dockery, Eckley, Eggleston, Ferriss, Golladay, Goss, Gravely, Grover, Harding, Hawkins, Higby, Hill, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Hunter, Judd, Kollege, Kelsey, Ketcham, Koontz, Laffin, Lash, Logan, Longbridge, McCarthy, McCormick, McKee, Mercer, Moore, Mullins, Newcomb, Newsham, Niblack, Paine, Perham, Pierce, Poland, Polsley, Robertson, Sawyer, Shellabarger, Spalding, Stokes, Stover, Taber, Taffo, Taylor, Thomas, Tift, John Trimble, Lawrence S. Trimble, Upson, Van Trump, Van Wyck, Vidal, Elihu B. Washburne, Henry D. Washburn, Welker, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Wood, Woodward, and Young—93.

NAYS—Messrs. Archer, Delos R. Ashley, Barnes, Benton, Boyer, Brooks, Cake, Callis, Cary, Chanler, Reader W. Clarke, Clift, Eliot, Farnsworth, French, Garfield, Getz, Glossbrenner, Gove, Haight, Hagheby, Heaton, Hotchkiss, Jencks, Johnson, Alexander H. Jones, Julian, Kelley, George V. Lawrence, Maynard, McCullough, Miller, Moorhead, Morrill, Myers, Nicholson, Norris, O'Neill, Pottis, Plants, Price, Prince, Roots, Schenck, Shanks, Starkweather, Stevens, Stewart, Stone, Twiehell, Van Aernam, Whittemore, and Windom—53.

NOT VOTING—Messrs. Adams, Anderson, James M. Ashley, Axtell, Baldwin, Beck, Blackburn, Blaine, Blair, Brewster, Broomall, Buckley, Benjamin F. Butler, Cook, Cornell, Cullom, Delano, Dickey, Dixon, Dodge, Donnelly, Driggs, Edwards, Ela, Eldridge, Ferry, Fields, Fox, Griswold, Halsey, Hamilton, Holman, Hooper, Hopkins, Humphrey, Ingersoll, Thomas L. Jones, Kerr, Kitchen, Knott, William Lawrence, Lincoln, Loan, Lynch, Mallory, Marshall, Marvin, Morrissey, Munzen, Nunn, Orth, Peters, Phelps, Pike, Pile, Pomeroy, Pruyn, Randall, Raum, Robinson, Ross, Scofield, Selye, Sitgreaves, Smith, Sypher, Trowbridge, Van Auker, Burt Van Horn, Robert T. Van Horn, Ward, Cadwalader C. Washburn, William B. Washburn, Thomas Williams, and Woodbridge—75.

So the bill and substitute were laid on the table.

Mr. SPALDING moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILL SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (S. No. 738) to relieve from disabilities John G. Stokes, a citizen of Alabama; when the Speaker signed the same.

INTERIOR DEPARTMENT EMPLOYÉS.

The SPEAKER, by unanimous consent, laid before the House a report from the Secretary of the Interior, in answer to a resolution of the House of the 16th ultimo, stating that no deduction can be made in the force or salary of the employés in that Department except by a general reorganization; which was referred to the Committee on Appropriations.

ATTORNEY GENERAL'S EMPLOYÉS.

The SPEAKER also laid before the House a communication from the Attorney General, in answer to a House resolution of the 16th ultimo, stating that no deduction can be made in the force of employés in his department, nor any reduction in their salaries; which was referred to the Committee on Appropriations.

WITHDRAWAL OF PAPERS.

Mr. GOLLADAY asked and obtained leave to withdraw from the files of the House the papers in the claim of Golladay & Bowling, and the claim of the Methodist Episcopal church, south, at Bowling Green, Kentucky.

ORDER OF BUSINESS.

The SPEAKER. The next business in order, during the morning hour, is the call of the Committee on Foreign Affairs for reports.

FREE PORTS AT MATAMORAS, ETC.

Mr. BANKS. I present a letter from the Secretary of State, in answer to a resolution of the House of Representatives of June 9, 1868, calling for information concerning the establishment of free ports at Matamoras and other points on the Rio Grande, together with dispatches received from E. L. Plumb, esq., late United States chargé d'affaires in Mexico,

with a copy of recent instructions issued from the State Department to Hon. Mr. Rosecranz, now minister plenipotentiary to Mexico. I move that these papers be referred to the Committee on Foreign Affairs, and ordered to be printed.

The motion was agreed to.

DIFFERENTIAL DUTIES, ETC.

Mr. BANKS presented a communication from the Secretary of State, in answer to a resolution offered by Mr. LYNCH calling for information in regard to the differential duties established by the Spanish Government concerning the commerce of the United States with the Spanish West India Islands; and the same was referred to the Committee on Foreign Affairs, and ordered to be printed.

J. SOMES SMITH.

Mr. BANKS also presented a letter from the Secretary of State, dated December 15, 1868, recommending the payment of the sum of \$1,500 to Mr. J. Somes Smith, commercial agent of the United States at the city of San Domingo, for having concluded, under the instruction of the State Department, a treaty of commerce with the Dominican republic, which has been ratified and proclaimed as the law of the land; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

CAPTAIN MATHEW LOWE.

Mr. BANKS also presented a letter from the Secretary of State, inclosing a communication from the United States consul at Nassau, New Providence, in reference to the claim of Captain Mathew Lowe; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

JULES ALDIGÉ.

Mr. BANKS also presented a letter from the Secretary of State concerning the claim of Jules Aldigé, and asking that proper measures may be taken to carry into effect the decree of the Supreme Court; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

CHINESE AND JAPANESE INDEMNITY FUND.

Mr. BANKS submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the papers heretofore communicated in answer to calls for information by the House of Representatives relative to the Chinese indemnity fund and the Japanese indemnity fund be printed for the use of the House.

MRS. EMMA WILSON.

Mr. BANKS, from the Committee on Foreign Affairs, reported back, with a recommendation that the same do pass, Senate bill No. 174, for the relief of Mrs. Emma Wilson, of the State of Indiana.

The question was upon ordering the bill to be read a third time.

The bill, which was read, authorizes the Secretary of the Treasury to pay to Mrs. Emma Wilson, of Indiana, one quarter of the salary of her deceased husband, James Wilson, esq., as minister to Venezuela.

Mr. BANKS. I ask that the report be read.

The Clerk read the report, as follows:

The Committee on Foreign Affairs, to whom was referred Senate bill No. 174, being an act for the relief of Mrs. Emma Wilson, of the State of Indiana, respectfully report:

That the said bill provides that the Secretary of the Treasury be authorized to pay Mrs. Emma Wilson, of Indiana, widow of Hon. James Wilson, deceased, late minister of the United States to Venezuela, one quarter's salary.

Mr. Wilson died August 8, 1867. It is understood that the practice of the State Department would have justified the payment of the expenses of bringing his family back to this country had they remained there at the time of his death. Mrs. Wilson left Venezuela about one week before her husband's death, and for that reason her case is not within the precedent established by the State Department. She left Venezuela to escape an epidemic prevailing in the country, and which afterward caused the death of her husband. It appeared to the committee, upon a full consideration of the facts, that the widow of the minister not having arrived in this country, her claim ought to be considered substantially the same as if she had remained in Venezuela up to the time of her husband's death; and it is believed, in the view of the facts, it cannot be made a precedent for any sub-

stantial departure from the rule already established and voted upon by the State Department in cases of this kind which may hereafter arise. The bill as originally reported to the Senate provided that the salary of the minister for the remainder of the year of his decease should be paid to the widow. It would have given her salary for nine months and twenty-five days, amounting to about six thousand one hundred dollars. This could not be justified, and the bill as it passed the Senate authorizes the payment of the remainder of the quarter's salary, which is about one thousand eight hundred dollars. The committee recommend the passage of the bill.

Mr. BANKS. Mr. Wilson, our late minister at Venezuela, who was formerly a member of this House, died last year under the circumstances stated in the report of the committee. Had his family remained at the place where he was stationed until his death they would have received, according to the practice of the State Department, the amount of one quarter's salary for the purpose of transporting them to their home. In consequence of the prevalence of the epidemic of the country the wife of the minister left the place where he was stationed about one week before his death. Mr. Wilson was taken ill almost immediately, and died one week after his wife's departure. The committee believe that under the circumstances the case ought to be considered substantially the same as if Mrs. Wilson had remained at the place where her husband was stationed until the time of his death, that event having taken place so soon after her departure. The claim of the family, upon personal and private considerations, is very strong; and I believe it was the unanimous judgment of the committee that this bill should be passed. It is believed that under the circumstances no precedent can arise which would be disadvantageous to the country.

The bill was ordered to a third reading; and was accordingly read the third time, and passed.

Mr. BANKS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REMAINS OF HON. W. T. COGGESHALL.

Mr. CULLOM, from the Committee on Foreign Affairs, reported back a bill (H. R. No. 967) to provide for the removal of the remains of Hon. W. T. Coggeshall, late minister of the United States at Ecuador, to the United States.

The bill, which was read, proposes to authorize the Secretary of State to provide for removing to the United States the body of Hon. William T. Coggeshall, late minister of the United States at Ecuador, and that of his daughter, and to defray the expense of such removal a sum not exceeding \$1,000 is appropriated.

Mr. CULLOM. I call for the reading of the report which accompanies the bill.

The Clerk read the report, as follows:

The Committee on Foreign Affairs, to whom was referred House bill No. 967, to provide for the removal of the remains of Hon. W. T. Coggeshall, late minister of the United States at Ecuador, and also the remains of his deceased daughter, submit the following report:

William T. Coggeshall was appointed minister resident at the republic of Ecuador by the Government of the United States on the 4th of May, 1866, and as soon thereafter as he could reach the republic to which he was sent entered upon the discharge of his duties as such minister. Upon leaving this country to enter upon the discharge of his duties he took with him his daughter, a young lady of about fifteen years of age, of fine development of character and intellectual culture, and who, during the period of service of Mr. Coggeshall at Ecuador, acted as secretary and interpreter for him.

Your committee file herewith, and adopt it as a part of this report, a letter addressed to the chairman of this committee by Hon. SAMUEL SHELLABARGER, of Ohio, in relation to the services and death of Mr. Coggeshall and his daughter. Mr. Coggeshall died at or in the vicinity of Quito, in Ecuador, on the 24 day of August, 1867, having acted as minister about fifteen months. It appears also by the letter of Mr. SHELLABARGER, as also from a letter from Mrs. Coggeshall, widow of the late William T. Coggeshall, that his daughter, who accompanied him to Ecuador, died at Guayaquil on the 10th of January, 1868, with yellow fever, on her way home. The body of Mr. Coggeshall, after his death, was buried at Quito, but your committee are informed that it has since been disinterred and is now in a public warehouse. The daughter is buried at Guayaquil, on the coast. The widow and family of the deceased are entirely unable to raise the means necessary to have the remains of Hon. W. T. Coggeshall and daughter brought to this country. Is it not the duty of this Government to do so? The committee think it is. The committee

are informed by the Department of State that it will probably require about one thousand dollars to secure the removal of the remains of Mr. Coggeshall and his daughter to this country. They therefore recommend the passage of the bill, making an appropriation of that sum for that purpose.

Letter of Hon. Samuel Shellabarger.

SPRINGFIELD, OHIO, March 2, 1868.

DEAR GENERAL: William T. Coggeshall, late United States minister at Ecuador, died in that service, near Quito, in August last. He went thither in infirm health and took with him his daughter Jessie, who was an absolutely necessary companion and help for her father. This daughter continued with him up to his death, and really discharged a large part of the business of the legation. This most interesting young lady died of yellow fever on the 10th day of January, 1868, at Guayaquil, on her way home. You will find at the State Department, from E. Lee, our consul at Guayaquil, of the date of January last, a letter giving some of the circumstances of her death. The body of the father (and who rendered especial services in the matter of securing the rights of burial to Protestants at Quito) has since the revolution been disinterred, and is now in a public warehouse. The daughter's grave is at Guayaquil, and liable to desecration at all times. Both bodies ought to be brought home, and unless the Government should do so the family must.

The purpose of the foregoing statement is to say to you that the singularly mournful circumstances of this case, and the very extraordinary expenses attending it, make it a case in which I think you will agree there ought to be a special appropriation to cover these expenses &c. The widow, Mrs. Mary M. Coggeshall, of Columbus, Ohio, and whom please address touching this matter, has proceeded so far in settlement of the estate as to find that his compensation, amounting in all to only about fifteen months, will not pay the actual expenses of the mission; and his widow, with three children, will be left absolutely without means.

I beg you, should you deem it right, to introduce (into an appropriation bill, if that may be under the rules) a bill for the relief of this family. At the State Department you will find many particulars not here given touching this case.

I am, yours, truly,

S. SHELLABARGER.

Hon. N. P. BANKS.

Mr. CULLOM. I yield for a moment to the gentleman from Ohio, [Mr. SHELLABARGER.]

Mr. SHELLABARGER. Mr. Speaker, I desire to propose an amendment, which I hope the committee will accept, making an appropriation for the relief of the family of Mr. Coggeshall. I desire to move that the sum of \$1,000 be appropriated for that purpose; and with the permission of the gentleman from Illinois, [Mr. CULLOM,] and of the House, I will briefly state my reasons for making this proposition.

Mr. CULLOM. If the gentleman desires to make a statement I will yield for that purpose, and then say whether I shall yield to have the amendment offered or not.

Mr. SHELLABARGER. Mr. Speaker, if I could make the House comprehend the singularly mournful and distressing circumstances brought to our notice in this bill, then it would agree with me that the small sum of \$1,000 I have suggested should be adopted as an amendment.

Mr. Coggeshall went to Ecuador in such a state of health as to make the company of his daughter, fifteen years old, almost a necessity, and, sir, as it afterward turned out, her presence in that country proved to be a matter of great importance to the public service. She really became, although only fifteen years of age, the acting and efficient member of the legation, rendering the Government of the United States, although of an age so tender as that I have indicated, singularly valuable services. Through her instrumentality our citizens procured, what had before been denied, the right of sepulture in favor of Protestants dying there—a right deemed to be of so much importance as to have attracted the attention of the British Government as well as of the public journals of the United States. She watched at his sick bedside until his death, and after his death remained there alone among strangers. When she thought she could do so with safety, she went down to the coast on her way home. She got down to the coast with much difficulty, and when she had reached it she was struck down and died of the yellow fever, which was the prevailing epidemic. The expenses of her father's sickness, and those caused by other unusual circumstances, were far more than the actual compensation of our minister to Ecuador; so that this family

have really borne the burdens of that mission, and, although now in distress, will still be left to do so unless the Government shall appropriate for their relief the small sum I have indicated in my amendment. I hope, therefore, there will be no objection to my amendment.

Mr. CULLOM. The Committee on Foreign Affairs, to which this matter was referred and which reports this bill, felt very much impressed with the peculiar circumstances with which it is surrounded, and while the members of that committee knew the facts stated by the gentleman from Ohio, and were disposed to vote an appropriation for the relief of this family, they thought that the least they could do was to provide for bringing home the remains of this minister of the United States and his daughter. The committee, I think I am safe in saying, have no objection to the amendment if the House shall feel disposed to make the appropriation. I will let the amendment be offered; and I now yield to the gentleman from Ohio, [Mr. SPALDING.]

Mr. SPALDING. I knew Mr. Coggeshall very well. He was one of the most intelligent and patriotic citizens of Ohio. I know that his family have been left in indigent circumstances on account of the sickness and death of this minister, and his daughter, who has been spoken of. Although I wish to economize the public expenditures, still I shall vote for this small appropriation of \$1,000 for the relief of this distressed family.

Mr. WOOD. Mr. Speaker, I have no doubt that this is a case which appeals to the sympathy of the House, and it is really unfortunate for gentlemen to be compelled to object to the appropriation of money under circumstances such as have been stated by the gentleman from Ohio and the gentleman from Illinois. But, sir, we have many cases of this same character; and it has never, I believe, been the policy of the Government to make appropriations of the public money for merely charitable purposes. We have many instances of families of men who held distinguished positions being left in distress. We have the case of a family of a chief justice of the United States whose children are now dependent upon charity for support—private and not public charity.

Mr. MAYNARD. Will the gentleman allow me to ask him a question?

Mr. WOOD. Certainly.

Mr. MAYNARD. Suppose the gentleman or one of my colleagues here should die, would the gentleman say it would be charity to send the remains home? Is it not, on the contrary, a duty we owe to the remains and memory of a deceased colleague? Therefore, if the gentleman would refuse to pass this bill would he not on the same principle also refuse to vote for sending the remains of a deceased member to his home?

Mr. WOOD. Undoubtedly not, because we have delegated powers in the Congress of the United States, and the money that we vote does not belong to us. If I, as an individual, bequeath or give money it is my own and for my own purposes. But the Government has no power to take the money wrung from the people by taxation and make donations of it for private purposes. It is the principle I object to. If we once commence this kind of legislation there is no stop to it. If we vote a thousand dollars in this case we may be called upon next week to vote a hundred thousand dollars in another case, and so on hundreds of millions for the purpose of bestowing charity upon families of deceased persons. Although I would very willingly unite with these gentlemen, and contribute out of my own pocket a sum to make up a thousand dollars, I shall never vote to give one cent under existing circumstances.

Mr. CULLOM. I yield five minutes to the gentleman from Ohio.

Mr. GARFIELD. I ask my colleague [Mr. SHELLABARGER] to accept an amendment to his amendment. Instead of saying that we pay \$1,000 for the relief of the family, let us say

that we pay to the widow of Mr. Coggeshall \$1,000 for the services of his daughter to the Government in the mission after the death of her father.

Mr. BROOMALL. That is better.

Mr. WASHBURNE, of Illinois. I raise the point of order that the amendment makes an appropriation, and should receive its first consideration in the Committee of the Whole.

The SPEAKER. The point is made too late, the amendment having been debated.

Mr. WASHBURNE, of Illinois. I understood it was offered to be read.

The SPEAKER. The gentleman from Illinois [Mr. CULLOM] allowed it to be offered, and it has been debated.

Mr. CULLOM. I will move the previous question, and then yield.

Mr. GARFIELD. Is my amendment pending?

Mr. SHELLABARGER. Yes, sir; it is accepted.

The SPEAKER. Then the point of order made by the gentleman from Illinois is in time, the amendment being changed.

Mr. GARFIELD. It will not change the amount, only the language of the amendment.

The SPEAKER. A modification would now make it subject to a point of order.

Mr. WASHBURNE, of Illinois. I insist upon the point of order.

Mr. GARFIELD. Then I withdraw the amendment.

Mr. CULLOM. I call the previous question on the bill and pending amendment.

The previous question was seconded and the main question ordered.

Mr. CULLOM. I now yield to the gentleman from Ohio.

Mr. GARFIELD. I very much regret that my friend from Illinois did not allow my amendment to be offered. I think if he will listen to me a moment he will see a reason for the amendment which was not fully developed by my colleague, [Mr. SHELLABARGER.] After the death of Mr. Coggeshall, his daughter, who was serving as his clerk, performed all the duties of the mission, and performed them thoroughly and creditably for three months, until she herself died. She not being an appointee direct of the Government, there was no law for paying her anything for that period of three months' faithful service performed for and accepted by the Government, and not one dollar has ever been paid. The amount proposed to be added by my colleague for this service, \$1,000, is a small compensation under all the circumstances of the case. I do not ask, therefore, that we give this sum out of sympathy for the family, but for services rendered by the young lady after her father's death in performing all the duties and discharging all the functions of the office so far as she could do them, and I believe she did all there was to be done. I hope my friend from Illinois will allow the words to be changed.

Mr. WASHBURNE, of Illinois. If the gentleman will yield, with the consent of my colleague I would like to say a word.

Mr. GARFIELD. I will.

Mr. WASHBURNE, of Illinois. I regret to have to oppose these matters continually, but I wish to call the attention of the House to the proposition before it. I know with how much reluctance members are disposed to oppose any of these things, but I ask gentlemen to look at this matter. The original appropriation is entirely exceptional, but I was not disposed to interpose any objection to it. The committee proposed to make an appropriation of \$1,000 for the purpose of bringing home the body of the minister and his daughter. That is what I understand it to be.

Mr. CULLOM. That is it.

Mr. WASHBURNE, of Illinois. I do not know that we have ever passed a law of this kind. I do not know that the Government has ever undertaken at its own expense to bring back the bodies of its ministers. I do not know that the Government undertakes now to bring back at the public expense the bodies of

the soldiers who have fallen in defense of the country. But the Committee on Foreign Affairs have brought in this bill to pay the amount necessary to bring back the bodies of Mr. Coggeshall and his daughter. I was not disposed to interfere with that, but when they come in with an amendment which has not been considered by any committee of the House to give \$1,000 additional, I say that I have a right to protest. I do not believe that we have any right or authority to take \$1,000 out of the Treasury and give it to this family any more than we have to vote money to the thousands and tens of thousands of families who have suffered by the war and in other ways. That is the objection I have to it; and had I supposed that the amendment was offered for consideration I should have made the point of order at the time it was read, but I supposed that it was read only for information. This amendment has not been considered by a committee. It makes an appropriation, and should go to the Committee of the Whole. And I say, independent of all that, it is an appropriation which we ought not to make on principle.

Mr. GARFIELD. I notice that my friend from Illinois has not, in his remarks, made the least allusion to the statement which I have made and which nobody here will contradict. I desire to state in the outset that the first papers in this case were sent to me, I believe, because my colleague from the Columbus district [Mr. SHELLABARGER] was not here. I was well acquainted with the deceased minister, and I believe I laid the first papers before the committee. The gentleman has not taken the slightest notice of the statement I have made, that for three months this young lady performed all the duties or transacted all the business; kept the books, and did all that a chargé d'affaires would have done under the circumstances.

Mr. WASHBURNE, of Illinois. Where is the evidence of that? Has it been examined by any committee, and has that committee reported the facts, and does that report go on the records of the House as a justification for us to vote this appropriation?

Mr. GARFIELD. I do not know what the committee have to say upon this subject; I should be very glad to hear from them; but I assert as a fact what I have stated, and I have never heard it contradicted. It has been written to me again and again. The mother of this deceased daughter so wrote in her letter. Several prominent citizens of Columbus, Governor Denison among the rest, wrote the same thing also, and I have never heard a contradiction; the gentleman does not himself contradict it. He only makes the point that there is no official report.

Mr. WASHBURNE, of Illinois. I want to know it officially before I am called upon to vote this money. If my constituents come and ask me why I voted for this, I want to be able to refer them to the report of a committee. The word of the gentleman would satisfy me, but it might not satisfy my constituents, who do not know him as well as I do.

Mr. GARFIELD. I trust we shall vote this amount.

Mr. CULLOM. I yield now to the gentleman from Ohio. [Mr. SCHENCK.]

Mr. SCHENCK. This case seems to present itself involving two propositions. The first comes from the Committee on Foreign Affairs, and that is a proposition to pay the expenses attendant upon bringing home the body of the minister and the body of his child. The gentleman from Illinois, [Mr. WASHBURNE,] with his usual guardianship over the Treasury, for which we all commend him, objects that it is exceptional. I say it is not exceptional. I say that a representative of the Government abroad is as much a civil officer, entitled to its consideration, as would be the gentleman from Illinois if he were called away from us; and every session we perform the lamentable duty of sending home at the public expense the bodies of gentlemen who die, unfortunately for the country, here while in the

public service. At some expense we sent home the body of our late lamented President; and if I mistake not, the body of Mr. Cooley was brought home from Peru many years ago under like circumstances, and at the public expense. There is nothing in this precedent which should lead the gentleman to object to the proposition reported from the Committee on Foreign Affairs.

Now, what are the facts in regard to the proposition of my colleague, [Mr. SHELLABARGER,] and how is it sustained? The proposition is to pay another \$1,000 for services rendered by this young lady. I think my colleague [Mr. GARFIELD] states the matter too strongly when he says she discharged the duty of the United States minister there.

Mr. GARFIELD. I said the "duties of a chargé d'affaires."

Mr. SCHENCK. I happen to have become acquainted with the fact that after the death of her father this young lady took charge of the public papers and correspondence of the office, and saw that they were properly taken care of, at considerable trouble to herself and delay in the country. That fact being notorious, it is proposed to amend the proposition coming from the Committee on Foreign Affairs, which alone is liable to the exception made by the gentleman from Illinois, [Mr. WASHBURNE,] and which objection is not sustained by the constant practice of this House. It is now proposed to amend the bill by adding a proposition to pay this small sum for the services of this young lady. Now, with all my disposition to aid my friend from Illinois, [Mr. WASHBURNE,] whenever I can consistently do so, in watching the Treasury, I do not feel disposed to put my name upon the record against such a reasonable proposition as this.

Mr. WASHBURNE, of Illinois. I think the gentleman from Ohio [Mr. SCHENCK] has misstated my position. I said I was not disposed to make any objection to the proposition reported from the committee. I was disposed to let that go, but I was entirely opposed to the other proposition.

Mr. BANKS. I do not think the proposition for extra compensation for services rendered by the daughter was before the committee. The committee formed its judgment from the facts attending the death of Mr. Coggeshall. In regard to that matter I think the gentleman from Illinois [Mr. WASHBURNE] is mistaken. It is the custom of the State Department when a minister dies abroad to pay the expenses of transporting his body home. In this case the father and daughter died at the same time—

Mr. GARFIELD. Not at the same time.

Mr. BANKS. Very well; they both died abroad. The family did not desire to separate the bodies, and although according to custom the State Department had authority to pay the expenses of transporting the remains of the father to this country, it had no right to pay the expenses of transporting to this country the remains of the daughter. For this reason the family has appealed to Congress for relief. The Committee on Foreign Affairs recommend the passage of this bill, which is to pay for the expense of transporting to this country the remains of the daughter.

The gentleman from Illinois [Mr. WASHBURNE] says the Government does not transport home the remains of the soldier. Sir, the gentleman is incorrect in that statement. The body of each soldier who fell in the service of his country has been buried at the expense of the Government. The remains of our fallen soldiers have been transported according to the wishes of their friends and of the Government, and they have been buried upon the places where they fell. And where should a soldier rest if not where he fell in defense of his country? This bill is in exact conformity with the practice of the Government in regard to soldiers. I would not object to the payment for services; but I do not think that subject was brought distinctly before the committee.

Mr. CULLOM. Mr. Speaker, as I stated in the outset when appealed to to allow the

amendment to be offered, the committee determined, notwithstanding the peculiar circumstances surrounding this case, to report in favor of nothing but what seemed to be the absolute duty of the Government in the premises. Mr. Coggeshall was appointed minister on the 4th of May, 1866, and immediately after his appointment departed for Ecuador, taking with him his daughter, who acted as his interpreter and secretary. On the 2d of August, 1867, after serving as minister for about fifteen months, he died. His daughter remained in possession of all the property and papers belonging to the ministry. It has been shown by the papers in the case that she actually had personal charge of the property belonging to the ministry for quite a length of time after the death of her father. On the 10th of January, 1868, about five months after the death of Mr. Coggeshall, his daughter died, about the time she was getting ready to start for her home in the United States. She died at Guayaquil, being in fact on her way from Quito, where the ministry was located, to the United States.

Mr. GARFIELD. The gentleman will allow me to say, in reply to the gentleman from Illinois, [Mr. WASHBURN], that the letter of the gentleman from Ohio [Mr. SHELLABARGER] is made a part of the report of the committee; and that letter distinctly declares that this young lady performed a large part of the duties of the legation.

Mr. CULLOM. So I stated.

Mr. GARFIELD. The gentleman from Illinois said a moment ago that the fact of the service rendered by Miss Coggeshall did not appear in any report.

Mr. CULLOM. The papers themselves show that this service was rendered. But notwithstanding all these facts the committee, being desirous to give their sanction to no precedent to which the House or the country could possibly object, determined to report nothing but what, according to the report of the Secretary of State, is absolutely necessary to bring home to the United States the bodies of Mr. Coggeshall, our late minister, and his daughter, who acted as his secretary. The committee having information before them that the family of Mr. Coggeshall are in almost destitute circumstances felt very much inclined to report in favor of some appropriation for their benefit. Yet in order to avoid sanctioning any precedent to which the House could possibly object, we concluded to report a mere appropriation of the amount absolutely necessary to pay for bringing home the remains of the father and the daughter.

Mr. BINGHAM. Will the gentleman allow me to make a suggestion?

Mr. CULLOM. Certainly.

Mr. BINGHAM. I desire to inquire whether it is not apparent from the statement filed with the committee by my colleague, [Mr. SHELLABARGER], and from the facts appearing before the committee, that this young girl remained in that country and rendered this service after the decease of her father for a period of at least three months?

Mr. CULLOM. The father died on the 2d of August, 1867; the young girl died on the 10th of January, 1868, just as she was about to leave that country for the United States.

Mr. BINGHAM. Then she remained there performing service for five months. Now, I desire to make a suggestion to the House. My colleague, [Mr. SHELLABARGER], in naming the amount fixed in his amendment, did not intend to try the patience of the House by asking us to adjust this account according to the strict rule of law and equity between this deceased girl and the Government; for if we were to pay the compensation to which in equity she would have been entitled I venture to say that any just man, upon an inspection of the papers in this case, would declare the amount named by my colleague too small under the regulations of existing law. It does seem to me, under the circumstances, that it would be trifling with all decency and all justice for the House to refuse this pitiful allowance of \$1,000 for the five

months' service rendered by this young girl without compensation. This amount in the currency in which it will be paid would not have covered her expenses during the time that she remained in Ecuador and took charge of the papers of the Government.

Mr. CULLOM. I recognize fully the merits of this case as presented by the gentleman from Ohio, who knew Mr. Coggeshall. I desire to state in addition that there are other peculiar circumstances surrounding this case which have not yet been mentioned. Immediately upon his arrival in Ecuador as our minister he got into a controversy with that Government as to the right of our Protestant citizens to the rite of sepulture in the burying grounds of the country. He succeeded in securing that right for American citizens dying there—a right previously denied. We owe this to the urgent and earnest efforts of our minister, Mr. Coggeshall. After this a revolution broke out in the country, and our minister's body has been dug up and placed in a public warehouse, where it now is, and this bill proposes to have it brought home. After we have appropriated three quarters of a million for the transportation and burial of the bodies of our soldiers, all of which I approve, I do not think we can consistently refuse to pass this bill for the purpose of bringing home the body of a faithful servant who died in the exercise of his public functions. Without taking up further time I will now ask for a vote.

The question recurred on Mr. SHELLABARGER's amendment; and on a division there were—ayes 76, noes 46.

Mr. BENJAMIN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 72, nays 66, not voting 73; as follows:

YEAS—Messrs. Allison, Anderson, Archer, James M. Ashley, Banks, Barnes, Beatty, Bingham, Boies, Boyden, Broomall, Buckland, Roderick B. Butler, Calkins, Cary, Reader W. Clarke, Sidney Clarke, Clift, Coburn, Corley, Cullom, Eckley, Edwards, Eggleston, Ferriss, French, Garfield, Goss, Gove, Gravely, Heaton, Higby, Hotchkiss, Ingersoll, Jencks, Alexander H. Jones, Judd, Julian, Kellogg, Koontz, Lash, Mallory, Maynard, McCarthy, Miller, Morrill, Mullins, Myers, Norris, O'Neill, Paine, Pettis, Pierce, Platts, Prince, Robertson, Sawyer, Schenck, Shanks, Shellabarger, Spalding, Stokes, Stover, Sypher, Tift, Twichell, Van Aernam, Vidal, Welker, Whittemore, and John T. Wilson—72.

NAYS—Messrs. Delos R. Ashley, Baker, Baldwin, Barnum, Beaman, Beck, Benjamin, Benton, Boutwell, Boyer, Bromwell, Brooks, Buckley, Chanler, Churchill, Dewees, Dockery, Eliot, Farnsworth, Getz, Glossbrenner, Golladay, Grover, Hamilton, Hawkins, Hill, Chester D. Hubbard, Hulburd, Hunter, Johnson, Kelley, Kelsey, Ketcham, Kitchen, Ladin, George V. Lawrence, Loughrey, McCormick, McKee, Moore, Newcomb, Niblack, Perham, Poland, Polsey, Price, Scofield, Starkweather, Stewart, Stone, Taber, Taft, Taylor, Thomas, Lawrence S. Trimble, Upson, Van Aiken, Van Trump, Van Wyck, Elihu B. Washburne, William Williams, James F. Wilson, Wood, Woodbridge, Woodward, and Young—66.

NOT VOTING—Messrs. Adams, Ames, Arnell, Axtell, Bailey, Blackburn, Blaine, Blair, Bowen, Burr, Benjamin F. Butler, Cobb, Cook, Cornell, Covode, Dawes, Delano, Dickey, Dixon, Dodge, Donnelly, Driggs, Ela, Eldridge, Ferry, Fields, Fox, Griswold, Haight, Halsey, Harding, Haughey, Holman, Hooper, Hopkins, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Thomas L. Jones, Kerr, Knott, William Lawrence, Lincoln, Loan, Logan, Lynch, Marshall, Marvin, McCullough, Mercut, Moorhead, Morrissey, Munger, Newsham, Nicholson, Nunn, Orth, Peters, Phelps, Pike, Pile, Pomeroy, Pruyn, Randall, Raum, Robinson, Root, Ross, Selye, Stigreeves, Smith, Stevens, John Trimble, Trowbridge, Burt Van Horn, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Thomas Williams, Stephen F. Wilson, and Windom—73.

So the amendment was adopted.

During the vote,

Mr. BARNES stated that his colleague, Mr. ROBINSON, was called home by death in his family.

The vote was then announced as above recorded.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. CULLOM demanded the previous question on the passage of the bill.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was passed.

Mr. BANKS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President of the United States, by Mr. Moore, his Private Secretary; and also a message notifying the House that he had, on the 22d of December last, approved and signed bills of the following titles:

An act (H. R. No. 1555) to amend an act entitled "An act imposing taxes on distilled spirits and tobacco, and for other purposes," approved July 20, 1868; and

An act (H. R. No. 1556) to relieve certain persons of all political disabilities imposed by the fourteenth article of the amendment to the Constitution of the United States.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the various bills, &c., were referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SYMPATHY WITH CRETE.

The SPEAKER, by unanimous consent, laid before the House the following message of the President of the United States:

To the House of Representatives:

I transmit to the House of Representatives a report from the Secretary of State, with accompanying papers, in relation to the resolution of Congress, approved July 20, 1867, declaring sympathy with the suffering people of Crete.

ANDREW JOHNSON.

WASHINGTON, January 4, 1869.

Mr. BANKS. I move that it be printed, and referred to the Committee on Foreign Affairs.

Mr. CHANLER. Is discussion in order?

The SPEAKER. It would be, but the Chair will withdraw it if any gentleman wishes to discuss it, until it is regularly reached by a vote of the House. The Chair asks unanimous consent to lay it before the House, so that the table may be cleared. When the House proceeds to this business regularly it may be debated.

The message, by unanimous consent, was referred to the Committee on Foreign Affairs, and ordered to be printed.

ISSUE OF BONDS.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury, transmitting a statement required by act of April 12, 1866, relative to the issuing and avails of bonds; which was referred to the Committee of Ways and Means, and ordered to be printed.

MILITARY ACADEMY APPROPRIATION BILL.

Mr. WASHBURN, of Illinois, from the Committee on Appropriations, reported a bill (H. R. No. 1596) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1870; which was read a first and second time, ordered to be printed, referred to the Committee of the Whole on the state of the Union, and made the special order for to-morrow after the morning hour, and from day to day until disposed of.

Mr. MAYNARD. I reserve the usual objection to any special legislation.

Mr. WASHBURN, of Illinois. I do not think there is any special legislation. There may be some little things.

SAMUEL T. ATKINSON.

Mr. WHITTEMORE. I ask unanimous consent to introduce a bill to relieve Samuel T. Atkinson, a citizen of South Carolina, of political or legal disabilities.

Mr. MULLINS. I object.

WELLS, FARGO AND COMPANY.

Mr. WASHBURN, of Illinois. I ask unanimous consent to make a statement of two minutes.

No objection was made.

Mr. WASHBURN, of Illinois. I desire, in the first place, to have the following preamble and resolution read.

The Clerk read as follows:

Whereas the House of Representatives on the 16th December, 1868, referred to the Committee on Appropriations the letter from the Postmaster General, in answer to the resolution of the House of the 7th of December, relative to the contract for carrying the overland mail; and whereas it appears by a communication from P. B. Ball, special agent of the Post Office Department, to Hon. George McClellan, Second Assistant Postmaster General, that Wells, Fargo & Co., the contractors for the transportation of said mail, have not provided adequate facilities for such transportation, and that express matter has been carried to the exclusion of the mail, which has been left upon the route "day after day and week after week, both day and night, entirely unprotected;" and that "on the 15th of November some six thousand pounds of mail matter lay piled up in an open stock yard at the head of Echo canon;" and whereas it is reported by the said agent that "there are strong indications that the agents of Wells, Fargo & Co., or their employees had a hand in rifling the letter mail;" Therefore,

Be it resolved, That the Postmaster General be directed to make no payment to said Wells, Fargo & Co., until a full investigation can be made by the House in regard to the character of the contract made by said Wells, Fargo & Co. with the Post Office Department, and the truth of the charges of the said special agent of the Post Office Department touching the delinquency of said firm in carrying the mail.

Mr. FARNSWORTH. I have no objection to my colleague's being heard, provided I can have an opportunity to make a statement also.

Mr. WASHBURN, of Illinois. I have the floor now by unanimous consent. That is another matter. This House referred to the Committee on Appropriations a communication from the Postmaster General upon this subject. After examining that communication, together with other facts, including those contained in the report of the special agent, the committee directed the resolution which has just been read to be drawn up and offered for adoption by the House and in the mean time ordered that a copy should be sent to the Postmaster General, which was done. That officer came to the room of the Committee on Appropriations and said he had received the resolution, and that the pay of the contractors would be stopped. The resolution was offered on the first day that Congress met after the holidays, and its consideration was objected to. Of course, a single objection prevented action upon it by the House. I am now advised that the Postmaster General has determined, notwithstanding all the facts which have been made known, and notwithstanding he notified the Committee on Appropriations that payments were suspended, to make the payments upon the contract. Hence I ask that the resolution may be adopted to-day and sent to the Postmaster General under the sanction of the House, and then we will see whether he makes the payments or not.

Mr. FARNSWORTH. I ask for five minutes to reply to my colleague.

No objection was made.

Mr. FARNSWORTH. I suppose it is known to all the members of this House that contracts are made by the Postmaster General with parties for the conveyance of the mails in pursuance of law, and that the law authorizes the Postmaster General when the mails are not carried in accordance with the contract to fine the parties or to withhold such proportion of the contract price as it may seem to him proper to do. But a contract, while it is in existence between the contractor and the Post Office Department of the Government, has the force of law, and the Postmaster General cannot violate that contract by refusing to pay unless he has some authority to do so, and a mere resolution of the House of Representatives is not sufficient authority to the Postmaster General to refuse to perform his duty. Certainly a resolution of the House of Representatives instructing the Postmaster General so to do, when that resolution is based upon newspaper paragraphs or upon the outside statements of individuals, is not sufficient.

It will probably be recollected by members of the House who were here at the last session of Congress that Congress amended the law

with reference to the transmission of the newspaper and document mails across the continent, opening the mails for the transmission by land of all the newspapers and heavy documents. This, of course, added very largely to the weight of the mails. I stated at that time what the bids were for the conveyance of these mails, and how that some of the parties had bid with reference to carrying the letter mails as the law then stood, and other parties had bid with reference to carrying the entire mails if we should amend the law and open the mails for the transportation of all the papers. It turned out as I stated to the House. In consequence of the passage of that law parties who had bid for carrying the letter-mails only refused to carry the mails, and did not execute a contract. The Postmaster General fell back upon Wells, Fargo & Co., and made a contract with them. The manner of doing so and the reasons for making the contract he has reported to the House by special communication as well as in his annual report. The whole amount for the conveyance of the mails in pursuance of that contract will probably not exceed \$600,000 at the time the railroad is completed across the continent. One quarter or less than a quarter is now due.

Mr. WASHBURN, of Illinois. Will my colleague yield to me for a moment?

Mr. FARNSWORTH. Yes, sir.

Mr. WASHBURN, of Illinois. I had some hesitation in bringing this matter up, because I did not believe really that the report which came to me was true, it was so extraordinary; but a letter has just been laid upon my desk from the Postmaster General which I desire to read to the House with the leave of my colleague.

Mr. FARNSWORTH. Certainly.

Mr. WASHBURN, of Illinois. It is as follows:

POST OFFICE DEPARTMENT,
WASHINGTON, January 7, 1869.

SIR: An indefinite delay in payment for mail service by Wells, Fargo & Co. will work detriment to the postal service. The compensation is being so rapidly reduced, and the expenses of the company are so great, that I have determined to revoke the order suspending payment for service for the quarter just ended. The amount due for performing about five eighths of the whole service is about two hundred and ninety-seven thousand dollars. If the railroads are completed within the time now anticipated the whole expense of this service will not probably exceed \$600,000, which is less than was anticipated when the contract was made. A full report is in preparation and a thorough investigation invited.

Very respectfully, your obedient servant,

ALEX. W. RANDALL,
Postmaster General.

Hon. E. B. WASHBURN, Chairman Committee on Appropriations House of Representatives.

With the consent of my colleague I desire to call the attention of the House and the country to this extraordinary conduct of the Postmaster General. There has been no investigation of the charges that have been made. Notice has been given him that the payment ought to be suspended. He came in person to the Committee on Appropriations and said he had made the order; and now, without any investigation, when parties in this House have refused to have an investigation made, he has made a payment to these contractors of \$280,000. I denounce the conduct as unworthy of an official. I believe it is such as should subject a man to impeachment. There are strong allegations of fraud in the first instance, and in another instance his own agent comes in and reports that the service has not been performed; and yet in defiance of this, in advance of any action by the House, he makes this payment of \$280,000.

Mr. FARNSWORTH. I desire to say a word in reply to what my colleague has said. I do not object to an investigation. I did not object the other day. I desire that an investigation shall be made. I am no champion of the Postmaster General or of Wells, Fargo & Co., but I do not believe in the right of the House of Representatives to interfere with the performance of a mail contract, and upon the mere statements of some outside parties,

the *ex parte* statements of outsiders or a mere letter of a post office agent, without explanation, to postpone indefinitely the payment of the contract price for carrying the mails in accordance with a contract which has been properly made.

The SPEAKER. The five minutes of the gentleman from Illinois [Mr. FARNSWORTH] have expired.

Mr. FARNSWORTH. I ask five minutes additional time.

The SPEAKER. Is there any objection to granting the gentleman from Illinois five minutes more?

There was no objection.

Mr. FARNSWORTH. The House must understand—if members from the eastern part of the country do not understand from conversation with members from the Pacific slope and Delegates from the Territories, they will understand in a very short time—something about the expense of equipping and running stages in that country. They will readily perceive the importance, the absolute necessity, of paying the contractors for conveying the mails as the money becomes due, in order to secure the proper transmission of the mails. The failure of the Department for one quarter to pay what is due to a contractor for carrying the mails in that country will pretty certainly insure the dropping of the mails and the cessation of the running of the stages. It is, I understand, in view of this fact that the Postmaster General has revoked, as he has stated in his communication to my colleague, the order refusing to pay the contractor for carrying the mails. And I confess, sir, that I approve the conduct of the Postmaster General in this particular. I think he has done perfectly right. In taking this action he, of course, knows better than I do whether there has been any fraud in making this contract. He has taken this action in full view of the fact that an investigation of the matter will probably be ordered by this House. The whole thing will be investigated; and if he is paying out money from the Treasury in pursuance of a contract which is fraudulent, and which shall hereafter be so proved, he, of course, takes the risk upon his shoulders. But if he is conscious that he has committed no fraud, and that these parties are in good faith performing their contract, I certainly approve and justify his course in paying them the contract price for carrying this mail, notwithstanding my colleague may have interposed a request that the contractors should not be paid. If I were a contractor for the Government and were performing my duties I should think it exceedingly hard that the Department should refuse to pay me for doing what I had agreed to do upon the mere request of a member of Congress, basing his request upon the flying newspaper reports that he might have cut from some of the public journals.

Mr. WASHBURN, of Illinois. Will my colleague yield to me for a moment?

Mr. FARNSWORTH. My time has nearly expired; but I will yield for a question.

Mr. WASHBURN, of Illinois. My colleague says that I base my action upon mere newspaper reports. The fact is, as the gentleman should know from the preamble which has been read at the Clerk's desk, that my resolution is based upon information furnished by an agent of the Post Office Department—an agent of this very Postmaster General.

Mr. FARNSWORTH. I was just going to speak of that.

Mr. WASHBURN, of Illinois. This agent comes here and tells us and tells the country that this mail service has not been performed. And, sir, let me say to my colleague, who appears here to-day as the defender of the Postmaster General in this matter, that I could tell him other things in regard to this transaction which I think would make him hesitate to interpose his influence here to prevent an examination of this matter.

Mr. FARNSWORTH. Mr. Speaker, so far as regards the information obtained from Mr.

Ball, the special agent of the Post Office Department, I have read that. It was sent to this House by the Postmaster General with his own communication. Mr. Ball, it is true, speaks of several occasions some time ago—not many occasions—when he saw, as he says, large piles of mail matter—six thousand pounds; perhaps—piled up in an open yard. How is that explained? Why, sir, if my colleague had taken the pains that I have taken to investigate this matter; if he had examined other reports and other papers on file (for this report of Mr. Ball came from the Post Office Department) he would have found how the matter happened. Frequently, on account of storms, the Pacific railroad trains do not come in on time; they are a day or two behind hand. In the mean time no mail is brought in, and the stages have gone out empty. But the train comes in with all the accumulated mail matter, amounting, perhaps, to five or six tons, and it is dumped down. As fast as the railroad is extended an additional twenty-five or fifty miles a new depot is established, which is, of course, a very temporary affair, without proper buildings for the storage of the mails. The stages cannot carry off six tons of mail matter in one day—this heavy paper mail. What do they do? They are obliged to draw it off as they can: to take what they can on the stages to-day, then take what they can to-morrow, and the balance of it the day after, until it is all cleared up. That is the way it is done.

[Here the hammer fell.]

Mr. ELA. I ask five minutes to make a statement in regard to this matter.

Mr. FARNSWORTH. One moment. If my colleague [Mr. WASHBURN, of Illinois] has any other information on this subject that I am not possessed of, I hope he will state it to the House.

Mr. WASHBURN, of Illinois. I hope my colleague will hear the gentleman from New Hampshire [Mr. ELA] and the gentleman from Nebraska [Mr. TAFTE] upon this subject.

Mr. ELA. I ask unanimous consent to speak for five minutes upon the subject of this resolution.

No objection was made.

Mr. ELA. In reply to what has been said by the gentleman from Illinois, [Mr. FARNSWORTH,] the chairman of the Committee on the Post Office and Post Roads, in regard to the accumulation of this mail, I will state that in this document, which has been placed before this House by the Postmaster General, will be found the information that the mail which left the New York city post office during the entire month of October averaged two thousand eight hundred and forty-eight pounds, destined for Salt Lake City and beyond. And it will also appear from that same document of the Postmaster General, which embraces a statement of the postmaster at Salt Lake City, that the average weight of the mail received there during that same month of October was one thousand eight hundred and fifty-nine pounds, or nine hundred and eighty-nine pounds less than the average weight which left New York city on each of the days in the month of October.

I will say in addition to that that the weight of the mail received at Salt Lake city ought to be very much more than it was when it left New York city, for one of the territorial Delegates told me this morning that he had seen bags of that mail matter tied under the stage in which he was a passenger, and dragged through four or five streams on the route. And the postmaster at Salt Lake City says that the mail bags come in there wet and frozen. And in addition to the mails sent from New York city, are the mails which accumulate from all the country west of New York city to go to Salt Lake city and the Pacific coast. And yet, as I have said, the mails received at Salt Lake city average nine hundred and eighty-nine pounds less than the mails sent from New York city alone.

Now I want to call the attention of members to one thing further in connection with this

contract. It will be found by reference to this annual report of the Postmaster General, that he says he applied, on the 16th of October, to Mr. McLaughlin, who had submitted a bid of \$350,000 to carry these mails, and asked him if he was ready to take the contract, to which he received no answer, and that in consequence of receiving no answer he went to New York city, and after consultation with gentlemen there, he made this contract with Wells, Fargo & Co. But in this very report is evidence that on October 17, and received at the Department on the 18th, Mr. McLaughlin informed the Department that he was ready to carry these mails in thirty days from notice, but the Department did not ask him to do it, and instead hunted up Wells, Fargo & Co., and made a contract with them to do it. That is not all. Notwithstanding the statement of the Postmaster General, to which I have referred, it will be found by reference to his report that Mr. McLaughlin informed the Department the very day after he was applied to that he was ready to carry the mails for the amount he had bid, and asked if he could have the contract. These are the facts contained in this document.

A gentleman told me within the last twenty-four hours that he came across the plains upon the coaches of Wells, Fargo & Co., and that they had but four horses for each fifteen miles each way, that there were eleven passengers on the stage. I would ask how, under those circumstances, they can expect them to carry even one ton of mail matter a day. The special agent of the Department says that he himself saw on the 27th of November the passengers and express matter of Wells, Fargo & Co. loaded on the stages while three thousand pounds of mail matter was left behind, piled up before their office. He declares that mail bags filled with newspapers, letters, and public documents are left piled up upon the ground day after day, and week after week, entirely unprotected, exposed to theft by anybody who may choose to take them. I might go on and make other like statements, but I do not wish unnecessarily to consume the time of the House.

Mr. TAFTE. I ask unanimous consent for five minutes.

There was no objection.

Mr. TAFTE. Mr. Speaker, I desire to state, in this connection, that I have received a great number of complaints on this subject. I live at Omaha upon this thoroughfare, and have lived there for twelve years. While I cannot say that I have personal knowledge that mail matter has been left upon the ground by Wells, Fargo & Co., yet, sir, I do know that there are a large number of responsible citizens who declare that they have seen mail matter piled up on the ground and left for days exposed to destruction. I know furthermore that Indians constantly bring in mail bags to the military posts that they have found thrown out and left upon the ground. Cartloads of mail bags are thus disposed of, as we are informed by responsible persons.

Mr. INGERSOLL. Can the gentleman tell whether letter or document mail bags are thus left piled up?

Mr. TAFTE. Both kinds. My information is that Wells, Fargo & Co. only carry mail matter when there is no express matter to be transported; and that when there is express freight they will carry it to the exclusion of mail matter.

Mr. JOHNSON. I ask unanimous consent to be heard for five minutes.

There was no objection.

Mr. JOHNSON. Mr. Speaker, from what has been said, being a member of the Committee on the Post Office and Post Roads of the House, and having been consulted about this contract with other members of the committee and with members of the Committee on Post Offices and Post Roads of the Senate, I deem it my duty to make an explanation. It is also proper that I should do so in view of the fact

that I have crossed the plains during the last month. I can therefore contradict the statements which gentlemen have made to the inability of Wells, Fargo & Co. to perform this service. In view of these facts, I say, it is my duty to make a statement, and I will proceed to do so in as few words as possible. Wells, Fargo & Co. have more than four horses to each fifteen miles of the road.

A MEMBER. Each way?

Mr. JOHNSON. Yes, sir; each way. They have more than eight; ay, more than twelve. They run two stages a day. In August last, when I crossed the plains upon my way home, they ran two stages daily; and I neither saw a scarcity of stock at the stations nor mail matter piled up in heaps upon the ground. I did not see any mail matter at all piled up on the ground; but, on the contrary, I saw extra stages on their way loaded down with mail matter, and without any passengers. And I apprehend that if the mails arrived regularly at the end of the railroad they could be taken by one or two stages a day; but they do not arrive regularly in consequence of accidents and delays on the railroad. For four days last month the trains ceased to run through, and all at once about sixteen thousand pounds of mail matter were landed at the terminus of the railroad. My time is brief, and I must leave this point.

When a contract is made by the Postmaster General under the law to carry the mails, I ask any lawyer upon this floor whether this Congress can instruct him to refuse to execute the terms of that contract? No, sir; this Congress cannot step in and pass a law to invalidate a contract made by the Government with its citizens. No lawyer here, careful of his reputation, will allege that we can pass a resolution instructing the Postmaster General to refuse to let the contractors carry the mails under the terms of their contract.

Mr. FARNSWORTH. I wish to inquire of the gentleman from California whether Wells, Fargo & Co. have not to transport the forage for their stock all the way from the Missouri river?

Mr. JOHNSON. They take all their forage from the Missouri river for that portion of the route this side of Bear river. Beyond that point it is obtained from Salt Lake valley pretty generally until you reach Stockton, in Utah, beyond which the forage is obtained from the Pacific coast and hauled in wagons to the different stations.

Mr. MULLINS. I would ask the gentleman whether the contract on the part of the Government was to be conditional about these men hauling their provisions—whether the Government should allow them to haul their provisions to the exclusion of the mail?

Mr. JOHNSON. I apprehend that they do not haul six or eight tons of hay on a stage loaded with passengers. I stated that I supposed the forage was carried on wagons. Now I will state another fact. The Postmaster General did not want to give Wells, Fargo & Co. this contract to my certain knowledge.

Mr. LOGAN. I desire to ask the gentleman a question.

Mr. JOHNSON. Certainly; but as my time has expired I will have to ask for three minutes more to answer the question and complete what I have to say.

No objection being made, the gentleman's time was extended three minutes.

Mr. LOGAN. Speaking of the Postmaster General having no authority to suspend the payment of the contract, I would ask the gentleman if it is not his duty as the agent of the Government, if Wells, Fargo & Co. have failed to perform their contract, to suspend payment until he is required to pay them by law?

Mr. JOHNSON. That is the law. When the service is not performed according to the stipulations and conditions of the contract he may fine the parties or withhold a portion of the pay. He is bound by the law, and the contractors are bound by it, and we can pass no

act to-day that will deprive Wells, Fargo, & Co. of their rights under the contract.

Mr. LOGAN. The gentleman does not quite understand my question. Suppose Wells, Fargo & Co. had made a contract to carry the mails but had not carried one ounce of mail matter under it, do you think he would be authorized to pay the contractors anything?

Mr. JOHNSON. Of course not. He would not be authorized to pay them one cent.

Mr. LOGAN. Very well, then, the principle is the same. If there has been a violation of the contract on their part it is his duty as agent of the Government not to pay them until he is directed to do so by law.

Mr. FARNSWORTH. Whose duty is it to find out the violation?

Mr. LOGAN. His own agent, I understand, has reported the fact. It is the agents of the Department who find out whether the contracts are performed or not.

Mr. JOHNSON. If the Postmaster General exceeds his authority or fails to perform his duty I have no objection to his conduct being investigated—none in the world. But I do not wish that the proper pay, whatever it may be, should be withheld from Wells, Fargo & Co., which would have the effect to deprive the people of the Pacific coast of their mail facilities. If we say to the Postmaster General do not pay, and he follows our direction, Wells, Fargo & Co. will cease to carry the mails and we shall be deprived entirely of that mail service on the Pacific coast.

One word more and I have done. The Postmaster General informs the House in his letter, which was referred to the Committee on Appropriations, that the sum paid to Wells, Fargo & Co. is not adequate to defray the expenses incurred by that company in the transportation of the mail by some \$200,000; in other words, that that company are losing \$200,000 by the contract made with the Government. Now, I do not know whether there is any fraud in it or not.

Mr. ELA. I ask for five minutes to make a reply to the gentleman from California.

The SPEAKER. Is there objection? The Chair hears none.

Mr. ELA. My curiosity in this matter grew out of the fact that I happened to board for some time last summer with one of the bidders for this contract, and he declared to me that as soon as he had left for the California coast there would be some way contrived by which this bidder (Spaids) would be got out of the way, and Wells, Fargo & Co. would get the contract, and when I saw that his prediction had been verified, I had some little curiosity to look into the matter.

The gentleman says the Postmaster General was reluctant to make this contract with Wells, Fargo & Co., and yet what will you find? You will find that when there was a necessity for making a contract for carrying these mails with somebody, Mr. Spaids, a contractor, was in this city in communication with the Postmaster General, and informing him that a letter would reach him addressed to S. P. Brown & Son, of this city, and yet when it came to the making of the contract, instead of inquiring of the man here in this city whether he was getting ready to do this business, they went off telegraphing after Oakes Ames to find out where General Dodge was, to inquire whether any preparations were being made to stock the road! So much for that.

Now, if you will look into this document you will find, I think, on page 69, an agent of the Post Office declaring that Wells, Fargo & Co. are getting twelve and a half cents express on each letter, and hence their reluctance to supply the post offices. You will find this document full of interesting reading in relation to this matter.

Mr. FARNSWORTH. Do I understand the gentleman from New Hampshire to charge that Wells, Fargo & Co. refuse to supply the post offices?

Mr. ELA. I say that the agent of the Post

Office Department, in this document submitted to the House by the Postmaster General, declares that Wells, Fargo & Co. are charging twelve and a half cents for the delivery of each letter, and hence their reluctance to supply the post offices.

Mr. FARNSWORTH. Does the gentleman mean to say that they charge twelve and a half cents for delivering letters through the mail?

Mr. ELA. No, through their express; and hence their reluctance to supply the post offices with mails.

Mr. FARNSWORTH. I would inquire again whether the gentleman charges that Wells, Fargo & Co. refuse to leave the mails at the designated post offices?

Mr. ELA. I simply repeat what is stated in this document, that Wells, Fargo & Co. left the mail-bags, the letter-bags, and everything of that character, piled up, week after week, in front of their office, which is pretty good evidence they did not mean to furnish the post offices.

Mr. FARNSWORTH. That is not the point. I do not suppose that the firm of Wells, Fargo & Co. is composed of loafers or very mean men. I believe they have some character in the United States; and when I hear a gentleman upon this floor charge by innuendo that Wells, Fargo & Co. refuse to deliver the mails to the designated post offices, I want to know what his authority is.

Mr. WASHBURN, of Illinois, and Mr. ELA. This report.

Mr. FARNSWORTH. There is no such report.

Mr. ELA. I cannot yield to the gentleman any longer. I have made no innuendo against Wells, Fargo & Co. I have simply stated what the Postmaster General has sent to this House as a fact in the case, and if the defenders of Wells, Fargo & Co. have any quarrel with anybody they have it with the Postmaster General and not with me.

Mr. WASHBURN, of Illinois. Will the gentleman permit me to make a single statement in regard to the document which he has before him?

Mr. ELA. Yes, sir.

Mr. WASHBURN, of Illinois. It contains a copy of a dispatch sent to the honorable Senator from Vermont, Mr. MORRILL, who was invited to come down here to see the parties, but there is no answer to that dispatch given. The dispatch inviting him to come here is given, but the answer of the Senator is suppressed.

Mr. BROOKS. Oh, no.

Mr. FARNSWORTH. My colleague is mistaken; the answer is there in the document.

Mr. WASHBURN, of Illinois. If it is there it has been put in since the Senator complained to the Postmaster General that it was suppressed.

Mr. FARNSWORTH. It was in the document as it came in in answer to my colleague's request several weeks ago, and my colleague has overlooked it.

Mr. WASHBURN, of Illinois. The Senator from Vermont told me—I do not know but that he was mistaken—that he saw the dispatch which was sent to him given without his answer, and he complained to the Postmaster General that the answer had not been sent in, and the Postmaster General gave as an excuse for not having sent it in that he considered it an unofficial letter, but he said he would send it. If the gentleman has other information let him give it to the House.

Mr. FARNSWORTH. The answer is in the document.

Mr. WASHBURN, of Illinois. The answer, which will speak for itself if it is here, was putting the Postmaster General upon his guard against making such a contract; just such an answer as might have been expected from the Senator.

[Here the hammer fell.]

Mr. CAVANAUGH. I desire to correct a statement made by the gentleman from New

Hampshire, [Mr. ELA.] and I ask to be allowed three or four minutes to do so.

No objection was made.

Mr. FARNSWORTH. Before the gentleman from Montana [Mr. CAVANAUGH] proceeds I desire to correct a statement of my colleague. It is unfair to the Senator from Vermont and to the Postmaster General to allow the statement to go uncontradicted. The answer of the Senator from Vermont, as I saw it yesterday, is in that document pretty nearly in these words: "I cannot leave at present." I do not understand how that can put any one on his guard.

Mr. WASHBURN, of Illinois. That was the answer to the dispatch by telegraph. But the Senator wrote a letter to the Postmaster General, going into this whole subject. This letter, which was semi-official, was suppressed by the Postmaster General, of which the Senator from Vermont complained.

Mr. FARNSWORTH. My colleague did not before say anything about a letter; he spoke about the answer to the dispatch.

Mr. WASHBURN, of Illinois. The answer was contained in the letter.

Mr. CAVANAUGH. I desire to correct a statement made by the gentleman from New Hampshire, [Mr. ELA.] and I think I can do so, for I had the contradiction from the mouth of Mr. Spaids himself. When Mr. Spaids bid \$350,000 for carrying this mail across the continent he went to New York for the purpose of trying to enter into an arrangement with Wells, Fargo & Co. I was present in the office of Wells, Fargo & Co. at the time. There was no agreement made between the parties. Mr. Spaids then said to me, using a profane adjective, that he was not fool enough to take that contract only for the letter mail and to leave the printed matter out entirely. That statement I had from him.

I know there has been a great deal of fault found with Wells, Fargo & Co. for the manner in which they have carried the mails. I know, from my own experience, that heretofore these mails have not been carried properly. I know that mail-bags have been piled up along the route. I know these parties have failed fully to discharge their duty in this respect, but I believe they have fulfilled their obligations as far as it was in their power to do so. They have delivered the mails as well as they possibly could under the circumstances and at this season of the year. I care nothing about where they got their supplies. In my own Territory all their supplies along the line of road where they travel are furnished in the Territory. We have some complaints to make of them in Montana, but not such as are made by the gentleman from New Hampshire. I believe that Wells, Fargo & Co. are doing the best they possibly can. In the winter season, as you are aware, Mr. Speaker, it is not as easy to carry the mails from Echo cañon to Salt Lake City as it is from here to Baltimore. But I will not dwell upon this matter any further. I rose merely to correct the statement of the gentleman from New Hampshire.

Mr. WASHBURN, of Illinois. I ask that the resolution be now voted upon.

The SPEAKER. It requires unanimous consent for the resolution to be received and acted upon at this time.

Mr. JOHNSON. I object.

ESTIMATE OF DEFICIENCIES.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting an estimate of deficiencies of appropriations for the Government building at the corner of F and Seventeenth streets, for the fiscal year ending June 30, 1869; which was referred to the Committee on Appropriations.

PURCHASE OF LAND, OMAHA, NEBRASKA.

The SPEAKER also, by unanimous consent, laid before the House a communication from

the Secretary of War, transmitting copies of correspondence between the War Department and Lieutenant General Sherman, relative to the purchase of certain land at Omaha, Nebraska, for military purposes; which was referred to the Committee on Military Affairs, and ordered to be printed.

SIoux INDIANS ON UPPER MISSOURI.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting a report of Brevet Major General Harney, United States Army, upon the Sioux Indians on the Upper Missouri; which was referred to the Committee on Indian Affairs, and ordered to be printed.

OBSTRUCTIONS AT HELL GATE.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting, in compliance with House resolution of the 14th ultimo, a report upon the removal of obstructions to navigation at Hell Gate, Long Island sound; which was referred to the Committee on Commerce, and ordered to be printed.

WILLIAM F. TAYLOR.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting the petition of William F. Taylor, auditor of public accounts of the State of Virginia, for the removal of his political disabilities; which was referred to the Committee on Reconstruction.

E. W. ANDERSON.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting the petition of E. W. Anderson, formerly a cadet of the United States Military Academy, for removal of political disabilities; which was referred to the Committee on Reconstruction.

PRESIDENT'S MESSAGE.

Mr. WASHBURNE, of Illinois. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union upon the President's message of 1867.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. CULLOM in the chair,) and resumed the consideration of the President's annual message of 1867.

FINANCES AND CURRENCY.

Mr. COBURN. Mr. Chairman, there are subjects discussed in Congress within the scope of legislation, and some beyond it. At this time many believe that a return to specie payment can be accomplished by the passage of a law; others think that such an object can no more be secured in this way than a change of the seasons, a plentiful crop, or a standard of prices; that legislation can no more determine the value of gold a year or two hence than it can establish the price of wheat, corn, cotton, or merchandise; that something beside the phrase "be it enacted" is needed to give or take from values; and, in fine, that the most dangerous heresy in political economy is the assertion that legislative power can override the great laws of trade, and make that which is worthless valuable, define prices as it would offenses, and put limits to business as it would to human conduct.

The fact is, we can no more pay debts by legislation than we can forgive sins; and we can no more make by law a greenback equal to a gold dollar, now or at any future time, than we can make a bushel of wheat or a yard of cloth equal to the same coin by the same process. The object of legislation is to remove obstructions, to regulate the channels of trade, and not to fix prices or dictate values. Supply and demand governed by the changing seasons, by peace and war, health and sickness, by fashion, whim, and the caprice of mankind, by migration, by the thousand social influ-

ences beyond and below the reach of law, which modify or rule men, all go together to fix values and prices.

All efforts to determine by arbitrary power a day on which a paper dollar shall be equal to a gold dollar must result in failure. That day will come, but not as the result of a law of Congress. That day will come, but it will be when the confidence of men in the stability of this Government rests unshaken; when we have repaired the ravages of war; when the whole nation has gone again peacefully and heartily to hard work; when, as a consequence, our wealth has vastly increased, our supply of gold has trebled or quadrupled; when our credit as individuals and as a people is founded upon the rocks of prosperous thrift. Tell me that day, and I will tell you when to put into your law the date of return to specie payments. Till then the people will be well pleased with greenbacks, "depreciated," "debased." And, having confidence in the Government, they are glad to get the "depreciated," "debased," "dishonored," "irredeemable" stuff in exchange for labor and property. And many are so much deluded with it as to believe that it is the very best paper currency we ever had. Better surely than wild-cats and shinplasters; better than individual notes; better than the promises of local corporations, good only within the range of personal acquaintance or district business; better than free banks founded on State stocks; better than State banks whose credit was limited by State lines; better than the old United States Bank; having at least one value all over the land, and passing current cheerfully everywhere. Good enough for the laborer, good enough for the capitalist, good enough for the officer, good enough for the merchant, good enough in market, good enough on 'Change, good enough at present everywhere at home, except in payment of interest on our debt. And good enough there but for our honorable and ever-binding promise to pay it in gold.

And now, before entering upon a discussion of these questions, let me protest against the moral lectures of our opponents in debate.

Their arguments for certain measures proposed in aid of an early resumption of specie payments are accompanied by a long homily upon an honest compliance with our contracts and upon the importance of national integrity. Just as if there could be no sincere difference of opinion as to the methods of resumption; as if it were a question of morals and not of policy; and that all who do not favor instant or early resumption were stained with a disregard of the public faith. To such let it be said that the true friends of resumption may yet be found among those who think the day of its complete accomplishment still distant and indefinitely in the future, and who have little faith in making efforts in that direction which they think can but result in disastrous failure—in a collapse of our credit and a general suspension of business. He who with inadequate forces would rashly storm the breastworks of the enemy can have no higher claim for patriotism and devotion than that other man who delays, at the risk of censure, till he has gathered strength and found his opportunity, and thereby made success certain.

Let it, then, be conceded by both sides that honorable men may disagree upon these grave questions, and that each are striving, as best they can, to put the credit of the Treasury where they have put the prowess of our arms—beyond the reach of doubt or inquiry.

The question then arises, what can Congress do to aid in the appreciation of the currency? Contraction has been tried and failed. The experience of the three past years has demonstrated that a contraction of one fourth of our paper currency has not diminished the difference between it and specie one cent. It would seem to be madness to press such a measure further with falling prices, stagnated trade, and paralyzed enterprise. Our paper currency at this time amounts to about the sum of six hun-

fred and eighty million dollars in actual circulation, while the bank reserves, amounting to \$150,000,000, are to be deducted from the circulation, leaving for active use about five hundred and thirty million dollars. This exceeds the amount we had before the war but \$40,000,000 on a specie basis, nearly three fifths of it being coin. This is not as large a volume as the same population in France and England have, with the additional advantage of a very limited territory and compact settlement, with large commercial and manufacturing cities and great accumulations of capital in banking institutions. Our scattered population, their agricultural pursuits, their lack of moneyed centers conveniently located, their growth, their changing and enlarging currents of business, all would seem to require more currency in the hands of the people and at their command, as borrowers at moderate rates, instead of less than the people of the Old World.

The effects of a too long-continued contraction of the currency are as detrimental as those of a commercial panic. The one is like the exhaustion of a slow fever; the other like the dread effects of epilepsy; both drawing near the gates of death; both ending in bankruptcy and ruin; both often the result of artificial or temporary causes—not consequent upon a loss or diminution or destruction of capital, but merely a locking up of the means and tools to handle it. Solvent men, solvent firms, solvent banks, guilty of no mismanagement or dishonesty, are thus crushed, and the truest and best managers of business broken down. No man dare write any harsher term than "bad luck" opposite the names of thousands thus shipwrecked. An unreasonable, though gradual, diminution of the currency, like the drawing off of the blood through a small vein, may be just as fatal as cutting the jugular itself.

When peace was made there was one natural mode of reducing war prices, and that was by an increase of production. More than a million and a half of vigorous men laid down their arms and entered the fields of labor, thronged their old shops and factories and places of merchandise; sought out farms and fisheries again, or deployed amid the mines of the far West. Every way in life found these active men pressing forward. From being mere consumers, they now began to add to the stock on hand, and values must decline.

But this was not deemed sufficiently effective in bringing them down, and the additional method of a reduction of the currency was adopted. Few men had reasoned upon this system or its effects. It was an experiment without a parallel. True, other nations had incurred vast debts, but none other had such unlimited energies, such growth, such enterprise, such recuperative power; in none other was capital so valuable, was labor so well rewarded, was invention so much stimulated, were moneyed adventures so successful. Here was a land in which the real estate was as much in market as were the grain and live stock, the products of the plantation or the fishery, as manufactures or merchandise. Not so in England and European countries, where monarchs, noblemen, capitalists; laws of entail, and a barbarous system held out of market all or nearly all the land, and whatever was added to it required never to be lifted by a currency, but was laid down and cemented, like the rocks in the pyramids, to be handled no more forever. Here was a people making railroads into and over vast tracts of unsettled country, adding yearly many millions to values, and opening to culture, settlement, and successful use that which had been worthless till then. Here was a people who could, and who did by thousands, take the chopping-ax, the blacksmith's hammer, the hoe and plow, the simplest tools, worth but a few dollars, and in a short time build up happy, valuable homes, and even great fortunes; a thing utterly unheard of and impossible to the masses in Europe.

And yet to guide us we took the rules which should govern the plodding, cramped, fettered,

enslaved, ignorant nations of the Old World; put on the shackles which Adam Smith or Ricardo had found were fitted and worn into the flesh of the subjects and slaves of a thousand years of tyranny, and expected them to fit us and hold us. They undertook to measure the man who earns, buys, builds, creates a comfortable home, or even a splendid one, with the man who works as his father did and his fathers' fathers have done for ten generations past, in the colliery or as a farm servant, without in all that time the accumulation of a dollar; who lives in a land where thirty thousand men hold the soil on which twenty millions live, and the number of whose landholders has diminished two thirds in one hundred and fifty years; a land in which labor is but thirty to fifty cents a day; where starvation stands at the door of the laborer, and the workhouse is almost his certain doom in sickness and old age; where the free school sheds no light upon childhood, and an odious system of church aristocracy degrades the holy ordinances of religion; where the working and middle classes pay five sevenths of the taxes, while the landed aristocracy pay but two sevenths, thus exhausting and impoverishing the yeoman year after year, placing them in the grasp of greedy landlords, and reducing them to the condition of serfs. How different from our own condition! We find no parallels upon which to base our theories of political economy. In no nation but ours has it been possible for one set of men to push out, build mills, bridges, roads, railways, hotels, factories, and cities, and, failing utterly, to be succeeded at once, like the second line of a storming party, by another throng of men, fresh, daring, and strong, who seize these enterprises, and out of their wreck and ruin build colossal fortunes, run the machinery, people the waste places, and make them centers of business and prosperity. Where else is failure the herald and forerunner of success? Where else are great cities built upon a soil shingled with mortgages drawing enormous rates of interest? Where before ever did the world behold so much financial success founded upon so much financial ruin?

Looking at the growth of the country, and the consequent increase of business, the natural conclusion is that we need an expansion instead of a contraction of the currency. The demand for labor, the supply of labor, the products of labor are increasing, capital is increasing; why should not their representative in value? The demand for capital seems so far to be unlimited. We are not situated as Florence, Venice, Palermo, Alexandria, and Genoa, were, with a surplus upon which to do banking business or to expend upon the erection of gorgeous palaces, splendid churches, fountains, stately pictures, glittering equipages, gems, jewelry, ornaments, dress, and luxurious living. Our great houses are hotels or places of business; our aqueducts bring water for the poor to drink and use or to turn the busy wheel. Our annual outlay of millions is for the comfort of the people, for great charities, for education, for use, for help, for light. A few localities as such may approach the banker condition. Hartford, Providence, Boston, New Bedford have large accumulations, but New England is still a workshop, not a loan office. While we in the West are satisfied with full rations, a sheltering roof, plenty of work, and plenty of money at ten per cent., Yankee enterprise finds every day ready outlay for the previous day's accumulations, and that, too, in permanent investments that secure and give employment to industrious hands.

So far Yankee wealth has been devoted mainly to the great charities, to the great educators of man, to the great uses of life, and not in erecting idle pyramids or drowsy towers or unthrifty chateaus or luxurious palaces, yielding only profit to the builder, and taxing all his descendants for their repairs, tenantry, and support. Here interest is at an enormous rate. Capital being scarce, labor rushes for

it to secure its help in lifting business and developing trade, while the Old World willingly pays but from two to three per cent.

It is safe to say, then, in view of all our experience, that we cannot be governed as to the management of our currency and debt by measures and a policy which have proved wise and successful in countries of slow growth, of little activity, of greater capital and less enterprise. And yet, as before remarked, we have far less currency to the individual than our English and French neighbors; the former having about twenty-six and the latter about thirty dollars, paper and metallic, to the head. At English rates, if we were paying specie, we would have about eight hundred millions, and according to French rates near eleven hundred million dollars in circulation, instead of six hundred and seventy millions, a large part of it lying as a reserve in bank vaults. Business demands an enlarged volume of our currency, and the difficulty of the case is not upon this point, but upon the methods to be adopted to give it an increased value and bring it to par.

One word upon the subject of expansion and the mere volume of currency. For more than a thousand years previous to the discovery of America the precious metals became scarcer. The New World furnished a vast supply—the robbery of Mexico and Peru, and the opening of their mines threw a flood of gold and silver upon the world; the result was an unparalleled activity in business everywhere. This supply was continued up till the year 1809, when it continued falling off till 1840. Commercial distress ensued only to be relieved by the opening of the Russian, Californian, and Australian mines. The volume of the world's currency was increased and prosperity followed; diminished, and everything languished.

A glance at the prices of gold for the last six years, covering the period of our greatest inflations of paper currency from their beginning to the present time will show at the outset the inherent difficulty in legislating so as to give to specie or paper a permanent and fixed value. From these it will be seen that at the periods of the greatest expansion, in 1865 and 1866, gold was selling at a lower rate than when paper was hundreds of millions of dollars less abundant.

The following tables show the course of the gold market for the past six years:

1868.	Opening.	Highest.	Lowest.	Closing.
January	133½	142½	133½	140½
February	140½	144	139½	140½
March	141½	141½	137½	138½
April	138½	140½	137½	139½
May	139½	140½	139½	139½
June	139½	141½	140½	140½
July	140½	145½	140½	140½
August	145½	150	143½	144½
September	144½	145½	141½	141½
October	1.....	140½	140½	139½
	2.....	139½	140½	139½
	3.....	140½	140½	139½
	5.....	140½	140½	139½
	6.....	140½	140½	139½
	7.....	140	140½	139½
	8.....	139½	139½	138½
	9.....	138½	139½	138½
	10.....	138½	138½	138½
	12.....	138½	138½	137½
	13.....	137½	138	137½
	14.....	137	137½	137½
	15.....	137½	138½	137½
	16.....	137½	137½	137½
	17.....	136½	137½	136½
	19.....	136½	137½	137½
	20.....	137½	137½	137½
	21.....	136½	136½	136½
	22.....	135½	135½	135½
	23.....	135½	135	135½
	24.....	135	135	134½
	26.....	133½	134½	133½
	27.....	134½	134½	134½
	28.....	134½	134½	134½
November	2.....	133½	133½	133½
	3.....	133½	133½	133½
	4.....	133½	133½	133
	5.....	132½	132½	132½
	6.....	132½	133	132½
	7.....	134½	134½	134½
	9.....	134½	134½	134½
	10.....	135½	135½	134½
	11.....	134½	134½	134½
	12.....	134½	134½	133½
	13.....	133½	133½	133½
	14.....	134½	135	134½
	16.....	135½	137	135½
	17.....	136½	136½	134½
	18.....	134½	134½	134½

1869.	Lowest.	Highest.
January	105	105
February	102½	104
March	101½	102
April	101½	102
May	102½	104
June	103½	105
July	109	120
August	112½	116
September	116½	124
October	122	137
November	129	133
December	130	134

1864.	Lowest.	Highest.
January	151½	160
February	157½	161
March	159	163½
April	160½	165
May	158	180
June	158	189
July	222	235
August	231½	232
September	238	235
October	289	220
November	289	260
December	211	244

1865.	Lowest.	Highest.
January	197½	234½
February	196½	216½
March	148½	201
April	144	160
May	128½	145½
June	135½	147½
July	138	140½
August	148½	145½
September	142½	145
October	144	149
November	145½	145½
December	144½	146½

1866.	Lowest.	Highest.
January	180½	144½
February	135½	140½
March	125	136½
April	125	129½
May	125½	141½
June	137½	167½
July	147	155½
August	146½	152½
September	143½	147½
October	145½	154½
November	137½	148½
December	131½	141½

1867.	Lowest.	Highest.
January	132	137½
February	133½	140½
March	133½	140½
April	132½	141½
May	134½	138½
June	136½	138½
July	138½	140½
August	139½	142½
September	141	146½
October	140½	145½
November	137½	141½
December	131½	137½

1867.	Opening.	Highest.	Lowest.	Closing.
January	132½	137½	132	135½
February	135½	140½	135½	139½
March	140½	140½	133½	133½
April	133½	141½	132½	135½
May	135½	138½	134½	136½
June	136½	138½	136½	138½
July	138½	140½	138½	140
August	139½	142½	139½	141½
September	141½	146½	141	143½
October	143½	145½	140½	140½
November	140½	141½	137½	138
December	137½	137½	133	133½

Will the simple declaration that a paper dollar is as good as a gold dollar; will writing the word "resumed" over the Treasury door effect anything? That declaration was made when Congress passed the act making the paper dollar a legal tender. Why repeat it? Will the manifesto that we will pay at the Treasury gold for greenbacks have any effect? Surely not, unless it is followed by the fact and the gold goes out. And how long would it take to exhaust the store there when gold is at a premium of thirty-five cents? How long would it take three hundred and fifty-six millions to swallow ninety? Who could or would forbear to make the profit? Three months would not elapse till every gold dollar had been drawn from the Treasury.

But aside from this, the effect of a return to specie payments, were it feasible, would be to inflict suffering on the many, while a few would be benefited. The difficulties of conducting trade, the heavy weight of all debts, mortgages, and contracts for money, would be made more oppressive, with taxes now become more burdensome. The effect of a diminution of the currency depopulated great provinces in imperial Rome, and recently in England, from 1810 to 1830, and created great distress. Just so does the increase of trade and population

without an increase of the currency operate. Money becomes scarce and the working population suffer the deepest misery. The gold discoveries of the last twenty years have kept pace somewhat with improvements and the extension of trade and production, and have saved mankind from the evils of hard times which must inevitably have resulted from the enlargement of business.

While the value of specie is going down the few suffer, or rather lose, while the many gain and reap the advantage; all debts become proportionally lessened, contracts are more easily complied with, mortgages are lifted, taxes are easily paid. The salaries of officers are comparatively less. Trade increases, employments multiply, and laboring men prosper. Substantial improvements are made, bold enterprises are undertaken, and great public works completed.

This is history. And yet statesmen would bring us down to a specie basis. And what is a specie basis? Men talk about the currency of the world and a fixed standard of values. Does a day's labor in China produce the same amount in gold that it does in England, in Japan that it does in California? Has a day's food the same value in the one place as the other? What is there that is fixed by this currency of the world? It passes everywhere abroad at a discount. Gold is taken as bullion in Europe, is tabooed in Asia, and loses its relative value as compared with silver, which is prized as a currency. It is, after all, but a comparative standard, somewhat better than paper, but not perfect, not satisfactory.

Let no one understand me as asserting that paper currency can ever be as safe and good as gold, but to say that gold has its fluctuations, its limits, and is often governed in value by the mere caprice of nations, as arbitrary and absolute as the statutes that authorize the issue of legal tenders. Mankind do not take gold and silver currency at a fixed value, but at one quite variable. I may be pardoned, then, for saying that to shift our entire monetary system from the fluctuating surface of paper currency to the less but still fluctuating surface of specie at once, with our vast private indebtedness outstanding, is a project that admits of the most serious question.

How much better is any project to hoard gold in the Treasury in order to diminish its value by paying it out again? The act of hoarding and heaping it up effectually withdraws it not only from circulation, but also, as an article of commerce, from market; makes its scarcer, raises the price, diminishes the supply. The best calculators can find nowhere in the land three hundred millions of gold; the people do not hold it, nor the banks, nor the States, nor the Treasury—it is not here; it has gone off for imports and interest, and vanished in use in the arts. We have no reliable evidence of the presence of two hundred millions of specie. But even three hundred millions of gold would not quite suffice us for interest for two years and a half if not a dollar was withdrawn by the forbearing and merciful dealers in gold. And if we had it in the Treasury to-day, twelve months would not see a cent there, beside a portion of the amount we raised by duties upon imports, and these duties would be drawn from the Treasury to go back again, less the expense of collecting and transferring, since no importer will buy gold so long as he can draw it at par from the Treasury. Let us see, then, what goes with the \$300,000,000 we have on hand the first year. At least \$126,000,000 go for interest, \$150,000,000 are drawn out for duties, leaving \$24,000,000 for the redemption of greenbacks generally. Can we safely say that no more than \$24,000,000 will be demanded for imports, for speculation, and other purposes? Will not the banks need more than this sum; for they, too, must redeem in gold? But you say, "Confidence will spring up." Confidence in what? Certainly not in the continued ability of the Government to pay specie. For although the

\$150,000,000 drawn out for duties come back with which to begin the second year, there are but \$24,000,000 to add it to in the Treasury—beside the empty word confidence; and this year finds us with \$174,000,000 on hand with which to pay \$276,000,000, namely, the \$126,000,000 of interest and the drain of \$150,000,000 for duties. We have then paid out our last dollar, and want \$102,000,000 to meet the demand. All this time not a cent is drawn out by individuals or banks, but they are satisfied with and feasting on "confidence." They will neither need specie for private debts or for redemption.

Again: should we succeed in hoarding gold, who dare say that it will be cheaper, after three years accumulations, at the rate of \$100,000,000 a year? Common experience tells us that it will be even dearer than now, so that the illustration of beginning specie payments at once, as given, is a fair one. Such an experiment, if successful, would result in disaster, fluctuations in prices, derangement of business, and the crushing of enterprise. It cannot be made in safety.

But there is an insuperable objection to it, and that is its impossibility. Where is our surplus of gold to hoard? Do we or do we not expect to raise more money than we need to pay expenses, interest, pensions, bounties, and claims? Every cent we can possibly raise must go to pay these. Where, then, is our surplus to come from—our mountain of gold? Who will give it to us? Who will find it for us? Will that sorcerer men talk about and call "confidence"—will he do it? No one else can. Will he take us up on the mountain and give us the world as a Christmas gift? Must we eternally brag of our respectability in order to be respectable, and make boasts that we will pay when we know that we have not the means, and will not have them? A coward blusters, a brave man never does; a prostitute may make display of her virtue, the true woman does not; the honest man by a direct course gains and holds confidence, and not by making fair promises which he cannot perform. We have no surplus of gold in the Treasury; we cannot now put it there, and we do not expect to have it there.

You may dam up the streamlet as it trickles down the valley, and after months and years of accumulations of its little store of waters form a lake upon whose margin you may erect a mill, but how long will the head of water you have gained turn the ponderous wheel? A few days or a few weeks at most, and its motion suspends. The supply given at so much expense and loss of time is but a mockery to the man of enterprise, and the idle mill will nod and fall down in ruin into the idle pond.

The people have borne burdens enough within the few past years without now being called upon to pile up a golden surplus of hundreds of millions to delight the eyes of the greedy for a few brief months and then vanish like a dream. The people have something else to do than heap up gold. Their sinews, bones, and blood have been put in the scale; their precious lives, their health, hope, home, happiness, all. And now Shylock comes and says, "Pile up your gold, pile up your gold, so that I can see its yellow reflection fall on my greenbacks and make them glitter, too." The word of the people is good, but they are not ready to make rash promises to please Shylock. He must wait till the bond falls due; he must keep still till then. Silence is his part till the day of grace is past. This generation has lifted the enormous burdens of war; paid vast debts; distributed uncounted and almost incalculable charities and bounties; is dispensing to the shattered or helpless wrecks of the strife nearly forty millions a year; is paying honestly \$126,000,000 of annual interest on the debt; is carrying on the great work of reconstruction; is fighting, pacifying, and settling the Indians; is making the Pacific railroad the crowning work of human construction; is doing it all

cheerfully, beside supporting every interest of the people bountifully.

And this is enough. They desire to move on quietly for a time, to rest, if possible, to recuperate, to adjust the load and not to take on fresh burdens; if expenses can be cut off anywhere to do so; if extravagance or waste is found at any point to put an end to it; if taxes can be lifted from any industry or property safely to have it done. The very last thing they want is to have fresh burdens put on them, to have taxes increased, to be collecting a surplus, to be piling up a hoard. It may then be asserted with some confidence that a return to specie payment by hoarding gold is an impossibility. For *first*, it is impossible to raise the necessary amount by taxation; the people cannot and will not be taxed for such a purpose in addition to their present burdens. *Second*. It is impossible to diminish the price of gold by making it scarcer. *Third*. It is impossible to continue specie payments any length of time even if a hoard is collected. *Fourth*. It is impossible to get the gold for the hoard since it is not in the country, and its very scarcity will defeat the measure. This is no time for experiment that may become a mighty engine of oppression.

Will the issuing of Treasury notes payable in twelve months in gold, in lieu of the greenbacks and bank notes taken for taxes and dues to the Government, have any tendency toward the resumption of specie payments? This proposition has been made in all seriousness by a decided opponent of contraction, and is put forth as a measure in aid of that view. To my mind it is the strongest measure of contraction yet proposed, amounting to nearly a half a million a day—in fine, to the entire amount of the revenue raised in paper; for this paper is at once retired, and in its stead is issued a currency which calls for gold in twelve months, and which at once is worth more than twenty-five per cent. premium; a currency which would be locked up as soon as issued and only see daylight when put up for sale by bankers or at the end of twelve months when presented at the Treasury.

Who that holds such a note will give it in exchange for a greenback and throw away his twenty-five per cent.? Who will pay it out? Who so infatuated as to yield up such a golden advantage? In one year \$180,000,000 of our currency would be safely locked up and the whole greenback circulation would be effectually retired at the end of two years, leaving nothing but bank notes to be used as paper money, with an issue of gold notes equal to the greenback circulation as a preferred currency if used as such at all, and subject at all times to become depreciated by a run upon the Treasury to the present standard of greenbacks. If the Government could for a short time succeed in redeeming these notes the effect upon the bank currency must be disastrous unless it too became at once redeemable in gold. And the whole scheme vanishes into thin air when we come back to the point of view in which we perceive that there is a total lack of the precious metals in the country with which to accomplish the work of redemption. The only effect of this measure will be at first to contract the currency at the rate of \$15,000,000 a month, and when the bubble bursts to give the people promises no better than greenbacks, with the stain of broken faith upon them.

Such promises placed in the hands of the national banks calling for gold would be pressed for payment to supply their own wants, and the result would be that the Treasury would have to suspend such demands or fail to pay the interest on the public debt. The currency would be completely under the control of the national banks, and they could, by pressure, at any day break down the credit of the Government and create the most enormous fluctuations in the value of the circulating medium. This dangerous power should never be given to any association, however wise and patriotic.

Nor yet can we give value to our currency by issuing bonds or certificates of deposit with a low rate of interest for such amounts of greenbacks as may be surrendered or deposited in the Treasury to be withdrawn at pleasure. This, too, is a measure of contraction, and may retire many millions of our currency. This, in addition, increases the interest-bearing debt, adds to our burdens, for which we gain no earthly advantage, not a cent; makes nothing more secure, and in no wise increases the stock of gold on hand.

The nation does not want to pay interest on deposits—can use them in no possible way to enhance her credit—and encumber herself with a large amount of funds for which sound bankers at our money centers are unwilling to pay interest. How can the Government profit by a scheme which the best bankers refuse to adopt as unsafe and harmful, when they have the additional advantage in making loans of their deposits, while these would lay idle in the Government vaults? The result of this effort will be a loss of the entire expense of such transactions and every cent of interest without the gain of a mill. Nowhere have greenbacks accumulated so as to become depreciated for want of a profitable investment; and the Government has other functions than to become the holder of trust funds for the benefit of improvident money owners, who have not enterprise enough to handle their means properly. Whenever individuals need guardians to care for their property society has provided regular methods of procuring them, and ample hospitals in which to lodge the unfortunate wards. As a general rule the money-makers and dealers of the land can take care of themselves, and need no such protection, while the Government has enough to do beside assuming the shelter of such gentle lambs as crowd the gold-room or hold forth in the banking houses and brokers' offices of the land.

Nor is such a provision needed as a remedy against any measure of inflation to an amount within \$300,000,000, for we have already by experience proved that with that much more paper currency we had not a redundancy; that still money bore good rates of interest and prices were not excessive. In fact, that paper was nearer gold under such circumstances than it is now, and that money sought the healthy channels of prosperous business. These remedies and such as these for the appreciation of our paper currency are like applications to the surface for a deep-seated and constitutional disease; like lopping off branches to cure a canker situated in the root or heart of a tree, temporary, superficial, ineffectual. To attempt to make the promises of the Government which bear no interest worth more than those which do would seem vain; to attempt to make irredeemable promises better than those which are redeemable, and with interest in gold, would, under ordinary circumstances, seem preposterous; to attempt to give par value to twenty-two hundred millions of promises now held at twenty-five cents discount by propping up for a few months three hundred and fifty millions of promises made by the same party would seem to be madness itself.

Once admit that the payment of three hundred and fifty millions of greenbacks is more important than of the entire balance of the debt, and all measures to pay greenbacks or enhance their value assume a gravity worthy of consideration. But not until men can be convinced that the lesser is superior to the greater will many of them believe that the credit of the Government rests primarily upon the payment or non-payment of greenbacks. Most men believe that a pyramid rests better on its base than its apex. To the beclouded mind of the Pottawatomie the great green earth rested upon the back of a turtle, and he reposed in turn upon a fox, and his feet rested upon the back of a goose. Here the fabled support ceased, and although the earth was "all right on the goose," the Indian's philosophy failed to indicate upon what foundation the goose rested.

Not much better than this is the greenback foundation of the public debt. Put the great matters of the public debt upon a solid basis, and then the greenbacks will take care of themselves.

The bulk of the debt once brought to par, the interest-bearing promises once raised to a level with their face, the bonds once brought into full credit in the commercial world, and greenbacks will be at par. It is the vast indebtedness of the Government outside of the currency that keeps it below par. This debt drains the Treasury of gold, takes away the supply for interest which we would otherwise have and use for redemption, leaves nothing but empty vaults to echo empty promises. It is impossible for us to raise by taxation and tariff enough to pay interest and redeem. We can barely pay the interest.

The unsettled condition of the country since the civil war, the war itself, the division in sentiment of the people as to all the issues, the vast amount of claims unadjusted and due, the possibility of paying a great portion of the debt in greenbacks, the contingency of a vast expansion of the currency, the want of a permanent and solid policy, have made capitalists undervalue our bonds, and kept them apparently far below their real position. In the minds of many, especially foreign capitalists, our Government is yet an experiment that may explode in failure at any moment. Its strength, solidity, and permanency are not established. To them another war, another debt, another draft, another political earthquake is possible. Time, with a firm and honest course, can alone restore confidence.

Another expedient resorted to for temporary relief by the clamorous advocates of specie payment is that of authorizing contracts to be made payable in gold. This, it is alleged, will draw out the hoarded gold now hid away in mysterious and unfathomable recesses, will make it a currency, and of course bring down its value, for it can only become a currency by coming on a level with paper. How such a measure can be effectual in diminishing the price of gold is beyond ordinary comprehension. How an increase of the demand for gold, more than doubled, is to cut down its price has not yet been pointed out by the friends of this measure. The passage of such a law would be probably followed by the making of contracts payable in specie to a large amount. We can safely expect that at the end of twelve months a larger amount will be due on private contracts than is due by the Government. Where would the price of gold go if, in addition to the \$125,000,000 that must come every year for interest, \$300,000,000 more must be procured and paid by individuals? To say that it would go up fifty per cent., considering its scarcity, would not be unreasonable.

It may be safely expected that the passage of such a law would find every debtor forced to an extension under the penalty of renewing his contract payable in gold; and our merchants who purchased of importers foreign goods could only do so upon the promise of their payment in gold. Indeed, experience has shown that wherever the law authorized contracts giving advantage to creditors, the advantage ground was immediately taken and never relinquished until its repeal or the bankruptcy of the debtors ensued. The war between debtor and creditor began many thousand years ago, and this is not the occasion to repeat the old story of a struggle which will be continued till the golden rule shall become the fixed standard of human conduct and a coinage purer and brighter than that of the mint shall pass current among men and nations.

But some one may say, "You are pleading in behalf of debtors who have failed to meet their obligations, and who deserve no sympathy or help." To such a one I answer, government was not organized, nor is society held together for the protection of the rich and strong. To shield the weak from oppression, to rescue the improvident from the avaricious, to hold back

the grasping from the unwary, to give light to those in darkness, to educate, to give strength, to help the helpless help themselves are the objects of Governments. Let him who says that the debtor should go to the wall at once remember that the wolf may be at his own door when help and time may be all that stands between him and ruin. Surely our laws have ample provisions for the collection of debts. Why, then, shall Government provide also for breaking debtors up in advance of collection? Why step in with a measure of specie payment which adds thirty per cent. to the amount of all dues, and crushes down the debtor, diminishes his means of payment, lessens his resources, cramps his movements, and extinguishes his last hope of solvency?

The provision authorizing gold contracts could not be enforced for twelve months; financial ruin would follow in the wake of the experiment, and the nation find itself further than ever from a solvent condition. Whenever a political economist can be found who can prove that an excessive demand causes an excessive supply and cheapens the article, we may expect this plan of resumption with the help of gold contracts to succeed, but not till then. Enforce gold contracts, and the legal-tender qualities of greenbacks have disappeared in effect. Our paper circulation may be considered as retired to the amount of that species of currency. The most probable effect would be to put under ban our whole volume of paper money.

The project of coming back to specie payment without increasing existing indebtedness, by authorizing a compliance with contracts which are payable in money to be settled at their present value in gold, at first glance seems plausible and fair. It would seem but reasonable that a debt contracted when currency was worth but seventy-five cents to the dollar in gold should be paid off at the same rate in gold: thus, that a debt of \$100 should be paid off by seventy-five dollars in gold. The effect of this, it is urged, would be to restore specie to circulation, though taken at a premium.

It is doubtful whether such a measure would have the desired effect; for what debtor who had the paper money wherewith to pay his debt would trouble himself to get the gold if it were left optional with him to do so? And if he were compelled to purchase gold to discharge his debt would not this compulsion tend to raise the price of gold by increasing the demand? Would not contracts be made payable in gold at such a premium to a large amount, and the very evil attempted to be avoided only be increased and intensified? It would seem that a direct effect of the making of such contracts would be to gradually widen the chasm between paper and specie, by making the latter a preferred currency. Already it is preferred for duties on imports and interest on the public debt to the amount of nearly three hundred millions a year, and if to this class is to be added a large number of private contracts, even though gold is taken at a premium, we can look for nothing but its enhancement in value. The true policy would seem to be to discriminate as rarely as possible between the two kinds of currency, so that at last people might not come to prefer one to another. But once let it enter into all private contracts that gold is to be paid at a premium, and enforce it by the judgment of our courts and execution, and the brand is fastened ineffaceably upon the paper currency; its fate is sealed, the day of redemption is indefinitely postponed, the distinction between it and specie becomes established and interwoven into business, and the difficulty becomes inextricable.

Had the policy been adopted of paying the interest of the five-twenty bonds in greenbacks, as was proposed, we should have been long since much nearer specie payment than we are at present. But the preference was given to coin, creating a constant demand for a large amount, and we are now suffering from the bad effects of a system which the measure we

are discussing is only calculated to aggravate. One of the evils to be dreaded in a return to specie payment, by debtors in the appreciation of their indebtedness, would, in a great measure be avoided by permission to settle at a premium in specie, but the attendant evil of the permanent establishment of the discredit of paper money—the very thing sought to be remedied—would overbalance any good that might result to individuals. Specie would not become a part of the currency; its price would go up; paper would be dishonored; speculations in gold would go on; debtors would be compelled to get it at a sacrifice and at any cost, or be driven to the wall by execution; all new contracts would necessarily recognize the difference between specie and paper. The system once begun must be continued, and while old debtors could move on much more nearly upon their old basis than in case of a complete restoration of specie payment the effect upon new transactions would be almost the same as if contracts payable in specie were directly authorized, which we have already seen is a tremendous measure of contraction, accompanied by a rise in the value of specie, by a large virtual increase of indebtedness, and by the possible bankruptcy of the debtor class.

Diametrically opposed to all these shifting and temporary expedients to gain a brief holiday of credit stands the great measure of funding the public debt upon a long time at a low rate of interest—a measure that will relieve the enormous annual drain of gold for interest a third or fourth; that will give time for the establishment of confidence in our integrity and ability; that will give time for the growth of the nation, so that when the debt falls due we can with ease pay it off. To return to specie payment before funding the debt at a lower than the present rate of interest will render that measure an impossibility. Who that holds a six per cent. bond, which is as good as gold, will surrender or exchange it for one which is no better and brings but four per cent., while, on the contrary, he who holds a six per cent. bond payable in greenbacks might willingly surrender it for a four per cent., payable in gold? Specie payment and a funding bill are the antipodes, and by what game of legerdemain the politician thinks he can advocate both—can ride both hobbies, going in opposite directions, at the same time—I am at a loss to see. If I were a candidate for national honors, and expected to obtain by humbug the support of the laboring poor who want constant employment, ready pay, and active business, I would whisper in the ear of the bondholder my support of a return to specie payment by compulsory measures in tones so low that the laborer would never hear it. I would not dare to come upon the floor of Congress and blow hot and cold at the same breath and expect nobody to find it out. I would not dare to come here and say I was in favor of a system to reduce the annual interest thirty, forty, or fifty millions, and at the same time advocate measures which would make the bondholder grasp his contract with greater vigor and read practically upon its face that it was payable in gold. But if I were not in favor of reducing the interest; if I wished to keep up the annual stream of \$126,000,000 of gold from the Treasury; if I thought a funding bill unwise; if I believed the contract in the five-twenty bond called for gold, both for principal and interest, then I would advocate in all earnestness a return to specie payments if such a thing were otherwise practicable or possible, or within a remote range of possibility.

But some one will say: "Suppose we have come to specie payment? Then we can fund our debt by issuing a bond which the commercial world will take at par with a low rate of interest." Would such a thing be possible while more than sixteen hundred million of five-twenty bonds stood in the way? Is it to be supposed that these bonds will go above par? Can we by magic put our credit, which now lags twenty-five per cent. behind, at once, or in a few short months, at such a premium as that a four per cent. bond will be at par? How else can you

take six per cents. with four per cents.? Or do gentlemen propose to go into the market and again hawk about our promises at a discount, and thus save the people's money?

That the funding of our debt at a lower rate of interest is desirable can hardly be seriously questioned. There are but two other alternatives beside repudiation, and these are its gradual extinguishment or its continuance at its present volume, with a regular payment of six per cent. interest in each case. No one thinks seriously of repudiation. No one thinks seriously of issuing greenbacks for the whole of the debt, thereby saving interest. Very few are so confident in the ability and willingness of the people to pay heavy taxes as to desire now to increase them in order to pay off the debt, while a larger number are satisfied with a continuance of the debt, drawing its present interest, and leaving its adjustment to some future contingency. But by far the greater portion of the people feel that now is the time to fix upon a permanent basis the great subjects of the debt and the currency, dependent as both are, after all, on their capability to meet the demands of the tax-gatherer; for, place this matter where you will, it all inevitably comes back for its basis upon the will and ability of the people to supply the revenues. The interest-bearing debt once adjusted permanently, its payment put off, its interest reduced, its ultimate security made good by thirty or forty years of national growth and progress, and the question of paying specie for greenbacks will be but a trivial one. When the \$1,600,000,000 are laid quietly away the \$350,000,000 can easily be handled.

Suppose an individual having a large landed estate and no ready money to owe \$10,000, for which he had given his notes, some without interest, the most of them with interest; some payable in produce, some in cash, some at no definite time; the bulk of the debt, \$8,000, being payable in produce, the interest alone payable in cash. He cannot pay at present; his property is rising in value; all he really needs is time. His creditor, who wants money for his debt, and not produce, will give him an extension at a lower rate of interest if the whole will be made payable in cash. What is the debtor's policy? Surely it is to get time to gain the rise in value of his property, to make the arrangement to let his creditor feel that he is safe and will get cash when it falls due. Both are interested in such a settlement, and both will be satisfied in making it. This done, the small unadjusted balance not bearing interest can soon be disposed of and paid off, or made as good as gold.

The great burden by the funding arrangement has been lifted, the small one will give no trouble. The creditor who was annoyed at the thought of getting eight out of ten thousand dollars in produce, now that he has the promise of money, is well pleased; and the debtor, with the liberty of action which a long extension gives, goes to work cheerfully and builds up his fortune, accumulates, prospers, and inspires faith in his ability to pay. Suppose the debtor while he had no money would declare he would pay cash, who would believe him? Surely not the creditor. Surely not the shrewd man of business. Credit has never yet been obtained by empty boasts or rash promises, but by provident forethought, by hard work, by sterling, straight-forward honesty, and practical common sense.

Among other reasons to be given in favor of funding our debt at a lower rate is the one that by this means a greater portion of it may be taken in foreign countries, leaving all of our means to be employed in legitimate business at home, thus giving an impulse to that healthy national growth which alone can restore our credit completely. The value of money in this country is greater than six per cent.; as a rule it is loaned at higher rates. Millions can be borrowed in Europe at a lower rate. Why should it not be done? Is it not better that our people should use their means in improving and building up our own posses-

sions and developing our own resources than to be engaged in loaning their money to the Government, sitting idly with folded hands? We can use our own means to better advantage than in mere money lending, and can do no better than borrow every dollar of the public debt from the Old World at three to four per cent. No greater calamity could befall us than to become a nation of money-lenders.

The active employment of our capital at home will return us again to specie payment. A return effected by the revival of business, the extension of trade, the development of the mineral, manufacturing, and agricultural resources of the country, the increase of population, the completion of great public works—in fine, by the growth in power and wealth of the nation.

This is the broad road to resumption which the people can and will travel, slowly it may be, but surely and safely. It may be the work of years, but once restored nothing again except the overthrow of the Government can shake it. In the ten years preceding the war the values of all property had more than doubled in the United States.

The following statement, condensed from the report of Commissioner Wells, very recently made, shows some of the elements of our national growth since the war:

"From the 1st of July, 1865, to the 1st of December, 1886, about one million natives of foreign countries have sought a permanent home in the United States. Investigations made some years ago (since which the character of the immigration has greatly improved) showed that these immigrants bring with them specie or its equivalent to the average amount of eighty dollars per head; while their average value to the country as producers cannot be estimated at less than half the average value of an ordinary laborer in the South prior to the war, namely, \$1,000 each. Immigration, then, since the termination of the war may be regarded as having added \$80,000,000 directly, and \$500,000,000 indirectly, to the wealth and resources of the country. In referring to the general increase in the products of domestic industry he asserts that all the available data tend to establish the following conclusions, namely, that within the last five years more cotton spindles have been put in operation, more iron furnaces erected, more iron smelted, more bars rolled, more steel made, more coal and copper mined, more lumber sawed and hewn, more houses and shops constructed, more manufactures of different kinds started, and more petroleum collected, refined, and exported, than during any equal period in the history of the country; and that this increase has been greater both as regards quality and quantity, and greater than the legitimate increase to be expected from the normal increase of wealth and population.

"The following figures are given: number of cotton spindles in 1860, 5,235,727; in 1867, 7,000,000—a gain of 31.78 per cent. in from four to five years, and mainly since the termination of the war.

"Number of woollen manufacturing establishments in Ohio, Michigan, Indiana, Illinois, Wisconsin, Iowa, and Minnesota in 1860, 269, with a capital of \$1,616,740; in 1868, 557, with a capital of \$5,438,000.

"The recent average annual increase in the production of pig iron is remarkably uniform and greatly in excess of the ratio of increase of population. For the seven years from 1860 (when the production was 913,770 tons) to 1867, the average annual increase has been 8.35 per cent.

"The product of the copper mines of Lake Superior in 1860 was 6,000 tons, and in 1867, 11,735 tons.

"In 1862 the export of petroleum was returned at 10,887,701 gallons. During the years 1864 and 1865, with the advantage of a high premium on gold, the export increased to an average of about 39,000,000 gallons. In 1867 the export was 67,052,020 gallons, and for 1868 the export to December 18 is returned at 94,774,291 gallons.

"The recent increase in the production of anthracite coal, which may be taken as a measure of the product of all American coal, is reported as follows: 1862, 7,499,550 tons; 1866, 12,379,490 tons; 1867, 12,650,571 tons; 1868, to December 12, 13,500,000 tons.

"The aggregate crops of the northern States for 1867 were believed to be greater than those of any previous year, while the crops for the past year are known to exceed in quantity and quality those of 1867.

"The present ratio of the increase of the crop of Indian corn for the whole country is put by the best authorities at an average of three and one half per cent. per annum. The crop of 1860 was returned by the census at 830,451,707 bushels, and adopting the above ratio of increase, the crop of 1868, acknowledged to be a full one, must be estimated at 1,100,000,000 bushels, and if sold at the assumed low average of forty-six cents per bushel, would net over \$500,000,000.

"The following are the estimated cotton crops of the South since the termination of the war: 1865-66, 2,154,476 bales; 1866-67, 1,954,993 bales; 1867-68, 2,438,865 bales; 1868-69, estimated 12,700,000 bales.

"The culture of rice at the South, which at the termination of the war practically amounted to nothing, has also so far been restored that the product of the present year is estimated at seventy thou-

sand tierces, an amount probably sufficient for home consumption, and giving certain promise of a speedy renewal of the former extensive exports of this article.

"The following is an estimate of the tobacco crops of the United States since 1850, prepared by a committee of the trade for the use of the Committee of Ways and Means at the first session of the Fortieth Congress:

	Pounds.
1850.....	201,250,663
1853.....	237,751,082
1854.....	177,469,729
1855.....	183,316,953
1856.....	325,000,000
1857.....	250,000,000

"The total number of miles of railroads in the United States at the close of 1855 was 1,098; at the close of 1857, 3,224; giving an average increase of 1,156 for each year of the intervening period."

As illustrating the comparative progress of our own country with that of England and France, I take the liberty to refer to the following tables prepared by the distinguished gentleman from Minnesota [Mr. WINDOM] in his argument in favor of the Northern Pacific railroad. These tables demonstrate an astonishing advance as compared with the most prosperous and powerful monarchies of the Old World. The first relates to population, the second to property:

	United States.	Great Britain.	France.
1790.....	3,929,827	-	-
1793.....	-	14,500,000	-
1800.....	5,305,937	16,000,000	-
1801.....	-	-	27,349,000
1810.....	7,239,814	-	-
1812.....	-	18,000,000	-
1820.....	9,638,191	-	-
1823.....	-	21,193,438	-
1824.....	-	-	30,401,000
1830.....	12,866,020	-	-
1833.....	-	24,304,799	-
1831.....	-	-	32,569,000
1840.....	17,069,453	-	-
1841.....	-	27,041,011	34,230,000
1850.....	23,191,876	27,300,000	-
1851.....	-	-	35,283,000
1850.....	31,445,000	-	-
1851.....	-	29,334,788	37,400,000

Increase in the United States for seventy years, 704.41 per cent.

Increase in Great Britain for sixty-eight years, 102.30 per cent.

Increase in France for sixty years, 37 per cent.

	Value of all kinds of property in the United States—estimated.	Value of all kinds of property in Great Britain.
1790.....	\$750,000,000	-
1793.....	-	\$7,132,000,000
1800.....	1,072,000,000	8,753,400,000
1810.....	1,509,000,000	-
1812.....	-	10,212,300,000
1816.....	-	10,400,000,000
1820.....	1,882,000,000	-
1823.....	-	10,698,600,000
1830.....	2,633,000,000	-
1833.....	-	17,190,458,400
1840.....	3,764,000,000	-
1841.....	-	19,452,000,000
1850.....	7,135,780,000	22,564,320,000
1853.....	-	29,178,000,000
1860.....	10,150,000,000	-

To show the increase directly due to railroads in the values of the country, permit me to read a short extract from the recent speech of General Walbridge, made in Cincinnati:

"In a period of seventeen years the mileage of our railways had increased nearly four hundred per cent., their tonnage one thousand per cent., with a corresponding increase of value. The population of the country in the meantime had increased from twenty-four to thirty-six millions, or at the rate of fifty per cent. In other words, the increase of the commerce of the country borne upon railroads has been two thousand-fold greater to that of our population. In 1851 the freight moved upon all the railroads equaled four hundred and seventy-seven pounds per head of population. Its value equaled say thirty-one dollars per head. In 1853 the tonnage equaled two thousand seven hundred and seventy-seven pounds per head, having a value of \$210 per head. The increase of the tonnage of railroads for the period named has been wholly a creation of these works, as there has at the same time been a very large increase of merchandise moved upon the water-courses of the country."

"In 1851 the cost of the ten thousand miles of railroad then in operation in the United States equaled \$30,000,000. In 1853 the cost of the thirty-nine thousand miles equaled \$1,600,000,000. The investment since 1851 of \$1,600,000,000 consequently has been the means of an annual circulation of a commerce having a value fivefold greater, or \$5,750,000,000. Every dollar invested in our railroads is the direct means of creating annually five times the amount, so marvellously potent are the new agencies that science, within the memory of man, has brought to the aid of man. In their use we have at last hit upon the method of nature, or Providence, and enjoy in some degree his infinite attributes in wielding for our own use the laws that uphold and control the material world."

"The results achieved in a single State will be found, on examination, to be quite as striking as is the aggregate for the whole nation. There were in the State of Illinois in 1851 two hundred and fifty miles of railway, two cost of which was about seven million five hundred thousand dollars. The tonnage of these roads, only just opened, could not have exceeded one hundred thousand tons, having a value say of \$15,000,000. At the close of 1857 there were three thousand two hundred and fifty miles of railroad in operation in the State, having a tonnage traffic of at least five million tons, possessing a value of at least \$750,000,000. The cost of the roads equaled \$130,000,000. The value of the commerce transported over them in one year equaled very nearly six times their cost. In 1851 the number of pounds of merchandise transported by these roads equaled about two hundred pounds per head of population."

"In 1857 the tonnage transported exceeded four thousand pounds, or two tons per head. The value of the tonnage per head in 1851 was about fifteen dollars; in 1857 it was equal to \$330 per head. This unexampled increase was wholly due to the construction of railroads, as there has in the meantime been a very large increase in the tonnage on the water-courses of the State. It will be borne in mind that the tonnage of railroads of this State consists almost entirely of the products of agriculture which will bear transportation for only a comparatively small distance over ordinary roads. These products are now forwarded, on an average, two hundred miles before reaching a market."

"The population of Illinois now makes one fifteenth of that of the whole country. It now defrays one fifteenth of the whole burdens of the General Government. Its proportion of the Federal taxes equals \$24,000,000 annually. Its ability to pay this vast sum is almost entirely due to the railroads that have been constructed within it during the past fifteen years."

Grand as this progress is, a greater growth is before us. Europe is sending us her hardy and industrious sons, with their trained hands and heads, to assist us in the work of development. Since the war our own young men seem inspired with greater hope and vigor. They are no longer found idling their days away in small towns, or listlessly strolling from place to place seeking amusement. The game of marbles and quoits, even at Bascom's grocery, is becoming obsolete. The young men are at work, cheerfully and earnestly. The railroad enterprises of the land are being pushed on with increased vigor. Through routes and great trunk lines will not suffice. Every village must now have its iron track; and East, West, North and South the iron horse is finding his way up and down all the valleys, over the hills, under the mountains, wherever the farmer, the mechanic, the miner or the merchant can find profitable freights to draw. The great corporations are putting out their feelers in every direction, and at no time have these enterprises commanded so much attention or added so much to values. The Pacific road is being pushed on with unparalleled speed. This year will see its completion—the grandest work of all the ages and races of man, destined to add value untold to our territories by their settlement, by the opening of the mines, and by the increase of business; destined to change the great currents of commerce from China and the Indies, and make them tributary to us; destined to make our great seaports the centers of the world's trade, and to give to New York and San Francisco that comparative importance once held by the great ports of the Levant, Venice, Genoa, Marseilles, and afterward by the cities of Holland and the Hanse towns, and more recently by London, Liverpool, Havre, and Glasgow. The great silver and gold lodes of our western mountains will be traversed by this thoroughfare. Where we now get ninety millions a year of precious metal we will get three hundred.

We have but just begun their development. The hardy miner with his pick upon his shoulder, driving his ox team over plain and mountain, desert and river, more than a thousand miles, hauls his quartz-mill and his supplies and tears the glittering treasures from nature's great store-house in her remotest solitudes, unbroken before by the voice of civilization. When the railway train can take tools, machinery, and supplies in and ores out; when miners and farmers, merchants and manufacturers, can pour into those rich regions as they now through the highways of our central States, it is but reasonable to suppose that the gold product will be more than quadrupled.

Let him who is eager for specie payment look in this direction for it, rather than into

the formal enactments of the statute-book. Here it is no dream. Here it will be a grand reality. The southern States are to be developed by free labor, and the national growth in this direction must be vast. Slavery having impeded progress there, where the advantages of climate and production are unequalled in our country, cotton will aid to turn the tide of foreign gold in our favor. Tobacco, sugar, hemp, rice, as well as wheat, corn, cattle, and hogs, the thousand products of the field, orchard, vineyard, pasture, and plantation, are yet to crowd the markets of the South, where industrious hands guided by intelligent heads, inspired by the fruits of free exertion, find the amplest rewards. To-day that region furnishes a more inviting field to the immigrant than any portion of the Union. Soil, water, timber, minerals, overhung by the sky of Italy and favored by the most delightful climate, tempt mankind to enter and possess them. Here is growth; here is gold; here is specie payment by divine right. When that region supplies itself with breadstuffs and meat, with wool, cattle, horses, and mules, and yields a surplus to be added to the great staples of export now made, as it can and surely will, we may expect substantial help in paying off our debt and appreciating our currency.

This vast development, East and West, North, center, and South, is in the immediate future. Thirty years of prosperous national life will see us with double our present population and treble our wealth. With such an increase, such sure coming prosperity, why should we burden ourselves with the payment of a debt which posterity can discharge without an effort? Why should we waste our strength in ineffectual struggles to give present value and currency to our promises which are well secured, and which long before they fall due will be worth their face in gold? Let us make haste slowly. The world will find out our stability and strength, and give to us in greater measure than to venerable monarchies that slow growing confidence which we deserve.

Adopt such a policy as that, the demand for the precious metals will be diminished, while the supply is increased and the way to specie payment is open. Authorize no such contracts payable in gold, either at their face or at a premium, or in any shape whatever, for either measure will vastly augment the demand. Cut down, by the passage of a funding bill, the rate of interest, and thus diminish the demand. Cut off all imports of luxuries possible, diminishing the drain still further. On the other hand, develop the country—open every avenue of improvement. Unlock the vast mites of the West and pour out their treasures. Encourage our manufacturing interests. Foster foreign trade; send abroad our cotton and whatever we may have to sell, and turn the tides of commerce in our favor. Enable the people to pay their taxes by a liberal policy; do not cramp them by contraction in any form. Expand the currency to meet the reasonable wants of community. By all these means increase their individual wealth and ability to pay debts, and the country will rise in credit and power with them, and it never will without them. Having thus increased the supply of gold we can talk rationally about resumption. This is the gradual and easy method which increases the power to pay without increasing indebtedness and without destroying the prices of labor and property, and, instead of cutting down paper to a gold standard, elevates and enhances it till it becomes its equal.

In the primal days of Earth it is said that a wide waste of waters slumbered upon the whole face of the globe; but the day came when the convulsions of nature broke the vast strata of rocks that underlay the ocean and heaved islands and continents toward the surface. At first, the summits of the mountains peered through the waves, and gradually, in slow years, the great plains, dripping and oozy, were lifted, inch by inch, to the sun. And then Morning came and sang her song, and purple Evening

followed with her golden light, and Spring came with her violets and green, and Autumn came with her grapes and ripe corn. And after this, Man came with his immortal soul; then God came with his blessing on all. So began life on earth.

So shall our nation be lifted from the bitter ocean of civil war, so shall the mighty upheaval progress. Slowly as the approach of a continent to the sun our national credit is rising, solid as the mountains, enduring as the plains; its coast defying the waters of treason; its eternal rocks bearing up a happy people. Slowly and grandly rising, the whole nation comes up together, a unit in credit as it is a unit in power.

RECOGNITION OF CRETE.

Mr. SHANKS. Mr. Chairman, on the 7th of last month, immediately upon the reassembling of the House at this session, I had the honor to introduce the following preamble and joint resolution, which it is my purpose to-day to maintain:

Whereas the American people have on many occasions expressed and at all times feel a sympathy with the progress of liberty and Christian civilization among the people of the East; and whereas the people of Crete have successfully sustained their independence, having organized and maintained a provisional government, which, encouraged by and consequent upon the support given to the cause of Crete by the American people, has accredited a diplomatic agent in the United States: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the duty of the Government of the United States to acknowledge the existence of the provisional government of Crete as an independent political State, and to treat with it as such.

I do not rise to defend the provisional government of Crete, but to vindicate its cause and demand its rights.

Mr. Chairman, in venturing to urge upon this House the formal recognition of the provisional Christian government of Crete as an independent political State I derive encouragement from the respectful manner in which the memorial of the Cretan Government addressed last year to the Speaker of this House, and to the President of the Senate, has been received by this and the other branch of the Legislature, and ordered by unanimous consent to be published in the Globe and to be referred to the respective Committees on Foreign Relations. The application of the provisional government of Crete having thus become a matter of legislative deliberation on the part of the American Congress, that Government was taught to look forward hopefully to this Republic for the recognition of its independence, inasmuch as by our acceptance of its memorial we admitted the fact that it had the right to address us as the provisional government of Crete, our liberality in this respect presenting a characteristic contrast to the narrow spirit evinced by the late English Conservative administration, which declined to accept a communication from the provisional government of Crete in the fear of thereby impairing its good relations with the pretenders to the Cretans' country. I use this expression "pretender" advisedly, because the Cretans having, together with Greece, won their independence in 1827, enjoyed it for three long years as fully as did the Hellenic kingdom.

In 1830 England, in connivance with other Powers, committed the wrong of bartering Crete to Egypt, by whom it was afterward sold to the Moslem, the Cretan people protesting all the time against this violation of their national rights and the usurpation of an alien anti-Christian race whose domination they had terminated in 1827 by force of arms. Not only the Cretans but eminent statesmen, Lord Palmerston among the number, protested against the usurpation of Egyptian and Ottoman power in Crete. Nay, more; when the throne of Greece was offered to Leopold, of Belgium, this wise and moderate prince declined accepting it unless Crete should be restored to her national independence as part of Greece, thus confirming my assertion that the Moslems who were permitted to usurp power over the Cretans can only be regarded in the light of "pretenders,"

and that the provisional Cretan Christian government is the only lawful government of that island, and as such entitled to the recognition of the United States.

I derive further encouragement in urging this measure upon the attention of the House from the unanimous spirit in which resolutions in behalf of the Cretans have been at various times adopted, not only separately in this, but also conjointly with the other branch of Congress, and from the firm tone of conviction in which this same act of international justice has been urged upon you by the Legislature of the State of Maine and by many influential organs of public opinion, as well as by eminent citizens of the United States.

It has been stated that Crete is not worthy our attention because it is small. I do not for one moment suppose that you will make the application of justice contingent upon the size of the State that solicits it. Crete was, as a part of the ancient Hellenic government, and again from 1827 to 1830, as solid a part of Greece as Rhode Island and Delaware are parts of the United States. Would you allow the rights of Rhode Island and Delaware to be trampled upon because they are small States? And yet Crete is larger than both of these States, and in fact the largest and once the most populous and commercial island of the Mediterranean, with a population reduced now by Turkish massacres and oppressions to half a million, but capable under the auspices of national independence to swell up to several millions, as it was anciently. If, however, there is anything in this arithmetical argument it militates in favor of protection and recognition. The smaller a State the more it is exposed to the designs of its more powerful enemies and the more it needs the solicitude of the friends of liberty.

Next, it is stated that because we opposed the recognition of the slave confederacy and the Mexican empire we thereby debar ourselves from recognizing the Cretan provisional government, as if recognition in the interest of liberty was not as much an international duty on the part of the American Republic as recognition in the interest of slavery is an international crime. Is it so soon forgotten that the late American contest was to disrupt the unity of this great free Government in the interest of slavery and oppression, while the present war in Crete is to restore an ancient union and liberty borne down again and again by the oppressors with whom they now contend? Nay, it is ignored that the Powers that upheld the slaveholder's rebellion in the South and the imperialistic usurpation in Mexico are the same to uphold the bondage of the Cretans and the Moslem usurpation. They are the same who now wish to expunge America from the rank of Christian nations, by making you believe that they, and they alone—they who conspired against our own and our sister republic, are the anointed guardians of Christendom, and that we, the American people, who act out the truth of Christianity, in our humane and mankind-elevating institutions on a more comprehensive scale than all the monarchies of the world together—must not throw our international influence in the scale of Cretan independence. For observe that the so-called great Powers interfere in the Orient not so much as European but as Christian Powers. For us to withhold our recognition from the Cretans would be to admit that Christianity is monopolized by the despots of Europe and Asia, and that we have no share in its protection.

As a Representative of the American people, humbly as I may feel as an individual, I here denounce this presumption of European and Asiatic monarchs to arrogate to themselves the sole right of protection of the Christians in the East, nor can they ask us to respect the treaties which they make among themselves without our consent or that of those they thus enslave.

Bear in mind that, whatever may be said of our traditional policy in regard to our non-intervention in the affairs of foreign nations, it has no reference whatever to the Orient, which

is as hallowed to us as it is to monarchs by its high sacred and secular associations, and which consequently occupies an exceptional ground, where our influence as the greatest Christian Republic on earth should be paramount over that of all the so-called Christian monarchies. Yet I know that whenever we are anxious to recognize a European State in the interest of liberty these monarchists taunt us with what they are pleased to call our Monroe doctrine, and some of our own people indorse the fallacy. No greater fallacy than this ever existed. Our Monroe doctrine, or, properly speaking, our doctrine of non-intervention on American soil, is not well understood. Our Monroe doctrine impels us to prevent the establishment of alien monarchies on the American continent; this and no more. If we were to exert ourselves in favor of the establishment by force of American republics on the European continent, then, and only then, would we be amenable to the censure of attempting to do in Europe what we deprecate in America. But whenever any people of their own will create, alter, or change their Government untrammelled or controlled by outside selfish influences it becomes the duty of all nations to recognize its independence. This great privilege of every people we declare to be a fundamental right, and we must not ourselves violate it. It is immaterial on which continent the people reside, whether it be a new government or the gathering of the fragments of one rent by internal or external troubles. And though it might be said that our republican action is conducive to the progress of mankind, while monarchical influence in America is detrimental to it, I will not pursue this line of argument on the present occasion, to which it does not apply, but content myself with dismissing the Monroe doctrine fallacy in the conclusive manner in which I have disposed of it. It was not contrary to the Monroe doctrine for European Powers to recognize the Governments of South and Central America. Why should we not have the same right of recognizing provisional governments in Europe which they have in recognizing provisional governments in America?

I contend that the provisional government of Crete is more firmly rooted in the affections of the Cretan people than is the case with other provisional governments recently recognized by the American Government. I contend that they are more fully in possession of their country than were the American Colonies of theirs when they were recognized by Holland. The provisional government of Crete, in 1866, divided the island into twenty-four districts, each district reporting through a committee to the central government, which is elected by the general national assembly, which in its turn is elected by the people. Crete is to-day a republic. The Turks hold only a few forts and block-houses, from which they cannot sally forth in array of battle, and in which they are virtually prisoners. Omer Pasha, the Turkish Haynau, an Austrian by birth and a Moslem by conversion, was sent to Crete to destroy the provisional government. His prowess consisted in outraging women and massacring defenseless old men and children, and he returned to his master acknowledging that he who was sent to defeat was himself defeated, at a loss to Turkey of fifty thousand men and 100,000,000*f*. Then the Moslem usurper, in his despair, sent the greatest man of his council, namely, Ali Pasha, the grand vizier, to reconcile the Cretans to Moslem usurpation. This personage was shut up for many months in a little fortress in Crete, trembling for his own life, and eventually returned, telling his master that the Cretans were afflicted by the Hellenic infirmity of a spirit of nationality and independence.

After the ignominious defeat of the butcher Omer and the diplomat Ali Pasha, the Cretans had every reason to hope that usurpation would relax in its grasp, but since all means of warfare and diplomacy had failed to reconcile Crete, massacres were perpetrated the cruelty of which is without parallel even in the annals of the Apaches. Since the uphold-

ers of the Moslem usurpers were afraid that these massacres would rouse the indignation of all civilized nations, many efforts were made to subsidize and corrupt public opinion, so as to throw doubts upon their occurrence. A culmination of these efforts may be found in the elaborate misrepresentations distributed in an anonymous pamphlet to the members of Congress that we found upon our desks when we met after the recess, and to which no man in this afternoon of the nineteenth century of the Christian era in this fair, free land had the hardihood to affix his name or character. The Christian authorities instituted the most rigid inquiries, and caused the official statistics of these massacres to be published, taking care to authenticate every fact by evidence and by the specification of the names of the victims and the localities in which the outrages were committed upon them. One of the principal witnesses of these bloody acts was the French representative in Crete, whose testimony reflects the greatest credit upon his sense of humanity.

Mr. Chairman, the memorial of the provisional government presented last year to this House, in which it solicits the recognition of the United States, contains an official statement of these massacres. I hold it now in my hand, and make it in its condensed form a part of my remarks:

Treatment of Cretan prisoners and citizens by Turkish authorities during the recent rebellion, prior to February 9, 1867:

Massacres.....	194
Cut to pieces.....	40
Hung.....	1
Ravished by one man each.....	44
Ravished by three men each, (died).....	1
Ravished by five men each, (died).....	1
Ravished by six men each, (died).....	2
Ravished by eight men each, (died).....	1
Ravished by ten men each, (died).....	1
Ravished by nineteen men each, (died).....	1
Ravished by forty men each, (died).....	1
Ravished by Omer Pasha, Turkish Commander-in-Chief.....	2
Ravished, breasts cut off, and belly ripped up with a knife.....	2
Ravished and thrown from a rock.....	1
Shot.....	12
Murdered.....	51
Burned, (corpses).....	16
Burned, (alive).....	8
Mutilated.....	11
Tortured.....	59
Dragged to pieces.....	2
Stoned to death.....	2
Stabbed to death.....	1
Thrown to dogs, (corpses).....	6
Eyes put out.....	4
Outraged, (men).....	4
Beheaded.....	1
Bayoneted.....	1
Drowned.....	1
Flogged, (three hundred lashes).....	3
Flogged, (four hundred lashes).....	3
Flogged.....	3

The same barbarisms have been practiced since. A more heartrending statement of atrocities has never before been submitted to the American Congress: women of all ages violated, tortured, massacred; old men, including many members of the Greek Church, murdered and their corpses thrown to the dogs; Christian churches defiled by the most beastly orgies; the property of Crete ruthlessly destroyed. Mr. Chairman, the usurper of Crete, by these massacres and outrages, placed himself outside the pale of civilization. All authorities on international law agree in outlawing a monster guilty of such atrocities. Even the upholders of the usurper were not indifferent to these fearful crimes against humanity and against womanhood. They actually gave aid and comfort to the Cretans by allowing their ships to give a free passage to the Cretan women and non-combatants to Greece. More than sixty thousand women, children, and old men left the island and went to Greece, and remain there now awaiting the result.

As the sequel shows, they were only afraid that a continuation of these massacres would cause a universal revolt against the Moslem usurper, and thereby injure their material interests in the Levant. Hence their anxiety to remove the women and children from Crete. The less there remain of women in Crete the less will there be opportunity for the gratifica-

tion of Moslem lust and barbarism, and the less to awaken the disgust of the civilized world. Nay, it was hoped by the Powers interested in upholding the Moslem usurper, that by promoting the exodus of the non-combatants, and by winking at the annihilation of the able-bodied population, the Cretan question would be solved by the death of the Cretans, and the material interests of these anointed guardians of Christendom thus be relieved from the question altogether. But lo! the Cretan warriors had not sooner ceased to be embarrassed by the necessity of protecting their wives, mothers, sisters, and daughters against the outrages of the Moslem soldiery, the women had not sooner departed for the Greek continent, than their resistance to the usurper became more indomitable than it ever was before. When the Powers who uphold the Moslem, as they upheld the slave oligarchy and the Mexican usurpation, became aware of this they grew wrathful. In connivance with the Moslem, public opinion was again everywhere misled; a thousand hired pens, and only recently false cable dispatches, were so busy in disseminating the falsehood that the Cretan insurrection was at an end that when truth and justice loving men came forward to plead in favor of the recognition of the provisional government they were overwhelmed with sarcasm and abuse. But all of a sudden this fabric of vilification fell miserably to the ground. The provisional Christian Cretan government was so firmly established and administered so efficaciously, the Moslem usurpers had become so utterly powerless to overthrow it, that goaded on by a spirit of revenge, and with the blood of their Cretan massacres still upon their garments, they sound the bugle of war, threatening to perpetrate the same outrages in Greece which they have committed in Crete. Failing in his attempt to murder the liberty of Crete, the usurper menaces to throttle that of the Cretan compatriots, the Hellenes. And at this time the Enosis, a Greek vessel that carried supplies to this starving people in Crete, is blockaded within the port of Syra by a Turkish fleet, commanded by Hobart Pasha, who, stripped of his Turkish title, is Captain Hobart, an English blockade runner in our late struggle. This bullying policy of the usurper confirms, if possible, my determination to procure the recognition by the United States of the people who have so heroically resisted his aggressions.

I have shown that the Moslem is only a pretender, a usurper in Crete. Crete became free and independent from him in 1827, and maintained its freedom until 1830. That Egyptian and Moslem rule was then imposed upon Crete contrary to the wishes of the people, and under their continued protest, does not in any degree impair the right to independence which Crete had acquired prior to 1830. On the contrary, it invests the struggle in which the island was engaged since that time, and particularly within the last three years, with all the sanction of lawfulness. The Cretans are therefore not to be regarded as "insurgents" shaking off the rule of a lawful sovereign, but in every sense as a free people, exerting its lawful right to overthrow an unlawful usurpation.

But even if there are Americans who hold that treaties made between A, B, and C for the purpose of arbitrarily disposing of the destinies of D; if there are Anglo-American publicists ever ready to take English views and to make the American people believe that A, B, C, England, France, and Austria, had the right arbitrarily to sell D (Crete) to Egypt or to Turkey, I do not think that my fair-minded fellow-countrymen will approve of this "London Times" theory, and even those who should uphold this cannot but remember that the United States was no party to those infamous transactions which bartered away the liberty of a free people, and that consequently these foul treaties cannot stand in the way, even if they had not been conceived in a spirit of iniquity, of the recognition of the independence of Crete so far as

our Government is concerned. We are admonished that we must not dare to interfere in behalf of the Hellenic race in its contest with an Asiatic Mormon dynasty of Moslem, but the persons who hold this language are not precisely the men to dictate to the American people what particular policy they shall pursue. We are told that Mahomet had as good a right to found a religion as Jesus Christ; that Mohammedanism has as good a right to direct civilization as Christianity has, and that the polygamy which it allows is as conducive to the protection of woman's rights, and the promotion of woman's dignity and prosperity, as the law and sanctity of marriage prescribed by our Saviour. Some persons may hold peculiar views on this subject. Fortunately, their views are not those of the American people.

From my place in the House I call the attention of the American people to the fact that they pay tribute now to the more than criminal stupidity and barbarism of the Turks, who will not listen to the teachings of civilization when presented to them. Turn to the diplomatic appropriation bill passed in this House on yesterday, and read that we appropriate money to pay for courts, guards, marshals, prisons, and prison-keepers for American citizens and convicts, neither of whom can be safely intrusted to the custody of these people. American citizens need no such protection under Christian Governments—a further and conclusive proof that Christendom does not confide to the Mussulman a perfect nationality, but holds him as an encamper in the country he has usurped. Christendom pays these tributes rather than trust their people in the Moslem's hands. Yet while Christian nations will not trust their citizens in the Moslem's power, they stand cool lookers-on to his murder and dishonor of a people whose civilization and faith are as theirs; whose devotion to country and kind are as pure, and whose bravery and patriotism have done them honor before the world.

Mr. Chairman, this strange people who, from the time of the foundation of their religion by Mahomet in the sixth century to this hour, have hated progress; and who, though in constant and immediate contact with the most enlightened part of the Christian world for centuries have made no progress either in arts or morals; who tear down, but build not up; who by mere brute force overawe the Orient and hold it now by a spurious tenure, and are permitted to do so through selfish diplomacy, which secures the trade of the Levant to those who assume to grant the privilege, and drives out all others, who suffer it simply because it has been heretofore done. My opinion is, that the power, the usurpations, and the impositions of the Mussulman are near their end. Soon may it be written Mahomet and Abdul Aziz—Alpha and Omega—the first and last of Moslem rule. The merchant and the navigator, the student and the statesman, the mechanic and the laborer, the free man and the Christian everywhere throughout the civilized world, thankful that those places hallowed to learning and religion are relieved from that sea of night, will say with one accord, all hail to the great Republic, that star of the West which gilds the eastern sky with light and life and hope!

Fortunately, we have American missionaries in the East, Dr. Hamlin at their head, who, in the midst of Turkish polygamy and barbarism, diffuse the teachings of Christ and the blessings of Christian education. But the question about our intervention for the sake of Greece has been altogether mistaken. The question is not to organize a crusade against the Mohammedan religion and against Turkish polygamy; or whether an Asiatic encampment of Turks in Europe, addicted to that anti-Christian faith and that anti-Christian practice, shall be allowed to rule despotically over Christian nations who are as much its superior as the American is superior to the aboriginal Indian. But this question may be said not to belong to our legislative jurisdiction; though as a great Christian people we have clearly the right, and,

indeed, it is our sacred duty, to place the seal of our reprobation upon such a gross outrage upon civilization, upon such a terrible crime against Christianity and humanity.

But for all that, this is not the question which we are called upon to determine. The gist of the question is this: whether a people that conquered its freedom, which after this had been treacherously stolen from it, reconquered its independence with a heroism worthy of the days of Marathon and Missolonghi, and is in full possession of self-government and asks us to recognize its independence—whether this people, the Cretan people, is not entitled to this recognition on the part of the United States? I say it is, and I wish you to declare so formally without fear of the frowns of the Mormon sultan or of the French emperor or of the conquerors of Hindostan. I ask you to settle this question upon its own merits, as I have explained them, without regard to what is called the European balance of power and the Eastern question, with which we have nothing to do. All we, the American people, have to deal with is another people that struggled for its old liberty against formidable odds, and that having successfully established a provisional government of its own choice is entitled to our recognition. Indeed, we cannot withhold it without justly incurring the reproach of depriving other struggling nations of that moral and political support which was accorded to us, and which we accepted so gratefully at the time when our now powerful nation was in the throes of its creation. For us as a great people to say, as some money-market publicists prompt us to say, "We have enough business on hand in paying our debt and attending to our own jobs," would be the height of meanness and injustice, and indeed place us in the same humiliating category with the Anglo-Saxon islanders, whose creed has always been that of the same unmitigated pagan selfishness which is now commended to our emulation. No, Mr. Chairman, if we cannot get rid, even in these days of the Celtic and Teutonic preponderance of blood in the American masses, of the mythological reminiscence of the mother country, let us at all events shun the selfishness of this our hypothetical mother; let us emulate and let the Greeks, too, emulate her genius of self-aggrandizement; but let us not imitate that selfishness which, whenever another people throws off the shackles of despotism and calls for recognition of its independence, repeats in fine plausible diplomatic and business-like phrases the murderous cry of Cain: "Am I my brother's keeper?"

And what will be the dangers of our formal recognition of the Cretan provisional government? The danger I anticipate is that certain journalists, including many hirelings of the Mussulman and his imperialistic and Tory upholders, will revile your action as they reviled it on so many other occasions. We are generally little addicted to trouble ourselves about foreign countries, but whenever a noble and heroic Christian people like that of Crete knocks at our doors for recognition we are more apt than the mother country gentry to grant it; not because we are their inferiors in culture and statesmanship, but because we are their superiors in severing from culture and statesmanship all that in their case adheres to it from the old feudal times, so that we retain of these attainments and accomplishments only what is consistent with humanity, and purge them from all that is irreconcilable with its sacred duties. So, Mr. Chairman, in this question of the recognition of Crete I reject all the callous sophistries and all the heartless numeraries which a perverse diplomacy fasten upon it.

See only a people who fought like lions for its liberty from 1821 to 1827, who conquered this liberty and possessed it till 1830, and which was then resold against its will into bondage, rising again and again upon its usurpers, and finally, in 1855-59, rebaptized its independence in its new war for national life,

and entitled to our recognition of its provisional government as fully as the colonies were entitled to the recognition of Holland and France.

It is said that in taking this action we are unfriendly to the Ottoman, and that during our civil war the Moslem would not allow the Alabama to come to his ports. Neither Semmes nor any other rebel commodore ever thought of going to Levantine ports, well aware that they would not be there a day without being burnt by the Greeks, who to a man were our most enthusiastic friends during our war. But I tell you, Mr. Chairman, that if a rebel craft had been silly enough to run the risk of Greek fire, the Turk, whatever he may have promised to do on paper, and he is notorious for his liberality on paper, would in reality have acted as he would have been bid to act by the English and French ministers at Constantinople; for you are all aware that the Sultan does not hold sovereign power as it is held by Christian monarchs. Witness this present contest with Greece. Europe does not ask the Sultan whether he wishes to have a conference held, but orders it to take place. What would have been thought of the sovereignty of the American people if European Powers had, without our knowledge and consent, decreed to hold a conference to settle our conflict with the rebel States.

That the Sultan holds power only contingent upon the support and consent of Christendom is manifest throughout history from the moment of the invasion of these Asiatic hordes up to the present day. When the religious fervor of the Crusades had been impaired by the spirit of material enterprise engendered by the maritime discoveries and adventures of the fifteenth century, and when no further violent measures were taken to drive the Mussulman from his encampment on Greek and Christian soil he was even in those days of the demoralization of the Christian nations permitted only to claim jurisdiction over Mohammedans, while the entire Christian population, with inconsiderable exceptions, was protected by special treaties against the Moslem and placed under the jurisdiction of the foreign Powers or their consular and diplomatic representatives. Hence it follows that even if the Sultan had not usurped in Crete a power that had been conquered by the people in the Greek war of independence, even if he had been a lawful ruler, and even if the late revolution had not occurred, culminating in the establishment of a provisional government, he would still be an unsovereign ruler, limited in his jurisdiction. In the case of Crete, where the small minority of nominal Mussulman are of the Hellenic race and tongue, his jurisdiction would have been at best nominal, even if he ever had been since 1821 the lawful sovereign, and if whatever remained of his pretensions had not been annihilated by the recent revolution and by the efficient vindication of the popular and Christian rights of the people on the part of the provisional government.

We were not afraid to incur the displeasure of Queen Isabella of Spain, though her sovereign power was not contingent and conditional and hemmed in by all sort of treaties, as is that of the Sultan everywhere, not to speak of Crete, where, since 1821, it never had a right to be in any form whatsoever, absolute or limited. You will say that Isabella fled from Spain, and that Abdul-Aziz never ran away from Crete. My answer is that he never went there; he never dared go there; his predecessors, who, previous to 1821, lorded there, were laid low by the Greek masters of the country. I say the present Sultan, who never had a lawful sovereign right over Crete, acknowledged this fact by refraining from showing his face there, while Omer Pasha and Ali Pasha were sent back under protest and amid the execrations of an indignant people. That the Turk does not like our recognition of the Cretan provisional government is possible, nay probable. But our recognition of the independence of a free people, of a *de facto* Christian Government,

is an act authorized by our sovereign power as a people. The English opposed Holland and France for recognizing the American colonies, nor did Spain and Portugal indorse the recognition of the independence of their former American colonies. In the progress of nationalities toward emancipation from alien domination those stripped of their ill-gotten power do not like it. Europe is full of royal princes fretting over their dispossession.

But if republican America does not weep over the misfortunes of these fallen Christian princes, why should we over the agonies of a Mormon Asiatic Moslem autocrat because he loses a power which he never had a right to possess? If we are to display emotions at all let us reserve them for the victims and martyrs of the Cretan war of independence; for those sainted women who, rather than be dishonored by the Mussulman, blew up the monastery of Arcadi, and were buried in its ruins. The Turk may have a great mission of his own to fulfill. I think that as soon as his encampment in Europe is broken up, and the hallowed old Christian flag of the Greek empire again hoisted upon St. Sophia at Constantinople, and upon the walls of Jerusalem, as soon as the benighted Moslem receives his passports from the Christian Powers, he may expand into the Asiatic wilderness, from whence he came, and there diffuse somewhat of that civilization which he ought to have learned from his long contact with the highly cultured Hellenic race.

I shall rejoice to see the Greek empire restored in all its ancient splendor, with Constantinople for its capital and Jerusalem for its holy city. In the mean while, however, let us not be forgetful of our duty as far as the recognition of the provisional government of Crete is concerned.

Crete, under the Greek empire and in the days of her connection with Venice, was the most flourishing center of the trade of the Mediterranean and the East. The island abounds with the choicest silk, fruits, wine, honey, olive oil, and other fine products. Under the Moslem usurpation these great commercial and industrial resources were paralyzed and nearly destroyed. Under the auspices of national independence the same marvelous result which manifested itself after the Greek war of independence in the development of enterprise among the Greek merchants and navigators, so as to give them at this day a place not inferior in the commercial world with that in former times held by the Hanse town, Genoa, and Venetian merchants; the same result will also show itself in Crete as soon as the example which I ask you to set in according your recognition to its Christian Government shall be, as I have no doubt it soon will be, followed by other Christian nations. Cretan merchants will then become as omnipotent in the Mediterranean and Black sea trade as at present the Greeks are; and American commerce and industry in those important regions will have acquired in the Cretan merchant an ally and customer whose coöperation may help us to compete successfully with the English and French traders and manufacturers who at present monopolize this great eastern traffic.

I propose, therefore, that the recognition of the provisional government of Crete shall be formally accorded by this Government, and that the present American consul at Canea shall be accredited as American representative near the government of Crete.

It is not the first time in our history that we display such generosity toward a fellow-Christian people. We have sent aid to Ireland in the hour of her distress; we sent a fleet to Asia Minor to bring the great Hungarian Kossuth to the United States; and under the eloquent influence of Clay and Webster have shown our sympathy for the Greeks in their first war of independence. We have done all this while our country was comparatively feeble and still struggling against the slavery power. Shall we do less at the present time, when we have at-

tained to transcendent power after our triumph over slavery and the inauguration of our new and grander era of freedom? You will agree with me that we are expected, as we can afford, to do more than we did in the old slavery era. The Republican Chicago platform of last year appropriately decreed that sympathy with oppressed nationalities is among the first duties of our regenerated Republic.

This is the time to give a substantial interpretation of this sacred decree. Let us show by our recognition of Cretan independence that we are alive to our duty of gratitude toward a race to the intellectual glories of which we, together with all civilized nations, are indebted for our noblest culture. Let us show that we practically support the progress of liberal Governments among men, the only hope of the advancement of mankind. Let us show that as a Christian nation we favor the resumption of power of the great Greek race in the regions where they formerly held it, and which are endeared to America by their sacred and historical associations.

My proposition is not what is called an intervention. It simply implies an act of justice on our part toward Crete. Intervention, on the other hand, implies an active co-operation of our armed forces in the contest in the East. Such an intervention I do not propose; but the granting of Cretan recognition I do propose as the free offering of this great Christian people to another Christian people, which deserves all our moral and generous support in its heroic attempt to regain its former power and to free Christendom from that Moslem domination which has but too long disgraced its annals.

Let the Turks say, if they please, that we act in coöperation with Russia. Mr. Chairman, with all my regard for Russia, and particularly with my admiration for her humane act of serf-emancipation, I do not hesitate to say that we have as little to do with Russia as with England in this matter. If Russia sympathizes, as we do, with the progress of the Christian empire of the Hellenes in the East I am glad of it. But my proposition in favor of Cretan independence is prompted by my own appreciation of the virtues and the destinies of the Hellenic race, and submitted to you without desiring the applause of one or without fearing the censure of another foreign Power.

We have nothing to do with England's jealousy against Russian progress in Asia. Russia is a better friend of the United States than is Great Britain; and if Russia should gain possession of Hindostan and emancipate the Hindoo serfs, as she emancipated the Muscovite serfs, humanity will be the gainer, although the British aristocracy and plutocracy may be the loser; and we shall all say, "Well done, Czar! Hail to Russia!"

But however this may be, this much is certain: that the propositions which I make in behalf of Crete and Greece reflect only American and certainly not Russian opinion; and I am sure you will consider them in the same spirit, and not be deterred in the exercise of your international justice and mercy by those critics, trained in the old Tory schools, reëchoing on these free shores the worn-out European commonplaces about balance of power, and endeavoring to stifle your generous action by holding before you the powers of emperors and sultans, but which I dare say have no terrors for the American mind, and will not arrest the course of justice and magnanimity toward Crete and Greece which I have the honor and privilege to propose to this House.

Mr. Chairman, it is with reluctance that I occupy the time of this House, and have done so only because the case is urgent and the cause I plead is just. I come before the Representatives of a great people to speak for the rights of man, and, sustained by the importance of the subject, I felt determined for the work; and yet I trembled at the responsibility it involved and recognized my inability to discharge the trust. From my childhood having witnessed the barbarism of human slavery, the

cries of the oppressed ever awaken in my heart a sympathy and respect. I will espouse the cause of the oppressed and scorn the uncertain friendship of the oppressor. Having lived a free man under laws and institutions that guaranteed to me life, liberty, and the pursuit of happiness, my only earthly ambition is to secure the same to others. Having witnessed the treason to my own country of every son and daughter of the Republic who was in favor of anarchy, monarchy, aristocracy, or slavery, and having seen them, sustained by crowned heads of foreign lands, wage a traitorous and murderous war against their own Government and people for their destruction, and having seen every slave and outcast from the national protection faithful to liberty and law, remaining the friends of the Government and its defenders through a storm of treason and a maelstrom of crime, I have renewed cause to love the oppressed and to hate the oppressor. With pride remembering our ancestors, who in wisdom founded and in their blood cemented this Republic, and having witnessed the self-sacrifice of our people, who recently struck down the armed and treacherous oppressor, drove the foreign minions from our shores, saved from the usurper's grasp a sister republic, let the oppressed go free, gave to the slave his manhood, opened the door for his education, secured a protection for his wife and children, made sacred the social relations of life, which had been so long set at defiance by semi-barbarians who infested the southern States and denominated themselves the privileged classes, claiming an inherent right to own and dispose of the persons and property of others, my confidence in our race is strengthened and my hopes of free government renewed.

This country having furnished food and clothing to the distressed of every clime, and sustained thousands of wives and children while their husbands and fathers waged a bloody, treacherous, and relentless war against liberty and the nation's life; having pardoned millions of criminals who by their treason had forfeited their lives to the law; having provided for the immediate wants of five millions of an unfortunate and helpless race who by the necessity of war emerged from a slavery of two hundred and forty years, in which the heavy hand of the oppressor had borne upon them with cruel severity; and having seen this country made by law and practice the home of the oppressed of all lands who have sought protection on our shores, I am well assured of the magnanimity of the Government and the charity of our people.

Witnessing the glorious triumph of this Republic, as she stands to-day the political high school of the world, in which nations and peoples are learning the great truths so long concealed, that "man is capable of self-government," setting at naught that deceptive and infamous doctrine, "the divine right of kings," opening a free and better civilization, I believe, sir, that the time has come and now is when we must—I repeat it, when we must—foster the rise and progress of free governments everywhere, and thus maintain the character we have so nobly earned and fulfill a great destiny set before us. The promulgation of correct political doctrines, which set free both the minds and bodies of men, is of infinitely more value to those who adopt them than the arts, manufactures, and commerce; for it brings all these, and makes the people great and prosperous while producing them. Then, sir, as we would render a service and duty to God, Christian civilization, the progress of free institutions, and to a common humanity, let me again urge you to encourage the independence of Crete.

Mr. LOGAN obtained the floor.

Mr. ALLISON. If the gentleman from Illinois [Mr. LOGAN] will yield to me, I will move that the committee rise.

Mr. LOGAN. I will yield for that motion.

Mr. ALLISON. I move, then, that the committee rise.

The motion was agreed to.

The committee accordingly rose; and Mr. COBB having taken the chair as Speaker *pro tempore*, Mr. CULLOM reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly the President's annual message of 1867, and had come to no resolution thereon.

COMMERCIAL INTERCOURSE.

Mr. ASHLEY, of Ohio, by unanimous consent, introduced a bill (H. R. No. 1597) to facilitate commercial intercourse between the several States and Territories of the United States and with foreign countries; which was read a first and second time, referred to the Committee on Territories, and ordered to be printed.

Mr. STEWART moved to reconsider the vote by which the bill was referred, and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. INGERSOLL. I call for the regular order.

Mr. ALLISON. I move that the House adjourn.

The motion was agreed to; and the House, at four o'clock p. m., adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rules, and referred to the appropriate committees:

By the SPEAKER: The petition of M. B. Hackett and others, citizens of Apulia, Onondaga county, New York, for a modification of the naturalization laws so as to protect the elections from frauds.

By Mr. BUCKLAND: The petition of W. F. Day and 42 others, citizens of East Norwalk, Ohio, for a post route from Berlinville, Ohio, to Norwalk, Ohio, by way of East Norwalk.

Also, the petition of E. J. Kellogg and 76 others, citizens of Erie and Huron counties, Ohio, upon the same subject.

By Mr. CARY: A resolution of the city council of Cincinnati, asking for the selection of a more eligible site and the erection of more suitable buildings for custom-house, post office, and United States court rooms in said city.

By Mr. CHILCOTT: A petition from tobacco dealers in the city of Denver, Colorado, praying the repeal of certain sections of a bill regulating the tax on tobacco and whisky.

By Mr. COBB: The petition of A. J. High and others, of Monroe, Wisconsin, in favor of Mr. JENCKES's civil service bill and other measures of relief.

By Mr. COVODE: The petition of Alexander McClean and James Whaley, of Pennsylvania, soldiers of the war of 1812, for relief.

By Mr. FARNSWORTH: The petition of T. B. Wakeman and others, of Harvard, McHenry county, Illinois, for pensions to soldiers of the war of 1812.

By Mr. GARFIELD: The petition of citizens of Ashtabula, Ohio, for an appropriation to improve the harbor at that place.

By Mr. JULIAN: The petition of Frederick Dail, praying confirmation of title to certain lands in the State of Michigan, under treaty stipulations.

By Mr. KELLEY: The petition of George D. Gravely, of Virginia, asking to be relieved from disabilities imposed by the fourteenth article of the Constitution.

By the KENTUCKY delegation: The petition of General Joseph H. Lewis, for removal of disabilities, &c.

By Mr. LAWRENCE, of Pennsylvania: The petition of Charles Arnois, for pay as second lieutenant company K, third Indiana volunteers, from September, 1862, to January, 1863.

By Mr. ROBERTSON: The petition of Alpheus C. Gallatine, for the extension of a patent.

By Mr. SCHENCK: A memorial, with an accompanying bill, from James White, assist-

ant assessor of internal revenue, thirteenth district, Ohio.

By Mr. STONE: The petition of H. G. S. Key, Hon. Benjamin G. Harris, George W. Morgan, and others, citizens of the fifth congressional district of Maryland, praying for an appropriation to remove obstructions in Britains' bay caused by the coal ashes and other refuse matter thrown from Government steamers and transports during the late war.

By the TENNESSEE delegation: The petition of E. J. Golladay, asking removal of disabilities, &c.

By Mr. VAN AERNAM: The petition of Teuta Hollenbeck, of Little Valley, New York, for one hundred and sixty acres bounty land, for services of her husband in the War of 1812.

By Mr. VAN WYCK: The remonstrance of Thomas J. Bradley, president of the New York Knife Company, and others, citizens of Walden, New York, against any further increase of the duty on imported steel.

By Mr. WHITTEMORE: The petition of Alexander Sutherland, of Bennettsville, South Carolina, praying compensation for service rendered in carrying the mail in 1859 and 1860.

IN SENATE.

FRIDAY, January 8, 1869.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a memorial of distillers and liquor dealers of California, remonstrating against the increase of the tax on distilled spirits; which was referred to the Committee on Finance.

Mr. CORBETT presented the memorial of the mayor and council of Portland, in Oregon, praying that that city be granted the right to construct and control a bridge across the Willamette river; which was referred to the Committee on Commerce.

Mr. FERRY presented the petition of Ferdinand D. Richardson, of Virginia, praying to be relieved from political disabilities; which was referred to the Committee on the Judiciary.

Mr. COLE presented the petition of Alexander M. Kenaday, praying an appropriation out of the fund of the Asylum for the relief of Invalid and Disabled Soldiers for the purpose of founding an asylum on the Pacific coast for the relief of soldiers of the Mexican war; which was referred to the Committee on Military Affairs.

Mr. MORRILL, of Vermont, presented a joint resolution of the Legislature of Vermont relative to navigation between the United States and Canada; which was referred to the Committee on Commerce, and ordered to be printed.

Mr. MORRILL, of Vermont. I also desire to present a resolution of the Legislature of Vermont in relation to the reciprocity trade with the Dominion of Canada, which I ask may be read.

The Secretary read as follows:

Joint resolution relating to reciprocity of trade with the Dominion of Canada:

Resolved by the Senate and House of Representatives, That having an intelligent regard for the best interests of Vermont, it is the duty of our Senators and Representatives in Congress to use their influence against the consummation of any treaty relating to reciprocity in trade with the Dominion of Canada, and to insist that the subject of our trade and commercial intercourse with Canada, as well as with all other foreign countries, is not a proper matter of treaty stipulation, but belongs to Congress, and should be wisely regulated by a judicious tariff.

Resolved, That the secretary of State be, and he is hereby, directed to transmit a copy of this joint resolution to each of our Senators and Representatives.

GEORGE W. GRANDNEY,

Speaker of the House of Representatives.

STEPHEN THOMAS,

President of the Senate.

Mr. MORRILL, of Vermont. Mr. President, I desire to submit some remarks upon this resolution at some time when it will be convenient to the Senate, at as early a day as possible, and if nothing intervenes to prevent it, I shall prob-

ably ask permission to do so on Wednesday next, at one o'clock. I move now that the resolution be laid on the table and printed.

The motion was agreed to.

Mr. THAYER presented the petition of Blanton Duncan, praying the restoration of his property seized and condemned under the confiscation act of July 17, 1862; which was referred to the Committee on Claims.

REPORT OF COMMITTEES.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred the bill (S. No. 405) granting lands to the State of Wisconsin to aid in the construction of the Green Bay and Lake Pepin railway, reported it with amendments.

He also, from the same committee, to whom was referred the bill (S. No. 730) supplementary to an act entitled "An act to confirm the titles to certain lands in the State of Nebraska," reported it with amendments.

BILLS INTRODUCED.

Mr. RICE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 744) to create a new judicial district in the State of Kentucky; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. PATTERSON, of New Hampshire, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 745) to repeal the usury laws of the District of Columbia; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 746) relating to judicial proceedings in the District of Columbia; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. SPENCER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 747) to regulate the price and encourage the production of cotton in the United States; which was read twice by its title.

Mr. SPENCER. I desire to state that this is a bill which has been carefully prepared by a wealthy and distinguished planter of the State of Mississippi, who has given the subject a great deal of attention. I move that it be referred to the Committee on Finance and be printed.

The motion was agreed to.

Mr. FOWLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 748) to amend an act entitled "An act to restrict the jurisdiction of the Court of Claims, and for other purposes," approved July 4, 1864; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. NYE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 193) to place Junius J. Boyle upon the active list of commodores; which was read twice by its title, and referred to the Committee on Naval Affairs.

DISTRICT RECORDER AND WARDEN.

Mr. HARLAN. I move that the Committee on the District of Columbia be discharged from the further consideration of the bill (S. No. 712) to provide for the appointment of recorder of deeds and warden of the jail in the District of Columbia, and for other purposes, and that the bill be taken up for consideration at this time.

The PRESIDENT *pro tempore*. The first question will be on discharging the committee from the further consideration of the bill mentioned by the Senator from Iowa.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Senator from Iowa now moves that the Senate proceed to the consideration of the bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. HARLAN. I find there is a difference of opinion among members of the Senate in relation to the propriety of changing the mode of appointing the recorder of deeds; and in order to avoid a discussion on that subject I move to strike out the second, third, and fourth sections of the bill, all of which relate to that matter.

The sections proposed to be stricken out were read, as follows:

SEC. 2. *And be it further enacted, That the appointment of recorder of deeds for the District of Columbia shall be, and is hereby, vested in the supreme court of said District; and the recorder so appointed from time to time shall hold said office during the pleasure of said court, and shall qualify and perform all the duties of said office as provided by law, and shall receive as compensation for said services such sum as may be fixed by said court, not exceeding the rate of \$3,000 per annum, exclusive of the necessary expenses of said office.*

SEC. 3. *And be it further enacted, That it shall be the duty of said recorder to employ from time to time, subject to the approval of said court, a sufficient number of copyists to enable him to keep up the current records and indexes of said office with necessary and reasonable promptness, and, as the fees and income of said office will justify, to copy such of the records as have become defaced or obliterated and to index the same. And the said copyists shall receive such compensation for services rendered by them, either by the piece or by the day, as the said court may determine, not exceeding five cents per hundred words for copying, and not exceeding twelve cents per hundred words for indexing, or not exceeding three dollars per day for each faithful day's work of eight hours' duration to each of said copyists: *Provided, That the salary of the recorder, compensation of copyists, cost of blanks, blank books, stationery, fuel, light, office rent, and all other necessary expenses of said office shall not in any case exceed the aggregate fees and emoluments as provided by law.**

SEC. 4. *And be it further enacted, That it shall also be the duty of the recorder of deeds to receive all the fees and emoluments of the said office, and to deposit the same from day to day with the clerk of the supreme court of the District of Columbia, taking his receipt therefor. It shall be the duty of said clerk to give bond, with approved security, in such sum as the said court may determine, to receive, receipt for, safely keep, and to pay out said funds, on orders to be drawn by the recorder of deeds, accompanied by vouchers approved by the chief justice of the supreme court of the District of Columbia, for the salary of said recorder, compensation of copyists, and other necessary expenses of said office, and at the close of each calendar year to pay over any surplus that may be in his hands to the treasurers of the city of Washington, of the city of Georgetown, and of the levy court of the county of Washington, respectively, to be added to the school funds of said cities and county, and to be used for the support of schools, in proportion to the number of children to be benefited thereby in each of said corporations, the award to be made by said supreme court: *Provided, That said clerk is hereby authorized to retain for his services two per cent. per annum for all moneys received and properly accounted for under this act.**

The amendment was agreed to.

Mr. HARLAN. There are some amendments proposed by the Committee on the District of Columbia to a subsequent section of the bill.

The PRESIDENT *pro tempore*. The amendments reported by the committee will be read.

The first amendment of the committee was in section six, line seven, after the word "register" to strike out the following words:

And which may be filed, recorded, made, and certified by the said William G. Flood up to the date of the appointment of recorder of deeds under the provisions of this act shall.

And in lieu thereof to insert:

Up to the date of the appointment and qualification of his successor shall be.

So that the section will read:

That all deeds of conveyance, leases, powers of attorney, and other written instruments required by law to be filed and recorded, and all copies of instruments and records and certificates authorized by law, filed, recorded, made, and certified by William G. Flood, as acting register of deeds for said District since the death of Edward C. Eddie, late register, up to the date of the appointment and qualification of his successor, shall be, and are hereby, declared to be legally performed, the same as if the said William G. Flood had been legally appointed and qualified as register of deeds.

The amendment was agreed to.

The next amendment was in section six, line seventeen, to strike out the word "have," and in line eighteen to strike out the words "or may accrue;" so that the clause will read:

And the said William G. Flood is hereby declared to be entitled to all the legal fees and emoluments of said office for his said services which have been hitherto allowed the register of deeds, and which accrued during said period.

The amendment was agreed to.

Mr. SHERMAN. I should like to know what changes are made in the existing law by this bill? Is the only effect of it to provide that the President shall not appoint the warden of the jail, but that the supreme court of the District shall appoint him?

Mr. HARLAN. That part has been stricken out which relates to the change of the mode of appointing the register of deeds. It now changes the title of the office from register to recorder, and fixes definitely the fees that the recorder may receive, and also legalizes the acts performed by the then incumbent, Mr. Flood, after the decease of the old officer, intervening between the date of his death and the date of the appointment of the present incumbent.

Mr. SHERMAN. It does not transfer the appointing power from the President to the supreme court?

Mr. HARLAN. Not of the register.

Mr. EDMUNDS. What does it transfer?

Mr. HARLAN. It transfers the appointment of the warden of the jail from the President to the supreme court of the District.

Mr. EDMUNDS. That is the whole bill; the substance of it?

Mr. HARLAN. Yes, sir; that is the substance of it.

Mr. SHERMAN. It seems to me that the President ought to appoint an officer of that kind, an executive officer having in charge the execution of the law. It seems to me that a jailor or a sheriff ought never to be appointed by a court. Formerly in all the States the sheriffs were appointed by the courts; but I think the constitutions of all the States now require them to be elected. In my opinion, a jailor or a sheriff ought not to be appointed by a court; but still, if the committee have examined the subject, I do not wish to interpose. I think it bad policy to allow a court to have any patronage whatever except the mere appointment of a clerk—a person who discharges a portion of its duties; but those who are in custody of prisoners, such as a warden or a jailor, are executive officers, and it seems to me their appointment should be left to the Executive. Still, if the committee have given the matter attention, as I know very little about it except in regard to the general principle, I shall not interpose.

Mr. HARLAN. Ordinarily I would agree with the Senator from Ohio. I think the principle he has announced is correct; but in this case I differ from him in opinion, having observed the practice for a number of years and the effect of it. Formerly the warden was an appointee of the marshal of the District, but by legislation it was made an independent office. There is now no supervisory control over that officer except that which the President of the United States may see proper to exercise, and every Senator will perceive at once that it is impossible that he should take a personal supervision of the duties of that office; and it was thought by the committee that the best supervision we could establish by law would be that of the supreme court of the District. The jailor is in constant communication with the court, and they would be very likely to know whether he is performing his duty or not.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading; and was read the third time, and passed. Its title was amended to read, "A bill to define the fees of recorder of deeds, and to provide for the appointment of warden of the jail in the District of Columbia, and for other purposes."

WAGON-ROAD IN OREGON.

Mr. WILLIAMS. I move to take up the consideration of Senate bill No. 167.

The motion was agreed to; and the bill (S. No. 167) granting lands to the State of Oregon to aid in the construction of a military wagon-road from the navigable waters of Coos bay to

Roseburg, in said State, was considered as in Committee of the Whole.

The Committee on Public Lands reported the bill with two amendments. The first amendment was to add at the end of the first section the following words:

Or any lands to which homestead or preëmption rights have attached.

So that the proviso will read:

And provided further, That the grant hereby made shall not embrace any mineral lands of the United States or any lands to which homestead or preëmption rights have attached.

The amendment was agreed to.

The next amendment was in section four, line five, to strike out "ten" and insert "six," so that it will read:

That the State of Oregon is authorized to locate and use in the construction of said road an additional amount of public lands not previously reserved to the United States nor otherwise disposed of, and not exceeding six miles in distance from it, &c.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading; and was read the third time.

Mr. MORRILL, of Vermont. I desire to ask the Senator from Oregon whether this will obligate the United States to make up elsewhere any deficiency on the line of the road, provided there is not the full complement of lands provided for? I have not had time to read the bill. It provides for a certain quantity of land for ten miles. Now, if those lands should be taken up and already settled and paid for, I want to know whether there is any provision that the United States shall not be compelled to make up the deficiency elsewhere?

Mr. WILLIAMS. I will state to the Senator that the bill provides that only three alternate sections on each side of the road shall be granted; and if those three sections have been appropriated in any other way, then the deficiency may be made up within six miles of the road. That is all that the bill provides. It does not provide, as many of the bills have heretofore, that the road may go ten miles on each side, but it is confined, in the first place, to three miles on each side of the line. If any portion of the alternate sections within these three miles have been taken up by settlers then they may go out six miles on each side of the road to make up the deficiency. That is the provision of the bill.

Mr. MORRILL, of Vermont. I suppose that the principle upon which lands have heretofore been granted for railroads has been that it would increase the price of those remaining to the Government. If all the lands have been taken up on the line of the road I can see no more propriety in giving lands elsewhere to build a road in a particular locality than there would be to give lands to an old State. The Government is to receive no benefit from it; there is to be no doubling of the price of the remainder of the lands held by the Government; and if the principle is to be adopted here of giving lands in land States anywhere without any regard to increasing the value of the remaining lands in those States, it would seem to me just as proper to give them to the old States for building railroads as to the new States.

Mr. WILLIAMS. I do not favor any such principle as the Senator opposes. He will see, by looking at this bill, that the State can only go six miles on each side of the road. The land which they take, under any circumstances, must be on the line of the road. In the first place, they are only allowed to go three miles on each side of the road; and if they do not find the land then they are to go six miles on each side of the road; so that the land is located, in any event, on the line of the road. I would not favor the passage of any bill that authorized a State to take vacant lands in the State wherever they could be found, to be appropriated for the use of any particular locality.

I have a map here, and can exhibit the

condition of the country and the situation of the points referred to if the Senator desires to look at it; but I will state to the Senator that Roseburg is the county seat of Douglas county, and the chief town of the Umpqua valley. It is surrounded on all sides by mountains. This bill proposes to assist in the construction of a road from Roseburg to the navigable waters of Coos bay through the Coast Range of mountains, so that there may be access to the ocean from Roseburg through the mountains. It is a very difficult and expensive road to construct, and it is very necessary to the people there that they should have this way of egress and ingress. The distance is little more than fifty or sixty miles.

There are some small valleys in these mountains in which the land may be worth something, and it is possible that there may be some timber on the mountains that may be used by the State in the construction of this road with advantage. But it is a very short road. It runs through a range of mountains which shuts in Umpqua valley from the ocean. It will be of great value to the people of the valley, and enhance the price of the lands selected in the neighborhood of Coos bay. There is a considerable quantity of land there that is available for agricultural purposes, as I am informed, and if they can get into the interior of the State across these mountains and back again people will go there and settle on those lands, and in that way it will be of advantage to the Government. The grant is a very limited one, and in view of the great advantages to the people of the State I hope there will be no serious objection made to the bill.

Mr. HENDRICKS. I think it is proper that the Senate should know wherein this bill is different from bills that are ordinarily passed to aid the construction of military roads. It is in the provision to which the Senator from Vermont has called attention. I do not recollect of any other bills in which the deficit is allowed to be made up outside of the limits of the grant. This is the adoption in regard to wagon-road grants of the principle that applies to railroad grants. Grants are made to railroads of the alternate sections either six or ten miles on each side of the road; and if any portion of the granted lands have been sold by the Government or otherwise disposed of then the deficiency is made up by the selection of lands within a limited distance outside. Ordinarily the grants to wagon-roads have been simply the lands within a specified limit without this right to make up the deficiency. I believe the committee was induced to favor this bill in consideration that the road passes through a mountainous country to a very considerable extent. If the road be well made it would perhaps require very nearly the amount of land that is granted. The road will be a costly one to build, and the lands for a very considerable distance in the mountains will not be of value. Therefore, I believe, upon that reason the committee was willing that this provision should be in the bill.

I think in this class of bills there ought to be some requirement as to the character of the road to be built. Congress makes a grant of land for the construction of a wagon-road or a military road, and there ought to be some provision securing a road of value. But that has seemed to be impracticable. We have not been able yet to specify any plan. Thus far Congress has left it to the States or Territories in which the lands are granted to secure a suitable road.

I have stated the only difference in this grant from the ordinary grants that have been made. The committee supposed that the road will be a useful one if it can be constructed. It will be mainly through a region of country that is not now inhabited, and that it will be difficult to settle perhaps, but it will connect a desirable part of the country with the coast.

Mr. WILLIAMS. I wish simply to correct the honorable Senator from Indiana an supposing that this bill inaugurates a new princi-

ple. I am very confident that since I have been here several bills have been passed providing for wagon-roads that allowed the deficiency to be made up from lands contiguous to the line of the road. And I know that one or two bills of that kind have been passed at my instance since I have been in the Senate.

Mr. HENDRICKS. I do not wish to be understood as saying that this is the only bill of that kind. I say it is substantially a new feature in this kind of legislation.

Mr. WILLIAMS. I should be perfectly willing to have the three miles stricken out, and the State allowed to go six miles on each side, without any provision for the deficiency. But this bill is remarkable in this respect, that the State is confined to three miles in width on each side, and, if I am not mistaken, heretofore these grants have extended six or ten miles on each side. This is simply a provision extending the right to the State to take each alternate section of land for three miles on each side of the road, and if land is not found in the three miles, then it may go six miles. There is a provision in the bill that this road shall be constructed "with such width, graduation, and bridges as to permit of its regular use as a wagon-road, and in such other special manner as the State of Oregon may prescribe;" and it is further provided that if it is not completed within five years no further sales shall be made, but the lands remaining unsold shall revert to the United States.

The bill was passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills and joint resolution; in which it requested the concurrence of the Senate:

A bill (H. R. No. 281) for the relief of Edwin B. Hoag;

A bill (H. R. No. 967) to provide for the removal of the remains of Hon. W. T. Coggeshall, late minister of the United States at Ecuador, to the United States; and

A joint resolution (H. R. No. 389) for the relief of Lewis D. Smith.

The message also announced that the House of Representatives had passed the bill (S. No. 174) for the relief of Emma Wilson, of the State of Indiana.

NATIONAL CURRENCY ACT.

Mr. MORRILL, of Vermont. The Committee on Finance, to whom was referred the bill (S. No. 722) to amend an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," by extending certain penalties to accessories, have instructed me to report it back with an amendment and recommend its passage. It is a very short bill, to which I presume there will be no objection, and there is some necessity for its passage. I ask, therefore, that it may be considered at this time.

By unanimous consent, the bill was considered in Committee of the Whole.

Mr. MORRILL, of Vermont. There is an amendment reported merely to make the reference to the law accurate.

The amendment was read. It was, in line five, to strike out "fifty-five" and insert "fifty-two;" and in line eight, after the word "thereof," to insert "approved February 25, 1863;" so as to make the bill read:

That every person who shall aid or abet any officer or agent of any association in doing any of the acts enumerated in section fifty-two of an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved February 25, 1863, with intent to defraud or deceive, shall be liable to the same punishment therein provided for the principal.

The amendment was agreed to.

Mr. MORRILL, of Vermont. I will merely say, in explanation, that recently a very great fraud was committed in Boston, whereby either a bank or the United States will suffer a loss

of \$600,000; and it was found that while the law enabled the officers of the bank to be punished, it did not provide for the punishment of those outside, not officers of the bank, who had aided and abetted in the fraud. This is merely to correct that, so that parties who aid and abet such officers may also be punished. I take it there will be no objection to the passage of the bill.

The bill was reported to the Senate as amended; and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading; and was read the third time, and passed.

HOUSE BILLS REFERRED.

The following bills and joint resolution, received from the House of Representatives, were severally read twice by their titles, and referred as indicated below:

The bill (H. R. No. 281) for the relief of Edwin B. Hoag—to the Committee on Post Offices and Post Roads.

The bill (H. R. No. 967) to provide for the removal of the remains of Hon. W. T. Coggeshall, late minister of the United States at Ecuador to the United States—to the Committee on Foreign Relations.

The joint resolution (H. R. No. 389) for the relief of Lewis D. Smith—to the Committee on Post Offices and Post Roads.

LAND TITLES IN NEBRASKA.

Mr. THAYER. I move to take up, for consideration, Senate bill No. 730.

Mr. POMEROY. That is a bill which was reported this morning.

The PRESIDENT *pro tempore*. The bill having been reported to-day, it will require unanimous consent for its consideration.

There being no objection, the bill (S. No. 730) supplementary to an act entitled "An act to confirm the titles to certain lands in the State of Nebraska," was considered as in Committee of the Whole. It declares that the provisions and benefits of an act to confirm the titles to certain lands in the State of Nebraska, approved in 1866, shall be extended to the east half and northwest quarter of the southeast quarter of section nine, township fifteen, range thirteen, east sixth principal meridian, in Douglas county, Nebraska; and confirms the title thereto to the parties holding by deed from the patentee.

The Committee on Public Lands proposed to fill the first blank with "25th," and the second with "July;" so as to read, "approved the 25th day of July, A. D. 1868."

The amendment was agreed to.

Mr. POMEROY. I will only say that this bill relates to forty acres of land, the title to which was not confirmed at the last session because it was in litigation, but the matter has now been settled, and this bill is merely to confirm the title to the party that the court gave it to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading; and was read the third time.

Mr. HENDRICKS. I wish to ask the Senator from Nebraska, so that there shall be no doubt about it, whether he knows the fact that the litigation in dispute between the claimants in regard to this land has been settled? This piece of land was left by the committee out of the bill of last year because there was a pending dispute, and some of us thought Congress ought not to undertake to settle law suits. I understand, though I have no satisfactory information on the subject, that that litigation is at an end; and that being so, it is proper to settle the title so far as the Government of the United States is concerned.

Mr. THAYER. As the Senator from Indiana has stated, this tract of land was left out of the bill passed last year, so as not to be affected by it on account of the litigation then existing. The parties to that litigation have settled the question in dispute, and all parties now ask for the passage of this bill. I have

that information from the parties themselves. It is the desire of all parties interested that this bill shall pass.

The bill was passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bill and joint resolution; in which it requested the concurrence of the Senate:

A bill (H. R. No. 1598) to relieve from disabilities R. W. Best and Samuel F. Phillips, of North Carolina; and

A joint resolution (H. R. No. 211) for the relief of Henry S. Gibbons, late postmaster at St. John's, Michigan.

MISS SUE MURPHEY.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 625) for the relief of Miss Sue Murphey, of Decatur, Alabama.

Mr. HENDRICKS. Mr. President, it was not my purpose yesterday when I obtained the floor to make any extended remarks upon the bill now before the Senate. I was surprised when hostility showed itself to this bill. It seemed to me so obviously right that I could not understand why Senators for whose judgment I have so much respect should object to it. Now, the facts are simply these, as I understand them: these two girls owned a tract of land near Decatur, in the State of Alabama, on which there were houses and other improvements. After that section of the State of Alabama had come within the lines of the United States Army, and was no longer under the control or within the lines of the confederate forces, the commanding general found it to be important, with a view to future military necessities and movements, to fortify the town of Decatur and to make a strong position at that point. With that view he made the order referred to yesterday by the Senator from Michigan, [Mr. HOWARD,] and a further order was made directing the occupancy of the lands owned by these two girls. The lands were taken possession of, the house was removed, and upon the very locality of the house Fort No. 1 was built. Other parts of the land were occupied with rifle-pits and other defenses. All the improvements were removed, and the committee finds that those improvements were of the value at least of \$7,000. The simple question is, whether this property thus appropriated by the authority of the United States ought to be paid for by them; and upon a question like that there is no room for doubt in my mind.

There are two objections urged. The first will not do, in my judgment, in the Senate of the United States. It is said that we cannot afford to pay this class of claims; that the Treasury cannot bear the burden. Mr. President, this is an argument for repudiation; and if I am prepared to-day to say that these girls have a just claim, a legal claim, a moral claim against the Government of the United States for their property which it has taken, and if I am prepared to say that that just and legal claim shall not be paid because the Government cannot well afford it and because the people cannot well afford to pay it, then I am prepared to say that the bondholder shall not be paid, because I hold that the obligation of the Government to pay for property which it takes from the citizen is of as high a grade as, if not a higher order of obligation than, that resting simply on contract. There is no constitutional obligation that the Government shall always and in every instance observe its contracts; but there is a constitutional obligation resting, as I hold, upon myself as a Senator that the property taken by the Government for public use shall be paid for.

And I think, sir, it will not do to say that the Government is not able to pay its debts. This property was worth \$7,000. The committee so finds. It was taken from these girls in 1864. There was a promise at that time by

the Constitution that they should be paid for this property which was taken for public use. That very fort built upon the site of the dwelling-house, those rifle-pits dug upon their land, were subsequently used in battle to turn the forces of Hood in their advance northward. That property and that appropriation of property became of the very greatest importance to the country. Perhaps no property was taken during the whole progress of the war which was so valuable in its use for military purposes as the property taken from these two girls.

The Constitution, the day that property was taken, said that it was taken for public use, and should be paid for. That was the promise; not a bond signed by the Secretary of the Treasury, but an obligation resting upon the Constitution itself, the whole nation having promised these two persons that they should be paid for their property.

A bond on that same day was issued, say, paid for in a very depreciated currency; every six months the bondholder has received his interest; his interest in gold has now amounted to very nearly the amount of money he advanced. It is regarded as a high offense, and I do not question it here; I am not up for the purpose of questioning it; it is regarded as a very high political offense to question for a moment the obligation to pay that bond; but it is all right, and regarded as an act of political virtue to say that the Treasury shall not be burdened by an obligation of higher character and grade, if a promise by the Constitution is higher than a promise in the bond! I call the attention of Senators to this consideration of it, that they may deliberately decide whether they are ready to adopt, for the purpose of defeating this little claim, the sentiment of repudiation.

So much for that view of the subject. Next, sir, it is said that this was enemy's country. In fact it was not so. In fact it was within the lines of the Army of the United States. The authority of the Government had been reestablished at that place. Why then, sir, shall they not be paid? As I said before, I do not admit the doctrine upon which the Senator from Michigan now stands. I do not admit that these two girls of necessity were enemies of the country. That has not been the political view of the subject, and upon that I intend to read what I regard as very high authority, the statement of fact made by a gentleman then occupying a very distinguished position in the party of the majority of this body. And here is the doctrine as he declared it:

"From the beginning of the war up to the present time every message of the President, every proclamation, every State paper, and every act of Congress has proceeded upon the hypothesis that no State could secede from the Union; that once in the Union always in the Union. Mr. Lincoln in every proclamation went on the principle that this war was an insurrection, a rebellion against the Constitution and laws of the United States; not a rebellion of States, but a rebellion of the individuals, the people of the several southern States; and every man who went into it was personally and individually responsible for his acts, and could not shield himself under the action or authority of his State. He went on the principle that every ordinance of session, every act of the Legislatures of the rebel States in that direction was a nullity unconstitutional and void, having no legal force or effect whatever, and that as these States were according to law in the Union their standing could not be affected by the action of the people; that the people of these States were personally responsible for their conduct just as a man is responsible who violates the statute in regard to the commission of murder, and to be treated as criminals just as the authorities thought proper; that the people of a State can forfeit their rights, but that so far as their action is concerned in a legal point of view they had no power to affect the condition of the State in the Union. Every proclamation and every act of Congress have proceeded upon this hypothesis. Mr. Buchanan started out with the proposition that this was a rebellion of States. He said we could not coerce a State. Our reply was, we have nothing whatever to do with States; we will coerce the people of the States, holding every man responsible for his conduct."

That was a declaration of the position of the Government, very shortly after the close of the war, that each party who participated in the rebellion was personally responsible.

Can that personal responsibility, then, attach to the neighbor that took no part in the war? Can it be held that because a large body of persons violated their constitutional and legal obligations in inciting a rebellion, in carrying on a war, therefore those citizens who did not participate in this wrongful conduct are to have the character impressed upon them which the acts of the other parties impressed upon themselves? I repudiate the sentiment. I do not think that it rests upon law, and I know that it is not consistent with the view that we ought to take of it. I ask gentlemen whether these two girls, because of the existence of the war, ceased to be citizens of the United States? Did they cease to owe allegiance to the Government of the United States? Never. Their legal relation to the United States was never changed; their obligation of allegiance remained all the while.

Mr. CONKLING. Will the Senator allow me to ask him a question just there?

Mr. HENDRICKS. With pleasure.

Mr. CONKLING. If it be true that this claimant never ceased to be a citizen of the United States—and I agree with the Senator in that—and if this claim rests upon the ground that the private property of a citizen being taken the United States is bound to make compensation, does she stand upon any different footing on account of her loyalty from that which she would occupy if in truth she was disloyal? Does the fact of her loyalty increase her citizenship and make this constitutional provision more operative? And if by her side was a person with the same case, except that she was disloyal in the condition of her mind, both being non-combatants, would it at all affect the obligation or diminish the obligation to pay?

Mr. HENDRICKS. Mr. President, we are discussing a case that is now before the Senate. When any other party presents a claim it will be sufficient time then to consider the merits of that claim. The fidelity of these two girls to the Government has not been disputed. That they were true all the while, that they were ready to administer to the comforts of the soldiers who came by that way with water from the well or food, is not disputed. Now, sir, I think that it is not fair argument to lay alongside of this case the case of a party who went into the war, who brought on the necessity, who was the cause of the war, if I may so express it. I think there is a very great difference. In the case of a party who stood by the Government all the while, who did all that he could to aid the Government, if the Government takes his property it is unquestionably a case of a contract to pay for that property. But the party who brings on the strife, who is the cause of the difficulty and of the war in which his property is lost, has no such claim as that.

Now, sir, to return to the argument. These girls were citizens; no Senator claims that they lost their citizenship; no Senator claims that they ceased to owe allegiance to the Government of the United States; no Senator claims that they did not faithfully discharge all their duties to that obligation of allegiance and fidelity. Why not pay the debt, then?

If the property had been taken from a neighbor of the Senator from Michigan, up near the city of Detroit, would he not raise his voice for payment? Would he not say that the Constitution and moral obligation both required its payment? Then I ask where is the difference between a case that may occur near Detroit, in Michigan, and a case that occurred near Decatur, in the State of Alabama, when that locality was occupied by the Army of the United States after the rebellion had been suppressed, so far as that locality was concerned? If there be merit special and peculiar it is in favor of the party down at Decatur. The party there, to be faithful to the Government, had to stand up against public sentiment, while the party near Detroit, to stand by the Government, would run with public sentiment. The

case of these two girls, then, is stronger, in my judgment, than if they had lived in one of the northern States.

Mr. President, my purpose was mainly to answer the argument which had been urged so frequently, that the Treasury could not afford to pay this money. In this case it is, I believe, but \$7,000. When a like case of equal merits is presented here I shall vote for it, as I voted for the case of Mr. Armes, in Virginia, where his school property was taken because it was necessary to occupy the grounds for military purposes. We paid for that property, and we said it was right to do so. His fidelity to the Government was sufficiently established; the loss of his property, by an appropriation on the part of the Government, was established; and we said that those two propositions being established it ought to be paid for. Why not, then, pay for this property that is provided for in this bill? I shall vote for it with great pleasure; and I do not think there is any danger of bankrupting the Treasury by doing so. There may be other claims. I have no doubt there will be other claims. When they are meritorious, when the property has been taken for useful purposes in the prosecution of the war, it ought to be paid for. The people are able to pay for that which is right. They have to pay for a good deal that ought never to be paid for; and when a case is clear and plain, where there have been no advantages of political position to secure contracts, but where property has been taken for a great purpose, my vote shall be to pay for it.

Mr. CONKLING. Mr. President, I have convinced myself that this case is one of great importance; that the bill we are now considering is practically one of the most important likely to be considered during this session; and if I were to forecast the financial measures of this session I should be willing to prophecy that no bill of more practical importance touching the finances of the Government will be considered finally than this. It is not important because it involves \$7,000, nor merely because it is one claim of a class. It had when it came here from the committee, and it has acquired during its consideration, an importance far greater than that. Had it been brought forward as the bill to which the honorable Senator from Indiana [Mr. HENDRICKS] has referred, in the ordinary, I will not say in the casual, manner of reports from committees, had it been acted upon *sub silentio*, although it would have constituted a precedent, it would have constituted a precedent in hardly a greater sense than a judgment *pro forma* in a court. But it was reported from the committee as a test case. So it came announced to the Senate. It has been largely, if not thoroughly, discussed and treated as a pioneer case—as a case the adjudication of which is to constitute a precedent upon which the Senate will rest.

And now I wish I could successfully invite the attention of every Senator to this single proposition, if to no other, to wit: that should this bill be adopted, the questions which it involves will not be reargued before this tribunal until its constitution is changed, if ever. Let me repeat myself: while the Senate is composed of its present members, after such a discussion as this bill has undergone, the questions which it involves will not be reopened, nor will a reargument be made. Distinctions will be sought, and perhaps found, between this case in its particularity and other cases said to bear a resemblance to it; and I think I shall be able to show that those distinctions will be sought in vain in the midst of the countless multitude of coming cases. Therefore, I shall make no apology for asking the attention of the Senate to an answer to some of the suggestions which have been made, feeling, as I do, that I cannot address myself to a subject of more interest to the people I represent than the question whether, in a case like this, and in all other like cases, that sum of money which no process of arithmetic now can compute is

to be taken from the Treasury and given to we know not whom.

If the purpose was, Mr. President—and I do not impute it to any Senator—to render the war from which we have emerged odious, to discredit and disparage the intelligence of the two Houses of Congress, it could be successfully accomplished by obtaining from the Senate a judgment that the legislation of the country has been so neglected that the Government of the United States is now bound by law to make compensation for the injury which was done, for the calamity which befell citizens in the prosecution of that bloody war in which the Government was driven to engage. And when I hear Senators talk about repudiation, and address to the Senate or to the galleries suggestions that some parallel is to be run between those who challenge this claim and those who set commercial and national honor at defiance by trampling our public obligations under their feet, I am almost compelled to look for some cause of such argument which ought not to be found, and usually is not found, within the precincts of this Chamber. I have no wish to see the Senate repudiate any just claim; but I have a great wish that at the threshold of bills of this description we should ascertain as definitely as we may whether the Government owes anything to such claimants; and if so, upon what principle, and how much.

What is this case? In 1864 the claimant was a citizen of the State of Alabama. A disorder had broken out in Alabama and elsewhere. It was the primary duty of the State government in Alabama to quell that insurrection, and interpose between it and the citizens of the State. Disregarding this duty, not exerting within the limits of possibility or convenience its power, the government of Alabama was found in front of the rebellion. It led the assault; and thus the Government of the United States found itself doubly charged with the duty of interfering and persevering to the end. The Government did interfere, exerting that right and acknowledging that duty which the honorable Senator from Kentucky [Mr. DAVIS] yesterday in such forcible language told us existed. This disorder spread among many States, and ran into a public civil war, a war in all respects pertinent to this inquiry. The ports of this very State and of other States were blockaded; and that word contains now, as it contained then, that volume of significance which alone determines the question, so far as this Government can determine it, whether a war existed or not. Carrels for the exchange of prisoners were made. The world looked on, and every nation said "this is a public war;" and history said it was the greatest and most destructive war the world had ever seen. What did this Government, especially, say? Every department of it, executive, legislative, and judicial, said it was a public war in all its bearings and all its attributes. The Supreme Court of the United States, in the prize cases, said not only as I have affirmed, but said other things bearing more particularly, as I hope I can show the Senate, upon this precise question.

Now, sir, the law-making power, both by direction and by indirection, too, vested the President of the United States with the power to issue the proclamations which he did; and two of those proclamations—one will suffice for this purpose—denominated the State of Alabama and the whole of it as enemy's country, not in so many words, but in the construction given by the Supreme Court in the cases which I hold in my hand. The honorable Senator from Wisconsin [Mr. HOWE] waves his "ambrosial curls" in dissent to that proposition; but I beg of him to listen for one moment and see if I am not right in what I say.

Mr. HOWE. The Senator from Wisconsin will hear with great pleasure the Senator from New York, and lay his ambrosial curls aside. I beg the Senator to understand, however, that I am not the man who deals in ambrosial curls. [Laughter.] I was about to call his attention

to the proposition he made just now, that those proclamations asserted that the whole of Alabama was enemy's territory. I was about to ask him to point to any one proclamation which said that; and he qualified it at once by saying it was not so said in terms, but something was said upon which the Supreme Court based its construction. Now I shall hear the Senator with a great deal of pleasure.

Mr. CONKLING. First of all, I must set right with the honorable Senator from Wisconsin the other point. I know there was a time, five or six years ago, when conservatism was somewhat rampant in the Republican party, when it was thought injurious to politicians to say that their hair curled. [Laughter.] That time passed some time ago; and for that reason, if for no other, I beg the honorable Senator to believe that I did not intend in any way to inflict an injury upon him by indulging myself in a somewhat trite quotation.

Mr. HOWE. I certainly did not suspect the honorable Senator from New York of an intention to fix a stigma on any gentleman by alluding to his curls. I think he would be the last one to attempt to stain a man in that way. [Laughter.]

Mr. CONKLING. I take that precisely as the Senator leaves it, and that, I suppose, is a condonation all around of the offense which the Senator seems, in a good-natured way, to have taken at my remark.

Now, Mr. President, my proposition was and is that the President of the United States by proclamation put the State of Alabama in the situation of enemy's country. Upon that the Senator takes issue. Whether he takes issue upon the fact of such a proclamation or upon the legal effect of that proclamation I do not know, and in the absence of information I will try to defend my statement upon both points. First, I take it, nobody denies that the President issued a proclamation declaring that territory represented by the geographical limits of the State of Alabama to be insurrectionary territory. Does the Senator deny that? I inquire of the Senator whether he puts me to the proof that the President issued a proclamation declaring that district, that locality, or, if there be a distinction, the inhabitants of that locality known as the State of Alabama in insurrection?

Mr. HOWE. I put the Senator to the proof of showing that the President did anything more than to say that an insurrection existed in the State of Alabama; and when he said that, I call the attention of the Senator to the fact that he explained the consequences which he attached to the fact stated by him, that an insurrection existed in the State of Alabama; but in no one of his proclamations did he say how much or how little of the State of Alabama was involved in the insurrection.

Mr. CONKLING. Well, Mr. President, I heard years ago a very old lawyer, and a very acute one, say that when a contract was made for the sale of a horse it carried his head, his tail, and the whole of him, and it was not necessary to be any more particular than to say it was the sale of a horse. By parity of reasoning, if the Senator will excuse me, I had supposed that when a State or a county or a parish or a township, or any other entire geographical thing was nominated, the designation meant precisely, as it implied, the whole of that thing; and I should suppose, if the honorable Senator had not made the suggestion, that it would be very, very far-fetched to attempt to say that it applied to it at all without applying to the whole of it; and that if it did apply to a part of it, and not to the whole, it applied to some particular part of which you could make that affirmation, declaring that, as to the other part, its operation was absent. I shall not stop to argue that, because it is too fine-spun for me. When the State of New York is spoken of it means the State of New York, and so when the State of Alabama is spoken of it means the State of Alabama; and when the people of the State of New York are spoken

of it means the four million people who inhabit that State.

Mr. HOWE. That the Senator, if I do not embarrass him—

Mr. CONKLING. Not in the slightest.

Mr. HOWE. That the Senator and myself may comprehend just the point of difference between us, let me say a word. I know I can see that under some circumstances when the State of New York is referred to it may include the whole of the State of New York; but the Senator certainly would insist, if a newspaper paragraph stated that the small-pox had broken out in New York, that we should not necessarily conclude that the small-pox prevailed throughout the State of New York; and if the small-pox could prevail in a part and not the whole of the State of New York, could not an insurrection exist in a part and not the whole of the State of New York? [Laughter.]

Mr. CONKLING. I hardly know whether that remark of the Senator is intended by way of pleasantry or law. If by way of pleasantry, it is good, because it makes my honorable friend from Indiana [Mr. HENDRICKS] laugh; and notwithstanding his proverbial good nature there must be wit in it, or he would not laugh. But if it is intended as a matter of law, I need not point out to the Senator the total dissimilarity between that case and this. When you talk about the people of a State as to their condition politically, then you are talking about one thing. If you say a horse has run away in the State of Wisconsin, you of course do not imply that he ran all over the State of Wisconsin in running away; and yet the Senator might as well put that case to me, I submit, as to put the case he does.

I think, then, we are agreed that the President did issue a proclamation in which he declared in insurrection the people of the State of Alabama. Now, I say that that proclamation, with the force which the Supreme Court gives to presidential proclamations, carried with it the whole force of determining that that was enemy's territory. The President by virtue of the same power proclaimed a blockade; and the Supreme Court said, in the prize cases, that by virtue of that proclamation alone a blockade existed; and they said also that he had legislative sanction for it. I can put my eye upon the paragraph in a moment, for I have the case before me; but I will not stop to do it.

Now, if in truth this was a civil war, a public war, if in truth those waging it on the other side, although they were called rebels and insurrectionists, nevertheless were a belligerent, as the Supreme Court has decided, I ask at what point it is that the argument can fail to show that this was enemy's territory? And if it was not enemy's territory I ask what rood of land within the limits of the Republic in the year 1864 was enemy's territory? Will any Senator tell me that the accident of the time, determining whether the Army was in truth camping there or whether contending armies were engaged in a grapple for the mastery, decided whether it was enemy's territory or not? I think no lawyer will say that; and if he will not, then this is the palpable case—assuming that the late war could present it—of occurrences in a theater of war, and in a territory within military lines and within the original occupation of one of the belligerents, by whom it was so wrenched step by step as the Army proceeded.

That, then, is this case upon its facts so far. This claimant was a citizen, under those circumstances, of that State. Now, what is the bill? This sum of money is to be appropriated—

"in full payment for damages done her farm in Decatur, Alabama, by reason of the same being occupied for military purposes, and for the destruction of the buildings and other property thereon."

Here, then, is imbedded in this bill, entering at least as an ingredient into this computation, the circumstance that this claimant's land was

occupied for military purposes. That cannot be obliterated except by some new process of calculation which shall diminish these damages. How was it occupied for military purposes? Under an order which subjected to that occupation every building, every close, all the private premises in the town of Decatur. I am told by one of the Senators from Alabama this morning that eight hundred people are not more than there are in Decatur. Confessedly, then, by this one order eight hundred people, if that be the number, were placed in the attitude of the claimant in this case, meritorious applicants for damages because the Army trod their fields and occupied their lands. There may be other causes of injury here. I am commenting upon this one, which is an integral part of that for which we are asked to award damages. Eight hundred people, if they are all loyal—and I think I shall fail in a very plain office of this argument if I do not convince the Senate that if this claim is to succeed upon the grounds upon which it is supported the circumstance of loyalty or disloyalty is wholly immaterial, of no more consequence than the dust in the scales—eight hundred people, then, are in the situation of this claimant, assuming now, for the moment, that they were loyal people, as she is said to be; and upon that case we are told that the Government is bound to make payment for her premises. Upon what principle? Upon the principle that it is the simple case of the Government taking for public use private property. Now, stop there a moment. All the facts in the case deny any such proposition. Why? Because, confessedly, a war existed to which the Government was a party on the one side. This was in the territory of the enemy, assuming that there was an enemy in the sense in which I now use that word; and the property was occupied during this war, in the progress of it, inasmuch that the honorable Senator from Indiana told us this morning that after this event took place, fighting, if I understood him, occurred at this very point, and these premises became useful as a position in a battle-field. Sir, is not that enough to show that as far as the east is from the west so far is this case from the ordinary case of a Government within its own peaceful domain appropriating to its own or a public use the property of one of its citizens? The learned and honorable Senator from Kentucky [Mr. DAVIS] answers no, and he refers the Senate to two cases which he thinks justify that answer.

Mr. President, I was not surprised at what the honorable Senator from Kentucky said. I was not surprised, although I know his acuteness, his learning, and his candor, because I long ago listened, in the other end of this Capitol, to arguments showing me how far those events which have aroused the feelings and the prejudices of us all have made their impression and warped what would seem to be the ordinary line of human judgment and mental vision. The honorable Senator thinks that the two cases which he cited cover this case, and afford not only an apology for it, but constrain the Senate, in honesty and propriety, to submit to this claim and acknowledge it.

The honorable Senator first discussed the case of *Mitchell vs. Harmony*, in 13 Howard; and I beg his attention and the attention of the Senate to the facts in that case. In 1845 Congress passed an act giving a drawback upon merchandise exported in the original packages to Santa Fé, in New Mexico, and Chihuahua, in Mexico. The act provided that the Secretary of the Treasury should make regulations under which it should be executed; and it became, as we all know, historically a part of the policy of the Government, in carrying on the Mexican war, to promote and encourage trade with the Mexicans in order to conciliate; expressing it otherwise, in order to demoralize and disintegrate the embodied sentiment against us. Section nine of this act imposed a forfeiture of the entire goods, and a fine, in addition, upon any man who should voluntarily bring them within the limits of the United States. Harmony was a trader, and on the

27th of May, 1846, he left Independence with what in the West would be called an outfit, consisting of goods imported under this law, and set out upon his mission toward Santa Fé. The act of the 18th of May, 1846, recognizing the Mexican war as existing, was not then known to Harmony or known at Independence, from which he started. This being the situation of things General Harney sent forward to stop all traders, this man with others. He did stop; and upon the command of the United States overtaking them he and others were permitted to go on and trade in the rear of the Army, and he did so. When they had advanced to within about three hundred miles of the town of Chihuahua, and were getting far into the enemy's country, where, I ought not to omit to say, Harmony had been authorized and encouraged to go, not only by the military authorities, not only by the Secretary of the Treasury, but, as the case shows, by the executive department itself—by the President. Having gone that far he sought to withdraw, to retrace his steps; and the commander at the last fort which they had passed issued an order that he should be compelled to continue with the Army, and that he should be compelled by force to continue with his property and his goods. Mitchell, the defendant below in the case, procured that order somewhat officiously, as the court seem to have thought, and executed it himself out of the ordinary course of things, it belonging appropriately to an officer inferior to him, and by force compelled this man, who was an American citizen, to proceed with the Army, it being destined upon a far-distant and perilous expedition against a town three hundred miles away. He did proceed; compelled to do so by force. The army on its march came upon the battle of Sacramento, which was fought, Harmony's wagons being used in the battle, and his mules being used and many of them killed. The battle over the army proceeded to the town of Chihuahua and occupied it, using his animals as far as they survived, his wagons, and his property. Chihuahua presently was abandoned, and the Mexicans coming there seized his property, confiscated it, and destroyed it. Harmony sued Mitchell for trespass, and Mitchell interposed five pleas, to which I wish to call the attention of the Senate. He pleaded—

- "1. That the plaintiff was engaged in trading with the enemy.
- "2. That he was compelled to remain with the American forces, and to move with them, to prevent the property from falling into the hands of the enemy.
- "3. That the property was taken for public use.
- "4. That if the defendant was liable for the original taking he was released from damages for its subsequent loss by the act of the plaintiff, who had resumed the possession and control of it before the loss happened.
- "5. That the defendant acted in obedience to the order of his commanding officer, and therefore is not liable."

The cause was tried in the circuit court of the southern district of New York, and the circuit judge virtually directed a verdict for the plaintiff. The exceptions arose upon the direction or charge of the judge. The jury rendered a verdict of ninety thousand and some odd dollars against Mitchell for this trespass. The Senate will see that the question presented to the Supreme Court was simply whether that judgment should be affirmed or not. The honorable Senator from Kentucky cautioned us against mistaking the rambling dissertations of a court for the decision in a particular case. I was glad to hear it from him. I have always wished that the distinction might be observed. I wished it in the *Dred Scott* case. When the court commenced by determining that *Dred Scott* was not in court at all, was not a citizen and could not be there, and having determined that, proceeded to deliver the oracles of the Democratic party, I always regarded it in that case, if I may be permitted to say so, as entitled to no more respect than the sloppings over of a court in any other case. I agree entirely with the honorable Senator from Kentucky that it behooves us to look at the point in judgment,

to look at what the court had a right to decide, in order to measure the effect of the decision.

What question had the Supreme Court to decide in the case of *Mitchell vs. Harmony*? The circuit judge had charged the jury below, virtually, that this was a trespass on the part of Mitchell. He had charged the jury, among other things, that to have taken this property under the color of right there must have been some great public exigency pressing at the moment, but that this man had himself, as a volunteer—that word appears in the opinion, I think—obtained an order from his superior to compel the claimant, under duress, to remain with an army destined upon a far distant adventure, perilous and unnecessary, in the sense of self-preservation; and that, in thus compelling him, he had been guilty of an asportation of his property where it was harmless, from where it was safe, from where the plaintiff with his property had a right to be, to a far distant scene of violence where his property was destroyed. That the court below charged; that the jury, in substance, found; and that the Supreme Court of the United States said appeared to be true in law and in fact; and the whole court concurred except Mr. Justice Daniel, who dissented on the ground solely that the circuit judge had trenchanted upon the functions of the jury by expressing his opinion upon matters of fact.

Now, Mr. President, what has that case to do with this? What can it have to do with it in any aspect? Even if the court had traveled out of the record to give public instructions upon a question like this would it have any force as a decision? I know that in the opinion of the court it is said that undoubtedly an exigency may exist in which a public officer, in which a military officer, perhaps the expression is, may seize property under such circumstances that the Government will clearly be liable; but the court say this is no such case, and therefore it is not necessary to speculate upon that. That is the case of *Mitchell vs. Harmony*, the case of a citizen authorized by an act of Congress to do a specific thing, held under the rigors of a section which provided that if he voluntarily came into the United States with his property it should be forfeited and he should be fined; a man who had in addition to that the assent not only of the present military authorities but of the executive department of the United States behind them and behind him for what he was doing; a man who sought to remain where his property would have been safe, where the courts say the jury was well warranted in finding there was no danger of its falling into the hands of the enemy; wishing to remain there, he was compelled by the force of the defendant to submit to being transported with his property to another and a distant field, where it was destroyed; and that the jury and the court concurred in thinking was a trespass for which the defendant, Mitchell, must pay. Now, sir, if I am to vote Miss Sue Murphy's claim I must find some broader and better apology than is afforded to me by the case to which I have referred.

The honorable Senator referred also to the case of *Grant*, in the Court of Claims. What was that case? It occurred in the court in October, 1863. The alleged destruction of property was on the 15th of July, 1861, and the first proclamation of the President declaring any community or any territory insurrectionary was on the 1st of July, 1862—a year afterward, lacking fifteen days. The occurrences discussed in that case took place in Arizona, and that Territory and the people of that Territory were never declared by any proclamation to be in insurrection. I have gone far enough, I think, to show that it has no relation, however remote, to a question like this. That was the case simply as to which the honorable Senator from West Virginia [Mr. WILLEY] read an authority from Vattel the other day. The very words which he read are incorporated in the opinion. It was the simple case of the Government taking the property of a citizen within

the country in its ordinary peaceful sense; and, as everybody will see who reads the opinion of the court, the question which we are discussing here played no part whatever in it. The judge quotes from Vattel that if the Government takes the property of a citizen by way of precaution, even though his Government at the time is engaged in a war, if beforehand and in the acknowledged dominions and jurisdiction of his Government his property is taken, it is the ordinary case of a citizen who has a claim because his property has been taken for public use. That I need not be mistaken in that assertion, I will call the attention of the Senate very briefly to what the court say in the case, and particularly I wish to call the attention of the Senate to the fact that it crops out accidentally, in the latter part of the opinion, that Judge Wilnot had especially in his mind the distinction between this Territory which remained in its ordinary condition and an insurrectionary State or district, because he says:

"The necessity to us appears to have been urgent, the danger impending. Texas, adjoining New Mexico, of which Arizona was then a part, was in flagrant rebellion."

That was the use which he was making of this fact that there was nigh to or adjacent an insurrectionary State, and because of that and other facts to which he refers an imminent exigency existed which furnished to this man, if I may so speak, his power of attorney or his warrant to do what he did with this property. What does the court say?

"Every elementary writer of authority sustains the views here taken of the duty and obligation of States."

And he quotes from Vattel:

"When a sovereign disposes of the possessions of a community or an individual the alienation will be valid. But justice requires that this community or this individual be indemnified at the public charge."

And then the judge quotes the precise language read the other day by the Senator from West Virginia; and upon that ground he awards a certain sum of money as the damages in this instance. Sir, has that anything to do with the question before us? I submit, with great respect, that it has nothing in the world to do with it, unless you obliterate from this case the fact that Alabama and her people had been declared to be in insurrection and no act or declaration to the contrary had ever taken place. If you obliterate that, if you make it the case of property taken in the State of New York by a law to erect a fort upon it; property taken as a ship lying in the harbor of New York to go out on the seas and fight the battle against the rebellion; then I admit it has application, and then I also admit that it is wholly unnecessary to resort to it, because nothing is better settled, I take it, in the jurisprudence of perhaps I might say all countries than the proposition for which it would be cited.

What is the distinction? What was the distinction in 1867, when this body deliberately put it in the form of an enactment? The act of February 21, 1867, declares expressly, and in the broadest and most searching language—I was surprised to find it so broad—that the Court of Claims shall take no jurisdiction, shall entertain no question whatever arising out of a claim for real estate, for personal property, for injury to either, for damage of any kind occasioned during the rebellion in any State whatever or in any part of any State. I call the attention of the Senator from Wisconsin to the fact that there his distinction is met—in any State or any part of any State which has been declared to be in insurrection. What did the Senate mean by that? What did the Congress of the United States mean by drawing a line too deep and distinct to be crossed between the claims of those residing in the adhering States, as they used to be called, and those residing in the States which went off with what a great judge called a unilateral declaration of war, and attempted to establish an independent sovereignty? Does the statute say that if they be loyal and reside there their claims may be entertained? Does the act say that if the Army has reached so far,

and for the moment has a *possessio pedis* of the particular property, there is the scene from which a meritorious claim may come or a claim to be entertained? No, sir; no such distinction as that; but taking the distinction referred to by the Senator from Michigan, referred to by the Supreme Court, and vindicated so far as that court is concerned until it shall be overthrown—referring to that distinction, and that alone, Congress has said that in no case whatever can any claimant from one of the insurrectionary States be so meritorious that his claim is to be entertained even or discussed in the appropriate tribunal.

Mr. President, suppose we depart from this; suppose we follow the honorable Senator from Kentucky; let me ask you to consider what follows. I say—and I say it after questions have been propounded here inviting its refutation, inviting all Senators to point out the distinction—that no distinction can be found, none whatever, in law or principle between this case and those countless instances of injury which occurred during the march of Sherman and during every other march that took place while the rebellion raged. I do not mean, I beg to say to the honorable Senator from West Virginia, to include in this statement lawless acts of individuals, unauthorized trespasses committed by the members or the followers of Sherman's army; but I insist that every authorized act of the occupation or the appropriation of property which occurred between Atlanta and the sea is upon all fours, as to loyal citizens at least—and I want in a moment to discuss that distinction, if it exists properly—with the case before us. Every battle, every siege, every march, every encampment, every bivouac, every parade since the war began, unless it happened upon the public highways or upon the scanty reserved property of the United States, brought into existence its brood of claims like this. Why not? Says the honorable Senator from Kentucky, to illustrate, property is prostrated to gave range to guns. Yes, sir. One of the most striking marks of destruction that I saw during the war, because it was among the first, were the green trees at Arlington felled in midsummer to give range to the guns. Everywhere that took place. Everywhere standing timber was felled to make fires, and for other uses. The rails were taken from fences to be used at the bivouac. Stacks, granaries, animals were taken; but above all, and most necessary of all, in the language of the bill before us, the land was "occupied for military purposes." Yes, sir, the iron heel of war went over it. What distinction is there between those cases and this? I have not come now, bear in mind, to what are called in the books accidental or incidental cases, where a random or an intentional shot destroys a building or kills an animal in the progress of a battle. I am speaking of those intentional, those precautionary acts, if you please, which fall within everybody's definition.

I have no wish either, any more than the honorable Senator from Indiana, to resort to questions of amount in order to evade questions of moral obligation; but is it not proper that the Senate should pause when we see here, after full discussion, in a case avowedly presented as a test, that we are in danger of establishing a precedent which will usher in demands great enough to beggar any nation?

I shall be answered—and I must not forget that—that we have a breakwater in the distinction between loyal and disloyal persons, and that claims like this are to be presented only by those, perhaps only by the few, in the southern States who clung to the flag during the rebellion. I affirm, sir, upon deliberation, (and I have ventured to invite the attention of Senators to it,) that no distinction whatever is to be found upon the argument presented to us between Sue Murphey as she is and Sue Murphey as she would be had she been a non-combatant rebel. First of all, if there were a distinction in law it would vanish as matter of fact. Who doubts that every claimant who comes here, particularly every woman, every

non-combatant can show that she was loyal during the rebellion? It reduces itself to a state of mind in the case of non-combatants; a state of mind is all there is of it; and in point of fact every claimant who comes, if there be such a distinction, will be able to show, past our finding out to the contrary, that loyalty is one of the elements of the case.

But, Mr. President, what has loyalty or disloyalty to do with the test of this question at all? The honorable Senator from Indiana said he thought it was not fair to present a case different from that before us. I submit to him that it is fair in order to test the principle. It is fair in order to show that this argument proves entirely too much, and that therefore it is unsound. Now let us see. Was Sue Murphey a citizen because of her loyalty? Will anybody say that? Was her citizenship distinguished from that of any other person on account of her loyalty? Suppose her prayers and her hopes had been with "the lost cause," would that have quenched her citizenship? I should like to hear an argument made to show that. The argument is that because this claimant is a citizen and because her property was taken for public use, *ergo*, compensation is to be made. Is not that as true of one citizen as another? Why is it true of any citizen? Because the Constitution affirms it. Suppose you pass a statute saying that disloyal citizens shall not be paid; if this argument is sound they will read the Constitution to you, and the statute goes down because it is palpably in violation of that provision of the Constitution.

Now, Mr. President, if it be true that this case is determined and concluded by that provision of organic law which says that compensation shall be made for private property, will some Senator tell me the distinction to be drawn between the case of Miss Murphey and some other woman living next door to her despoiled of her property by the same act? Suppose that Miss Murphey daily prayed for the success of the Union Army, and her neighbor daily prayed for the success of the confederate forces, will any lawyer tell me that, if the question is disposed of upon the principle that compensation must be made to citizens for property taken, a distinction can be drawn between the two cases that I have cited?

The Supreme Court said, in the prize cases, in so many words, that although every inhabitant of these insurrectionary districts became a public enemy, he did not become a foreigner or an alien; and the honorable Senator from Indiana argued this morning that the citizenship remained. Certainly it did. The ordinances of secession were void. They were citizens in rebellion against their Government, but still citizens. And now, I repeat, what becomes of the question of loyalty or disloyalty as the element in such a case? I affirm that, if this argument be true, it is beyond the power of Congress to establish any such distinction. The Constitution is paramount, and would move on as unchecked in its course in this regard if we should interpose a statute setting up such a distinction as it does now in the absence of any statute.

Thus let us look this question in the face. If the argument proves anything it proves that all persons whatsoever who were citizens of the United States are entitled to compensation for every loss they sustained in such wise as the loss was occasioned here or in any wise legally similar to it. Can that be true, sir? If it is, we are in a more unfortunate condition than was suggested some time ago by the acting President of the United States. He sent us a communication broadly intimating to the nations of the earth that if we had conquered and because we had conquered the rebels of the South, we had absorbed their assets to us and thus became liable to all mankind for their public pecuniary engagements. Well, that was rather a startling discovery to the Senate and the country; but it was a discovery limited in its importance compared to this. Such a sum is a pigmy compared to that amount now due, we are told now, upon any

theory of generosity; not due upon any theory of protection; not due upon any equity or flexible rule which may be waived or may be discretionary in some sense or degree, but absolutely due as matter of strict right according to the law and the fundamental law of the Republic.

Mr. President, inasmuch as the question of the attitude, the legal character of the claimant in this case, was a point necessarily and legally, and in fact submitted to the Supreme Court, elaborately argued, and completely determined in many important cases, inasmuch as that decision is fortified by history and commends itself at least in its bearings upon this and similar cases, I do not view it now otherwise. I prefer to stand upon the determination made by the highest judicial tribunal. I prefer that to trying the experiment against the legislation of Congress, against what seem to me the laws of reason, against this decision of the Supreme Court, and against the interests, indeed, I think, in favor of the destruction, financially, of the country. I prefer, I say, to stand upon this decision, upon the doctrine that it holds; and if the Senator from Kentucky, or others, be discontented with it, let the question be made again in the Supreme Court; let it be argued. Let us at least wait until time and reflection have cast more doubt upon it. But in no event, it seems to me, ought we to rush, in defiance of our own action, in defiance of the logic which has been held by every Department of the Government, to the adoption of a measure which is to let in innumerable cases, and to charge to the public account an indebtedness which, if it is just and obligatory, I agree that we are bound to recognize, but an indebtedness which I think no financier has yet devised the means to pay.

Now, sir, I have nothing to say about Miss Murphey personally. I will concede, for the sake of the argument, all that was said in such glowing terms by the honorable Senator from Kentucky; but that has nothing to do with this question. It is wholly an impersonal question. No matter how she spells her name, nor to what sex she belongs, the question is whether she has a standing legally before us, and presents a claim which, looking as we are bound to look, for those considerations controlling trustees administering trust funds, obliges us to pay her. That is the question.

To my mind—and I appreciate that assertion adds nothing to argument—nothing can be clearer than that this case is obviously beyond the limits to which we ought to go, or to which legally we can go; and if I evince less zeal in its discussion than was evinced by the honorable Senator from Kentucky, I beg to assure him that I feel quite as much in earnest in its bearings as he or any other Senator can feel, although his argument may be made rosy by the compliments which he pays to the particular person in whose behalf the argument is made.

I hope, Mr. President, that the Senate, before this claim is allowed, will find some authority which cannot be found between the lids of those books that have been read to us, and some justification which, to my appreciation, has not yet been suggested.

Mr. FRELINGHUYSEN. Mr. President, it seems strange to hear Senators insist that this claimant, in the eye of the law, is not technically an enemy, that her property is not technically enemy property, and subject to all the incidents of being such. The importance of determining correctly this question is that we may decide, not whether Miss Sue Murphey shall be paid, but to settle the grave issue whether the Government is under the legal obligation to pay this vast class of claims. Without detaining the Senate, let me remind them of the direct declarations of our Supreme Court. In 2 Wallace the Chief Justice says:

"We must be governed by the principles of public law so often announced from this bench as applicable alike to civil and international wars, that all the people of each State or district in insurrection against the United States must be regarded as enemies."

The court adudge, whatever we may say,

that all the people of each State or district in insurrection against the United States must be regarded as enemies. This was an adjudication, not a *dictum*, because it was insisted in that case, as it is in this, that the particular individual by reason of her loyalty was not to be regarded as an enemy. The Supreme Court have decided the very question of law upon which we as Senators are now called to vote.

Again, in 2 Black, in the prize cases, the Supreme Court said:

"All persons residing within this territory whose property may be used to increase the revenues of the hostile power are in this contest liable to be treated as enemies, though they are not foreigners. The products of the soil of the hostile territory, as well as other property engaged in the commerce of the hostile power, as the source of its wealth and strength, are always regarded as legitimate prize without regard to the domicile of the owner, and much more so if he reside and trade within their territory."

The case we are considering is one where the property is within enemy territory and the claimant is a resident in enemy territory. So, in determining whether the United States are under a legal obligation to pay this claim, this is the strongest case that can be put on the part of the Government. If we are liable in this we are liable in every case.

What is the answer given to these adjudications; the only one that has been attempted? It is that given by the Senator from West Virginia, to wit, that the decisions referred to only mean that the rights of the claimant were postponed during the continuance of the war, and when peace returns then the former enemy may come forward and claim compensation for what occurred during the period of war. That answer does not merit reply, because when enemy property is seized it is condemned, sold, and the proceeds finally disposed of, and there is the end of the whole controversy.

The declarations of the elementary books on the subject are as clear as the decisions of the court. Vattel says:

"Civil war breaks the bands of society and government, or at least suspends their force and effect: it produces in the nation two independent parties who consider each other as enemies and acknowledge no common judge."

And to break the force of that declaration we are referred to another paragraph in Vattel which has nothing whatever to do with the case in hand; the learned writer is considering the obligations of a government as to its own citizens in its own friendly territory, and considers two different conditions: first, where the damage is done by the State itself; second, where it is done by the enemy. All, however, in the States own friendly territory. Where the damage is done by the State two classes of cases are considered: one, the case of the State taking land within its own friendly territory for a fortification; then the State should give compensation. The other class of cases is where all the incidental consequences of the war, even in the friendly territory, are to be sustained by the citizen without compensation, as where a house is raked down by the artillery in retaking a town which the enemy had taken. Where the damages are done in the friendly territory by the enemy the learned author holds that there is no obligation whatever on the part of the Government to compensate its own citizens for damage sustained. But all this is matter entirely outside of this question. No authority has been or can be adduced the world over to show that any government is under an obligation to pay for the results of war in the enemy's territory.

Resort is had to another principle of law which I think has failed most signally; it has fallen of its own weight. It has been urged by the Senator from Indiana, and also by the Senator from Kentucky, that we are under obligations to give compensation for the property of Miss Murphey under the fifth article of the amendments to the Constitution; that this was a taking of private property for public use for which just compensation should be made. Let us read the Constitution, omitting what is unnecessary;

"No person shall be deprived of life, liberty, or

property without due process of law; nor shall private property be taken for public use without just compensation."

If the latter provision applies the first does, and we cannot take life, liberty, or property during a war without due process of law; you must have a court, a warrant, and a judgment before you can lawfully shoot a rebel. Why, sir, it is not only a maxim of law, it is also a fundamental government principle that "the law is silent amid arms." To give compensation for property taken there must be an adjudication. What tribunal has ever been created to determine upon the compensation that should be received by any one whose property should be taken? The property is taken, as I have before said, under the right of self-preservation and the right of necessity; under the military or martial law.

The provision of the Constitution referred to cannot be invoked in time of war even within the friendly territory of the Government. Suppose the United States in war wanted a thousand barrels of flour and should go to the owner, seek to purchase it and fail, and should then seize and take it, would the Government by so doing violate the Constitution? Certainly not. It would not be a "taking" under the Constitution. No law has provided any tribunal to adjudge what should be the compensation for the flour, and it would be an absurdity to create such a tribunal. The Government would pay for the flour as a matter of expediency, of policy, and of justice so clear as to create a right in the citizen to receive compensation. But it is not a right under the provision of the Constitution referred to. His right to compensation rests on the justice of his claim, and on that alone. This provision of the Constitution and the argument made by the two Senators based upon it has therefore no relation whatever to this subject.

The advocates of this measure defeated in the law now have resort to a skillful handling of the facts of the case; and they tell us, first, that the property was not located in enemy territory. We know that Alabama was enemy territory in 1864 in fact. We know it was so in law *de jure* by the proclamation of the President, and that the property was situated in Alabama. And now I call the attention of the Senate to the view of the Supreme Court upon the very point whether a mere temporary occupation by our troops changes the status of the State. The Chief Justice, in the Alexander cotton case, (2 Wallace,) says:

"There can be no doubt, we think, that this was enemy's property. The military occupation by the national military forces was too limited, too imperfect, too brief, and too precarious to change the enemy relation created for the country and its inhabitants by three years of continuous rebellion, interrupted at last for a few weeks, but immediately renewed and ever since maintained."

If the locality had not been recaptured and retaken by the enemy at the end of those three weeks it would have made no difference. The occupation by our troops was too recent, too partial, too uncertain. The subsequent event in this case that our troops continued, after a fight, to hold the locality, does not change the character the territory possessed when Sherman first arrived and built this fortification. Events are to be judged at the time and in the relations that they occur.

But the court goes further, and says that—

"All the people of each State or district in insurrection against the United States must be regarded as enemies until, by action of the Legislature and the Executive, or otherwise, the relation is thoroughly and permanently changed."

Now, who will insist that the State of Alabama, or Decatur, the locality in question, where it was necessary to take this property for a fortification, and where there was afterward fighting between the rebels and our forces for possession, was in such a position that at the time Miss Murphey's property was taken the relations of that State, or of that part of the State, were thoroughly and permanently changed? It was enemy territory.

Mr. ANTHONY. Our occupation never ceased.

Mr. FRELINGHUYSEN. I do not know

how that is. The subsequent events do not change the status of the locality when it was seized. The point is, whether at the time the occupation of this locality was made it was "enemy territory." One cannot be made a wrongdoer by events that occur or do not occur weeks after the act being considered was done and completed.

Another point is taken on the facts of the case, namely, that this property was taken for the use of the Army, and is therefore distinguishable from all other classes of claims for the destruction of property. I submit that there is no proper distinction between the use made of this property and the damage which was done generally to the property of the South. This was the property of a loyal lady taken for the erection of a fortification. A few doors from her is another house belonging to another loyal citizen, and this is taken for the occupation of our troops, and is by them injured. Another house of a loyal citizen it is necessary to tear down that our artillery may have free play. The cattle of another are driven off to keep them from being used for the support of the enemy.

Mr. President, property that is destroyed in the enemy's country to weaken the enemy is just as truly devoted to the use of the nation as is that which is taken and used to strengthen and support our own forces. There is no difference.

In the fall of 1864 General Grant ordered General Hunter to enter the Shenandoah valley, and, using the words of the order, "to take all provisions, forage, and stock wanted for the use of your command, and that such as you cannot consume destroy." The Army marched through that beautiful valley, ravaged all their fields, and destroyed their crops. Afterward, in October, I think, Sheridan marched through, and reported that he had burned two thousand barns filled with grain; had burned seventy mills filled with flour; that he had taken four thousand head of cattle, and three or four thousand head of sheep, and a large number of horses, and that he had laid that whole valley waste. According to the doctrine insisted on that which the troops could not in their wasteful use consume, is not to be compensated for, but that which they could so consume we are to pay for. Was not that which was destroyed so that rebels could not harbor in that valley devoted to a public use as well as that which was prodigally consumed? Whatever weakens the enemy is taken for purposes of war just as much as what strengthens our own forces. Whoever before heard the doctrine avowed that a nation must pay for what it used in an enemy's country? It is sustained by no authority.

Here I leave this subject. The truth is, war is a terrible calamity, and all the people have felt its burdens; and are we to step in now and say that the southern loyalists alone shall be exempt from its inflictions? Have they done more than their duty? The North have been lavish in their expenditure of blood and treasure, and are now borne down by taxation. The Congress of the United States should hesitate long before making all the evils which naturally fall upon the whole country the burden of the tax-paying portion of the nation. It is contrary to law and it is contrary to justice.

Mr. PATTERSON, of New Hampshire. Mr. President, there used to be a saying when I was a boy that some things could be done as well as others. It seems to me that some things can be done a great deal better than others if, as my gallant friend from Kentucky said the other day, there happens to be a fair lady in the case. Now, I happen to know that there is a case before the Committee on Claims of this nature: the citizens of Loudoun county, or a portion of the citizens of Loudoun county, Virginia, came to the House of Representatives last session with a bill asking for damages to the extent of over \$250,000 for property taken by General Sheridan in his passage through the valley. That bill passed the House and came here to the Senate, and was lost just at the last hour of the session, I be-

lieve through the influence of the Senator from Iowa. Those people were perfectly loyal. They are Quakers, non-combatants. When the question of secession was agitated in Virginia they opposed it; and when the act passed they were seized, many of them, and put into prison in Richmond. One of the claimants who came here last session and asked damages was a colonel in the Union Army; his old gray-headed father, a man of great intelligence and integrity, was taken from his home and hung by the rebels; and then the Union officers took his property and used it for the Army; and that man, with others, came here and asked to be remunerated for the losses which he and they suffered, and as yet we have refused to listen to their request.

I know, sir, of another instance. When Early made his attack upon the city of Washington the rebels entered a house just out of Seventh street, some two or three miles beyond the suburbs of the city, entered the second and third stories, fired upon our troops, and President Lincoln, who happened to be there at the time, ordered our soldiers to fire hot shot into that building, and they did so, and destroyed it. Mr. Lay, the owner of the house, came to the War Department and asked damages, and they were refused.

These cases certainly are as strong as the case which has been brought before the Senate by the Committee on Claims. It seems to me, therefore, that this is a matter of great importance. Shall we establish a precedent; because if we do we must pay all the other claims that will come before Congress.

I have another instance in mind. There was a Mr. Graham, who did business in the city of New Orleans at the time the war broke out, although himself a resident of Boston, in Massachusetts. When the war broke out he fled from New Orleans to Boston, but his partner being a lame man, and not liable to military duty, remained in the city and carried on the business. Months after the Union forces had taken possession of New Orleans, and when the city was under the command of General Banks, Mr. Graham returned to New Orleans, and then, by a general order issued by General Banks, one hundred and fourteen barrels of sugar belonging to Mr. Graham were taken for the use of the Army. He came here to the War Department and asked to be paid for the loss of that sugar which was appropriated by the United States Government to the use of the Army, and was refused. It cannot be said that that was taken in enemy country or enemy's territory, because it was under our own flag, and we had a military governor in New Orleans at that very moment.

There is another instance of a gentleman at Mobile, a loyal man, who was taken by the rebels after the war broke out and put in prison and his property confiscated; he was afterward liberated by the rebels, but refusing to give any aid or comfort to the rebel cause he was again imprisoned, and finally securing his liberty, and the rebels having paid him in confederate money for the property which they had confiscated, in order to save a little from the wreck of his fortune he purchased a draft of \$15,000 upon the Bank of New Orleans in this rebel money. He could not get to New Orleans until after the city was taken by our forces; and when he went there to get his draft cashed he found that the money had been confiscated and covered into the United States Treasury. He prepared his case and put it on file at the Department, and he has not got a dollar from that day to this. He was a thoroughly loyal man.

Mr. ANTHONY. May I ask the Senator one question?

Mr. PATTERSON, of New Hampshire. Certainly.

Mr. ANTHONY. Does not the Senator think the man ought to have that money? Is he not entitled to it?

Mr. PATTERSON, of New Hampshire. The question is whether, in a time of war, he being in a State that is in rebellion and where the work of putting down the rebellion is not com-

pleted, he is not in the same condition with the rebels themselves.

Mr. FOWLER. I should like to ask the Senator one other question, and that is, on what grounds the War Department refused to pay for the sugar that was taken in New Orleans?

Mr. PATTERSON, of New Hampshire. I believe there was a resolution or an act passed by Congress that such cases should not be settled, and the Departments refused to settle them. Now the question is whether Congress here shall vary from this rule which has been established and allow the claim of Miss Murphey. I cannot see that her claim is any stronger than the case of Mr. Graham, whose sugar was taken and appropriated to the use of the Army.

Mr. FOWLER. Was it not rather on the ground that there had been no legislation on the subject, and that therefore there was no authority in the War Department to make the allowance?

Mr. PATTERSON, of New Hampshire. I know that in one case that came to my personal knowledge, of a lady whose property had been taken by the direction of General Sherman, and who came here for damages for the loss of the property, the War Department refused to allow the claim on the ground that Congress had forbidden the allowance of those claims, and I suppose this was upon the same ground. This lady was a perfectly loyal lady like Miss Murphey. She was a friend, and, I believe, a relative of Mr. Stockton, the former Chaplain of the House of Representatives. Her property was all swept away by the authority of the commander-in-chief of the loyal forces. She was not able to get one dollar in damages for the loss of her property. It is a parallel case with this. Now, the question is whether we shall establish a precedent in the case of Sue Murphey which will cover millions, will swamp the Government, will bankrupt the country.

Mr. DAVIS. I do not wish to disturb my honorable friend, but I ask him to allow me the courtesy of putting a question to him.

Mr. PATTERSON, of New Hampshire. Certainly.

Mr. DAVIS. I ask the honorable Senator from New Hampshire, or the honorable Senator from Michigan, or the honorable Senator from New Jersey, or the honorable Senator from New York, to tell the Senate distinctly upon what law they rely to authorize the taking of this property of Miss Sue Murphey.

Mr. PATTERSON, of New Hampshire. I suppose that in time of war, under military law, either party to the war has a right to take property in order to carry forward the objects of the war. It is under military law.

Mr. DAVIS. Will my honorable friend indulge me in another question? I concede that in a war between nations, for instance, a war between the United States and Great Britain, if the property of a subject of Great Britain is found in the United States, Congress may pass a law to confiscate that property, which would authorize its seizure and the dispossession of the owner; but I ask the honorable Senator from New Hampshire if the property of the present President of the United States, who was a citizen of the State of Tennessee, or the property of Judge Wayne, who was a citizen of the State of Georgia, those men being within the Union lines and having property here, was subjected to be seized during the war as the property of Sue Murphey was in the State of Alabama? I will thank the honorable Senator to answer me that question.

Mr. PATTERSON, of New Hampshire. The case which the Senator has put is parallel to the case of Mr. Graham, which I have already stated, and I know no reason why Andrew Johnson should be treated otherwise than Mr. Graham was treated, especially when the War Department, which is under his supervision, has refused to pay Mr. Graham for the property which was taken that belonged to him. And now I will ask the Senator from Ken-

tucky a question. I want to know if the property of Andrew Johnson had been destroyed by a battle during the war in Tennessee he could claim of the United States Government damages for the loss of his property during that battle?

Mr. DAVIS. My honorable friend, with the adroitness of his section, evades my question and puts another question to me. [Laughter.] He does not answer my question as I put it at all. The question that I put to my most respected friend was whether the property of Andrew Johnson or of Judge Wayne, within the District of Columbia, could be seized here by the authorities of the United States for military purposes as Miss Murphey's property in Alabama was seized?

Mr. PATTERSON, of New Hampshire. I do not think that the case put is parallel to the case of Miss Murphey, because that was in enemy's territory and the District of Columbia is not and never has been—

Mr. DAVIS. Now, if my honorable friend will permit me, I will put another question to him?

Mr. PATTERSON, of New Hampshire. The gentleman can occupy the floor if he pleases. I have said all that I wish to say.

Mr. DAVIS. Go on, sir; I beg pardon.

Mr. PATTERSON, of New Hampshire. No, sir; I have no further remarks to make.

Mr. DAVIS. Mr. President, I am obliged to the honorable Senator from New Hampshire for his courtesy in having given me the floor. I shall not abuse that courtesy nor the patience of the Senate beyond a few minutes. The question that I put to the honorable Senator was most pertinent. Andrew Johnson was resident in the District of Columbia during a portion of the period of the war, and he was a citizen of the State of Tennessee. Judge Wayne was a citizen of the State of Georgia, and was a resident of the District of Columbia during the whole period of the war. The question which I propounded to my honorable friend, though no more to him than to the other gentlemen who assume his position, was whether the property of Andrew Johnson and of Judge Wayne situate within the District of Columbia was subject to be seized by the authorities of the United States. If my honorable friend, or any other gentleman, will give me a categorical answer to that question, I shall be obliged to him.

Mr. HOWARD. I suppose the interrogatory of the honorable Senator from Kentucky includes me as well as the honorable Senator from New Hampshire.

Mr. DAVIS. I ask for a categorical answer.

Mr. HOWARD. If I understand the question it is this—

Mr. DAVIS. I give way for the Senator from Michigan to give a categorical answer to my question. [Laughter.]

Mr. HOWARD. That is what I propose to do, Mr. President, if I am able. The question is, if I understand it rightly, whether the property of Andrew Johnson, he being a citizen of Tennessee, and that property being situated not in Tennessee, but in the District of Columbia, was subject to forfeiture upon the ground that he was a public enemy, being a citizen of Tennessee, as the Senator from Kentucky says. Do I state it correctly?

Mr. DAVIS. Yes, sir. I included Judge Wayne, also.

Mr. HOWARD. That is very easily answered, then, it seems to me, by putting another question, whether the District of Columbia was hostile or enemy country, whether it was declared to be in insurrection under a statute of the United States and a proclamation of the President of the United States? I take it the honorable Senator from Kentucky can answer that question. Certainly no such state of things existed in the District of Columbia, and the property of Mr. Johnson, if he had had any here, would have been as secure as the property of any other person against military seizure.

Mr. DAVIS. Mr. President, the honorable Senator's answer to my question I compre-

hend; but I comprehend its error and not its truth; and for this reason: the honorable Senators who oppose the passage of this bill assume the ground that the law of nations which regulates the rights and the liabilities of citizens and subjects of nations at war with each other applies to the case of the insurrection of some of the people of the southern States against the Government of the United States. The honorable Senator from Michigan answers the question so as to abandon that ground. If a declaration of war was to be made by the Congress of the United States against Great Britain to-morrow, and there were subjects of Great Britain resident, as there are thousands, in the United States, it would be competent for Congress immediately to pass a law confiscating the property of every subject of Great Britain who was resident anywhere in the United States.

Now, the honorable Senator admits that if Andrew Johnson had property in this District so long as he remained in this District his property would be as secure as the property of any other citizen in the District. Sir, no such qualification or exception as that applies to public enemies. No such qualification or exception as that can apply to the subjects or citizens of any country with which the United States are at war, because every subject of any foreign country with which the United States are at war, resident anywhere in the United States, though he may have millions of property, holds that property subject to confiscation by a law of Congress whenever Congress chooses to pass such a law.

Now, I will present this principle in another aspect to the honorable Senators. A mere declaration of war by the Congress of the United States with England would not of itself produce such a confiscation of the property of subjects of England resident in our country. There is a case of *Brown vs. The United States*, in which that was expressly ruled by Chief Justice Marshall many years ago. That case embraced these facts: a subject of England was in the United States at the time of the embargo and the declaration of the war of 1812; under the force and effect of the act of Congress simply declaring war his property was libeled and seized by the action of the district attorney for the district in which he resided; the circuit court, held by Mr. Justice Story, decided that the declaration of war of its own force amounted to a confiscation of the property of all enemies resident in the United States. From that judgment an appeal was taken to the Supreme Court of the United States, and the case was heard, most elaborately argued, and Chief Justice Marshall decided that the declaration of war had no effect whatever to confiscate the property unless in the act declaring war there were provisions expressly and exclusively declaring the confiscation. That is the law. I refer gentlemen to that case, *Brown vs. The United States*, reported in 8 Cranch, page 128. The court decided that property in its possession and in its title remains in an alien enemy resident in the United States until an act of Congress, in addition to the declaration of war, has been passed declaring that property to be forfeited to the United States.

Mr. President, on the principle of national law which the gentlemen apply to this case, and which I say, in defiance of any intimations of opinion by the Supreme Court, has no application to the case at all, but admitting that it has full, proper, and authentic application, what are the consequences? If Andrew Johnson was a citizen of Tennessee, though resident in the District of Columbia; if Justice Wayne, a citizen of Georgia, resident in the District of Columbia; if both, or either of them, had property here, according to the inevitable, necessary, imperative consequences of this principle, the property of both those men would be liable to be seized under an act of Congress passed to confiscate it, because that is the doctrine and that is the principle which applies to alien enemies everywhere. I now meet gen-

tlemen upon their own principle; I meet them upon the legitimate consequences of their own principle. Take Sue Murphey and all the citizens of Alabama to have been alien enemies, without regard to their loyalty—a position so monstrous that I utterly reject it in my own judgment—but take that to be true, there was no law except the general law of war that applies in time of peace, and as much in time of peace as in time of war, to authorize that commander to have taken this property.

If the gentlemen's premises are true, I concede that Congress has the power to pass a law to confiscate her property and the property of all other citizens. The question then arises, has Congress passed such a law? I will read one or two passages from the opinion of Chief Justice Marshall, in the case of *Brown vs. The United States*:

"There being no other act of Congress which bears on the subject, it is considered as proved that the Legislature has not confiscated enemy property which was within the United States at the declaration of war, and that this sentence of condemnation cannot be sustained."

It was that question that the case went upon. The circuit court had declared in favor of the confiscation of the property upon the ground that the declaration of war, of its own terms and effect, produced a confiscation. That judgment was appealed from upon the ground that the declaration of war produced no such result, but that it required a special act confiscating the property of alien enemies that might be found in the United States; and Chief Justice Marshall, after elaborate and able argument, in a most well-considered and luminous opinion, decided that until this act of confiscation was passed by Congress the possession of the property and the title to the property both remained with the alien enemy resident in the United States. Now, I ask gentlemen to produce an act of Congress to confiscate the property of the loyal men within the rebel States, or loyal women, either. There is no such act. I will read from the two acts of confiscation:

"That if, during the present or any future insurrection against the Government of the United States, after the President of the United States shall have declared, by proclamation, that the laws of the United States are opposed, and the execution thereof obstructed, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the power vested in the marshals by law, any person or persons, his, her, or their agent, attorney, or employé, who shall purchase or acquire, sell or give, any property of whatsoever kind or description, with intent to use or employ the same, or suffer the same to be used or employed in aiding, abetting, or promoting such insurrection or resistance to the laws, or any person or persons engaged therein; or if any person or persons, being the owner or owners of any such property, shall knowingly use or employ, or consent to the use or employment of the same, as aforesaid, all such property is hereby declared to be lawful subject of prize and capture wherever found; and it shall be the duty of the President of the United States to cause the same to be seized, confiscated, and condemned."

That act was passed in August, 1861. It confiscates only the property that is employed in the assistance of the rebel cause. Now, before the property of Sue Murphey could be forfeited to the United States, and before it could be taken possession of by any officer, civil or military, in the name, by the authority, and as the property of the United States, it must be shown that the property had been used in the rebel service. There is no such proof in this case, and no pretense of it.

Here is another act that touches the subject of confiscation, but that does not cover this case at all, or any case analogous to it—the act of August 17, 1862:

"That if any person within any State or Territory of the United States, other than those named as aforesaid, after the passage of this act, being engaged in armed rebellion against the Government of the United States, or aiding or abetting such rebellion, shall not, within sixty days after public warning and proclamation duly given and made by the President of the United States, cease to aid, countenance, and abet such rebellion, and return to his allegiance to the United States, all the estate and property, moneys, stocks, and credits of such person shall be liable to seizure, as aforesaid; and it shall be the duty of the President to seize and use them as aforesaid or the proceeds thereof; and all sales, transfers, or conveyances of any such property after the expiration of the said sixty days from the date of such warning and proclamation shall be null and void; and it shall

be a sufficient bar to any suit brought by such person for the possession or the use of such property, or any of it, to allege and prove that he is one of the persons described in this section."

These are all the acts of confiscation, according to my recollection, that Congress has passed. What do they amount to? What case do they cover? What property do they declare to be forfeited? Only such property as is perverted to the use of the rebel cause, to the promotion of the success of the rebel cause, or the property of persons engaged in the rebellion, and they do not cover even that property if the owners of that property cease to act with the rebels within the time named in the law.

Mr. President, there is no law, public or statutory, national or domestic, to the United States, that authorized the seizure of this property of Sue Murphey. Until that property was declared by an act of Congress to be confiscated to the United States its title remained in Miss Murphey. It was there under the protection of the laws which protect the property of all citizens, and the invasion of that property by a military officer, or by any civil officer of the Government of the United States, was nothing but a simple and an illegal trespass upon the rights of the owner.

Sir, if gentlemen desire to establish an analogy between citizens of the States which did not go into the rebellion and citizens of States where the rebellion prevailed, and if that analogy exists under the national law, they have no right to confiscate the property of any citizen in the States that did go into the rebellion until an act of Congress has been passed declaring that such confiscation shall take place.

The honorable Senator from Michigan and the honorable Senator from New Hampshire, when they concede that the property of Andrew Johnson or Mr. Justice Wayne, situated within this District, would have been as secure in the ownership and possession of those men while they remained within the Union lines as the property of any other citizen, concede the whole of the case that is now under consideration; they concede a principle that covers it that in justice and reason, where men are not blinded by prejudice, must control it, because if the laws of nations apply they apply as well to property found anywhere in the loyal States that belonged to citizens of the rebel States, or any of them; whether that property and the person who owned it be found in the rebel States or the loyal States. That is the principle of the law of nations.

When England and the United States were at war every subject of England within the United States was an alien enemy, and the property of every such subject within the United States, if a law had been passed by Congress confiscating the property, would have been forfeited from the owner, and would have vested in the United States. But such a law of confiscation not having been passed after the declaration of war in 1812, the Supreme Court solemnly decided that for the want of that act of confiscation the title and possession of the property of the alien enemy resident within the United States remained with the alien enemy, and he could not be molested in the possession or ownership of that property. Sir, the honorable Senator's concession yields the point, that the principle of national law in relation to alien enemies does not and cannot apply in our country, and the cases which I put are well calculated to illustrate the absurdity and the unsoundness of the gentleman's position. But to concede that his position is fully right he must bring forward a law of Congress confiscating the property of Sue Murphey and of every person whose residence and circumstances were similar to hers; and in the absence of such a law I claim his vote, I claim the vote of every Senator who has opposed the passage of this bill in its favor, and I claim it upon the principles of public law, for which they themselves contend.

Mr. COLE, Mr. President—

Mr. MORRILL, of Vermont. If the Senator will give way, I will move an adjournment.

Mr. WILSON. There is lying on the table

a little bill from the House of Representatives which it is important to put on its passage, and I hope we shall be allowed to pass it. It will take but a few moments.

Mr. COLE. Very well.

The PRESIDENT *pro tempore*. If there be no objection, the Chair will lay before the Senate two House bills which are on the table.

HOUSE BILL REFERRED.

The joint resolution (H. R. No. 211) for the relief of Henry S. Gibbons, late postmaster at St. John's, Michigan, was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

REMOVAL OF DISABILITIES.

The bill (H. R. No. 1598) to relieve from disability R. W. Best and Samuel F. Phillips, of North Carolina, was read twice by its title.

Mr. WILSON. I ask that that bill be considered at this time.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. HOWARD. I should like to hear some explanation in regard to these two individuals.

Mr. WILSON. I understand one is reporter and the other the clerk of the court in North Carolina; and the court is now in session, and it is important to act on the bill. The House of Representatives have passed it, and the delegation from that State are unanimously for it.

Mr. HOWARD. That explanation does not quite satisfy me, I must confess. One is the clerk of the court and the other reporter of the court. The question with me is whether they are deserving of the clemency which is claimed for them here. They may be very good men in the stations which they hold, but may not be very deserving of the votes of the Senate. I should like to know whether they have exhibited any evidence of returning loyalty and friendship for the Government of this country; whether they have presented "fruits meet for repentance," or whether they are merely asking this favor at our hands in order that they may continue to hold the offices.

Mr. ABBOTT. I can answer the question of the gentleman from Michigan. I know both of these men perfectly well, and it is perfectly proper that their disabilities be removed. Mr. Best has been appointed clerk of the supreme court, and the court is now in session and waiting for his disabilities to be removed so that he can act. I received a dispatch this morning from the Governor requesting me to have it done to-day.

Mr. HOWARD. I am not entirely satisfied with the explanation that has been given.

Mr. ABBOTT. These men both voted for General Grant. [Laughter.]

Mr. HOWARD. That may be. I dare say there are many rebels who voted for Grant. I have not any doubt about that. They acted very properly in that regard. It was the very best thing they could do. I would inquire whether this bill has been referred to the Committee on the Judiciary for examination?

The PRESIDENT *pro tempore*. It has not been referred in this body.

Mr. HOWARD. It seems to me, I must take the liberty of saying, that this hot haste in relieving disabilities at the request of almost anybody is turning the whole thing into ridicule and contempt. We have a clause in the fourteenth amendment of the Constitution which, I think, meant something at the time it was proposed and at the time it was adopted, and I do not propose, for one, upon the request merely of anybody who sees fit to make a request to remove the disabilities created by that clause. I should like to see this bill referred to the Committee on the Judiciary and have them report on the subject, and if it be in order I will make that motion.

Mr. FOWLER. I hope this bill will not be referred. It is very important to these individuals that they should be relieved. The Senators from North Carolina concur in the fact that they have exhibited every evidence

of loyalty that is requisite, not only in their private and social intercourse, but in their political action; and as a bill was passed the other day covering a case in Alabama, I see no reason why this bill should not pass by a unanimous vote of the Senate.

The PRESIDENT *pro tempore*. The question is on the motion to refer the bill to the Committee on the Judiciary.

Mr. FESSENDEN. When that clause was inserted in the amendment of the Constitution there was very considerable objection to it upon the ground that it would seriously affect many very excellent men, as they were represented to be; who were substantially forced into the rebellion and obliged to take office, and who were really, substantially, with us; and it was said to be hard to place a provision in the Constitution which would permanently, or which would probably for a long time disqualify them. I remember saying at the time, and I remember that it was so argued in committee, that it was necessary to have such a clause in order to keep out a greater or less number of men who really ought not to hold office; that at that time it was impossible to make distinctions; that if there were such men who really were entitled to the confidence of the community, and in reality disposed to discharge their duties as good citizens, and who were in the rebellion rather from the force of circumstances than from any desire on their own part, they would be readily relieved by the action of Congress; and on that ground I think it was that it was finally determined to retain the clause.

Now, sir, for myself I have been in favor of giving that power in Congress a very liberal interpretation, and if reasonable evidence was offered that men really were disposed to be good citizens and do their duty, and had committed no very flagrant offenses, I have thought it would be good policy to relieve them as fast as we could, and do away with the distinction thus made.

Now, sir, what evidence have we in these particular cases? We have the evidence that these men have been elected to office by our friends, by Union men, by the Union party of their State. That of itself is a pretty good indorsement. It shows the estimation in which they are held by those upon whose judgments we rely and upon whose loyalty we rely. We have, in addition to that, the testimony of the Senators that our friends have sent here as to the character and standing and worth of the individuals and the confidence placed in them by those in whom we have confidence, if we have confidence in anybody in that territory. Under these circumstances, as the Senator from North Carolina states that it is of very great importance that this subject should be acted upon, because public business waits upon the matter, I think myself that we have evidence enough for such a case, and that we shall run no hazard whatever in allowing them to be relieved from these disabilities thus imposed on such assurances as we have. I hope, therefore, the bill will not be referred, but that we shall act upon it as we have in other cases where we had similar evidence from members on this floor.

Mr. HOWARD, Mr. President, the object of my motion is sufficiently accomplished, perhaps. My desire was to hear something about the real character and status of these two gentlemen mentioned in the bill. The Senate have had no information on the subject at all, and the bill was about to be put on its passage without the slightest inquiry into the propriety of passing it or the merits of the persons mentioned in it. I understand, however, from the honorable Senators from North Carolina that these gentlemen have the confidence of the Republican party in that State, and that the judges of the court itself are especially anxious that the reporter should be relieved of his disabilities. Having received this information, which is to me satisfactory, I will, with the leave of the Senate, withdraw my motion to refer.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

ADJOURNMENT TO MONDAY.

Mr. GRIMES. I move that when the Senate adjourns to-day it adjourn to meet on Monday next.

The PRESIDENT *pro tempore*. That motion may be entertained by unanimous consent, another question being pending.

Mr. HOWE. I have no objection to the motion being heard and passed upon, and if the Senate desire to adjourn over I have no personal objection to that; but I desire to live long enough to see the debate closed on the pending bill. [Laughter.] If we should have a session to-morrow I should have some hope of surviving it. If it should go over until the next week my hope will be decidedly less. We have but a few days in which to close the session, and it seems to me it would only be a fair economy of time for us to sit to-morrow. If, however, the Senate would rather hear the rest of this debate next week than to hear it to-morrow I cannot object to that.

Mr. POMEROY. I think we had better have a session to-morrow. We have done little else thus far this session than adjourn. I think if there is any prospect of determining the Sue Murphey case before the 4th of March we had better sit it out. I am for meeting to-morrow certainly.

The PRESIDENT *pro tempore*. The question is upon the motion of the Senator from Iowa.

The motion was agreed to.

Several SENATORS addressed the Chair.

The PRESIDENT *pro tempore*. The Senator from California [Mr. COLE] is entitled to the floor on the bill under consideration.

Mr. MORRILL, of Vermont. If the Senator will give way, I will move an adjournment.

Mr. COLE. I yield for that purpose.

Mr. MORRILL, of Vermont. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, January 8, 1869.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

LEWIS D. SMITH.

The SPEAKER stated that this being Friday the business in order in the morning hour was the reception of reports from committees on private cases; the pending question being on House joint resolution No. 389, for the relief of Lewis D. Smith, reported on the 18th of December from the Committee on the Post Office and Post Roads by the gentleman from Michigan, [Mr. FERRY] now absent.

Mr. FARNSWORTH. I have this morning received a letter from my colleague on the committee, [Mr. FERRY] asking me to take charge of this joint resolution. When the joint resolution was last up I believe the House was dividing.

The SPEAKER. It was, on seconding the demand for the previous question.

Mr. BENJAMIN. Let the joint resolution and report be read.

The joint resolution authorizes and requires the Postmaster General, in settling the accounts of the claimant, postmaster at Iona, Michigan, to allow him a credit of the amount of moneys and stamps belonging to the United States intrusted to his care and stolen from his possession, not exceeding the sum of \$1,861 28.

The report was read. It states that by affidavits submitted and verified by several of the most prominent and reliable citizens of Iona it appears that the claimant has held the office of postmaster at that place since April, 1865. During that time the post office has been kept in the rear of the ground story of a brick build-

ing, sixty feet of which was occupied by L. D. and M. C. Smith as a drug store; and communicating with the post office by a door. The moneys and valuables of the Government were uniformly deposited in one of Lilly's best burglar and fire proof safes, with a combination lock, in which also all the valuables of the firm were kept. On the night of October 15, 1867, not only was this safe, but other safes of business friends in the same place, broken open. This safe contained \$600 in cash belonging to the Government, and \$1,476 in postage stamps, together with \$325 in cash belonging to L. D. and M. C. Smith. Every exertion was made to arrest the burglar and recover the money, but without success. The Postmaster General, in reply to the application for relief, replies that the regulations of the Department will not allow it, but deeming the case an exceptional one commends it to Congress for special consideration.

Mr. COBB. I ask the gentleman from Illinois to give way to a motion to refer this joint resolution to the Committee of Claims.

Mr. FARNSWORTH. I cannot do that. The same request was before made of my colleague on the committee, and it was denied. The report which has been read shows that the case has been as well examined by the Committee on the Post Office and Post Roads as it could be by any other committee. It is with the House to say whether it shall go to another committee. If that should be the decision I do not know that I should object. If, however, such shall be the precedent established then all these questions will resolve themselves into a choice of reference. The Committee of Claims has now all the cases it can attend to.

Mr. BENJAMIN. Does this relate to stolen Government bonds?

Mr. FARNSWORTH. Government bonds were stolen at the same time, but this relates to postage stamps. The safe was broken open, and at the same time these postage stamps were taken money belonging to merchants was also stolen. The postmaster has been charged with these stamps, and this joint resolution is for his relief. The Post Office Department has investigated the case and recommends the passage of this resolution. The question has been decided repeatedly that relief should be granted to claimants under like circumstances. Where a postmaster keeps postage stamps in a safe provided by the Government, or in the best safe he can get in case the Government provides none, and the property is stolen by a burglar without fault of the postmaster, the question is, shall the Government relieve him? That is all there is of it. The case has been thoroughly investigated.

Mr. MULLINS. I wish to know if there is any testimony before the Committee showing the fact that the doors were entered by violence to get into the store.

Mr. FARNSWORTH. Oh, yes, sir.

Mr. MULLINS. Also whether the other safes were broken open in or about the post office the same night, and whether these parties themselves have been after the burglars. There seems to be nothing shown about that in the case.

Mr. FARNSWORTH. I do not remember whether any other safes were broken open. I do not know that there were any others in the building.

Mr. MULLINS. Is there anything definite in regard to the manner in which the front door was broken open to get at the safe? I ask it for the purpose of bringing my mind to something definite as to the whole affair. We do not know but there may have been some of the parties directly interested in having the thing done. I would like to know how the building was entered.

Mr. FARNSWORTH. We have not examined the question in regard to other safes in the building, but the burglary was committed, the safe was broken open, and the property taken—not only the Government but private property also.

Mr. MULLINS. How was the front door broken open?

Mr. FARNSWORTH. I decline to yield further.

Mr. MULLINS. And I decline to vote for the bill unless I see that somebody broke that door open who was not concerned in this matter.

On seconding the previous question there were—ayes 38, noes 20; no quorum voting.

The SPEAKER ordered tellers; and appointed Messrs. MULLINS and FARNSWORTH.

The House divided; and the tellers reported—ayes 86, noes 30.

So the previous question was seconded.

The main question was then ordered; and the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. FARNSWORTH moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

Indefinite leave of absence was granted to Mr. FERRY, on account of sickness.

ADVERSE REPORTS.

Mr. LINCOLN, from the Committee on the Post Office and Post Roads, reported adversely on the following petitions; and the same were laid on the table:

Petition of Robert Brigham, praying for compensation for money expended as postmaster at Franklin, Pennsylvania; and

Petition of E. S. Zeveryley, of Cumberland, Maryland.

EDWIN B. HOAG.

Mr. LINCOLN, from the same committee, reported back a bill (H. R. No. 281) for the relief of Edwin B. Hoag. It authorizes the Postmaster General to pay to the claimant, in addition to what he is now receiving, such sum or sums as shall make the payment for carrying the mail on route No. 11494 equal to the sum of \$396 per annum for all the time he has conveyed or shall convey said mails on said route under the existing contract.

Mr. WASHBURN, of Illinois. Read the report.

The report was read. It appears that the petitioner filed proposals for carrying the mail on routes Nos. 11493 and 11494 in Illinois. The first is between Cambridge and Geneseo, and the second between Cambridge and Galva. In filling up the blanks for the proposals he made an error, and filled up both papers as from Cambridge to Geneseo, thereby proposing to carry the mail for that route in one paper for \$621, and in the other for \$311, while neither paper named Galva. It further appears that a proposal was put in by one Morse for carrying the latter route for \$396, being eighty-five dollars more than the bid of Mr. Hoag. In view of these facts, and it being evident that Mr. Hoag made an error in filling up his papers, and not deeming it right to take advantage of his evident error, the committee recommend the passage of the bill.

Mr. WASHBURN, of Illinois. That is the total amount?

Mr. LINCOLN. It is stated in the report. The difference was eighty-five dollars per annum, and the total is \$396. There were two routes for which this gentleman intended to bid: one from Cambridge to Geneseo, and one, a shorter route, from Cambridge to Galva. By a mistake in filling up the blanks the name of Geneseo was inserted in both bids, and his bid intended for the shorter route was accepted for the longer route, and another contractor got the short route.

Mr. COBB. It would cost more to defeat this bill than the claim amounts to, but I do not think this very safe legislation. It is a violation of any safe rule of action.

Mr. BEAMAN. I observe that the report does not state whether in the judgment of the committee the amount which the contractor received for the service was too small. I would

ask him if the committee considered that question?

Mr. LINCOLN. It was too small, and the committee so state.

Mr. BEAMAN. I understood the report to state that there was a mistake as to the route, but the report does not assert that the compensation was found to be too small by the committee.

Mr. LINCOLN. It is so stated, I think, in the report.

Mr. COBB. Does the bidder himself think that the compensation was too small? [Laughter.]

Mr. LINCOLN. The contractor?

Mr. COBB. Yes, sir.

Mr. LINCOLN. Oh, of course he makes that assertion, and the committee so report. I ask the previous question.

The previous question was seconded and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. LINCOLN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HENRY S. GIBBONS.

Mr. LINCOLN, (on behalf of Mr. FERRY,) from the Committee on the Post Office and Post Roads, reported back, with an amendment, joint resolution (H. R. No. 211) for the relief of Henry S. Gibbons, late postmaster at St. Johns, Michigan.

The joint resolution authorizes and requires the Postmaster General, in settling the accounts of Henry S. Gibbons, late postmaster at St. John's, Michigan, to allow him a sum not exceeding \$600 as indemnification for a like amount belonging to the post office fund stolen from him by burglars, and which amount has been paid to the United States by the said Gibbons.

The amendment reported by the committee was to strike out "\$600" and insert "\$500."

Mr. SCOFIELD. Does this joint resolution contain an appropriation?

The SPEAKER. It does not. The effect of it is to give the Postmaster General authority to settle the accounts of the claimant, but it contains no appropriation, for it would take money already appropriated. It should be a bill, and not a joint resolution.

The report was read.

Mr. LINCOLN. I demand the previous question on the joint resolution.

The previous question was seconded and the main question ordered.

The amendment was agreed to.

The joint resolution, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question was put on the passage of the joint resolution; and there were—ayes 30, noes 34; no quorum voting.

Tellers were ordered; and Messrs. LINCOLN and SCOFIELD were appointed.

The House divided; and the tellers reported—ayes 59, noes 59.

The SPEAKER. The Chair votes in the affirmative.

Mr. WASHBURN, of Illinois, demanded the yeas and nays.

The yeas and nays were ordered.

Mr. JONES, of Kentucky. I would like to ask a question before the vote is taken.

The SPEAKER. That requires unanimous consent, as the previous question is now operating.

No objection was made.

Mr. JONES, of Kentucky. I would ask if the committee have any other proof that this money was stolen than the statement of the postmaster himself? I would like to have that question answered before I vote upon this question.

Mr. LINCOLN. The proof from the Post

Office Department is, that this man was robbed in the manner described; proof to that effect has been submitted to the Department, so that they were satisfied that the robbery was committed.

Mr. JONES, of Kentucky. Are the committee entirely satisfied?

Mr. LINCOLN. They are, unanimously. The proof was that the man was robbed by a burglar entering his room at night and stealing his money. He paid the amount to the Department, and the Postmaster General writes the committee that he has no authority to refund the amount, but it must be done by Congress.

Mr. SCOFIELD. All that we know is what this man says. He says he had so much money taken from him, of which so much belonged to the United States. I suppose the evidence is clear enough that money was stolen.

Mr. LINCOLN. Here is a statement indorsed by a hundred citizens of the place vouching for the honesty and integrity of this man.

The question was upon the passage of the joint resolution; and being taken, it was decided in the affirmative—yeas 76, nays 55, not voting 90; as follows:

YEAS—Messrs. Archer, Bailey, Baker, Baldwin, Barnes, Barnum, Beaman, Beatty, Beck, Bingham, Broomall, Burr, Roderick B. Butler, Calk, Callis, Cary, Chanler, Sidney Clarke, Corley, Deweese, Edwards, Eggleston, Farnsworth, Ferriss, Golladay, Gravely, Grover, Haight, Haughey, Higby, Hotchkiss, Asahel W. Hubbard, Humphrey, Ingersoll, Jencks, Johnson, Julian, Kelsey, Ketcham, Knott, Koontz, George V. Lawrence, Lincoln, Mallory, Marvin, Maynard, McCormick, Miller, Moorhead, Morrell, Mungen, Myers, Newsham, Nicholson, Norris, O'Neill, Peters, Pettis, Pierce, Polsley, Robertson, Roots, Smith, Spalding, Starkweather, Stokes, Stone, Taber, Tift, Lawrence S. Trimble, Twichell, Upson, Van Trump, Windom, Wood, and Woodward—76.

NAYS—Messrs. Allison, Ames, Arnell, Benjamin, Boles, Boutwell, Bowen, Boyden, Brooks, Buckley, Clift, Cobb, Cullom, Delano, Dockery, Eekley, Getz, Glossbrenner, Goss, Harding, Hawkins, Heaton, Hooper, Chester D. Hubbard, Hulbert, Thomas L. Jones, Kelley, Kitchen, Lash, Logan, McCarthy, McCullough, McKee, Mercour, Moore, Mullins, Newcomb, Niblack, Perham, Plants, Price, Prince, Sawyer, Scofield, Shanks, Shellabarger, Stover, Taffe, Taylor, Thomas, John Trimble, Van Aukon, Van Wyck, Elihu B. Washburne, and William Williams—55.

NOT VOTING—Messrs. Adams, Anderson, Delos R. Ashley, James M. Ashley, Axtell, Banks, Benton, Blackburn, Blaine, Blair, Boyer, Bromwell, Buckland, Benjamin F. Butler, Churchill, Roder W. Clarke, Coburn, Cook, Cornell, Covode, Dawes, Dickey, Dixon, Dodge, Donnelly, Driggs, Ela, Eldridge, Eliot, Ferry, Fields, Fox, French, Garfield, Gove, Griswold, Halsey, Hamilton, Hill, Holman, Hopkins, Richard D. Hubbard, Hunter, Alexander H. Jones, Judd, Kellogg, Kerr, Laffin, William Lawrence, Loan, Loughridge, Lynch, Marshall, Morrissey, Nunn, Orth, Paine, Phelps, Pike, Pile, Poland, Pomeroy, Pruyn, Randall, Raum, Robinson, Ross, Schenck, Selye, Sitgreaves, Stevens, Stewart, Sypher, Trowbridge, Van Aernam, Burt Van Horn, Robert T. Van Horn, Vidal, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Whittemore, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Woodbridge, and Young—90.

So the joint resolution was passed.

Mr. LINCOLN moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MAIL DELIVERY, BROOKLYN, NEW YORK.

Mr. BARNES. I ask unanimous consent to introduce a joint resolution for consideration at this time.

Mr. MAYNARD. I object.

Mr. BARNES. I have the consent of the chairman of the Committee on the Post Office and Post Roads, [Mr. FARNSWORTH.]

Mr. WASHBURN, of Illinois. Let the joint resolution be read.

Mr. MAYNARD. I shall object to this and everything else within the morning hour that is not private business.

Mr. BARNES. Then I ask that it be received and referred to the Committee on the Post Office and Post Roads.

No objection was made.

Accordingly the joint resolution (H. R. No. 392) respecting the delivery of mail matter within the city of Brooklyn, New York, was introduced, read a first and second time, and

referred to the Committee on the Post Office and Post Roads.

SESSION OF TO-MORROW.

Mr. JOHNSON. I have a report to make from the Committee on the Post Office and Post Roads.

Mr. SCOFIELD. Will the gentleman yield to me for a moment?

Mr. JOHNSON. Yes, for a moment.

Mr. SCOFIELD. I desire to move that the session of to-morrow be for debate only.

Mr. MAYNARD. I object.

Mr. SCOFIELD. Then I will move that when the House adjourns to-day it be to meet on Monday next.

Mr. MAYNARD. I hope not.

Mr. CULLOM. I desire to say a few words on this proposition.

Mr. JOHNSON. I cannot yield and allow the morning hour to be taken up in this way.

The SPEAKER. It requires unanimous consent to debate the proposition of the gentleman from Pennsylvania, [Mr. SCOFIELD,] or for him to submit such a proposition at this time.

LUTHER M'NEAL.

Mr. JOHNSON, from the Committee on the Post Office and Post Roads, reported back, with a recommendation that the same do pass, House bill No. 860, for the relief of Luther McNeal, late postmaster at Lancaster, Erie county, New York.

The question was upon ordering the bill to be engrossed and read a third time.

The bill, which was read, proposes to pay to Luther McNeal for money and postage stamps belonging to the United States, and which were stolen from the post office at the town of Lancaster, Erie county, New York, while he was postmaster, \$178 35, which sum he has paid to the Government on settlement with the Post Office Department, the money to be paid out of the Post Office fund by the Postmaster General upon McNeal making satisfactory proof that the money and stamps were stolen without fault on his part.

Mr. WASHBURN, of Illinois. I would like to hear the report in this case.

Mr. JOHNSON. Mr. Speaker, there is no written report.

Mr. WASHBURN, of Illinois. I think there ought to be such a report.

Mr. JOHNSON. The Committee on the Post Office and Post Roads unanimously recommend the passage of this bill. I can state in a few moments the facts of the case. Mr. McNeal was postmaster at the place named in the bill, and while he held that position the safe in his office was robbed of \$229 35. Fifty-one dollars of this money was afterward recovered from the burglars, who were convicted of the crime, and are now serving out their term in the penitentiary. The proofs in the case are lying on my desk. One hundred and forty-four dollars of the sum was in Government stamps; \$85 35 was in legal-tender notes. After deducting the amount recovered there is a balance of \$178 35. The whole amount has been paid to the Postmaster General. I find by an examination of the books that everything has been settled up, and the postmaster has been discharged from all accountability. He now asks that the Postmaster General may be authorized to pay him back this sum of \$178 35; and the committee recommend this reimbursement, they being satisfied that the loss was not the result of any negligence of the postmaster. I demand the previous question.

Mr. HIGBY. I would like to ask my colleague [Mr. JOHNSON] a question.

Mr. JOHNSON. I cannot yield, because there is but a half minute of the morning hour remaining.

On seconding the demand for the previous question there were—ayes 41, noes 42; no quorum voting.

The SPEAKER. The morning hour has expired, and this bill goes over till the morning hour on next private bill day.

R. W. BEST AND S. F. PHILLIPS.

Mr. FARNSWORTH. The Committee on Reconstruction, who are authorized to report at any time, have directed me to report a bill (H. R. No. 1598) to relieve from disabilities R. W. Best and Samuel F. Phillips, of North Carolina. I ask that it be put on its passage now.

The bill was read a first and second time. It proposes to enact, with the concurrence of two-thirds of each House, that all political disabilities imposed by the United States upon R. W. Best and Samuel F. Phillips, of North Carolina, in consequence of participation in the recent rebellion be removed.

Mr. CULLOM. I would like to offer an amendment, to add to the bill the name of William F. Taylor, of Virginia. The removal of his disabilities has been recommended by the Secretary of War and a great many other gentlemen of high character.

Mr. FARNSWORTH. I am not authorized by the committee to accept any amendment. If my colleague [Mr. CULLOM] will have the case he mentions referred to the committee they will examine and report upon it; but I am not authorized by the committee to permit any amendment to this bill.

I will state the reason for reporting the bill and asking its passage this morning. One of the gentlemen whom it proposes to relieve is the clerk of the supreme court of North Carolina, and the other is the reporter of that court. The court is, I understand, now in session, but cannot do business because of the disabilities of these officers. The delegation from North Carolina desired the committee to report this bill at once, and ask its passage.

Mr. CULLOM. I will state for the information of the gentleman that this man whose disabilities I desire to have removed is in an exactly similar situation. The Secretary of War, the general commanding the district where this gentleman resides, and a great many other men of the highest character, recommend the removal of his disabilities as speedily as possible. Otherwise I would not ask for the insertion of his name without a reference of the case to the committee.

Mr. FARNSWORTH. I have no authority from the committee to consent to such an amendment.

Mr. MULLINS. Will the gentleman allow me to ask him a question?

Mr. FARNSWORTH. I will first yield to my colleague on the Committee on Reconstruction, [Mr. PAINE,] who desires to make an observation.

Mr. PAINE. I hope the gentleman from Illinois will withdraw the amendment he offers. We have had such recommendations as the one the gentleman refers to; but, sir, we have decided that we must have something more than recommendations—that we must have facts before us for our own examination before reporting bills to the House for its action.

Mr. CULLOM. I withdraw my proposition for amendment, and will present the case to the committee in the hope that it will receive early action.

Mr. MULLINS. Am I to understand that this man has to be appointed or the supreme court will be suspended?

Mr. FARNSWORTH. He has been already appointed.

Mr. MULLINS. Then we must relieve him or this supreme court will be suspended. Now, I wish to know whether this is the first time that the gentleman has heard of the supreme court of that State having been suspended by rebels. If the court is not to be suspended unless we pass this then I shall contest it.

Mr. FARNSWORTH demanded the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. MULLINS demanded tellers; and after-

ward the yeas and nays on the passage of the bill.

Tellers were not ordered; and the yeas and nays were not ordered.

The House divided; and there were—yeas 104, noes 16.

So (two thirds having voted in the affirmative) the bill was passed.

Mr. FARNSWORTH moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ADJOURNMENT OVER.

Mr. SCOTFIELD. I rise to propose an adjournment over till Monday next; but before doing so I will ask unanimous consent that the session of to-morrow shall be for debate alone.

Mr. CULLOM. A good many gentlemen desire to make speeches, and I think the House will do itself no injustice by allowing that to be done; but, sir, for my part I should prefer that we shall have to-morrow a morning hour for reports from committees of private bills and after that a session for debate.

Mr. MAYNARD. I object to a session to-morrow for debate only, but I am in favor of a session for business.

Mr. SCOTFIELD. I move, then, that when the House adjourns to-day it adjourn to meet on Monday next.

The House divided; and there were—yeas 73, noes 39.

Mr. CULLOM. I hope the gentleman from Tennessee will withdraw his objection to a session to-morrow for debate only.

Mr. MAYNARD. I do not make the objection in a captious spirit, but from the conviction that we ought to devote a portion of this session, at least, to private business, and to-morrow is one of the days set apart for that purpose. Private bills have been more neglected during this Congress than any preceding one that I know of.

Mr. SCOTFIELD. It is apparent that the House will vote to adjourn over; and what, then, can the gentleman gain by objecting to a session to-morrow for debate only?

Mr. MAYNARD. That is the question to be settled.

Mr. CHANLER. I rise to the point of order that debate on this motion is out of order.

The SPEAKER. The Chair sustains the point of order.

Mr. MAYNARD. I should like to have replied to the gentleman from Pennsylvania.

Mr. HUNTER demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 80, nays 73, not voting 68; as follows:

YEAS—Messrs. Allison, Archer, Bailey, Barnes, Barnum, Beaman, Beatty, Beck, Bowen, Boyden, Boyer, Brooks, Broomall, Buckland, Burr, Calkins, Chandler, Sidney Clarke, Dickey, Dockery, Eckley, Edwards, Eliot, Getz, Glossbrenner, Golladay, Gore, Grover, Halsey, Harding, Haughey, Heaton, Hill, Hooper, Chester D. Hubbard, Hulburd, Humphrey, Ingersoll, Alexander H. Jones, Thomas L. Jones, Judd, Knott, Koontz, McCormick, McCullough, Miller, Morrill, Mungen, Myers, Newsum, Niblack, Nicholson, Norris, Pettis, Polsley, Price, Robertson, Sawyer, Scofield, Shellabarger, Smith, Spalding, Starkweather, Stewart, Stone, Stover, Taber, Taft, Thomas, John Trimble, Lawrence S. Trimble, Twichell, Upson, Van Trump, Van Wyck, William Williams, James F. Wilson, Wood, and Woodward—80.

NAYS—Messrs. Ames, Arnell, Baker, Baldwin, Benjamin, Benton, Bingham, Boies, Brownell, Buckley, Roderick R. Butler, Callis, Reader W. Clarke, Clift, Cobb, Coburn, Corley, Covode, Cullom, Dawes, Deweese, Eggleston, Eile, Farnsworth, Ferriss, French, Garfield, Goss, Gravelly, Haight, Hawkins, Higby, Hotchkiss, Hunter, Jenckes, Julian, Kelley, Kelsey, Ketcham, Kitchen, Ladin, Lash, George V. Lawrence, Lincoln, Logan, Loughridge, Mallory, Marvin, Maynard, McCarthy, McKee, Mercer, Moore, Moorhead, Mullins, Newcomb, O'Neill, Perham, Peters, Pierce, Platts, Prince, Schenck, Shanks, Stokes, Taylor, Tift, Van Aernam, Elihu B. Washburne, Welker, John T. Wilson, Stephen F. Wilson, and Windom—73.

NOT VOTING—Messrs. Adams, Anderson, Delos R. Ashley, James M. Ashley, Axtell, Banks, Blackburn, Blaine, Blair, Boutwell, Benjamin F. Butler, Churchill, Cook, Cornell, Delano, Dixon, Dodge, Donnelly, Driggs, Eldridge, Ferry, Fields, Fox, Griswold, Hamilton, Holman, Hopkins, Asahel W. Hubbard, Richard D. Hubbard, Johnson, Kellogg, Kerr, William Lawrence, Loan, Lynch, Marshall, Morris-

sey, Nunn, Orth, Paine, Phelps, Pike, Pile, Poland, Pomeroy, Pruyn, Randall, Raum, Robinson, Root, Ross, Selye, Sigroaves, Stevens, Sypher, Trowbridge, Van Aiken, Burt Van Horn, Robert T. Van Horn, Vidal, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Whittmore, Thomas Williams, Woodbridge, and Young—68.

So the motion was agreed to.

WASHINGTON TERRITORIAL LEGISLATURE.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting a letter from the secretary of Washington Territory, inclosing estimates of the current expenses of the Legislative Assembly in the secretary's office for the fiscal year ending June 30, 1870; which was ordered to be printed, and referred to the Committee on Appropriations.

CREEK INDIANS.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of Indian Affairs, with estimates of appropriations required to carry out the treaty with the Creek nation of Indians; which was ordered to be printed and referred to the Committee on Appropriations.

SALVAGE.

The SPEAKER. The Chair also lays before the House a communication from the Secretary of War, transmitting the claims of the officers and crews of the United States gunboat, De Soto and transport Crescent for salvage against the United States steamer Leviathan. As this presents a question, the Chair will have read the last sentence of the letter of the Secretary of War, and the House can then determine to what committee it shall be referred.

The Clerk read the following extract from the letter of the Secretary of War:

"I avail myself of this occasion further to suggest that it be made a matter of inquiry as to whether the public advantage would not be promoted by a repeal of the statute allowing salvage to salvors of public vessels where the parties belong to the public armed service. It would seem to be of questionable justice that the United States should be called upon to pay for assistance rendered its own vessels in distress by its own officers and crews."

Mr. WASHBURNE, of Illinois. I think it ought to go to the Committee on Commerce.

Mr. KELLEY. To the Committee on Naval Affairs.

Mr. CHANLER. It suggests a change in the law in regard to salvage; and I move that it be referred to the Committee on the Judiciary.

Mr. WASHBURNE, of Illinois. Let it go to the Committee on the Judiciary.

Mr. KELLEY. I assent to that.

The communication was accordingly referred to the Committee on the Judiciary, and ordered to be printed.

CONTRACT FOR POSTAGE STAMPS.

The SPEAKER also laid before the House a communication from the Postmaster General, transmitting, in compliance with House resolution of the 14th ultimo, advertisements of proposals, contracts, and correspondence relative to postage stamps; which, on motion of Mr. WASHBURNE, of Illinois, was ordered to be printed, and referred to the Committee on Appropriations.

WITHDRAWAL OF PAPERS.

Mr. PETERS, by unanimous consent, withdrew from the files of the House the papers in the following cases, for the purpose of presenting the same before a committee of the Senate: William R. Riley, James Selden, J. R. D. Morrison; John W. Baden, administrator; G. L. Machenheimer, Frederick G. Rohe, Charles J. Stewart, John H. McChesney; Sarah A. Butt, administratrix; Richard Butt, Robert McChesney, William B. Beall, James B. Anderson, Abram Hyman, J. Thomas Talbert, Enos Ray, Henrietta Norton; Thomas Fitnan, sen., by Augustus Fitnan; Jacob Coleclager, James Pilling, A. C. P. Shoemaker, Sarah Matthews, James Mulloy, B. D. Carpenter, Oliver Dufour, Henry Martin, Daniel V. Col-

clazer, Jacob Poss, and D. V. Celclazer for D. L. Howe.

SEBASTIAN REICHERT.

Mr. BAKER, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Public Lands be instructed to inquire what relief, if any, is due to Sebastian Reichert, of St. Clair county, Illinois, in consequence of the failure of certain patents of the United States to convey title, and that said committee report in the premises by bill or otherwise.

INTERNAL TAX ON NAVAL MACHINERY.

Mr. SCHENCK, by unanimous consent, from the Committee of Ways and Means, reported back a bill (H. R. No. 1827) to amend an act to exempt certain manufacturers from internal tax, and for other purposes, approved March 31, 1868, with an amendment, with the recommendation that it do pass.

The bill was read. It amends the act of 1868, in the second section, so as to allow manufacturers of naval machinery for the Government all the benefits conferred by said act upon other manufacturers, repealing all taxes upon such machinery not heretofore assessed and collected.

The amendment reported by the Committee of Ways and Means was to strike out all after the word "machinery" to the end of the section, and insert in lieu thereof the words, "which had not accrued prior to the 1st day of April, 1868, are hereby remitted."

Mr. SCHENCK. I will explain briefly the object of the bill. When the bill which was passed and which became a law on the 31st of March last was pending it was, so far as the action of the House was concerned, passed without the second section of the bill. It contained simply a provision that there should be no further taxation after the 1st of April, 1868, upon the products of manufacturing industry. Subsequently an amendment of the Senate, agreed to in committee of conference, provided that it should not apply to the productions of manufacturing processes by those who had contracts with the Navy Department for furnishing machinery to the Government. The object of this seemed to be to make an exception in their cases, because it was understood that there had been from time to time under those contracts deliveries of portions of the machinery, while the tax upon the portion of the contract completed or the machinery delivered in part was withheld by the Government, and therefore the bill passed retroactively in some sense in its effects.

Now, in the House the position was taken that all contractors, whether with the Government or as between individuals, should be put upon an equality, and should have no tax put upon that which they produced after the 1st of April. The bill, which was once reported from the Committee of Ways and Means and then recommitted, would relieve these gentlemen not merely from the tax accrued after the 1st of April, as in the case of other producers of machinery, but would also give them the benefit of relief against the payment of the tax which had accrued prior to the 1st of April. We propose, therefore, to amend the bill in such a way that all taxes which accrued prior to the 1st of June, 1868, shall be paid; thus putting them on the same footing as all other contractors and citizens, and only remitting the taxation after the 1st of April, 1868.

I do not know that I can make the matter clearer by further explanation. The object is to amend the bill so as to give them this benefit only in accordance with the provisions of the law which extends the same benefit to all other persons.

Mr. CHANLER. I would ask the gentleman who will be the recipients of the benefit of the amended bill, and if the benefit is limited, as I understand it to be, to contractors for the Government for naval machinery?

Mr. SCHENCK. The Government will collect from contractors all taxes which have accrued, although they have not been collected, prior to the 1st of April last. The contractors

for any portion of machinery furnished after the 1st of April will get the same benefit as all other persons producing manufactured articles obtain under the law. The object is to amend the bill so that it shall not give these manufacturers of machinery for the Government the benefit of being released from taxation which accrued prior to the 1st of April. The original bill provided that they should be relieved from that not collected, but there was that which had not been collected but which had accrued, and the committee have come to the conclusion they ought to pay that which had accrued, although not collected.

The amendment was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NAVAL APPROPRIATION BILL.

Mr. WASHBURN, of Illinois, from the Committee on Appropriations, reported a bill (H. R. No. 1598) making appropriations for the naval service for the fiscal year ending June 30, 1870; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, made the special order for Monday next, and ordered to be printed.

Mr. BROOKS. I desire to reserve all points of order on that bill.

Mr. WASHBURN, of Illinois. That is very proper. The gentleman may be enabled to strike out some things which would decrease the public expenses.

Mr. BROOKS. I only half heard what the gentleman said.

Mr. WASHBURN, of Illinois. I said that by taking advantage of points of order and striking out some matters in the naval bill the gentleman could increase the public expenses.

Mr. BROOKS. It is very easy for a man who bellows here loudly for economy and by the consumption of time disgusts the House and creates a disposition to expend forty times the amount of public money that would otherwise be spent to make insinuations of that sort.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that the Senate had indefinitely postponed a bill (H. R. No. 263) to extend the jurisdiction of probate courts and of justices of the peace in the Territories of Idaho and Montana.

The message further announced that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

An act (S. No. 167) granting lands to the State of Oregon to aid in the construction of a military wagon-road from the navigable waters of Coos bay to Roseburg, in said State;

An act (S. No. 712) to define the fees of recorder of deeds, and to provide for the appointment of warden of the jail in the District of Columbia, and for other purposes;

An act (S. No. 722) to amend an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," by extending certain penalties to accessories; and

An act (S. No. 730) supplementary to an act entitled "An act to confirm the titles to certain lands in the States of Nebraska."

MILITARY ACADEMY BILL.

Mr. WASHBURN, of Illinois. I move that when the House shall again resolve itself into the Committee of the Whole on the state of the Union all general debate upon the Military Academy appropriation bill shall terminate in an hour and a half.

The motion was agreed to.

Mr. WASHBURN, of Illinois. I now move

that the House resolve itself into the Committee of the Whole on the state of the Union upon the special order.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole on the state of the Union, (Mr. HULBURD in the chair,) and proceeded to the consideration of House bill No. 1596, making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1870.

The CHAIRMAN. By order of the House all general debate on this bill must terminate in one hour and a half.

The bill was read at length.

TENURE OF OFFICE.

Mr. LOGAN. Mr. Chairman, I desire to detain this committee for a short time to discuss a proposition which has been before the House during very nearly the whole of the last session. It is perhaps not entirely legitimate to discuss such a proposition during the pendency of the bill now before us. I refer to the bill reported from a committee, and known as the civil service bill, or otherwise known as "Mr. JENCKES'S bill." I do not know how that bill may have struck the minds of other members of the House, but it has led me to believe that it is a bill of very great importance, one that should be examined very carefully by members prior to their action upon the same.

Mr. Chairman, I rise to oppose the bill known as Mr. JENCKES'S "civil service bill," which provides for a new department of Government and a "life tenure for all civil offices of the United States, except those wherein the Senate must consent to the appointment;" and in opposing this bill I desire to say I am in favor of having the business of this Government, in every department, transacted with the utmost intelligence, fidelity, and dispatch. I believe that all employés in the service of the Government should have intelligence and capacity sufficient to enable them to perform their duties in a satisfactory manner, and that they receive such compensation as will make them proof against dishonesty and ambitious of promotion. I am in favor of governmental economy, but I do not regard that to be a wise economy which pinches a subordinate to lavish on a superior. In a word, sir, I desire to see the affairs of the nation transacted by all its participants with the utmost attainable precision, aptitude, and integrity; and whenever it is shown to me that a reform is needed in any point and it can be effected by any proper legislation I will cheerfully vote for it.

I think it is proper that I should thus express my views in order that I may not be misunderstood in my motives or feelings when I say that I cannot vote for this bill nor advocate the system which is embodied in it. I think that the bill is bad in theory, wrong in principle, opposed to the genius and spirit of our institutions and our people, and probably unconstitutional in its legal aspect. I regard the introduction of a bill like this, and the favor with which it has been thus far received by both parties and the press of the country, as one of the most positive, and, therefore, one of the most alarming signs of the inauguration of a policy which if persisted in will end in the obliteration of all that is republican in this Government and the substitution of that which is monarchical in its stead. If I had had nothing but the bill itself before me I might have hesitated before expressing this opinion; but when I read, as I have done with great care, the report of the committee and the exhibits attached to their report, and find their whole plan is taken openly, boldly, and without disguise from monarchical Governments, I cannot doubt what its results will be if I could doubt the intention.

This bill gives a life tenure of office to every employé of the Government in the civil service. In that particular alone it is opposed to the theory of our institutions. I will not consume the time of the House by reading the opinions

of the fathers of the Constitution upon this feature. We are all familiar with them. We all remember the controversy which arose upon the attempt to introduce that feature into our system of government. The dangers which were predicted then from such a source are just as imminent and just as perilous now. The inevitable result to liberty is just as inevitable now. The establishment of a favored class, ending in the establishment of a haughty and recognized aristocracy, is just as certainly dangerous now as then. The tendencies of an order established by Government and perpetuated by law to centralization and tyranny is just as flexible to-day as it was when it was denounced by the debaters on the Constitution. When at last it was agreed that the judges of the Supreme Court of the United States should hold office for life there were not wanting those at that time who regarded the concession as the only blemish on the fair face of the Constitution.

I shall be answered doubtless that this bill does not relate to any elective or responsible officer of the Government, but only to those who may be denominated its clerical force, and therefore as they are not a part of the Government in either of its three divisions, executive, legislative, or judicial, they are powerless for harm and impotent for mischief; that none of the reasons apply to them which were urged on the occasion to which I have referred. I have considered that, and I have read and considered all that the committee have said in favor of their efficiency and their organization, but still reply that the objection can be as well made against them as against any others, and that the danger to be avoided is as much to be within their power to propagate as any other.

Sir, I wish to announce it here in irrevocable terms that I am opposed to all class legislation in any form and against all perpetuities of office in a land of liberty. It is the theory of this Government that all its members shall be constantly before the people, resigning the trusts which have been temporarily bestowed upon them. One and all must lay down their offices to the constituents who gave them. If they are approved in their official course, and are returned to their places, it is well. But their term of office is short, in order that the people may have almost immediate redress from an unsatisfactory or unfaithful servant.

It is the people, sir, who are to govern this country, and they are to govern according to the will of the majority of them, whatever that will may be. When it is once lawfully expressed it is paramount and supreme. It may be said that the people are whimsical, and fly to-day from what they approached yesterday. It may be they are unreasonable at times, and remove an elected officer without cause and with great injustice. It may be that they are capricious and adopt the views with acclamations which they had just rejected with derision. But whatever they may be, in the minds of some they are the governing power, and their fiat is conclusive. It is by having their agents constantly before them that their acts may be denounced or confirmed that the people maintain their supremacy and enforce their will. This, sir, is the theory and the practice of our Government. Immediate responsibility we all incur, and speedy settlements we all must render. The appointment of subordinates or the nominations for appointments are just as much a part of our responsibility as any other which we have, and a share in those appointments and the right to become for a time a portion of the administrative force of the Government is one of the recognized rights of the people of which it is proposed by this bill, utterly and forever, to deprive them.

I do not intend to discuss the justice of the maxim which has been acted upon in our politics for so many years past, that "to the victors belong the spoils." That is a mere party and pecuniary consideration with which I do not intend to deal in my remarks to-day. The question involved in this bill rises far above that, and entirely overshadows all such minor

and petty influences, and I desire to give especial notice that I do not oppose this bill because it deprives this party or that party from sharing in the emoluments of party successes, but I oppose it because it assaults the theory of our Constitution and destroys the wholesome practices of our people.

Every Administration is justly held responsible by the country for the policy it pursues, the measures which it upholds, and the good or evil which springs therefrom. It happens not unfrequently that the success or failure of an administrative design is caused by the acts of those who are intrusted with its execution. A whole scheme has often been thwarted by some insignificant subordinate and the fate of a party has turned upon an accident.

An incoming Administration has, therefore, clearly a right to demand that any person who may be known to harbor hostility to its wholesome measures or enmity to our institutions shall not be retained in the public service. The right to demand this rests not alone upon the necessity of unanimity in all departments of public service; not alone upon the right of the officers-elect to choose those agents whom they may deem to be the best to carry out their views; not alone upon the principle that a spy shall not be tolerated in military or civil pursuits, but upon the broader ground that the Administration represents the country for the time being and is the embodiment of the country's welfare and prosperity, unless it has proved treacherous to the principles upon which the people placed it there; and that he who does not unite in its views is not to be intrusted with its employment. I recognize this principle, sir, as a wise and salutary one; I do not say I would apply it in all instances, but I insist that the right to apply it shall not be taken away.

Every gentleman will admit the correctness of these views when applied to those who fill the higher and more responsible positions in our public affairs—the immediate assistants in the various Departments. It will be immediately conceded that these persons should have the same political tone and feeling as their principals.

But I shall be told that this does not hold good in the case of the thousand and one employes whose duties are of the most fixed and unalterable character. It will be seen, sir, that the bill applies not only to these, but to those; not only to the messenger, but to the minister; not only to one, but to all. It includes all officers whatever in any and all departments of the civil service, of every grade, of every kind, of every shade of responsibility, of every degree of importance, without any exception whatever, but postmasters and persons to be confirmed by the Senate.

Gentlemen are mistaken who suppose that no injury can result from the retention in office of persons who are inimical to the Administration—and when I use this word I mean to include in it all the branches of the Government—because such persons hold obscure positions or are without political influence. There can be no greater error indulged in. What was the fact in the first years of rebellion? It was notorious, sir, that the majority of the incumbents of the small offices here were all secessionists; the confederate flag was worshipped in every nook and corner of the public buildings; hundreds of fifth-rate clerks sneered at Abraham Lincoln; and while there was an atmosphere of patriotism in the White House and in the heads of Departments there was a gushing current of treason and a sentiment of hate which penetrated into all the recesses of the public service and was felt in every ramification of the city. Disloyalty flaunted itself everywhere so loudly and prominently that if a foreigner had come into this place he might have supposed he was in the stronghold of the South instead of the Capitol of the nation. What was the effect of it? Why, sir, there was no secret safe from discovery and disclosure. There was no campaign planned that was not known and revealed before it was con-

summated. There was no movement to be made that was not anticipated before it was begun. They were instantly possessed of our Cabinet councils; and prepared to avert our every blow. How did they get this information? Those who were at the head of affairs were true, and resorted to new means of secrecy every time they were betrayed. But turn which way they would they were still betrayed.

We know now, sir, that these small place-holders were the pipes of communication; these insignificant people who have no political influence; who cannot affect any measure or interfere with any legislation; who are swarming now as thick as summer flies, swearing they were the first men who advocated the election of Grant, and who as the country increases, and the public service increases with it will increase as fast; those were the class who in 1861–62 came near delivering this city into the hands of the enemy, and almost succeeded at the time in dealing the death-stroke to this country. We should learn something by experience, and the lessons which that rebellion have taught us are not confined to its military character. They extend, or should extend, to every branch of our legislation.

Suppose this bill had been a law in 1861, and that all those persons to whom I have referred had been holding office under it by the life tenure. What should we have done? How should we have been rid of them? Should we have tried them under the act? Can you imagine the heads of Departments holding courts to hear charges and to try cases of clerks and employes at that time. If there had been as many hours in a day as there are minutes, and if each head of Department had had the eyes of Argus, and the arms of Briareus, they would not have been sufficient for the business. And what could have been proved against them? In ninety-nine cases out of every hundred you could have proved nothing at all against them. If you had proceeded upon strictly legal evidence you could not have convicted one in a thousand. How would you have indicted the supercilious sneerer or described the ineffable contempt? How would you have reported the telegraphic glance of the eye or presented the curl of the nose and the lip which were the only outward signs of the traitor, albeit you knew his heart was reeking with treason. His midnight communication with the enemy you did not know, nor of his dispatches in cipher, or signals in colors. The mode of his correspondence you did not know, and in many cases you did not even suspect; and even if you had suspected ever so strongly where was your proof to warrant a conviction? Even if your proof had been at hand and as strong as holy writ was there time and opportunity and safety to try them on the proofs?

Had our President and our Departments no other occupation, then, but to try clerks and entertain appeals and examine allegations of error and consider judgments? Where was the enemy? Would he not "have been thundering at our gates" with something heavier than a supersedeas? Where would the country have been, sir? I do not know that it is too much to say that if there had been no summary power to dismiss and disperse all the treasonable elements which were in the public service when the rebellion commenced the struggle for freedom might have been continued for years, and the result might have been different to-day.

I hope that we have seen the last of war. I trust that this country may never again be visited with its horrors. I do not like to consider war as a possible contingent upon any event. Yet it would be criminal weakness in us all if we did not so shape our laws for the future that they may include the condition of war as well as peace. Therefore I ask in what condition would war find us hereafter if, perchance, the feeling of the governmental employes were to be arrayed against the Government as they were in the outset of the rebellion? Think of our situation with a war

upon our hands and the entire working force of the Government clothed with office for life, and disaffected. The knot would have to be cut by the sword. Military law would be applied. Martial law, courts-martial and commissions, arbitrary dismissals, and all the necessary train of evils which always fall upon a land unprepared for war, would be felt.

It is stated in the report of Mr. JENCKES, chairman, that this system has worked well in other Governments, in attaching the employes to the Government, and in preventing them from becoming dangerous to the country. I presume as much will be claimed for this bill. I can readily understand how it would occur in a monarchy like France or England or Prussia. Bread riots and barricades are not got up by well fed officials and sleek flunkies.

The desperate wretch who rushes to revolution for food becomes a very different man when appointed for life to a good place. We have no such classifications of society here now as they have there, although if this bill becomes a law we soon will have. We have no king nor nobles nor titles. We have no such extremes of wealth and poverty. He who is of the Government there has not only a position for life, but his posterity succeed to it. His position brings not only sustenance, but social distinction. He becomes one of the governing class, no matter how humble. His interests are with the monarchy, and removed from the people. He is no longer of the people, even though he came of them originally. He has risen above them in his own sphere, whatever that may be. He is not responsible to the people, for the people have no voice in his affairs. If he loses his place by revolution or otherwise he is thrown back again into the great seething mass of humanity whose only knowledge of life is its toil; whose ever enduring and recurring struggle in life is for bread, and whose only consolation at the close of life is the rest afforded by the grave.

How was it with those who were here at the outset of the rebellion? For the most part they were clerks who had held their places for many years. They were resident here; many had property here. They belonged to the old Democratic party and to the southern wing of that party. They were of the assured aristocratic class who believed that they were better than all others and that office was created for them to fill. They had them for long periods. Practically speaking, they held by a life tenure. Many instances are remembered where they had held from boyhood to old age. Did all this make them loyal or prevent them from being actually disloyal? Not at all. The very principle which underlies this bill operated with them and influenced them. Their long tenure of office engendered and swelled their pride; they looked with disdain upon the new men who came here to oust them from their places. They believed it was their exclusive right to hold office and the people had no right to elect any other to hold it. They were not in need of bread, and did not need to cling to the Government for sustenance; but in one respect they had the feeling of their aristocratic compatriots across the water. They did not like the vulgar people, as they termed them, who had voted them out of place; they were not of those people, and had no sympathies in common with them. They had a caste of their own, and they adhered to it scrupulously.

Why did these people go off from their Government, sir, if long tenure of office serves to draw incumbents to it? They had everything: office, money, property, social position, aristocratic habits and ideas, recognition, birth, and intelligence. They went off, sir, because they said a principle of government was involved—a principle. That is something, sir, that the incumbent in Europe is never allowed to have and never will have, a principle at stake in the form of government. He does not have a ballot. He does not help to make or unmake the Government every four years, and therefore he cannot have a question of

principle between himself and his king; and you may rest assured that whenever an American believes a principle is concerned the mere matter of office will not be sufficient to induce him to forego it. He is human nevertheless, and as liable to err in office, and unmindful of the duties of his office, as any of the office-holding family in the world. What then? If he holds for life, then that occurs which is not contemplated in our theory of administration, namely, a person is holding a position under this Government who is not responsible to the people; who cannot be touched by any other officer of this Government, however exalted; who is not affected by any change of administration, however he may view it. A person who although he may have been originally of the people and from the people, yet soon will become by the immunity which he enjoys, by the security of his place, by the hardening of long continued position, removed from the people, with but few feelings in common with them, and at last to have an utter disregard and contempt for them. For these reasons I say that this bill does not accord with the spirit of our Government nor the practice under it. I say it is opposed to the genius of our institutions and the policy of our nation.

But, sir, we are told by the resolution of inquiry and the report of the committee that "the public service has been used as an instrument of political and party patronage," and that this bill is necessary to prevent that evil in the future. I propose to examine it, sir, in that light, to see if it sustains this promise of its author, or whether, upon the contrary, it is not in itself one of the most bold and potent schemes for prostituting the public service by patronage that ever was presented by an American Congress.

I know that many "errors have crept into the service of the State." I am aware that many departments of the Government have suffered and are now suffering from incompetent and dishonest officials of every station and degree, and I would gladly vote for some proper measure by which all this can be remedied. But when I read this bill and see to what it will bring the country, and what will be its effects upon the liberties of the people and their rights of election and representation, I say it is better to

"Bear those ills we have
Than fly to others that we know not of."

I disclaim all intention of reflecting upon the motives of any one concerned in the preparation of this act, but I cannot refrain from denouncing it as a scheme whereby this country would soon be brought to the condition of those monarchies from which the forms of the bill have been borrowed.

I propose to examine the details of the bill and to show what would be the operations of it when once it is enforced. It provides that a new executive department shall be created; that the Vice President shall be the head of it; that a board of commissioners shall be appointed, who shall have power to make rules and ordain examinations under them, to divide the country into districts, and to delegate all their powers to other parties. It further provides that all persons who may hereafter desire to be employed in the civil service of the Government in any capacity whatever shall be obliged to submit themselves for examination as to their qualifications, after paying a fee, to this board of examiners or some deputy thereof.

The appointments shall be made from the list of those who prove themselves to be the best qualified, and when once appointed they are to hold their appointments for life, upon good behavior. Every branch of the service is to be divided into grades, and every incumbent is to be promoted from the lower grades whenever a vacancy occurs. A list is to be kept of all applicants, and as vacancies occur from any cause they are to be filled by the applicants who are awaiting their turn.

The "board" is to provide for a species of court-martial or commission to try, adjudge,

and punish all offenders. The decision of the board is final as to applications. There is no power of appeal or review. The President, Senate, or head of any Department may not only require all applicants in the future to submit themselves to this board, but may order all present incumbents to appear before it and abide by their decision, females as well as males. This is assimilating the civil service to the military service of the Government. This is engrafting all the discipline, the rigidity, the severity of the Army upon the civil branch. It is concentrating all the power into the hands of one man, namely, the Vice President of the United States. Whether he would use the power judiciously and disinterestedly is not now to be known; but certain it is, that if you desire to keep public patronage out of party politics the power of appointment must not all be centered in one man.

Is it not palpable that if he so desired to use his power of appointment the Vice President could make himself the President spite of all opposition and beyond all the efforts of the people? The organization of office-holders which he could make would be so firm and invincible that the will of the people could never be expressed or executed. And the immense number of persons now employed and to be employed, who cause, the report says, the patronage to be a political evil, would only make him the more compact. If it is an evil in its present shape how much more would it be an evil in such a shape? Who would be the fountain-head of all power of promotion? The Vice President. Who would be the arbiter to whom they would look in the last resort? The Vice President. Who would be their benefactor? The Vice President. To whom would their gratitude be due? The Vice President. Whose interests would they desire to serve and to whom show their gratitude? The Vice President. Who would command that vast army of civilians whose numbers would be greater than the peace list of the regular Army? The Vice President. He might be a man who was so void of ambition as not to use his power; he might be so regardless of exalted station as not to attempt to gain it; he might be so virtuous that all his influence would be for his country's good; he might be so conscientious as never to know favor or affection; he might be a paragon in public life or he might not be; and I never will consent to place the whole liberties of the people in the hollow of his hand, be he who he may.

In every Department, from its head down to the usher at the door, he would have control. At every desk, in every book, on every page, from the scribe to the sweeper of the floor, his name would appear on their certificate of examination. Every man, woman, and child who make up that long and sometimes sad procession which issues out in defile day after day from all the places of labor when the closing hour has come will recognize him as their benefactor. Every aspirant who seeks preferment, and every expectant who hopes for increased salary, will seek to conciliate him. Every candidate who has been accepted on the roll, and who is waiting for a vacancy, or whose friends desire to have a vacancy made, will supplicate him. His influence will be confined to no one State or bounded by any Territory short of our whole country. Every man in every custom-house, in every collection district, every county and precinct; the whole catalogue of revenue officers, subordinates in every post office, clerks of every kind and name, employes of every variety of occupation, from the surveyor's chainman, who on the westernmost prairie braves the Indian bullet while he performs his task, to the civet-scented dandy who lolls on velvet cushions and treads on tapestry carpets in the inner bureaus of Washington—all these, and others not enumerated, "whose name is legion,"—all, all will know him to be the man to whom to look, whom to honor.

Am I to be told that when once appointed, they are independent for life, and that their life

tenure is given in order that they may be made regardless of just such influences. I have been in politics too long, and have been too long aware of the resources of party tactics to be silenced by any such belief. There must be some power lodged somewhere in somebody to remove them for good cause and upon trial, or else the bill would not have been listened to with common courtesy, so great would have been the indignation of this House at such a proposition. Well, then, so long as complaint can be made and a trial had and a dismissal procured, just so long there will not be wanting the old story of contrivances, of influences, of solicitations, and of machinery whereby one may be put out and another may be put in. Remember the Vice President is the President of the board. The board has the right to define what is misconduct in office by its rules and regulations. Was there never an instance where a rule was made to meet a particular case or strained to accomplish a particular purpose?

This board has the right to "establish a rule by which any person exhibiting particular merit may be advanced one or more points in their grades." Did it never happen that the particular merit was particular influence, and that the advancement was from the lowest to the highest at one jump? "One fourth of the promotions may be made on account of merit irrespective of seniority in service." Was it never the case that a stripling was promoted "on account of merit" over a veteran whose merits probably were not of a peculiar kind? "Or by advancement for meritorious service and special fitness." If we should search history would we not be able to find mention of those whose special fitness and meritorious service were more apparent to those who wanted to use them than to the world at large?

Nay, sir, if my memory serves me aright, I have heard—though I confess I do not believe the tale—that in the late war there were officers in the Army, both regular and volunteer, who were advanced one or more points in spite of the rules and regulations of promotion; that there were military boards and examining boards with power of dismissing incompetents, who made special examinations, and discovered merit which deserved promotion irrespective of seniority in service, and found special fitness for a particular branch of the service where it had been before presumed there was only particular unfitness for any branch of the service; in fact, I believe I have heard that spite of all boards and all rules, notwithstanding there was no seniority, notwithstanding there was a total lack of merit, and a total want of fitness there were generals made who never smelt more powder than that in a Fourth of July fire-cracker, and officers in every grade, who not only never had a command or filled a line of duty, but did not know the import of the words. But of course those persons only mean to be facetious who say there were clerks in the War Department brevetted to high rank for gallant charges upon a column of—figures—and repelling the advances of those ignorant and impertinent soldiers who, having been maimed and scarred in many battles, presumed to besiege the office to ask a slight promotion or favor.

Seriously, sir, the more the details of this bill are examined the more evident it will be that the act unintentionally, and from its very nature, clothes the Vice President of the United States with a power which might be used in unworthy hands to the fatal injury of the Government. Its objectionable character is not redeemed by a single desirable trait. Admitting that the Vice President was strictly faithful and conscientious in his administration of the bureau; even admitting the board were beyond all personal partisanship or bias, and uninfluenced by any but proper motives; even admitting that the operations of the act would insure a more faithful, intelligent, and efficacious class of employes, and the business of the Government would be transacted in a more scrupulous, orderly, and economical manner, and that there would be no want of harmony,

no jealousy, no false reports or unmerited promotions in the service; say that it work as well as its most sanguine advocate can claim for it; admit that party patronage is no longer left with elected officials and can no longer be used "as a means of influencing politics," and still, sir, there is an objection yet remains, which is greater than any I have named. That objection is that the system begets a caste in this country. There is the favored class. There is the aristocratic tendency which inevitably comes of class, and which inevitably ends in centralization.

I have adverted to this incidentally before, when it fell in with another topic. But I wish now to call the most earnest attention of the House to that which stares us in the face. This bill is the opening wedge to an aristocracy in this country. It is first to be created by law, and then to maintain itself by its own power, which will increase from day to day until finally it will become irresistible. I say this deliberately, and after giving the bill the most careful attention. It will lead us to the point where there will be two national schools in this country—one for the military and the other for civil education. Those schools will monopolize all avenues of approach to the Government. Unless a man can pass one or the other of those schools and be enrolled upon their lists he cannot receive employment under this Government, no matter how great may be his capacity, how indisputable may be his qualifications. When once he does pass his school and fixes himself for life his next care will be to get his children there also. In these schools the scholars will soon come to believe that they are the only persons qualified to administer the Government, and soon come to resolve that the Government shall be administered by them and by none others.

Combinations will come. They may be at first nothing more than unity of feeling and purpose, which comes of simple association. It will be possibly only the feeling which the man of the world has for his *Alma Mater*. It may not take shape or purpose until some favorite candidate brings it together. Then it will learn its strength; afterward it will use its strength, and soon its strength will be so great as to overcome all organized opposition.

The two schools will combine, for they will have sentiments, hopes, and ambitions alike. Their tone, habits, and manner, will soon be distinctive. It will stamp itself upon society. It will arrogate to itself to be the "cream of the cream" of society. It will assume foreign airs, and shoddy will ape it and them. It will toady to titles and long for them, and if not swept away too soon will have them.

Let any man stand in the great cities of the East and see how, with our boasted wealth and refinement, we have imported European vices and monarchical customs. Look at the liveried servants, the emblazoned equipages, the coats of arms, and crests of heraldry—pages, tigers, outriders. That which is foreign is fashionable, and that which is fashionable is baleful and demoralizing. Who will not say that this moment titles and all the paraphernalia of royalty would not be hailed by these? Alas! for the days of republican simplicity. If the essential differences which prevail between our form of government and those of Europe were remembered it would be seen that the same reasons which make this system a good one there make it a bad one here. In this country every man has a political opinion and a vote. The vote of the poorest and humblest man counts as much as that of the richest and most distinguished.

Every man is interested in politics and uses his political influence whether or not he be employed in the service of the Government. There is no man in office, no matter how high, who is beyond the reach of the vote cast by one, no matter how low. There is no measure of State policy which may not be changed by a single vote. Every man here is a part of the Government. If he disagrees with the administration of the Government his vote will

assist to change it. There is no class, save the United States judges, not amenable to his censure or not removable by his vote.

By the fluctuations of opinion parties and their adherents are constantly given and constantly stripped of office, and he who to-day might have felt himself above his fellow, by reason of his place, and have assumed superiority upon that account, to-morrow is thrown again into the pursuits of private life, and thus realizes that he is no better than another.

How is it in other countries? The king or queen is not to be reached by any voter, nor can the existing Government be ever changed, no matter how oppressive, unless by violence and arms. There but few have a voice in the administration, and these few are of the privileged class. They are of the higher orders. But even they can only effect a change of certain measures. The great business of the Government goes in spite of them and spite of any particular changes which they may have accomplished. These higher classes are educated for the special purpose of being politicians. The lower people have no such education. They are kept in careful ignorance of these first principles of legislation known to every boy here. No man of the lower classes can hope there to become a part of the Government by the simple rotation in office. The ins are always in; the outs are forever out. Consequently the classes are wide apart. When the sons in a higher family determine their pursuits it is always with reference to the Government service in some branch or another. One goes into the army, another the navy; one to the church, another is attached to a foreign embassy, another to the home department. In England and France professional pursuits are now added to the list; but these, if not considered a step downward, are a step off. It is getting out of the State.

How is it with the other classes? The sons of a successful merchant prince may go into the learned professions; that is a step upward. But they can no more say "we will go into the State" than they can clasp the moon. Nor can they step over the social line to those who are already of the State. How is it with the lower classes? If they can attain to that point where the wolf is no longer at the door, where conscription no longer threatens, they have come to their highest goal. They have no thought of the State nor vote in it. They are taxed and governed. If they can pay the tax the Government is good. When, therefore, a system is adopted which opens the door to the peasant as well as to the rich commander and younger sons of nobility, and which adopts them all into the service of the State according to their respective merits and makes them part of the State, and guarantees them office for life or good behavior and sure promotion for faithful service; which allows them to step over the line and to be of the select; which removes them from all thought of revolution and makes them a privileged class, it is not strange that such a system should make such men loyal to their king. Every promotion draws them nearer to the State, and the nearer they are to the State the further they are from the people.

This is a new danger to the country, and it comes not with the bold front of revolution, but with the pleasing show of reform. It appeals to our protection with a special plea, now that the finances of the country are suffering from the shock of war. It invokes our patriotism by declaring itself for the purification of party and the just disposition of the nation's patronage. The disguise is thin, and he who looks beneath may see the true lineaments of a monster which will destroy us all.

When the blasts of war blew in our ears the country sprang to arms. When the glittering ranks of rebellion stood before us we knew the country was in danger, and we saw the foe we had to meet. The danger was open, palpable, and undisguised. There was no mistaking the import of that fearful sign. For years the conflict raged, but the cause of liberty prevailed at last. Thousands upon thousands of our

flesh and blood were laid in soldiers' graves. They yielded up their lives battling against an enemy which threatened to overturn the Constitution of this land and subvert its liberties. We who survived had fondly hoped that with the last note of the fierce rebellion all perils had passed away. We consoled ourselves for all the tumult that had gone before by the assurance that there would be but serenity and security in all which was to come. But a foe again attacks us; not with a loud proclamation and the open defiance of hostile war; not with brave challenges and trumpet call, invoking to deadly conflict and conquering strife. Clothed in insidiousness which seeks to allay all doubt and silence all suspicion, it presents itself as a benefactor to confer a blessing. With promises of reform upon its lips giving assurance of better and more faithful service to the country it appears in an aspect to enlist our sympathies and engage our favor. If we listen to its allurements and incorporate it into our national system we shall discover its tendency and its purpose only when too late to counteract either. It will not be apparent how great is its enormity, how vicious are its practices, and how poisonous are its influences until we are too far encircled by its coils to shake them off.

For their sakes who died that this country might be preserved to their posterity republican in form and republican in name; that the liberties of this people should still be preserved intact from open violence and secret decay; that there should be no aristocracy created by Government; to the end that as now, for the first time, "all men are free and equal" before the law, the law shall not again adopt another code to make men any less free, I do entreat the condemnation of this House upon this destroying proposition.

The following is the bill to which I have addressed my remarks:

A bill to regulate the civil service of the United States and promote the efficiency thereof.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act there shall be created a new executive department of the Government of the United States, to be called the Department of the Civil Service; that the head of said Department shall be the Vice President of the United States, or in case of a vacancy in said office, the President of the Senate for the time being, who shall be a member and president of the Board of Commissioners hereinafter created, and shall perform all the duties assigned to him by this act] pertaining thereto.

Sec. 2. And be it further enacted, That hereafter all appointments of civil officers in the several departments of the service of the United States, except postmasters and such officers as are by law required to be appointed by the President, by and with the advice and consent of the Senate, shall be made from those persons who shall have been found best qualified for the performance of the duties of the offices to which such appointments are to be made, in an open and competitive examinations, to be conducted as herein prescribed.

Sec. 3. And be it further enacted, That there shall be appointed by the President, by and with the advice and consent of the Senate, a board of four commissioners, who shall hold their offices for the term of five years, to be called the civil service examination board, among whose duties shall be the following:

First. To prescribe the qualifications requisite for an appointment into each branch and grade of the civil service of the United States, having regard to the fitness of each candidate in respect to age, health, character, knowledge, and ability for the branch of service into which he seeks to enter.

Second. To provide for the examinations and periods and conditions of probation of all persons eligible under this act who may present themselves for admission into the civil service.

Third. To establish rules governing the applications of such persons, the times and places of their examinations, the subjects upon which such examinations shall be had, with other incidents thereof, and the mode of conducting the same, and the manner of keeping and preserving the records thereof, and of perpetuating the evidence of such applications, qualifications, examinations, probations, and their result, as they shall think expedient. Such rules shall be so framed as to keep the branches of the civil service and the different grades of each branch, as also the records applicable to each branch, distinct and separate. The said board shall divide the country into territorial districts for the purpose of holding examinations of applicants resident therein and others, and shall designate some convenient and accessible place in each district where examinations shall be held.

Fourth. To examine personally, or by persons by them specially designated, the applicants for appointment into the civil service of the United States.

Fifth. To make report of all rules and regulations established by them, and of a summary of their proceedings, including an abstract of their examinations for the different branches of the service, annually, to Congress at the opening of each session.

Sec. 4. And be it further enacted, That all appointments to the civil service provided for in this act shall be made from those who have passed the required examinations and probations in the following order and manner:

First. The applicant who stands highest in order of merit on the list of those who have passed the examination and probation for any particular branch and grade of the civil service shall have the preference in appointment to that branch and grade, and so on, in the order of precedence in examinations and merit during probation to the minimum degree of merit fixed by the board for such grade.

Second. Whenever any vacancy shall occur in any grade of the civil service above the lowest, in any branch, the senior in the next lower grade may be appointed to fill the same, or a new examination for that particular vacancy may be ordered, under the direction of the department, of those in the next lower grade, and the person found best qualified shall be entitled to the appointment to fill such vacancy: *Provided,* That no person now in office shall be promoted or transferred from a lower to a higher grade unless he shall have passed at least one examination under this act.

Third. The right of seniority shall be determined by the rank of merit assigned by the board upon the examinations, having regard also to seniority in service; but it shall at all times be in the power of the heads of Departments to order new examinations, which shall be conducted by the board, upon due notice, and according to fixed rules, and which shall determine seniority with regard to the persons ordered to be examined, or in the particular branch and grade of the service to which such examinations shall apply.

Fourth. Said board shall have power to establish rules for such special examinations, and also rules by which any person exhibiting particular merit in any branch of the civil service may be advanced one or more points in their respective grades; and one fourth of the promotions may be made on account of merit, irrespective of seniority of service, such merit to be ascertained by special examinations, or by advancement for meritorious services and special fitness for the particular branch of service, according to rules to be established as aforesaid.

Sec. 5. And be it further enacted, That said board shall also have power to prescribe a fee, not exceeding five dollars, to be paid by each applicant for examination, and also a fee, not exceeding ten dollars, to be paid by each person who shall receive a certificate of recommendation for appointment or for promotion, or of seniority, which fees shall be first paid to the collector of internal revenue in the district where the applicant or officer resides or may be examined, to be accounted for and paid into the Treasury of the United States by such collector; and the certificates of payment of fees to collectors shall be forwarded quarterly by the commissioners to the Treasury Department.

Sec. 6. And be it further enacted, That said board shall have power to prescribe, by general rules, what misconduct or inefficiency shall be sufficient for the removal or suspension of all officers who come within the provisions of this act, and also to establish rules for the manner of preferring charges for such misconduct or inefficiency, and for the trial of the accused, and for determining his position pending such trial.

Sec. 7. And be it further enacted, That any one of said commissioners may conduct or superintend any examinations, and the board may call to their assistance in such examinations such men of learning and high character as they may think fit, or, in their discretion, such officers in the civil, military, or naval service of the United States as may be designated from time to time, on application of the board, as assistant to said board by the President or heads of Departments, and in special cases, to be fixed by rules or by resolutions of the board, they may delegate examinations to such persons, to be attended and presided over by one member of said board, or by some person specially designated to preside.

Sec. 8. And be it further enacted, That the said board may also, upon reasonable notice to the person accused, hear and determine any case of alleged misconduct or inefficiency, under the general rules herein provided for, and in such case shall report to the head of the proper Department their finding in the matter, and may recommend the suspension or dismissal from office of any person found guilty of such misconduct or inefficiency; and such person shall be forthwith suspended or dismissed by the head of such Department pursuant to such recommendation, and from the filing of such report shall receive no compensation for official service except from and after the expiration of any term of suspension recommended by such report.

Sec. 9. And be it further enacted, That the salary of each of said commissioners, and the additional salary of the Vice President for performing the duties required of him by this act, shall be \$5,000 a year, and the said board may appoint a clerk at a salary of \$2,500 a year, and a messenger at a salary of \$900 a year; and these sums and the necessary traveling expenses of the commissioners, clerk, and messenger, to be accounted for in detail and verified by affidavit, shall be paid from any money in the Treasury not otherwise appropriated. The necessary expenses of any person employed by said commissioners as assistants to be accounted for and verified in like manner, and certified by the board, shall also be paid in like manner.

Sec. 10. And be it further enacted, That any officer in the civil service of the United States, at the date

of the passage of this act, other than those excepted in the first section of this act, may be required by the head of the Department in which he serves to appear before said board, and if found not qualified for the place he occupies he shall be reported for dismissal, and be dismissed in the manner hereinbefore provided, and the vacancy shall be filled in manner aforesaid from those who may be found qualified for such grade of office after such examination.

Sec. 11. And be it further enacted, That all citizens of the United States shall be eligible to examination and appointment under the provisions of this act, and the heads of the several Departments may, in their discretion, designate the offices in the several branches of the civil service the duties of which may be performed by females as well as males, and for all such offices females as well as males shall be eligible, and may make application therefor and be examined, recommended, appointed, tried, suspended, and dismissed, in manner aforesaid; and the names of those recommended by the examiners shall be placed upon the lists for appointment and promotion in the order of their merit and seniority, and without distinction, other than as aforesaid, from those of male applicants or officers.

Sec. 12. And be it further enacted, That the President, and also the Senate, may require any person applying for or recommended for any office which requires confirmation by the Senate to appear before said board and be examined as to his qualifications, either before or after being commissioned; and the result of such examination shall be reported to the President and to the Senate.

Sec. 13. And be it further enacted, That until the confirmation by the Senate of the commissioners authorized to be appointed by this act, the head of said Department is hereby authorized to appoint persons to perform the duties of commissioners temporarily, with the same powers and at the same rate of compensation as hereinbefore provided.

Mr. JENCKES. Mr. Chairman, I have been somewhat surprised that the gentleman from Illinois [Mr. LOGAN] should have taken the floor to-day in the Committee of the Whole upon the Military Academy bill, to discuss, out of order, the provisions of a bill now on the Speaker's table, soon to be reached in the regular order of business. I trust the committee will bear with me while I reply to a few of the propositions upon which that gentleman has based his attack upon that measure, and to show that they have no foundation whatever in the bill thus attacked. The key-note of the gentleman's attack is that the bill creates offices in this country with a life tenure, which is contrary to the spirit of the Constitution and to the wishes of the people, and therefore it should not receive the support of Congress. Now, if members will look at the bill itself they will find that it proposes to do no such thing.

The committee who have had charge of this measure have carefully distinguished the tenure of office created by it in the persons who are within the scope of it from either a tenure of office during good behavior or a tenure of office during life. They have seen enough of the evils of those tenures in the few offices to which they are applicable in this country, and the many offices to which they are applicable in other countries. They adopted, therefore, an entirely distinct ground for this tenure, differing from both the others, and conforming strictly to what has hitherto been deemed entirely within the spirit of our popular institutions. Instead of holding office during good behavior or during life tenure, the incumbent can only hold it during his efficiency of service, an entirely different and distinct thing. In other words, the bill demands of every person entering the service of the Government in these subordinate capacities that he shall render to the people an equivalent for the money which he receives from the people for his services, and that just as soon as from any cause he is unable to render that equivalent he shall be no longer entitled to his place in the public service. What is there anti-republican or anti-democratic in this? It is, perhaps, a harsh tenure of office; but we all hold our places at the will of the people, and just so long as they consider us fit to serve them and no longer. Whenever they deem us unfit or incompetent, that instant we are discharged. At the present time the tenure of office in the Departments is at the caprice of the superior; it may be for a day, it may be for a year, or it may be for life. These offices really have no tenure, and consequently no character and no respectability. If the gentleman will look at the tenth sec-

tion of this bill, he will find that these commissioners have power to prescribe by general rules what "misconduct or inefficiency shall be sufficient to authorize the removal or suspension of all officers" coming within the provisions of this act. When those rules are established what becomes of the accusation of a life tenure? It never had any existence, Mr. Chairman, except in the brain of the member who just spoken. All will agree (even the gentleman who takes care to lay down the proposition that such is the foundation of this bill) that the people should be well served in these minor offices; that the Government, as the agent of the people, is bound to procure the best services they can for the money they pay. All will agree that some machinery should be devised by which the services of properly qualified persons can be obtained. No one wishes this country or this people ill served. No one wishes the money of the people to be squandered upon incompetent or inefficient officers, or upon favorites of this or that President or head of Department. All ask that proper service shall be rendered, and that proper persons should be selected to render such service while they continue to have the ability to do so. Hence the gentleman agrees, as all must agree, (and this accounts for his allusion to the unanimity of the press and the people on this subject,) that any measure calculated to improve the character of the service and bring into it those best fitted to perform its duties, is a measure that should command the respect of the people and be adopted by their Representatives. The gentleman agrees that in a certain degree this does that; but his objection is founded upon the mode of getting rid of these servants. I have shown that there is not the least foundation for the charge which he makes. There is to be found in the bill no such thing as this scarecrow of tenure of office during good behavior or for life, which the gentleman has referred to so often.

There is another point upon which the latter part of the gentleman's argument rested, and that is, that the bill elevates the Vice President of this Government to be the equal, if not the superior, of the President in the dispensing of patronage and the appointment to office. Perhaps, after what has been said, the House will be surprised to hear that under this bill the Vice President of the United States has no patronage or appointing power whatever. These commissioners are stripped of all appointing power. The Vice President has, to be sure, the appointment of his clerk and messenger, as the head of a department. He has not the appointment of any other officer within the scope of the provisions of this bill nor under this Government. What has been said on this topic, if it was intended to have any effect, was aimed at the future incumbent of the Vice Presidential office rather than at the bill itself. The functions of this commission are, in the first place, to prescribe the qualifications for office, not as the candidates come forward to meet individual cases; but by general rules for classes of offices and the different grades throughout the country, in the customs, in the Departments, in the internal revenue, and elsewhere. These regulations are required to be reported to Congress, and Congress may establish or affirm or amend or alter them by law; but without action by Congress they are binding. After the establishment of these regulations all that the commission has to do is to see that every person applying for official position possesses the prescribed qualifications. Now, it should be presumed, I submit, that a commission having at its head the second officer of the Government (and who that officer is to be we know) will discharge its duty faithfully, and will ascertain in all cases fairly and impartially the fitness of these candidates.

Mr. Chairman, this passing upon the qualifications of candidates for situations under the Government is not controlled by political favor and does not result in political patronage. No, sir; it is a judicial act, so made and recorded in

each case, and according to that judgment the name of the candidate will go upon the list of those from whom selections are to be made for clerkships and other situations, or be omitted from it. And this record is to be kept so that the fairness of the decision may be inquired into and criticised at any and all times. Perhaps if the Vice President had the power absolutely to appoint these commissioners there would be some suspicion and some show of ground for the charge that the gentleman has made. But, sir, on the contrary, the man to whom he is said to be a rival has the appointment of these commissioners with the confirmation of the Senate. They are independent of the Vice President, and will act independently in the discharge of their duties it is to be presumed, as other persons appointed in the same way, such as the judges of our courts and other high officers of the Government.

Here are two main propositions upon which the gentleman has based his speech which have no foundation in the bill itself, and his other objections, it seems to me, are equally imaginary. If he had studied the bill and report carefully (and I am bound to believe him as an honorable gentleman when he says that he has read it) I am confident he would have seen the error of his propositions.

Let us now consider the next proposition which he dwelt upon. He says that this measure would be impracticable in operation. Suppose this commission appointed, the Vice President at its head, and one hundred and fifty or two hundred clerks are needed in the Departments at Washington. Suppose the rules established and the qualifications prescribed. Let us see what sort of an "aristocracy" this measure creates. The information that the Government of the United States needs clerks is transmitted to the country. Those who wish to enter into the public service and believe they possess the requisite qualifications are invited to appear before this commission at a certain time and place. Who come there? Those nominated by members of Congress, those nominated by local politicians or State committees, or those of any class or party? By no means. The door of the great civil service examination hall of this country is to be thrown open to every citizen. Every man who believes that he can serve his country in a place that may be vacant has the right to compete with every other man for that place. And, sir, it is the duty of these commissioners to see that the Government gets out of these applicants the best man for the place. The competent are selected, the incompetent and unworthy are rejected. Is this impracticable? It strikes me that it is a most eminently practical measure. If men of ordinary intelligence and integrity are placed upon this commission, with the Vice President at their head, we must presume that they will see that justice is done to the public service and to every one seeking to enter the public service. Where is the opportunity for favor, where for patronage, where for any and all the sources of corruption that the gentleman admits have stained the whole current of our civil service? We stop corruption at the fountain, where hitherto the purity of the stream has been stained.

The gentleman hints at what has been repeatedly said by others in opposition to this measure, why cannot the President and the heads of Departments do this under the existing law? Because, Mr. Chairman, this country has grown beyond the limits of personal knowledge on the part of its chief officers of the qualification of its citizens for holding office. The President cannot now, as in Jefferson's time, become acquainted with the whole body of civil officers, then seven hundred men to whom Jefferson granted commissions. The President to-day grants or authorizes the granting of commissions to upward of sixty thousand persons. If he undertook to do it himself it would absorb his whole time, and the task is beyond the ability of any one man. But, Mr. Chairman, this bill provides the means of relieving the President and heads of Depart-

ments from this arduous duty, which under existing law falls upon them, consuming their time, exhausting their strength, and impairing their efficiency for the transaction of the graver business of their offices. We relieve them of that duty altogether, and provide at the same time suitable means for the selection of competent men for appointment to places under the Government. Nor will any harm or confusion arise from this addition to the governmental machinery. This Government has grown to such an immense size that something of this sort has become absolutely necessary to relieve the President and heads of Departments. This measure is not a part of the political machinery merely, but it is judicial or semi-judicial in its application to the ascertainment of the qualifications or fitness of persons for office.

If we look at the propositions which I have stated in detail every one will admit that it is of the first importance that not only the President but each head of a Department having the appointing power of these inferior officers should be able to select the best men that can possibly be found for his service. But how can the Secretary of the Treasury make such selection at the present time with the nominal appointment of two thirds of the officers of the Government, exclusive of the Post Office Department? He would be overborne by applications exactly as the President is and has been. Appointments then become, as we have found them in most cases, a matter of personal and political favor, and the interest of the Government in the fitness of persons for service, has been in a great measure overlooked. Therefore, when we strip this measure of all fanciful exaggeration given to it by the gentleman from Illinois, we find it one of the most simple and practical that could possibly be proposed. There is no difficulty in its constitution, none in its operation, and if these commissioners are honest and intelligent there can be none in its results.

Mr. SHELLABARGER. I desire to make an inquiry of my friend, if it will not interrupt the line of his argument.

Mr. JENCKES. I will hear the question now.

Mr. SHELLABARGER. This bill is one that has attracted a great deal of the attention of the country, as its importance demands that it should, and I desire now to have the benefit of the views of the distinguished gentleman who reported it in regard to what I find contained in the first section. It is there provided that from and after the passage of this act there shall be created a new executive department of the Government, to be called the department of the civil service, at the head of which shall be the Vice President of the United States, or in case of vacancy in that office, the President of the Senate for the time being. Now, the first inquiry I wish to make is, whether my friend holds that it is competent for us to provide by law that a member of the Senate of the United States—for the President *pro tempore* of that body is, as matter of fact, a member of it—shall become the head of a Department? And in answer to that question I invite his attention to what, of course, is exceedingly familiar to him and to everybody else here, that the principal officers of the Departments are constitutional officers named by the Constitution, and upon whom the President may call for information in writing as the head of a Department. Another provision of the Constitution is, that no person holding any office under the United States shall be a member of either House during his continuance in office, the provision, of course, amounting to that, it being that no person who is a member of either House of Congress shall be appointed to any other office.

My next inquiry is whether it is in harmony with the spirit, if it be indeed with the letter, of the Constitution to provide that the Vice President, who, under the Constitution, in the contingencies enumerated, may become President, shall be by law constituted a head of a Department, which Department in the next week or next day he may be called upon or

required by the Constitution to ask information from? Again, I would inquire whether the gentleman thinks it wise to provide that the man who by the Constitution of the United States is required all the time that Congress is in session to be President of the Senate shall, during the same time, also be at the head of one of the executive departments of the Government, a constitutional office of the very highest importance; an officer in whom, as the gentleman has just said, Congress by the Constitution may vest the appointing power of all the inferior officers of the Government? It is to this particular feature of the bill that I call the attention of the gentleman. I am in favor of the bill as I am now advised, with this exceptional provision to which I have alluded.

Mr. JENCKES. With regard to the first question there may be some difference of opinion, whether the President of the Senate, in the case of a vacancy in the office of Vice President is in the sense of the Constitution, or within the meaning of the Constitution a member of the Senate and excluded from holding any other office or the performance of any other duties. That, however, is a provision of the bill which is of no great importance. In regard to the other question, it seems to me entirely clear that it is proper for Congress to clothe the Vice President with other powers and require of him the performance of other duties than those referred to by the gentleman from Ohio, and not only that, but that it is eminently fit that it should be done. He is now of no importance to the Government except to preside over the Senate. I do not understand that he is required to be in the Senate all the time. They may appoint a President *pro tempore* in his absence, and they may continue that officer as long as they please during the absence of the incumbent of the office of Vice President. But in regard to the other subdivision of the question, it seems to me of the utmost importance that the Vice President should be in the service, should know something of the Administration, be put in the line of succession, and be able to perform intelligently the duties of the office to which he may succeed, and there is no place in the Government where he can serve with greater efficiency than at the head of the department of the civil service, which will bring him in contact with all the civil officers of the Government.

I have answered these questions before, and without taking up further time of the House I refer him to what has been said heretofore in previous debates on the same questions. I expected, knowing the gentleman's fairness in the consideration of these subjects, and his eminent patriotism, that he would be in favor of the general provisions of a measure like this, and that it would meet the approbation of all who fairly consider it and understand its sphere in the Government and its effect upon the future administration of it.

There is another aspect not put by the gentleman from Illinois directly, but which it may be well to consider with regard to this tenure of office, and that is to contrast it with the present tenure of office. Now appointments are made altogether by favor. Merit is a secondary consideration. Patronage is at the root of all that is done with regard to appointments, and we have the consequences of it in our system. If the gentleman thinks that the present practice is one of the merits of our republican Government I disagree with him entirely. I take issue with him and all others who maintain that proposition squarely. I say that the present mode of appointment is one which we have derived from monarchies and foreign nations, and is not an invention of the Republic or the outgrowth of republican institutions. And when the gentleman points to the history of these reforms in other countries he most strangely overlooks its origin in two great nations. In France this system does not date from the old monarchy. It was one of the gifts of the first republic. The decree establishing competitive examinations and the ascertainment of the fitness of persons for office

was a decree of the Constituent Assembly, and not a decree of the king. And in England, instead of its being carried by those who have had the patronage and appointments hitherto, instead of being an outgrowth of the aristocracy of that country, it was established by an order of the queen in council, without consulting the House of Lords or the House of Commons, or any other branch of the Government except the executive branch.

The origin of the system in England dates back only to 1853, and the two persons who get the chief credit of it and to whom it is cheerfully conceded by all who have considered the matter, are Lord Macaulay, then recently returned from India, and the present chancellor of the exchequer, Mr. Robert Lowe. They studied the subject of the civil service in India, and first established rules and regulations by which officers should be sent to that great country, and they based their system upon the principle of open and general competition. When it was introduced into the home service it was limited, and those examined were only those nominated for examination by members of Parliament or by the heads of departments at the suggestion of members of Parliament. So that in the home service of England they do not have this system as it is reported here. We have reported what the civil service commissioners of England have been asking Parliament to grant them for the last ten years. They ask that open competition shall be allowed in the home service, as it is in the India service, to all the queen's subjects, and we propose that the doors of our public service shall be open to every citizen of the United States. Therefore this proposed measure of which the gentleman complains, and to which he attempts to affix the stigma of "aristocratic growth," is eminently republican and democratic. It is the same that was secured to the people of one country while their Government was republican, and in another country by the wise officers of a board having charge of a service where efficiency and integrity had become of the utmost importance to that long-plundered and misgoverned people, the people of India.

Nor can I conceive, Mr. Chairman, why any person should seek to prolong the present system. The results of it are admitted by all. The Government does not under it get competent servants. They are nominated by persons who exercise the power of nomination as incident to their offices, or because of their political distinction, and in the way of patronage, and with very little regard to the wants of the service. We consider it in private life the greatest disservice one man can render another to recommend to his employment a dishonest or incapable servant. Now, who would wish to continue a system by which there is imposed upon our people incompetent or dishonest officers in every branch of the service? Is it our patriotism that inspires us to this? It seems to me that patriotism should inspire us to do exactly the reverse, and to seek to establish some measure that would prevent this corruption and destroy this evil.

Nor do I see why in this Government the doctrine that "to the victors belong the spoils" should any longer be continued. That has been the popular name given to this change of office, this rotation in office in the minor offices, ever since the practice was established. Let us look at the changed condition of the country between 1829 and 1869. In 1829 the expenses of the Government were paid out of the receipts of customs. Not only that, but all the interest upon the public debt was so paid, and the national debt itself was in process of payment and cancellation, and was actually canceled within a few years after that time out of these receipts. It made little difference to the people then who had the salaries of offices, or who had the appointments to office, when they had no burdens to bear, when the question of a greater or less expense in the administration of the Government meant only a little additional duty on silks, champagnes,

and the other luxuries on which those duties were levied. Then the people cared very little for these spoils, because the plunder did not come from them, but from the rich consumers of those imported luxuries.

At the present time, however, the Government is burdened with a large debt, and the receipts from customs barely pay the interest on the debt. There are no means of paying the debt, or canceling any portion of it, except by direct and long continued taxation; and no one can say when the end of that taxation will be. The spoils scattered among these officeholders; the streams of money which should flow into the Treasury, but which because of the unfaithfulness of some of these officers are diverted into their pockets and the pockets of their confederates, all this treasure is wrung from the toil of the people. The spoils of office are now the spoil of the toil of the laborer and workingman, the spoil of the means of every man of property and tax-payer in the country.

How long do gentlemen think the people will allow this system to continue, when we have had laid before us within the last two years document after document showing that of the tax on whisky \$100,000,000 which is actually due to the Government and which should have been paid into the Treasury has been diverted into the pockets of officeholders and their confederates, and has never reached its proper destination, the public Treasury; when report after report has shown to this House and to the country such gigantic frauds as could not be perpetrated except with the connivance of Government officials; when they see the whole service thus degraded and demoralized, and those who are honest, upright, and faithful in the discharge of their duties either driven out or overborne, while those who pay their taxes conscientiously are obliged not only to pay their own just burdens, but to contribute also the amount thus stolen by those who are plundering the Treasury? How long do you think the people will bear patiently this cry, "To the victors belong the spoils?"—spoils that are torn from their backs and wrung from their labor? They see, Mr. Chairman, who it is that obstructs this reform and why it is obstructed. It is because there is in this country a class of people, some elevated to office, and many expecting to be, who wish to use this patronage of the Government as the means of obtaining office; who wish to use the positions they may obtain not only to turn money into their own pockets but to allow others, their political friends, to divert it to their own and to political uses.

Instead of destroying or tending to destroy the fabric of republican institutions this measure, it seems to me, tends to turn aside and entirely paralyze all the efforts of their enemies. The foundations of our institutions are to be sapped and weakened, the structure is to be made to crumble and fall, by the insidious efforts of those who take away from the Government its life-blood, the money, the taxes by which it is supported and carried on. Let us have this measure, Mr. Chairman; let this commission sit at the doors of our custom-houses, and we shall have no smuggling in the great ports or the small ports, no swindling in the excise on whisky and tobacco; we shall know who the inspectors and the watchmen, who the gaugers and storekeepers are, and that they possess the requisite qualifications for their offices. We shall give them an incentive to obtain, by faithful service, promotion and rewards. We shall give to all who deal with the Government the assurance that they will be met by honest men, and not by those who will plunder and rob them and cheat the Government at every stage of the transaction of their business.

It is as an economical measure, Mr. Chairman, that this measure emanates from the Committee on Retrenchment. It is attacked as a political measure by the member from Illinois from a politician's stand-point. As a political measure, here and against him, but from another stand-point, I defend it, claiming that it

is one by which this Government and our republican institutions can be more strengthened than by any that has been proposed within the last half century. It will restore our institutions and our offices to the spirit in which those institutions were created and those offices established. For corruption it will give us purity, for venality it will substitute honor. It will give to every one of our civil servants the character that is now shared by every one who serves the Republic in the military or the naval service. It will develop an *esprit de corps* which will afford a potent resistance to all temptations, which will lead every man bearing the commission of the Government to perform his duty honestly and patriotically.

Mr. WOODWARD. Mr. Chairman, I do not rise for the purpose of taking any part in this debate at the present time. I do intend, however, with the consent of the House, to take an early opportunity of expressing some views in regard to this civil service bill, which I regard as the most important measure that has been presented to the public for some time. In one respect this bill has been treated as no other proposed law has been treated for years. It has been published far and near; it has been discussed in reviews, in magazines, and on the stump, in a form and to an extent altogether unprecedented. These things have called to the measure my attention, in common with that of other members. I wish, therefore, an opportunity to say something in regard to the bill. In general I concur with the views expressed by the gentleman from Illinois, [Mr. LOGAN.] I believe that the bill, though well designed, is a mischievous measure, and one altogether unworthy to be enacted into a law. At the present time I am not prepared to enter into the discussion of the question.

Mr. WASHBURN, of Illinois. I ask that the pending bill be now read by paragraphs for amendment.

The Clerk read the bill.

Mr. WASHBURN, of Illinois. If no gentleman desires to offer any amendment I will move that the committee rise and report the bill to the House.

Mr. GARFIELD. Before that is done I would like to make an inquiry in regard to one matter in connection with these appropriations for the Military Academy. I would like to know what is the recommendation of the committee in regard to repairs of the wharf? I ought, perhaps, to call attention to the fact that about a year ago an appropriation was asked for the repair of the wharf, and it was at that time stated by a gentleman on this floor that, living in the district, he knew all about this wharf, and that it did not need any repairs whatever. It turns out that the appropriation was for the upper wharf, for heavy ordnance, and not the one intended.

Mr. WASHBURN, of Illinois. We made the appropriation last year. I now move that the committee rise and report the bill to the House, with the recommendation that it do pass.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. HURLBURD reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly House bill No. 1596, making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1870, and had directed him to report the same back to the House without amendment.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILL SIGNED.

Mr. WILSON, of Pennsylvania, from the

Committee on Enrolled Bills, reported that they had examined and found truly enrolled Senate bill No. 174, for the relief of Mrs. Emma Wilson, of the State of Indiana; when the Speaker signed the same.

ADJOURNMENT OVER—AGAIN.

Mr. CHANLER. I move to reconsider the vote by which the House agreed to adjourn over till Monday next; and also move that that motion be laid on the table.

Mr. MAYNARD. I call for the yeas and nays.

Mr. CHANLER. I withdraw my motion.

AGRICULTURAL REPORT.

Mr. MILLER, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Congressional Printer be, and is hereby, directed to inform this House the cause of delay in furnishing for distribution the Agricultural Report for 1867.

Mr. BENJAMIN. I ask unanimous consent to introduce a bill for reference.

Mr. BROOKS. I object.

PRESIDENT'S MESSAGE.

Mr. WASHBURN, of Illinois. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union upon the President's message of 1867.

Mr. ALLISON. I move, by unanimous consent, that no further business be done this evening after coming out of committee.

There was no objection, and it was ordered accordingly.

Mr. WASHBURN's motion was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. WILSON, of Iowa, in the chair,) and resumed the consideration of the President's annual message of 1867.

RESULTS OF THE ELECTION.

Mr. BOYER. Mr. Chairman, the issues supposed to have been settled by the election of General Grant to the Presidency formed the subject of an elaborate speech by the honorable gentleman from Maine [Mr. BLAINE] a few days before the adjournment of Congress for the holidays in December. The assumptions of the gentleman on that occasion, which differ materially from my own conclusions, have suggested the brief remarks which I propose to make upon this the first opportunity I have had for a reply. Nor is this an idle discussion; for what has been clearly and fairly determined by a general election ought to be acquiesced in as the declared will of the people, binding upon the minority and regulating the official duty of those elected by the majority.

The late presidential election decided, of course, that the Republican party should continue to administer the Government through an elected Chief Magistrate of their own choice and a majority of the Forty-First Congress. But it settled scarcely anything else than what is practically inseparable from such a result. The election, in fact, turned upon a false and imaginary issue, as I shall presently show, by which the Republican party succeeded in avoiding a direct verdict of the people upon the real questions involved in the policy upon which they had administered the Government. By the same means they avoided, as far as possible, commitment upon any question which could be referred to the future. As an example of the latter, as well as an illustration of the unwarranted assumptions of the gentleman from Maine, take the subject of the finances. In the speech to which I have adverted the gentleman said "the election of General Grant has settled the financial question." Settled it how? Why, says the gentleman, "it has settled that the public debt shall be paid in the utmost good faith, according to the letter and spirit of the contract."

This, to be sure, is in the very words of the Chicago platform, and neither more nor less

explicit. But when and by what party was it ever made a question whether the national debt should not be paid in the utmost good faith and according to the letter and spirit of the contract? What is good faith and what the letter and spirit of the contract are the very points of the controversy, and upon these the Republican platform and the enunciations of General Grant leave us as much as ever in the dark. The late Thaddeus Stevens, whose leadership of the Republican majority in this House was conspicuous, and who was in his lifetime as much entitled to speak for the Republican party as the gentleman from Maine, declared in one of his last speeches in this Hall that the Republican platform meant that "the bloated bondholders," as he styled the holders of five-twenties, should be paid in currency and not in gold. But this, says Horace Greeley, is "villainy." And so thinks the gentleman from Maine. On the other hand, an honorable Senator, [Mr. MORTON,] a high Republican authority, and prominently named even for the Secretaryship of the Treasury under the new Administration, maintains that to pay the bonds in currency is a clear legal right according to the contract. The gentleman from Massachusetts, [Mr. BUTLER,] who will concede nothing in Republican orthodoxy even to the gentleman from Maine, goes further, and says that to pay in greenbacks is not only a legal right but a moral duty.

In reference to the question touching the resumption of specie payment we discover the same confusion among the Republican oracles. "Let resumption come at once," says the venerable editor of the Tribune in his late letter addressed to the distinguished Republican Senator already referred to. "Wages must fall, property sell cheaper or be unsalable, the sheriff and constable be after many of us. We must suffer anyhow. But," continues he with heroic emphasis, "I prefer to take the plunge at once and be done with it." "But," retorts the honorable Senator, "you may be ready to make the plunge, but the great body of the people are not. Postpone till 1871." "Postpone indefinitely," says the gentleman from Massachusetts. It appears from this that the interpretation of the settlement of the financial question by the election of General Grant is attended with as much confusion of tongues as prevailed among the artificers of Babel. The fact is that the election has left the financial question practically where it found it. All that the election has certainly settled in relation thereto is that the party which has swelled the national debt by unprecedented extravagance and deranged the currency by unwise legislation shall, for at least two years longer, shoulder the responsibility of providing a remedy. The financial elephant, for the present, is their prize. So much of finance has been settled by the election of General Grant, and nothing more.

The gentleman lays it down as an inevitable consequence of General Grant's election that negro suffrage must be accepted as a permanent establishment in the southern States, "and at no distant day throughout the entire Union." Yet if negro suffrage, which is the very corner-stone of Radical reconstruction, had been divested of all other issues and fairly submitted to the vote of the whole people, what man acquainted with the national sentiment will deny that its defeat would have been overwhelming? No other proof is needed to establish this proposition than the decisive vote upon this question when lately presented by itself in several of the great Republican States of the North and the continued exclusion of negroes from the polls in nearly all of them.

It is said, however, that negro suffrage "is of necessity conceded as one of the essentials of reconstruction." But has the Radical policy of reconstruction itself been so approved and established that it can never be disturbed by future elections? Is there nothing to be apprehended from the continued violation of natural laws and a possible collision of races?

Are the reconstruction laws themselves so firmly intrenched upon constitutional grounds that a general revulsion of feeling among the superior race might not find a ready excuse for sweeping from its foundations the whole work of Radical reconstruction? Radicalism has not itself been overscrupulous in the use of means. Usurpation is a dangerous game for any party to play if it would have its work outlast the passions from which it derived its power to tyrannize and proscribe.

Of course, the late elections have continued in the hands of the Republican party the power to enforce their policy for two years longer. But now, since the election of General Grant has in the eyes of all men insured the safety of the Union, there will be less excuse for sectional and personal proscription. Those caricatures of republican government imposed by the stranger and the negro upon the disfranchised white race of the South had become abhorrent to the public mind of the North long before the late presidential election. But the shadowy ghost of an extinct rebellion filled the popular imagination with false alarms and frightened it from that forgiveness which had become both safe and merciful. In so far, therefore, as the late elections have continued the power of Radicalism it was a verdict extorted from the fears of the people rather than their judgment upon the merits of the Radical policy. Public confidence turned to Grant as the unsuspected representative of a triumphant Union, and the Republican party was saved through him alone. Had he been the candidate of the Opposition, whom could radicalism have elected over him? Look to the October elections. Let the imminent danger which threatened radicalism, even with Grant as its candidate, answer the question. No other name given under heaven among men could have saved the Republican party from overwhelming defeat and final condemnation. Was it because Grant was the representative of Radicalism that worked this great salvation? Everybody knows better. Radicalism had been already repudiated, as the State and municipal elections in the North had for two years indicated. Even after the sagacious nomination at Chicago the handwriting was still seen on the wall. Even over against the name of Grant, resplendent as it was with military glory, the gathering cloud of threatened disaster lowered. There were names before the Democratic National Convention at New York which thrilled with apprehension the Republican heart every time the electric wires flashed through the land the Democratic roll-call of the States.

I shall not pause to review the blunders from which others reaped a harvest which they did not sow. Nor shall I calculate how many grains of common sense were needed in the balance in which Democratic victory was that day weighted down. I only refer to the irrevocable past for the lesson which it teaches to your party, Mr. Chairman, rather than to mine. The argument which I desire to draw from it is this: that the elements of Republican success at the late elections were derived from other sources than the popular approval of the Radical policy. It was the misfortune of my party, Mr. Chairman, to expose itself to misrepresentation. It was the fortune of yours to take advantage of it, and to be permitted to inscribe with popular approbation the winning words, "Let us have peace" upon the banners of the party which had for nearly four years in a time of profound peace continued the worst consequences of war. But the glaring contradiction was not regarded, and everywhere the Republican press and the Republican orators proclaimed to the people that the real question was whether the rebellion should be renewed by a victorious Democracy, or peace and union insured by the election of General Grant. And now, having answered its purpose, false and imaginary as the issue was, I insist that it shall be held within the scope of its logical application, and I maintain that nothing ought to be considered as settled by

the election of General Grant except that the rebellion shall not be renewed.

But, said the gentleman from Maine, rising higher in his flight toward the regions of pure imagination, "With the election of General Grant comes a higher standard of American citizenship, with more dignity and character to the name abroad and more assured liberty and security attaching to it at home." High sounding phrases, indeed. But no new standard of citizenship has been set up by General Grant, and if we are compelled to seek for this boasted standard of American citizenship in the reconstruction policy of Congress, what do we find? Taking up the latest illustration of Radical reconstruction, the constitution just prepared and ready to be fastened upon the people of Virginia, (twenty-five thousand of whom are excluded from the polls this day,) I read in it that no inhabitant of that State shall hold any State office unless he first takes an oath to recognize and accept the political equality of the negro. Neither shall any one who will not take this oath be qualified to serve on a jury.

I find in the constitution of Alabama, rejected by the people of that State, but afterward, nevertheless, imposed upon them by Congress, the same oath prescribed as a condition precedent to the registration of a voter. The same test for the qualification of a voter exists in Arkansas and in Louisiana, and in the constitution proposed for Mississippi, the temporary rejection of which has led to the continued exclusion of the latter State from representation in Congress. Georgia having been admitted to representation, is now threatened with expulsion unless she will allow negroes to sit in her Legislature.

In some form in all the reconstructed States of the South fidelity to the dogma of a party is thus made the test of American citizenship. Upon condition of allegiance to the Republican party, however, all former rebels against the Government, however red-handed, are to be forgiven and exalted. The constitution of Arkansas, for example, provides that certain classes of ex-rebels shall not register as voters, including those, in express terms, who during the late rebellion violated the rules of civilized warfare. But all of them shall vote notwithstanding, even those who, in violation of the rules of civilized warfare, deliberately murdered Union prisoners in cold blood, or helped to destroy them by lingering tortures in prison pens, "provided"—and I now quote the very words of the constitution approved by Congress—"provided that all persons included," &c., (in the disfranchised classes) "who have openly advocated, or who have voted for the reconstruction proposed by Congress, and accept the equality of all men before the law shall be deemed qualified electors under this constitution."

If we turn to the constitution of Louisiana we find similar proscriptions and pardons. No traitor is there too black for Radical absolution provided he will swear that the negro is his political equal, and he can ventilate his loyalty under that clause of the Louisiana constitution which takes all the disfranchised Radicals out of the lists of the proscribed by the accommodating proviso "that no person who, prior to the 1st of January, 1868, favored the execution of the laws of the United States popularly known as the reconstruction acts of Congress, and openly and actively assisted the loyal men of the State (to wit, the Radicals) in their efforts to restore Louisiana to her position in the Union, shall be held to be included among those herein excepted." Among the proscribed I find those who in the advocacy of the rebellion wrote or published a newspaper article or preached a sermon during the war. They shall not vote in Louisiana unless they are in favor of the reconstruction policy of Congress, and swear to the doctrine of negro equality. But they who, in the advocacy of treason, wrote it in bloody characters with their swords and preached sermons against the Union through the cannon's mouth, they

shall, nevertheless, be clothed with all the attributes of citizenship in the State, provided they will swear allegiance to negro equality, and have been willing to aid in the enforcement of Radical reconstruction.

In further illustration of these sublime tests of loyalty and citizenship, in their operation even upon northern men, let me suppose a case, of which there may be many examples now and likely to be many more hereafter. Suppose a northern citizen of the United States, who, as a volunteer soldier of the Union Army during the civil war, had done his share toward the redemption of our common country, and, with the idea of improving his fortunes, should emigrate to one of the southern States—to Arkansas, for example, or to Louisiana. After residing there the requisite time, suppose he were to offer to register as a voter. The first test of qualification to which he would be subjected would be the oath in favor of negro equality. If, by reason of his convictions of the unsoundness and impolicy of the doctrine of negro equality, he could not conscientiously take the oath, disfranchisement would be the inevitable penalty. Nor would a shattered constitution, broken down in the service of his country, nor a limb lost, it may be, in fighting the battles of the Union, save him from being driven from the polls. But not so would it happen under the new dispensation to the rebel who had shed the blood and shot off the limb of this disfranchised Union soldier. The rebel can vote, however red his hand has been with Union blood, provided he is willing to swear that he is politically no better than a negro, and has advocated and voted for the reconstruction policy of Congress. Beneath the level of such a yoke, and through such partisan crevices must hundreds of thousands of disfranchised white men creep before they can become the political equals of the negro or make their present fidelity to their country of any avail.

Such are the new tests of loyalty and suffrage which Radical reconstruction has prescribed, exemplifying that higher standard of American citizenship which the gentleman from Maine so grandiloquently prefigured.

By such tenures is American citizenship held in more than ten States of the Federal Union. Such are the standards prescribed by a party which retains power by the votes of black barbarians and the wholesale disfranchisement of white conservatives. It can no longer be said that the three hundred thousand white men who have been stripped of their rights of citizenship by the acts of this Congress are thus degraded because of their former rebellion. This will not be believed when enabling acts are constantly being passed by Congress removing the political disabilities of subservient rebels by hundreds and thousands, while from these bills of amnesty the name of every suspected conservative is first carefully expunged, as if he were afflicted with political leprosy. The iron-clad oath has long ago become but a spike upon which to impale conservatives. There are Representatives from southern States with seats on this floor, in full fellowship and communion with the Radical majority, from whose bodies the Union bullets have never been extracted, and who bear upon their persons the scars of wounds received in their desperate endeavors to capture and destroy this very Capitol where, as loyal men, they now sit in judgment. They succeeded in capturing the Capitol, not with rebel bullets, but by the aid of Radical ballots.

I have no charges to make against these gentlemen. I complain not of their presence here, for I am in favor of universal amnesty. But that they should be here to the exclusion of others, not by virtue of their obedience to the laws and their renewed allegiance to the Union, but solely because they have prostrated themselves before the Radical idol and shout the shibboleth of a party, conveys to the mind no very exalted idea of the advancing standard of impartial American citizenship.

To affirm that this condition of things has received the deliberate approval of either General Grant or of the majority which elected him I believe to be a slander against both.

"Among those things lost with the 'lost cause,' by the defeat of Mr. Seymour, the gentleman enumerates what he is pleased to term 'the paradise of State rights.'"

If, however, it be claimed as one of the results of the late election that States have no longer any rights which the Federal power is bound to respect, there will be many a fierce struggle before the party of centralization will be left in undisputed possession of the Government. Secession was a heresy which threatened the existence of the Union, but the denial to the States of those reserved rights which clearly lie on their side of the line, defining the constitutional jurisdiction of the Federal authority, would destroy the symmetry and distinguishing excellence of our institutions, to preserve which would be worth as great a sacrifice as the suppression of the rebellion against the Union itself.

I know not through what future convulsions the ultimate destiny of the Republic is to be wrought out, nor how far the new President, naturally conservative and sagacious, may be willing and able to aid in the restoration of fraternal feeling and public confidence throughout all sections. I know not how successfully General Grant may be able to check the wasteful extravagance of the public expenditures and aid in the restoration of a sound currency, and open up before the eyes of his anxious and tax-burdened countrymen a prospect of the early reduction of the public debt by the practice of that economy which is so essential, but to which, under the republican rule, the country has been so long a stranger. Nor can I tell how far, if he should in all these things be disposed to act for his country instead of his party, he will regard his obligations to the latter paramount if they should happen to disagree with the former. He has hitherto been credited with views broader and more national than the policy of his party. Considering how immeasurably the Republican party is his debtor he can well afford to preserve his individuality. He need not sink, unless he chooses, into the mere stalking horse of party, the mere dispenser of party patronage—the gilded figure-head in a State pageant, like a doge of Venice, subject to his council of ten. If he is ambitious to crown his warlike fame with enduring civic renown he will be far more than all this. He can be more than all this without having attributed to him any special love for the party that voted against him. He will, it must be expected, give the offices to the men who voted him into the Presidency. Nor can he be expected to betray any of the pledges which his Republican candidacy have fairly imposed upon him. But he is too wise not to see that he owes to the Republican party the nomination alone. They owe him everything beside. Without him they would have been nothing, and they know it.

In view of these considerations it is complimentary to him to doubt how far he will submit his official locks to be shorn by the Radical Delilah, and allow himself to be bound by the wishes of the civil tenure law or by any new inventions, which upon the first exhibition of independent action on his part, Congress may deem it expedient to devise for his restriction. It would be in accordance at least with the popular conception of his character if he should defend with resolution the constitutional prerogatives of his office. If he were to imitate Congress he might even go beyond this, and become a law unto himself.

When by his official utterances the new President shall have broken his sphinx-like silence, and revealed a policy of his own, then, and not till then, can it be safely asserted how much or how little has been accomplished by the election of General Grant.

The great constitutional and national party to which I belong, numbering in its ranks this

day, notwithstanding the election of General Grant, a majority of the white people of the entire country, will continue to move on, never despairing of the Republic, faithful to its great mission and strong in its abiding convictions of right. It will never cease its efforts until, with or without the aid of General Grant, it shall behold the civil law supreme throughout the land, and this nation again united as one people with the equality, dignity, and rights of the several States reestablished and secured.

Mr. CULLOM obtained the floor, but yielded to

Mr. CHANLER, who moved that the committee rise.

The motion was agreed to.

The committee accordingly rose; and Mr. PRICE having taken the chair as Speaker *pro tempore*, Mr. WILSON, of Iowa, reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly the President's annual message of 1867, and had come to no resolution thereon.

And then, on motion of Mr. WILSON, of Iowa, (at four o'clock and fifteen minutes, p. m.) the House adjourned till Monday next.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BALDWIN: The petition of George Crompton, of Worcester, Massachusetts, for relief from the payment of duties on cloth manufactured by his looms at the Paris Exposition.

By Mr. BEATTY: A petition of 32 citizens of Ohio, asking Congress to grant a pension to George W. Hincaid, a soldier of the war of 1812.

By Mr. BECK: The petition and accompanying papers of William R. Boice, of Boyle county, Kentucky, for payment for quartermaster's stores purchased by him for the Army of the United States.

By Mr. ECKLEY: The petition of Captain George S. Atkinson, for relief.

By Mr. HOOPEE, of Massachusetts: A petition of the sugar refiners of Boston, for a change in the tariff to equalize the duty on imported sugar.

By Mr. KELLEY: A petition and memorial of the sugar refiners of Philadelphia, asking for a new classification of sugars for tariff purposes.

By Mr. LINCOLN: The petition of Abram B. Harrington, asking to be placed on the pension-roll.

By Mr. McKEE: The petition of Lieutenant John Harkins, for pay for services from March to September, 1865.

By Mr. MOORHEAD: A memorial in favor of the passage of the civil service bill and other measures tending to retrenchment and economy.

By Mr. MYERS: The petition of Mary M. Cromwell, widow of Jacob G. Cromwell, deceased, late paymaster's clerk United States steamer Fredonia, for a pension.

By Mr. PAINE: The petition of P. Stineback, of Neosho, Wisconsin, for relief.

By Mr. PERHAM: The petition of Jane M. McCrabb, for a pension.

By Mr. ROBERTSON: The petition of Andrew J. Bradfield, for the removal of disabilities.

By Mr. SCHENCK: The petition of James Kavanaugh, for an invalid pension.

By Mr. STEWART: The memorial of Lorenzo Sherwood, remonstrating against the creation of railway monopolies by congressional legislation.

By Mr. WOODWARD: The petition of M. A. Holmes and others, citizens of Wilkesbarre, Pennsylvania, asking for a modification of certain sections of the act imposing taxes upon distilled spirits and tobacco.

IN SENATE.

Monday, January 11, 1869.

Prayer by Rev. E. H. GRAY, D. D.
The Journal of Friday last was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a report from the Secretary of War, communicating, in compliance with a resolution of the Senate of December 14, 1868, information in relation to recent disturbances in Louisiana; which was referred to the Committee on Military Affairs, and ordered to be printed.

He also laid before the Senate a letter from the Postmaster General, in relation to the connection of the electric telegraph with the postal service; which was referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

He also laid before the Senate a report from the Postmaster General, communicating, in compliance with a resolution of the Senate of December 21, 1868, information in relation to furnishing certain post offices with postal balances, under the act of July 27, 1868; which was referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

He also laid before the Senate a letter from the Secretary of the Interior, in relation to an appropriation to carry out the provisions of the fourth article of the treaty of June 14, 1866, with the Creek nation of Indians; which was referred to the Committee on Indian Affairs.

He also laid before the Senate a letter from the Secretary of War, transmitting, in compliance with a resolution of the Senate of the 14th December last, copies of reports, papers, and other information in possession of the War Department relating to the late battle with Indians on the Wachita river; which was ordered to lie on the table, and be printed.

He also laid before the Senate a letter from the Secretary of War, communicating a report of a board organized by the War Department for the investigation of certain claims in relation to the claim of S. and H. Sayles, of Killingly, Connecticut; which was referred to the Committee on Claims.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented the memorial of the sugar refiners of Philadelphia, asking for a new classification of sugars for tariff purposes; which was referred to the Committee on Finance.

Mr. CHANDLER. I offer a joint resolution of the Legislature of Michigan; which I ask may be read and printed, and lie on the table. I will state that it passed unanimously through both branches of the Legislature.

The PRESIDENT *pro tempore*. It will be read.

The Secretary read as follows:

A joint resolution asking the Congress of the United States to pass the tariff bill now pending in the Senate for the relief of copper mining.

Whereas foreign ores, mostly the product of peon and slave labor, have to a large extent been imported and continue to be imported into the United States at a nominal rate of duty, to wit, five per cent. *ad valorem*; and whereas the rates of duty on all articles which enter into copper mining are so high as to make the discrimination in favor of foreign ores and against copper mined in this country palpably unequal, unjust, and most oppressive to the copper mining interests of the United States; and whereas the State of Michigan is largely interested in the production of copper, and the mines of Michigan, in consequence of such unequal taxation and of the competition growing out of the importation of such foreign ores, are in a greatly depressed and prostrated condition; more than three fourths of the active mining companies have suspended work altogether, causing great distress among a hard-working and industrious population, entirely dependent on the working of the mines for support, and also preventing the development of the greater mineral wealth of our State; and whereas a bill for the relief of the copper mining interest of our country, which interest is one of the most important in this State, has passed the House of Representatives by a vote of more than two thirds of its members, and is now pending in the Senate; and whereas iron, lead, and other mineral products of the United States are protected by a duty of about fifty per cent., while foreign copper ores under present rates pay five per

cent. only; and whereas the bill now pending in Congress calls for a duty of only twelve to fifteen per cent. *ad valorem*: Therefore,

Resolved by the Senate and House of Representatives of the State of Michigan in Legislature assembled, That the Senate of the United States be, and are hereby, most respectfully but earnestly and specially called upon to give this most important measure, now in their hands, a favorable consideration; and the Senators from Michigan are hereby instructed, and our Representatives in Congress are requested, to use all honorable means to promote the passage of the bill referred to.

MORGAN BATES,

President of the Senate,

[SEAL] J. J. WOODMAN,

Speaker of the House of Representatives,

Approved:

HENRY P. BALDWIN,

Governor of the State of Michigan.

By the Governor:

SAMUEL H. ROW,

Deputy Secretary of State.

The resolution was ordered to lie on the table and be printed.

Mr. CONNESS. I present a memorial signed by about fifty or more distinguished citizens, being composed of professors of our colleges and mining schools and leading citizens and experts in metallurgy, who pray for the appointment of a commission to visit the mines of Europe and report upon the mode of treating ores containing the precious metals. This is a very important communication; and for the convenience of the committee, as it is a brief one, I ask that it be printed and referred to the Committee on Mines and Mining.

The PRESIDENT *pro tempore*. The petition will be printed if there be no objection, and it will be so referred.

Mr. FRELINGHUYSEN. I present a petition of citizens of Georgia, setting forth that it is impossible for an avowed Union man to live in the rural districts of that State; that in other portions of the State a man may entertain Union sentiments, but dare not proclaim them; that it is impossible to bring to justice the assassins or murderers of Union men; that intimidation, fraud, and violence are employed to force a certain class of citizens of Georgia to vote contrary to their interests and inclinations; that palpable and indiscriminate violations of the provisions of the fourteenth article amendatory of the Constitution of the United States are committed; that legislation is absolutely necessary, but the petitioners do not presume to advise as to what legislation is necessary. I move that this petition be referred to the Committee on the Judiciary.

The motion was agreed to.

Mr. MORTON. I present a memorial signed by Garrett Guest, Henry C. Monroe, William Newkirk, and Colonel William Budd, aged respectively eighty-eight, eighty-two, seventy-seven, and eighty years, asking for pensions to the old soldiers of the war of 1812. They say: "We have seen with regret that bills have been gotten up for the relief of the old soldiers, but were always laid over for want of time to act on them; but Time waits not for the old soldier, but hurries him to his final resting-place, from whence comes no petition, no look to you for aid." I move the reference of the memorial to the Committee on Pensions.

The motion was agreed to.

Mr. CAMERON presented a petition of the sugar refiners of Philadelphia, praying for a new classification of sugars for tariff purposes; which was referred to the Committee on Finance.

He also presented a memorial of the Philadelphia Board of Trade, protesting against any further extension of the bankrupt law, known as the fifty per cent. provision; which was referred to the Committee on the Judiciary.

Mr. HARLAN. I present the memorial of T. B. Stevenson, Mary E. Foster, and several hundred other citizens of the United States, praying that the preamble to the Constitution of the United States may be amended, so as to read as follows:

We, the people of the United States, humbly acknowledging Almighty God as the source of all authority and power in civil government, the Lord Jesus Christ as the Ruler among the nations, and His revealed will as of supreme authority, in order

to constitute a Christian government, and in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, and promote the general welfare, do ordain and establish this Constitution for the United States of America.

And that such changes be introduced into the body of the Constitution as may be necessary to give effect to these amendments in the preamble, I move the reference of the memorial to the Committee on the Judiciary.

The motion was agreed to.

Mr. WILSON presented the memorial of the Lincoln Monument Association, praying for a donation of old cannon for the erection of their monument; which was referred to the Committee on Military Affairs.

He also presented the petition of Mrs. Ellen Callaman, praying to be allowed a pension; which was referred to the Committee on Pensions.

He also presented the petition of Horace Peck, of Charlton, Massachusetts, praying for a pension; which was referred to the Committee on Pensions.

He also presented the petition of L. Merchant & Co., praying to be refunded the amount realized by the Government for the sale of the bark Ingomar; which was referred to the Committee on Claims.

Mr. RICE presented the memorial of the Legislature of the State of Arkansas, in favor of the sale of the reservation known as the "Hot Springs reservation;" which was referred to the Committee on Public Lands.

He also presented a resolution of the Legislature of the State of Arkansas, asking aid of Congress in the building of a levee and railroad bed along the west bank of the Mississippi river; which was referred to the Committee on the Pacific Railroad.

Mr. TRUMBULL presented the petition of Frances Masich, for relief from liability in consequence of the condemnation of certain cotton brought out under permits of Admiral Farragut and others; which was referred to the Committee on Claims.

Mr. TRUMBULL. I present the memorial of John N. Farwell & Co. and ninety-nine others, leading business men and merchants of the city of Chicago, asking the Senate to take into favorable consideration the bill which has passed the House of Representatives for increasing the tariff upon imported copper and copper ores. They set forth in this petition that the amount of duty upon imported copper is much less than upon the other metals, and that this House bill ought to pass. I believe the bill is pending before the Senate, having been reported from the Committee on Finance, and I therefore move that the petition lie on the table.

The motion was agreed to.

Mr. FESSENDEN presented a petition of sugar refiners of Portland, Maine, praying for a new classification of sugar for tariff purposes; which was referred to the Committee on Finance.

Mr. YATES presented the memorial of Lorenzo Sherwood, against the creation of railroad monopolies by congressional legislation; which was referred to the Committee on Commerce.

Mr. CONKLING presented the memorial of the Chamber of Commerce of the State of New York, praying that the New York, Newfoundland, and London Telegraph Company have permission to land its submarine cable upon the shores of the United States; which was referred to the Committee on Commerce.

Mr. CONKLING. I present a petition of citizens of the United States, asking aid for the establishment of a line of transatlantic steamers, and that the Postmaster General be authorized to contract with such a line for the transmission of the mails. I present with it a bill referred to in the petition, and I prefer to present it as a part of the petition. I have not examined it, and express no opinion upon its merits; but I move that, with the petition, it be referred to the Committee on Commerce.

The motion was agreed to.

Mr. WILLEY presented the petition of sufferers from the raid in July, 1864, upon Washington, praying for an appropriation to pay their claims, which have been audited by a board of officers approved by General Angur, the report being on file in the War Department; which was referred to the Committee on Claims.

Mr. POMEROY presented the memorial of the Denver, Central and Georgetown Railroad Company, asking a grant of lands to aid in the construction of their road; which was referred to the Committee on Public Lands.

Mr. NYE presented the memorial of Miss M. Pistor, asking relief for damages sustained by her from the use and injury by the troops to her property in Baton Rouge, Louisiana, known as the St. Mary's Female Academy; which was referred to the Committee on Claims.

Mr. CRAGIN presented a memorial of several hundred citizens of New Hampshire, asking for certain additions to and amendments of the pension laws; which was referred to the Committee on Pensions.

He also presented the petition of Captain William Badger, asking that the thirty-three and a third per cent. increase on the pay proper may be continued to the officers of the Army; which was referred to the Committee on Military Affairs.

Mr. FERRY presented the petition of members of the Stratford Coast Guard of the State of Connecticut, in the war of 1812, praying to be allowed back pay and pensions; which was referred to the Committee on Pensions.

Mr. WHYTE presented the memorial of John W. Garrett and John King, jr., remonstrating against the increase of the duty on imported steel; which was referred to the Committee on Finance.

He also presented resolutions of the Board of Trade of Baltimore city, protesting against the passage of the bill increasing the duty on copper; which was ordered to lie on the table.

He also presented the memorial of the Bare Hill Mining Company, of Maryland, remonstrating against the passage of the bill imposing increased duties on copper; which was ordered to lie on the table.

Mr. COLE. I present a petition of some thirty or more of the principal tobaccoists in San Francisco, California, praying the passage of a law authorizing the Commissioner of Internal Revenue to issue free stamps for tobacco on hand upon which the tax has already been paid, and that smoking tobacco put up in larger than pound packages may be stamped without repacking. I move its reference to the Committee on Finance.

The motion was agreed to.

Mr. COLE presented the petition of James F. Johnson, praying the removal of the civil disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

Mr. CATTELL presented the memorial of the National Association of Dealers in Foreign and Domestic Spirits in Bond, asking for a change in the bonded warehouse regulations in regard to domestic spirits in bond; which was referred to the Committee on Finance.

Mr. WARNER presented a resolution adopted at a mass meeting held in the city of New York, in favor of an amendment to the Constitution of the United States that will recognize and guaranty the right to vote and hold office to all persons, both white and black; which was referred to the Committee on the Judiciary.

Mr. SHERMAN presented the petition of Clark Hall, a soldier of the war of 1812, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. MORRILL, of Vermont, presented a memorial of manufacturers of hair cloth, praying an amendment to the tariff law so as to increase the duty upon that article; which was referred to the Committee on Finance.

Mr. HENDRICKS presented a petition of citizens of Indiana, praying that a pension be granted to Benjamin T. Raines; which was referred to the Committee on Pensions.

He also presented the petition of Frederick Hall, praying for the confirmation of certain entries of land in the Ionia district, Michigan; which was referred to the Committee on Public Lands.

He also presented three petitions of the sugar refiners of Philadelphia, asking for a new classification of sugars for tariff purposes; which was referred to the Committee on Finance.

He also presented a memorial of the president of the Grand Rapids and Indiana Railroad Company, remonstrating against any further increase of the duty on imported iron and steel; which was referred to the Committee on Finance.

He also presented the memorial of the president of the Indianapolis, Peru, and Chicago Railroad Company, remonstrating against any further increase of the duty on imported iron and steel; which was referred to the Committee on Finance.

Mr. EDMUNDS presented the memorial of David Hillhouse Buel, praying that the Secretary of the Treasury be authorized to issue to him bonds in lieu of certain registered bonds lost in the mail between Troy and Coopers-town, in New York; which was referred to the Committee on Claims.

Mr. CAMERON presented additional papers in relation to the petition of S. R. Franklin, for restoration to his original position on the Navy Register; which were referred to the Committee on Naval Affairs.

SENATOR FROM GEORGIA.

Mr. TRUMBULL presented the credentials of Hon. H. V. M. Miller, United States Senator-elect from the State of Georgia, to fill the unexpired term, commencing March 4, 1869; which were referred to the Committee on the Judiciary.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 1827) to amend an act entitled "An act to exempt certain manufactures from internal tax, and for other purposes," approved March 31, 1868; and

A bill (H. R. No. 1596) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1870.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (S. No. 174) for the relief of Mrs. Emma Wilson, of the State of Indiana; and it was thereupon signed by the President *pro tempore* of the Senate.

REPORTS OF COMMITTEES.

Mr. WILLIAMS, from the Committee on Public Lands, to whom was referred the petition of John H. Russell, praying for a patent for certain land in Arkansas, submitted an adverse report thereon; which was ordered to be printed.

Mr. WILLIAMS. I am instructed by the Committee on Private Land Claims to report back the petition of John H. Rogers, praying the confirmation of title to a certain tract of land in Livingston county, Illinois, and to ask to be discharged from its consideration and have it referred to the Committee on Claims. The Committee on Private Land Claims are of opinion that no relief can be granted as to the land. Possibly he may be entitled to recover back the purchase money if he makes out the case before the Committee on Claims. The report was agreed to.

BILLS INTRODUCED.

Mr. ANTHONY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 749) to define and settle staff rank in the Navy; which was read twice by its title, referred to the Committee on Naval Affairs, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 750) to regulate the rank of medical staff of the Navy; which was read twice by its title, referred to the Committee on Naval Affairs, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 194) authorizing the transfer of certain appropriations heretofore made for the public printing, binding, and engraving; which was read twice by its title.

Mr. ANTHONY. This is not an original appropriation, but it is to transfer a part of the appropriation made for the public printing from the appropriation for the purchase of paper to the appropriation for the binding and printing. I think, therefore, it had better go to the Committee on Printing.

The PRESIDENT *pro tempore*. It will be so referred.

Mr. STEWART asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 195) requiring the Commissioner of the General Land Office to transfer certain money; which was read twice by its title.

Mr. STEWART. I move the reference of the joint resolution to the Committee on Appropriations, and I should like to say to that committee that it is merely to correct a mistake. The appropriation was for the purpose of collecting mineral statistics. The Secretary of the Treasury had already employed Professor Raymond. He was engaged in the work, and the appropriation was made with reference to paying him on the work which had been done, but it is now ascertained that by inadvertence it was intrusted to the Commissioner of the General Land Office, and he cannot get his pay. I hope the committee will give us an early report on the resolution, so that it can be passed. The chairman of the committee has no objection to its being passed at once; but he is not here, and consequently I move its reference to the Committee on Appropriations.

The motion was agreed to.

Mr. SHERMAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 751) to amend an act entitled "An act to establish the judiciary of the United States," approved September 24, 1789; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. RICE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 752) to incorporate the Washington Market Company; which was read twice by its title, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 753) to provide for the execution of judgments in capital cases; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. KELLOGG asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 754) confirming a charter granted by the Legislature of the State of Louisiana for the purpose of connecting the Mississippi river with Lake Borgne by means of a canal, and for other purposes; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 755) to define the limits of the collection district of Teche, in the State of Louisiana, and for other purposes; which was read twice by its title, referred to the Committee on Commerce, and ordered to be printed.

Mr. PATTERSON, of Tennessee, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 756) to incorporate the Great Falls Ice Company of Washington, District of Columbia; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. CORBETT asked, and by unanimous

consent obtained, leave to introduce a bill (S. No. 757) to establish a mail route in Washington Territory; which was read twice by its title, referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

Mr. NORTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 758) to provide for the construction of a wagon-road for military and postal purposes through the Territories of Dakota, Montana, and Washington; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. EDMUNDS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 759) to extend the patent granted to G. V. Blodgett and P. T. Sweet for oven for bakery for seven years; which was read twice by its title, referred to the Committee on Patents, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 760) for the relief of Rev. D. Hillhouse Buel; which was read twice by its title, referred to the Committee on Claims, and ordered to be printed.

Mr. CATTELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 761) giving the consent of the United States to the erection of a bridge across the Delaware river between Philadelphia and Camden; which was read twice by its title, referred to the Committee on Commerce, and ordered to be printed.

HOUSE BILLS REFERRED.

The bill (H. R. No. 1827) to amend an act entitled "An act to exempt certain manufactures from internal tax, and for other purposes," approved March 31, 1868, was read twice by its title, and referred to the Committee on Finance.

The bill (H. R. No. 1596) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1870, was read twice by its title, and referred to the Committee on Appropriations.

RECONSIDERATION OF A BILL.

Mr. STEWART. I desire to enter a motion to reconsider the vote on the passage of the bill (H. R. No. 1598) to relieve from disabilities R. W. Best and Samuel F. Phillips, of North Carolina.

The PRESIDENT *pro tempore*. The motion to reconsider will be entered.

EXTRADITION OF CRIMINALS.

Mr. TRUMBULL. If there be no further morning business I move that the Senate proceed to the consideration of Senate bill No. 705.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 705) further to provide for giving effect to treaty stipulations between this and foreign Governments for the extradition of criminals.

The bill provides that whenever any person shall have been delivered by any foreign Government to an agent or agents of the United States for the purpose of being brought within the United States and tried for any crime of which he is duly accused, the President shall have power to take all necessary measures for the transportation and safe keeping of such accused person, and for his security against lawless violence until the final conclusion of his trial for the crimes or offenses specified in the warrant of extradition, and until his final discharge from custody or imprisonment for or on account of such crimes or offenses, and for a reasonable time thereafter. The President, or such person as he may empower for that purpose, may employ such portion of the land or naval forces of the United States, or of the militia thereof, as may be necessary for the safe keeping and protection of the accused. Any person duly appointed as agent to receive in behalf of the United States the delivery by a foreign Government of any person accused of crime committed within the jurisdiction of the United States, and to convey him to the place of his trial, is to be vested with all the powers

of a marshal of the United States in the several districts through which it may be necessary for him to pass with the prisoner, so far as such power is requisite for his safe keeping. If any person or persons shall knowingly and willfully obstruct, resist, or oppose such agent in the execution of his duties, or shall rescue or attempt to rescue such prisoner, whether in the custody of the agent or of any marshal, sheriff, jailor, or other officer or person to whom his custody may have lawfully been committed, every person so knowingly and willfully offending in the premises, shall, on conviction thereof before the district or circuit court of the United States for the district in which the offense was committed, be fined not exceeding \$1,000 and imprisoned not exceeding one year.

Mr. HENDRICKS. I desire to say to the Senator from Illinois that I have received some printed communications in regard to this measure, and also a rather lengthy written communication, which I desire to lay before the chairman of the Judiciary Committee before the bill shall be acted upon by the Senate; but I have been so occupied that I have not been able to do it thus far. If the Senator from Illinois will allow the bill to lie over until to-morrow it will afford me an opportunity of handing to him and some other gentlemen of the Committee on the Judiciary these communications, which I desire that they shall see.

Mr. TRUMBULL. The bill was considered by the Committee on the Judiciary, and, I believe, had the unanimous assent of the committee in the form in which it is; but if the Senator from Indiana has since received any information in regard to it which he thinks might change our views I have no objection to its being further considered. Let it go over until after the committee meet. We meet the day after to-morrow.

Mr. HENDRICKS. Very well.

Mr. TRUMBULL. I do not know that there is any special haste, though I think it is a bill that ought to be passed substantially as it is. I am willing that it shall go over.

Mr. HENDRICKS. I move that the further consideration of the bill be postponed until to-morrow.

MISS SUE MURPHEY.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 625) for the relief of Miss Sue Murphey, of Decatur, Alabama.

Mr. COLE. Mr. President, it may seem presumptuous on my part to attempt to add to the arguments which have been presented either for or against this bill. I should not ask the attention of the Senate at all were I not a member of the Committee on Claims, and as such entertain fears lest a rule be adopted which may much embarrass the Government hereafter.

The amount of property used up and destroyed during the late rebellion is great almost beyond comprehension. I suppose it safe to say that ten billions, or ten thousand millions in value were destroyed in one way and another. Of this sum, \$2,500,000,000 are now in the form of the national debt, and as much more, I presume, has actually been paid from the time the war commenced down to this time. That as much more as these two sums has been destroyed in one way and another, including slave property, I think there can be no question. A great deal of the damage caused by the war is of that description that there can be no compensation made for it; the injuries being utterly irreparable. I think it probable that we can draw a line of distinction between those for which compensation should be made and those in which compensation cannot be made by establishing a rule, if it is not already established, that we will pay all obligations arising out of contract, express or implied, where the contract was with loyal persons. That there may be some cases in which compensation should be made for damages to loyal persons I will not attempt to deny; but such cases, in my judgment, will

be extremely rare. If we undertake to make compensation generally for damages incurred by loyal people in the South or in the North we shall find ourselves burdened utterly beyond our ability to pay.

This case of Sue Murphey I believe is something like this: our Army took possession of a portion of the rebellious State of Alabama, and were holding the part in which Decatur is situated; and while so holding that section of that State it became necessary for them to erect defensive works, forts, and fortifications, in order to prevent their being driven out again by the rebel forces; and it so happened that the military engineers regarded the real estate upon which the house claimed by Sue Murphey was located as the proper site for such a defensive work, and this work was absolutely indispensable to our forces in order that they might maintain their foothold in that State, in order that they might retain possession of Decatur. I do not understand that the damage for which compensation is now claimed comes under the head of contract in any sense of the word. I do not understand that the property taken possession of was of any absolute use to the Government, such as property is of use to the Government which is taken for quartermaster's or commissary stores; but on the other hand that it was necessary to destroy it to get it out of the way, and such was the only use made of it.

I believe none of those who have argued in favor of this claim have held that ground rent should be paid for the property that was so taken possession of. I do not understand that that is an element of the claim, but that the claim is simply for the destruction of the tenements upon the ground. A great deal of damage was done in the State of Pennsylvania by the Union Army, necessarily done, in order to repel the raid of Lee toward and at Gettysburg. This damage certainly was to persons who were friendly to the Government. Wheat fields were trampled over, fences destroyed, trees cut down, and in some cases buildings very much injured, if not absolutely destroyed; and the same is true of the whole South; and it will be claimed, if it is not true, that much of the damage which was so done was to persons who were actually friendly to the Government.

Some apprehension is expressed that we may form an unfortunate precedent by the passage of the bill now under consideration; but if this is to be regarded as a precedent in all respects, and only for such cases as are, to use a figure of my friend from New York, [Mr. CONKLING,] on all fours with this, including, if you please, the sex of the claimant, there will be, in my judgment, but little danger to be apprehended; for if Sue Murphey was a loyal southern woman she was certainly a rare exception. It would be quite safe to say that no other loyal southern woman has suffered injury of this sort. But the danger is that it will be regarded as a precedent for all classes in the South, and that many who were actually disloyal may come forward with their claims and be able, perhaps, to show some facts from which a friendly disposition toward the Government can be inferred, and thus put themselves upon as good a foundation as the claimant in this case occupies.

It is further stated, in the course of the argument, that if this class of people in the South are not to be compensated for the injuries which they have sustained there will be hereafter no inducement on the part of any portion of the inhabitants of a rebellious district to adhere to the Government; that if they are, as is stated, to be treated, in reference to the destruction of property, as rebels are treated, then hereafter they will cease to be loyal, and we must expect a united voice in any rebel district against the Government and in favor of the rebellion. But let us look a little into this argument. If it is understood that compensation is to be made for injuries so sustained what inducement is there to people in a rebel district to exert themselves to maintain the Government?

They can sit quietly by and act the part of neutrals, assured all the while that when the war is over they will be compensated for the injury they may have sustained. But if, on the other hand, the rule is established that persons are to suffer injury by reason of a rebellion, then it will devolve upon every one who is friendly toward the Government to exert himself to prevent the success of the rebellion.

It is further stated that the constitutional objection is good in this case, that private property cannot be taken for public use without just compensation. This is a rule that has but little application during wars. That it is a proper and useful and just rule during times of peace no one will attempt to question; but that it can apply in time of war is utterly beyond possibility. The rule goes to the extent of requiring compensation to be made in advance of the taking of the property; and if it is to apply in case of war the necessity would devolve upon the military commander to halt and have an appraisal made of property that he is about to take of a person, if you please, friendly to the Government before he could seize the property or destroy it. Will any one say that it would be possible to put down a rebellion, or that movements in defense of the Government could be successful, if a rule like this were to be applied? This rule was practiced by some of the early commanders of our forces; and the very fact of their paying great respect to the rights of individuals was the principal cause of the failure of some of those who were most prominent in the command of our forces during the earliest years of the war. The fact is, the public safety is the highest law, and higher than this provision of the fundamental law of the land. There is nothing above it. It is so proclaimed in all works that treat on this subject, and should be regarded as a sufficient warrant for the destruction of property, even the property of loyal persons.

If this claim is to be recognized it will do much, in my judgment, to impair the public credit. We are endeavoring in every possible way to establish the credit of the Government. There is no possibility of estimating the amount of claimants of this sort; and when once we recognize them, when once we admit the rule that where the property of loyal persons, or those who can show themselves to be loyal, has been used or destroyed its value is to be paid for out of the general Treasury, every creditor of the Government sees at once the possibility of a flood-gate of claims opened upon us, and it cannot but be disastrous to the credit of the nation.

For these reasons, Mr. President, it seems to me the claim of this person should not be recognized at this time. If it should turn out at last that this woman was no more loyal than the females of that section of the country generally, and that this property was put in her hands for the purpose of avoiding the confiscation of it, certainly in that case the tide of sympathy would settle in another direction. The desire has been to have this case decided upon its own merits, without reference particularly to the character of the person making the claim. It is regarded as a test case, and therefore of the greatest possible importance. I hope that when the vote is taken it will receive a quietus which will discourage all claimants of the sort, until at least we are better able to meet our engagements than appears in the present condition of the national credit.

Mr. FOWLER addressed the Senate. [See Appendix.]

Mr. POMEROY. Mr. President, the only interest that I have taken, or that I feel in this case, is that it seems to be put forward as a case in which to try all the claims of the loyal people in the insurrectionary districts. It is on that account that I have looked into the claim to see whether it is a good case in which to try the multitude of claims that will be involved in this decision coming up from the

South, and I have come to the conclusion that it is a most unfortunate case.

The history of this case is brief. It is not a new one here. I remember my attention was first called to it on July 9, 1866, when the Senator from Rhode Island [Mr. ANTHONY] made a report upon it from the Committee on Claims, and that report was printed and has been read to the Senate. On the 17th of July, 1866, the bill was called up by Mr. Clark, then chairman of the Committee on Claims. It was explained and passed the Senate. (See Congressional Globe, Thirty-Ninth Congress, page 3869.) I made some feeble remarks upon it at the time, and the Senator from Massachusetts [Mr. SUMNER] also spoke against it; but it passed. It went to the House of Representatives. Mr. CONKLING, then a member of the House of Representatives, on the 24th of July, 1866, moved to refer the bill to the Committee of Claims of the House of Representatives, which was carried. On the 14th of December, 1866, Mr. DELANO moved to postpone it indefinitely, which seems to have been carried; but still I find that on February 12, 1867, Mr. MAYNARD moved to place the bill on the Private Calendar. How that could have been done after it was indefinitely postponed I do not know; but that was agreed to. On the 15th day of February, 1867, Mr. WASHBURN, of Massachusetts, made an adverse report on the merits of the case, and his report went on the Private Calendar with the bill. That is all the record we have of the case, so far as it relates to the House of Representatives.

But it was reported again to the Senate during this, the Fortieth Congress. The previous proceedings to which I have referred were in the Thirty-Ninth Congress. There is no written report from the committee to this Congress; but we have had read the report made to the Thirty-Ninth Congress. There is no evidence submitted to the Senate either in the report or in the testimony—I have read it all—proving that this claimant was loyal prior to the capture of Decatur, in Alabama, but only after the capture; and that is proved by two officers and certified to by General Grant as being among the papers on file in the War Department. Here is a case put forward as a test case in which to try the claims of all loyal men in the South, in which not a word relating to the loyalty of the claimant can be proven until after her property was in the hands of United States officers and destroyed, and then the language is, that she uttered nothing tending to show that she was disloyal.

Mr. SUMNER. I wish my friend would allow me a word right there, if I do not interrupt him.

The PRESIDING OFFICER. (Mr. THAYER in the chair.) Does the Senator from Kansas yield the floor?

Mr. POMEROY. I wish to make this additional remark first: I do not say a word disrespectful of this lady. I understand she is a lady of the highest respectability, living a blameless life.

Mr. SUMNER. I happen to have a letter in my hand to which I should like to call the attention of the Senator. His remarks now have drawn my attention to it, and with the Senator's permission I will read it. It is germane to the very point he is discussing. It is a letter addressed to me within a day or two from a gentleman who it seems has been a part purchaser of this very estate:

WASHINGTON, D. C., January 8, 1868.

SIR: I happen to know something of this property of Miss Sue Murphey. Her step-father (whom no one claims to be loyal) informed me that the property was his, that it belonged to him, that he could make a title to it. I bought some of this land from him, and he has the entire control of it. I have also learned that the property only cost \$1,500 a few years before the war, when its value was at its height. I have further seen it stated that Miss Murphey has made more rebel harangues in presenting rebel flags than Senator Howe has made Union speeches, and that by parties whose loyalty is above question.

I make you this statement that the matter may be fully investigated before passed upon.

Very respectfully,

D. HUMPHREYS.

Hon. CHARLES SUMNER, United States Senate.

Mr. ANTHONY. Does the Senator know

who "D. Humphreys" is? Does he vouch for him?

Mr. SUMNER. D. Humphreys, of Alabama.

Mr. ANTHONY. I wish to ask if the Senator from Massachusetts knows him?

Mr. SUMNER. I have seen him, but I had no acquaintance with him before. He is a gentleman of very respectable appearance, and I have no doubt of his veracity.

Mr. POMEROY. I suppose it is known to every one that her step-father was a notorious rebel. Indeed, a friend in Alabama writes me that he was crazy on the subject of the rebellion, he was so persistent a rebel. But I would not visit the sins of the father or step-father upon the daughter. I am one who believes that each individual is responsible only for himself or herself. I would not prejudice the case of this claimant because her step-father or her brother-in-law, who is a son of her step-father, may have been disloyal. They are disloyal. Everybody admits it, I suppose.

But, Mr. President, what I was going to argue for the sake of calling the attention of the committee to it, and to be corrected if I am wrong, was this: there is no evidence in the papers in this case that I can find to prove any loyalty prior to the capture of Decatur and before the day that General Granger took possession of this property, at which time he says she treated them well, and from her expressions he judged her to be loyal. I will read his letter. It is addressed to "Hon. HORACE MAYNARD, Member of Congress, Washington, District of Columbia."

HEADQUARTERS DISTRICT OF HENRICO,
RICHMOND, VIRGINIA, February 21, 1868.

DEAR SIR: My friend, Miss Sue Murphey, having requested me to address to you a statement with regard to her loyalty to the United States, I cheerfully submit the following:

This is the testimony, I want to state, upon which the report is founded, because it is the strongest testimony, and almost the only testimony bearing on the question.

I made the acquaintance of Miss Murphey soon after taking command of the district of North Alabama, in June, 1864. I have known her intimately from that date to this, and as our interviews have been frequent and of the most friendly character I feel competent to judge correctly of her loyalty. I do, therefore, assert that inasmuch as I have never heard of, or known of any act of disloyalty on the part of Miss Murphey, and never heard her utter a disloyal sentiment toward the Government of the United States, I believe her loyal to that Government.

Very respectfully, your obedient servant.

H. S. GRANGER,

Brevet Brigadier General United States Army.

That, I say, is the strongest testimony in this case to prove her loyalty. There was a board authorized to sit in judgment upon the amount of this property, and they were instructed by the commanding general to report upon her loyalty and upon the value of the property, and it is a most significant fact that they never reported a word upon her loyalty, but confined themselves to the value of the property.

Mr. ANTHONY. Will the Senator allow me to interrupt him for a moment?

Mr. POMEROY. Certainly.

Mr. ANTHONY. The Senator from Kansas was upon the Committee on Claims with me, I think, at the time this bill was first reported from the committee, and he must have forgotten if he supposes that that is the strongest evidence of the loyalty of this lady.

Mr. POMEROY. I said it was the strongest evidence to be found in these papers.

Mr. ANTHONY. There were officers before us who came here at considerable personal inconvenience on purpose to testify to the loyalty of this lady, as an act of justice to her and as an act of gratitude and of recognition for the services which she rendered to them and to the soldiers under their command when they were stationed at Decatur. Now, if you are going to deny this poor girl the debt that belongs to her, I beg Senators not to take away her character also. I am not able now to recall the evidence upon which the committee came to the conclusion, but I do know, and I have

no hesitation in saying, that the loyalty of this girl was proved before the committee, and in the presence of my friend from Kansas and my friend from Wisconsin, just as positively as it could be proved. There was no sort of question upon that point when we made the report.

Mr. POMEROY. I hope the Senator from Rhode Island did not understand me as reflecting on the character of this lady. I said I understood she was a lady of the highest respectability, living a blameless life.

Mr. ANTHONY. I understood the Senator to say that this negative testimony was the strongest testimony in the case as to her loyalty. I think that is almost a reflection on the committee making the report, and the Senator from Kansas agreed to that report when it was made. It was as much his report as it was mine, and he heard the testimony. Would the Senator from Kansas have certified to the loyalty of any person upon such evidence as that? Officers of the United States Army were before us in person and testified to her loyalty.

Mr. POMEROY. The remarks of the Senator from Rhode Island would have some pertinency if I had been a member of the committee during the Thirty-Ninth Congress, but I was not. I was a member of the committee during the Thirty-Eighth Congress, but this claim was not before the committee during the Thirty-Eighth Congress.

Mr. ANTHONY. I thought the Senator was a member of the committee when we made this report.

Mr. POMEROY. I will read the finding of the board that was authorized to report upon the loyalty of the claimant, and the amount of the property destroyed. I said in the beginning that upon the first question, the loyalty of the claimant, they were silent; they did not say a word; but upon the amount of property they do say:

"We find the property destroyed, and value the loss at \$7,000."

That is the report of the board authorized and commissioned to examine into her loyalty and the value of this estate.

General Granger, in another letter, says that the property was almost entirely destroyed, and yet the papers show that it was a property of one hundred acres of land adjoining the town of Decatur, on which was a building, a two-story house made of wood. There is a long description of it here in the papers. It is said that the house was destroyed; that the grounds about it were injured; the shrubberies and trees destroyed; and that the damage was \$7,000. If it was an estate of one hundred acres of land adjoining the town, and there was no more valuable property than that upon it, it could not have been wholly destroyed. There must be some value left in the property. It is possible that \$7,000 worth may have been destroyed; but still that estate must be worth something as one hundred acres of land, after the destruction of a two-story wooden house upon it and the shrubbery and trees around it.

I will read also the letter of General Grant on this subject, which is filed with the papers, which is a sort of presumptive evidence upon her loyalty, being entirely anxious to present that side of the case rather than the other, because if this was a case where there was no question in regard to loyalty, if this was the case of a woman who suffered the loss of all things for fidelity to the Government, who stood there during the dark hours of the rebellion, early and late, counting not her life dear unto herself, faithful to all her obligations, I tell you, sir, I would not have the heart to vote against it; but this is not a case of that kind, as shown by the papers.

Mr. FOWLER. I should like to ask the Senator from Kansas one question. Is there a particle of evidence that militates against the loyalty of this claimant? Has the Senator got a single speck of it in the papers? Has he heard a single statement to the contrary

made except one that has been read this morning, written by one of the most veritable scamps in the world, as I believe I could prove here? With that exception there is not a solitary scintilla of evidence against her loyalty. Is that not sufficient evidence that she was loyal?

Mr. POMEROY. I have not undertaken to prove any disloyalty on the part of this claimant. I am only arguing that this is an unfortunate case to present as a test case, because the loyalty of the claimant is not proved. It does not devolve on me to prove her disloyalty, for I have no evidence on that subject. I have not undertaken to find evidence against the loyalty of this claimant. I only say that the papers in the case do not prove her loyalty.

Mr. WARNER. I desire to make an explanation which I deem due to the character of a man who has been denounced, I think, without proper knowledge, by the Senator from Tennessee. The letter the Senator from Massachusetts read I understood to be from a man by the name of D. Humphreys.

Mr. SUMNER. Yes, sir.

Mr. WARNER. I will say, as the Senator from Tennessee has used language in regard to him that I cannot very well allow to go uncontradicted, that I know Mr. Humphreys personally, and I think he is also known personally to at least one of the Senators from Ohio, and that he is a man of reputable character. The gentleman to whom I refer was formerly the editor of the Alabama Republican.

Mr. SUMNER. That is the gentleman.

Mr. WARNER. I do not know the facts in this case, and have nothing to say about his interference in this matter of Miss Sue Murphey's claim; but I will say that the language that he is a miserable scamp does not apply to him; that for the three years I have known him, I have known him to be a man of reputable character, and of integrity, I think.

Mr. FOWLER. I will say here that I do not know the man at all; but I made my conclusion on the authority of the Senator from Alabama, [Mr. SPENCER,] who ought to know; and if I am wrong I wish to be corrected.

Mr. POMEROY. I know him well. Nobody knows him better than I do.

Mr. SPENCER. I should like to make an explanation in reference to Mr. Humphreys. I live in the same town and know a good deal about him. He is a very meddlesome and troublesome man; so much so that the organization called the Ku-Klux in that country forced him to leave. I believe he never saw Miss Sue Murphey in his life, and does not know her. During his short residence in Decatur, Alabama, she was in the place only about three days during the whole time that he lived there, which was about eight or nine months. I believe that Miss Murphey has established fully her character for loyalty before the Committee on Claims by officers of the United States Army, who knew her and knew the services which she rendered. Of those services I cannot personally speak; but from hearsay and from the evidence adduced I have not any doubt of her loyalty at that time. Some of her family are not loyal; but I do not think she ought to be held responsible for that.

Mr. POMEROY. I suppose that it is distinctly understood that I say nothing against the loyalty of Miss Murphey since the capture of Decatur. The officers of the Army who have been familiar there and lived in her house certify that she has been kind and courteous, and has never spoken a word against the Government of the United States since the capture. I admit all that. I do not doubt it. I am speaking of wanting a case, if it is to be made a test case, where loyalty is proven all the way up. Senators have all read Goldsmith's oratorio upon the captured Jews, when they were down by the rivers of Babylon, and he says:

"Oh happy, who in happy hour
To God their praise bestow,
And own His all-consuming power
Before they feel the blow."

The loyalty that I desire to commend is that

which was true when the days were dark, not when they were light, before the property was captured, when the storm was raging, and not when they were safe in a calm. I understand this claimant to be a most exemplary person, who has been faithful ever since the capture, so far as I know. All I complain of is that there is no proof of her loyalty before that time. It is a most unfortunate case to present as a test on that account, because there could be no proof of disloyalty, I suppose, if any one was disposed to contest it. A lady under age (she was under age at the time) could not commit overt acts of treason. She was a non-combatant, and of course there was no positive disloyalty.

Mr. DAVIS. Will the honorable Senator allow me to ask him a question?

Mr. POMEROY. Certainly.

Mr. DAVIS. The honorable Senator is a lawyer. Suppose the question at issue was as to the sanity of Miss Murphey or anybody else, and it was proved that for a period dating from a certain time, of three or four or five years, the person had been sane, I ask the honorable Senator, in the absence of all other proof if that would not be satisfactory evidence that previous to that time the person had been sane? And if so in relation to sanity, why not in relation to loyalty?

Mr. POMEROY. I admit that that makes out a *prima facie* case of sanity.

Mr. DAVIS. And of loyalty, too.

Mr. POMEROY. And this is a *prima facie* case, perhaps, of loyalty; but it is to a *prima facie* case that I am objecting. I want a positive case of loyalty.

Mr. DAVIS. Will the honorable Senator allow me to ask him another question?

Mr. POMEROY. Yes, sir.

Mr. DAVIS. Where there is a case established *prima facie*, according to law, can that *prima facie* case be overruled without the production of one word or syllable of proof to impugn it?

Mr. POMEROY. The Senator does not seem to be aware that this case is not what is involved in this question. If this case had not, as I said in the beginning, been argued here as a test case; if it had not been brought forward to try the case of all the loyal people of the South, I would not have looked at it in that light; but in that view it requires evidence, not simply *prima facie* evidence of loyalty.

Mr. DAVIS. If my courteous friend will allow me to ask him one other question I shall trouble him no more with questions. The honorable Senator from Rhode Island has said that there came gentlemen of the Army before the Committee on Claims, who had the examination of this particular claim, and that those gentlemen of the Army who were in Decatur, and who knew Miss Murphey, had testified most fully and satisfactorily before that committee as to her loyalty; and upon that proof, in part, probably mainly, the report on the point of loyalty was made. The honorable Senator from Rhode Island has now stated that her loyalty was established and reported by the committee upon the proof of those military officers. Is not that a case where loyalty is made out by proof and reported to the Senate?

Mr. POMEROY. As I have the report of the Senator from Rhode Island in my hand, I will read what he says on that subject. I am taking up the case as I find it in the papers.

Mr. DAVIS. I am speaking of the report he makes this morning verbally.

Mr. POMEROY. If that evidence was before the committee at the time, the Senator from Rhode Island was most unfortunate in not putting it into the report.

Mr. ANTHONY. I think, if the Senator will allow me, the report states that the case of loyalty was fully made out, and we supposed that when the Committee on Claims unanimously reported that the case of loyalty was made out it was not necessary for us to give at length the verbal testimony on which we based our report. We supposed that at least we could be trusted for so much.

Mr. POMEROY. The language of the report on this question is as follows:

"The loyalty of Miss Murphey is fully sustained by the statements of officers of the Army above referred to."

Now, I will read what is "above referred to," so that the committee may have the full benefit of the report. The evidence of officers of the Army to which they refer is the report of the board that examined into the question of loyalty and the value of the property.

Mr. DAVIS. It was the officers who were examined before the committee, not those who made the report.

Mr. POMEROY. The report does not show that they did examine any officers before the committee. It will be better understood if I read the whole of it. The report reads as follows:

"In compliance with orders received from Brigadier General R. S. Granger, commanding the district of northern Alabama, Colonel Joseph Conrad, commanding the post of Decatur, ordered a board of investigation to convene for the purpose of examining and reporting in the case of the property of Miss Sue Murphey. This board convened on the 13th of February, 1865, and, after an examination as to the loyalty of the claimant and the value of the property, reported: 'We find the property destroyed and value the loss at \$7,000.'"

Then the report says:

"The loyalty of Miss Murphey is fully sustained by officers of the Army above referred to."

Now, there was one officer before that board who was questioned as to her loyalty, and only one, and that was Captain Boyd, of the fifty-first Illinois infantry. I will read what he said. He was asked this question:

"What do you know relative to the loyalty of Miss Sue Murphey previous to the destruction of the property?"

It is worthy of remark that this officer was provost marshal there as early as 1862, and his testimony would be worth something as bearing on this case.

"Answer. I know that when the officers went to her house they were treated with great respect, and those surrounding her were the most bitter rebels."

That is his answer. So I say there is a sort of *prima facie* case, a negative case, that this lady, being a lady of such standing and character, did treat the officers of the Army well; but that does not make out a case to base this report upon, as I understand it, that she was loyal before the capture in 1864.

Mr. ANTHONY. Why, Mr. President, she was but fifteen or sixteen years old at that time.

Mr. POMEROY. She happened to be just twenty at that time.

Mr. ANTHONY. The time of the capture?

Mr. POMEROY. Yes, sir. She is twenty-four now, I am told to-day, and that was four years ago. I do not like to bring a lady's age into any question before the Senate, but if the Senator insists upon it, to make her out under age, I am bound to tell the truth. [Laughter.]

I said I would read the testimony of General Grant. The only letter in the case that bears on the question of loyalty, in addition to what I have read, is the one from General Grant. It is addressed to Miss Murphey herself. It is as follows:

HEADQUARTERS ARMY UNITED STATES,
WASHINGTON, D. C., May 4, 1866.

MISS SUE MURPHEY:

I have caused to be examined the papers which you filed for damages done to your property in Decatur, Alabama, by United States troops.

Loyalty is clearly proven, and the claim seems to be entirely a just one, if any such claim is allowed. It is a matter left entirely with Congress, and I can only say that if any claim for damages done by the Army in States that were in rebellion against the Government is allowed, I would respectfully recommend yours.

U. S. GRANT,
Lieutenant General.

I have now read all the papers in this case that appear on the files. The loyalty of this claimant is founded entirely on the report of these officers, who made their report at the War Department, and then their report was sent to the Committee on Claims. I submit that there is nothing showing her loyalty excepting what the officers have said, which I have read, as to her conduct after the capture. You cannot infer anything in regard to her loyalty or dis-

loyalty prior to the capture. I am not disposed to make out a case that Miss Sue Murphey is a rebel; I am not pretending to argue that; I am only saying that this is a most unfortunate case to be put forward as a specimen case, on account of the fact that loyalty is not proven. It is useless to tell me that a person is loyal after the capture. I have seen a great many men who were praying for the success of the confederate arms up to the day of their capture, but when they found the cause was lost, when their hope of redress and hope for payment was only in the United States, they warmed up wonderfully and you would think that the old patriotism was rekindled; they became suddenly loyal. I will not say that this is such a case.

Mr. HOWE. I wish to set the Senator right upon one point. He has made the remark two or three times—he started out with it, I believe—that this was a case selected and put forward upon which to test all these loyal claims.

Mr. POMEROY. What I said was, that it had been treated as such by the Senate.

Mr. HOWE. I wish to say to my friend that the fact that this particular case is here at all now is mere matter of accident. It is not selected for any such purpose, and was not selected at all. The case was reported upon the conditions that I mentioned the other day, reported not upon the recommendation of the committee, but reported as a mere matter of form. Another case stands upon the Calendar involving the same principle. I tried to get the consideration of the Senate for it at the last session. The Senate deliberately voted, not that they could not or would not pass it, but that they would not hear it, and it went over. That was the case, not of a woman, but of a man.

Mr. POMEROY. This is none the worse for being that of a woman.

Mr. HOWE. No, sir; I do not suppose it is any the worse for being that of a woman. I simply wish to say that this case was not selected and put forward. It was taken up here, at the instance of Senators on this floor, on my motion; and I made the motion at the instance of others, and without having any opinion as to the merits of this particular claim itself. The debate started off upon the question whether, the claimant being loyal, we should pay for this property. In that debate I have taken an interest, and that interest has not abated at all, and will not until this case is settled.

Mr. POMEROY. The Senator agrees with me. I only said it had been treated by the Senate as a test case. The argument, day after day, has been on the ground that it involved the principle of paying the claims of loyal men in the South. But now I am informed by the committee that they have never reported this case. If this case has not been reported and recommended by the committee, then, of course, we ought not to pass upon it as having had the adjudication of the committee. I think I must be wrong. Do I understand the Senator from Wisconsin to say that the committee never reported this case; that they never authorized its report?

Mr. HOWE. No, sir; the Senator, if he understands me to say so, misunderstands me. What I meant to say was, that the committee did not express an opinion on the merits of the case, but consented that it might be reported as a matter of form. I stated this to the Senate the other day, for the Senate to pass upon, because one committee of yours had already fully examined it and fully reported it, and the Senate had passed it. We were the less reluctant to report it *pro forma* on account of those facts.

Mr. POMEROY. Without designing to evince any hostility to this claim, for I have not any—I know nothing about the merits of the case—I merely say, from the papers before us, the Senate having taken it as a test case, it is a most unfortunate one, because loyalty has not been proven. I do not pretend to say that it is a claim which ought not to be paid. I only say that upon the case as it stands it cannot be

paid, if we intend to pay only those who prove their loyalty. It is a case that cannot be paid on any such ruling as that, because the loyalty of this claimant is not proven. It is inferred; it is stated that she is loyal so far as anybody knows. Persons say they think she is loyal; but there is no positive proof, nothing that amounts to proof, nothing that is intended for proof, nothing that is addressed directly either to the committee or Congress; and it is a significant fact that the claimant in her petition does not pretend that she is loyal. She refers to the life, character, and services of her father, which, I understand, were very much distinguished and very meritorious, and as a citizen of the United States the inference is that she was also faithful to the Government, as was her father, but it is not claimed in so many words.

Mr. President, I have occupied much more time than I intended when I rose. I only intended to speak for a moment on this question. I desire simply to say in closing, expressing no opinion whether this claim ought to be paid or not, that the loyalty of the claimant is not proven. There was no evidence before the committee, and there is none before the Senate, on that point. If there was verbal testimony it is not here, and I do not know what it was. The committee say now that they did not recommend it on its merits, and the case standing in that attitude I say it cannot be voted upon intelligently by the Senate if the intention is simply to pay the claims of loyal people. If those who are anxious to pay the claims of loyal people rest their cause on this case they have a most uncertain foundation. When that cause is to be tried here, let it be tried on a case of unquestioned loyalty, on the case of one who has devoted everything—and there are plenty of them—to the Government of his country, to the cause of the Union; and then you will find a response from this Senate and from the loyal people of the country that cannot be mistaken. But if you rest your cause upon a case not proven, on a case where loyalty is only to be inferred, upon a case where the committee will not report upon the merits of it, you must expect that those who would vote for the payment of the claims of loyal people under ordinary circumstances cannot do it in this case.

Mr. MORRILL, of Vermont. Mr. President, such is my respect for the Committee on Claims, and especially for those members of it who advocate the passage of this claim, that I should on any ordinary occasion feel disposed to vote for anything that they proposed without even examining it; but having looked over somewhat the grounds of this particular claim, and seen, to some extent, its extraordinary reach, I must confess that I desire these gentlemen, at least, to pause long enough to allow the Government time to make its last will and testament before they pass this claim. If these gentlemen were sure to be always controlling the Committee on Claims there might, perhaps, be somewhat less of danger in the passage of this bill than there will be, taking the world as we know it is and the brevity of the service of any Senator on that hard worked committee; for if this claim should be passed we shall not see the end of this class of claims for thirty years, and I very much fear, not until the whole southern country will become debauched by this class of claims. They dot over the face of many thousand square miles of territory, and will largely depend upon the oaths of men interested in the same description of claims. We may be sure that there will be tough swearing and plenty of it before the end is reached. No section of our country ought to be subjected to so great temptations.

The test put forward is one of loyalty; that is to say, if the party whose property has been taken or destroyed is loyal then he has a lawful claim against the Government. What thin partitions divide Senators' ideas of loyalty! Would the Senators on the other side of the Chamber agree with Senators on this side as to what was loyalty? Not at all; and if that question should come up are we to take all

the women in the southern country who were minors during the rebellion, and assume that they were loyal because they could not be disloyal? If property in their hands is to be made safe because they are minors, then we shall have a great many minors. Take this very case, as I understand the facts to be narrated or as I have heard them reported. The real owner of the property was a distinctly pronounced disloyalist; but when our Army approached Decatur the property was made over into the hands of this beautiful and heroic lady, according to the language of the Senator from Kentucky, [Mr. DAVIS], in order to rescue it from confiscation.

Mr. HOWE. How did you ascertain that?

Mr. MORRILL, of Vermont. That is the common report here in relation to it as I have heard it repeated here again and again, and I think it may be as well founded as anything establishing her loyalty prior to the taking possession of her property. I do not understand that she inherited the property from any ancestor, but that it was so transferred just prior to the occupancy of Decatur by our troops. Mr. President, I do not propose, for one, to do anything that shall bring a stain of dishonor upon the credit of the country; but a claim not proven, presented and not allowed, is not a debt against the country; and I think that we are in duty bound to look and see how far these claims are going to reach. If they are not just and legal it will be a stain upon us to allow them to pass. Take the case of an individual who may owe honestly and fairly a debt, but when the time comes for payment he finds his children starving for bread, shall he expend his last dollar to pay his debt, or shall he pay it out for bread for his children? Our national debt is about as much as we can find the means to pay. Add to the load, and we may break down. Let us pay what we have pledged our faith to pay before we rashly assume doubtful claims the extent of which no man can calculate.

Mr. SPENCER. I think the honorable Senator from Vermont is mistaken in stating that the property was transferred to Miss Sue Murphey shortly before the Federal forces took possession of Decatur. My understanding is that this property was bought many years ago under an order of the court by the administrator, long previous to the war, for Miss Murphey and her sister.

Mr. MORRILL, of Vermont. I do not know anything about the facts, but I have heard, at least half a dozen times, the statement made as I have related it. May I ask the Senator if the title to the property for any length of time prior to the occupation of Decatur stood in the name of Miss Sue Murphey?

Mr. SPENCER. That is my understanding. I believe it to be so, and it has been for years.

Mr. MORRILL, of Vermont. But, Mr. President, as I was saying, if a party owing an honest debt should be so circumstanced as that it would necessarily produce starvation in his family if he paid it he would be in duty bound to take care of his family first. Now, the question is, if we assume the whole burden of the claims that can be brought forward on the same basis as this claim, shall we not bankrupt the Government, and when our brethren from the South come here, as they do now, and vote for it, will they not endanger the power of the Government, in case of a subsequent rebellion, about raising the means to put it down? I think that for their own security they cannot afford to ask the Union men of the North to put down the rebellion and then to follow us with a bill of damages for doing it.

Take the case of the Shenandoah valley. There are millions of claims for property there, presenting, if not identically, the same basis as this, perhaps even stronger claims upon the Government to pay, where some of the parties were Quakers and were known to be from first to last thoroughly Union men. Take all the raids under the gallant Sheridan—are we now to pay all costs and damages? Take the case of thousands and thousands of women from the

South who were sent North. At one time our Government refused to receive them, and the number who were stopping in Richmond, anxious to get across the lines, was very large. Suppose they were the owners of property seized, or that the property of rebel relatives had been placed in their hands and the title given to them; there could be no question about the loyalty of such people; it could easily be proven. Are we to refund in all these cases?

There is another class of cases. Take the case of British subjects or other aliens in any of our southern seaports, where their property has been used or destroyed by the accidents of war; if there should be a provision in any treaty now on the *tapis* covering claims of this character are gentlemen prepared to say that they will vote for the ratification of a treaty paying for all property so destroyed by our Army or Navy during the recent rebellion? If we pay our own citizens on the ground that they were not rebels, though in rebel territory, how can we refuse to pay aliens that were not rebels?

Take the case of loyal men whose slaves were seized before the proclamation of President Lincoln and used in our Army. Are they to be paid for the value of their slaves; and if not, why not? Senators will do well to look into the full hearings of this case.

It seems to me, Mr. President, that if we are to adopt the principle of paying parties who are loyal for property taken or destroyed by the Government during the war it ought to be done under some general law; that the subject should be referred to the Committee on the Judiciary, and that we should have a system—some just rule of perpetual guidance—by which all these claims shall be hereafter adjudicated; for it is quite manifest that it will be utterly out of the power of the Committee on Claims to consider even a tithe of them. This city to-day is full of millions and millions of them. Instead of there being only \$30,000,000 of them, as stated by the Senator from Tennessee, I should be glad to think there were not more than \$80,000,000 already lodged with claim agents and attorneys in the city at the present moment. Let the Senate decide in favor of this case, and they will make Washington the Paradise of claim agents.

But when the question comes up exclusively as to loyalty, the Senator from Indiana, [Mr. HENDRICKS,] who addressed the Senate on Friday last, will very soon, I fear, come to the conclusion that the Constitution does not require that a man shall be loyal to be paid where his property is taken for public use, for the Constitution says nothing at all about the loyalty of the party. It reads:

"Nor shall private property be taken for public use without just compensation."

There is nothing in that about loyalty, and if we tolerate any cases in States lately in rebellion of this sort we shall very soon waive anything about loyalty and admit the whole. Why, sir, we might with almost as much propriety bring forward a claim that the loyal North—which has already raised over fifteen hundred million dollars for taxes, and has had its property thus taken to that amount for public use, when the South was not taxed at all—should have that amount refunded, and then that we should levy a tax bill covering the whole country, including the South, in order to have that compensated for. I think there would be about as much justice in that claim as in the one before the Senate. When the Senator from Tennessee said, as I understood him, that if we do not pay these claims of \$30,000,000 the entire South will vote to repudiate the public debt, I regretted it, as I thought we had at least evidence that there was one man from the South who might vote so any way.

But, Mr. President, I do not desire to consume the time of the Senate on this question. It seems to me a perfectly plain case, and one that ought to be rejected if we expect ever to rescue our country from its present unfortunate financial condition.

Mr. ANTHONY. I had intended, Mr. President, to make a few remarks upon this bill, as the unfortunate report which has suffered so much at the hands of some of the Senators was made by me; but the subject has been so thoroughly discussed that there seems to be nothing left for me to say about it, and if there were I should surely not attempt to answer the legal arguments which have been made by the Senators who are learned in the law. My consolation in regard to them is, that whereas it has been proved conclusively and absolutely and unmistakably on one side that the payment of this claim violates all the principles of constitutional and statute law, it is shown upon the other side that a refusal to pay it will be an equal violation of constitutional and statute law; and I suppose, when the learned doctors differ, that plain men may take the plain significance of the question.

If the Constitution is to be read according to its plain understanding I am unable to see how this case evades the provision that private property shall not be taken for public use without just compensation. When you can prove to me that this property taken for the construction of a public building by the United States, is not to be paid for, then you will satisfy me that any other debt that the United States owes is not to be paid. This is not property that was destroyed by an army on its march; it is not property that was destroyed to prevent its falling into the hands of the enemy and affording him aid and comfort; it is not property that would have been destroyed by one army if it was not by the other; but it is a certain amount of property that the United States took by competent authority and by public necessity for the construction of a public work, and we are just as much bound to pay for those materials, for the stone and the wood that were used in the construction of that fort, as we are to pay for the cannon that was mounted upon it or the ammunition with which the cannon was served; just as much as we are bound to pay for the supplies and the clothing that were furnished to the garrison in that fort.

This case was presented to the Senate two or three years ago. It was examined before the Committee on Claims. It was reported, I think, unanimously. The evidence of the loyalty of this lady was presented before us to the satisfaction of every member of the committee. I am not able now to recall the evidence, but I recollect that military officers appeared before the committee, came on here voluntarily to testify upon that point, and the committee were perfectly satisfied upon that point, and so reported, but did not report all the verbal evidence upon which they relied. The bill was reported from the Committee on Claims. It passed the Senate. It went to the House of Representatives. In the House of Representatives they had a rule which prevented the consideration of bills of this kind. The case was so strong upon its merits that the rule was suspended in its favor, and the bill would undoubtedly have passed but for want of time. It fell for want of time.

Mr. POMEROY. The Senator must have forgotten that the Committee of Claims in the House of Representatives made an adverse report upon it.

Mr. ANTHONY. I know they made an adverse report, but that was reconsidered.

Mr. POMEROY. I find no evidence of that.

Mr. ANTHONY. The adverse report was made on the ground that the rule of the House did not allow the consideration of such claims at all, and that rule was suspended. That is my recollection. If the Senator is more correctly informed, I may be mistaken.

Mr. POMEROY. I cannot find it in the Globe. I looked into the Globe on that question.

Mr. ANTHONY. Well, it passed the Senate, anyhow. There is no doubt about that. It has passed this body once; and now, that Congress having expired, the claimant comes before this Congress and presents her petition again, and

she is told that somehow or other, she does not know how, she is a rebel. I believe the Senator from Michigan [Mr. HOWARD] proved it out of Vattel, and I think one of the Senators threw Puffendorf at the poor girl's head; and I do not know but that somebody is preparing a dose of Grotius for her. [Laughter.] But, Mr. President, I believe that not Vattel, Puffendorf, nor Grotius, nor the Senate and House of Representatives, nor the Army and Navy, nor Powers and principalities, nor things present, nor things to come can make any man or woman an unwilling rebel. I do not believe that any national law can make the Senator from Kansas or myself a rebel wherever we may live. And now if we are going to refuse to pay this claimant the debt which was incurred by the authority of the United States, by competent authority, for a legal purpose, and a necessary purpose, at least let us spare her character. She is a daughter of a United States officer.

Mr. POMEROY. I hope the Senator does not think that I tried to make her out a rebel. I tried to speak of her in the highest terms.

Mr. ANTHONY. I do not think the Senator helped her much.

Mr. POMEROY. I am informed from all sources that she is a lady of the highest respectability. I never intended to reflect at all upon her. What I contend is that you have not proved her loyalty.

Mr. ANTHONY. Well, sir, her loyalty was proved before the Committee on Claims to their unanimous satisfaction. Whatever differences the Committee on Claims might have had, if they had any, (and I do not think they had, although my friend from Oregon [Mr. WILLIAMS] urging me to make this report all the time, I believe now professes to be on the other side;) nobody questioned her loyalty. I think my friend from Oregon will agree that the loyalty of this lady was made out to the entire satisfaction of the committee; and now I ask Senators at least to spare that.

Mr. WILLIAMS. I do not propose to controvert what the honorable Senator says, but I think my record will show from beginning to end that I have opposed all these claims. I spoke and voted against the Ames claim. I spoke against a claim of a similar nature here, originating in Virginia, at the last session. I have been opposed to this principle, and controverted it in the Committee on Claims whenever it came up in that committee. It is true I had these papers in my hands, and I must confess I felt very reluctant to report against Miss Murphey, and I did request the honorable Senator to take the papers out of my hands, knowing what his views and feelings were upon the question, and he consented to do it. But I hope the honorable Senator will not say that I ever spoke or voted in favor of paying this claim.

Mr. ANTHONY. No, sir; I do not say so; but I appeal to the Senator from Oregon if the loyalty of this lady was not perfectly made out before the committee? Was there any question of it?

Mr. WILLIAMS. I make no question of the lady's loyalty, and never have made any. Mr. DOOLITTLE. Mr. President, I have listened to this debate with very great interest, and, I confess, with a sense of high responsibility; not because the case itself involves very much, but because the principle which may be established by the passage of this bill may involve a large amount of money. It is not my purpose to discuss the questions involved at length. I rise rather to state the conclusions to which my mind has arrived during the discussion. When it began, I confess that in consideration of the amount which might follow the establishment of claims of this kind in the southern States, I was disposed to shrink from it; indeed the prejudice of my mind, if I had any, was against the consideration of the claim. I wished it were not here; I wished it had not come up. But, sir, the discussion has been had; the case is here, and I must state frankly the conclusions to which my mind has arrived.

I believe that the true rule governing cases of this kind is well stated by Vattel, and that no authority which has been produced here and no consideration or argument introduced here changes at all the effect of the rule he lays down: it is in answer to the question "whether a State is bound to indemnify individuals for the damages they have sustained in war." He says:

"The damages under consideration are to be distinguished into two kinds: those done by the State, and those done by the enemy. Of the first kind—"

That is, of those done by the State itself—

"some are done deliberately and by way of precaution; as, when a field, a house, a garden belonging to a private person is taken for the purpose of erecting on the spot a town, rampart, or any other piece of fortification. Such damages are to be made good to the individual who should bear only his quota of the loss. But there are other damages caused by inevitable necessity; as, for instance, destruction caused by the artillery in retaking a town from an enemy. Those are merely accidents; they are misfortunes, which chance deals out to the proprietors on whom they happen to fall. For the sovereign indeed ought to show an equitable regard for the sufferers if the situation of his affairs will admit of it; but no action lies against the State for misfortunes of this nature, for losses which she has occasioned, not willfully, but through necessity, by mere accident in the exertion of her rights. The same may be said of damages caused by the enemy. All States are exposed to such damages, and woe to him on whom they fall."

Mr. SUMNER. Will the Senator allow me to call his attention, as he is on that point, to what I would call the marginal note of it, which he will find in the table of contents under the head, book four, chapter fifteen, as follows:

"Whether the State is bound to indemnify the subjects for damages sustained in war."

Showing that this clause is applicable to the case of damage to a subject and not of damage to an enemy.

Mr. DOOLITTLE. Mr. President, I am aware of that distinction, and I shall come to that question and state my opinion upon that. I first speak of the two kinds of damages: first, those done deliberately by the Government as a matter of precaution, the result of will and judgment in advance of any actual conflict; and next, those other damages which are caused in the midst of the conflict, in the collision of arms, in the capture and recapture of places, in the destruction which follows directly and of necessity from the war itself. This distinction Vattel takes, and it seems to me to be a wise distinction founded in the very nature of things. For the accidents of war, for the destruction which may be occasioned by the march of armies, by battles, by the capture of towns, by the resistance of an enemy when you are endeavoring to capture a town, no nation in the world could be called upon justly to pay. They are the acts of a power which the state does not and cannot control, and are likened in the law to the acts of God. They are like fire, like conflagration, like flood, like earthquakes. On whomsoever these damages fall, whether loyal or disloyal, the person who owns the property must submit to his misfortune and must suffer the loss.

Mr. CORBETT. I should like—

Mr. DOOLITTLE. I hope my honorable friend will wait a few minutes. I wish to state my conclusions, and when I am through I will hear any question.

Mr. CORBETT. Just one point.

Mr. DOOLITTLE. It interrupts the line of argument, if one has a connected train of thought, to be questioned upon every point as he passes. I am stating rather the principle of law which I think controls this case. I wish to go on and state the distinction between this case and the case of Armes, in Virginia. Armes in Virginia was in possession of a house. The rebels from time to time entered this house, and it was made the cover of rebels when they were firing on our pickets. In fact it was used, not as a fortification exactly, but a kind of cover for the enemy, and our forces destroyed the house to destroy this cover of the enemy; and the question came up whether Armes should be paid. I resisted the appropriation; I resisted the bill that appropriated anything for the payment of Armes's claim, because I insisted that the destruction of

Armes's house was one of the accidents of war necessary to uncover the enemy or to drive them away. It was the same as if it had been destroyed in battle, and therefore I could not vote for the payment of it.

But this case of Murphey stands upon another and an entirely different ground. First of all, after this place, Decatur, has come into the control of our Army this house is required to be delivered up for the purpose of precaution, deliberately, in order to erect a fortification upon it; and the house is taken down, the materials used are put into this fortification, and an appropriation of the property is made for that purpose deliberately, before hand, by precaution, by a direct act of the will of the commander there in possession; and such was an absolute appropriation of the property for the time being by our commander, and it is a different thing from the case of Armes, as I understand.

I know it has been said—my honorable friend from Massachusetts says she was not a subject, she was an enemy. That is a very important statement if it is true. If the facts in the case prove that she was disloyal, that she was in fact an enemy, aiding and abetting the rebellion against the United States, it would change her relations toward the Government, in my opinion, altogether. I know the honorable Senator has read a letter here which comes in at the last end of the debate, from a gentleman by the name of Humphreys, who raises a question upon her loyalty, throwing out a loose expression like this, (which in my judgment does not entitle the letter to very great weight,) he says that Miss Murphey made as many rebel speeches as Senator Howe has made Union speeches. Now, this letter comes here, never having gone to the committee; it comes here solely, and containing expressions of this kind, I confess to the honorable Senator from Massachusetts that it produces no impression on my mind as against the report of the committee, especially when the report of the committee is explained by the honorable Senator from Rhode Island. The report of the committee says: "The loyalty of Miss Murphey is fully sustained by the statements of officers of the Army above referred to, and others who were at Decatur during the war." And the honorable Senator from Rhode Island states the fact that these officers appeared in person before the committee, came at considerable expense and sacrifice, for the purpose of testifying before the committee to the loyalty of this woman; and upon this testimony, our committee having reported the fact that she was a loyal person, I act upon the report of the committee, and not upon loose statements contained in this letter of Humphreys.

Mr. President, I assume, then, that we may safely stand upon the report of the committee that she was a loyal person to the Government of the United States, and being so this Government treats her not as an enemy, but as a friend. I know, Mr. President, that something has been said in the course of the discussion about the act of Congress authorizing the President to declare certain States or parts of States in insurrection, and that the proclamation of Mr. Lincoln in pursuance of that authority did actually put those States in a state of insurrection, so that from the moment they were declared to be in insurrection all the people of that territory, without distinction, were to be treated as enemies of the United States, and therefore whenever we touched any portion of their property, real or personal, it is to be regarded as enemy's property, not the property of citizens of the United States.

Mr. President, in my opinion that is not giving the true construction either to the act of Congress or to the proclamation of the President, for I call your especial attention to the language of the proclamation of President Lincoln, in which he says:

"In pursuance of an act of Congress, approved July 13, 1861, I do hereby declare the inhabitants of the said States of Georgia, South Carolina, Virginia, North Carolina, Tennessee, Alabama, Louisiana, Texas, Arkansas, Mississippi, and Florida except—"

I call especial attention to the exceptions—

"except the inhabitants of that part of the State of Virginia lying west of the Alleghany mountains, and of such other parts of that State and the other States hereinbefore named as may maintain a loyal adhesion to the Union and the Constitution or may be from time to time occupied and controlled by the forces of the United States engaged in the dispersion of the insurgents."

So that the very proclamation of insurrection excepts the loyal parts of States which maintained their adhesion to the Government, and not only were then maintaining it, but such parts of States as from time to time should be placed in possession and control of the forces of the United States. Then this place, Decatur, having been taken possession of by General Sherman, whatever effect you may give to the act of Congress and the proclamation of President Lincoln, from the moment the flag was planted there under the control of our forces, Decatur was a part of the territory of the United States of America; its flag was sovereign, and the Constitution was supreme.

I have never yet admitted that the hour existed when the Constitution of the United States was not supreme in right over every foot of soil from the Potomac to the Rio Grande. I know other distinguished gentlemen have differed with me, and have maintained that wherever we were excluded by military force there our jurisdiction had ceased, and the rights of the people of that territory under the Constitution had ceased, and the States which had come within the lines of the rebellion ceased to have their rights under the Constitution of the United States. But, sir, by the very terms of the proclamation all the portions of the States which were subjected to our arms were not any longer in insurrection, and, therefore, whatever view gentlemen may have taken on that subject—and I shall not enter into the discussion of that question, for it is a very grave one which I have often discussed on the floor of the Senate, and on which I know that the majority have decided against me—according to the proclamation made by President Lincoln, this town of Decatur, from the time that General Sherman occupied it with his forces, was excepted from the declaration of insurrection, and the Constitution of the United States became supreme, not only in fact but in right, and the people of Decatur had their rights under that Constitution.

Mr. President, I know that the decisions of the Supreme Court have been referred to in the prize cases arising on questions of blockade. Those questions, so far as they were decided by the Supreme Court, only refer to the character of the property which was captured. They decided that property which was captured under the blockade was enemy property, irrespective of the owner of it. Why, Mr. President, you might have been the owner of the property which was captured, and yet under the decision of the Supreme Court the property itself, from the manner in which it was captured under the blockade, be decided, and properly decided, to be enemy property, and therefore liable to seizure. But the Supreme Court never decided that the people residing within certain territorial limits became enemies of the United States unless they engaged actually in rebellion against the United States.

Mr. President, I shall not, as I stated in the beginning, go into a discussion of this question at length. I am satisfied that my duty calls upon me, as this measure is before the Senate, to vote in favor of the payment of this claim; and it is not paying for the one hundred acres of land, but for the damages which were done in the destruction of the house and the buildings and outbuildings around it, which was appraised properly, as it seems to me, by the commanding officer or under his direction, and ascertained at the time. And there is another fact not to be forgotten, the fact stated by the honorable Senator from Tennessee, that in two cases, precisely similar, in the neighborhood of Nashville the Government of

the United States did pay for houses that were taken and torn down for the purpose of building fortifications—in one case, I think, \$29,000, and in the other case some thirty-eight thousand dollars.

I think that although it may in the end involve the expenditure of millions of dollars, perhaps twenty millions, perhaps thirty million dollars, where a case is made out like this of a clean appropriation of property by the authorities of the Government, made with deliberation, in advance, of the property of loyal citizens, not destroyed by the accidents of war, not destroyed in the strife of battle, not destroyed in capturing or recapturing a town, but absolutely appropriated beforehand, it is our duty, as the representatives of this Government, to pay for it; and I think we shall not injure our credit by doing it; nor do I think we shall establish a precedent which in all time to come will be injurious to this Government, for it does seem to me the most dangerous precedent we can establish would be to say to the people of the States, in all sections of the United States, "hereafter whenever an insurrection shall arise we shall never know any distinction between our friends and our enemies." It would be a most dangerous precedent, in my judgment, for this Government to establish.

Mr. CORBETT. I will now ask the gentleman from Wisconsin the question I desired to ask him when I interrupted him. It is whether the rule he lays down of a deliberate action applies to the emancipation proclamation of the President, whereby he freed all the slaves of that section of the country? Does the gentleman consider that a deliberate action?

Mr. DOOLITTLE. It is not necessary to answer a question which cannot arise; for as the majority have accepted the fourteenth amendment, as I understand, as a part of the Constitution, it places that subject beyond the reach of Congress altogether.

Mr. CORBETT. There is another question that may be involved in regard to the constitutional amendment. The question is whether such claims as this are not a portion of the confederate claims that may be considered as contracted within the confederate States, as they were confederated together in the South? This claim was contracted there; the property was taken during the time that Alabama was confederated with the other States. Hence the question is whether we shall examine any of these claims that were contracted in those States during the confederation?

Mr. PATTERSON, of New Hampshire. The Senator from Wisconsin is a lawyer; I wish to put to him one question. He stated in the first part of his remarks that property destroyed during the course of a battle, as a house, for instance, should not be paid for, and that the owner cannot come in and ask damages for the loss of his house. I take it, therefore, if in the course of a battle it was found necessary to tear down a house to throw up an intrenchment to hold part of the field taken, the owner could not come in and claim damages. Now this is the case: Decatur had been taken, and our forces found it necessary to take Miss Murphey's house in order to put up defenses to hold it. I want to know how that case differs in principle from the one in which the Senator admits damages could not be claimed. I wish he would answer as a lawyer.

Mr. DOOLITTLE. Mr. President, it grows out of the distinction which is stated in the authority I read from, Vattel. It is done deliberately, beforehand, by way of precaution, when no battle is raging, and it becomes a deliberate appropriation of property; but when a battle is raging, what may be done in the movement of troops is a thing of accident dependent upon the moment; and the destruction of property, then, the Government is no more responsible for than it would be for the overflowing of a flood that, while it is flowing, overturns this house or overturns that. That is my view.

Mr. PATTERSON, of New Hampshire. The

battle was not raging but it was imminent. The country had not been secured against the necessity for the employment of military force to protect it. And was it not just as necessary to throw up this defense to protect Decatur, as to keep a military force there to do it? Now, if the Senator can justify the destruction of property to hold a position during the progress of a battle, the principle is precisely the same which applies to this case.

Mr. POMEROY. I move to recommit this bill, with the accompanying papers, to the Committee on Claims. I do it on the ground that the committee as now constituted have not recommended the passage of the bill.

Mr. HOWE. I shall object to the recommitment of the bill at the present time. I desired, before this debate closed, to submit some remarks upon the bill, and especially in reply to the observations that have been submitted by other Senators.

Mr. POMEROY. If the Senator desires to address the Senate, and will move to recommit the bill after he has completed his remarks, I will withdraw my motion.

Mr. CONKLING. The motion to recommit does not cut off debate.

Mr. HOWE. I understand that I might submit my own remarks upon this motion, but I do not design to trespass upon the attention of the Senate again until other Senators who desire to oppose the principle involved in this bill have occupied such time as they choose to occupy. I thought perhaps it was my right—I do not know that it is—to close the debate, and had intended to do so. If there are no other Senators who wish to address the Senate upon this question I am as willing to submit what I have to say at the present time as at any other.

Mr. POMEROY. Does the Senator desire an adjournment?

Mr. HOWE. Oh, no.

The PRESIDENT *pro tempore*. Does the Senator from Kansas withdraw his motion?

Mr. POMEROY. The motion is debatable, and the Senator can make his remarks on the motion to recommit.

Mr. HOWE. You had better withdraw it, and then we shall ascertain whether anybody else wants to speak.

Mr. POMEROY. Very well, I withdraw the motion.

Mr. DAVIS. Mr. President, I am gratified that the honorable chairman of the Committee on Claims desires to complete this discussion. I think that under the usages and courtesies of the Senate it is due to him; and I am fully willing, so far as I am concerned, to accord him that position in the debate; but previous to his concluding the argument I ask leave to make a few other suggestions.

Mr. POMEROY. Does the Senator desire to go on now or would he prefer speaking tomorrow? With the consent of the Senator I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After some time the doors were reopened; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

Monday, January 11, 1869.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Friday last was read and approved.

ORDER OF BUSINESS.

The SPEAKER. This being Monday, the first business in order is the call of the States and Territories for bills and joint resolutions for reference to their appropriate committees, not to be brought back into the House by a motion to reconsider, commencing with the State of Maine. Under this call memorials and resolutions of State and territorial Legislatures may be presented.

MARY R. BROWN.

Mr. PERHAM introduced a bill (H. R. No.

1600) granting a pension to Mary R. Brown; which was read a first and second time, and referred to the Committee on Invalid Pensions.

GOVERNMENT STATIONERY.

Mr. ELA introduced a bill (H. R. No. 1601) to provide stationery for Congress and the several Departments, and for other purposes; which was read a first and second time, and referred to the Committee on Printing.

MEDICAL STAFF OF THE NAVY.

Mr. STEVENS introduced a bill (H. R. No. 1602) to regulate the rank of the medical staff of the Navy; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

FUR SEAL TRADE.

Mr. ELIOT introduced a bill (H. R. No. 1603) to regulate and protect the fur seal trade at the islands of St. Paul and St. George, in the territory of Alaska; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

HARBOR OF NEW YORK.

Mr. ROBINSON introduced a bill (H. R. No. 1604) to provide for the improvement of the harbor of New York by removing obstructions therefrom, and to secure the erection of substantial piers and docks therein; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

By unanimous consent, the bill was read in full. It appropriates the sum of \$5,000,000 annually for twenty years for the improvement of New York harbor by removing obstructions therefrom and building substantial piers and docks on the water fronts of New York and Brooklyn, provided that if said sum shall exceed the amount of five per cent. of the receipts of customs at the port of New York, in that case the said amount of five per cent. on receipts only shall be so appropriated. It further constitutes the Secretary of the Treasury, the collector of the port of New York, the Governor of the State, and the mayors of New York and Brooklyn for the time being, a board under whose direction the said appropriation shall be expended.

TONNAGE DUES ON CANAL BOATS.

Mr. CHURCHILL introduced a bill (H. R. No. 1605) to exempt canal boats from the payment of tonnage dues; which was read a first and second time, and referred to the Committee on Commerce.

NEW YORK, ETC., TELEGRAPH COMPANY.

Mr. LAFLIN introduced a bill (H. R. No. 1606) to authorize the New York, Newfoundland, and London Telegraph Company to land its submarine cable on the shores of the United States; which was read a first and second time, and referred to the Committee on Commerce.

CHARLES H. PENDLETON.

Mr. LINCOLN introduced a bill (H. R. No. 1607) to restore Lieutenant Charles H. Pendleton to his grade in the active service of the Navy; which was read a first and second time, and referred to the Committee on Naval Affairs.

PENSIONS OF WIDOWS AND CHILDREN.

Mr. LINCOLN also introduced a bill (H. R. No. 1608) amendatory of the act of July 27, 1868, regulating pensions for the widows and minor children of deceased soldiers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

WASHINGTON MARKET COMPANY.

Mr. ROBINSON introduced a bill (H. R. No. 1609) to incorporate the Washington Market Company; which was read a first and second time, and referred to the Committee on Public Buildings and Grounds.

ANNA E. PETTY.

Mr. HAIGHT introduced a bill (H. R. No. 1610) for the relief of Anna E. Petty; which

was read a first and second time, and referred to the Committee on Invalid Pensions.

ANTHRACITE RAILROAD COMPANY.

Mr. MORRELL introduced a bill (H. R. No. 1611) to incorporate the Government Anthracite Railroad Company; which was read a first and second time, and referred to the Committee on Roads and Canals.

TAXES ON DISTILLED SPIRITS AND TOBACCO.

Mr. SCOFIELD introduced a bill (H. R. No. 1612) supplementary to an act entitled "An act imposing taxes on distilled spirits and tobacco, and for other purposes," approved July 20, 1868; which was read a first and second time, and referred to the Committee of Ways and Means.

GOLD CONTRACTS.

Mr. KELLEY introduced a bill (H. R. No. 1613) to authorize gold contracts on the basis of the relative value of gold and United States notes; which was read a first and second time, and referred to the Committee of Ways and Means.

POST ROUTES IN DELAWARE.

Mr. NICHOLSON introduced a bill (H. R. No. 1614) to establish certain post routes in the State of Delaware; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

JURISDICTION OF COURT OF CLAIMS.

Mr. HEATON introduced a bill (H. R. No. 1615) to repeal an act entitled "An act to restrict the jurisdiction of the Court of Claims, and to provide for the payment of certain claims for quartermaster's and subsistence supplies furnished to the Army of the United States," approved July 4, 1864, and to extend the statute of limitations in certain cases; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. DEWEESE introduced a joint resolution (H. R. No. 398) extending the jurisdiction of the Court of Claims to loyal citizens of North Carolina; which was read a first and second time, and referred to the Committee on the Judiciary.

REMOVAL OF DISABILITIES.

Mr. CORLEY introduced a bill (H. R. No. 1616) for the removal of the political disabilities of certain citizens of South Carolina; which was read a first and second time, and referred to the Committee on Reconstruction.

DISLOYAL TEXT-BOOKS.

Mr. CORLEY also introduced a joint resolution (H. R. No. 894) in reference to the introduction of disloyal text-books into the public schools of the United States; which was read a first and second time, and referred to the Committee on Education and Labor.

DISABILITIES OF S. T. ATKINSON.

Mr. WHITTEMORE introduced a bill (H. R. No. 1617) to relieve Samuel T. Atkinson, a citizen of South Carolina, of political or legal disabilities; which was read a first and second time, and referred to the Committee on Reconstruction.

ACTUAL SETTLERS ON PUBLIC LANDS.

Mr. WHITTEMORE also introduced a joint resolution (H. R. No. 396) requesting the Committee on the Public Lands to inquire into the expediency of a repeal of an act to protect the rights of actual settlers upon the public lands of the United States; which was read a first and second time, and referred to the Committee on the Public Lands.

SOUTH CAROLINA LAND SCRIP.

Mr. WHITTEMORE also introduced a joint resolution (H. R. No. 395) providing that land scrip issued to the State of South Carolina may be used for common school purposes; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

OFFICERS IN VIRGINIA AND TEXAS.

Mr. WHITTEMORE also introduced a joint resolution (H. R. No. 397) relative to persons holding civil offices in the provisional governments of Virginia and Texas; which was read a first and second time, and referred to the Committee on Reconstruction.

IMPROVEMENT OF SAVANNAH RIVER.

Mr. CLIFT introduced a bill (H. R. No. 1618) appropriating certain money for the improvement of the navigation of the Savannah river; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

DISABILITIES OF W. C. DILLON.

Mr. PRINCE introduced a bill (H. R. No. 1619) for the removal of the political disabilities of W. C. Dillon, of Georgia; which was read a first and second time, and referred to the Committee on Reconstruction.

EUREKA MINING, ETC., COMPANY.

Mr. NORRIS introduced a bill (H. R. No. 1620) making a grant of lands to the Eureka Mining and Transportation Company of Alabama; which was read a first and second time, and referred to the Committee on the Public Lands.

FOURTEENTH CONSTITUTIONAL AMENDMENT.

Mr. PIERCE introduced a bill (H. R. No. 1621) to carry into effect the fourteenth article of the amendment to the Constitution of the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

CORNELIUS JACKSON.

Mr. BUCKLEY introduced a bill (H. R. No. 1622) granting a pension to Cornelius Jackson; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MISSISSIPPI AND GULF CANAL.

Mr. SYPHER introduced a bill (H. R. No. 1623) for the construction of the Mississippi and Mexican Gulf ship-canal, and for other purposes; which was read a first and second time, and referred to the Committee on Roads and Canals.

TERRITORIAL ELECTIONS.

Mr. ASHLEY, of Ohio, introduced a bill (H. R. No. 1624) to preserve the purity of elections in the several Territories of the United States; which was read a first and second time, referred to the Committee on the Territories, and ordered to be printed.

BOUNDARIES OF NEVADA, NEBRASKA, ETC.

Mr. ASHLEY, of Ohio, also introduced a bill (H. R. No. 1625) concerning the boundaries of the States of Nevada, Minnesota, and Nebraska, and of the Territories of Colorado, Montana, and Wyoming; which was read a first and second time, referred to the Committee on the Territories, and ordered to be printed.

BOUNDARY OF NEW MEXICO.

Mr. ASHLEY, of Ohio, also introduced a bill (H. R. No. 1626) concerning the boundary of New Mexico; which was read a first and second time, referred to the Committee on the Territories, and ordered to be printed.

POLICE OF DISTRICT OF COLUMBIA.

Mr. WELKER introduced a bill (H. R. No. 1627) to establish a police force for the District of Columbia; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

CENTRE MARKET, WASHINGTON, D. C.

Mr. WELKER also introduced a bill (H. R. No. 1628) to provide for the removal of the Centre Market, in the city of Washington, and for the erection of a market building in a more suitable locality; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

POST ROUTE IN OHIO.

Mr. BUCKLAND introduced a bill (H. R. No. 1629) to extend post route No. 9147 from Berlinville, Ohio, to Norwalk, Ohio, via East Norwalk; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

THOMAS C. SIMMONS.

Mr. CLARKE, of Ohio, introduced a bill (H. R. No. 1630) granting a pension to Thomas C. Simmons; which was read a first and second time, and referred to the Committee on Invalid Pensions.

POST ROUTE IN OHIO.

Mr. VAN TRUMP introduced a bill (H. R. No. 1631) to establish a post route from Lancaster, Ohio, to Outville, in Licking county, Ohio, and to discontinue mail route No. 9227, from Lancaster to Hebron, Ohio; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

JOSEPH M. HUDSON.

Mr. WILSON, of Ohio, introduced a bill (H. R. No. 1632) granting a pension to Joseph M. Hudson; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JUDICIAL DISTRICTS IN KENTUCKY.

Mr. TRIMBLE, of Kentucky, introduced a bill (H. R. No. 1633) to divide the State of Kentucky into two judicial districts; which was read a first and second time, and referred to the Committee on the Judiciary.

REPEAL OF USURY LAWS.

Mr. McKEE introduced a bill (H. R. No. 1634) to repeal the usury laws in force in the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

CLAIMS AGAINST GOVERNMENT.

Mr. ARNELL introduced a bill (H. R. No. 1635) to authorize payment for work done upon military fortifications; which was read a first and second time, and referred to the Committee of Claims.

Mr. MULLINS introduced a joint resolution (H. R. No. 898) instructing the Committee of Ways and Means to consider the propriety of appointing commissioners, with rules and regulations to adjust, audit, and pay the accounts and claims of loyal citizens of Tennessee against the Government of the United States; which was read a first and second time, and referred to the Committee of Ways and Means.

OFFICE HOLDERS.

Mr. MULLINS also introduced a bill (H. R. No. 1636) to remove all unconstitutional office holders, to punish the same, and for other purposes; which was read a first and second time, referred to the Committee on Reconstruction, and ordered to be printed.

REVENUE LAWS.

Mr. BUTLER, of Tennessee, introduced a bill (H. R. No. 1637) to amend the revenue laws, and for other purposes; which was read a first and second time, and referred to the Committee on the Judiciary.

LUCY A. MILLER.

Mr. BUTLER, of Tennessee, also introduced a bill (H. R. No. 1638) for the relief of Lucy A. Miller; which was read a first and second time, and referred to the Committee on Invalid Pensions.

EDWARD F. SIZEMORE.

Mr. BUTLER, of Tennessee, also introduced a bill (H. R. No. 1639) for the relief of Edward F. Sizemore, of Tennessee; which was read a first and second time, and referred to the Committee on Invalid Pensions.

PREEMPTION LAWS.

Mr. JULIAN introduced a bill (H. R. No. 1640) amendatory of the preemption laws, and

for other purposes; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

LINCOLN MONUMENT, ILLINOIS.

Mr. JUDD introduced a bill (H. R. No. 1641) to authorize the Secretary of War to place at the disposal of the National Lincoln Monument Association, at Springfield, Illinois, damaged and captured ordnance, and provide for transportation; which was read a first and second time, and referred to the Committee on Military Affairs.

SUFFRAGE.

Mr. BROMWELL introduced a joint resolution (H. R. No. 399) to amend the Constitution of the United States in relation to the right of suffrage; which was read a first and second time, and referred to the Committee on the Judiciary.

WILLIAM A. SCOTT.

Mr. BURR introduced a bill (H. R. No. 1642) for the relief of William A. Scott, first lieutenant company F, fourteenth Illinois volunteers; which was read a first and second time, and referred to the Committee on Military Affairs.

THOMAS RIDGWAY.

Mr. BENJAMIN introduced a bill (H. R. No. 1643) for the relief of Thomas Ridgway; which was read a first and second time, and referred to the Committee on the Public Lands.

CATHARINE W. MURRAY.

Mr. BENJAMIN also introduced a bill (H. R. No. 1644) granting a pension to Catharine W. Murray, widow of Gilbert E. Murray, late captain twenty-first Missouri volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOHN A. BEALS.

Mr. GRAVELY introduced a bill (H. R. No. 1645) for the relief of John A. Beals, late of company M, third Iowa cavalry volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

CLAIMS OF LOYAL CITIZENS.

Mr. NEWCOMB introduced a bill (H. R. No. 1646) extending the act of July 4, 1864, limiting the jurisdiction of the Court of Claims, &c., to the loyal citizens of all the States now represented in Congress; which was read a first and second time, and referred to the Committee on Military Affairs.

TEST-OATHS IN POSTAL SERVICE.

Mr. ROOTS introduced a bill (H. R. No. 1647) to amend the laws relating to the Post Office Department which now require test-oaths of persons not paid by the Government; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

POST ROUTE IN IOWA.

Mr. LOUGHRIDGE introduced a bill (H. R. No. 1648) to establish a post route from Springfield, Iowa, to Victor, Iowa, and from South English to Talleyrand; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

WILLIAM H. NEEDHAM.

Mr. LOUGHRIDGE also introduced a bill (H. R. No. 1649) for the relief of Lieutenant William H. Needham, late of the twenty-second Iowa infantry; which was read a first and second time, and referred to the Committee on Military Affairs.

SUPERIOR AND STATE LINE RAILROAD.

Mr. HOPKINS introduced a bill (H. R. No. 1650) to grant lands to the Superior and State Line Railroad Company; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

LEGALIZATION OF LAND LOCATIONS.

Mr. AXTELL introduced a bill (H. R. No. 1661) to legalize certain land locations; which

was read a first and second time, and referred to the Committee on the Public Lands.

PREEMPTION AND HOMESTEAD SETTLERS.

Mr. CLARKE, of Kansas, introduced a bill (H. R. No. 1652) for the relief of certain preemption and homestead settlers along the original route of the Union Pacific railroad, eastern division; which was read a first and second time, and referred to the Committee on the Public Lands.

CENTRAL INDIAN RAILROAD COMPANY.

Mr. CLARKE, of Kansas, also introduced a bill (H. R. No. 1653) to incorporate the Central Indian Railroad Company, in the Indian territory; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

PAY OF FEDERAL EMPLOYEES.

Mr. CLARKE, of Kansas, also introduced a bill (H. R. No. 1654) to regulate the pay of persons in the employ of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

RAILROAD, ETC., ACROSS MISSOURI RIVER.

Mr. CLARKE, of Kansas, also introduced a bill (H. R. No. 1655) to grant a portion of the military reservation at Fort Leavenworth to aid in the construction of a railroad and wagon bridge across the Missouri river; which was read a first and second time, and referred to the Committee on Military Affairs.

RIGHT OF WAY TO RAILROADS.

Mr. CLARKE, of Kansas, introduced a bill (H. R. No. 1656) granting the right of way to certain railroads through the Territories of the United States, and for other purposes; which was read a first and second time, and referred to the Committee on the Pacific Railroad.

KANSAS TRIBE OF INDIANS.

Mr. CLARKE, of Kansas, also introduced a joint resolution (H. R. No. 403) authorizing the diversion of certain moneys appropriated for and belonging to the Kansas tribe of Indians; which was read a first and second time, and referred to the Committee on Indian Affairs.

UNITED STATES COURT IN NEVADA.

Mr. ASHLEY, of Nevada, introduced a bill (H. R. No. 1668) to amend an act entitled "An act providing for a district and circuit court of the United States for the district of Nevada, and for other purposes;" which was read a first and second time, and referred to the Committee on the Judiciary.

NATIONAL SCHOOL OF MINES.

Mr. ASHLEY, of Nevada, also introduced a bill (H. R. No. 1657) to aid in ascertaining the value of the public lands containing mineral lodes, and for the endowment of a national school of mines; which was read a first and second time, referred to the Committee on Mines and Mining, and ordered to be printed.

POST ROADS IN NEVADA.

Mr. ASHLEY, of Nevada, also introduced a bill (H. R. No. 1658) to establish certain post roads; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

POST ROADS IN COLORADO.

Mr. CHILCOTT introduced a bill (H. R. No. 1659) to establish certain post routes in the Territory of Colorado; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

ADMISSION OF COLORADO.

Mr. CHILCOTT also introduced a bill (H. R. No. 1660) to enable the people of Colorado to form a constitution and State government, and for the admission of said State into the Union on an equal footing with the original States; which was read a first and second

time, referred to the Committee on the Territories, and ordered to be printed.

JOHN H. ROGERS.

Mr. CAVANAUGH introduced a bill (H. R. No. 1661) for the relief of John H. Rogers; which was read a first and second time, and referred to the Committee of Claims.

POST ROADS IN MONTANA.

Mr. CAVANAUGH also introduced a bill (H. R. No. 1662) to establish certain post roads in the Territory of Montana; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

FOREIGN FINANCIAL AGENT.

Mr. BANKS introduced a bill (H. R. No. 1663) to provide for the appointment of a financial agent of the United States in foreign countries; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed with the accompanying papers.

NATIONAL ART UNION ASSOCIATION.

Mr. BANKS also introduced a bill (H. R. No. 1664) for the incorporation of the National Art Union Association of the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

ADMINISTRATION OF JUSTICE IN VIRGINIA.

Mr. BUTLER, of Massachusetts, introduced a joint resolution (H. R. No. 400) to aid in the administration of justice in Virginia; which was read a first and second time, referred to the Committee on Reconstruction, and ordered to be printed.

INTERNAL REVENUE LAWS.

Mr. HOOPER, of Massachusetts, introduced a bill (H. R. No. 1665) to amend the internal revenue laws; which was read a first and second time, and referred to the Committee of Ways and Means.

GOVERNMENT OF CUBA.

Mr. ROBINSON introduced a joint resolution (H. R. No. 401) providing for the independence of Cuba or securing the annexation thereof to the United States; which was read a first and second time, and referred to the Committee on Foreign Affairs.

The SPEAKER. The call of the States for bills, &c., having been completed, the remainder of the morning hour will be occupied in calling the States for resolutions, during which bills and joint resolutions may be introduced, commencing with the State of Tennessee, where the call rested on the 14th of December last.

TENURE OF OFFICE.

Mr. WASHBURN, of Indiana, introduced a bill (H. R. No. 1666) to repeal an act regulating the tenure of certain civil offices; which was read a first and second time.

Mr. BUTLER, of Massachusetts. I desire to say a single word. I offered a similar bill, which was referred to the Committee on the Judiciary, which committee cannot be called this session. Everybody has his mind made up on the subject of the repeal of this law, and I hope we shall come to a vote on this bill at once.

Mr. WASHBURN, of Indiana. I call the previous question.

The bill was read. It provides that an act regulating the tenure of certain civil offices, passed March 2, 1867, be, and the same is hereby, repealed.

Mr. FARNSWORTH. Is a motion to refer that bill in order?

The SPEAKER. Not pending the demand for the previous question.

Mr. FARNSWORTH. It will be if the previous question is voted down?

The SPEAKER. It will.

Mr. ARNELL called for tellers on seconding the previous question.

Tellers were not ordered.

The question was put; and there were—ayes 89, noes 22.

So the previous question was seconded.

The question recurred upon ordering the main question to be now put.

Mr. WARD. Does this bill come as a report from any committee?

The SPEAKER. It was introduced by the gentleman from Indiana, [Mr. WASHBURN,] on this call.

Mr. WILSON, of Iowa. I desire to state to the gentleman from New York that a majority of the Committee on the Judiciary have agreed to report a bill repealing the tenure-of-office law.

Mr. WARD. It seems to me that a bill of this importance ought to be discussed.

Mr. WASHBURN, of Illinois. I call for the regular order.

The SPEAKER. Debate is not in order.

Mr. BENJAMIN. I call for the yeas and nays on ordering the main question.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 116, nays 47, not voting 58; as follows:

YEAS—Messrs. Allison, Anderson, Axtell, Bailey, Baldwin, Banks, Barnum, Beaman, Beck, Bingham, Blaine, Blair, Boutwell, Bowen, Boyden, Buckley, Burr, Benjamin F. Butler, Roderick R. Butler, Callis, Cary, Chanler, Reader W. Clarke, Sidney Clarke, Clift, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Deweese, Dixon, Driggs, Eckley, Eldridge, Fields, Fox, Getz, Golladay, Gove, Gravely, Griswold, Grover, Haight, Haughey, Heaton, Hooper, Hopkins, Hotchkiss, Humphrey, Hunter, Ingersoll, Johnson, Alexander H. Jones, Thomas L. Jones, Judd, Julian, Kelley, Kellogg, Kerr, Ketcham, Knott, Lash, George V. Lawrence, Lincoln, Loughridge, Mallory, Marvin, McCormick, McCullough, Miller, Mungen, Newsham, Niblack, Nicholson, Norris, O'Neill, Peters, Pettis, Phelps, Plants, Polsley, Price, Prince, Robertson, Robinson, Roots, Sawyer, Scofield, Sitgreaves, Spalding, Starkweather, Stevens, Stewart, Stone, Stover, Sypher, Taber, Thomas, Tift, Lawrence S. Trimble, Trowbridge, Twichell, Van Auker, Van Trump, Vidal, Elihu B. Washburne, Henry D. Washburn, William Williams, James F. Wilson, John T. Wilson, Windom, Woodbridge, Woodward, and Young—116.

NAYS—Messrs. Ames, Arnell, Delos R. Ashley, Baker, Beatty, Benjamin, Benton, Boles, Bromwell, Buckland, Churchill, Corley, Delano, Ela, Farnsworth, Ferriss, French, Garfield, Harding, Higby, Jencks, Kelsey, Kitchen, Ladin, Maynard, McCarthy, McKee, Mercer, Moore, Moorhead, Morrell, Mullins, Newsham, Perham, Pike, Poland, Polsley, Pomeroy, Schenck, Shanks, Shellabarger, Stokes, Taffe, John Trimble, Upson, Ward, Welker, and Whittmore—47.

NOT VOTING—Messrs. Adams, Archer, James M. Ashley, Barnes, Blackburn, Boyer, Brooks, Broomall, Cake, Dickey, Dockery, Dodge, Donnelly, Edwards, Eggleston, Eliot, Ferry, Glossbrenner, Goss, Halsey, Hamilton, Hawkins, Hill, Holman, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Koonz, William Lawrence, Loan, Logan, Lynch, Marshall, Morrissey, Myers, Nunn, Orth, Pierce, Pile, Pruyn, Randall, Raum, Ross, Selye, Smith, Taylor, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Cadwalader C. Washburn, William B. Washburn, Thomas Williams, Stephen F. Wilson, and Wood—58.

So the main question was ordered to be put.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. WASHBURN, of Indiana, moved the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. MAYNARD demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 121, nays 47, not voting 53; as follows:

YEAS—Messrs. Allison, Anderson, Axtell, Bailey, Baldwin, Banks, Barnum, Beaman, Beck, Bingham, Blaine, Blair, Boutwell, Bowen, Boyden, Buckley, Burr, Benjamin F. Butler, Roderick R. Butler, Callis, Cary, Chanler, Reader W. Clarke, Sidney Clarke, Clift, Cobb, Coburn, Cook, Corley, Cornell, Cullom, Dawes, Deweese, Dixon, Driggs, Eckley, Eldridge, Eliot, Fields, Fox, Getz, Golladay, Gove, Griswold, Grover, Haight, Halsey, Haughey, Heaton, Hooper, Hopkins, Hotchkiss, Humphrey, Hunter, Ingersoll, Johnson, Alexander H. Jones, Thomas L. Jones, Judd, Julian, Kelley, Kellogg, Kerr, Ketcham, Knott, Lash, George V. Lawrence, Lincoln, Loughridge, Miller, Mungen, Newcomb, Niblack, Nicholson, Norris, O'Neill, Paine, Peters, Pettis, Phelps, Plants, Price, Prince, Robertson, Robinson, Roots, Sawyer, Scofield, Sitgreaves, Spalding, Starkweather, Stevens, Stewart, Stone, Stover, Sypher, Taber, Thomas, Tift, Lawrence S.

Trimble, Trowbridge, Twichell, Van Auker, Van Trump, Vidal, Elihu B. Washburne, Henry D. Washburn, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, Woodbridge, Woodward, and Young—121.

NAYS—Messrs. Ames, Arnell, Delos R. Ashley, Baker, Beatty, Benjamin, Benton, Boles, Bromwell, Buckland, Churchill, Delano, Ela, Farnsworth, Ferriss, French, Garfield, Harding, Higby, Jencks, Kelsey, Kitchen, Ladin, Maynard, McCarthy, McKee, Mercer, Moore, Moorhead, Morrell, Mullins, Newsham, Perham, Pike, Poland, Polsley, Pomeroy, Schenck, Shanks, Shellabarger, Stokes, Taffe, John Trimble, Upson, Ward, Welker, and Whittmore—47.

NOT VOTING—Messrs. Adams, Archer, James M. Ashley, Barnes, Blackburn, Boyer, Brooks, Broomall, Cake, Covode, Dickey, Dockery, Dodge, Donnelly, Edwards, Eggleston, Ferry, Gravely, Hamilton, Hawkins, Hill, Holman, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Koonz, William Lawrence, Loan, Logan, Lynch, Marshall, Morrissey, Myers, Nunn, Orth, Pierce, Pile, Pruyn, Randall, Raum, Ross, Selye, Smith, Taylor, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Cadwalader C. Washburn, William B. Washburn, Thomas Williams, and Wood—53.

So the bill was passed.

Mr. WASHBURN, of Indiana, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MRS. H. L. GATES.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, asking the favorable attention of Congress to the claim of Mrs. H. L. Gates, widow of the late Brevet Brigadier General William Gates, an officer of the Army for sixty-two years, for a difference of pay due said officer; which was referred to the Committee on Military Affairs.

DR. SETH W. LANGDON.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting a report of the Adjutant General of the Army upon the claim of Dr. Seth W. Langdon, of Vermont, for medical services rendered the United States at the draft rendezvous at New Haven, Connecticut, in response to a request of the Committee on Military Affairs; which was referred to the Committee on Military Affairs.

NATIONAL CEMETERIES.

The SPEAKER also laid before the House a communication from the Secretary of War, in compliance with the act of February 22, 1867, transmitting the report of Brevet Major General L. Thomas on the national cemeteries of the United States, with remarks thereon by the Quartermaster General of the United States Army; which was referred to the Committee on Military Affairs, and ordered to be printed.

POSTAL TELEGRAPH.

The SPEAKER also laid before the House a communication from the Postmaster General, transmitting a report by Gardiner G. Hubbard, of Boston, with draft of bill and other papers, relative to the establishment of a cheap system of postal telegraph; which was referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

JONES VS. MANN—ELECTION CONTEST.

The SPEAKER also laid before the House additional testimony in the contested-election case of Simon Jones vs. James Mann, of Louisiana; which was referred to the Committee of Elections.

LEAVE OF ABSENCE.

Leave of absence for three days was granted to Mr. BOWEN.

CONSULAR, ETC., APPROPRIATION BILL.

The SPEAKER. The morning hour has now expired, and the House resumes the consideration of the amendments reported from the Committee of the Whole to the consular and diplomatic appropriation bill, upon which the gentleman from Illinois [Mr. WASHBURN] is entitled to the floor.

Mr. FARNSWORTH. Will my colleague yield to me to offer a resolution?

Mr. WASHBURN, of Illinois. After the consular bill shall have been disposed of, I propose to go into Committee of the Whole on the naval appropriation bill. Before doing so, however, I will yield to gentlemen to get in some business they desire to introduce.

Mr. FARNSWORTH. I want to introduce a resolution for a committee of investigation on some post office matters that have already been referred to in debate here.

Mr. WASHBURN, of Illinois. If I yield at all for such a purpose it will be to the gentleman from New Hampshire, [Mr. ELA.]

Mr. SCHENCK. I call for the regular order.

The SPEAKER. The consular appropriation bill is the regular order, it having been the special order in Committee of the Whole.

Mr. WASHBURN, of Illinois. The Committee of the Whole, when considering the consular appropriation bill, struck out two or three sections upon points of order raised by gentlemen. I believe every gentleman in the House concedes that the sections were right; but as they were not strictly in order under the rules, they were excluded upon points of order. I therefore propose to offer as a substitute for the bill as reported from the Committee of the Whole, an amended bill, which shall embrace those sections which were excluded upon points of order. That substitute, which I hold in my hand, is the bill reported from the Committee on Appropriations, with some formal changes in reference to consulates which by mistake had been put in the wrong schedule, and a consulate which had been omitted by mistake. There was an informal vote making a new consulate at Valencia, Spain; but the gentleman who moved that amendment is now satisfied that it may be properly left out. I therefore offer the substitute I have indicated.

The SPEAKER. That requires unanimous consent, as it contains some matter not in order under the rules.

Mr. JENCKES. I object.

Mr. WASHBURN, of Illinois. Then I move that the rules be suspended, in order that I may be allowed to offer the substitute I have indicated.

Mr. SCHENCK. I desire to inquire whether the bill which it is proposed to adopt as a substitute does not contain three or four sections which have been ruled out of order?

Mr. WASHBURN, of Illinois. That is what I have stated.

Mr. SCHENCK. The object is, then, to suspend the rules to get in that which is out of order.

Mr. WASHBURN, of Illinois. The object of suspending the rules is, as a matter of course, to make the substitute in order.

Mr. FARNSWORTH. I understand that my colleague [Mr. WASHBURN] does not in his substitute strike out any of the amendments which were adopted in Committee of the Whole.

Mr. WASHBURN, of Illinois. None that were adopted, with the exception of that in regard to a consulate at Valencia. The gentleman from New York, [Mr. KELSEY,] my colleague on the committee, who offered that amendment, came to the conclusion after hearing an explanation that a consulate ought not to be established at that place.

Mr. MAYNARD. Has the substitute been printed?

Mr. WASHBURN, of Illinois. The substitute is the bill as originally reported, with the amendment suggested by the gentleman from Vermont [Mr. POLAND] in relation to the collection of fees on vessels in Canada.

Mr. MUNGEN. I call for the reading of the substitute.

The Clerk proceeded to read the substitute, which is as follows:

Strike out all after the enacting clause, and insert the following:

That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the objects hereinafter expressed, for the fiscal year ending the 30th of June, 1870, namely:

For salaries of envoys extraordinary, ministers, and commissioners of the United States at Great Britain, France, Russia, Prussia, Spain, Austria, Brazil, Mex-

ico, China, Italy, Chili, Peru, Portugal, Switzerland, Greece, Belgium, Holland, Denmark, Sweden, Turkey, Ecuador, New Granada, Bolivia, Venezuela, Guatemala, Nicaragua, Sandwich Islands, Costa Rica, Honduras, Argentine Confederation, Paraguay, Uruguay, Japan, and Salvador, \$316,000: *Provided*, That the minister accredited to the Government of Nicaragua shall also be accredited to the Governments of Honduras, Guatemala, San Salvador, and Costa Rica, and shall receive as compensation \$9,000 a year, with a secretary of legation, who shall receive a salary of \$1,500 a year, and no more.

The minister at New Granada shall also be accredited to the Governments of Venezuela and Ecuador, and shall receive a salary of \$7,500 a year, with a secretary of legation, who shall receive a salary of \$1,500 a year, and no more.

The minister at Uruguay shall also be accredited to the Argentine Confederation, and shall receive a salary of \$7,500 a year, and no more, with a secretary of legation, who shall receive a salary of \$1,500 a year, and no more.

The minister at Peru shall also be accredited to the Governments of Chili and Bolivia, and shall receive a salary of \$10,000 a year, with a secretary of legation, who shall receive a salary of \$1,000 a year, and no more.

For salaries of secretaries of legation, as follows:

At London and Paris, \$2,625 each.
At St. Petersburg, Madrid, Berlin, Florence, Vienna, Rio Janeiro, and Mexico, \$1,800 each.

For salaries of assistant secretaries of legation at London and Paris, \$2,000 each.

For salary of the interpreter to the legation to China, \$5,000.

For salary of the secretary of legation to Turkey, acting as interpreter, \$3,000.

For salary of the interpreter to the legation to Japan, \$2,500.

For contingent expenses of all the missions abroad, \$50,000.

For contingent expenses of foreign intercourse, \$50,000.

For expenses of the consulates in the Turkish dominions, namely, interpreters, guards, and other expenses of the consulates at Constantinople, Smyrna, Candia, Alexandria, and Beirut, \$2,500.

For the relief and protection of American seamen in foreign countries, per act of February 18, 1803, and February 28, 1811, \$50,000.

For expenses which may be incurred in acknowledging the services of the masters and crews of foreign vessels in rescuing citizens of the United States from shipwreck, \$5,000.

For the purchase of blank-books, stationery, book-cases, arms of the United States, seals, presses, and flags, and for the payment of postages and miscellaneous expenses of the consuls of the United States, including loss by exchange, \$40,000.

For office rent for those consuls general, consuls, and commercial agents who are not allowed to trade, including loss by exchange thereon, \$45,000; and there shall be allowed out of the fees of the office \$1,000 per annum, and no more, for rent of the consular offices at Paris.

For salaries of consuls general, consuls, commercial agents, and thirteen consular clerks, including loss by exchange thereon, \$400,000, namely:

I. CONSULATES GENERAL.

Schedule B.

Alexandria, Calcutta, Constantinople, Frankfort-on-the-Main, Havana, Montreal, Shanghai, Beirut, Tampico, and on and after the 4th of March, 1869, the consulates at Paris and London shall be known and designated as consulates general.

II. CONSULATES.

Schedule B.

Aix-la-Chapelle, Algiers, Amoy, Amsterdam, Antwerp, Aspinwall, Bangkok, Basle, Belfast, Buenos Ayres, Bordeaux, Bremen, Brindisi, Boulogne, Barcelona, Cadiz, Callao, Canton, Chemnitz, Chin King, Chio, Cointique, Cork, Demerara, Dundee, Elsinore, Port Erie, Eoo-Choo, Kunchin, Geneva, Genoa, Gibraltar, Glasgow, Godrich, Halifax, Hamburg, Havre, Honolulu, Hong-Kong, Hankow, Jerusalem, Kanagawa, Kingston, (Jamaica,) Kingston in Canada, La Rochelle, Laguayra, Lahaina, Leeds, Leghorn, Leipzig, Lisbon, Liverpool, London, Lyons, Malaga, Malta, Manchester, Matanzas, Marseilles, Mauritius, Melbourne, Messina, Moscow, Munich, Nagasaki, Naples, Nassau, (West Indies,) Newcastle, Niue, Nantes, Odessa, Oporto, Palermo, Panama, Paris, Pernambuco, Pictou, Port Mahon, Prescott, Prince Edward Island, Quebec, Revel, Rio de Janeiro, Rotterdam, San Juan del Sur, San Juan, (Porto Rico,) Saint John, (Canada East,) Santiago de Cuba, Port Sarria, Rome, Singapore, Smyrna, Southampton, Saint Petersburg, Santa Cruz, (West Indies,) Saint Thomas, Spezzia, Stuttgart, Swatow, Saint Helena, Tangier, Toronto, Trieste, Trinidad, Cuba, Tripoli, Tunis, Turk's Island, Valparaiso, Vera Cruz, Vienna, Windsor, Zurich. And there shall be appointed a consul at Birmingham at an annual salary of \$2,500; and a consul at Tunstall at an annual salary of \$1,500; and a consul at Barmon at an annual salary of \$1,500.

III. COMMERCIAL AGENCIES.

Schedule B.

Madagascar, San Juan del Norte, Saint Domingo.

IV. CONSULATES.

Schedule C.

Aux Cayes, Bahia, Batavia, Bay of Islands, Cape Haytien, Caudia, Cape Town, Carthagena, Ceylon, Cobija, Cyprus, Falkland Islands, Fayal, Guayaquil, Guayamas, Maranhao, Matamoros, Mexico, Montevideo, Omoa, Payta, Para, Paso del Norte, Piraenus, Rio Grande, Saint Catharine, Saint Pierre, (Martinique,) Saint John, (Newfoundland,) Santiago, (Cape

Verd,) Stettin, Tabasco, Tahiti, Talcahuano, Tumbes, Venice, Zanzibar.

V. COMMERCIAL AGENCIES.

Schedule C.

Amoor river, Apia, Belize, Gaboon, Saint Paul de Loanda, Lanthala, Sabanilla.

For interpreters to the consulates in China, Japan, and Siam, including loss by exchange thereon, \$5,800.

For expenses incurred, under instructions from the Secretary of State, in bringing home from foreign countries persons charged with crime, and expenses incident thereto, \$10,000.

For salaries of the marshals for the consular courts in Japan, including that at Nagasaki, and in China, Siam, and Turkey, including loss by exchange thereon, \$9,000.

For rent of prisons for American convicts in Japan, China, Siam, and Turkey, and for wages of the keepers of the same, \$9,000.

For salaries of ministers resident and consuls general to Hayti and Liberia, \$11,500.

For expenses under the act of Congress to carry into effect the treaty between the United States and her Britannic Majesty for the suppression of the African slave trade, \$12,500.

For expenses under the neutrality act, \$10,000.

For the payment of the fifth annual installment of the proportion contributed by the United States toward the capitalization of the Scheldt dues, to fulfill the stipulations contained in the fourth article of the convention between the United States and Belgium, of the 20th of May, 1863, the sum of \$55,584 in coin, and such further sum as may be necessary to carry out the stipulation of the convention providing for payment of interest on the said sum and on the portion of the principal remaining unpaid.

Sec. 2. *And be it further enacted*, That no diplomatic or consular officer shall receive salary for the time during which he may be absent from his post (by leave or otherwise) beyond the term of sixty days in any one year: *Provided*, That the time equal to that actually occupied in transmitting mail matter to and from their respective posts to Washington may be allowed in addition to said sixty days; and section three of act of March 30, 1868, is hereby repealed.

Sec. 3. *And be it further enacted*, That the fee provided by law for the verification of invoices by consular officers shall, when paid, be held to be a full payment for furnishing blank forms of declaration to be signed by the shipper, and for making, signing, and sealing the certificate of the consular officer thereto; and any consular officer who, under pretense of charging for blank forms, advice, or clerical services in the preparation of such declaration or certificate, shall charge or receive any fee greater in amount than that provided by law for the verification of invoices, or who shall demand or receive for any official service, or who shall allow any clerk or subordinate to receive for any such service, any fee or reward other than the fee provided by law for such service, shall be deemed guilty of a misdemeanor, and shall be dismissed from office, and on conviction before any court of the United States having jurisdiction of like offenses be punished by imprisonment not exceeding one year, or by fine not exceeding \$2,000. And hereafter no consul, vice consul, or consular agent in the Dominion of Canada shall be allowed tonnage fees for any services, actual or constructive, rendered any vessel owned and registered in the United States that may touch at a Canadian port. And hereafter in cases of vessels making regular daily trips between any port of the United States and any port in the Dominion of Canada, wholly upon interior waters not navigable to the ocean, no tonnage or clearance fees shall be charged against such vessels by the officers of the United States, except upon the first clearing of said vessel in each year.

Sec. 4. *And be it further enacted*, That the Secretary of the Treasury shall be authorized, in his discretion, to cause examinations to be made into the accounts of the consular officers of the United States, and into all matters connected with the business of their said offices, and to that end he may appoint such agent or agents as may be necessary for that purpose; and any agent, when so appointed, under the seal of the Treasury Department, shall, for the purpose of making such examinations, have authority to administer oaths and take testimony, and shall have access to all the books and papers of all consular officers. And any agent appointed in this behalf shall be paid for his services a just and reasonable compensation, not exceeding five dollars per day for the time necessarily employed, in addition to his actual necessary expenses, the same to be paid out of the fund appropriated for the expenses of collecting the revenue, but no greater sum than \$5,000 shall be expended as compensation of such agent or agents in any one year. And the Secretary of the Treasury shall communicate to Congress, at the commencement of every December session, the names of the agents so appointed, and the amount paid to each, together with the reports of such agents.

Sec. 5. *And be it further enacted*, That any consular officer of the United States who shall neglect to render true and just quarterly accounts and returns of the business of his office and of moneys received by him for the use of the United States, or who shall neglect to pay over any balance of such moneys which may be due to the United States at the expiration of any quarter, before the expiration of the next succeeding quarter, shall be deemed guilty of embezzlement of the public moneys, and shall, on conviction thereof, before any court of the United States having jurisdiction of like offenses, be punished by imprisonment not exceeding one year and by a fine not exceeding \$2,000, and shall be forever disqualified from holding any office of trust or profit in the United States.

Sec. 6. *And be it further enacted*, That no consul general or consul now holding, or who shall hereafter hold, either of said offices, shall be permitted to hold the office of consul general or consul at any other consulate, or exercise the duties thereof; and hereafter there shall only be allowed to any vice consul or consular agent for expenses thereof an amount sufficient to pay for stationery and postage on official letters.

Sec. 7. *And be it further enacted*, That the entire expense of prison and prison-keepers at the consulate of Bangkok, in Siam, shall hereafter not exceed the sum of \$1,000 annually; and the salary of the interpreter shall not exceed the sum of \$500 annually; and no salary shall hereafter be allowed the marshal at that consulate; and the annual salary of the consul at Bangkok shall hereafter be \$5,000.

Mr. MUNGEN, (before the reading of the substitute was concluded.) I withdraw my demand for the reading of the substitute.

The SPEAKER. The question is on the motion to suspend the rules, for the purpose of adopting the substitute for the bill reported from the Committee of the Whole, so that the question may be taken on the passage of this substitute, instead of the bill reported by the Committee of the Whole.

Mr. SCHENCK. I desire to make an inquiry. I wish to know whether the proposition is to suspend the rules that this substitute may be offered and at the same time adopted, so that by one vote we suspend the rules and pass the bill?

The SPEAKER. The Chair does not so understand the motion. It is to suspend the rules to adopt a substitute for the bill reported from the Committee of the Whole, so that the question may afterward be taken on the passage of this substitute.

Mr. SCHENCK. Then the amount of the matter is this: not liking the action of the House, not liking the disposition made of amendments which were rejected as not being in order, the gentleman from Illinois offers a new bill embodying what was originally presented by the committee, and proposes by one vote to get it through the House without reading as a substitute for the bill passed in the Committee of the Whole.

The SPEAKER. The points of order having been reserved in the House upon this bill, the chairman of the Committee of the Whole ruled out the third, fourth, and fifth sections of the printed bill, as out of order under the one hundred and twentieth rule. Those sections, therefore, are not in the bill as reported from the Committee of the Whole. The object of this motion to suspend the rules is to reincorporate those sections in the bill.

Mr. SCHENCK. So I understand—to put through the original bill in this indirect way.

Mr. WASHBURN, of Illinois. The only objection of my friend from Ohio [Mr. SCHENCK] to the sections stricken out in the Committee of the Whole was that they were not in order under the rules. I now move to suspend the rules, to obviate that objection.

Mr. SCHENCK. The gentleman has not quite understood me. I think there is good matter in these sections, but that they have nothing whatever to do with a report from the Committee on Appropriations; and if we abandon our rules and allow general legislation—

Mr. SPALDING. I object to debate.

The SPEAKER. The motion to suspend the rules is not debatable.

Mr. SCHENCK. Then, I inquire, Mr. Speaker, whether it is not possible to make objection to that portion of the substitute which is out of order?

The SPEAKER. It is not. The motion to suspend the rules is for the purpose of obviating that very objection.

Mr. SCHENCK. For the purpose of getting in those sections out of order.

On the motion to suspend the rules there were—ayes 59, noes 30; no quorum voting.

Tellers were ordered; and the Chair appointed Messrs. WASHBURN, of Illinois, and SCHENCK.

The House divided; and the tellers reported—ayes 88, noes 28.

So (two thirds having voted in favor thereof)

the rules were suspended, and the bill was taken up.

Mr. WASHBURN, of Illinois. I move the previous question on the passage of the bill.

The previous question was seconded and the main question ordered; and under the operation thereof the bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. WASHBURN, of Illinois. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, and take up the naval appropriation bill; and pending that motion I yield, according to promise, to the gentleman from New Hampshire, [Mr. ELA.]

Mr. POMEROY. I object.

Mr. WASHBURN, of Illinois. Then I withdraw the motion.

WELLS, FARGO AND COMPANY.

Mr. ELA. I move to suspend the rules for the purpose of offering the following resolution:

Resolved, That a special committee of five be appointed to investigate all matters connected with the contracts of Wells, Fargo & Co. for carrying the overland mails, and also the manner in which the mail service has been performed, and whether any mail service has been increased which was not warranted, and if so to what extent; and whether any money has been paid to contractors without certificate of service performed, and if so to whom and by whose order and to what extent; with power to send for persons and papers, and to employ a clerk and stenographer, and report at any time.

And be it further resolved, That the proper officers of the Treasury Department be requested to make no payment to said Wells, Fargo & Co. on their said contract till the matters connected therewith shall be fully investigated.

Mr. POMEROY. Allow me one moment. To part of the resolution there is no objection; that is, so far as the investigation is concerned. But as regards stopping the payment of moneys under the Government contract, it would be very extraordinary, it seems to me, to order it to be done without any discussion of the merits of the question.

Mr. WASHBURN, of Illinois. There is no contract which has been performed.

Mr. POMEROY. There has been a contract performed, and more service performed than the moneys due to-day will cover. The company is at a loss to-day for the Government moneys due under the contract, as can be shown to the satisfaction of this House in a debate on the subject. So far as the investigation of the contract is concerned, I wish to have it done; but I do not want, under cover of that proposition, to deprive the company of moneys legally earned and at a loss to them in doing this very service. If the resolution may be divided I have no objection to interpose.

The SPEAKER. It cannot be divided under the motion to suspend the rules.

Mr. WASHBURN, of Illinois. I hope the House will adopt the resolution and suspend the payment. It will take only thirty days, any how.

Mr. FARNSWORTH. I desire myself to have the contract investigated, though I see there has been some innuendoes sent out that I oppose the investigation. I tried to get the floor this morning for the purpose of offering a resolution for the appointment of a special committee, intending to say that I did not wish to be appointed on that committee.

Mr. SCOFIELD. Is this debatable?

The SPEAKER. Only by unanimous consent.

Mr. SCOFIELD. I object.

The SPEAKER. Does the gentleman from New Hampshire move to suspend the rules simply to introduce the resolution, or for the purpose of agreeing to it as well?

Mr. ELA. For the purpose of agreeing to it.

Mr. FARNSWORTH. I desire to ask if any member or Delegate interested in this mail service desires this to be done? So far as I know there is none.

Mr. WASHBURN, of Illinois. I demand the yeas and nays on suspending the rules.

The yeas and nays were ordered.

Mr. ELA. I will modify the resolution by striking out the last clause, "till the matters connected herewith shall be fully investigated," and substituting therefor the words "during the next thirty days."

The question was taken; and there were—yeas 88, nays 55, not voting 78; as follows:

YEAS—Messrs. Allison, Anderson, Arnell, Delos R. Ashley, Baker, Baldwin, Beaman, Beatty, Benjamin, Bingham, Blair, Boies, Boutwell, Bowen, Boyden, Buckland, Burr, Roderick B. Butler, Callis, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Corley, Cornell, Culom, Dawes, Delano, Dixon, Dockery, Ela, Fields, French, Getz, Goss, Gravely, Halscy, Hawkins, Heaton, Chester D. Hubbard, Hubbard, Hunter, Alexander H. Jones, Judd, Julian, Kelly, Kelsey, Kitchen, Loughridge, McCarthy, Miller, Moore, Moorhead, Mullins, Newcomb, Paine, Perham, Pierce, Pike, Plants, Polesley, Price, Prince, Sawyer, Scofield, Shanks, Shellabarger, Spaulding, Sower, Sypher, Taffe, Thomas, Tift, John Trimble, Trowbridge, Upson, Bart Van Horn, Van Trump, Vidal, Ward, Elihu B. Washburne, Henry D. Washburn, Welker, Whittemore, William Williams, Windom, and Woodward—88.

NAYS—Messrs. Axtell, Banks, Barnum, Beck, Cary, Chandler, Clift, Eldridge, Elliot, Farnsworth, Ferriss, Fox, Glossbrenner, Golladay, Griswold, Grover, Haight, Harding, Higby, Hotchkiss, Humphrey, Ingersoll, Johnson, Thomas L. Jones, Ketcham, Knott, Lincoln, Mallory, Marvin, Maynard, McCullough, McKee, Mercer, Morrell, Mungen, Niblack, Nicholson, Norris, O'Neill, Peters, Poland, Pomeroy, Robertson, Robinson, Roots, Stewart, Stokes, Taber, Lawrence S. Trimble, Twichell, Van Aernam, Van Auker, Stephen F. Wilson, Woodbridge, and Young—55.

NOT VOTING—Messrs. Adams, Ames, Archer, James M. Ashley, Bailey, Barnes, Benton, Blackburn, Blaine, Boyer, Byrnmwell, Brooks, Broomall, Buckley, Benjamin F. Butler, Calk, Coburn, Covode, Deweese, Dickey, Dodge, Donnelly, Driggs, Eckley, Edwards, Eggleston, Ferry, Garfield, Gove, Hamilton, Haunhey, Hill, Holman, Hooper, Hopkins, Asahel H. Hubbard, Richard D. Hubbard, Jones, Kellogg, Kerr, Koontz, Ladin, Lash, George V. Lawrence, William Lawrence, Loan, Logan, Lynch, Marshall, McCormick, Morrissey, Myers, Nowsham, Nunn, Orth, Pettis, Phelps, Pile, Pruyn, Randall, Raum, Ross, Schenck, Selye, Sitgreaves, Smith, Starkweather, Stevens, Stone, Taylor, Robert T. Van Horn, Van Wyck, Cadwalader C. Washburn, William B. Washburn, Thomas Williams, James F. Wilson, John T. Wilson, and Wood—78.

So (two thirds not voting in favor thereof) the rules were not suspended.

Mr. BOUTWELL obtained the floor.

Mr. FARNSWORTH. I ask the gentleman from Massachusetts to give way to me to offer a resolution for the appointment of a committee to investigate this matter, without the other part of the resolution.

Mr. WASHBURN, of Illinois. What will be the use of investigating when the money is taken?

Mr. FARNSWORTH. It is not investigation the gentleman wants; that is the trouble. It is investigation we want. We want facts. My colleague does not.

Mr. WASHBURN, of Illinois. I understand what kind of an investigation my colleague wants.

Mr. FARNSWORTH. I want facts, not hearsay; I want affidavits, not innuendoes.

SUFFRAGE.

Mr. BOUTWELL. I must decline to yield. I desire for a moment to get the attention of the House to a report from the Judiciary Committee of a joint resolution proposing an amendment to the Constitution of the United States, and also a bill as a substitute for House bill 1463, which was referred to the committee, entitled "An act to secure equal privileges and immunities to citizens of the United States," &c., relating to the subject of suffrage. I wish to have them accepted this morning, ordered to be printed, and recommitted to the committee, on which motion I propose to enter a motion to reconsider, with the understanding that the motion to reconsider will not be taken up under a week or ten days. The gentleman from Wisconsin, [Mr. ELDRIDGE], who is a member of the Judiciary Committee, and represents the minority of the House, is content with this arrangement. I do not know whether he is

now in his seat or not; but it is satisfactory to him, and I hope will be to all the members of the House.

The SPEAKER. Is there objection?

Mr. BECK. I object.

Mr. BOUTWELL. I move to suspend the rules. I think the gentleman from Kentucky will withdraw his objection if he understands that our purpose is not to take up these matters under a week or ten days, and we then propose to give reasonable opportunity for debate.

Mr. WASHBURN, of Illinois. I desire, in the first place, to inquire of the gentleman from Massachusetts if this business is to go outside the morning hour?

Mr. BOUTWELL. Yes, sir.

Mr. WASHBURN, of Illinois. I shall object unless it is confined to the morning hour.

Mr. ELIOT. I hope the morning hour will be kept for reports of committees.

Mr. WASHBURN, of Illinois. This is a report from a committee.

Mr. ELIOT. It ought not to come up out of its order. We shall not be able to go through the call of committees this session, and I hope the House will insist upon it that the morning hour shall be preserved for that business.

The SPEAKER. The Chair will state to the House that without the morning hour shall be preserved the committees, in all probability, cannot be called through this session.

Mr. BOUTWELL. I think there will be sufficient time for the consideration of this matter outside of the morning hour.

Mr. ELIOT. Very well; let that be the understanding before we vote.

Mr. WASHBURN, of Illinois. I object to that, because we need all the time outside of the morning hour for the consideration of public business, the appropriation bills.

Mr. GARFIELD. I must object to the proposition of the gentleman from Massachusetts [Mr. BOUTWELL] if it is to take the morning hour. I think his measures are as legitimately public business as appropriation bills or any other bills.

Mr. BOUTWELL. I make the motion to suspend the rules, with the understanding that I shall call up the motion to reconsider outside of the morning hour, having due regard to the condition of the public business, as I have no desire to interfere with the appropriation bills. There certainly will be time outside of the morning hour between now and the 4th of March next to consider the measures to which I refer.

The SPEAKER. As the Chair understands the motion of the gentleman from Massachusetts [Mr. BOUTWELL] it is to suspend the rules to enable him to report the joint resolution and bill to which he has referred, to have them printed and recommitted, and to enable him to enter a motion to reconsider the recommitment, which motion to reconsider shall not be laid on the table.

Mr. BECK. After an explanation made to me by the gentleman from Wisconsin [Mr. ELDRIDGE] I withdraw my objection to the proposition of the gentleman from Massachusetts, [Mr. BOUTWELL.]

No further objection was made.

Mr. BOUTWELL. I now report from the Committee on the Judiciary joint resolution (H. R. No. 363) proposing an amendment to the Constitution of the United States and a bill (H. R. No. 1463) declaring who may vote for electors for President and Vice President and for Representatives in Congress, with substitutes for the same, which I move be printed and recommitted to the Committee on the Judiciary.

The SPEAKER. The Chair would suggest to the gentleman that it would probably simplify the action of the House to have the substitutes reported as original measures.

Mr. BOUTWELL. I accept the suggestion of the Chair, and report from the Committee on the Judiciary the joint resolution to which I have referred.

The joint resolution (H. R. No. 402) proposing an amendment to the Constitution of the United States was read a first and second time.

Mr. SPALDING. I ask that the joint resolution be read in full.

The joint resolution was read, as follows:

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring), that the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be held as part of said Constitution, namely:

ARTICLE—

SEC. 1. The right of any citizen of the United States to vote shall not be denied or abridged by the United States or any State by reason of the race, color, or previous condition of slavery of any citizen or class of citizens of the United States.

SEC. 2. The Congress shall have power to enforce by proper legislation the provisions of this article.

Mr. BOUTWELL. I move that the joint resolution be printed and recommitted to the Committee on the Judiciary.

The motion was agreed to.

Mr. BOUTWELL. I now move to reconsider the vote by which the joint resolution was recommitted to the Committee on the Judiciary.

The SPEAKER. The motion to reconsider will be entered upon the Journal.

Mr. BOUTWELL, from the Committee on the Judiciary, reported a bill (H. R. No. 1667) declaring who may vote for electors for President and Vice President and for Representatives in Congress; which was read a first and second time, ordered to be printed, and recommitted to the Committee on the Judiciary.

Mr. BOUTWELL. I move to reconsider the vote by which the bill was recommitted to the Committee on the Judiciary.

The SPEAKER. The motion to reconsider will be entered upon the Journal.

SLAVERY IN KENTUCKY.

Mr. JULIAN. I move that the rules be suspended for the purpose of introducing and agreeing to the following preamble and resolution:

Whereas Brevet Lieutenant Colonel Cottin, of the United States Army, a sub-assistant commissioner of the Freedmen's Bureau for the State of Kentucky, in his report for November last, makes the following statement: "It may seem strange to many that in parts of Kentucky slavery exists as unquestionably as before the proclamation of the amendment to the Constitution abolishing it. In the counties of Owen, Trimble, and Carroll, and several other counties of my district, negroes are kept in a state of vassalage tantamount to the old system of slavery. In those counties negroes are not permitted to live in homes or houses of their own; are not permitted to live apart from the white owners of the soil, but are compelled to leave the country or occupy the out-houses or sheds, as in days of slavery;" and whereas many of these persons are children ignorant of their rights and unable to defend them, and many others are too poor to employ counsel and meet the expenses of litigating their rights in the Federal courts, and hundreds of miles distant: Therefore,

Resolved, That the Judiciary Committee be instructed to inquire into the expediency of providing by law for the appointment, by competent authority, of United States commissioners, in convenient and suitable localities, with power to issue writs of *habeas corpus*, to hear and determine applications and causes involving such illegal slaveholding, and that said committee report by bill or otherwise.

Mr. JONES, of Kentucky. I have the honor to represent two of the counties named in the preamble of this resolution, and I believe the statement therein named is entirely false, and that the proposed action is totally unnecessary.

Mr. JULIAN. I give official authority for the statement in the preamble.

Mr. WASHBURN, of Illinois. Is debate in order?

The SPEAKER. It is not.

Mr. WASHBURN, of Illinois. Then I object to debate.

The motion to suspend the rules was then agreed to, there being upon a division—ayes 81, noes 22, (two thirds voting in the affirmative,) and the preamble and resolution introduced and agreed to.

Mr. JULIAN moved to reconsider the vote by which the preamble and resolution were agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. WASHBURN, of Illinois. Before making my motion to go into Committee of the Whole, I will yield in the first place to the gentleman from Maine, [Mr. PIKE.]

Mr. FARNSWORTH. I object to my colleague yielding.

Mr. WASHBURN, of Illinois. There are several gentlemen who desire to introduce matters by unanimous consent. I do not wish to press my motion to go into Committee of the Whole on the naval appropriation bill until those gentlemen shall have had an opportunity to introduce their several propositions.

Mr. FARNSWORTH. I object to my colleague holding the floor and farming it out. He must either surrender the floor or go on with his business.

Mr. WASHBURN, of Illinois. I surrender the floor to the gentleman from Maine, [Mr. PIKE.]

The SPEAKER. The gentleman cannot, with proper respect for the Chair, surrender the floor on condition that the Chair shall award it to a particular gentleman. If he surrenders the floor it reverts, under the custom of the House, to the gentleman from Illinois, [Mr. FARNSWORTH.]

Mr. WASHBURN, of Illinois. Then I will not surrender the floor. I move that the rules be suspended, and that the House resolve itself into Committee of the Whole on the state of the Union, and proceed to the consideration of the naval appropriation bill.

Mr. PIKE. I understand that the gentleman from Illinois [Mr. FARNSWORTH] is willing that his colleague shall yield to me.

Mr. FARNSWORTH. I am willing to give way as soon as I can offer a resolution.

Mr. MOORHEAD. I wish to inquire what bill comes up if we go into Committee of the Whole? I understand it is the tariff bill.

The SPEAKER. The naval appropriation bill has priority as a special order.

Mr. WASHBURN, of Illinois. I desire to modify my motion so as to rescind the order of the House making the naval bill a special order, my object being to allow an hour or two of general debate on any subject. It can be done by unanimous consent, I presume.

Mr. MOORHEAD. I object.

Mr. WASHBURN, of Illinois. I move, then, to reconsider the vote by which the House made the naval bill a special order.

The motion to reconsider was not agreed to.

Mr. WASHBURN, of Illinois. So far as I am concerned I did not desire any extended general debate; but several other gentlemen wished to make speeches. I move that when the House shall resolve itself into Committee of the Whole upon the special order all general debate on the bill be closed in thirty minutes.

The motion was agreed to.

Mr. WASHBURN, of Illinois. I now move that the House resolve itself into the Committee of the Whole on the state of the Union, and proceed to the consideration of the naval appropriation bill.

The motion was agreed to.

NAVAL APPROPRIATION BILL.

The House accordingly resolved itself into the Committee of the Whole, (Mr. BLAINE in the chair,) and proceeded to the consideration of House bill No. 1599, making appropriations for the naval service for the year ending 30th June, 1870.

The Clerk proceeded to read the bill.

Mr. CULLOM. I move that the first reading of the bill be dispensed with.

The CHAIRMAN. That will require unanimous consent.

Mr. SPALDING. I object.

The Clerk concluded the first reading of the bill.

The Clerk then proceeded to read the bill by paragraphs for amendment.

Mr. CHANLER. I wish to call the attention of the chairman of the Committee on Appropriations to the following item:

Navy-yard at New York:
For repairs of all kinds, \$100,000.

I wish to inquire whether this amount is in accordance with the estimate of the Department, or merely the gentleman's own estimate?

Mr. WASHBURN, of Illinois. Mr. Chairman, it is the appropriation recommended by the Committee on Appropriations upon the estimate of the Department. It is not as large as the amount asked for by the Navy Department, but it is a sufficient sum for all the repairs at this navy-yard that the Committee on Appropriations deem necessary.

Mr. CHANLER. I ask the gentleman from Illinois, the chairman of the Committee on Appropriations, whether he has any objection to mention the amount of the estimate by the Navy Department? There is a good deal of important work going on at the New York navy-yard. It is a question not only of local importance, but a question of national importance; and I think that the House should understand the reason for this proposed reduction, in view of the statements and estimates of the Navy Department itself. I should like to hear the amount originally proposed by the Navy Department.

Mr. WASHBURN, of Illinois. The estimate of the Navy Department is \$250,000. The amount which the Committee on Appropriations has reported, as the gentleman from New York has suggested, is \$100,000. Last year, I think, the Navy Department modestly asked that we should appropriate about four million dollars at New York, and in the Navy appropriation bill we only appropriated \$140,000. They have got along well with that, remarkably well, and I believe they can get along very well with this appropriation of \$100,000.

Mr. CHANLER. I have no doubt the gentleman is of the opinion that we can get along without anything appropriated for the Navy. Perhaps he does not think that a Navy is necessary at all. Living in Illinois, he may think that we can get along without a Navy until a foreign invading foe has reached Illinois. But, sir, this House knows that it is absolutely necessary for the protection of our commerce that our navy-yards should be kept up in a proper condition of efficiency. I do not see, therefore, why the opinions of an experimental philosopher of the caliber of the gentleman from Illinois should be set up in defiance to the opinions of the Navy Department, which is responsible for carrying on the work of the navy-yards of the country and seeing that they are properly and efficiently kept up. Yet the chairman of the Committee on Appropriations has assumed the responsibility of reducing this appropriation. That the Navy Department last year asked for an appropriation which it did not get, and which it has not again asked for, is no evidence that it was not really needed, or that the amount estimated for this year is not necessary for the purposes specified by the Department. I trust that the estimates of the Navy Department will be kept, in this instance, without reduction.

Mr. ROBINSON. Mr. Chairman, as a compromise between the appropriation here proposed and the estimate of the Navy Department, I move that the appropriation for repairs of all kinds at the navy-yard at New York be increased to \$150,000. As I understand the gentleman from Illinois, chairman of the Committee on Appropriations, the Navy Department estimates \$250,000 as absolutely necessary for the repairs to be made at this Brooklyn navy yard. I hope that the amendment appropriating \$150,000 will be adopted.

Mr. PIKE. I hope that the amendment will not be adopted. There are two courses that this House can pursue in this matter of navy-yards: one is to let them run down, upon the ground that there is no necessity even for a navy of any kind, and that is the spirit which seems to actuate the appropriations reported in this bill. If, therefore, the House shall conclude to take that course, then it is hardly worth while to change the bill in so small an amount, as from \$100,000 to \$150,000, in reference to this great navy-yard at Brooklyn.

That is a navy-yard which by its location and its capabilities can be made the great navy-yard of the country; and, sir, it should be made the first navy-yard of the country if we are to have a great navy-yard at all. Fifty thousand dollars more or less, therefore, is not of the slightest consequence.

As the gentleman from Illinois has said, the Navy Department recommended a liberal sum for the purpose of having a navy-yard worthy of a great naval Power. We also have one at Philadelphia, where, after a long contest, we have fixed on League Island as the proper place to which to transfer the Philadelphia navy-yard, and build up a navy-yard worthy of the United States. It seems to me to be good economy on the part of the Government to make a liberal expenditure of the public money both at Brooklyn and League Island. The Committee on Appropriations, however, think otherwise. That committee is opposed to making the appropriations which the Navy Department deems necessary. It may be right that it is not worth our while under the present circumstances to make an appropriation for this purpose. If the committee take this ground then I hope it will go further, and make no appropriation for the Army; for certainly, sir, if we have no need of a navy there is less need of our having an army. It seems to me that it would be absurd that we, as a naval Power, which we profess to be, should cut down our Navy and still maintain a large standing army, when our Navy maintains our power all over the world, while our standing Army is simply for the purpose of regulating our internal concerns. If we are to cut down one, then, in order to carry out the doctrine symbolized by the expression of "let us have peace," let us have neither Army nor Navy. On this assumption, therefore, I hope the amendment of the gentleman from New York [Mr. ROBINSON] will not prevail; for if we are to make no future provision for the Navy of the United States we should, for the same reason, make no provision for the future for the Army of the United States.

Mr. MAYNARD. Let me call the attention of gentlemen to some items in the published estimates which, I confess, I do not fully understand. On page 121 the Secretary of the Navy reports that there is a balance of appropriation standing to the credit of the navy-yard at New York of \$816,561 20. On page 260 the estimate for the same navy-yard for the fiscal year ending June 30, 1870, which is the next fiscal year, is \$251,305. It does not appear how this balance of nearly a million dollars is to be disposed of.

Mr. PIKE. That will lapse back into the Treasury at the expiration of the present fiscal year, under the action taken by Congress in the last Navy appropriation bill. The Secretary of the Navy has made his estimates in accordance with the view of the House at the last session, that there shall be no further balances of appropriations after the expiration of a fiscal year standing to the credit of the Navy Department.

Mr. CHANLER. Mr. Chairman, I am glad to hear from the chairman of the Committee on Naval Affairs on this question of experimental philosophy, so far as the Navy of the United States is concerned. I am sorry, however, that he has become so affected with the spirit of despair that while he believes our Navy needs certain sums of money to carry it on he still allows the chairman of the Committee on Appropriations to capture all our navy-yards without anything like a fight in their behalf. He seems to give up the question, and to take the ground that if he cannot get all the money which may be needed he will take none.

Now, the chairman of the Committee on Appropriations says that notwithstanding the Navy Department, which by law is authorized to take cognizance of all matters relating to our Navy, has declared that certain sums of money are necessary to carry it on, the Navy can do without them. He proposes to take charge of the Government himself, and to as-

sume the responsibility of settling questions with foreign Governments. He assumes to take upon himself the responsibility of saying how a great naval Power should be supplied in accordance with the customs of civilized nations. In other words, the chairman of the Committee on Appropriations assumes the authority properly belonging to one of the Executive Departments of the Government, by appealing to this House to check the action of the Secretary of the Navy in reference to one of the recognized channels through which the Government communicates with the remotest corners of the earth. There must be some motive for this. I believe that it is an excellent motive, and as it has often been alluded to on this floor that the excellent chairman of the Committee on Appropriations is in intimate connection with the Commander-in-Chief of the Army and the President-elect, this must mean peace. It must mean peace at any price, peace at the cost of the Navy, peace at the cost of the character and dignity of the Government.

The questions which are involved in this meager appropriation for your Navy underlie all the appropriations by this Congress with regard to our foreign relations; that is, our diplomatic relations with commercial Powers. You cannot cut down your Navy at home and maintain it well abroad; that is, at all suitable to the dignity and character of a first-rate commercial Power. If we cut our Navy down in the manner proposed we cannot be expected to enter into competition with France, Great Britain, Russia, or even Turkey. We cannot demand the passage of the Hellespont or accomplish any other object which we may have in view if we deprive our navy-yards of the appropriations which are needed for the repair of vessels which we now have in our service, nor can we build there the ships which the public service may require.

These navy-yards represent the invested capital of the people in their naval power. The machine-shops of a great naval Power are of the first importance, not only for the purpose of keeping in repair the vessels which are in commission, but also for the purpose of launching, when needed, first-class ships in the shortest time possible. The naval Powers of the world with whom we have to compete have under their control unlimited resources for building vessels of war within the shortest time, and in maintaining the position which we hold among the great nations of the earth our navy-yards should not be behind any others in capacity and efficiency.

The reduction of our Navy as is proposed may be an economy for the moment. It enables the industrious chairman of the Committee on Appropriations to add, in a note to this bill, that he has reduced the expenses of the Government some two millions and more of dollars. But, sir, it is not wise economy. Whatever momentary gratification he may be able to secure from this short-sighted policy he is welcome to it. It may, too, be some satisfaction to this House in its last moments to believe that it has lessened the expenses of the Government, so far as our Navy is concerned, some two and a half million dollars. Still, sir, this Government has its duty to perform. It has obligations to maintain, and they cannot be maintained without expense, the labors of the Committee on Appropriations to the contrary notwithstanding.

I admit that the policy here pursued may be in the interest of certain Government contractors, in the interest of men who will take from the Government work which would be better and more cheaply done at our own navy-yards. I believe that it is not to the interest of economy. I think vessels built for this Government by private enterprise could have been built cheaper at our navy-yards.

Mr. SPALDING. Are we under the five-minutes rule?

The CHAIRMAN. We will not be under the five-minutes rule until the expiration of the half hour allowed for general debate.

Mr. CHANLER. What I wish is to draw the attention of the House particularly to the matter which is now before us. In my opinion it would be cheaper for this Government to keep up its navy-yards and to provide for the construction by the Government itself of its own vessels of war. We should have our own machine-shops as a school for the education of first-class mechanics, so as to be prepared at any moment to supply efficiently the needs of the Government. We should employ the first mechanical genius of the country in these shops, so as to build in the best way and at the cheapest rates the great vessels of war which we must build at some time or other. New experiments must be tried, as new systems of naval warfare are daily being introduced, and will continue to be introduced. Notwithstanding we were the first to try iron-clad vessels, yet we are to-day retrograding so far as their construction is concerned. We are not, as we should be, engaged in a scientific development of naval architecture. In other words, Mr. Chairman, this false spirit of economy is depriving the United States of one of the grand means of protecting itself—a means which every other Government in the world is to-day most sedulously seeking. I wish, sir, to enter my solemn protest against that spirit of economy which seems to actuate gentlemen here as a false spirit of economy in cutting down appropriations in defiance of the interests of the nation, and in direct opposition to the recommendation of those who know better what appropriations are needed in reference to the Navy than the Committee on Appropriations—I mean, of course, the Navy Department, which is one of the executive branches of the Government.

Mr. ROBINSON. How many minutes remain for general debate?

The CHAIRMAN. Ten minutes.

Mr. ROBINSON. I intend to make a few remarks, and then to withdraw my amendment, in order to make it \$250,000, which I understand to be the amount of the estimate. I think that the Navy Department, in making this estimate for \$250,000 for the navy-yard in Brooklyn, has exercised all the economy possible on the occasion. I do not believe that it should be cut down in this way by the committee. I should like to ask the chairman of the Committee on Appropriations how much was estimated for the navy-yard at Boston? We can then compare the amount with the amount here appropriated.

Mr. WASHBURN, of Illinois. One hundred and thirty-eight thousand dollars.

Mr. ROBINSON. The committee cut down the estimate for the Boston navy-yard \$30,000, while they cut down the estimate for the navy-yard at Brooklyn \$150,000. I do not wish to go into a comparison of one navy-yard with another, but I think it will not be denied that the Brooklyn navy-yard is the most important in the country, requiring more money in every department of its expenses than any other. And I mean no disrespect to any gentleman of the committee when I say that it is a small thing to cut down the Brooklyn navy-yard in this way, when only small reductions are made in the other navy-yards.

Mr. WASHBURN, of Illinois. If my friend from New York will look upon page 121 of the estimates, which I presume he has before him, he will see that the Secretary of the Navy reports that he has a balance of appropriations on hand of over eight hundred and sixteen thousand dollars. I will state what is known to every gentleman, that during the war we made immense appropriations for these navy-yards, and on the 1st of July, 1868, there were \$816,000 standing to the credit of the New York navy-yard unexpended, and \$87,000 standing to the credit of the Boston navy-yard. The Committee on Appropriations did not think it necessary, with these large balances standing to the credit of the navy-yards, to make large additional appropriations when they did not seem to be required.

Mr. PIKE. I wish to inquire of the gentle-

man from Illinois whether that balance was not for the last fiscal year; and whether we are not now making an appropriation not for the present but for the next fiscal year. When that balance of \$800,000 was taken into the account in making the appropriation it was for the present or current fiscal year; consequently it has no place in this discussion.

Mr. WASHBURN, of Illinois. As a matter of course it has a place in the discussion, because there is \$160,000 to expend this year, and it is sufficient to put the navy-yard in such condition that only \$100,000 will be demanded at the close of the year.

Mr. PIKE. But it does not appear that it is all expended now.

Mr. ROBINSON. It shows that at the Brooklyn navy yard they take good care of the public money, and save as much as possible for future operations.

One word about another provision of the bill. Section three provides that hereafter the Marine corps shall consist of one colonel, one lieutenant colonel, &c., making a reduction. I trust when we come to that part of the bill the section will be stricken out. I think it disgraceful to so reduce the number of these officers. The Marine corps is already too small for the country's defense—smaller in proportion than it is in any other civilized nation. One of that corps is a man who performed wonders in New Orleans. He went there when the rebellion was raging, took down a rebel flag, and hoisted the American colors.

A MEMBER. Was it not General BUTLER who did that?

Mr. ROBINSON. No, sir; it was not General BUTLER; it was Colonel Broome, of the Marine corps, in my district. He went to New Orleans four days before General BUTLER did, took down a rebel flag, and hoisted the stars and stripes. He fought through the whole war under Farragut, whose good opinion he has won. Now you propose to make him stand at the same box with the rest of the boys, and draw out a lot as to whether, after all his glorious service, he shall be allowed to continue in that arm of the service, which he has rendered so illustrious during the whole of the war. I say it would be disgraceful, and I hope that the section will be entirely stricken out. Death will come to that arm of our defense if you declare that it is already too large and attempt to reduce it. It would be disgraceful to the country and to morality to order a lottery for the purpose of seeing who of these brave officers shall be stricken from this arm of our national defense, and I trust it will not be done. And now as the time allowed for general debate has about expired, I move to strike out \$100,000 for the navy-yard at New York and insert in lieu thereof \$250,000.

The amendment was disagreed to.

The Clerk read as follows:

Navy-yard at Philadelphia:
For repairs of all kinds, \$30,000.

Mr. KELLEY. I move to strike out \$50,000 and insert \$25,000. I do this because Congress has already determined to abandon the Philadelphia navy-yard at the earliest practicable day. It has accepted League Island, and directed it to be prepared for a naval station. The sum of \$25,000 will therefore cover all the necessary repairs at the Philadelphia yard. If \$50,000 is appropriated it will lead to improvements and extension of buildings there. The property now in the navy-yard, although but a small yard, will probably yield the Government when sold, as applicable to the new institution, \$2,000,000. There was at the close of the last year a balance of \$151,000 remaining over for the Philadelphia yard. That balance, I apprehend, as the chairman of the committee says, has been expended by this time, and it has been very improperly expended in purchasing tools, many of which are old ones, which the workmen declare they cannot work with. They say they will not undertake a job of work if they are to be held responsible for the loss of time and damage

caused by the destruction of the stock worked upon. I am therefore disposed to cut down the appropriation to the smallest sum that will answer for the present purposes of the yard. There are some things that it is necessary should be kept in repair. There are docks that may be removed at very little expense and put up again. There are other matters that require to be done, and \$25,000 will be ample for that purpose. The Secretary of the Navy has asked for an appropriation of \$10,000 for making a survey of League Island and suggesting a plan for its gradual improvement. That appropriation, I understand from the chairman of the Committee on Appropriations, will come properly in the miscellaneous bill. When it comes up I shall support it, and I hope during the next Congress to see an order made for the sale of the Philadelphia yard, and the application of the fund thus created to the improvement of the new and enlarged station.

Mr. O'NEILL. I concur to some extent in what has been said by my colleague [Mr. KELLEY] relative to the appropriation for the Philadelphia navy-yard, but I presume the chairman of the Committee on Appropriations and the committee itself has looked very closely into the estimates of the Secretary of the Navy of the expenditures required at that station. I suppose they know well what is required to be done there, and I have no doubt they have cut down the appropriations asked by the Secretary as much as they possibly could under the circumstances.

Now, sir, I am in favor, as my colleague is, of making an appropriation to survey the territory which has been given by the city of Philadelphia and accepted by the Government for a naval station at League Island, and I am willing to see a large part of this appropriation—say ten or fifteen thousand dollars—transferred for that purpose, and I hope the chairman of the Committee on Appropriations will permit that to be done, leaving thirty-five or forty thousand dollars for repairs. I am of those who believe in keeping the Government property in repair. I also believe that all buildings belonging to the Government should be kept in good order at all times, and not be permitted to go to destruction for want of proper appropriations.

While, therefore, I am satisfied that we should not put up new buildings in the Philadelphia navy-yard, yet I do not wish to see the buildings already there neglected. It will take, of course, several years to carry to completion the work to be done at League Island after it is commenced, which I hope will be at an early day; hence I am anxious to see an appropriation for its survey made at once. I think it might be put in this bill, although the chairman of the Committee on Appropriations informed me this morning that it would come more probably in a miscellaneous appropriation bill. My idea is that we should now get ready to prepare the plans of the docks, buildings, and the various structures necessary for naval purposes, so that the real work of constructing what will be when finished the greatest naval station in the world should be begun. But I say that, unless with the concurrence of the chairman of the Committee on Appropriations in my suggestion for the survey, I am not in favor of cutting down this appropriation if it is not more than is necessary, and which I understand is to be applied to repairs of buildings, and not to repairs of vessels.

Mr. WELKER. I would ask the gentleman if he will be satisfied with an appropriation of \$25,000 in this bill?

Mr. O'NEILL. I will be satisfied with what the chairman of the Committee on Appropriations will say is absolutely necessary to repair the present buildings, provided he will let an appropriation be made in this bill to go on with the survey of the League Island navy-yard. I am perfectly willing to take ten or fifteen thousand dollars from the amount proposed for repairs and with it proceed with the survey.

Mr. WELKER. I ask the question because

the members representing the navy-yard at Philadelphia do not agree as to what they want.

Mr. O'NEILL. We do agree entirely as to the necessity of an early survey, and as to its great importance to our naval interests. We can do much better with a smaller appropriation to the old yard than we can with delay in commencing the work at League Island.

Mr. WELKER. I understand that it is proposed to sell this navy-yard at Philadelphia next year, and I want to ask these gentlemen representing Philadelphia whether the navy-yard will not stay there without any appropriation for another year, and whether we might not strike out this appropriation entirely?

Mr. O'NEILL. It is not designed to sell the Philadelphia navy-yard next year. I wish this House in its liberality would give us enough to build the League Island yard, so that in two or three years we might have it finished, and the Government then might have the benefit of the proceeds of the sale of the territory of the old yard, which would amount to nearly two million dollars, and cover the expense of the construction of the new navy-yard.

Mr. WASHBURN, of Illinois. I move to amend the amendment so as to make the amount \$20,000. The gentleman from Pennsylvania who last spoke [Mr. O'NEILL] referred to the amount which would be satisfactory to me. Now, I presume I have less to do with the amount of appropriations than any other member of the House, because my views do not correspond with the views of the majority. In regard to this matter of the appropriation for the Philadelphia navy-yard, I will say that there was nothing before the Committee on Appropriations in relation to this League Island navy-yard excepting a communication asking a small amount for the survey. There was nothing before the committee to indicate that the Navy Department proposed to go on there and build a navy-yard. But on the other hand an appropriation of \$73,000 was asked for repairs for the present navy-yard at Philadelphia. We found upon examination that there was an unexpended balance of \$151,000 heretofore appropriated. Acting upon the principle we have acted upon in regard to other navy-yards we proposed the sum of \$50,000. But I am disposed to yield to the suggestion of the gentleman from Pennsylvania, [Mr. KELLEY,] and to agree to his amendment reducing the amount to \$25,000. I withdraw my amendment to the amendment.

Mr. KELLEY. Does the gentleman accept the amendment of my colleague, [Mr. O'NEILL,] making the appropriation \$35,000, \$10,000 to be applicable to a survey of the yard?

Mr. WASHBURN, of Illinois. I most certainly do not, because it has no business in this appropriation bill. It may be a proper item in the miscellaneous appropriation bill, though I will not say about that now.

Mr. O'NEILL. I would ask the gentleman to accept my amendment now.

Mr. WASHBURN, of Illinois. I cannot. The amendment of Mr. KELLEY was then agreed to.

The Clerk read the following clause:

Navy-yard at Pensacola:
For preservation of the yard and the necessary repairs of all kinds, \$30,000.

Mr. ARNELL. I would inquire of the chairman of the Committee on Appropriations [Mr. WASHBURN, of Illinois] what amount was appropriated last year for this navy-yard?

Mr. WASHBURN, of Illinois. The amount appropriated last year was \$30,000.

The Clerk read the following:

Naval station at Key West:
For necessary repairs of wharves and buildings, \$2,000.

Mr. SPALDING. I move to amend the clause just read by adding the following:

Provided, That paymasters' clerks employed at the several yards and naval stations may be paid, at the discretion of the Secretary of the Navy, a sum per annum not exceeding the average sum paid to all other clerks employed in said navy-yards and naval stations respectively.

Mr. WASHBURN, of Illinois. I appeal to my friend from Ohio [Mr. SPALDING] not to compel me to press a point of order on his amendment.

Mr. SPALDING. I offer this amendment at the instance of one of the officials in the Navy Department, who says that there is great inequality existing at the several navy-yards and naval stations in the payment of these clerks; the clerks of paymasters receiving only about one thousand dollars a year, while the clerks of other bureaux receive from fifteen to eighteen hundred dollars a year. The only object of my amendment is to equalize the pay of the different clerks.

Mr. WASHBURN, of Illinois. If the gentleman will so modify his amendment as to equalize the other way, and bring down the other clerks to the paymasters' clerks, I may go with him.

Mr. SPALDING. Very well; if that will satisfy the gentleman I will modify the amendment to accommodate him.

The amendment was modified accordingly. Mr. WASHBURN, of Illinois. I make the point of order that the amendment of the gentleman from Ohio [Mr. SPALDING] contemplates additional legislation, and is, therefore, not in order on this bill; beside, it is not germane to the part of the bill to which it is offered.

The CHAIRMAN. The Chair overrules the point of order.

The amendment was not agreed to.

The following clause was read:

Provided, That all amounts appropriated for the support of the Naval Asylum at Philadelphia, the beneficiaries therein, the pay of officers, repairs, contingent and other expenses, shall be charged to and paid from the income of the naval pension fund.

Mr. STEVENS. I desire to call the attention of the chairman of the Committee on Appropriations [Mr. WASHBURN, of Illinois] to the clause just read. It provides that the pay of officers, repairs, contingent and other expenses of the Naval Asylum at Philadelphia, shall be charged to and paid from the income of the naval pension fund. I understand that the naval pension fund is derived from a certain portion of the prize money of the Navy, which has been set apart for the purpose of paying out of its income the pensioners of the Navy Department. If I have not been misinformed, the rate of interest allowed upon that fund has been reduced to three per cent. per annum. It is proposed by this proviso to divert the income of that fund from the channel now fixed by law, and by this independent legislation to use it for purposes not now known to the law, and in fact contrary to its terms.

Mr. MAYNARD. Why not raise the point of order upon this proviso that it is independent legislation, and therefore not in order in this appropriation bill?

Mr. STEVENS. I raise the point of order upon this proviso.

Mr. WASHBURN, of Illinois. It is too late to raise the point.

The CHAIRMAN. Did the gentleman from New Hampshire [Mr. STEVENS] rise for the purpose of making the point of order?

Mr. WASHBURN, of Illinois. No, sir; he did not.

Mr. STEVENS. I intended when I rose to make the point of order, Mr. Chairman; but not being familiar with parliamentary rules—

The CHAIRMAN. If the gentleman states that he rose for the purpose of making the point of order, then the point is made in time.

Mr. STEVENS. I rose for the purpose of making the point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. STEVENS. The point of order I make is that this is new legislation, diverting as it does the income of the pension fund in a direction unknown to the existing law and contrary to it, the law having set apart the income of the pension fund for the payment of naval pensioners.

The CHAIRMAN. The Chair sustains the point of order.

Mr. WASHBURN, of Illinois. Now, I raise a point of order. The gentleman from New Hampshire [Mr. STEVENS] rose, as I understand, to make an amendment to strike out the proviso.

Mr. STEVENS. The gentleman misunderstood me. No word or syllable of my language gave any such intimation.

The CHAIRMAN. The Chair would remark to the gentleman from Illinois—

Mr. WASHBURN, of Illinois. Did not the gentleman from New Hampshire speak against the proviso?

Mr. STEVENS. I insist on the point of order.

Mr. WASHBURN, of Illinois. I insist that the point is raised too late.

The CHAIRMAN. The Chair distinctly put to the gentleman from New Hampshire the question whether he had risen for the purpose of raising the point. In this House the word of the gentleman concerned is, upon such a matter as this, taken as conclusive; and the gentleman from New Hampshire having stated that he had risen for the purpose of raising the point the Chair ruled that he was in time; and that the point was well taken.

Mr. WASHBURN, of Illinois. I do not question the gentleman's statement; but I do say that he did not take his point of order until he had discussed the matter.

Mr. MAYNARD. I submit that it is too late for the gentleman from Illinois to discuss this question unless he takes an appeal from the decision of the Chair.

The CHAIRMAN. The gentleman from Illinois is not in order. The Chair has ruled that the point of order raised by the gentleman from New Hampshire is well taken.

The Clerk read the following:

For expenses of Naval Observatory, namely:

For wages of one instrument maker, one messenger, one porter, and three watchmen; for keeping grounds in order and repairs to buildings and inclosures; for fuel, light, and office furniture, and for stationery, chemicals for batteries, postage, and freight, and contingent, \$10,000.

Mr. PIKE. I move to amend the paragraph just read by making the appropriation \$13,500, instead of \$10,000. I think the gentleman in charge of the bill will not object to this amendment. I am assured that this increase in the amount is absolutely necessary.

Mr. WASHBURN, of Illinois. The sum proposed in the gentleman's amendment corresponds with the estimate of the Department; but the committee in cutting down some of the estimates cut this down to \$10,000. After the explanation of the gentleman, I will not object to increasing the amount by adding \$3,500.

The amendment was agreed to.

Mr. GARFIELD. I desire to ask a question of the chairman of the Committee on Appropriations in reference to these appropriations for the Naval Observatory. I know it was stated in one of the reports—the report of the Superintendent of the Observatory, I think—that the very valuable transit instrument, one of the only three of the kind now in operation in the world, is in danger of being seriously injured by the imperfection of the building in which it is placed. I think an expenditure of \$5,000 has been recommended as necessary to insure the proper preservation of the instrument. I would like to learn from the gentleman from Illinois what has been done by the committee in reference to this matter.

Mr. WASHBURN, of Illinois. The Committee on Appropriations have had no such information on that subject. I understand that some clerk or employé of the Department came into the committee-room with some memorandum; but it has not been brought to the attention of the committee, and we have no knowledge whatever on the subject.

Mr. STEVENS. The gentleman will permit me to say that one gentleman connected with the Observatory called on me this morning and

suggested that the additional amount provided for in the amendment of the gentleman from Maine, [Mr. PIKE,] already adopted, would be sufficient to cover the expenses of the current year.

Mr. GARFIELD. I would like to inquire whether that additional sum could be employed for the purpose I have suggested.

Mr. WASHBURN, of Illinois. From the statement of the gentleman from New Hampshire [Mr. STEVENS] it would seem that those having charge of the Observatory think it could be.

Mr. MAYNARD. If the gentleman will allow me, I will call his attention to the report of the Secretary of the Navy, page 83, where Commodore Sands speaks of this matter, as follows:

"The special estimate embraces an item for the erection of a suitable frame building for the reception of the new transit circle. Our last three years' experience shows the remounting of the circle in a proper observing room to be necessary, for the following reasons:

"The present observing room is the worst possible for an astronomical instrument, on account of the thickness of its brick walls. The sources of inconvenience are—

"1. It is impossible to secure that equality of the internal and external temperature which is indispensable to good observations.

"2. In the daytime even the two ends of the instrument may show five or ten degrees difference of temperature, owing to the intense heat of the copper roof and the comparative coolness of the walls.

"3. In the winter and spring a sudden rise of temperature after a cold snap causes a heavy deposit of dew over the entire room and instrument, to the great danger of the latter through rusting of the steel.

"It may be remarked that the great superiority of wooden walls has been almost universally recognized by astronomers for twenty years. Notably, the elder Struve, forty years ago, at Dorpat, suffered the same inconveniences to such an extent that in building the Pulkowa observatory he made the observing rooms entirely of wood, as a work of necessity.

"The masonry on which the instrument is supported is altogether insufficient in size and strength. Hence—

"1. The azimuthal error is more unsteady than in many small transits in second class observatories.

"2. The mortar of the masonry is gradually disintegrating.

"3. The tops of the marble piers are gradually spreading apart, so that the microscopes on one pier have to be pushed in every few weeks in order to see the circle divisions."

This new and very valuable instrument, costing in Germany \$8,000, I think, is in such condition, in consequence of the rusting of its steel parts, that unless we make this appropriation it will become utterly valueless.

Mr. STEVENS. I think that I had no conversation on the particular point to which the gentleman alludes, but I did understand the complaint was that the appropriation had been reduced, and its restoration to the estimate would be satisfactory.

Mr. PIKE. That ought to be explained. Thirteen thousand five hundred dollars was satisfactory for the purpose of keeping up the Observatory as it was, as they had given up the idea of having an appropriation for this transit circle. They thought that this was the lowest they could get along with.

Mr. PIKE's amendment was adopted.

The Clerk read as follows:

For salary of three aids, \$4,000:

Mr. MAYNARD. I move to increase that to \$5,400. Commodore Sands concludes his report as follows:

"I earnestly renew the recommendation of last year, that the pay of the civilians engaged in astronomical and other duties at the Observatory be increased. Their duties are not those of clerks or computers only, but such as require, indispensably, a knowledge of astronomy and general science."

These three gentlemen are astronomers—men of science—and in this bill it is proposed to pay them only a salary of \$1,383 each, while, as will be seen in the appropriation preceding this one, the clerk is allowed \$1,500 a year. I think it is no more than fair that these men of science should have a salary each of \$1,800, and therefore I have moved to increase the appropriation to \$5,400. One thousand three hundred dollars a year is no adequate reward for requirements necessary for the services which these gentlemen are required to

perform. I trust, therefore, that my friend, the chairman of the Committee on Appropriations, will not interpose any objection. It is in compliance with the recommendations of Commodore Sands.

Mr. WASHBURN, of Illinois. I am opposed to the amendment, as I am to all amendments which propose to increase the salaries of any of these officers. Heretofore these men have been contented with this salary, and we have appropriated all that was asked for.

Mr. SPALDING. Are not these salaries fixed by law?

Mr. WASHBURN, of Illinois. They are fixed by the act of May 21, 1864. If we adopt the gentleman's amendment we will thereby change the existing law. I hope he will not press it.

Mr. SPALDING. The amendment is not in order.

Mr. MAYNARD. The point comes too late. The amendment was rejected.

Mr. MAYNARD. I move to insert the following:

For the purchase of meteorological instruments and the building of a brick tower for mounting them, for the purchase of other instruments, and for the erection of a suitable frame building for the transit circuit, \$5,870.

Mr. WASHBURN, of Illinois. I make the point that that amendment is not in order.

The CHAIRMAN. The Chair overrules the point of order.

Mr. MAYNARD. This is an appropriation recommended by the Superintendent of the United States Naval Observatory, Commodore Sands, and I beg to call the attention of gentlemen who are in favor of increased astronomical and other knowledge that this whole appropriation is comparatively small compared with the greatness of our commerce and navigation. This Observatory is substantially all we do in that regard, and the superintendent recommends that this appropriation is necessary to carry on the astronomical operations of that establishment. I remember very well, as doubtless other gentlemen do, the inextinguishable laughter that a certain portion of the country indulged in when the President of the United States, John Quincy Adams, with unsurpassed beauty of figure, spoke of "building light-houses in the sky." He referred to these astronomical investigations and studies which enabled travelers by land and sea to use the ever-changing relations of the stars for the same purpose that we build light-houses. Mr. Adams was a man of great learning, foresight, and liberality, and his wish was respected in the establishment of this Observatory, which has proved a great success. Its observations command the respect of the world. I hope the amendment I have offered will meet with the approval of the House. These instruments are things that deteriorate in the lapse of time by ordinary wear and tear, and in the improvement and advancement of science these learned gentlemen find it necessary to obtain new instruments by which they can carry on their daily and nightly observations. They ask only for this inconsiderable sum—a mere bagatelle out of the millions we are appropriating; and I appeal to gentlemen who appreciate the importance of promoting this scientific object not to withhold the appropriation asked for. I trust the House will vote for the amendment.

Mr. WASHBURN, of Illinois. I hope not.

Mr. MAYNARD. Of course, I understand the gentleman does not appreciate the value of the appropriation. He regards it as utterly valueless. But I was appealing to the other gentlemen of the House who do understand the value of it, [laughter,] and the importance of maintaining the honor and scientific reputation of our country.

Mr. WASHBURN, of Illinois. I do understand it. I ask for a vote on the proposition.

The CHAIRMAN. The Clerk will read the rule under which the Chair overruled the point of order of the gentleman from Illinois.

The Clerk read as follows:

No appropriation shall be reported in such general appropriation bill, or be in order as an amendment thereto for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress, and for the contingencies for carrying on the several Departments of the Government.

The CHAIRMAN. This comes under the latter part of the clause. Any amendment is in order which does not conflict with an existing law; and even an existing law can be changed by an amendment in relation to the salaries of public officers. The gentleman from Illinois is familiar with the rule.

Mr. WASHBURN, of Illinois. But, if the Chairman will permit me, I am not familiar with any rule which permits an appropriation to be put on here for public buildings.

The CHAIRMAN. That comes under the head of contingencies recommended by the Department, as has been ruled uniformly from the foundation of the Government, as the gentleman knows.

Mr. WASHBURN, of Illinois. I beg pardon. I do not know it.

The question being put on the amendment of Mr. MAYNARD, there were—ayes 39, noes 54; no quorum voting.

Tellers were ordered; and Messrs. MAYNARD, and WASHBURN, of Illinois, were appointed.

The committee divided; and the tellers reported—ayes 47, noes 66.

So the amendment was disagreed to.

Mr. ROBINSON. I move that the committee rise; it is now four o'clock.

Mr. WASHBURN, of Illinois. I hope not. The question being taken, it was disagreed to.

The Clerk read as follows:

Bureau of Provisions and Clothing:

To meet the demands upon the bureau for freight and transportation of stores, for candles, fuel; for tools and repairing same at eight inspections; for books and blanks; for stationery; for furniture, and repairs of same in offices of paymasters and inspectors; for telegrams and postage, tolls and ferriages, and for ice, \$75,000.

Mr. MAYNARD. It strikes me this is a very considerable sum. I have endeavored, without success, to get the committee to make a reasonable allowance for the benefit of gentleman who are engaged in scientific observations. Therefore, to continue the economy and save something, I move to strike out \$75,000 and insert \$50,000.

Mr. WASHBURN, of Illinois. The gentleman, of course, does not understand this appropriation is for ice alone. It is for all the articles named in the paragraph, ice included.

Mr. MAYNARD. I move to reduce it to \$50,000.

Mr. WASHBURN, of Illinois. The Committee on Appropriations have cut this down to the lowest point. We do not care to deprive the sailors in the tropics of ice.

The amendment was disagreed to.

The Clerk read as follows, under the head of "Marine corps:—"

Provided, That the number of non-commissioned officers, musicians, and privates authorized and allowed to be enlisted into the Marine corps of the United States be, and the same is hereby, fixed and declared to be fifteen hundred and no more.

Mr. PIKE. I raise the point of order on this proviso that the law fixes another number of men.

Mr. BUTLER, of Massachusetts. I would like to see the law.

Mr. PIKE. It was passed since the rebellion commenced, and it fixes the number of men either at twenty-five hundred or three thousand. I forget which. It is independent legislation.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read the following paragraph:

For contingencies, namely: freight; ferrage; toll; cartage; wharfage; purchase and repair of boats; compensation of judge advocates; per diem for attending courts-martial, courts of inquiry, and for constant labor; house rent in lieu of quarters, and commutation for quarters to officers on ship-board; burial of deceased marines; printing, stationery, postage, telegraphing; apprehension of deserters;

oil, candles, gas; repairs of gas and water fixtures; water rent; forage, straw, barrack furniture; furniture for officers' quarters; bed sacks, wrapping paper, oil cloth, crash, rope, twine, spades, shovels, axes, picks, carpenters' tools; keep of a horse for the messenger; repairs to fire engines; purchase and repair of engine hose; purchase of lumber for benches, mess tables, bunks, &c.; repairs to public carryall; purchase and repair of harness; purchase and repair of handcarts and wheelbarrows; scavenging, purchase and repair of galleys, cooking stoves, ranges, &c.; stoves where there are no grates; gravel, &c., for parade grounds; repair of pumps; furniture for staff and commanding officers' offices; brushes, brooms, buckets, paving, and for other purposes, \$50,000.

Mr. MAYNARD. I move to amend that paragraph by striking out the words "and so forth" wherever they occur. It is language that has no business in a statute.

The amendment was agreed to.

Mr. MAYNARD. I suggest to the gentleman from Illinois [Mr. WASHBURN] whether we might not reduce the expense a little by striking out "repairs to the public carryall." In my country we use our carryalls without much being expended in the way of repairs. We tie up the wheels a little and sometimes put a stick in place of the springs; and then, as to the harness, a piece of rope frequently supplies the place of the lines. [Laughter.] We spend nothing for an object like this; and as economy is apparently our ruling passion, as we have economy on the brain, as some one suggests, might we not economize here in a very important matter by striking out this item? I will not make the motion myself, but I call attention to it.

The Clerk then read the second section of the bill, as follows:

Sec. 2. And be it further enacted, That each and every seaman, ordinary seaman, or landsman who shall perform the duty of a fireman or coal-heaver on board of any vessel of war shall be entitled to and shall receive a compensation at the rate of thirty-three cents per day for the time they shall thus be employed as firemen and coal-heavers, and which shall be in addition to their compensation as seamen, ordinary seamen, or landsmen, as aforesaid.

Mr. PIKE. I make the point of order on that section that the law fixes the pay of seamen, ordinary seamen, and landsmen, and that this proposes to change both their duties and their compensation.

The CHAIRMAN. Does it increase their compensation?

Mr. PIKE. It increases their compensation. Mr. WASHBURN, of Illinois. Well, you have increased the pay of a clerk, why not that of sailors?

The CHAIRMAN. The Chair rules that the point of order is not well taken. The rule specifically provides that the salaries of officers may be increased in an appropriation bill.

Mr. PIKE. Does the Chair consider these men officers?

The CHAIRMAN. The Chair would give the benefit to sailors or soldiers of a rule made specifically for officers, and he rules that the gentleman's point is not well taken.

Mr. PIKE. Then I move to strike out the section. I would like to know the reason for increasing this compensation. If I understand it, this proposition was introduced into the Senate as having some more or less remote connection with engineering. The number of engineers was to be diminished and increased pay given to seamen. I believe that this proposition was abandoned by the originator of it as entirely impracticable, and why it should be galvanized here now and put in this bill I do not see.

Mr. WASHBURN, of Illinois. The section will stand upon its own merits, although, as the gentleman has referred to the Senator who drew up this provision, I can state in the same direction that it was put into a bill reported by the Committee on Naval Affairs of the Senate last year, and the reason for it I think will impress itself upon the common sense of the House. As the law now stands, every steam frigate goes to sea with a certain number, and that a very large number, of men employed exclusively as firemen, to whom a high rate of wages is paid. After the frigate goes

to sea they do not use steam one day in twenty, and the only use that these firemen are put to is to eat their rations and draw their pay. It is found that the seamen on board the vessels, and whom it is necessary to have there, would be very willing and are anxious to do this duty for this little additional compensation. If this section shall be adopted it will cause a very large—I may say an astonishingly large saving of the public money without any detriment to the public interest.

Mr. KELLEY. I desire only to say what the gentleman from Illinois has omitted; that this will make our service in harmony with those of all other nations. We are the only nation that maintains a corps of firemen and coal-heavers, and we pay them more than we pay sailors. Every other nation has a provision just such as this, adding to the pay of the most industrious sailors for doing this work, and saving, as the gentleman has said, the rations and pay of the whole number of firemen and coal-heavers.

Mr. PIKE. I move to amend by striking out the last line of this section. It is as I supposed it was; the gentleman from Illinois [Mr. WASHBURN] is a very excellent gentleman. The only difficulty with him is that if he but understood the management of a ship he would pursue a different course. Why he would pay a fireman extra for his services as a sailor he has not yet stated. I suppose he is aware that a fireman now receives a higher rate of compensation than a sailor receives. He should also be aware that the regulations of our Navy provide that no commander of a vessel shall use steam on any occasion unless there is a special necessity for it, and that the necessity for it must be recorded in the log. That regulation of our Navy is precisely like the regulation of the British navy on that point: that all vessels must go under sail without some pressing necessity for the use of steam. And the great complaint against the Navy Department is that our vessels are now so constructed that they must go under steam while they should be so that they could go under sail. The complaint is that our steam vessels cannot go under sail, while it should be that the whole crew should be shipped for the purpose of managing the vessel, that a ship of war should have the force necessary to manage it as a ship of war.

We have provided by law that the Navy should have eighty-five hundred men, to be distributed among about forty vessels. Now, it must be evident, that all those men are not necessary for the working of those vessels. It is absurd to say that eighty-five hundred men are necessary to work forty vessels. But they are so distributed as to make those vessels efficient as men of war. Now, there is no need of any provision requiring the paymaster of a vessel to distinguish a fireman or coal-heaver from any other man on the vessel, to transfer him from one department to another, to keep separate accounts with each man, and pay him thirty-three cents per day every time he may act as fireman or coal-heaver. It should be so arranged that the master of a vessel may manage his crew as he likes. Every man on board the vessel should be under the control of the master of the vessel for any purpose he may choose to use him, whether to fight the vessel or to manage it in any other way.

It does seem to me absurd to have such regulations that whenever the master of a vessel has occasion to use a man for one purpose he should be paid differently from what he is paid when used for some other purpose. That it seems to me would be by no means in the interest of good discipline on board ship. For these reasons I hope this section will be stricken out. I know of no such regulation in the British navy, and I have understood that there is no corresponding regulation in that navy. The gentleman from Pennsylvania [Mr. KELLEY] may have informed himself differently upon this matter. But I have never heard of any such regulation, and I have given some considerable attention to such subjects.

Mr. KELLEY. Not only have I informed

myself of that, but also that the maintenance of such a corps of men is the source of great discontent among our men.

Mr. SPALDING. It strikes me that this provision is a very sensible one. I know of no reason why able-bodied seamen on board a man-of-war may not perform the duties of firemen and coal-heavers as well as men specially employed for that purpose. We propose to offer them the inducement of thirty-three cents per day additional pay whenever they see fit to perform that duty.

And certainly on board a man-of-war room is of some account. I am not prepared to say how many of these firemen or coal-heavers are ordinarily shipped on board a man-of-war, but there must be a goodly number of them. By the arrangement proposed in this section we dispense with all those supernumeraries, and take able-bodied seamen. And then we provide that if they shall perform the services of firemen or coal-heavers they shall receive this additional pay of thirty-three cents per day.

There is no difficulty in keeping the accounts and paying these men. A certain set of seamen are classed as firemen and are to be allowed this additional pay; and when on any one day out of twenty or thirty the vessel is propelled by steam-power, then these men are called into action with this additional pay. That is the effect of the proposition; and I do not see any force in the argument used by the chairman of the Naval Committee [Mr. PIKE] in opposition to the measure. It strikes me as a measure of economy, one that will save expense by dispensing with supernumeraries on board of these vessels of war, which is certainly a very desirable object.

Mr. PIKE. The gentleman will allow me to suggest that we have already provided that there shall be on board our ships eighty-five hundred men of various grades, sailors, firemen, coal-heavers, &c., and their pay is fixed. This proposition is designed to give a certain portion of these men additional pay. That is the whole proposition.

Mr. SPALDING. The proposition is to give to able-bodied seamen additional pay if they will perform the services of firemen, thereby dispensing with the firemen altogether.

Mr. PIKE. No, that is not proposed.

Mr. WOODWARD. I move that the committee rise.

Mr. WASHBURN, of Illinois. I hope the gentleman will let us get through with the bill this afternoon.

Mr. WOODWARD. Very well; I withdraw the motion.

Mr. PIKE. I withdraw my amendment to the amendment.

The question recurring on the amendment of Mr. PIKE to strike out section two, it was not agreed to.

The Clerk read the following paragraph:

SEC. 3. *And be it further enacted*, That the officers of the marine corps shall hereafter consist of one colonel, one lieutenant colonel, two majors, one adjutant and inspector, one paymaster, one quartermaster, one assistant quartermaster, twelve captains, eighteen first lieutenants, eighteen second lieutenants; and the sergeants and corporals and clerks are to be reduced two fifths; the selection of officers to be mustered out of service or reduced to be determined by lot among the officers and non-commissioned officers at present in commission.

Mr. BANKS. I raise the point of order on this section that it changes existing law and is not in order in this bill.

The CHAIRMAN. The Chair sustains the point of order. The section will be stricken out.

The Clerk resumed and concluded the reading of the bill.

Mr. WASHBURN, of Illinois. I move that the committee rise, and report the bill with the amendments to the House.

The motion was agreed to.

So the committee rose; and Mr. GARFIELD having taken the chair as Speaker *pro tempore*, Mr. BLAINE reported that the Committee of the Whole on the state of the Union, having had under consideration the bill (H. R. No. 1599) making appropriations for the naval service for the year ending 30th June, 1870,

had directed him to report the same back with sundry amendments.

Mr. WASHBURN, of Illinois. I move to suspend the rules for the purpose of offering amendments as follows:

At the bottom of page 3 insert the following: *Provided*, That all amounts appropriated for the support of the Naval Asylum at Philadelphia, the beneficiaries therein, the pay of officers, repairs, contingent and other expenses, shall be charged to and paid from the income of the naval pension fund.

On page 11, after the first paragraph with reference to the Marine corps, insert the following:

Provided, That the number of non-commissioned officers, musicians, and privates authorized and allowed to be enlisted into the Marine corps of the United States be, and the same is hereby, fixed and declared to be fifteen hundred and no more.

Insert the following as section three:

And be it further enacted, That the officers of the Marine corps shall hereafter consist of one colonel, one lieutenant colonel, two majors, one adjutant and inspector, one paymaster, one quartermaster, one assistant quartermaster, twelve captains, eighteen first lieutenants, eighteen second lieutenants; and the sergeants and corporals and clerks are to be reduced two fifths; the selection of officers to be mustered out of service or reduced to be determined by lot among the officers and non-commissioned officers at present in commission.

Those two provisos and this section have been stricken out in Committee of the Whole upon points of order. My object in moving to suspend the rules is that they may be reinserted in the bill.

Mr. BANKS. I move that the House adjourn.

Mr. WASHBURN, of Illinois. I hope the gentleman from Massachusetts will withdraw his motion as it will only throw this bill over for a week.

Mr. BANKS. I decline to withdraw the motion.

Mr. WASHBURN, of Illinois. Then I hope the House will vote it down.

The House divided; and there were—ayes 54, noes 35.

So the motion was agreed to; and thereupon, (at twenty-five minutes after four o'clock, p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BOWEN: The petition of Hamilton Slawson, of South Carolina, for relief.

By Mr. CLARKE, of Ohio: The petition of Seth Linton and others, of Clinton county, Ohio, praying for a reform in the abuses practiced by those having in charge nunneries, convents, cloisters, jails, asylums, &c.

By Mr. COBURN: A memorial of colored men of the second congressional district of Georgia, setting forth their grievances and asking protection.

By Mr. DAWES: The petition of Hannah Kelley, widow of Thomas Kelley, for a pension.

By Mr. DRIGGS: The petition of James Mason and 30 others, citizens of Lake Superior, Michigan, praying Congress to establish a mail route from Escanawba, in the upper peninsula of Michigan, via Mason or Delta Mills, by the most direct route to Minising, or Grand Island, in said State.

Also, the petition of W. V. Williams and 12 others, for the same object.

By Mr. GARFIELD: A petition of inmates of the Soldiers' Home, Washington, for legislation to prevent officers from taking away the products of the farm attached to that institution for their private use.

Also, the petition of Elizabeth A. Spurgeon, for a pension.

Also, the petition of Amanda Bowker, for a pension.

By Mr. GRAVELY: The petition of R. W. Glap, of Virginia, asking to be relieved from the disabilities imposed by the fourteenth article of the amendment to the Constitution.

By Mr. HARDING: A petition of people of Warren county, Illinois, for an amendment of the law relative to the manufacture of tobacco.

By Mr. HOLBROOK: A memorial of the Legislative Assembly of the Territory of Idaho, asking that the organic act be amended so as

to permit the territorial Legislature to continue their sessions for the period of sixty days.

Also, a memorial of the Legislative Assembly of the Territory of Idaho, asking an appropriation for the survey of the boundary line.

Also, a memorial of the Legislative Assembly of the Territory of Idaho, asking for an appropriation for the survey of public lands.

By Mr. JUDD: A memorial of the National Lincoln Monument Association, of Springfield, Illinois, asking the donation of captured and damaged bronze and brass ordnance for the use of said association, and for transportation.

By Mr. JULIAN: A petition of 17 citizens of the State of New York, praying that in any proposed amendment of the Constitution of the United States to extend or regulate suffrage no distinction shall be made between men and women.

Also, a petition of 60 citizens of the State of New York, praying the same.

Also, a petition of 60 citizens of the State of New York, praying the same.

Also, a petition of 54 citizens of New York, praying the same.

Also, a petition of 120 citizens of New York, praying the same.

Also, a petition of 64 citizens of New York, praying the same.

Also, the memorial of Joseph L. Smith, in relation to reformed schools in the District of Columbia.

Also, the petition of Phebe Wood and Sylvia Ann Wood, heirs of Jethro Wood, deceased, praying compensation in lands for services rendered the country by said Jethro Wood's patented plow.

By Mr. KELLEY: A petition of the professors and students of Lincoln University, praying Congress to propose a constitutional amendment securing to all citizens equal political rights, without regard to class, creed, race, or color.

By Mr. MARVIN: The petition of John Hegeman, praying compensation for the use of his patent pontoon bridges during the late war by General W. T. Sherman and other officers.

By Mr. MOORE: A petition and memorial of the sugar refiners of Philadelphia, asking for a new classification of sugars for tariff purposes.

Also, sundry petitions from masters and owners of vessels of the city and State of New York, with accompanying papers, praying the intervention of Congress to protect all engaged in navigation from illegal exactions by State and municipal corporations.

Also, a petition of 6,000 masters and owners of vessels sailing to and from the ports of Washington and Georgetown, with accompanying papers and bills, for protection from illegal taxes by State and municipal corporations.

By Mr. MOORHEAD: The memorial of Nancy G. Miller, of Pittsburg, Pennsylvania, praying for relief.

By Mr. PAINE: The memorial of Peter Stinebeck, for relief.

By Mr. PETERS: Petitions of Abigail Dix and Joseph Blake, for pensions.

Also, the petition of E. B. Patten and others, of Bangor Maine, for a change of the law taxing tobacco.

By Mr. PHELPS: A petition of surviving officers and soldiers of the war of 1812, asking to be placed upon the pension rolls.

By Mr. POISLEY: The petition of Joseph H. Wheat, asking for a pension.

By Mr. SCHENCK: The memorial of William A. Wheeler, praying Congress to indemnify him for losses on certain contracts with the Navy Department.

By Mr. TIFT: The remonstrance of John Sereven, president of the Atlantic and Gulf railroad of Georgia, against any further increase of the duty on imported iron and steel.

By Mr. VAN AERNAM: The petition of William Adams, of Franklinville, New York, a soldier of the war of 1812, praying Congress to grant him a pension.

Also, a petition of 184 citizens of Cattara-

gus county, New York, praying Congress to enact a law establishing a post route from Randolph, New York, via Conewango, Leon, and New Albion, to Cattaraugus, New York.

By Mr. VAN TRUMP: The petition of H. A. Ghebeline and 54 others, praying Congress to repeal parts of sections seventy-eight and ninety-four of an act entitled "An act imposing taxes on distilled spirits and tobacco, and for other purposes," approved July 20, 1868.

IN SENATE.

TUESDAY, January 12, 1869.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

COMMITTEE SERVICE.

The PRESIDENT *pro tempore* announced the appointment of Mr. RICE and Mr. ABBOTT as additional members of the Committee on the Pacific Railroad, in pursuance of the order of December 21, 1868.

PETITIONS AND MEMORIALS.

Mr. GRIMES presented the petition of Eliphalet Brown, jr., praying compensation for services rendered as an artist in the Japan expedition under Commodore Perry; which was referred to the Committee on Claims.

Mr. SUMNER presented the petition of George F. Peers, of Appomattox Court-House, Virginia, praying to be relieved from disabilities; which was referred to the Committee on the Judiciary.

Mr. SUMNER. I also present a series of resolutions, in the nature of a petition to Congress, adopted at Macon, Georgia, January 1, 1869, at a mass meeting, in which is set forth a deplorable condition of things in the State of Georgia, and the parties ask a remedy from Congress, and suggest, among other things, the adoption of a bill introduced by myself. I move the reference of this petition to the Committee on the Judiciary.

The motion was agreed to.

Mr. WILSON presented the petition of Francis T. Stribling, praying a removal of the civil disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

He also presented the petition of James Murdaugh, praying the removal of the civil disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

Mr. CATTELL presented the memorial of the sugar refiners of Philadelphia, praying for a new classification of sugars for tariff purposes; which was referred to the Committee on Finance.

Mr. FRELINGHUYSEN. I present a petition from a number of capitalists, stating that they understand that a proposition is pending before Congress to endow the Northern Pacific Railroad Company and the eastern division of the Union Pacific Railroad Company with a Government subsidy of \$16,000, \$32,000, and \$48,000 per mile, according to the nature of the territory; and they are further informed that these companies have already had granted to them forty sections, or twenty-five thousand acres of land per mile, and that it is proposed to give them the privilege of mortgaging the road for an amount equal to the Government subsidy; that in addition to the grant of lands these subsidies, at the rate named, will, for both roads, amount to the enormous aggregate of \$125,000,000, and very probably \$130,000,000; that the memorialists will undertake the construction of either or both of these roads, with the same land grants, and with a Government subsidy of \$15,000 per mile for the entire line, with the right of mortgage to the same amount; thus making a saving to the Treasury of the United States of \$75,000,000; that they will give bonds equal to the amount of the subsidy for the completion of both roads in ten years, the bonds to be indorsed by capitalists representing \$100,000,000. I offer this memorial

because one of the capitalists who signs it is a constituent of mine.

Mr. CONKLING. Who are the memorialists?

Mr. FRELINGHUYSEN. Franklin Haven, George B. Upton, John T. Coolidge, S. S. Dana, Henry J. Gardner, George Baty Blake, Glidden A. Williams, Joseph Nickleson & Co., John J. Blair, and W. S. Williams. In offering this memorial I desire, however, to say that I am opposed to the granting of any subsidies for railroads excepting where the faith of the nation is pledged. I believe that the present rate at which railroads are being built across the continent by the aid of the Government shows that they can be built at a sufficiently rapid rate without that aid, and with it that they are more likely to be well constructed when they are not unreasonably hastened in order to get the subsidy. But if we are to grant subsidies, I am in favor of granting the smallest amount. I move the reference of this memorial to the Committee on the Pacific Railroad.

The motion was agreed to.

Mr. RICE presented the petition of members of the bar of the eastern district of Arkansas, asking for an additional term of the United States circuit court for that district; which was referred to the Committee on the Judiciary.

He also presented a memorial of the members of the bar of Garrard and adjoining counties in Kentucky, praying that Lancaster, the county seat of Garrard county, be selected as one of the places for holding the district court of the United States in the new district proposed to be established in that State; which was referred to the Committee on the Judiciary.

Mr. POMEROY presented a petition of citizens of Kansas, praying that in any amendment to the Constitution of the United States to extend or regulate suffrage there be no distinction between men and women; which was referred to the Committee on the Judiciary.

He also presented a petition of citizens of Kansas, praying that the right of suffrage be granted to the women of the District of Columbia; which was referred to the Committee on the Judiciary.

Mr. COLE presented the petition of Jonathan Elliot, late commercial agent of the United States at San Domingo and Porto Plata, praying compensation for services rendered and reimbursement of money expended in negotiating a treaty with the Dominican republic in the year 1856; which was referred to the Committee on Foreign Relations.

Mr. WILLEY presented the petition of C. B. Hood, praying the removal of the civil disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

Mr. THAYER presented the memorial of Chauncey A. Horr, praying that he may be compensated for injuries received at the hands of Omaha Indians; which was referred to the Committee on Claims.

REPORTS OF COMMITTEES.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution to print ten thousand additional copies of the report of the Special Commissioner of the Revenue, have instructed me to report it back without amendment, and recommend its passage. I am also instructed to ask for its present consideration.

There being no objection, the resolution was considered and agreed to, as follows:

Resolved, That there be printed for the use of the Senate, ten thousand copies of the report of the Special Commissioner of the Revenue, with the appendices complete.

Mr. SUMNER. The Committee on Foreign Relations, to whom was referred the bill (H. R. No. 967) to provide for the removal of the remains of Hon. W. T. Coggeshall, late minister of the United States at Ecuador, to the United States, have had the same under consideration, and directed me to report it back with a recommendation that it pass. If there is no objection to its consideration now—

Mr. MORRILL, of Vermont. I shall object. The PRESIDENT *pro tempore*. Objection being made, it goes over under the rule.

Mr. CORBETT, from the Committee on Indian Affairs, to whom was referred the joint resolution (H. R. No. 361) for the relief of Helen Lincoln and Heloise Lincoln, and for the withholding of moneys from tribes of Indians holding American captives, reported it with amendments.

Mr. ROSS, from the Committee on Indian Affairs, to whom was referred the joint resolution (S. R. No. 165) authorizing the Commissioner of Indian Affairs to appoint guardians or trustees for minor Indian children who may be entitled to pensions or bounties under the existing laws, reported it with amendments.

BILLS INTRODUCED.

Mr. SUMNER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 762) to prevent the alienation to foreigners of grants or privileges from the United States; which was read twice by its title.

Mr. SUMNER. I should like to have the bill read at length. It is very brief.

The Chief Clerk read the bill, as follows:

Be it enacted, &c., That it shall not be lawful, without the express consent of Congress first obtained, to assign or transfer to any alien person or foreign corporation, any charter, grant, or privilege given by or derived from the United States and designed to promote or regulate intercourse with any foreign nation or the dominions thereof.

The bill was referred to the Committee on Foreign Relations, and ordered to be printed.

Mr. FRELINGHUYSEN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 763) to continue the office of solicitor and naval judge advocate general; which was read twice by its title, referred to the Committee on Naval Affairs, and ordered to be printed.

Mr. RICE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 764) to aid in the construction of the Arkansas and Pacific railroad; which was read twice by its title, referred to the Committee on the Pacific Railroad, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill to give an additional term of the United States circuit court for the eastern district of Arkansas; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 766) to grant a portion of the military reservation at Fort Leavenworth to aid in the construction of a railroad and wagon bridge across the Missouri river; which was read twice by its title, referred to the Committee on Military Affairs, and ordered to be printed.

INDICTMENTS IN THE REBEL STATES.

The PRESIDENT *pro tempore*. If there be no other bills or joint resolutions the Calendar is in order.

Mr. SHERMAN. I move to take up the bill commonly known as the copper bill—the bill (H. R. No. 1460) regulating the duties on copper and copper ores.

Mr. FERRY. I trust that bill will not be taken up now. I see that the Maryland Senators are out of their seats, and they desire to be heard upon it, both upon the question of taking it up and upon the bill itself.

Mr. SHERMAN. I do not want to take advantage of the absence of any one, but those Senators are present, I think, within the building. I saw one of them a moment ago.

Mr. FESSENDEN. What bill is it?

Mr. SHERMAN. The copper bill. I want it acted upon.

The PRESIDENT *pro tempore*. The question is on taking up the bill for consideration.

Mr. SUMNER. I think, in the absence of those Senators, it is hardly fair.

Mr. SHERMAN. I think they are about here, probably in the lobby. I know they take a special interest in it, but I will not press the motion in their absence.

Mr. TRUMBULL. I move that the Senate proceed to the consideration of Senate bill No. 584.

The PRESIDENT *pro tempore*. There is a motion pending, made by the Senator from Ohio, to take up the bill mentioned by him.

Mr. TRUMBULL. I thought the Senator from Ohio had consented to lay that aside until some Senators came in.

Mr. TRUMBULL. I move, then, to take up Senate bill No. 584.

The motion was agreed to; and the bill (S. No. 584) relating to the time for finding indictments in the courts of the United States in the late rebel States was considered as in Committee of the Whole. It provides that the time for finding indictments in the courts of the United States in the late rebel States for offenses cognizable by those courts, and which may have been committed since those States went into rebellion, shall be extended for the period of two years from and after those States are or may be restored to representation in Congress; but this provision is not to apply to treason or other political offenses.

The Committee on the Judiciary proposed to amend the bill by striking out in line seven the words "two years" and inserting "one year."

Mr. TRUMBULL. That amendment was reported by the committee; but it is some time since this bill was introduced, and a good portion of the time has already expired for which it was desirable to extend the period within which to find indictments; and I think the amendment of the committee had best not be concurred in now. I think there can be no objection to making the time two years.

The amendment was rejected.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 1570) making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1870, and for other purposes; and

A bill (H. R. No. 1668) to repeal an act regulating the tenure of certain civil offices.

PRESIDENTIAL APPROVAL OF BILLS.

A message from the President of the United States, by Mr. WILLIAM G. MOORE, his Secretary, announced that the President had, on the 8th instant, approved and signed the bill (S. No. 738) to relieve from disabilities John G. Stokes, a citizen of Alabama.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of the Interior, submitting an estimate of an appropriation required for fulfilling treaty stipulations with the Crow Indians, under the treaty of May 7, 1868, for the fiscal year ending June 30, 1870; which was referred to the Committee on Indian Affairs.

He also laid before the Senate a letter from the Secretary of the Interior, transmitting an estimate of appropriations required for fulfilling treaty stipulations with the Sac and Fox Indians of the Mississippi, under the treaty of February 18, 1867, for the fiscal year ending June 30, 1870; which was referred to the Committee on Indian Affairs.

He also laid before the Senate a letter from the Secretary of the Interior, communicating a copy of a letter of the Commissioner of Indian Affairs, representing the necessity of providing for the payment of an agent for the Crow tribe of Indians; which was referred to the Committee on Indian Affairs.

He also laid before the Senate a message from the President of the United States, communicating, in compliance with a resolution of the Senate of the 17th ultimo, information

concerning the exercise or claim by consuls of the United States in Japan of judicial powers in cases arising between American citizens and citizens of any foreign nation other than Japan; which was ordered to lie on the table, and be printed.

He also laid before the Senate a message from the President of the United States, communicating, in obedience to law, a copy of rules agreed upon between the Chinese Imperial Government and the ministers of the United States and of other foreign Powers accredited to that Government; which was referred to the Committee on Foreign Relations, and ordered to be printed.

HOUSE BILLS REFERRED.

The bill (H. R. No. 1570) making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1870, and for other purposes, was read twice by its title, and referred to the Committee on Appropriations.

The bill (H. R. No. 1668), to repeal an act regulating the tenure of certain civil offices, was read twice by its title, and referred to the joint select Committee on Retrenchment.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the resolution of the Senate authorizing and directing the continuance of the joint Committee on Ordnance, and had appointed Mr. JOHN A. LOGAN of Illinois, Mr. BENJAMIN F. BUTLER of Massachusetts, and Mr. R. C. SCHENCK of Ohio, the committee on its part.

The message also announced that the House had passed a joint resolution (H. R. No. 404), providing for the disposition of certain papers relating to military claims accruing in the department of the West; in which it requested the concurrence of the Senate.

MISS SUE MURPHEY.

Mr. HOWE. If the morning business is concluded, I move to take up the bill which was under consideration at the adjournment last evening.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 625) for the relief of Miss Sue Murphey, of Decatur, Alabama.

Mr. DAVIS. Mr. President, before the vote is taken on this bill I propose to submit some further remarks to the Senate in support of it. I do not think my advocacy of the bill depends in any degree on the fact that Miss Murphey is a woman and one of our fair countrywomen. I place it exclusively on the ground that she was a loyal woman, and that her property was taken for public use. I think her claim is as fair as any imagination can suppose she was; that it is just; that it is sanctioned by the Constitution; and that its payment is required by the Constitution; and I hold that if the Senate rejects it, with the aid of the vote and speech of the honorable Senator from Vermont, [Mr. MORRILL,] notwithstanding his heavy denunciation of any repudiation of the just claims of the Government, he himself will be guilty of that offense. I hold that if the Senator votes against this bill he will be guilty of repudiation in a case of higher and stronger obligation than that of any of the bonds of the United States or any contract which the United States may have made. In my judgment, this claim is recognized by the highest law known to our Government; and that highest law requires the Senator from Vermont and every other Senator imperatively to vote for the passage of the bill under consideration. That highest law is the Constitution of the United States. I want the country to understand distinctly that if this bill is rejected it will be a naked, clear, and flagitious case of repudiation; and so far as any support or exposition of it that I can give is concerned I am determined that it shall thus be clearly and distinctly presented to the country.

Now, Mr. President, as has been stated by the advocates of this bill, it is supported upon the ground that the Constitution, by its express provision, requires that when property is taken for public use just compensation for it shall be made. The honorable Senators on the other side of the Chamber who oppose it, led principally by the Senator from Michigan [Mr. HOWARD] and the Senator from New Jersey, [Mr. FRELINGHUYSEN,] assume that this express provision of the supreme law of the land is met and overruled by implication and deduction from the law of nations; and the honorable Senator from Michigan read from Vattel, a very able writer upon public and national law.

Mr. HOWARD. I beg to correct the honorable Senator from Kentucky. I did not cite Vattel; I did not deem it necessary to cite Vattel for any purpose. I read a passage or two from Chancellor Kent.

Mr. DAVIS. What I assert is that the principles upon which the Senator relies for the defeat of this bill are embodied in Vattel in discussing the laws of war between nations who are at war. And here is the substance of what he says, in a very few words, to which I ask the honorable Senator's attention:

"When the sovereign or ruler of the State declares war against another sovereign it is understood that the whole nation declares war against another nation, for the sovereign represents the nation and acts in the name of the whole society."

That is not analogous to our case, because in this country there is no sovereign but the people:

"And it is only in a body and in her national character that one nation has to do with another. Hence, these two nations are enemies, and all the subjects of the one are enemies to all the subjects of the other. In this particular custom and principles are in accord."

Enemies continue such wherever they happen to be. The place of abode is of no consequence here. It is the political ties which determine the character. While a man continues a citizen of his own country he is the enemy of all those with whom his nation is at war. But we must not hence conclude that these enemies may treat each other as such whenever they happen to meet."

Since women and children are subjects of the State and members of the nation they are to be ranked in the class of enemies."

And with respect to things the case is the same as with respect to persons; things belonging to the enemy continue such wherever they are."

Now, Mr. President, here is a succinct statement of the laws of nations that govern the subjects or the citizens of different countries that are at war with each other. If the honorable Senator from Michigan dissents from either of the principles stated in Vattel, as I have read them, I will pause to give him an opportunity of declaring his dissent. I therefore take it for granted that he does not dissent. Some of the gentlemen who have opposed this bill have relied upon by quoting Vattel. I concede that if the laws of nations have any application to the case under consideration those laws are correctly embodied in Vattel as I have read; but I deny that they have any application to this case.

The honorable Senator from Michigan has repeatedly announced himself in about these terms: that Miss Sue Murphey and every citizen of Alabama and of all the southern States in rebellion who remained within the borders of their respective States after the commencement of the war of rebellion were enemies of the United States; that they were so to be treated in their persons and in their property; that just the same principles of law which would apply to British subjects, if the United States was at war with England and would regulate the property and persons of British subjects, would apply without any exception or qualification, after hostilities commenced between the insurgents in the southern States and the United States Government, to the persons and property of the citizens of the States where the rebellion prevailed.

Now, I ask the honorable Senator's attention to a historical fact, and to a principle necessarily springing out of it. During the war of 1812 Michigan was a Territory of the United States, was within the boundary of the United

States, and was as much the Territory of the United States as the State of Ohio, although the one was a State and the other a Territory. In August, 1812, the Territory of Michigan was conquered by the arms of England, and on the 16th of September that conquest was consummated by the surrender of Hull and the taking possession of the entire Territory, with very few exceptions, by General Brock, who commanded the English armies. Now, I put this question distinctly to the honorable Senator: when Michigan was thus conquered by the British arms was Michigan enemy's territory? Were the citizens of the Territory of Michigan in its then subjugated and conquered condition enemies of the United States?

Mr. HOWARD. I will answer the honorable Senator when he has finished his remarks, unless he desires an answer now. I do not wish to interrupt him.

Mr. DAVIS. The course suggested by the honorable Senator, being his pleasure, is entirely agreeable to me.

Mr. President, I will proceed to the legitimate reasoning from the premises and principles of the honorable gentleman and his coadjutors in opposition to this bill. There is no law whatever that will make Sue Murphey and the citizens of Alabama enemies to the United States except national law. The gentlemen have argued again and again that the application of national law in this respect is the same to citizens of the United States who are in a state of insurrection as it would be to the subjects of Spain, Great Britain, or any other Power, if our country was at war with them. Now, let us reason what would be the effects and consequences of this principle? By their premises, when Michigan was conquered by the British arms it became enemy's country, and every person resident in it and remaining in it after the conquest assumed the character of an enemy to the United States. The law upon which they rely is stronger than that. It lays down that when two peoples or two nations are at war the citizens and subjects of each are mutually enemies wherever they may be resident. Then, according to the principles relied upon by the honorable Senators and their logic from them, upon the conquest of Michigan in 1812 by the British arms, that Territory became enemy's country and subject to the British power. Following up their principle, that being enemy's country, every person in it, according to the position assumed by the honorable Senator from Michigan, who remained there, would by the operation of the law of nations become an enemy to the United States, and the persons and property of these enemies of the United States resident in Michigan would be subject to the national law, and consequently the British authorities could at once proceed to the confiscation of all the property of the people of Michigan who remained within the boundary of that Territory after the British arms had taken possession of it.

Now, Mr. President, what would result from these principles? General Cass, who was then a colonel in the United States service, was a citizen of Michigan. He became a prisoner, if I recollect aright, by the surrender of Hull. He did not change his residence from the city of Detroit. It continued to be his home. According to the premises and principles of the honorable Senator, General Cass was then a resident of enemy's country, and was himself an enemy of the United States. Is any man within the sound of my voice prepared to make so monstrous an application of the principles of the laws of nations which do not apply except to sovereign, independent nations that are at war with each other?

Let us pursue the argument of the honorable gentlemen a little further. The honorable Senator from New Jersey, if I mistake not, and other gentlemen have contended broadly, unqualifiedly, without restriction or condition, that the laws of nations applied to the case of the late rebellion. Let us examine what this application would lead to. Here was General Thomas, a citizen of the State of

Virginia, in the military service of the United States Government, one of the ablest military men that has been exhibited to the country by the operation of this war. At the time that he was serving the United States in obedience to his allegiance to them and his oath to support the Constitution, and to discharge his duties as a military officer, what power, according to the argument and the premises of the honorable gentlemen, could Congress have exercised toward General Thomas? What toward President Johnson? What toward Mr. Justice Wayne, of the Supreme Court? At the time that Thomas was fighting the battle of Mill Spring; at the time he was fighting the battles of Franklin and of Nashville, and planning the campaign which resulted in the glorious victories of Lookout Mountain and Missionary Ridge, which campaign originated in his military mind, according to the position and principles of the honorable gentlemen he was an enemy to the United States. If the principles of the laws of nations apply to the case he could have been, and was, nothing else. Congress then might have passed a bill to disrobe him of his uniform and epaulettes, to take the sword from his side which he had borne in bloody battles to glorious victories. They might have passed a law expelling him from the country, and forfeiting, according to the military law, what property he had that Congress or the military authorities could seize.

Here was President Johnson, a citizen of a seceding State, whose convention had passed an ordinance of secession. After that had taken place, and that State was deeply involved and one of the most effective parties in the form of States in this war of the rebellion, the party now in power and that insists upon these monstrous doctrines selected him as its candidate for the Vice Presidency and elected him to the office and placed him in the line of constitutional succession which resulted upon the death of President Lincoln.

Mr. Justice Wayne was a citizen of the State of Georgia. He refused to follow in the course which his State led and to abide the fortunes of that State. He acknowledged his higher allegiance to the United States. He therefore refused to go into Georgia or the southern confederacy, and he remained here as a member of the Supreme Court, performing with ability and fidelity the important duties of that illustrious office, as he had done from his appointment under General Jackson.

Now, Mr. President, if the office-seekers, if the men who worship the spoils of victory, if the men who wish to get possession of them, had desired it, if the men who wanted to depose Andrew Johnson from the position of President of the United States which he held, according to my principles, as constitutionally and with as immovable a tenure as that office was ever filled, had desired to carry out their principles and to have given them practical operation, they would have passed a law banishing General Thomas, banishing Andrew Johnson, and Justice Wayne from the States within the Union lines and confiscating their property; and in that way they would have vacated all those high offices. These consequences follow inevitably as logical sequences from the premise of honorable gentlemen that this is a state of case regulated not by the Constitution of the United States, but by national law. In my judgment, the honorable gentlemen cannot get away from this maze of monstrous difficulties in which their positions would necessarily involve them.

Now, I ask the honorable Senator from Michigan—and I intend to ask him several other questions; of course he will answer them in his own good time—I ask him if before the rebellion commenced Alabama was not a part of the United States?

Mr. HOWARD. Yes, sir.

Mr. DAVIS. Was it then enemy's country?

Mr. HOWARD. No.

Mr. DAVIS. No; nor never. When did it become enemy's country? Was it by the

firing of the first gun of the rebellion? Was it by the ordinance of secession passed by the State? The honorable Senator says that the Government and the people and the convention of Alabama had no authority whatever under the Constitution and outside of rebellion to promulge their ordinance of secession; and I agree with him. It was as much a nullity and of no more effect than if it had never been promulgated by the convention of Alabama. It had no validity. When these troubles began Alabama, the gentleman admits, was friendly territory, was not enemy's territory; Miss Sue Murphey was a friend of our country and Government, not its enemy. I ask the honorable Senator from Michigan, and I ask the honorable Senator from New Jersey, what authoritative power made Alabama enemy's country? What authoritative power made Sue Murphey and the loyal people who were in the State of Alabama enemies to their country? The honorable Senator from Michigan contends that everything which the rebels, or which the rebel States did, or attempted to do toward those ends, was perfectly null and void. I agree with him. It had no effect whatever.

Mr. HOWARD. Will the honorable Senator allow me to ask him one question right there?

Mr. DAVIS. Yes, sir.

Mr. HOWARD. I understood him to say that everything that was done by the rebel government was null and void.

Mr. DAVIS. Yes, sir.

Mr. HOWARD. Does he adhere to that principle?

Mr. DAVIS. I do, and I have always maintained it, and I expect always to maintain it. I say there was no government *de jure* or *de facto* in the southern confederacy; that is, so far as they attempted to revolutionize and to dissolve their constitutional relations with the United States and its government. I say that everything they attempted to do toward those ends was absolutely null and void and of no effect. I understand that to be the position of the honorable Senator. If he dissents from it, when he chooses to reply to my remarks let him state distinctly his dissent and its ground.

With that position conceded by him and by me, I ask the honorable Senator what authority, what binding act of the southern confederacy, or of any State in the southern confederacy, made the State of Alabama enemy's country, and her people adhering to their highest allegiance to the United States, and keeping their oath to support the Constitution of the United States, enemies of the United States, and placed them in the condition where they were subjected to be treated in their persons and property as would be the subjects of Great Britain if the United States were at war with that Power? There is no such principle. Was not Sue Murphey, in her home before the difficulties commenced, residing in the United States? Was not her home a part of the United States? Was she not residing there in peace, with a loyal and true heart to her country, to the Government, and to the Union? Had she not a right to remain there; and remaining there, within the United States, was she not entitled to the protection and support of the United States in her fidelity to its Government and to its institutions? Certainly she was.

Now, I lay down this position, and I challenge the honorable Senator to refute it either by argument or authority: Alabama was a component part of the United States; it belonged before the war and during the war, and belongs at this time to the United States; it was no less a part of the United States when the rebellion raged with most violence, and when there was most doubt on what side the fortune of war would prevail. At that time Alabama and every foot of territory within her boundary was a part of the United States. Sue Murphey was there under the shield of the Constitution. She was there with this great, imperishable principle protecting her, that if

her property was taken for the public use of the United States it was upon the express and constitutional condition of having just compensation made. In the forcible summary of the honorable Senator from Rhode Island [Mr. ANTHONY] all the powers of Alabama, all the powers of the southern confederacy, and all the powers of earth and hell, so long as the Constitution prevailed and ruled, had no authority to change her relations to her country in the home which she had occupied before, in the peaceful protection of which it was the duty of her Government to defend her. Her heart was true and loyal to the flag, to the Union, to the law, to the Constitution; and to say that crimes and acts which gentlemen denounce as having no force and no effect could have nevertheless the operation to make Alabama enemy's country and Sue Murphey an enemy to her country when her heart beat as true to that country and its Government as that of the honorable Senator from Michigan or any citizen within the broad limits of the United States is a perversion of language, of reason, and of moral and political ethics.

Mr. President, my honorable friend from Michigan is an able lawyer. I have known him for many long years; and his ability as a lawyer I have always conceded and now fully recognize. I will state to him one or two principles, not only of our Constitution and the law which it forms, but of national law. Whenever a country or a portion of a country is overrun by a foreign or hostile enemy the subjugation of that country does not make it a part of the enemy's country; it is only a temporary occupation by violence and force of arms; as, for instance, when the English arms conquered Michigan, and when the British arms also conquered a portion of the State of Maine, I deny that the overrunning and the temporary occupation of those portions of the United States by the British arms made them enemy's country. There are but two modes by which any portion of the territory of the United States can be made enemy's country. The one is by negotiation and cession, and the other by war and the necessities of war. When a part of a country or the whole of it is overrun by the enemy's arms and occupied by the enemy the country that is taken possession of by the invading army does not become a part of and is not incorporated with the Government of the invading country until the territory is assured to the party making the conquest by treaty or by long peaceful and undisputed occupation. I concede that the territory of the United States may be detached from the United States in either of these modes, but in none other. The territory must be passed to the foreign state by the treaty-making power, or it must be conquered by the arms of the foreign State and held and possessed by the authorities of the foreign State for such a long course of time in peaceful, quiet, undisputed possession as according to the laws of nations would pass the title to the territory to the invading State.

Was there any such process as that here? Let me take the invasion of the honorable Senator's now State, then Territory, by the British forces during the war of 1812. Suppose there were some citizen of Detroit at that time now living, and after General Harrison bore back the British troops under General Brock across to the British territory it became necessary to take the property of that citizen, who had remained true and loyal to the Government of the United States and continued to live in Detroit all the time, for precisely the same purpose for which the property of Sue Murphey was taken, would the honorable Senator contend that after the enemy had been driven back and the authority of the United States had repossessed itself of the conquered country, and had by its officers constructed forts out of the material and property belonging to a loyal citizen, that loyal citizen would not be entitled to just compensation for his or her property so taken? Mr. President, the thing is preposterous, and its injustice and absurdity are equally revolting; but no more so than in

the case under consideration. Here this lady lived within the United States at her former home. She was entitled to have the full protection of the General Government thrown around her person to protect it and all her rights of property. The Government was unable for a time to perform this task in Decatur; but the country and the Government rallied their energies and forces, they drove the insurgents from Decatur, repossessed themselves of the country, reinstated the government, and authority, and laws of the United States, and that Government and those laws have prevailed there without interruption ever since.

But gentlemen say that this town of Decatur was attacked by Hood, on his march north, to get in the rear of General Thomas. That is an argument which reinforces the claim of Miss Murphey. It shows the military exigency that existed for taking her property to build a fort, and it shows the valuable purpose of defense which that property subserved for our armies, our country, the common defense, by taking it and incorporating it into this fortification. Sir, this country never was enemy's country. It never could become enemy's country until it was formally conquered and subjugated by the rebellion, until the success of that war of rebellion had been recognized by the treaty-making power, or until the rebels and insurgents had maintained themselves peacefully, quietly, firmly in the possession of Decatur for such a long course of time as by the law of nations, in analogy to the laws regulating private titles to land, would have ripened into a title.

I admit that in times of great military exigencies a military commander may seize private property for public use. When the just and proper defense of the country or the successful prosecution of the war with which he is charged requires it, he has the power to do it. It is a constitutional power. It is not the power of the robber, of lawless and resistless force. It is not the power of an unjust usurper trampling upon the constitution and laws of his country and making might right. No, Mr. President, it is a peaceful, ordinary, necessary power under the Constitution in its proper exercise; and that power alone, properly, peacefully, and constitutionally, was exercised when Miss Murphey's property was taken and so appropriated.

The gentlemen who oppose this claim live where the storm and fury of battle did not rage. Their homes were undisturbed by the shock of arms. Their women and children and men were never frightened by the roar of artillery. They occupied a country of such security and loyal feeling that no man dared be a rebel. They are the men who constitute the force that oppose this bill and all similar measures. But in the southwest and in Alabama it required principle and moral and physical courage, and love and devotion to the Union and the Constitution and the enforcement of the laws, to oppose the rebellion. Where all the great principles and forces of human decision and human action were operating to drive persons from their loyalty, from their true fealty to the country, loyalty was a thing to be prized. Do we not owe something to the persons who were faithful amid such fiery and terrible trial?

Here was a feeble and a fair woman with heroic soul, and with all a woman's devotion and truth, faithful to her country and its Government, who manifested a heroic adherence to her country amid the storm and the doubt of raging civil conflict. She showed her high courage, her high moral devotion to her country, and when her property was taken as a necessity of the public defense, when the safety and the life of the nation required it, should she not be compensated? It is by contributions of this sort in small amounts that, to use a cant phrase, the life of the nation was preserved. When this lady's property was taken *in extremis* in this great exigence, and to preserve the life of the nation, the position of the honorable Senator and his coadjutors in this ungracious resistance is that they who

were perfectly secure are not bound to contribute to her indemnity; that although this storm of war may have swept from her all her small possessions, and left her and her orphan sister in poverty, penury, and want; when what they had: went like the widow's mite to the cause of saving the nation, there shall be no common average, that the cost shall not be met equally by the other people of the United States whose position was secure, who saw and heard the raging of the storm at a distance, and slept as quietly and securely as though there had been no storm; that this devoted woman must give her all to save the life of the nation, and that the Senator's constituency, so secure, and many of them so much more wealthy, shall give nothing. Is there any reason, humanity, justice, or law in that? None.

Mr. President, I have only adverted to a few objections to show why the laws of war do not and cannot apply to this and similar cases without utter confusion, without revolution, without the overthrow of our Government and its most valuable and sacred principles. Gentlemen commit a great error, and it is a very common one, when they choose to illustrate the powers of our Government by analogy to foreign Governments by the laws of nations. I will read a little from Mr. Madison in order to show the error and danger of such a course of interpretation and construction. Mr. Madison, in his recently published letters, says:

"Our governmental system is established by a compact, not between the Government of the United States and the State governments, but between the States as sovereign communities, stipulating with each other a surrender of certain portions of their respective authorities to be exercised by a common Government, and a reservation for their own exercise of all their other authorities."—*Madison's Writings*, vol. 3, p. 223.

Again:

"I view our political system also as you do, as a combination and modification of powers without a model, as emphatically *entire*, of which one remarkable feature is its annihilation of a power inherent in some branch of all other Governments, that of taxing exports. I wish, moreover, that you might be followed in the example of defining the terms used in argument, the only effectual precaution against fruitless and endless discussion. This logical precept is peculiarly essential in debating constitutional questions, to which, for want of more appropriate words, such are often applied as lead to error and confusion. Known words express known ideas; and new ideas, such as are presented by our novel and unique political system, must be expressed either by new words or by old words with new definitions."—*Ibid.*, p. 436.

Again:

"It has been too much the case in expounding the Constitution of the United States that its meaning has been sought, not in its peculiar and unprecedented modifications of power, but by viewing it, some through the medium of a simple Government, others through that of a mere league of governments. It is neither the one nor the other, but essentially different from both. It must consequently be its own interpreter. No other Government can furnish a key to its character. Other Governments present an individual and indivisible sovereignty. The Constitution of the United States divides the sovereignty: the portion surrendered by the States composing the Federal sovereignty over specific subjects; the portions retained forming the sovereignty of each over the residuary subjects within its sphere. If sovereignty cannot be so divided the political system of the United States is a chimera, mocking the vain pretensions of human wisdom."—*Ibid.*, vol. 4, p. 61.

"The Government of the United States, being a novelty and a compromise, had no technical terms appropriate to it, and old terms are to be used in new cases, explained by the context or the facts of the case."—*Ibid.*, p. 209.

Now, sir, there are the fundamental principles of the Constitution laid down by Mr. Madison, who has generally been styled in history its father. I believe, myself, from having carefully read his writings, that he knew more of the Constitution—more of its true principles—than all the men who have ever written or spoken upon that instrument. One of the legitimate conclusions from these premises is, that when the Constitution establishes a principle or contains a provision in words, that principle or those words cannot be reached, they cannot be annulled, they cannot be qualified, they cannot be added to by a recurrence to the provisions and powers of any other Government. The Government of the United States, created by the Constitution, is *entire*

entire; it is its own interpreter. Other Governments can furnish no authority of law or of reason in relation to its construction, except where its express principles are identical with those of the Government from which authority is sought to illustrate and enforce it.

Now, sir, I will apply these principles. Here is a provision of the Constitution of the United States in concise and the most explicit language, that private property shall not be taken for public use except upon just compensation. That is a provision peculiar to our Government. In that feature our Government is *sui generis*. In that feature our Government is a departure from all other systems of Government, so far as the fundamental law is concerned. There is no other Government in the world that has a written Constitution, a fundamental law enumerating and delegating its powers, dividing them out among the people, and securing certain great civil rights to every citizen, which has any such provision. Now, what is the position of Mr. Madison? This provision stands by itself; it stands in the fundamental law in times of revolution as a rock does in a stormy and tempestuous sea. The billows of faction, of military tyranny, of lawless violence, of cupidity, and rapine and plunder may beat against this great, deeply founded, and immovable principle, but it remains firm as an island-bound rock of the ocean.

That is the law which Senators have sworn to support. That is the law of this case. That is the law which ought to rule it. Wherever reason, learning, justice, and morals prevail, whether in deliberate assemblies or in courts or in popular assemblies or anywhere on the face of the earth, there is the law that will govern this and all similar cases. It is only passion and corruption that silence and stifle that law. The honorable Senator from California [Mr. Cole] yesterday quoted the maxim *inter arma silent leges*: in the midst of arms the laws are silent. I grant that where the rage of battle exists, where all civil authority is overthrown, in the very storm of battle, in its midst, from necessity that maxim prevails; but whenever the storm of battle has passed away the law, like the reed that is prostrated by the raging storm, rises to its natural position and resumes its wonted authority. That is exactly the state of things here. When Decatur was beleaguered, if it was beleaguered; when it was assailed, while the assault continued, before it was decided, as a matter of necessity the civil law was silenced; but so soon as that storm of battle passed away and the authorities, military or civil, of our country took peaceful, quiet possession of Decatur, or of any other portion of Alabama, in the country thus possessed by our arms and our authority, where the law could be peacefully administered, there was no longer any application of the maxim quoted from Cicero by the honorable Senator from California. That is the argument of usurpers, of tyrants, of demagogues, of mobs. I have heard it, and I give it the least possible operation. I certainly ascribe it to times and places inexorable, and it has no application whatever in this case.

But, Mr. President, suppose all the principles for which the honorable gentlemen who oppose this bill contend were correct, what, then, is the further law, according to their own system, which would prevail? I read the other day from the decision in the case of *Brown vs. The United States*, which has been received as authority by all the courts and commentators upon our Constitution and by all American publicists since as the true law. I will read the syllabus of that decision:

"British property found in the United States on land at the commencement of hostilities with Great Britain cannot be condemned as enemy's property without a legislative act authorizing its confiscation."
"The act of the Legislature declaring war is not such an act."

One of the principles of our Government declared in explicit language by the Supreme Court is that Congress has no power to declare war against a State; but if Congress had that power, if it had it under the law of nations

in analogy to the relations existing between independent and sovereign and foreign States, what would be the effect? What was decided by the Supreme Court to be its effect in the case I have just cited? Congress declared war against Great Britain; property belonging to one of her subjects was found within the United States; during the progress of the war the law officers of the Government had that property libeled as enemy's property; the circuit court decided that the declaration of war of itself produced the confiscation and authorized the seizure of that property. That was the only question in the case. Upon that isolated question it was taken up from the judgment of Mr. Justice Story to the Supreme Court, and there the court, Mr. Justice Story alone dissenting, announced after full and solemn argument the principle which I have stated, that the mere declaration of war does not confiscate property; and until the property is confiscated by law it belongs to the alien enemy resident in the country. Congress might have added a clause of confiscation to the declaration of war; it might at any time pass another act declaring the confiscation of the property of the subjects of England found within the United States; but it passed no such law; and the judgment of the Mansfield of America, who did more service toward a correct exposition of the Constitution than any man whatever who ever lived except Mr. Madison, not having molded it, decided explicitly that the owner, although a public enemy and a foreigner resident in this country, was not disturbed in his possession or title to the property that was claimed in the libel, and could not be until Congress saw fit to enact and had enacted a special law to confiscate that property under particular or general terms.

Now, what would the principle here require? What would it have required of Congress? Let us in imagination to ourselves liken it to the invasion of Pennsylvania by the rebels, when the contest seemed to hang in equal scales. Suppose the honorable Senator from Michigan had then proposed, "we will pass a law according to such principles as are claimed in this debate to defeat this bill; we will declare that citizens of the southern States, independently of rebellion, without regard to their fidelity and support of the Constitution of their country, are public enemies; we will pass a law to confiscate all their property; we will pass a law that we will seize the persons of those who are residents in our lines and imprison them or eject them forcibly from the loyal States—a law that shall subject all their estates to forfeiture and confiscation?"

Why did not the honorable Senator in his devotion to this principle, in his deep detestation of the enemies of the country, in obedience to the laws which now, when the war is over, he says should govern this case—why did he not then introduce bills into Congress to produce these results? Why did not he introduce a bill to banish Andrew Johnson from the presidential chair? It would have saved the ridiculous farce of impeachment for mere difference in politics. Why did not he introduce a law to banish Mr. Justice Wayne from the Supreme bench? Why did he permit that illustrious and pure judge to hold his seat in that august tribunal for the purpose of constraining the Constitution and laws of the United States, the treaties which the United States formed with foreign nations, and the constitutions and statutes of all the States in the Union? Sir, if the honorable Senator had introduced a measure of that kind he would have been thought a raving madman; he would have made a step so mistaken and so preposterous as to have produced a tremendous countercurrent in public feeling and have brought the United States Government and its supporters to the feet of the rebels.

Why, sir, Jeffries, if he were in this country, would never have advocated such a principle as that. He was a stern judge, learned in the law, but his vicious and ferocious nature made him steep the ermine which he wore deep in

the gore of the murdered victims of his judicial tyranny; and such a judgment as that would have been pronounced against such atrocious measures if they had been attempted to be introduced by the honorable Senator. Sir, I meet the honorable Senator upon his own premises, upon his own principles, on the question that the absence of an act of confiscation renders the title and possession of Sue Murphey to her property, and of every man, woman, and child in the United States in her condition, safe to her and to the respective owners. That is the law of the land, pronounced by the greatest judicial light that ever lived in it.

Why, Mr. President, if the honorable Senator's principle is capable of any application, this would be the utmost extent of its application: that only where a citizen of the United States joined the rebellion did he become the enemy of his country. A man or a woman true to the Constitution, true to the authority of the United States, true to the Union and laws, might have been passing like Shadrack, Meshach, and Abednego through the fiery furnace of rebellion, protected by the ægis of the Constitution, he or she would have passed as untouched by the fiery flames as those men who were protected by the great Jehovah. That is the protection which Sue Murphey and every person in her condition is entitled to from the Congress of the United States and from the courts. Crime is personal; punishment is personal. The Constitution of the United States knows no punishment of an innocent person, no forfeiture of life, of liberty, of property. Wherever the people who were in the southern States preserved their loyalty, their fidelity to their Government, they were as unstained by rebellion, as free from all its consequences, as the honorable Senator from Michigan, and with much more merit, because the temptation and forces that operated so terribly upon them and with such little results he was a perfect stranger to.

The honorable Senator, and those who assist him, cannot get away from the partisan illusion that these States became rebel and enemy's territory by State boundaries. If it would not be thought disrespectful to the honorable Senator's learning I would pronounce that to be unmitigated nonsense. It is refuted by the opinion of the Chief Justice in Mrs. Alexander's case. No, sir, Alabama never was enemy's country; no southern State ever was enemy's country; not one square inch of the United States ever was enemy's country. It was a country where insurrection and rebellion for a time overthrew the law; but when the insurrection was subdued and put down the law sprang up by the inherent principles of our Government and our Constitution. The Supreme Court recognized that doctrine in Mrs. Alexander's cotton case; and here in Decatur, if there ever was a time when the rebel flag and the rebel power swayed and ruled it was but a short interval; and when that rule was driven out the constitutional rule of the United States Government, with the panoply of the Constitution, with all the great rights of person, of property, of conscience, which that instrument secures to the peaceful and true citizen, immediately sprang up into full force and effect, *proprio vigore*.

That is the law as recognized by Chief Justice Marshall, and it is the law of justice. Unless that can prevail in this case, all else would be of the most revolting character, revolutionary, unjust, oppressive, confounding virtue and innocence with guilt and the deepest stains of vice.

Sir, there is no such confounding of principles and of morals in our Government. If your own principles—as they must necessarily apply under our Constitution and in subordination to it—are to have any application at all, before you can make these penalties attach to any individual you must show that that individual was actively a rebel. The honorable Senator from California said yesterday, in the beginning of his remarks, that if he conceded that there was any obligation, express or im-

plied, in this case, which would require the United States to pay the claim, he would vote for the bill. Sir, I wish the case were before an enlightened and an impartial court upon that proposition.

Mr. COLEB. I desire to correct the Senator. My statement was that we should pay in cases where there was a contract, express or implied.

Mr. DAVIS. That was my understanding. Now, sir, when the Constitution declares that no private property shall be taken for public use without just compensation made, and the private property of a loyal citizen is thus taken, it is one of the strongest implied contracts that can be supposed. There is no intelligent court whatever in this land, or in any other land, that would not sustain it as an implied contract.

Mr. President, so far as my wishes and desires are involved, if gentlemen intend to repudiate a contract, be it so. It is nothing new in our history. Gentlemen of the majority have already repudiated a contract which they themselves had explicitly made two or three times with my State and with the other States which held slaves. They passed a solemn law providing that if we would permit our negroes to enlist in the armies of the United States, if we would encourage them, incite them to enlist in the armies, the Government would pay \$300 for each of those who should voluntarily be enlisted. My State has a claim exceeding \$10,000,000 against this Government. In obedience to this law and promise the Senate deliberately passed an appropriation bill directing \$10,000,000 to be applied to the discharge of this claim; and after that had been concurred in, as I believe, by the House of Representatives, the gentlemen of the majority counter-marched; they counter-marched as they now have in the other House in relation to the tenure of civil office bill; they took the back track; they passed a law suspending the payment of money for property thus taken for public use for which Congress had two or three times pledged its word, its faith, its obligation.

The question may come in another form, as to what is equitable between the Government and the bondholders. To the bonds there were two parties: there was the Government and the purchaser of the bonds. It was a contract. The purchaser was not forced to take the bond; he did it voluntarily, and he paid less than half its value in gold for it in most cases. Under your constitutional power it was necessary for the existence and administration of the Government to seize private property for public use; you have done that, and the Constitution imposes the obligation upon you to pay for it, a supreme obligation, and you swore to support that Constitution and to comply with that obligation; and yet you come in now and offer to repudiate this pledge that comes up so fully to the principle and provision of the Constitution. Sir, when men denounce repudiation after giving a vote against this bill they ought to hold a thick veil before their faces. They ought to blush deeply in shame and remorse, if they have any conscience which will lead them to feel such sentiments as to bring forth blushes of shame and remorse. They ought to have a thick veil to hold up to protect them from public scorn for the violation of faith.

Mr. RICE. Mr. President, I have but a word to add to what has already been said on the question before the Senate. The position that I occupy in this case goes upon the presumption that Miss Sue Murphey was loyal to the Federal Government, that she owned this property, and that the property was taken by the Government for the use of the Army. If that be true, I hold that she is entitled to the pay for it the same, living at Decatur, that she would have been had she and the property been in the State of Pennsylvania or any State North. It is from that stand-point that I argue this question. Those points, all but one of them at any rate, seem to have been conceded

by the Committee on Claims, and that is as to the nature of the claim. That, I believe, is not conceded. Some hold that it is for damages, and not for property appropriated for the Government use; but taking it to be property that was appropriated and used by the Government, I hold that she is to be paid for that property.

While I was up the other day I contended that from the commencement of the war to the present time every department of the Government had taken position in opposition to the law of nations on this subject of constructive enemies. I then made my remarks without having very thoroughly examined the subject. Since that time I have looked further into it, and I find that I am sustained in that proposition. I find that from the commencement of the war there was an exception made in favor of the loyal citizen, without regard to his local habitation, and that he was treated from time to time by every department of the Government as a friend, and not as an enemy of the Government.

What I rose now for was to call the attention of the Senate to what, I believe, is known as the confiscation act. By that act all the property of the officers, civil and military, of the confederate States of America was confiscated. There were five or six different classes of officers and men whose property was confiscated by the law of July 17, 1862. The sixth section of that act provides as follows. I will read it, as I can get the idea better in that way than by stating it:

"And be it further enacted, That if any person within any State or Territory of the United States, other than those named as aforesaid, after the passage of this act, being engaged in armed rebellion against the Government of the United States or aiding or abetting such rebellion, shall not, within sixty days after public warning and proclamation duly given and made by the President of the United States, cease to aid, countenance, and abet such rebellion and return to his allegiance to the United States, all the estate and property, moneys, stocks, and credits of such persons shall be liable to seizure as aforesaid; and it shall be the duty of the President to seize and use them as aforesaid, or the proceeds thereof."

That section applies to all the inhabitants of the South except those who were holding certain offices. It was intended for the people. It was intended to invite a return of the people to their allegiance, not by States, but individually. The President, in conformity to the requirements of that law, issued a proclamation which I wish to read in this connection. It is very short:

"In pursuance of the sixth section of the act of Congress entitled 'An act to suppress insurrection and to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes,' approved July 17, 1862, and which act, and the joint resolution explanatory thereof, are herewith published, I, Abraham Lincoln, President of the United States, do hereby proclaim to and warn all persons within the contemplation of said sixth section to cease participating in, aiding, countenancing, or abetting the existing rebellion, or any rebellion against the Government of the United States, and to return to their proper allegiance to the United States, on pain of the forfeitures and seizures as within and by said sixth section provided."

By that proclamation in 1862 sixty days were given to the people of the South individually—not collectively, not by States, not by counties, but individually—to return to their allegiance to the Government of the United States. Every person who after the expiration of those sixty days adhered to the Government of the United States by that proclamation is regarded as a friend and not an enemy of the Government. If the President of the United States, in obedience to an act of Congress, invites the return individually of those engaged in rebellion, or those who by construction are in rebellion, to their allegiance, and they do so and cast their fortunes with the Government upon that invitation, can the Government in good faith treat them any longer as enemies? Is not the effect of that to make them from that time forth not public enemies, but the friends of the Government with all the rights of the friends of the Government in any other portion of the country? That is the point to which I wished to call the attention of the Senate, that after the date of that proclamation, after the sixty

days expired, every person who then adhered to the Government of the United States and continued to adhere to it to the close of the war was a friend by construction, in fact, and every way to the Government of the United States, and must be so treated.

Mr. BUCKALEW. Mr. President, I regard the transaction of the taking of this lady's property as being in the nature of a forced loan, and the argument of the question to be precisely that which would apply to an acknowledged case of forced loan, made by our Government, or made by officers of our Government, upon a peaceful citizen of the United States. We have had, fortunately, little occasion in this country to consider questions of forced loans. They are common questions throughout Spanish America. My attention in former years was directed to them from the accident of my residence in one of the Spanish American republics. I bring, therefore, to this debate very strong feelings, as well as convictions, with reference to the real question involved in this bill. I bring feelings of strong opposition and antipathy to the pretenses upon which such loans are coerced by Governments from their citizens: and I have been able, so far as reasoning is concerned, to convince myself that I can vote for this bill without committing myself to a principle which will charge upon the Government an inconvenient and unreasonable amount of pecuniary obligation.

It is to be remembered throughout this debate that we have not here a case of an injury to a citizen resulting from some military operation merely. The injury was not an incident to the bombardment of a town. It was not an injury which resulted merely from the march of an army over the soil, over the possession of a citizen. It is not to be classed with any of those incidental consequences which follow from the carrying on of military operations in time of war. It is distinct from all those cases in the fact that here was a military order setting apart particular private property for military purposes, followed by an inquisition or finding by a military board of the taking of the particular property, and of its value; and more than that, a decision by the general in command in the particular district that this property ought to be paid for by the Government of the United States, and a recommendation by him that the engineer department should pay for it according to the award which had been found.

In the case which was before us from Virginia at the last session, the case of Mr. Segar, we refused to vote an appropriation of public money to the payment of his claim upon the report of a committee. I for one resisted the passage of the measure as it was first presented to us. I think it is not to be permitted that committees of the Senate and of the House of Representatives, upon *ex parte* affidavits, or upon statements of claimants made before them, or upon both these grounds, should make reports which, without any sanction or further showing, are to be adopted by Congress. In that case the bill was amended. Instead of paying the demand of Mr. Segar we referred the subject to the Court of Claims for investigation; and I think that ought to be considered a rule to us in all cases where we have no other guarantee for the amount of damages or the amount to be paid than the mere report of a committee. In the very nature of things it is impossible that our committees can examine cases of this kind and intelligently and fairly pass upon them, and give us the grounds upon which we can safely base votes appropriating the public money. For one I shall protest against throwing upon our committees the ascertainment of how much money is to be voted upon claims against the Government as a general rule, for only one side is heard, or can be heard, before them. The reasons which obtained in instituting the Court of Claims for the investigation of demands upon the Government were sound. Those reasons are of as much force at this moment as they were when that court was established. Therefore, in all

ordinary cases, I should refuse to vote for the passage of bills of this character involving appropriations of money from the public Treasury upon the mere report of a committee.

The reasons for resisting such appropriations are most imperative. I said they were as strong now as they were when the Court of Claims was established. Sir, they are infinitely stronger. It is more necessary now than it was upon any former occasion in any former year that gentlemen in Congress should maintain a firm position against attempts to throw upon our committees the investigation and decision of these claim cases, where we have, and can have, in the nature of the case, no guarantee, except the report of a committee, that the amount of money which we vote is a just and proper sum, and that all the grounds upon which it is based are such as should commend themselves to our judgments.

But in the present case, as I have already stated, we have regular action by the military authorities in appropriating this property, an assessment by them at the time and upon the spot of the amount of injury inflicted, and an approval of the general in command of the district or place of that assessment, with a recommendation by him that the amount should be paid. Now, sir, upon precisely such grounds as those, so far as the investigation and allowance of Claims are concerned, millions and millions of money have been paid to private parties during the war and since the war, and it seems to me that this case when it came into the Senate, instead of being sent to the Committee on Claims, should have been sent to the Military Committee, and should have been reported upon by that committee as falling within rules, and belonging to a class of cases with which our military authorities were familiar during the war and since the war, and which have been paid, and properly paid, by the Government.

In the present case the amount of the demand is only \$7,000, and I am satisfied that there was due investigation and a proper report from the military authorities who took this property as to the value of the property taken and the circumstances of its seizure. This case therefore can be distinguished from most of those claim cases which have been, and may hereafter be, presented for the consideration of the Government as growing out of the war. We shall be safe, so far as amount is concerned, and so far as the question of investigation is concerned, in passing this bill without referring it for investigation to some judicial tribunal, which in ordinary cases ought to be done.

Mr. President, I sympathize very much with the efforts of gentlemen in the Senate and elsewhere who devote themselves to the thankless task of protecting or attempting to protect the public treasury against unreasonable, unjust, or inconvenient demands; and to a great part of the debate, so far as it has been against this claim, I have listened with most respectful attention. But, sir, the true opposition to this bill, as it has been ably presented by several gentlemen, stands upon one ground, and upon one ground only. It is the ground of policy, dictated by convenience or necessity. If nations were able, if their means were such that they could extend complete justice to their own people, doubtless at the end of every war they would indemnify every human being loyal to them who had been injured during the war, whether by the operations of their own Government or by the hostile action of the enemy. The burdens and losses which fall upon individuals in particular cases would be distributed through the whole mass of the nation and would become a public and common charge. Upon grounds of abstract justice such a policy could be vindicated. It comports with humanity and with all those ideas of justice which civilization brings to man.

But, sir, nations and Governments know that this is impossible; that in the very nature of things they cannot extend to every person among their own people this abstract and complete justice and indemnity; and therefore

they have adopted, and have acted upon, certain rules excluding from compensation all those claimants whose injuries were the act of the enemy and not the act of their own Government, and excluding, also, those injuries which were mere incidents and consequences of military operations by themselves; for it must be manifest to all who have examined this subject, that it is impossible that nations can enter upon this field of liberality and beneficence, without impoverishing themselves, depleting the public Treasury, and making the action of Government in collecting revenue and imposing burdens upon the people intolerable, perhaps leading to convulsion and to fundamental change. Therefore it is not done.

But, sir, these general considerations, I insist, do not apply to that class of cases which this bill illustrates, of which it is an example—cases where the authorities of Government themselves, by a deliberate act in a formal manner, have gone to the citizen and demanded from him as an individual a peculiar contribution to the public necessities; in other words, where they have made a forced loan or appropriation of his property. Government justly claims the right to demand of all its people contributions for the public necessities in time of war and in time of peace; but it acts by rules which secure equality of contribution. Hence one of the principles upon which your tax laws are based is the principle of equality. All men owning a particular form of property, engaged in a particular branch of industry, holding certain rights of accumulated wealth, are to contribute to the public necessities. They are to give a portion of their substance to the treasury of their common Government, so that it shall be nerved and armed to perform with efficiency its duties in time of war and in time of peace. But when the Government goes to a citizen or to a limited number of citizens and demands of them a contribution of their property, while the demand is not made upon the general mass of the community or class to which they belong, it does an act which can be justified upon no ground whatever except the ground of absolute necessity, the pressure of the moment, the exigency of the hour not admitting of delay or of postponement for the ordinary action of Government to interpose or have effect.

But, sir, when they do this, when they take this exceptional and extraordinary course, justified by necessity alone, what is an early, if not an immediate duty? It is that compensation shall be made to the individual; that at the earliest moment when the public beneficence and public justice can be brought to bear upon it, the individual who has been subjected to such peculiar strain shall be indemnified for the injury inflicted upon him. And, again, I hold that in this country of ours, under our free Constitution, with our system of equal laws, it would be monstrous to announce that the Government may seize the property of good citizens, men or women, in time of peace or in time of war, and appropriate it to its immediate necessities, and afterward deny them compensation or redress, and substitute for justice some vague declaration of general principles of public law obtaining between independent Powers, which were adopted for very different reasons from those which apply to debate upon this bill.

Now, sir, consider two or three other points, and with the statement of these I will conclude. Suppose you come down from the ground upon which I have placed this question to these points which have been hinted at but not fully expressed or argued in debate; suppose you announce, by a grave vote of the Congress of the United States, the doctrine that a military commander in time of war or of insurrection may seize upon the property of law-abiding citizens of the United States and apply it to military and Government purposes, and that afterward no obligation whatever shall rest upon the Government for his act or to relieve the citizens from its consequences; and what have you established? Why, sir, you have

established in the first place the strongest possible inducement which can bear upon the ordinary mind against taking part with you against rebellion and against your enemies. Thus, in the present case if this lady, instead of being devoted to the Government of the United States, had contributed active assistance to the enemy her property would not have been liable to seizure or appropriation by that enemy; it would have been during the whole struggle safe and secure so far as they were concerned; and as regards us, it would have been safe and secure against the action of our Government, except in a remotely possible or exceptional case, because we never intended, although we announced something like it in an act of Congress, to confiscate all private property in the South. The chances were a hundred to one that she would be secure, so far as the title and enjoyment of her property were concerned, against the action of the United States.

But, on the other hand, assuming that she took part with our Government, then she was liable to the hostility of the authority and government under which she was for the time being placed, liable to lose all her property, and beside, (according to this monstrous doctrine,) if her own Government to which she was attached should rescue its flag from disgrace in her State, should resume its jurisdiction, should vindicate its just authority and power, any military commander with the flag of the Union over him could seize her property and apply it to public use and never in all the days of the future, no matter how the public wealth might be swollen and the public means be increased, could she ask for a dollar of indemnity or of compensation for the injury inflicted. Why, sir, this is to hold out an inducement, whenever rebellion breaks out or war exists, to our own citizens to go against us, to consult their private interests by opposing us; and it will be a strong and powerful inducement if it be held out and extended.

What more? We know that military commanders require to be placed under strong restraint in time of war, as much of restraint as is compatible with the active and successful prosecution of military operations; but what does this doctrine do? It puts the property of all the loyal people of the United States within an insurrectionary district completely at the mercy of any military commander who may be prosecuting war under the authority of our Government. If he seize it and appropriates it to the public use none can gainsay his power to do so, and there is no redress in the future.

If, in making these appropriations of property, the military officer chooses to consult his own personal feelings, his likes and dislikes, to take the property of A and let the property of B go unmolested because he loves the latter or hates the former, or because he has received a bribe to influence his conduct, there is no redress. Sir, I regard this doctrine as a doctrine of license to military commanders to do about what they please with the property of private citizens within insurrectionary districts. They are to escape censure and investigation for their conduct. No action can be brought against them, no responsibility fastened upon them; and your Government is not to respond either. They may do what they please, or about what they please, in taking private property, and there will be no remedy. Sir, I repeat this is a monstrous doctrine in my judgment, and it is as impolitic as it is unjust.

I have but little more to contribute to this debate. It has long been my conviction that this subject of war claims ought to be taken up and decided by the Government. I think it should have been taken up two or three years ago, immediately at the conclusion of the war; that we should have determined deliberately what kind of claims we would pay and what we would not pay, and should have proceeded at once to investigate those claims that were to be paid, to ascertain their amount and make provision for their payment. That has not been done, and gentlemen propose now, in-

stead of taking up this subject and deciding it finally, that we shall put off the evil day, that we shall push these cases away from us; that we shall not subject our Treasury to any immediate strain, leaving them to come up again and again at one session after another until at some future time some decisions shall be reached. Sir, I am against this policy of delay. I am for prompt action; and it is my belief that if claims like the one now before us, and other claims which the Government in good faith and in good conscience ought to pay, are pushed away from you and postponed to some future time, the Government will eventually pay a great deal more than if the claims were now considered and decisions made upon them.

Mr. President, this talk about every person in the southern States being in contemplation of law a public enemy and to be treated as such in regard to all their private rights as they may have been connected with the late war, is, in my judgment, improper if not absurd. I believe there were two classes of persons connected with the late war who deserve peculiar credit for the course which they pursued, and to whom justice will be done by history. In the first place I refer to those persons in the southern States who maintained their allegiance to the Government of the United States. If there is any class of our citizens who deserve more of credit than another, and who will receive that credit from the pen of history, it is this class.

Doubtless among them there were many obnoxious as individuals; perhaps persons who trimmed a little between the two parties to the late war, or against whom some other objection appealing to our passions or to our just sense of patriotism may be made; but those true-hearted, sincere, earnest, and faithful patriots, who in the insurrectionary States stood by our cause during the war in good faith, who did not pollute themselves with the stain of this insurrection in any way whatever, deserve the gratitude of the American people now, and they will receive the plaudits of mankind in the future.

Sir, there was another class of persons who, though not involved in this bill, deserve a similar classification and similar credit and applause in the future, and that is that class of men in the northern and central States who, though politically opposed to the administration which held authority in our Government during the war, did their duty to their country; who performed all the obligations imposed upon them by our laws, and who went beyond that in contributing sincere and patriotic aid to the public cause, and who did this in spite of what they conceived to be errors in governmental policy and individual oppression and insult upon themselves. This class of our population, large in numbers, will receive, if not from the present time, from the men who shall come to consider our annals from a careful and judicial point of view, that credit and that honor which belong to them for their conduct and which justice imperatively demands.

Now, sir, belonging myself to one of these classes, I have risen upon this occasion to speak of an individual who belongs to the other class; and I say that if there be any just emotions left in our breasts, and if any sense of justice is to obtain in the legislation of Congress, this lady, whose father spent his life in the service of this Government and who left to her this little pittance of property which is involved in the present debate, will be taken kindly, generously, and handsomely to our confidence and favor by the passage of this bill; and we will say that they who were true to the Government in times of peril, in times of trial and suffering, shall not be forgotten when the conflict is passed and when peace and the blessings and prosperity of peace have again enabled us to meet the obligations of justice and to do our duty to the citizen as formerly we did it to the Government of our country.

Mr. SUMNER. Mr. President, this discussion, so unexpectedly prolonged, has already

brought us to see two things; first, the magnitude of the interests involved, and secondly, the simplicity of the principle which must determine our judgment. It is difficult to exaggerate the amount of claims which will be let loose to feed on the country if you recognize that now before us; nor can I imagine anything more authoritative than the principle which bars all these claims, except so far as Congress in its bounty chooses to recognize them.

By the report of the committee it appears that the house of Miss Sue Murphey, of Decatur, Alabama, together with all the other houses of the town, was destroyed, so that not a vestige remained, by order of the first in command at that place, on the 19th March, 1864, under instructions from General Sherman to make it a military post. It is also stated, that Miss Murphey was loyal. These are the important facts. Assuming the loyalty of the petitioner, which I have been led to doubt, the simple question is, whether the nation is bound to indemnify a citizen, domiciled in a rebel State, for property in that State, taken for the building of a fort by the United States against the rebels.

Here it is proper to observe three things; one concerning the petitioner, and two concerning the property taken: first, that the petitioner was domiciled in a rebel State, or, to use more technical language, in a State declared by public proclamation to be in rebellion; secondly, that the property was situated within the rebel State; and thirdly, that the property was taken under the necessities of war, and for the national defense. On these three several points there can be no question. They are facts which have not been denied in this debate. Thus far I confine myself to a statement of facts in order to prepare the way for the consideration of the legal consequences.

Bearing in mind these facts, several difficulties which have been presented during this debate disappear. For instance, a question was put by a learned Senator as to the validity of an imagined seizure of the property of the eminent Judge Wayne, situated in the District of Columbia. But it is obvious that the facts in the imagined case of the eminent judge are different from those in the case of Miss Sue Murphey: Judge Wayne, unlike the petitioner, was domiciled in a loyal part of the country, and his property, unlike that of the petitioner, was situated in a loyal part of the country. This difference between the two cases serves to illustrate the position of the petitioner. Because property situated in the District of Columbia and belonging to a loyal judge domiciled here, could not be taken, it by no means follows that property situated in a rebel State and belonging to a person domiciled there can enjoy the same immunity.

Behind the fact of domicile, and the fact that the property was situated in a rebel State, is that other fact, equally incontrovertible, that it was taken in the exigencies of war. The military order under which the taking occurred declares that "the necessities of the Army require the use of every building in Decatur," and the report of the committee says that General Sherman "had previously issued an order to fortify Decatur as a military post." I might quote more to illustrate this point; but I quote enough. It is plain and indisputable that the taking was under an exigency of war. To deny this is to annul the military order under which it was done, and also the report of the committee.

Three men once governed the mighty Roman world. Three facts govern the present case, with the power of a triumvirate. The domicile of the petitioner; the situation of the property; and the exigency of war. If I dwell on these three facts, it is because I am unwilling that either should drop out of sight; each is vital. Together they present a case which it is easy to decide, however painful may be the conclusion. And this brings me to the principle which I said at the beginning was so simple. Indeed, let the facts be admitted, and it is difficult to

see how there can be any question in the present case. But the facts, as I have stated them, are indubitable.

On these facts two questions arise; first, as to the rule of international law applicable to property of persons domiciled in an enemy country, and secondly, as to the applicability of this rule to the present case. Of the rule there can be no question; its applicability is sustained by reason, and also by authority, from which there can be no appeal.

In stating and enforcing the rule I might array writers, precedents, and courts; but I content myself with a sentence from a writer, who, in stating the Laws of War, is perhaps the highest authority. I refer to the Dutch publicist of the preceding century, Bynkershoek, whose work is always quoted in the last resort on these questions. This great writer expresses himself as follows:

"It is a question whether our friends are to be considered as enemies, say, in a town which they occupy. For my part, I think that they must be considered as enemies." "They say that our friends, although they are among our enemies, yet are not hostilely inclined against us; for if they are there it is not from choice and the *quo animo* only is to be considered. But the thing does not depend only on the *quo animo*, but on the law, because their goods are with the enemy, and are of use to them for our destruction."—*Bynkershoek Quaestiones Juris Publici*, book I, chap. 3.

Nothing could be stronger in determining the liability from domicile. Its sweeping extent, under the exigency of war, is proclaimed by this same writer in words of peculiar weight:

"Since it is a condition of war that enemies may be deprived of all their rights, it is reasonable that everything of an enemy found among the enemy should change its owner and go to the treasury. If we follow the more right of war, even *immovable* property may be sold and its price carried into the treasury, as is the case with movable property."—*Ibid.*, book I, chap. 7.

Here is an austere statement; but it was adopted by Mr. Jefferson as a fundamental principle in his elaborate letter to the British minister, vindicating the confiscation of the property of loyalists during the Revolution. (1 Jefferson's Works, vol. III, p. 369.) It was the corner-stone of his argument, as it has been since the corner-stone of judicial decisions. To cite texts and precedents in its support is superfluous. It must be accepted as the rule of International Law.

The rule, as succinctly stated, is simply this, that the property of persons domiciled in an enemy country is liable to seizure and capture without regard to the alleged friendly or loyal character of the owner.

Unquestionably there are limitations imposed by humanity which must not be transcended. A country must not be wasted or buildings destroyed unless under some commanding necessity. This great power must not be wantonly employed. Men must not become barbarians. But if, in the pursuit of the enemy or for purposes of defense, property must be destroyed, then by International Law it can be done. This is the rule. Vattel, while pleading justly and with persuasive examples for the preservation of works of art, such as temples, tombs, and structures of remarkable beauty, admits that even these may be sacrificed:

"If for carrying on the operations of a war or the works of a siege there be a necessity for destroying buildings of this nature, there is doubtless a right of so doing. The sovereign, or his general, makes no scruple when reduced to it by the necessity of war. The governor of a town evidently threatened with a siege, sets fire to the suburbs, that they may not be of use to the besiegers. Nobody offers to blame him who lays waste gardens, vineyards, or orchards, for pitching a camp or throwing up an intrenchment."—*Vattel*, book III, chap. 8, p. 138.

This same rule is recognized by Manning in his polished and humane work, less frequently quoted, but entitled always to great respect. This interesting writer expresses himself as follows:

"It is clearly a belligerent right to destroy the enemy's property *as far as necessary in making fortifications*." "Destruction of the enemy's property is justifiable as far as indispensable for the purposes of warfare, but no further."—*Manning's Laws of Nations*, p. 138.

With the limitations which I have tried to exhibit, the rule is beyond question in the relations between nations. Do you call it harsh?

Undoubtedly it is so. It is war, which from beginning to end is terrible harshness. Without the incidents sanctioned by this rule war would be changed, so that it would be no longer war. It was such individual calamities that Shakespeare had in mind when he spoke of the "purple testament of bleeding war," and it was such which entered into the vision of that other poet, when in words of remarkable beauty, he pictured by way of contrast the blessings of peace:

"Straight forward goes
The lightning's path, and straight the fearful path
Of the cannon ball. Direct it flies and rapid,
Shattering that it may reach and shattering what it reaches.

My soul the road, the human being travels,
That, on which blessing comes and goes, doth follow
The river's course, the valley's playful windings,
Curves round the cornfield and the hill of vines,
Honoring the holy bounds of property;
And thus secure, though late, leads to its end."

Coleridge's Wallenstein, part I., act 2.

It only remains now to show that this rule of International Law is applicable to the present case. Of course, our late war was not between two nations; therefore, it was not strictly international. But it was between the National Government on one side, and a rebellion, which had become "territorial" in character, with such form and body as to have belligerent rights on land. Mark the distinction, if you please; for I have always insisted and still insist, that complete belligerency on land does not imply belligerency on the ocean. As there is a dominion of the land, so there is a dominion of the ocean; and as there is a belligerency of the land, so there is also a belligerency of the ocean. Therefore, while denying to our rebels belligerent rights on the ocean I have no hesitation with regard to them on the land. But just in proportion as these are admitted, is the rule of International Law made applicable to the present case.

Against our rebels the nation had two sources of power and two arsenals of rights; one of these being the powers and rights of sovereign and the other the powers and rights of war; the former being determined by the Constitution; the latter by International Law. The nation might pursue a rebel as a traitor, or as a belligerent; but whether traitor or belligerent, he was always an enemy. Pursuing him in the courts as a traitor, he was justly entitled to all the delays and safeguards of the Constitution; but it was otherwise, if he was treated as a belligerent. Pursuing him in battle, driving him from point to point, dislodging him from fortresses, expelling him from towns, pushing him back from our advancing line, and then building fortifications against him; all this was war, and it was none the less war because the enemy was unhappily our own countryman. A new law supplied the rule for our conduct; not the Constitution, with its manifold provisions dear to the lover of liberty, including the solemn requirement that nobody shall be "deprived of life, liberty or property without due process of law," and then again that other requirement, that "private property shall not be taken for public use without just compensation." All these were silent, while International Law prevailed. The rebellion had grown until it became a war, and as this war was among countrymen, it was a civil war. But the rule of conduct in a civil war is to be found in the law of nations.

I do not stop to quote the familiar views of publicists, especially of Vattel, to the effect, that, in a civil war, the two parties are to be treated as "two distinct powers." Suffice it to say, that such is the judgment of all the authorities on International Law. But I come directly to the decisions of our Supreme Court which recognize the rule of International Law as applicable to our civil war.

Tocqueville, with the intuition of genius, declared, in his remarkable work, that if a civil war should break out in the United States, it would be "territorial" in its character. Such was our civil war, and our Supreme Court have aptly described it as a "territorial civil war." In this "territorial" character I find a new reason for the application of International Law.

If this law is the rule in an ordinary civil war, where people are divided only by classes or opinions, there is stronger reason for it where the people are divided territorially also.

In the famous cases, known as the *Prize Cases*, (2 Black, R.—), the court expressly say:

"All persons residing within this territory, whose property may be used to increase the revenues of the hostile power, are in this context liable to be treated as enemies, though not foreigners."

Here is the rule of International Law applied directly to our civil war. In a later case, (2 Wallace R. —), the rule is applied with added emphasis and particularity:

"We must be governed by the principles of public law, so often announced from this bench as applicable alike to civil and international wars, that all the people in each State or district in insurrection against the United States must be regarded as enemies."

Thus, according to our highest tribunal, the rule in civil war and international war is the same. By another decision of the court, this same rule continues in force, until the character of public enemy is removed by competent authority. On this point the court declares itself as follows, in the *Alexander cotton case*, (2 Wallace, R. —):

"All the people of each State or district in insurrection against the United States must be regarded as enemies until by action of the Legislature and the Executive, or otherwise, the relation is thoroughly or permanently changed."

If the present case is to be settled by authority this is enough. Here is the Supreme Court solemnly recognizing the rule of International Law, even to the extent of embracing under its penalties *all the people* of the hostile community, without regard to their sentiments of loyalty. This is decisive. You cannot decree the national liability in the present case without reversing these decisions. You must declare that the rule of International Law is not applicable to our civil war. There is no ground for exception. You must reject the rule absolutely.

Do you say that its application is harsh? Of course it is. But again I say this is war; or rather it is rebellion, which has assumed the front of war. I do not make the rule. I have nothing to do with it. I take it as I find it, affirmed by great authorities of International Law, and reaffirmed by the Supreme Court of the United States.

Here I might stop; for the conclusion stands on reason and authority, each unanswerable; but I proceed further in order to relieve the case of all ambiguity. Of course, instances may be adduced where compensation has been made to sufferers from an army; but no case like the present. If we glance at these instances we shall see the wide difference.

1. The first instance is where property is taken by the nation, or its representative, *within its own established jurisdiction*. Of course, this is unlike that now before us. To cite it is only to perplex and mystify; not to instruct. Thus, a Senator has adduced well-known words from Vattel on the question "whether subjects should be indemnified for damages sustained in war," "when a field, a house, or garden, belonging to a private person is taken for the purpose of erecting on the spot a tower, rampart or any other piece of fortification." (Vattel, book IV., chap. 15, § 232.) But this authority is not applicable to the present case, where the claimant is not what Vattel calls a "subject," and the property was not within the established jurisdiction of the nation. It applies only to such cases as occurred during the war of 1812, where property was taken on the Canadian frontier or at New Orleans, for the erection of a fortress, or such a case as that which formed one of the military glories of the Count Rochambeau when at the head of the French forces in our country. The story is little known, and, therefore, I adduce it now, as I find it in the *Memoirs of Segur*; one of the brilliant officers who accompanied the expedition. (See *Memoirs of Segur*, vol. I, p. 375.)

The French squadrons were quitting their camp at Crown Point, in New York, on their

way to embark for France. Their commander, fresh from the victory of Yorktown, was at the head of the columns, when a simple citizen approached, and tapping him slightly on the shoulder, said: "In the name of the law you are my prisoner." The glittering staff by which Count Rochambeau was surrounded were indignant; but the General-in-Chief restrained their impatience and smiling said to the American citizen: "Take me with you if you can." "No," replied the simple representative of the law, "I have done my duty, and your excellency may proceed on your march if you wish to set justice at defiance. Some of your soldiers have cut down trees and burnt them to light fires. The proprietor claims an indemnity, and has obtained a warrant against you, which I am here to execute." The Count, on hearing this explanation, which was translated to him by one of his staff, gave bail, and at once directed the settlement of the claim on equitable grounds. The American withdrew, and the French squadrons, which had been arrested by a simple constable, proceeded on their march. This interesting story, so honorable to our country and to the French commander, is disfigured by the end, showing extortion on the part of the claimant. A judgment by arbitration fixed the damages at \$400, being less than the commander had at once offered, while the claimant demanded no less than \$8,000.

Afterward, in the National Assembly of France, when this great country began to throb with republican life, this instance of submission to law was mentioned with pride. But though it cannot lose its place in history, it cannot furnish a precedent of international law. The trespass was within our own jurisdiction, in which respect it differed precisely from the case on which we are to vote. I adduce it now because it serves to illustrate vividly the line of law.

2. Another instance which I mention, in order to put aside, is where an army in a hostile country has carefully paid for all its supplies. Such conduct is exceptional. The general rule was expressed by Mr. Marey, during our war with Mexico, when he said that "an invading army had the unquestionable right to draw its supplies from the enemy without paying for them, and to require contributions for its support and make the enemy feel the weight of the war." (Halleck, International Laws, chap. 19.) But General Halleck, after quoting these words, says that "the resort to forced contributions for the support of our armies in a country like Mexico, under the particular circumstances of the war, would have been at least impolitic, if not unjust; and the American generals very properly declined to adopt, except to a very limited extent, the mode indicated." (*Ibid.*) It was, according to this learned authority, a question of policy and not of law.

The most remarkable instance of forbearance, under this head, was that of the Duke of Wellington, as he entered France with his victorious troops, fresh from the fields of Spain. He was peremptory that nothing should be taken without compensation. His order on this occasion will be found at length in Colonel Gurwood's collection of his dispatches, (vol. 11, p. 169.) His habit was to give receipts for supplies, and ready money was paid in the camp. The British historian dwells with pride on the conduct of the commander, and records the astonishment with which it was regarded by the peasantry, whether of Spain or of France, who found it so utterly at variance with the system by which the former had suffered and the latter had profited during the Peninsular campaigns, (Allison's History of Europe, vol. 12, p. 340.) The conduct of the Duke of Wellington cannot be too highly prized. It was more than a victory. I have always regarded it as the *high-water mark* of civilized war. But I am obliged to add, on this occasion, that it was politic also. In thus softening the rigors of war, he smoothed the way for his conquering army. In a dispatch

to one of his generals, written in the spirit of the order, he says in very expressive language: "If we were five times stronger than we are, we could not venture to enter France, if we cannot prevent our soldiers from plundering." (Wellington's Dispatches, vol. 11, p. 171.) It was in a refined policy that this important order had its origin. Regarding it as a generous example for other commanders, and offering to it my homage, I must confess that, as a precedent, it is entirely inapplicable to the present case.

Putting aside these two several classes of cases, we are brought back to the original principle that there can be no title to damages for property situated in an enemy country and belonging to a person domiciled there when taken for the exigencies of war.

If the conclusion were doubtful I should deem it my duty to exhibit at length the costly consequences from an allowance of this claim. The small sum which you vote will be a precedent for millions. If you pay Miss Sue Murphy you must pay claimants whose name will be legion. Of course, if justice requires, let it be done even though the Treasury fail. But the mere possibility of such liabilities is a reason for caution on our part. We must consider the present case as if on its face it involved not merely a few thousands, but many millions. Pay it, and the country will not be bankrupt, but it will have an infinite draft upon its resources. If the occasion were not too grave for a jest, I would say of it as Mercutio said of his wound: "No; 'tis not so deep as a well, nor so wide as a church-door; but 'tis enough."

If you would have a practical idea of the extent of these claims, be taught by the history of the British loyalists, who at the close of our Revolution, appealed to Parliament for compensation on account of their losses. The whole number of these claims was five thousand and seventy-two. The whole amount claimed was £8,026,045, or about thirty-eight million dollars, of which the commissioners allowed not quite half. Our claimants would be much more numerous, and the amount claimed vaster.

We may also learn from England something of the spirit in which such claimants should be treated. Even while providing for them Parliament refused to recognize any legal title on their part. What it did was in compassion, generosity, and bounty; not in satisfaction of a debt. Mr. Pitt in presenting the plan which was adopted expressly denied any right on grounds of "strict justice." Here are his words:

"The American loyalists could not call upon the House to make compensation for their losses as a matter of strict justice; but they most undoubtedly, have strong claims on their generosity and compassion. In the mode, therefore, that he should propose for finally adjusting their claims, he had laid down a principle with a view to mark this distinction.—*Hansard's Parliamentary History*, vol. 27, p. 610, June 3, 1788.

In the same spirit Mr. Burke said:

"Such a mode of compensating the claims of the loyalists would do the country the highest credit. It was a new and noble instance of national bounty and generosity."—*Ibid.*, p. 614.

So far as this instance is an example to us, it is only an incentive to a kindly policy, which, after prudent inquiry, and full knowledge of the extent of these claims, shall make such reasonable allowance as humanity and patriotism may require. There must be an inquiry not only into this individual case, but into all possible cases, that may spring into being, so that when we act, it may be on the whole subject.

From the beginning of our national life Congress has been called to deal with claims for losses by war. Though new in form, the present case belongs to a long list, whose beginning is hidden in revolutionary history. The folio volume of State Papers now before me, entitled "Claims," attests the number and variety. Even amid the struggles of the war, as early as 1779, the Rev. Dr. Witherspoon was allowed \$19,040 for repairs of the college at Princeton damaged by the troops. There was afterwards a similar allowance to the academy at Wilmington, in Delaware, and also to the college in Rhode Island. These

latter were recommended by Mr. Hamilton while Secretary of the Treasury, as "affecting the interests of literature." On this account they were treated as exceptional. It will also be observed that they concerned claimants within our own jurisdiction. In 1797 Congress refused to make compensation for a house burnt at Charlestown, after the battle of Bunker Hill, by order of the American commander. The report says:

"As Government has not adopted a general rule to compensate individuals who have suffered in a similar manner, the committee are of opinion that the prayer of this petition cannot be granted."—*State Papers—Claims*, p. 159.

And, yet, in this case the property was destroyed for purposes of defense. In 1814 a claimant received compensation for a house at the end of Potomac bridge, which was blown up to prevent certain public stores from falling into the hands of the enemy (*Ibid.*, p. 446;) and another claimant at Baltimore received compensation for rope-walks burnt in the defense of the city. (*Ibid.*, p. 444.) The report of a committee in another case says that the course of Congress "seems to inculcate that indemnity is due to all those whose losses have arisen from the acts of our own Government, or those acting under its authority, while losses produced by the conduct of the enemy are to be classed among the unavoidable calamities of war." (*Ibid.*, p. 462.) This is the most complete statement of the rule which I find.

After the battle of New Orleans, the question was presented repeatedly. In one case, a claim for "a quantity of fencing" used as fuel by troops of General Jackson was paid by Congress; so also was a claim for damages to a plantation "upon which public works for the defense of the country were erected;" also a claim for "an elegant and well-furnished house," which afforded shelter to the British army, and was, therefore, fired on with hot shot; also a claim for damage to a house and plantation on which a battery was erected by our troops. (*Ibid.*, p. 521.) There was also another case, where Congress seems to have acted on a different principle. On the landing of the enemy near New Orleans, the levee was cut in order to annoy him. As a consequence the plantation of the claimant was inundated, and suffered damages estimated at \$19,250. But the claim was rejected on the ground that "the injury was done in the necessary operations of war." (*Ibid.*, p. 885.) Certainly this ground may be adopted in the present case, while it must not be forgotten that in all these latter cases the claimants were citizens within our own jurisdiction, whose property had been used against a foreign enemy.

The multiplicity of claims arising in the war of 1812 prompted an act of Congress in 1816 for "the payment of claims for property lost, captured or destroyed by the enemy." In this act it was, among other things, provided—

"That any person who has sustained damage by the destruction of his house or building by the enemy, while the same was used as a military deposit under the authority of an officer or agent of the United States, shall be allowed and paid the amount of such damage."—*Statutes-at-Large*, vol. 3, p. 263.

Two years later it was found that in order to obtain the benefits of this act people, especially on the frontier of the State of New York, had not hesitated at "fraud, forgery, and perhaps perjury." (State Papers—Claims, p. 590.) On the recommendation of a committee of Congress the law was repealed, and it is now marked in our statutes as "obsolete." But it is not without its lesson. It shows what may be expected should any precedent be adopted by Congress which should quicken the claimants now dormant in the South. "It is the duty of a good Government to attend to the morals of the people as an affair of primary concern." So said the committee in 1818 recommending the repeal. But this warning is as applicable now as then.

Among the claimants of the present day, there are doubtless many of character and virtue. It is hard to vote against them. But I cannot be controlled on this occasion by my sympathies.

Everywhere and in every household there has been suffering which mortal power cannot measure. Sometimes it is borne in silence and solitude; sometimes it is manifest to all. In coming into this chamber and asking for compensation, it invites comparison with other instances. If your allowance is to be on account of merit, who will venture to say that this case is the most worthy? It is before us now for judgment. But there are others not now before us where the suffering has been greater, and where, I do not hesitate to say, the reward should be in proportion. This is an appeal for justice. Therefore, do I say, in the name of justice, wait!

Mr. HOWE. Mr. President—

Mr. WARNER. I ask the Senator from Wisconsin if he rises for the purpose of closing the debate?

Mr. HOWE. Yes, sir.

Mr. WARNER. I should like to say a few words before the Senator does that.

Mr. HOWE. Very well.

Mr. WARNER. Mr. President, I do not expect to shed any new light on the law of this question, nor do I expect or intend to speak at any length. I only desire to bring to the attention of the Senate two or three thoughts which occur to me in connection with this subject, and particularly in regard to the effect of the decision you are to pronounce upon the southern people.

First, in regard to the doctrine of constructive treason gentlemen quote high authorities here. They quote Vattel and Grotius and Puffendorf; and yet we all well know that the authority of these writers rests upon the fact that their opinions have commended themselves to the judgment and conscience of the world; and no one can deny our right to bring these authorities now to the bar of reason and of justice, and if they cannot stand that scrutiny their authority fails.

I cannot, standing in the position that I do as in part the representative of southern loyalists, allow to go uncontradicted any doctrine which classes those men as enemies; for, soldier as I am, in the presence of these southern loyalists, of these men who have been true to the flag of the country through all trials, I stand uncovered. I was a Union man where it was easy to be for the Union. I was brought up and borne forward into the ranks of my country's Army by an overwhelming power of public sentiment that I could not withstand and be a man.

But my friend from the South, the Senator from South Carolina, [Mr. ROBINSON,] for example, was a Union man where it was hard to be a Union man; was a Union man where it was a continued trial; a Union man where the whole sentiment of his State and society was against him; a Union man when there beat around him a storm of persecution and hate which it was hard to withstand. In his presence, before his devotion to the flag of his country and to the Union and to the territorial integrity of the Republic, I say I stand uncovered. His loyalty is superior to mine and to that of any Senator upon this floor who represents a northern constituency. And I feel that, standing here as the representative in part of men like him, men whom I know have been loyal through all these trials, I cannot allow to go uncontradicted and unchallenged a doctrine which makes those men the enemies of their country. Supported though it be by Vattel and Grotius and Puffendorf, I yet feel in my heart that it outrages every principle of justice and every principle of public policy upon which and upon which alone rest the authority of those authors and the decisions of the Supreme Court. There is no authority that may not be questioned; there is no decision that may not be appealed from; and if the authorities be, as I deny, against the payment of the claims of loyal citizens, then from those authorities and from those decisions I appeal to the sense of the justice in the public mind and to great considerations of public policy which should rule in these matters.

Mr. President, I would make a wide distinc-

tion in the character of these claims, between those which are for property destroyed in the course of the war and those for property taken regularly and officially by the officers of the Army for the use of the Army. I do not think that this is as strong a case as might have been presented; and I somewhat regret that the discussion should not have been upon a stronger case, such a case as this which I have in my mind, where commissary stores were taken by the order of the general commanding an army and were issued as rations to our soldiers, the owners of that property being at the time in our armies and holding a commission—there are many such cases; or a case like that which occurred in my own State, where a man whose loyalty cannot be questioned bought a draft upon a bank in New Orleans, and before it could be presented the money in bank was seized by the general commanding there, and paid into and is now in the United States Treasury.

But one word as to the amount of these claims. I do not think, from my observation of the South, that the amount of these claims will be very large. I think when we talk about thousands of millions, about an infinite draft upon the Treasury, we are talking at random. If there be honesty enough in courts, if there be honesty enough in Congress, if there be honesty enough in man to scan the testimony and learn who is loyal and who disloyal, the amount of the claims for which the Government will be liable under the rule I have stated, to loyal men will be comparatively small. I do not believe it will reach at the outside \$50,000,000.

But, sir, I wish to say a word to the Senator from New Jersey, who told us that it is a poor return from the South, after we have saved them from the hands of the rebels, to come up here and ask our money; that we went down there upon their entreaty and rescued them from the hands of the rebels and brought them back again under the authority of the United States. Mr. President, I deny the doctrine. I deny that we went down there only for the purpose of rescuing these loyal men. I say that I went as a soldier, and your armies went, and you sent them, not alone to rescue the loyal people of the South, but because the existence of the Republic was endangered. Have gentlemen forgotten that rebel cannon were thundering within hearing of your Capitol, and that you yourselves sat here in danger? Then, say not that this war was prosecuted simply to relieve and rescue a few loyal men at the South, and that that being done they ought to be satisfied.

No, Mr. President; we prosecuted this war for the life of the nation, for the territorial integrity of the Republic; we prosecuted it in the interest of civilization and humanity, and not merely to rescue a few individuals; and we have no right to say to them that they make us a poor return when they come here and demand payment for injuries sustained. We were bound up with them in the great general result.

Now, even if it were true that these claims were of the magnitude which is alleged I say it is a nobler and a better ground for this great Republic to take to say, "Your claim is just and right and fair, but we cannot pay it;" but do not say to these southern loyalists, "You are our enemies, and therefore we will not pay you." Say to them with the honesty of an individual, "Your claim is just and right, but considerations of public policy and necessity compel us to say that we cannot pay it."

The same thing might have been said of our public debt. With a public debt of \$4,000,000,000, as we had at the end of the war, including our bonded and floating debt, doubtful or timid men might have thought and said, "We cannot pay this; we must repudiate it." I say, Mr. President, and I feel that the country is able to and is willing to pay these men. All the country will ask of us is that we shall carefully scrutinize these claims, and see that none but loyal men are paid. I know the sentiment of the loyal masses of the North is

that of the warmest sympathy for the loyal suffering Union men of the South, and that they are willing, while they are demanding here, and demanding rightfully, as I feel, that we shall discharge our existing indebtedness fairly and honorably, according to the letter and the spirit of the law; that we shall also deal justly and fairly and honorably with these southern claimants.

Remember what these Union men have suffered in the interest of the nation. In the interest of humanity and in the cause of right, and as an act in which I glory as much as any man, you stripped them of their property in slaves. At one blow, with one dash of the pen, you struck out of existence \$4,000,000,000 worth of property; you perhaps took from the pocket of my friend on my right [Mr. ROBINSON] a hundred or more thousand dollars, and yet he does not complain. I rejoice that we did it. We did it in the interest of the nation, in the interest of right; and I cherish it as one of the proudest and noblest and best results of the war, and as almost compensating, if anything could compensate, for the glorious blood that was shed, that we are to-day a free people, and that men may everywhere now read the Declaration of Independence without shame and say that all men are created free and equal. But remember what we suffered, and be careful that you do not go a step further and say to them upon a technical doctrine of constructive treason they are our enemies and we will not pay them for the bread upon which we subsisted our soldiers while fighting this war.

Let me tell you, gentlemen, further, that the cause of reconstruction is an important and vital one. Look well at all the signs of the times, and let me admonish you, and particularly let me admonish my own party associates on this floor, that we have no friends to spare in the southern States; and let me tell you that if you deny the payment of a certain class of claims, which I have indicated, to loyal men, you will have, and the country and the flag and the Republic will have, less friends at the South than you have to-day. The well-being not only of the loyal men of those States, but of all the people of those States, the well-being of the white men, and the well-being of the millions of colored men whom we have liberated, and the well-being of the whole country in its entirety, hinges upon the success of our plan of reconstruction, and let me exhort you that you drive not from our ranks any of our friends, for we have none to spare.

Mr. MORTON. Mr. President, I had not intended to participate in this debate at all. I listened with a good deal of interest to the argument upon the law that has been made for several days past; but, upon reflection, I am satisfied that we must take a much broader view of this question than the technical and narrow rules of law that have been read for our instruction. As the circumstances of this case are different from those of most of the cases upon which the rules have been founded, so we should rather look to the peculiar condition of our country in order to determine this question aright than look to the opinions of Vattel, Puffendorf, or Grotius.

So far as this claimant is concerned, I doubt very much whether she occupies that position which entitles her to recover. But as this case has been discussed in its general aspects, rather than with reference to her particular claims, I shall so consider it. In this case I will vote to recommit the bill.

But, Mr. President, let me take the case of a Union man in the South who has borne the heat and burden of this civil war, who has been persecuted, and who has sustained all those hardships that we knew were incident to the condition of a Union man in the South during the war. To say that we will treat him as a public enemy, and that we will refuse to pay him for his property deliberately taken by the Government, where under the same circumstances we would pay a man living in the North

for his property taken by the Government, is revolting to the plainest principles of justice. I cannot subscribe to any such doctrine. Why, sir, I know that where a camp was organized in the State of Indiana, or Ohio, or Pennsylvania for the purpose of collecting and preparing troops, the owner of the property was indemnified by the Government for the damage done to it, or where forage and provisions were taken for the purpose of subsisting those troops the parties were indemnified for their property. To say that we will not pay a Union man in the South where his property has been taken under the same circumstances is revolting to the common principles of justice. I would throw to the winds all these technical rules by which the Union man of the South is to be treated as a public enemy, and by which we shall refuse to do him that justice which we would do to a man in the North of doubtful loyalty who was living in peace, comfort, and safety.

Mr. President, there was one authority referred to I believe by the Senator from West Virginia, [Mr. WILEY,] which perhaps might even cover all the cases; and I think that was in Vattel. He can correct me if I state it incorrectly. That authority was that even, for example in a loyal State or in a part of the country where the insurrection did not prevail, if the Government deliberately took property, as a house or a garden, to make a rampart or fortification, or if it took forage or subsistence deliberately, the Government was bound to make payment. According to that authority, as I understand it, when General Lee invaded the State of Pennsylvania and the army of General Meade was falling back, if, in the course of a march or a battle they ran over and destroyed the property of loyal men, that would be an act of war for which the Government would not be liable even in a loyal State.

And, sir, applying that principle to the southern States, where General Sherman on his march or in the course of a battle passed over and destroyed the property of Union men, the Government is not liable; but if General Meade in the course of expelling Lee deliberately seized property which became necessary for a fortification, or seized the forage and provisions of loyal men around him there, the parties would be paid, and under the same circumstances they should be paid in the South, always upon the condition that they are true and loyal men.

Then does not the rule reduce itself down simply to this, that wherever a loyal man in the North would be paid for his property which was deliberately appropriated by the Government, a loyal man in the South should be paid for his property deliberately appropriated by the Government; and where in the North a loyal man would not be paid for property destroyed in the course of a march or of a battle, so in the South a loyal man should not be paid for his property destroyed in the same way.

Can we afford to make any other rule on this subject? We might save some money by making another rule; but it would in the end be penny wise and pound foolish economy. After having expended some five thousand million dollars to keep the South in the Union, and after all our labors to build up a loyal party down there, shall we come here making shipwreck in the end by declaring upon the floor of the Senate that the loyal men whose hardships and sufferings we can never estimate shall be treated as public enemies, and that we will not pay them under the same circumstances under which we would pay a man for the taking of like property in the North. I can never consent to it.

Mr. WILLIAMS. Mr. President—

Several SENATORS. Let us adjourn.

Mr. WILLIAMS. I will give way for that purpose.

Mr. WILSON. If the Senator will give way, I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, January 12, 1869.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

FINANCE AND CURRENCY.

Mr. BUTLER, of Massachusetts, by unanimous consent, introduced a bill (H. R. No. 1669) to authorize the issue of a national currency, and assure its stability and elasticity, lessen the interest on the public debt, and reduce the rate; which was read a first and second time, and referred to the Committee of Ways and Means.

Mr. BUTLER, of Massachusetts. I move to reconsider the vote by which the bill was referred; and I propose, with leave of the House, to give some reasons why it should be put on its passage.

Mr. GARFIELD. I shall object if it is proposed to call the bill back, on the motion to reconsider, for the purpose of acting upon it.

Mr. BUTLER, of Massachusetts. I do not propose to do that.

Mr. GARFIELD. Then, I have no objection.

Mr. BUTLER, of Massachusetts. Mr. Speaker, the currency of a highly commercial, expanding, industrious, and productive and free people, by which their values are measured and exchanged, should be *uniform, sound, cheap, stable, and elastic*.

Uniformity is that quality which gives the same value in every part thereof to the money of a country. This quality our present currency possesses in a sufficient degree of perfection.

Soundness may be defined as certainty that the currency is so secured that it can never fail of exchangeability for equal intrinsic values.

No American permits himself to doubt but that our legal tenders and national bank notes, secured by the pledge of public faith, guaranteed by all the resources and power of the country, are to be made good to the extent of value printed on their face. Our present currency, therefore, possesses the quality of soundness for all purposes of internal business and trade.

As to *cheapness*, all financial writers agree that a paper currency is the cheapest of all possible mediums of circulation, whether as regards the cost of its supply or of its wear and tear, or because of being non-producing capital while circulating from hand to hand. If gold and silver were used in its stead, or locked up as a basis for its redemption, they would be so much idle and dead capital doing duty as currency only, and the nation so using it would suffer the loss of interest on so much *wasted* capital. It is apparent that paper being but the sign or token of value yields no loss of interest upon itself as capital while used as currency.

While, therefore, in these particulars, our present currency is cheap enough, yet there is another sense in which that term is sometimes used in relation to money, but more properly to capital, which our present currency wholly fails to satisfy, and which it will be necessary to examine hereafter. I refer to the enormous price at which money or capital is now furnished to the consumer or user.

Stability of currency is, perhaps, the most important of all its attributes. It may be well enough defined as a quality of currency when used as a standard and measure of value which renders it unchangeable at all times as compared with itself. A measure of value should no more change than should the measures of length, quantity, or weight. It should be at all times one and the same. When all the property of a people is once adjusted to such a measure of value it is of comparatively little moment what that measure may be.

To illustrate: we have two measures of weight, the pound troy and the pound avoirdupois. We find no special inconvenience in

their use, as the classes of objects submitted to their measure have remained unchanged for many years, and are bought and sold with regard to the difference between them, which also is invariable. So as to length. It is entirely unimportant whether we had adopted at first the imperial yard of Britain or the metre of France as a measure of length, provided we maintain it unchanged.

In the sense in which we have defined stability our present currency is greatly deficient. This arises from the fact that instead of being an unvarying standard of value of itself it is continually measured by another standard, to wit, gold, which is itself variable. Further, our currency is still more fluctuated by empirical attempts, either of legislation or administration, on the one hand to increase its value by bringing it nearer to gold, or on the other by combinations of brokers and bankers to reduce or enhance its value for the purposes of speculation and unjust gain.

This variability in our legal tenders is yet more largely enhanced because of the law which provides that they shall not be received for the duties imposed by the Government on imports, which annually amount to forty-five hundredths of the whole currency in circulation. To buy this sum in gold, therefore, causes our lawful money to be used in fact as an article of merchandise or commodity, to be exchanged for gold; which, for this purpose, is the only legal value in the country.

If, on the contrary, the legal tender had been made receivable in payment of all public dues; whether internal or external, and the amount issued fixed by law had remained unchanged, without power in the Secretary of the Treasury by hoarding, funding, or retiring it to change its volume, it would then have become a fixed, permanent, and stable value, to which all the property of the country would have assimilated itself—a standard not to be changed save by a law, of which change the whole country would have ample previous notice.

As its value as a standard would, in that case, have depended on the amount or value fixed by law, it is difficult to see why the currency might not be as unchangeable and unvarying a measure of the value of all property as the yard and pound the measure length and weight of all substances, are made invariable by legal enactment.

The term *elasticity*, as applied to currency, I will define as the power of contracting or expanding its volume, according to some known rule, to meet the necessities of its use in business, arising from its activity, its sluggishness, or from the needs of increased population.

At first thought this quality might seem opposed to the definition of stability which we have just given; but careful consideration will show that it is not so, as elasticity, as an attribute of currency, should pertain to it, not as a measure of value, but as a representative of active capital.

Stability is the fixedness of the volume of the currency as compared with property measured by it. Elasticity increases or lessens the volume determined by the necessities for its use. Elasticity is by no means synonymous with fluctuation, the latter being the increase or diminution of value of the currency at one time as compared with another; the former is the change of volume only as compared with itself.

To give an illustration from a sensible object: water is the most unstable, but the least elastic of substances.

A currency to meet this requirement of elasticity should have such capability of volume as to adapt itself to the highest needs of the internal business and commerce of the country, and at the same time such contractability as to adapt itself to the state of greatest depression without in either case affecting its soundness or stability or value. This quality of the currency is the element of its highest usefulness and safety as a circulating medium. In nothing is our present currency more deficient. It

has a limit fixed by law, beyond which it cannot go, however great the exigencies of the business of the country may be; it contains within itself no power of contraction when not needed. Its volume must then remain still the same, seeking investment and profit in speculation and adventure forced by the selfishness of bankers and capitalists.

Again, not being capable of expansion the unprincipled and adventurous capitalist can calculate exactly how much currency he must lock up at the time when it is most needed to bring about financial crisis and distress, and thus involve in ruin the unsuspecting and honest merchant and dealer, who is made the victim of unlawful combinations which he can neither foresee nor control. A deplorable example of this as a practical fact has taken place within a few weeks under our eyes, by which the managers of an insolvent railroad, in connection with certain banks, who should have been regulators instead of regraters of the currency, contrived to sequester some thirty millions, and thus to bring about a stringency in the money market, and a consequent depression in the public securities of some five per cent. in a single day, out of which the conspirators might realize large profits. This process of robbing the community may now be repeated at pleasure. A system of currency which permits its guardians, the banks which issue it, to thus sport with the public credit and oppress the merchant, depress the public funds, and unsettle the business of the country, is clearly defective, and it is the duty of Congress at once to provide the remedy for that defect.

We see, therefore, that our currency is uniform, cheap, and sound enough, but that it lacks stability from fluctuation and elasticity to accommodate itself to the changes in the demands of business. Our financial system has another great and overshadowing defect, controlling the prosperity and development of the industry and resources of the country.

When called into use as a representative of capital our money is enormously dear! Three hundred and fifty-six millions of it, not now taking into account the fractional currency issued by the Government, was at once fundable into gold-bearing bonds at six per cent., untaxable by State and municipal authorities, and as is lately claimed—but without warrant of law—untaxable by the Government itself; so that whoever uses it in his business must pay an equivalent of ten or eleven per cent. for its use. The remainder—say \$300,000,000—is issued to the banks by the Government, which pays some eighteen millions to them for the privilege of furnishing and indorsing it, cannot be obtained by the consumer from the banks short of nine to ten per cent. interest, reckoning exchange and commissions, that he who uses it must pay. Out of the great cities, and away from the sea-board, the average rate of interest is at least twelve per cent. In many sections of the southern States, on whose productions of the great staples, cotton and tobacco, as our chief exports to meet the balance of trade which is against us we must depend, money cannot be obtained at any price upon any security, and if got at all the average rates are twenty-four per cent. In view of this it will be seen the rate of interest becomes a matter of national importance as affecting our commercial relations with the other countries of the world. Cotton can be produced in Africa and India by the use of capital costing not more than four or at most five per cent. per annum, while the capital used in producing our cotton costs twenty-four per cent.; thus making a direct discrimination against our producer of twenty per cent., which of itself is to the foreigner a quite sufficient profit on the business.

The high rate of interest, which raises the value of all our productions, and the fixed limit to our currency, which is taken advantage of to produce financial panics and distress, imperatively demands the most prompt and efficient remedy. It can be neither denied nor

delayed with safety or justice to our people as individuals, or to the country as a nation.

Impressed, as we are, with the necessity for some amendment of our financial system to effect these objects, still we must remember that every great or sudden change in the finances of the country has ever been, as it ever must be, the fruitful parent of panic, depression of business, paralysis of industry, and disaster. This consideration ought to circumscribe our action within somewhat narrow limits.

The only comprehensive remedy for the infelicities of our currency and financial condition that has been proposed, so far as I know, is that we should resume specie payments at once or at some period more or less remote, or, in other words, that we should return to the currency existing before the war, with the substitution only of the national for the State banks, *i. e.*, that the Government should conduct its affairs by the receipt and payment of specie, and that the banks should have in their vaults one fourth of the amount of their circulation in gold, thus to be in condition to profess to pay specie for their bills when demanded, which should, therefore, be equal to gold. This, if it can be done, of course would bring every United States bond at once to par in gold, as well as all legal tenders, if the return to specie payment by the Government did not presuppose the substitution of gold for them. No one doubts that however soon or late such a change is effected it must cause the greatest depreciation of values in every species of property except debts held against the Government and individuals. Every bond and note would be appreciated, say thirty per cent.; all other property would be depreciated the same amount as compared with the present rate of valuation. Such an unsettling of values the world has never seen nor any nation endured. It would be equivalent to confiscation by legislative act of one third of the value of all the property in the country, excepting only that held by the creditor class.

The sole alleviation yet suggested is that such confiscation might be extended over a considerable period of time, say two years and a half, so that we might meanwhile be preparing ourselves for it; in other words, the Government ought to deprive the large majority of the middling and laboring class of its people of twelve per cent. annually of their values until one third of them are absorbed for the benefit of the small minority, who are owners of capital loaned at interest.

I will not insult the intelligence of the House by any argument upon the feasibility or practicability of these schemes. The better way to test them is to call attention to one or two of the methods by which it is proposed to accomplish so gigantic an undertaking. One says, "The way to resume specie payments is to resume." Suppose the physician should say to the sick man, "The way not to be sick is to be well," might not the patient ask his doctor how am I to get well? So, a few years ago, one may remember that the way proposed for the Union armies to get to Richmond was "On to Richmond;" and I trust I may not be considered as malicious in calling to mind that our armies found some difficulties in carrying out that suggestion, which resulted in such disaster that it was to be hoped those who blindly advocated it would never again dogmatize upon any subject the difficulties of which they neither appreciated or understood.

Another proposition, coming from a source we much respect, in some other of the branches of political science, is that we pass a law that specie payments shall be resumed on the 1st day of July next, but we are not told how the law is to be executed if passed. It was jocosely said many years ago that while an act of Parliament was omnipotent yet it could not make one's uncle his aunt. I fancy there would be an equally insuperable difficulty in compelling by act of Congress the payment at par of \$700,000,000 of debts due on demand when there are but \$100,000,000 capable of being used for that purpose.

Another learned, able, and intelligent gentleman, for whom we all entertain the highest regard, in a speech of great power, supports a bill embodying a plan for the relief of our financial difficulties which would be perfect were it not impossible. Stripped of the halo thrown around it by his logic and learning it proposes that the Government and banks shall return to specie payments by hoarding gold enough with which to do it. Granted; but how is the gold to be got? By borrowing simply. For although the Government may hoard the gold it receives for its duties on imports, yet that gold is in fact obtained by its merchants by borrowing it with Government notes at thirty-five per cent. discount. Whatever deficit of gold to carry out this scheme cannot be obtained by this process is to be borrowed on the Government notes for thirty years, sold at such rate of discount as foreign bankers may choose to impose. Now, specie payments, if they can be maintained, it will be admitted, will make all our public debt with its high rates of interest equal to par, if not at a premium in gold. The fault in the plan seems to be that we are not told how many greenbacks we must sell at thirty-five per cent. less on their face, and how many bonds we must negotiate at a like rate of discount on thirty years, to place ourselves in condition to pay both greenbacks and the bonds, which we thus sell at par. Differential calculus might work out the problem, but plain arithmetic is entirely inadequate to the task. Besides, as upon the best authorities there are only about fifteen hundred millions of specie currency in circulation in all the nations where our bonds have been or will be taken as an investment, or, indeed, in the civilized world, if we should succeed in locking up \$350,000,000 of that, or twenty per cent. of the whole currency of the world, should we not make what in technical phrase is known as a "corner" on the rest of mankind, in comparison with which the late performance in that line of the Erie railroad and New York bankers would sink into merited insignificance?

Again, suppose by this ingenious and novel process of borrowing we were to return to a "state of solvency"—to use the phrase of those who insist that our "legal tenders are depreciated, failed paper," because not paid on demand—*i. e.*, return to specie payments, to the state of currency before the war, could that condition be maintained?

It will be remembered that before the war the Government received all its dues and paid all its expenditures in gold and silver only, amounting to from sixty to seventy millions yearly received and paid out, and there were in the country, as is estimated, some two hundred to two hundred and fifty millions of specie, exclusive of what was hoarded, although in 1860 there were but \$87,000,000 in the banks.

It cannot have been forgotten that such use by the Government of specie to do its business say one dollar of four caused great financial distress whenever any considerable accumulation of it lingered in the vaults of the Treasury, inasmuch that the Secretary of the Treasury, on more than one occasion, was implored by the merchants to set free the gold even by buying United States bonds at thirty-two per cent. premium, which was done to avert a financial crisis. The learned gentleman upon whose scheme I am commenting, if I understand him, proposes that there shall be introduced into the country for circulation some three hundred and fifty million dollars, which we may believe to be a large estimate, exclusive of the amount hoarded, which, for obvious reasons, is and will for a long time be greater than before the war.

The receipts and expenditures of the Government must now be annually say \$350,000,000, or a sum quite equal to all the gold assumed by this plan to be in the country. If before the war the use by the Government of one dollar in four, while it left the other three for banking purposes, unsettled the business of the country, what must be the effect of the use by the Government under this plan of every

dollar of specie in circulation, leaving nothing for commercial purposes, if we have a currency based on specie?

Time will not permit to me the further examination of this and cognate plans for the resumption of specie payments. If a return to specie values is the only remedy for our financial evils, then there is but one plan, in my judgment, by which it can be accomplished: *we must wait and grow to it.* By the industry and economy of our people; by the development of our resources; by the enterprise of our business; by the extension of our commerce; by the production of the precious metals; by reducing importations, the only method by which we can keep specie at home; by retrenchment of the expenses of government, both State and national; by the relinquishment of all hazardous and doubtful enterprises, we must accumulate sufficient surplus wealth to bring back the \$600,000,000 of our national bonds held abroad, to which may be added an equal like amount of State and railroad bonds also held there, and thus stop the annual drain of more than seventy millions of bullion now sent abroad year by year to meet interest alone. When this is done we may with wisdom return to specie values and specie payments without serious financial disaster and commercial ruin. But this time will come only when gold and silver from the plenitude of its production will have depreciated to our values, not we appreciate them to the present value of gold and silver.

But while we wait the effect of our increase of wealth in bringing us back to specie values what shall be done to remedy the financial evils from which we suffer so much, that even now a commercial panic is upon us? The questions still return to us, what meanwhile shall be the currency of the country? what can we do by legislation to insure its stability and give it elasticity? and how can we reduce the rate of interest on the public debt and thereby lessen commercial interest, so that we can cheapen our productions to compete with those of other nations of the world?

Appreciating the magnitude of these topics, fully aware of the difficulties that bristle around the adjustment of such questions, with great diffidence as to the full comprehension of the details to be cared for, with entire deference to the matured opinions of others, and after careful thought and full examination of the subject, I have ventured to offer in the bill I have submitted to the House several propositions which I believe if adopted will mitigate the evils of our present financial system, and which I humbly hope may have at least merit enough to evoke discussion, so that the wisdom of Congress may speedily mature some legislation to meet the wants of the country, and to assure if not to heighten that degree of prosperity in business which the people have enjoyed since the passage of the legal-tender act of 1862. In attempting this I have avoided everything which shall give shock to our present finances or materially change the values of property or the relation of debtor and creditor, whether public or private.

Observing that the amount of legal-tender notes now issued by the Government—say \$350,000,000—are very nearly equal the amount of the taxes and duties to be necessarily collected by the Government for a series of years to meet our expenditures—at least the variation is not material for my purpose—I propose that, retiring the present legal tenders without shock to the business of the country in the manner hereafter to be explained, the Government shall issue an amount equal to its taxes, say \$350,000,000, of *certificates of value*, of convenient denominations, not less than one dollar, which shall be lawful money and legal tender for all debts, public and private, which, by the law creating them are not made payable in coin, and shall be receivable for all taxes, duties, and imposts of every kind whatsoever, to be reissued at pleasure under the conditions hereafter set forth or in payment of the debts of the United States,

and which shall be received for all public loans made to the United States.

It will be convenient here to explain the changes suggested in this certificate of value from the present legal tender note. I propose that the paper money of the Government shall be a "certificate," with appropriate vignettes, to prevent counterfeiting, in form like bank notes, stating its value only upon its face, with the provisions of law creating it, instead of as now a note promising to pay a certain sum at the Treasury of the United States, which is by law to be paid only in another like it, so that no stupid person hereafter, in order to depreciate the currency and have an opportunity to declare it "failed paper," shall present it for payment to the Treasurer of the United States expecting it to be redeemed in any other manner than is provided by law and stated upon its face.

In providing for the certificate to be legal tender I have avoided undertaking, by legislative action here and now, to decide the mooted question whether the principal of a portion of the public debt is payable in coin; not desiring to complicate this, which should be a measure of instant relief, with the discussions incident to that very grave legal question which may hereafter have to be decided either at this bar or in the courts or in the higher and more potent tribunal of the judgment of the whole people.

The most important and only other difference will be seen to be that this money is to be received for all taxes, whether collected from external commerce or internal revenue. It is difficult to see why the Government ever should have established two kinds of lawful money in which to do its own business, and, stranger still, exact one only for its citizens.

I assume that the change will at once bring this lawful money of the United States nearer to gold—will very considerably diminish, if not entirely prevent, the operations of the gold room and the nefarious pursuits of the gold gamblers. Gold and silver will then take place as commodities to be exchanged abroad according to their value in weight as merchandise. Indeed, a moment's reflection will convince any man that this has always been the case when gold is used in kind for the payment of foreign debts.

One principal argument in favor of a currency based on specie has been that our currency ought to be of the same value as the currency of the world—as the phrase is—in order that we may be able to pay our foreign debts in our own coin. But in fact our coin is never used abroad at the value we have stamped upon it or for payment of foreign debts. It is always reduced to the value of so many ounces of gold of a certain fineness and exported as bullion, a convenient and safe form of merchandise against which bills of exchange may be drawn, and that value fluctuates very materially in different countries. As an example, take Japan, where the standard of value is silver. In 1857 our consul at Simoda, Mr. Townsend Harris, informs us that gold is only as one to three and a half in silver, while with us it holds by law, as a part of our specie standard, the rate of about fifteen and a half to one; i. e., in Japan three and a half ounces of silver would purchase an ounce of gold, while in America it took fifteen and a half ounces of silver to purchase an ounce of gold. How, then, can it be said that gold is the standard of value of the world, when in one country which absorbs large amounts of our specie it stood depreciated in comparison with silver at our standard at nearly eighty per cent., and it is not the standard of value in either of the great commercial countries save England?

The experiment of issuing money based on taxes alone as its redeemable value has been tried to a small extent at an early day in this country. Soon after the Revolution North Carolina, having no money, for the convenience of her people issued, say, \$500,000 in State notes, receivable in payment of taxes. Of course, she

could not make them legal tender. Although her annual taxes were only about two hundred thousand dollars, these notes at once took their place at par value, and became, in practice, convertible into gold, although no man could demand gold for them. They thus remained until they were gradually worn out or absorbed, no new issue being authorized, and the bills of the State banks took their place.

I assume that these "certificates of value" as a circulating medium will at once take their place as nearly equivalent to gold. They will be redeemed in the payment of taxes every year. I do not mean to say that each individual piece of paper would be redeemed, but an equal amount. There is an objection to them as compared with the present greenback, and that is the Government would have to procure gold to meet its interest and pay the difference between the gold and the certificate.

But let us here reflect a moment that the gold now paid for customs duty is obtained by the merchant borrowing it upon the Government's note at thirty-five per cent. premium, and it is very clear that the difference between the proposed certificate of value or greenback and gold would in the future be much less. I have also endeavored to find a compensation for this apparent loss to the Government, as will be hereafter seen.

It may further be objected that making these certificates receivable for duties inasmuch as they may be below the par of gold would to that extent reduce the percentage of the tariff. This, if an evil, would soon cure itself. Any considerable increase of importation by calling for more currency to pay the duties would enhance the price of that currency, and therefore bring it quite up to gold. Besides, as the act is to go into operation at a future day, if it were supposed there would be any appreciable difference between the value of the certificate and gold, then importations would be held up until that time, when the sudden influx would materially enhance the value of the currency to pay duties.

My next proposition is to take from the national banks all power to issue notes to circulate as money, leaving them as they are now, banks of deposit, loans, and discounts, but not of issue; of course to be relieved from all taxes on circulation.

It is evident that the \$350,000,000 of "certificates of value" above proposed circulating as money would not be a sufficient amount of currency for the business purposes of the country; therefore I propose to throw open the present privilege which the banks have of obtaining money from the Government to every man or association of men who can furnish precisely the same security that the banks now do for the money so received from the Government. Or, in other words, that every owner of a Government bond paying six per cent. interest in coin may go to any public depository in the United States, and, lodging it there as security, shall receive "certificates of value," i. e., greenbacks, to the amount of ninety per cent. of the par thereof, to be at his pleasure reconverted into his bond at any time after thirty days, he paying to the Treasurer for the money he receives at the rate of .0365 interest per annum in coin thereon until he returns a like amount of certificates to the Treasury, when he shall receive back his bond. Assuming \$1,750,000,000 of six per cent. bonds to be outstanding, and every one should be presented to the Treasury and currency demanded, would give \$1,575,000,000, being ninety per cent. thereof, as a possible amount of currency to be issued.

The first objection striking the mind is that this amount would make the currency by far too redundant. Would or could the business of the country need so much? It can safely be admitted that so much currency would not be needed and in practice no such sum would or could be taken. A large portion of these bonds are held abroad and would not return until more valuable here than there. Another

large portion held for purposes of investment would not be tempted to be taken therefrom without a very large difference between the rate of commercial interest and the rate at which it was obtained from the Government; the controlling limitation in practice on the issue of this currency would be the rate of interest paid to the Government for it. The owners of this species of capital will never pledge it to the Government or anybody else for money at 3 $\frac{1}{2}$ per cent. on ninety per cent. of its value unless that money could be safely and profitably invested as productive capital, or, in other words, unless the business needs of the country actually required it for its profitable and successful prosecution. In that case, and for that purpose, it is difficult to say why the currency should not be extended so as to meet the necessities of the people when duly restrained by the rate of interest paid and the kind of security required for the issue of Government money. The rate of interest would act as a certain "regulator" or governor of the amount of the circulating medium.

As a currency it would be secured to the holder by the pledge of all the taxes, customs, wealth, resources, and power of the country. As capital loaned it would be secured to the Government by its own bonds at ten per cent. below their par value and 2 $\frac{1}{2}$ per cent. interest on the difference. How could it differ in value, except being better, from the bills of the national banks? It has greater ultimate security, because all customs duties are pledged for its redemption in addition to the internal taxes. It would have—what the bank currency has not—elasticity. Whenever it were wanted and the rate of interest rose, it would be taken from the Treasury and the interest would accrue to the Government; whenever it was not profitable for use to the holder, the rate of interest falling to 3 $\frac{1}{2}$ per cent., in gold, he would return his money and receive his bond, and the Government would have lost nothing by the transaction, but gained the intervening interest.

Assuming that over and above the \$350,000,000 which it is provided the Government shall issue for its own purposes that an average of \$500,000,000 should be found necessary to be used as money, then the Government would save \$18,250,000 in gold interest upon that sum, or, in other words, be paying but 2 $\frac{1}{2}$ per cent. on \$500,000,000 of its six per cent. indebtedness; that, added to the \$18,000,000 now paid to the banks as interest on the bonds they have deposited for their circulation, say \$300,000,000, and six per cent. on the \$100,000,000 now lying idle in the Treasury, the saving would be \$42,000,000 in coin, instead of the loss by the present manner in which Government issues its money to the banks. If it be assumed that the Government, under the proposed system, would have to pay a margin between its certificates and gold to pay interest on its gold-bearing bonds, there surely in this saving would be found means to make up the difference.

If it be said that this currency will fluctuate, it is answered its only element of fluctuation in value is the fact that it may be increased or decreased by act of legislation. But we all know how difficult it is to get acts of legislation passed to alter the currency even when the country is suffering very grave evils.

It is not to be assumed that the Representatives of the people in both Houses of Congress will unite with the Executive wantonly and causelessly in legislation that shall unsettle the values and currency of the country.

I am quite willing to compare the fluctuations from legislation or the stability of this currency with the stability of a currency actually and exactly convertible into gold under the best circumstances in which such currency has ever been administered for a highly commercial and manufacturing people. I trust no one will complain if I compare this currency with the notes of the Bank of England.

By the act of 1844, known as Sir Robert Peel's act, the Bank of England was put upon an exact specie basis, i. e., no more notes

could be issued than she had gold in her vaults to pay, in addition to those notes which experience had shown in no case of panic had or would come in for redemption; for beyond that amount the bank was not allowed to issue a single note without a corresponding amount of gold in the vaults of her issue department, and that amount of gold was to be kept there by altering her rate of discount, which it was claimed would, as it was raised or lowered, contract or expand the business of the kingdom.

In thirteen years and five months following that act, from September 7, 1844, to February 4, 1858, the bank altered her rate of discount fifty-six times, during which time she quintupled her rate of interest, raising it from two to ten per cent. on the best sixty-day commercial bills. Between April, 1857, and January, 1858, eleven changes in the bank rate of interest occurred; and in the year 1858 her rate of interest whiffled, like the weathercock, five times in five weeks. In addition she suspended specie payments twice, to wit, October 28, 1847, and November 9, 1857, and issued inconvertible bank paper, by order of the Government, to save all the merchants and banks of the kingdom from financial ruin, after many of them had failed; and in November, 1856, she refused all discounts at any price, even upon Government securities.

I shall hereafter trace a few of the more important fluctuations of the currency in our own country when upon a gold basis, and the memory of every business man will furnish many more. I will compare the probable, nay, the possible, fluctuations in value of the currency here proposed because of legislative interference with the fluctuations of our own currency when on a specie basis, or the changes in the value of money in England, where the bullionists must look for the most perfect exemplar of that system of convertible paper, back to the miseries which it causes they would fain force their country, and I am content, as the country will be content, to bide the comparison.

If objection is brought against the currency here proposed, either that it will encourage speculation or bring disaster upon mercantile business, or that the rate of interest paid for bank accommodation will be increased to the borrower in comparison with paper money always convertible into gold, I will not trust any argument of my own in reply, but will produce incontrovertible authority which no bullionist dare dispute.

The suspension of the Bank of England in 1847 caused a solemn parliamentary investigation of the workings of the financial system of paper convertible into gold at pleasure, which was most elaborately, impartially, and intelligently conducted; and I point to the conclusions of the report of the committee to the House of Lords as a truthful portrait of the effect upon business and the country of a currency based on and instantly convertible into specie. Hear the statement of the facts developed before that committee:

"It is true that to those who may have expected that the 7 and 8 Vict., cap. 32, [Peel's act requiring the bank to keep specie to redeem her bills,] would effectually prevent recurrence of cycles of commercial excitement and depression, the contrast between the years 1845 and 1847 must produce grievous disappointment."

"To those who anticipated that the act would put a check on improvident speculation the disappointment cannot be less, if reliance is to be placed (as the committee are confident it may) on the statement of the governor of the bank and of other witnesses, that 'speculations were never carried to such an enormous extent as in 1846 and the beginning of 1847.'"

"If the act were relied on as a security against violent fluctuations in the value of money, the fallaciousness of such anticipation is conclusively proved by the fact that while the difference between the highest and lowest rate of discount was in the calamitous years of 1837 and 1839 but two and a quarter to two and three quarters per cent. the difference in 1847 rose to six and three quarters."

"If it was contemplated that the number and the extent of commercial failures would have been lessened the deplorable narrative of the governor of the bank, recording the failure of thirty-three houses, comparatively in large business, in London alone, to the amount of \$40,645,000, is a conclusive reply."

"If the power of obtaining banking accommodation on moderate terms were considered to be promoted by the act of 1844 it cannot be said that this important object has been attained, since it appears in evidence that in 1847, in addition to an interest of nine or ten per cent., a commission was also frequently paid, raising the charge to ten, twenty, or thirty per cent., according to the time which bills had to run."

Does anybody believe that an inconvertible paper currency can do worse than that? "If so, for him have I offended."

Having given the distinctive features of the proposed system of currency I need not employ the time of the House long upon the details of its execution.

To prevent shock to business in making the change I would require the collectors of taxes on the first day of every month, beginning the 1st day of July next, to return to the public depositories all the legal-tender notes received by them in previous months, which should never be reissued, but instead, "certificates of value," as proposed, in payment of the expenses of the Government. I would also require a like return of all the bank notes collected for taxes, and they should continue to be received so long as any were offered, up to the 1st day of January next, at which time their receipt for internal taxes should cease. And upon all the amounts of bank notes so returned five per cent. interest shall be charged to the banks by the Government, and retained from the interest payable on the bonds by which the bills are secured until they are redeemed by the banks in certificates of value or in the three per cent. certificates issued in pursuance of the act of March 8, 1867, and the act of July 3, 1868, when an aliquot proportion of such securities shall be returned to the banks redeeming them.

After the 1st day of January the Comptroller of the Currency should charge to the banks five per cent. interest on all the bills heretofore issued to them not redeemed in the manner before stated, or, at the option of the bank, furnish instead thereof the certificates of value, based on bonds pledged for their redemption, the lawful money of the Government. If the national banks should not choose to receive money in lieu of their notes, then upon their return to the Treasury, the bonds lodged with the Comptroller of the Currency to secure them are to be returned.

Experience has shown that fractional currency, of which there is, say, \$30,000,000 in circulation, is used only to the extent of the convenience of the people. It is now the practice of all countries wherein it is made of metal is so to debase it in comparison with the standard of value as to prevent it being hoarded, exported, or used in the arts.

I would propose, therefore, for convenience of handling, that the fractional currency, instead of paper, should be in denominations of ten cents and upwards, composed of tokens in the form of silver coins heretofore used, made of silver alloyed with some of the metals to such extent as to prevent hoarding or exportation or use in the arts as metals, which should be issued in redemption of the fractional currency now in use, which paper fractional currency, after the 1st day of January next, should not be received except at the Treasury for exchange for the tokens herein described.

On and after July 1 the Government should be prepared to issue money in exchange for bonds as before set forth, and to allow the money so exchanged to be reinvested into the same bonds at the pleasure of the holder.

One, and a not inconsiderable advantage of this gradual but entire change in the currency of the country, certainly enough to pay all possible expense attending it, is the detection and extinguishment of all the forgeries of bank notes and fractional currency now in circulation. It is well known there is now, practically, no redemption of national bank bills. They are rarely or never returned to the bank that issued them for redemption, so that no test can be applied as to genuineness. Large amounts of them having been issued on the

same dies and vignettes, counterfeiting has been greatly facilitated—specially is this true of the fractional currency of the United States, which never comes back to the Treasury in any considerable quantities. But the exchange herein proposed would at once entirely extinguish the counterfeiters now in circulation and render all the preparations, plates, and vignettes of the forgers useless and valueless.

It has been assumed that the reason our securities abroad do not command par is because we have not resumed specie payments here. In one sense that may be true; for if we resume specie payments, and were capable of continuing that resumption, our bonds would command par, because they would at once be sent home for sale, commanding a higher price here than abroad. But it seems to me that the defect of the reasoning which makes our bonds abroad less than par because our currency here is at a discount, is that it mistakes the effect for the cause, whereas the truth is that our currency is at a discount, because our bonds are selling at 74 in London to 78 in Frankfort. The price of the bonds abroad controls our currency here in its relation to gold, not our currency here controls the price of our bonds abroad. The mistake is in supposing that the worth of \$2,000,000,000 of our interest-bearing debt is controlled by the price of \$350,000,000 of non-interest-bearing notes.

That the premium on gold is wholly controlled by the price of our bonds abroad was conclusively demonstrated at the breaking out of the war between Prussia and Austria. Our bonds fell in Europe ten per cent. Mr. McCulloch, adopting the theory that the premium on gold could be kept down by increasing the supply of gold in the market here, irrespective of the fall of our bonds in Europe, sold some thirty millions of gold in the vain endeavor to prevent a rise in the premium on gold corresponding to the fall of our bonds. He did this at a loss of some three millions to the Treasury, but in vain. The premium on gold went up until it came in exact equilibrium with the price of our bonds and then stopped, wholly irrespective of the sales of the Secretary. He might as well have attempted to raise the water in the nose of a tea-kettle above that in the kettle itself, by pouring water into the nose, as to have sold his gold for the purpose he did. Again, when the war suddenly ended, and the price of our bonds went up in Europe, the premium on gold fell here in the precise ratio.

It is frequently asked why are our six per cent. bonds in Europe at 74 and 78 when the three per cent. consols of England are at 92? And the answer usually given by the bullionists is, because of the doubt as to the credit of the Government or its intention or ability to pay the national debt. I respectfully submit that is not the true answer. It would be more nearly correct to say because those who invest in our bonds are afraid they will be paid. If it were doubt of our ability to pay let me ask why are our gold certificates, which are only promises of the Government to pay gold on demand, at par or a small premium at home as well as abroad? Why does not the supposed doubt of the good faith and ability of the Government affect them? Clearly because they are wanted day by day as a convenient medium for the transportation of gold, and the supply is not in excess of the demand. Bearing on this same topic, will gentlemen tell me why the five-twenty bonds should be selling at 74 in London and at 78 in Frankfort? Is it not for the same reason that in England their three per cent. consols are at 92 while our six per cent. bonds are at 74.

It is an axiom in political economy that supply and demand always regulate price. Now, our bonds and the English consols are not taken by business men for business purposes or as mediums of exchange, but for investment by those who desire to put away a surety for their families, or as trustees of charities or associations, or in annuity offices. Now, the

debt of England, although considerably exceeding ours, has been contracted through a long series of years, in not very large comparative amounts, and has been absorbed for the purposes of investment gradually until the supply does not much exceed the demand for investment. We all know the natural preference an Englishman would have for the securities of his own country over a security at a distance of which he knows but little. We have seen individuals loan money on mortgage at five per cent. in our eastern cities for a series of years, when by sending their money to the West they might loan it at ten per cent. on equally substantial real estate there. This will explain why the Englishman should prefer his own securities to ours, even at a higher rate of interest, as a matter of investment, but it does not explain why our bonds should be at Frankfort 78 which are at only 74 in London. Why does not the Englishman send his bonds to Frankfort and realize the difference?

In a period of three years we threw \$2,500,000,000 of securities, payable at short dates, to be taken up as investments, upon the markets of the world, and although undoubtedly they were largely affected when first issued by the doubt of our success in putting down the rebellion, so that they sold for forty to fifty cents on the dollar, yet after the rebellion was fully subdued they rose nearly to their present figure, and have remained quite stationary ever since. But if I am right, that they are only wanted in Germany as in England for the purpose of investment, then it will be seen at once that we have issued for investment a supply of bonds largely in excess of the demand for that purpose. And as Germany has no national securities bearing the same relation to its people as the consols to the Englishman, they are more sought after on the Continent for investment, and therefore are higher in price, and our bonds being held in England for investment only! the holders do not care to change their investments for the sake of the difference in price. I do not doubt if there were no more of our bonds to be procured at any price abroad that those already there would immediately appreciate to par if not to a premium; or, in other words, the supply and demand would regulate the price.

There is a curious illustration of this in the fact that a small amount of Massachusetts gold-bearing five per cent. bonds was subscribed for by a single house in London at 95, while the bonds of the United States, which had not only the security of Massachusetts, but all the rest of the United States behind them, at six per cent., were selling at 74. The Massachusetts bonds were all taken for a single investment, and the supply did not exceed the demand.

There is another element which very largely affects the price of our bonds, and that is the option the United States reserves to pay its bonds within five years. Length of time for an investment is a large element of value. The very theory of the British consols is that they are never to be paid, and nobody dreams that they ever will be.

The United States has once paid all her indebtedness in gold to the great disgust of the holders; for at the moment when we paid it at par it was worth 120 in the market. Those investing in our securities fear this may happen again.

I assume, therefore, that any adjustment of our currency for our own convenience will not materially affect the worth of our bonds abroad. But if I knew how, consistently with honor and national faith to our creditors, to prevent every one of our bonds going abroad, and to bring all back that have gone, as I view the deplorable fact of the absorption of our exports to pay \$70,000,000 of interest, I would vote at once for that proposition.

England carries her debt with ease and with prosperity as a nation, because it is almost wholly due to her own citizens, and all income derived from it remains at home, while we, by sending our debt abroad, are in a degree suf-

fering the evils which have impoverished Ireland—*absenteeism*, or the owners of her lands withdrawing all their incomes from her to be spent away. So that if any one objects to the plan of currency I propose, that it will have the tendency to keep our bonds at home, or to bring home those that are abroad, for the purpose of being used as security to be pledged to the Government for currency, to him I answer, that is exactly what I hope may be done.

Let no man say that I desire to establish or perpetuate a depreciated currency. I think I have proposed a currency as valuable as gold and for all purposes of a circulating medium better than gold, every dollar of which I doubt not will soon be made equal to gold; but what I do desire is that the currency shall not be redeemable in gold and silver, so that any man, because he has a dollar of it, can call for so many grains of gold which must be paid him, and the currency canceled to that extent, but with his currency he must buy his gold as he does his wheat where it can be had in open market. In other words, the value of the currency of this country, its volume, its stability, the values of all property of the country shall no longer be, at the mercy of the panics, the caprice, the speculations, or the needs of the bankers of Europe or the traders of Asia.

But I hear the bullionists exclaim, "Our money must be the same as the money of the world." "We cannot have a different standard of value from other nations." I would as soon or sooner have our Government, our laws, our institutions, the same as the institutions of the rest of the world. We have divested our Government of every trait of the despotisms, every attribute of the monarchies, and every vestige of the slaveries of the Old World save one, and that is, the all-controlling and all-absorbing power by which masses of the people of all nations of the earth have ever been enslaved—*coined money*.

More than three thousand years ago the despots of the world, as the most potent method to enrich themselves and their favorites and perpetuate their tyranny, hit upon the device of impressing their "image and superscription" or other peculiar stamp upon pieces of two of the metals, not the most intrinsically useful or the most beautiful, but the most scarce and difficult of attainment by the masses of the people, thus arbitrarily making a measure of value and equivalent for which the property of their subjects must be exchanged. Because of their capabilities of being so converted into equivalents of power the so-called precious metals were eagerly sought after by all men in such degree that they came falsely to be deemed to have a special intrinsic value in themselves equal to the effigy of value stamped upon them.

In the earliest republics, when Governments were established by the people for themselves, the worth and potency of these metals were antagonized as attributes of despotism. They stamped value upon the more common and equally useful metals generally distributed among the people, to be used by them as instruments of exchange and trade.

Thus in early Greece the effigy of the ox, the most valuable of the people's possessions, was impressed upon pieces of brass or iron, intrinsically of little value, but thus made the equivalent of comparatively considerable wealth.

So Rome, for more than five centuries used the effigy of the sheep, *pecus*, impressed upon copper for currency, thereby giving the name *pecunia*, by which money and wealth were afterward designated throughout the world. It is now admitted by all political economists that finely engraved printing upon paper, fixing its value, is the best of all possible substitutes for coined money for circulation, and cheaper as a currency for a people than gold itself. It may therefore be safely assumed that had the arts and education been sufficiently advanced in the Grecian and Roman republics, the money of the people would have been such paper instead of the ponderous and inconvenient metals.

Not until the people of these free Commonwealths became deteriorated by vices and luxury, yielding their liberties to tyrants either by choice or usurpation, did gold and silver, the ever-ready adjuncts of despotic power in all its forms and degrees, obtain place and scope to do their appropriate and never-failing work, the enslavement of the labor of the masses. It will be remembered when the victorious Gaul threw his sheathed sword into the scale as the counterpoise of Rome's degradation the beam was not balanced by her money, but by the ornaments and trinkets of the richer of her citizens, for she had neither gold nor silver coins for more than a century.

Twelve centuries afterward, when the feudal system dividing Europe, just then emerging from the dark ages, into many small principalities and powers had given petty princes, dukes, barons, and bishops control of the liberties of the impoverished people, each claimed as his prerogative the right to fix his value to pieces of gold and silver, and the same to change and debase at his will, by which his serfs must measure their possessions and pay tribute to him of all they had. Coined gold and silver has ever been the handmaid of despotism; the prop of monarchical power; the supporter of thrones; the upholder of nobilities and priesthoods; the engine by which the privileges and pretensions of aristocrats have always been sustained in trampling down the rights, devouring the substance, and absorbing the unrequited labors of the masses. Through all time the possession of money has given power to the few to enslave the labor of the many for the benefit of princes and nobles, and its use has been the badge of servitude of all peoples to some king or tyrant. To deny this at one time was treason.

When the chief priests would fain have taken hold of the words of our Lord "that so they might deliver him unto the power and authority of the governor," they asked, "Is it lawful for us to give tribute unto Cæsar, or no? But he perceived their craftiness and said, why tempt ye me? Show me a penny. Whose image and superscription hath it? They answered, Cæsar's. And he said unto them, render, therefore, unto Cæsar the things that are Cæsar's, and unto God the things that are God's. And they marvelled at his answer."

Our patriot fathers, founding a Government for themselves on this continent, carefully eliminated from its framework every attribute of monarchy and aristocracy, the divine right of kings, patents of nobility, the succession of primogeniture, the law of entail, the fealty of one man to another—every of the devices of kingcraft and oppression with which the people are governed by a class—all, save one: they retained, whether for good or evil, the precious metals stamped with the king's image as the standard by which to measure the property and industry of the new Republic. "It was a grievous fault," and grievously have their children answered it. Great, wise, and good men, we marvel that they foresaw so much, "but they saw not all things."

It is easy to understand what determined them in this exceptional adoption of gold and silver, which were the monarchical standards of value. They had just emerged from a war for liberty, during which they had seen their paper substitute for that standard rendered quite valueless and useless because made convertible and redeemable in gold and silver only, where gold and silver were impossible to be had.

But the Continental currency wanted everything which could give it value; issued by an aggregation, or conglomeration rather, of States just struggling for existence, trying an experiment of government in a new world which many of their best people more than doubted would be a failure and end in anarchy, without checks and guards against overissues, coarsely engraved, easy of forgery, degraded by counterfeits by their enemies so that it was

difficult to distinguish the genuine from the false, the only wonder is that such a currency was ever capable of the good service it did do in the war of independence.

An infant country without commerce or article of export, save almost only that which was drawn from the sea, without manufactures, with every necessary, not to say luxury, of life to buy from abroad, save what came from the soil, the founders of the Republic might well have been tempted to bring themselves into connection with the great family of nations by adopting as their money the precious metals by which all the commercial intercourse of the nations of the earth was then carried on, and to bear with such endurance as they might the loss, disaster, and ruin which the adoption of such standard of value at once entailed upon the country, for it is worthy of observation that its hardship was so great as to produce a serious rebellion and outbreak against the law in what was then as now the most cultivated, intelligent, and law-abiding portion of the country.

That the evils attending the inauguration of their monetary system did not cause our fathers to change their financial policy, with its probable consequences, is not a subject of surprise; for they had in almost present contemplation the action of revolutionary France in issuing the *assignats* and *mandats* as a substitute for gold and silver—a currency which almost at once became valueless, although nominally based upon what is reckoned among men the most desirable of possessions, the lands of the nation.

The failure of the French experiment of the issue of a substitute for money not convertible into gold and silver has ever since been faithfully held up by every one who affirms that it is the law of necessity that gold and silver only can be money as an example and warning against attempting to violate that law and as conclusive evidence of the impossibility of so doing without the inevitable depreciation and ruin of the finances of any people, however stable, rich, powerful, united, productive, and prosperous, who should venture to have a currency of their own. Nor is it strange that such was the impression that the French financial system made upon the founders of our Republic.

Contemporaries can never weigh and determine, with such precision as those who come after them may do, the causes and effects of governmental action. They might not then see as we now see that there were two causes which made the *assignats* and *mandats* of the French revolution inevitably valueless. Both these forms of security were the evidence to the holder of a right to buy or locate upon a portion of the confiscated lands of the nobles and priests of France, called by the revolutionary Government the national domain.

Now, the value of land to him who claims the ownership is composed of two essential elements: productiveness and title. Without title the productive value of land is of little worth to the claimant, and the assurance of title was exactly what the *assignat* did not make to the holder.

Beside, looking back upon that time as we do, it is difficult to see why the French paper money was not then as valuable as any other human possession in France, whether gold, silver, land, limb, or life; neither was worth an hour's purchase. The legislator of to-day was the criminal of to-morrow, the judge of to-day was the culprit of to-morrow; the knife of the guillotine, like the rain of Heaven, fell alike on the just and the unjust. He who at one moment held the *assignat* claiming title to the confiscated estates, at the next had his own estate confiscated with the *assignats* which he held.

Candidly and justly considered, can it be said that a fair argument ought to be drawn to maintain that all substitutes for gold and silver as money must be worthless because the paper money of France was valueless when and where nothing was valuable?

Every student of the history of our country will remember that while at the organization of the Government the standard of value by law was gold and silver, yet in fact the currency of the United States was even at that period engraved paper, presumed to be, but not convertible at the will of the holder into coin; for one of the acts of the First Congress was to establish a Bank of the United States, to issue what was inconvertible currency, which, as the act reads, "will be productive of considerable advantages to trade and industry in general." The stock was to be paid for one fourth in gold and three fourths in the public debt of the United States, thus making at that early day the public debt a basis of three fourths, at least, of the currency of the United States.

Another provision which will claim our attention is that the notes were to be receivable in all payments to the United States, thus giving its bills one value that legal tenders now have. Another provision of the bank charter deserving attention was, that while it might issue \$10,000,000 of circulation it was to go into operation when \$400,000, or four per cent. only in gold and silver of its capital, had been paid in, thus establishing the principle that its notes, all which circulated as money, were never to be in fact convertible into gold and silver. But for its operations the United States were not to be liable save to the extent of one fifth of the stock to which it might become a subscriber.

Notwithstanding the prohibition of the Constitution, that no State should emit bills of credit, the necessities of the people for money to develop the resources of the country was so controlling that every State established banks to issue bills which should circulate as money, the basis of which was nominally one fourth in specie.

In the light in which we now view this establishment of State banks they would seem clearly within the inhibition of the Constitution, because it is only a patent evasion to allow the States to establish bodies corporate, in which they were sometimes part owners, to do that which the Constitution prohibited the States themselves from doing. Thus the creature might and did do what was prohibited to the creator. Nor is it surprising that this State legislation, when examined by the courts, was held within the Constitution, because the common convenience and necessity of the whole people always have, as they always will, set aside the written provisions of constitutional law. "*Salus populi suprema est lex*" has ever been, as it ever should be, the interpreter and complement of the Constitution.

The United States Bank failing to be rechartered in 1811, the country remained without any uniform currency, although gold and silver were standards of value, until 1817, when another Bank of the United States went into operation, with a much enlarged capital, for a period of twenty years, and then wound up its affairs, a renewal of its charter having failed by the veto of President Jackson.

It will not be useful further to advert to the history of the financial legislation of the country save to call attention to the independent Treasury act of July 4, 1840, among the provisions of which it was enacted that all debts due to or from the United States were to be paid and collected in gold and silver, so that the currency in which the Government transacted its business was truly specie. This practice, as is well known, obtained until the war of the rebellion and the legal-tender act of February 25, 1862. But during all this time the currency of the people was paper issued by the banks, secured by various legislative devices. The actual security for the immediate redemption of this paper was nominally one fourth gold and silver coin, supposed to be in the banks, but in fact about one sixth, and its only other worth the actual value of the notes and bills of their customers, discounted by the banks on longer or shorter

time, or what is technically known as the "bank portfolio."

As all these bank notes circulated as money purporting to be redeemable in specie on demand, as well as the deposits, which much exceeded the circulation, and as the banks held in fact so small a percentage in coin, it is obvious that these promises could not be so redeemed, so that whenever the exigencies of the business of the country or of the world called for any large sum the banks either refused to pay specie or by contracting their circulation so diminished the money of the country as to bring themselves within a limit at which their circulation, being a necessity to the people, would not come in for redemption.

It will be readily seen that the fluctuations in the amount and value of the currency caused by the banks being obliged to contract to meet every considerable demand in specie were destructive to all stability in business enterprises, if not to commercial integrity itself, since once in every ten years, and a large part of the time much oftener, the banks were obliged to refuse to redeem their notes in specie, and from the necessity of the case were supported in so doing by legal enactment. No mercantile sagacity in business, no forethought or prudence in investment, no integrity of purpose, and no solidity of capital in the merchant or conductor of business enterprises, public or private, under such a financial system of pretended convertibility could or did prevent commercial failures and ruin. Every few years panics ensued, and whole classes of solvent, prudent, enterprising men were involved in ruin from causes which it was impossible for them to foresee or control.

The whole property of the country, the scanty provisions for the widow and orphan, the stocks in otherwise prosperous enterprises, the shares of public works carried on to develop the industry and wealth of the country, each and all alike, at uncertain and irregular periods, fluctuated in price quite one half.

If this condition of things had been dependent upon the habits of our people, upon the productiveness or non-productiveness of our industries, the profitability or unprofitableness of our commerce or business enterprises, or upon the current enactment of our Legislatures, either State or national, one or all, perhaps some remedy might have been found or method of alleviation proposed. But none of these had any effect to hasten or retard these fluctuations of commercial values. The fault was inherent in our financial system, which was, and while based on money convertible into specie must continue to be, but an exaggerated offshoot of the financial systems of Europe, subject to the changes, the needs, the wars, famines, and distresses of other countries. *It was in no sense an American system*, nor in any of its parts adapted to the institutions of a free, enterprising, and independent people. Many and various were the expedients resorted to by the General Government to remedy this chronic vacillation of money to the destruction of the business interests of the country. But all in vain.

In the endeavor to do this the United States, as we have seen, at first chartered a bank, became a subscriber to its stock, and received and paid out its bills as money for a period of twenty years. Still the erratic but inevitable periods of commercial distress came round. Again it refused to have anything to do with a bank, and left money to the natural laws of trade for five years, from 1811 to 1817. Still financial disaster came and went in turn like the vibrations of the pendulum, but wanting their regularity. In 1816 the Government again tried the experiment of making an unfluctuating convertible currency, by chartering a bank of more than three times the capital of the old one as a regulator of the currency. Still the oscillation went on more pronounced and ruinous than ever. The years of 1827-28 will ever be memorable in the history of the country for the wholesale destruction of fortunes and commercial values. The bank charter expired in

1836 by its own limitation, and the Government again divorced itself from all connection with the finances of the country, to leave a supposed convertible paper to do its own work uncontrolled save by its own laws, but the financial distresses and convulsions of 1837 caused all previous ones for the time to be forgotten.

In the endeavor to find some relief by legislation political parties were broken up, and the election of 1840 turned upon the distresses in business of the country alone, but change of administration brought no relief. The Government established its own affairs firmly on a specie basis in 1840, holding aloof from any interference with the finances of the country, hoping to give them stability by the regularity and steadiness of its receipts and payments in coin, although sometimes issuing Treasury notes like exchequer bills, or buying in its own bonds in order to deplete its depositories of gold as a measure of relief to commerce and business. Still the periodical visitations of commercial disaster and ruin continued, and the distress and revulsions of 1847 and 1857 quite paralleled those of 1827 and 1837 as periods of financial disaster.

It will not be useful further to trace the commercial history of the country, but with the experience of seventy years of such fluctuations of value, of commercial ruin and distress, from which the country cannot be shielded either by the sagacity of its financiers and merchants, the wisdom of its legislators, or the industry and enterprise of its citizens, let me pause here and ask, the country being now, partially at least, emancipated from a financial system producing such results, is it desirable voluntarily to return to it? Specially, ought we to force ruin and distress upon the majority of the people in order so to do?

It is needless for me to add that amid all these convulsions and revulsions of the business of the country and its currency and the destruction of its values, the losses fell at last, as they ever must fall, upon the laboring masses. Bread riots were not unfrequent; productive industry was paralyzed; the work shops and mills were closed, leaving labor unemployed and unpaid; its value thus lost never is regained by a rise in prices or a return to prosperity; for it is the peculiarity of labor, says an eminent economist, "that it is the only commodity that perishes at the instant of production, and if not then put to use is lost forever."

Such are the results experience, during the lifetime of the Government, shows have always followed the attempt to conduct the business of the country upon specie payments, or, in other words, with a circulating medium supposed to be always convertible, but which never can be converted into gold and silver.

Let us now examine and see if we may know why, with our currency upon a supposed basis of convertibility, experience has shown that it is apparently beyond human power to regulate or control, or sustain the business or finances of the country. Is it not because in adopting the specie measure of value and instrument of exchange we have bound our business and finances hand and foot to the monarchs and bankers of Europe? We have adopted their standard of value, which they control at their will, for their purposes and for their prosperity and not for ours. Whenever from caprice or malignity or panic or war or attempt to unsettle or restore the balance of power among the Governments of Europe they have seen fit to lower or raise their price for gold, then our currency based thereon, but expanded as four to one, feels the shock in quadruple proportion. Nay, more, having silver and gold both as standards of value whenever the caprice of some Indian prince or Chinese merchant chooses to call for silver in payment of the commodities we or any other nation import from the East and thereby raises it to a premium in comparison with gold, then our gold and silver go out, not at the value fixed by us as coin, but at the value at which they are taken, simply as bullion.

Gold is still further depressed in value in comparison with silver, which is the sole standard of the principal commercial countries of Europe, save England; it is thus drawn very rapidly to Europe to fill the vacuum caused by the enormous exportation of silver to China, Japan, and India. The extent of this drain upon the silver of Europe and the necessary rise in price as compared with gold, and the consequent necessary flow of gold from those countries where it has a fixed value as compared with silver, like England and this country, where gold is the standard of value, may be seen from data derived from the books of the Oriental Steam Navigation Company, through whose agency alone the sum of \$60,594,925 was transported to Asia from England solely in 1856; and increased in the following year to \$83,976,160; to this add the sum of \$16,758,445 from the rest of Europe, we have \$100,729,605 as a startling efflux in silver only, from Europe to the East in a single year, or more than double the annual yield of all the silver mines that supply Europe and America.

To this must be added quite one tenth of that amount in gold, say \$10,000,000. It will be observed that half of this amount of silver must be taken each year from the circulation of Europe, say \$50,000,000, and its place supplied with gold; and both these exports of specie to the East are independent of that shipped directly from America, and are greater than the entire average product of the mines of California. The most careless consideration of this fact will conclusively show the reason why the Bank of England in the years 1856-57 was unable to restrain the efflux of gold from that kingdom, although she altered her rate of discount eight times during the year 1856, and nine times in 1857, quadrupling it in amount and ending in final bankruptcy and suspension in November of that year.

I have taken this period for comparison as it was before our war of rebellion and the cotton dearth, which so much affected the finances of England. This great drain still goes on. Is it wise, therefore, by legislative enactment to force a return to a currency by which all our values are to be measured, our productions exchanged and transported, our wealth to be distributed, and our industries to be governed, the very basis of which is controlled and fluctuated not only by the interests and commerce of the Christian and civilized world, but by the trade and needs of the half civilized and barbarous nations of the East.

Instead of this money, the instrument of tyrants, which has wrought all these evils, I propose a paper currency admittedly the cheapest and most convenient, its value based not only upon the gold in the country but upon every other source and element of the national prosperity, emancipated from the control of all other nations, whether civilized or barbarous. It is the currency for a free people, strong enough to maintain every other of their institutions against the world, whose Governments they have antagonized; strong enough to sustain the measure of their business transactions with each other independent of kings, the least, or bankers, now the most potent sovereigns in the world. It is one of the blessings of the war that we are enabled for the first time to stand alone in our industries and internal commerce as we have in our institutions.

It cannot fail to have attracted attention that the only remedy for all evils brought on by a currency convertible into specie when distress is upon the merchant, ruin upon the manufacturer, and disaster upon the banker, when the banks of the United States, of England, and of France could afford no aid, has always been a suspension of specie payments, *i. e.*, by the use in these the foremost nations of the world of an inconvertible paper currency. If such currency is so potent as a remedy for all financial diseases which beset a nation, whether in peace or war, whether arising from over-trading, over-speculation, or over-investment, why may it not be equally beneficial as a fixed, permanent, and stable circulating medium to sup-

ply the demands of business and the necessities of the people.

The experiment of an inconvertible currency has been tried on the most extended scale and through long periods of time and under the most trying circumstances, and has never failed. In 1797, when the British empire was threatened with rebellion in Ireland, and was sustaining all Europe against the victories of Bonaparte with its subsidies of gold, the question came to her great war minister, Pitt, shall the integrity of the empire be lost? Shall France overrun all Europe and threaten great Britain in the East, or shall the currency of the empire be the inconvertible note of the Bank of England? He chose the latter. How wisely the success of England and the allied armies culminating at Waterloo attest. An inconvertible currency fought the battles of England and of the world from that Sunday morning, the 23d of February, 1797, when the King himself in council ordered the suspension of specie payments, till the 18th of June, 1815.

Irredeemable paper laid the foundation of England's manufacturing and commercial prosperity, supplied her navy which, at Trafalgar, made her the mistress of the seas, and procured the gold with which all the armies of Europe were paid, and for eighteen years there was neither financial revulsion, business panic, or distress. In answer to the objection that it is necessary to have gold currency for foreign trade I quote MacLaren, one of the most philosophical as well as accurate writers of England, in his History of the Currency:

"It is remarkable that no difficulty was experienced by our merchants in carrying on their trade with other nations during this period, though they no longer had a stock of bullion kept for them at the bank by means of which they might adjust their foreign payments. No inconvenience, indeed, of any kind was felt from the substitution of paper for gold, and, if the bank directors had so ordered their issues as to keep the mint and market price of gold on an equality, it seems that no objection could have been urged against the paper currency, except its liability to forgery, and we should never have heard of the currency controversy."

We remember our own war of the rebellion, without the legal-tender note, must have come to an end in the beginning of 1862; the banks had suspended, and, like broken reeds, the Government could no longer lean upon them; business was paralyzed, men and supplies could hardly be obtained, the armies were unpaid, and no decisive battle had been fought when Congress passed the legal-tender act of 1862. From that time business received a new impulse, labor was employed, manufactures everywhere sprang up, supplies were abundant, and although by a greater error the legal-tender note was not made the money of the Government for all purposes, as it should have been, yet, crippled as it was, it supplied and paid our soldiers, pensioned the wounded, provided for the widow and orphan, and produced a degree of prosperity theretofore unknown, which has been maintained ever since, and during this period of six years financial panics and disasters were unknown and unthought of until the insane attempt of the banker and capitalist to force a return to specie payments by a contraction of the currency.

During the year 1864 we exported more than one hundred millions of gold and silver, only \$35,000,000 of which came from San Francisco, and no one knew the fact from any effect it had on the business of the country. In any other year, while our currency was upon a specie basis, the export of one tenth part of that sum beyond our production would have produced financial panics, ruin, and distress greater than that of 1837 when our total export of specie was less than six million dollars.

Point me to any other six years in the financial history of the country in which labor has been so well paid; in which production has been so varied and successful; in which there have not been more than one financial panic scattering ruin and disaster through the land. We have heard much of the patriotism of the bankers and capitalists who are said to have

come forward to lend their gold to the country in its time of utmost need, but that is exactly what they did not do.

In December, 1861, the banks suspended specie payments without right, without authority of law, in violation of their own plighted faith and promises, so that neither the Government nor any one else could get a dollar of their gold from their vaults. When, in pursuance of the act of Congress of the 25th of February, 1862, \$150,000,000 of legal-tender notes were issued, with which our soldiers were paid and the debts of the United States canceled, did the banks or capitalists loan these to the Government or did we make them for ourselves? On the contrary, the banks refused even to receive the Government notes on deposit. When the Government wanted more money to pay the soldier and carry on the war, did they get it from the banker and capitalist? No; they issued their own legal-tender notes as money and paid their debts. Having provided that these notes might be funded into a gold-bearing six per cent. bond, the capitalists bought them up when they fell to a discount of sixty per cent., by selling the gold at that premium which they had hoarded in their vaults and had refused to loan to the Government, and funded this, which they now call failed paper, in bonds for the payment of which in gold, or, what is equivalent, a return to specie payments, they now howl at the doors of the Capitol, unmindful of the destruction of value, the starving of the laborer, and the ruin and devastation they may cause.

Although this return to specie payment has been agitated ever since the war what petition has come up to you from the people demanding it at your hands? What meetings of the people have been held to make to you petitions for relief from grievances in this behalf? Not one; not one. Only resolutions of boards of trade and bankers.

I stand here, therefore, for inconvertible paper money, the greenback, which has fought our battles and saved our country, which has been held by us as a just equivalent for the blood of our soldiers, the lives of our sons, the widowhood of our daughters, and the orphanage of their children.

I stand here for a currency by which the business transactions of forty million people are safely and successfully done, which, founded on the faith, the wealth, and property of the nation, is at once the exemplar and engine of its industry and power—that money which saved the country in war and has given it prosperity and happiness in peace. To it four million men owe their emancipation from slavery; to it labor is indebted for elevation from that thrall of degradation in which it has been enveloped for ages. I stand for that money, therefore, which is by far the better agent and instrument of exchange of an enlightened and free people than gold and silver the money alike of the barbarian and the despot.

[The hour having expired during the delivery of Mr. BUTLER's speech, by unanimous consent his time was extended thirty minutes.]

Mr. WASHBURNE, of Illinois, moved to lay on the table the motion to reconsider the vote by which the bill was referred.

The motion was agreed to.

MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States was communicated by Mr. MOORE, his Private Secretary, who also announced that the President had approved and signed a bill (H. R. No. 1428) authorizing the admission of evidence of copies of certain papers, documents, and entries.

DAVIS, HOLT, AND CAMPBELL COMMISSION.

Mr. SPALDING, from the Committee on Appropriations, reported a joint resolution (H. R. No. 403) providing for the disposition of certain papers; which was read a first and second time.

The joint resolution provides that all the papers and evidence returned to the War Department by the Davis, Holt, and Campbell

commission, touching claims against the department of the West accruing immediately before the 14th of October, 1861, shall be surrendered and turned over to the Attorney General, whose duty it shall be to cause the evidence to be examined, and such part thereof as has any bearing on cases pending in the Court of Claims shall be printed and received in said Court of Claims as if it were evidence taken under commission for said court, subject, however, to reexamination or cross-examination of the witness of either party.

Mr. SPALDING. The Committee on Appropriations unanimously instruct me to offer this resolution, and ask its passage by the House at this time. I will state in a few words the reason. When these claims were adjusted by the commission under a resolution of Congress—a commission consisting of one of the justices of the Supreme Court of the United States, of Judge Holt, who is at the head of the Bureau of Military Justice, and an eminent merchant in St. Louis—they carefully examined all these claims, and adjudicated that so much of them as they deemed just and equitable should be paid. The claimants received their money under that adjudication, and gave their receipts in full. But now, to our great astonishment, they bring their suits in the Court of Claims, and ask for the difference between what they originally claimed and what this commission declared they ought to have in satisfaction of their claims, and they allege that these receipts given in full were given under duress, and therefore that they are not to be bound by them. This resolution is offered at the instance of the Attorney General for the purpose of allowing the papers that were acted upon by that commission, so far as they have any bearing upon these cases in court to be introduced as evidence, subject however to be rebutted by evidence if the parties have it, and subject to cross examination, if it is desired, the evidence taken by the commission to be *prima facie* evidence before the Court of Claims. It will save trouble and expense to the nation, and will do no injustice, I think, to anybody.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. SCHENCK. I would like to know what I am called upon to vote for.

Mr. SPALDING. I have just stated what the resolution proposes to do.

Mr. SCHENCK. What is it proposed to make evidence?

Mr. SPALDING. All the testimony that was before this commission when they adjudicated the claims.

Mr. SCHENCK. Is the testimony taken in this *ex parte* way to be conclusive, or is it to be taken for what it is worth?

Mr. SPALDING. For what it is worth; and the witnesses are to be subject to reexamination or cross-examination. It is all right.

Mr. SCHENCK. There ought to be something in the resolution to afford an opportunity for cross-examination.

Mr. SPALDING. That is provided for.

The joint resolution was then passed.

BUREAU OF ENGRAVING, ETC.

Mr. DAWES, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury is hereby directed to communicate to this House a copy of the report, made under the direction of the First Comptroller, the First Auditor, and the Register of the Treasury, in reference to the past and present condition of the Bureau of Engraving and Printing of the Treasury Department, with the accompanying documents.

DELEGATE FROM WYOMING.

Mr. DAWES. I rise to a question of privilege. I hold in my hand the credentials of Mr. J. S. Casement, Delegate-elect from the Territory of Wyoming; and if there be no objection, I ask that he be sworn in.

Mr. WASHBURNE, of Illinois. I should like to know when this man was elected and

who certifies to his election. There is no Governor there.

Mr. DAWES. I will state that he was elected, as was the case in almost all these Territories, before the organization of the Territory, and was sent here to act as the agent and Delegate of the Territory, as has been the custom and precedent heretofore; not according to any forms of law, but just as Representatives are elected from a Territory when it is about to become a State and are admitted to their seats when the State is admitted. There is no law for it.

Mr. WASHBURN, of Illinois. The bill organizing the Territory of Wyoming was passed at the close of the last session of Congress, and the territorial officers have not been appointed. I desire to know of the gentleman from Massachusetts if there has been any election in that Territory since it was organized?

Mr. DAWES. Certainly not; that is what I stated.

Mr. WASHBURN, of Illinois. Then I object to anything of this kind.

The SPEAKER. Then the question is for the House to decide.

Mr. DAWES. I move that Mr. Casement be sworn in. This is simply in accordance with the precedents heretofore. I do not know of any Territory that has been organized for many years from which a Delegate has not come here who was elected before the organization of the Territory, and upon the organization of the Territory he has been admitted. And so it has been in the case of States. When the State of Kansas was admitted into the Union, a gentleman who had been elected Representative before the State was admitted, without any provisions of law, was admitted to his seat here. There is no form of law under which this gentleman was elected. Before the organization of the Territory he was elected by the citizens of that Territory, and in accordance with the precedents, when the Territory is organized he applies for admission. He is here simply as the agent of the Territory. He has no vote in the House, and in no capacity can he act otherwise than as the agent of the Territory.

Mr. WASHBURN, of Illinois. I desire to know whether he is the agent of the Territory or of the Union Pacific Railroad Company?

Several MEMBERS. Ah! Ah!

Mr. DAWES. I have no knowledge of the facts beyond what I have stated to the House.

Mr. WASHBURN, of Illinois. I should like to know how many votes he got, and how many votes any other parties got, and who signs the certificate of election?

Mr. DAWES. I have no knowledge of that. Mr. WASHBURN, of Illinois. Well, it is very extraordinary, it seems to me, that the gentleman from Massachusetts should come in here and ask us to elect a man Delegate from a Territory which has no existence.

Mr. CULLOM. Would it be in order to have the certificate read? I would like to know who signs it.

The SPEAKER. The credentials will be read.

The Clerk read as follows:

Whereas at an election holden in that portion of the Territory of Dakota which comprises the proposed Territory of Wyoming, on the 8th day of October, A. D. 1867, which election was called by a mass meeting of the citizens residing in said district of country, and general notice thereof was given by the undersigned, who were appointed a committee by said mass meeting, and at such election J. S. Casement being a candidate for the office of Delegate in Congress to represent the interests of the aforesaid district of country did receive a majority of the votes cast at said election; Therefore,

It is hereby certified that the said J. S. Casement was at said election duly and legally elected to the office of Delegate in Congress as aforesaid.

In testimony whereof witness our hands and seals this 28th day of October, A. D. 1867.

[L. S.] THOMAS J. STREET,
[L. S.] W. L. KUYKENDOLL,
[L. S.] LUCIAN L. BEDELL,
Commissioners of Election.

Mr. MAYNARD. Mr. Speaker, I should like to know how this paper is verified, whether any public seal is attached to it, or there is anything to authenticate it?

Mr. DAWES. Nobody pretends that he was elected in conformity to existing law. It is simply in conformity to the precedents which I have cited. I know nothing about the facts. The credentials were handed to me this morning to present.

Mr. MAYNARD. Does the gentleman present this as chairman of the Committee of Elections?

Mr. DAWES. I do not.

Mr. MAYNARD. I think the gentleman's committee had better examine it.

Mr. HIGBY. I ask the chairman of the Committee of Elections whether there has ever before been a case like the one now presented, where admission is asked for a gentleman who was elected previous to the organization of the Territory?

Mr. DAWES. There have been many such precedents. It is due to the Committee of Elections to say that they had nothing to do with it. These credentials came to me this morning, and I have presented them to the House.

Mr. WASHBURN, of Illinois. The gentleman yields to me for a moment, and I wish to call the attention of the House to the condition of this case. My friend from Massachusetts, the chairman of the Committee of Elections, comes here, not making a report from the Committee of Elections, and asks us to admit a man to be sworn in and draw pay and mileage for this Congress as a Delegate from a part of the country where there was no Territory, and that upon the mere certificate of a mass meeting, signed by individuals of whom we know nothing. He proposes to admit him as a member of this body. I do not know any precedent for this proceeding. I do not believe that any can be shown. If there is any, then I am for making a new precedent. Let us have a Delegate elected by the Territory of Wyoming as it has been organized, and let him come here with a certificate properly authenticated by the governor and the seal of the Territory.

Mr. MAYNARD. I understand the gentleman to say that there was no Territory there.

Mr. WASHBURN, of Illinois. No Territory of Wyoming.

Mr. MAYNARD. It was a part of the Territory of Dakota.

Mr. WASHBURN, of Illinois. It was a part of Dakota, but not organized as the Territory of Wyoming; and Dakota was represented at the very time this man claims to have been elected.

Mr. SPALDING. He was not elected at a mass meeting, but on a general ticket.

Mr. DAWES. What the gentleman from Illinois says is true, that this is an irregular proceeding. It is due to me to say that I do not ask that this man shall be admitted upon this floor, on any claim that he was elected according to law. If the gentleman will look back in the history of the Territories he will find that this is not unusual. I agree that it is irregular. I have never said that it was right. Congress has admitted both members and Delegates chosen in this manner during the last twenty years. It is the precedent which has been established. If the House wishes to establish another one, that a Delegate shall not be elected until after the organization of the Territory, it will be satisfactory to me. It was done in the case of Minnesota. The State of Minnesota was carved out of the Territory of Minnesota, and two members admitted upon this floor, although chosen without any law authorizing the election, and before the State was organized; and then a man who was chosen in the same way for Delegate for the balance of the Territory was admitted upon the floor of this House. Thus two men as members of Congress representing the State of Minnesota, and another man as Delegate for the balance of the Territory, were admitted to the floor of this House. When the gentleman has made that examination, he will admit that what he stated just now is not correct; that is, that there was no precedent of this kind. It is precisely like all the rest of the cases to

which I have referred, it is not regular. If the House desires to put a stop to this irregularity it will find no opposition on my part.

Mr. MAYNARD. My recollection is not entirely distinct; but I have a pretty decided recollection that the Minnesota members, to whom the gentleman refers, were elected under the authority of the convention that framed the State constitution. Minnesota was organized as a Territory, and the people there desiring to be admitted as a State called a convention, which framed a constitution, which was submitted to Congress for approval.

Mr. DAWES. If the gentleman is desirous to find any parallel, I will ask him to explain under what authority Governor Reeder and Mr. Whitfield were admitted to represent the Territory of Kansas, and under what authority the gentleman who represented Kansas in the first Congress after the State was admitted was elected. I do not make any opposition to any disposition the House desires to make of these credentials.

Mr. WASHBURN, of Illinois. Then I move that these credentials be referred to the Committee of Elections, so that they can examine them, and report what the precedents are. And upon that motion I call for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the motion to refer was agreed to.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the motion to refer was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CHINESE REVENUE COMMISSION, ETC.

The SPEAKER, by unanimous consent, laid before the House the following message of the President of the United States:

To the Senate and House of Representatives:

In conformity with the requirements of the sixth section of the act of the 22d of June, 1860, to carry into effect provisions of the treaty with China and certain other Oriental nations, I transmit to Congress a copy of eight rules agreed upon between the Chinese Imperial Government and the minister of the United States and those of other foreign Powers accredited to that Government for conducting the proceedings of the joint tribunal in cases of confiscation and fines for breaches of the revenue laws of that empire. These rules, which are accompanied by correspondence between our minister and Secretary of State on the subject, are commended to the consideration of Congress with a view to their approval.

ANDREW JOHNSON.

WASHINGTON, D. C., January 8, 1869.

Mr. CULLOM. I move that the message and accompanying papers be referred to the Committee on Foreign Affairs, and printed.

The motion was agreed to.

EMPLOYÉES OF STATE DEPARTMENT.

The SPEAKER also laid before the House the following message from the President of the United States:

To the House of Representatives:

I transmit herewith, in answer to a resolution of the House of Representatives of the 16th of December last, a report from the Secretary of State of the 6th instant.

ANDREW JOHNSON.

WASHINGTON, January 7, 1869.

The SPEAKER. The report of the Secretary of State is in relation to the reduction which can be made in the force of employes of that Department compatible with the public interest. If no other motion is made these papers will be referred to the Committee on Appropriations, and ordered to be printed.

No objection was made.

UNITED STATES MINT, NEVADA.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting a communication from the Director of the Mint, asking additional appropriations for procuring and erecting machinery required at the branch mint at Carson City, Nevada, and also for salaries of clerks, &c.; which was referred to the Committee on Appropriations, and ordered to be printed.

RECONSTRUCTION EXPENSES.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting an extract from the report of the Paymaster General of the Army, relative to transferring certain funds appropriated for reconstruction purposes from certain districts having large balances to those having none; which was referred to the Committee on Reconstruction.

WILLIAM H. RICHARDSON.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting the petition of William H. Richardson, adjutant general of Virginia, for removal of his political disabilities; which was referred to the Committee on Reconstruction.

ARSENAL GROUNDS, ST. LOUIS.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting a communication from the chief of ordnance, relative to the sale of the arsenal grounds at St. Louis; which was referred to the Committee on Military Affairs.

NAVAL ACADEMY GROUNDS.

The SPEAKER also laid before the House a communication from the Secretary of the Navy, transmitting a copy of a communication from Vice Admiral Porter, Superintendent of the Naval Academy, relative to the necessity for the purchase of additional grounds for that institution; which was referred to the Committee on Appropriations, and ordered to be printed.

PAYMENTS, ETC., BY WAR DEPARTMENT.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting a list of payments made and balances certified under the act of March 30, 1868; which was referred to the Committee on Military Affairs.

ILLEGAL FEES OF CONSULS, ETC.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, in answer to a House resolution of the 5th instant, relative to consular officers of the United States demanding or receiving greater fees than are allowed by law; which was referred to the Committee on Foreign Affairs.

COMMERCE WITH CANADA.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting additional report of Hon. Israel T. Hatch, of New York, special agent of the Treasury Department, upon the commercial relations of the United States with Canada; which was referred to the Committee on Commerce, and ordered to be printed.

CLAIMS OF S. AND H. SAYLES.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting the report of a board organized by the War Department for the investigation of the claims of S. & H. Sayles, of Killingly, Connecticut, for loss sustained by them in the rejection of certain kerseys furnished under contract; which was referred to the Committee of Claims.

SAC AND FOX INDIANS, KANSAS.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of Indian Affairs, submitting estimate of appropriation required to fulfill treaty stipulations with Sac and Fox Indians, Kansas; which was referred to the Committee on Appropriations, and ordered to be printed.

CROW INDIANS.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of Indian Affairs, submitting estimate of appropriation for pay of agent for Crow Indians; which was

referred to the Committee on Appropriations, and ordered to be printed.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of Indian Affairs, submitting estimate of appropriation required to fulfill treaty stipulations with the Crow Indians; which was referred to the Committee on Appropriations, and ordered to be printed.

KENTUCKY UNIVERSITY.

Mr. BECK asked and obtained leave to withdraw from the Committee of Claims the papers of the Kentucky University, at Lexington, Kentucky, for the purpose of filing them with the Senate.

LEAVE OF ABSENCE.

The SPEAKER. The Chair asks indefinite leave of absence for the gentleman from New York, [Mr. BAOKS,] on account of the death of a relative; and the gentleman has requested the Chair to state that his absence yesterday was on this account.

Leave was granted.

Mr. KELSEY obtained leave of absence for four days.

PRINTING OF AGRICULTURAL REPORT.

The SPEAKER, by unanimous consent, laid before the House a communication from the Congressional Printer, in response to a resolution of the House asking the cause of the delay in the printing of the Agricultural Report for 1867; which was laid on the table.

The SPEAKER. As this communication is brief, and as many members may desire to explain to their constituents the cause of the delay in printing this report, the Clerk will, if there be no objection, read the communication.

There being no objection the Clerk read as follows:

OFFICE OF CONGRESSIONAL PRINTER.
WASHINGTON, January 12, 1869.

SIR: I have the honor to acknowledge the receipt of a resolution adopted by the House of Representatives on the 9th instant, directing the Congressional Printer to inform the House the cause of delay in furnishing for distribution the "Agricultural Report of 1867."

In answer, I respectfully submit the following: On the 30th of June last the House ordered the printing of two hundred thousand copies of the report, which, added to the number ordered by the Senate, makes the whole number two hundred and twenty-four thousand five hundred copies.

A portion of the copy was furnished this office on the 1st day of September, which was completed on the 12th of October. The office was then without additional copy until the 23d of November. Had the copy been furnished immediately after the order to print was given in June last, the report would have been printed and bound before this time.

It is but just to the Commissioner of Agriculture to say that he has given, in a note to the report itself, the following reason why copy was not sooner furnished:

"It is my intention hereafter to secure greater promptness in the publication of the report, a reform beyond my power to initiate in the issue of this volume, for which no preparation was made upon my accession to the office, owing to the death of the former Commissioner."

When it is known that it requires the enormous amount of two hundred and twenty-five tons of printing paper to complete it, some idea may be formed of the pressure upon this establishment, especially when it is to be done at a time when all the annual documents are to be printed and bound.

Notwithstanding these facts, however, I hope to be able to commence the delivery of the report on the 25th of the present month, and to continue to do so at the rate of about two thousand per day until all are delivered.

I have the honor to be, your obedient servant,
JOHN D. DEFREES,
Congressional Printer.

HON. SCHUYLER COLFAX, Speaker House of Representatives, Washington, D. C.

COMMITTEE ON ORDNANCE.

Mr. SCHENCK. There has been prior to this session a joint committee on ordnance, composed of Senators and Representatives. It is thought that the construction of the rule of the Senate requires the adoption of a concurrent resolution to revive the committee for this session. A resolution adopted by the Senate for this purpose has been on the Speaker's table for some time; and as there are two or three important subjects requiring the early

attention of this committee I hope the House will consent that the resolution of the Senate may be taken from the table and concurred in.

The SPEAKER. If there be no objection, the Chair will lay before the House the concurrent resolution, which has been on the table since the 14th of December last.

There being no objection, the Clerk read as follows:

IN SENATE OF THE UNITED STATES,
December 14, 1868.

Resolved, That the joint Committee on Ordnance appointed at the first session of the present Congress and continued at the last session be, and the same is hereby, continued during the present session.

Ordered, That Mr. HOWARD, Mr. CAMERON, and Mr. DRAKE be the committee on the part of the Senate.

The resolution was concurred in.

Mr. SCHENCK moved to reconsider the vote by which the resolution was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER appointed as the committee on the part of the House Mr. LOGAN, Mr. BUTLER of Massachusetts, and Mr. SCHENCK.

PACIFIC RAILROAD.

Mr. BOUTWELL, from the Committee on the Judiciary, submitted the following report.

The Clerk read as follows:

The Committee on the Judiciary, who were directed by the House March 30, 1867, to investigate the matter of the Union Pacific railway, eastern division, in response to the memorial of Edward Learned, respectfully report that the conclusions of the committee are embodied in the two following resolutions, which were unanimously adopted by the committee May 21, 1867:

1. That under the order of the House upon the memorial of Edward Learned the duty of the committee will be performed by such an examination of the facts in reference to the organization and conduct of the company engaged in the construction of the Union Pacific railway, eastern division, as shall satisfy the committee whether or not the United States has a lien upon said road for the bonds issued to aid in the construction thereof, as provided in the act of Congress of July 2, 1864.

2. The committee having heard the parties and examined the various papers submitted, are of opinion that the lien of the United States upon said road is not affected by any of the alleged irregularities and illegal proceedings by the company engaged in the construction of the same; and this without expressing an opinion whether said proceedings are irregular and illegal or otherwise, the questions raised by the parties being questions for the courts, rather than for the action of Congress.

For the committee:

GEORGE S. BOUTWELL.

The report was laid on the table, and ordered to be printed.

WILLIAM H. BAGLEY.

Mr. BOUTWELL, from the Committee on Reconstruction, reported a bill (H. R. No. 1673) to relieve William H. Bagley, of Wake county, North Carolina; which was read a first and second time.

The bill provides, two thirds of each House concurring therein, that all political disabilities imposed by the third section of the fourteenth article of the amendments to the Constitution of the United States shall be removed from William H. Bagley, of Wake county, North Carolina.

Mr. BOUTWELL demanded the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The bill was then passed, two thirds voting in favor thereof.

Mr. BOUTWELL moved to reconsider the vote by which the bill was passed, and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois, from the Committee on Appropriations, reported a bill (H. R. No. 1672) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1870; which was read a first and second

time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. WASHBURN, of Illinois. I now move that it be made the special order in the Committee of the Whole on the state of the Union to-morrow after the morning hour.

Mr. MOORHEAD. I object to making it the special order.

The SPEAKER. It can be done by a majority vote.

Mr. MOORHEAD. If this is not made a special order the tariff bill will then come up.

Mr. WASHBURN, of Illinois. That makes no difference. The House can, when the time comes, determine on what bill they will go into the committee upon. If it is his bill, then that will be the special order. If not, then it will not be the special order.

The SPEAKER. The parliamentary rule is somewhat different. The committee must act on the special order unless it is set aside. The tariff bill is not the special order in the committee, but it is the unfinished business when there are no special orders.

Mr. MOORHEAD. Let the tariff bill be made the special order, and after that the bill just reported.

The SPEAKER. The tariff bill cannot be made the special order except by unanimous consent, but a majority can make a general appropriation bill the special order.

The House divided on Mr. WASHBURN'S motion; and there were—ayes 61, noes 26; no quorum voting.

The SPEAKER ordered tellers; and appointed Mr. WASHBURN, of Illinois, and Mr. MOORHEAD.

The House again divided; and the tellers reported—ayes 78, noes 88.

So the motion was agreed to.

Mr. MAYNARD. I give notice that I reserve all points of order.

EULOGIES ON THADDEUS STEVENS.

Mr. CAKE, from the Committee on Printing, reported the following resolution; which was read, considered, and agreed to:

Resolved, That there be printed under the supervision of the Clerk of the House thirty thousand extra copies of the eulogies on Thaddeus Stevens for the use of the House.

Mr. MAYNARD moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

INAUGURATION BALL.

Mr. COVODE, by unanimous consent, from the Committee on Public Buildings and Grounds, reported the following concurrent resolution; which was read, considered, and agreed to:

Resolved, (the Senate concurring,) That so much of the Capitol as is hereinafter mentioned be granted to the committee of control, in which to conduct the inaugural proceedings, other than official, of President and Vice President, on the 4th of March next, to wit: the Rotunda, the old Hall of Representatives, the Senate corridors and Senate public reception room, the passages leading thence to the Rotunda and old Hall, and so much of the basement not used by the committees as may be required; the Senate Chamber, Hall of Representatives, committee-rooms, and all other parts of the building to be closed to the public, except the east entrance to the Senate, the occupation not to take place until after the official inauguration, and the building to remain all the time in charge of and under the control of the Sergeants-at-Arms of the two Houses of Congress.

Mr. COVODE moved to reconsider the vote by which the resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. HAMLIN, one of its clerks, notifying the House that that body had passed a bill (S. No. 584) relating to the time of finding indictments in the courts of the United States in the late rebel States; in which the concurrence of the House was requested.

ANTHRACITE RAILROAD COMPANY.

Mr. CAKE, by unanimous consent, from the Committee on Roads and Canals, reported back a bill (H. R. No. 1611) to incorporate the Government Anthracite Railroad Company; and the same was ordered to be printed, and recommitted.

Mr. WASHBURN, of Illinois, moved to reconsider the votes by which the various bills, &c., were referred; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

GOVERNMENT OF ALASKA.

Mr. ASHLEY, of Ohio, by unanimous consent, from the Committee on the Territories, reported a bill (H. R. No. 1670) to provide a temporary government for the territory of Alaska; which was read a first and second time, ordered to be printed, and recommitted to the committee.

ELECTION OF DELEGATES.

Mr. ASHLEY, of Ohio, also, by unanimous consent, from the same committee, reported a bill (H. R. No. 1671) to provide for the election of Delegates to the Congress of the United States from the several Territories; which was read a first and second time, ordered to be printed, and recommitted to the committee.

EQUALIZATION OF BOUNTIES.

The House proceeded to the consideration of the special order, being the bill (H. R. No. 940) to equalize the bounties of soldiers, sailors, and marines who served in the late war for the Union, on which Mr. WASHBURN, of Indiana, was entitled to the floor for one hour.

The bill was read at length.

Mr. WASHBURN, of Indiana. Mr. Speaker, the bill before the House has for its object the equalization of bounties to soldiers and sailors upon the basis of eight and one third dollars per month for each month of actual service to every soldier and sailor honorably discharged, deducting from this all bounties, national, State, and local, and well known in the House as SCHENCK'S bounty bill. My own individual preference was to only deduct the national bounty, but believing that the bill in that shape would not meet with favor I have consented to take what I believe will meet the approbation of the House.

The distinctive feature of this bill, and in which it differs from all others heretofore reported, is that while the basis of settlement is established at a certain fixed rate per month, the actual bounty is paid in land. And yet it does not contemplate a system of land warrants, which must of necessity be unequal. The committee have endeavored in this bill to combine the benefits of a cash settlement and a land payment.

The bill provides that the Second Auditor, under direction of the Secretary of the Treasury, shall audit the claims arising under this bill, and for the balance, after making the proper deductions, issue to the soldier or sailor a certificate showing the amount due said soldier or sailor, this certificate to bear six per cent. interest until paid, but is to be paid only as provided for in this bill; that is, these certificates are to be receivable as cash at any of the land offices of the United States in payment for land purchased by the original claimant or his heirs. This clause, it is believed, will prevent the assignment of these certificates and their accumulation in the hands of speculators, as they can only be used by the soldier or his heirs, but at the same time, if the soldier prefers to hold the certificate, it is daily increasing in value by the accumulation of interest. I shall not urge the passage of this bill upon the ground that the soldiers demand it, for I believe the large majority are too proud to demand what right and justice should give without. Nor do I propose to weigh the mother's tears and the wife's anguish against coin, and find how much is yet due. Nor would I throw into the scale the long, weary marches, the dreary night watches, too often disturbed by the sharp

crack of the rifle announcing another picket one, the days of scorching fever, and the suffering anguish of the hospital, or the terrible excitement of such battle-fields as Gettysburg and Stone river, Pea Ridge and Antietam, Vicksburg and the Wilderness. This task I shall leave for some future historian, who, writing by the bright blaze of our nation's coming greatness, shall see and feel what they were worth. Nor would I make an invidious comparison between the soldier and the civilian. Ballots were as necessary as bullets, and it is hard to tell to whom the greatest meed of praise should be given: to the old men and the young men who detained at home cast the ballots that reflected Abraham Lincoln, or the Boys in Blue, who carried the muskets and scattered the hosts of the rebellion. We are and should be joint heirs of that glorious reward, an undivided, indivisible country.

This bill only proposes to remove an inequality between soldiers themselves. A portion, and a very deserving portion, have not received from the Government the same generous acknowledgment accorded to others fighting on the same battle-fields and sharing mutual hardships. To the soldiers of the early part of the war we desire to give a small token that we appreciate the patriotism that called them from the plow and the workshop to our nation's rescue. That this inequality exists is admitted by all. Can we, in justice to the country, remedy it? Perhaps it may be well to inquire what we have already done in the way of paying bounties. The following table shows the amounts paid by the General Government:

Periods embraced.	Class of men.	Period of service.	Number of men.	Amount per man.	Total paid.
From May 3 to October 17, 1863.....	Volunteers.....	Three years.....	906,869	\$100	\$90,686,900
From October 17, 1863, to July 18, 1864.....	Veteran volunteers.....	Three years.....	138,507	400	63,402,800
From October 17, 1863, to July 18, 1864.....	Recruits.....	Three years.....	227,023	300	77,106,900
From October 17, 1863, to July 18, 1864.....	Recruits.....	Three years.....	11,023	100	1,102,300
From October 17, 1863, to July 18, 1864.....	Drafted men and substitutes.....	Three years.....	48,038	100	4,803,800
From July 18, 1864, to end of war.....	Volunteers.....	One year.....	191,866	100	19,186,600
From July 18, 1864, to end of war.....	Volunteers.....	Two years.....	10,666	200	2,121,200
From July 18, 1864, to end of war.....	Volunteers.....	Three years.....	139,681	300	41,904,300
Total.....			1,722,600		\$300,223,500

But as we propose to deduct local bounties, the following table gives the estimate for each State:

Maine.....	\$7,837,643 97
New Hampshire.....	9,636,313 00
Vermont.....	4,523,774 88
Massachusetts.....	22,965,560 36
Rhode Island.....	820,768 00
Connecticut.....	6,897,551 27
New York.....	86,629,228 15
New Jersey.....	23,868,966 62
Pennsylvania.....	43,154,386 92
Delaware.....	1,136,599 06
Maryland.....	6,271,992 00
District of Columbia.....	134,010 00
West Virginia.....	864,797 00
Kentucky.....	692,577 00
Ohio.....	23,557,373 00
Indiana.....	9,182,354 02
Illinois.....	17,296,205 30
Michigan.....	9,634,855 00
Wisconsin.....	5,883,356 19
Iowa.....	1,615,171 20
Minnesota.....	2,000,464 00
Missouri.....	1,282,148 55
Kansas.....	57,407 00
Total.....	\$286,781,256 09

The able chairman of the Committee on the Public Lands, [Mr. JULIAN,] in his report against granting lands to soldiers, basis his opposition to the same upon the reason that it will lock up and throw into the hands of speculators nearly one fourth of the arable land belonging to the Government. The bill under discussion differs materially from the one so ably opposed by my colleague. No transfer of the certificate except by heirship is allowed, and of course no speculation. Nor shall I trouble myself with the objection that another Congress will make them assignable; they will be as well qualified, I trust, and perhaps have more light upon what ought to be done with the public domain than the present. No such large quantity as he represents will be needed under this bill.

The whole number of troops receiving \$100 bounty during the whole war was only nine hundred and sixteen thousand eight hundred and ninety-four; of this number a large per cent. reenlisted and received the large bounties of the later years of the war. These should not be counted in making the amount to yet receive bounties. If we take as the average of our Army a million of men, and their term of service four years, which is large, much too large, we only have \$400,000,000 as the total bounty to be paid, and out of this amount the Government has already paid \$350,000,000, not taking into the estimate \$286,781,256 09 paid by the States themselves. Fifty million dollars will, in my opinion, more than cover all the bounties under this bill; and to prove that this is correct, the present bounty bill has only called for about forty-six million dollars, and this bill will take but little more; not one quarter of the amount that so startled the chairman of the Committee on the Public Lands; but so far from taking from the Government Treasury, I believe it will conduce much towards replenishing her coffers. The purchasing of large tracts in a body is a detriment, but where they are small, as these will have to be, they are a help to the actual settler. They assist in making roads, buildings, school-houses, and paying taxes generally; and those of us who have lived in new countries know that the settlers know full well how to make them pay their full share.

Nor will it prove detrimental to the homestead principle. Many a poor soldier will continue to get West or South, settle on his quarter section under the homestead law, and purchase near it with his scrip, that would not otherwise go West at all. Some of our States deem that as they paid large local bounties they would get no share of the benefits derived from this bill. The following statement from Colonel Gibson, in charge of the payments under the act of 1866, shows the payments to each State; and as the most of these cases will be entitled to an additional

hundred, it will be seen at a glance that the disparity between the different States does not exist:

Tabular statement of Additional Bounty Claims paid, rejected, and amount of money disbursed by States to December 31, 1866.

State.	Number paid.	Number rejected.	Amount disbursed.
Ohio.....	45,031	2,342	\$1,437,655 35
New York.....	56,022	6,655	5,196,397 42
Indiana.....	30,737	1,314	3,026,879 58
Iowa.....	16,921	702	1,668,160 42
Missouri.....	11,708	1,306	1,146,450 00
Pennsylvania.....	32,555	3,252	3,198,707 95
Indian Home Guards.....	1,447	748	144,300 00
Alabama.....	109	63	10,722 01
Arkansas.....	2,696	374	269,550 00
California.....	2,836	1,045	281,530 00
Colorado.....	1,137	70	112,500 00
Dakota.....	157	3	15,500 00
Florida.....	184	75	18,400 00
Georgia.....	2	40	200 00
Kansas.....	6,602	450	653,105 54
Kentucky.....	11,568	1,252	1,138,071 54
Louisiana.....	963	86	96,050 00
Minnesota.....	4,604	284	448,188 22
Mississippi.....	16	13	1,600 00
Nebraska.....	237	16	23,530 18
Nevada.....	245	36	24,500 00
New Mexico.....	936	78	93,450 00
North Carolina.....	1,114	575	111,400 00
Oregon.....	197	318	19,600 00
Tennessee.....	9,887	1,032	984,643 46
Texas.....	142	94	14,100 00
Washington Territory.....	221	17	21,700 00
District of Columbia.....	503	63	49,700 00
Maryland.....	4,844	442	481,828 58
West Virginia.....	8,022	461	796,875 00
Delaware.....	1,217	137	120,697 35
New Jersey.....	5,613	512	567,268 60
Michigan.....	12,469	1,154	1,280,540 73
Wisconsin.....	12,326	746	1,213,826 31
United States Army.....	9,302	1,139	904,798 85
Illinois.....	42,889	2,121	4,227,346 67
Maine.....	5,320	1,134	514,312 72
New Hampshire.....	4,702	683	423,735 00
Vermont.....	3,495	561	330,175 00
Massachusetts.....	12,834	1,584	1,236,160 31
Rhode Island.....	2,530	254	250,060 00
Connecticut.....	5,886	369	578,738 00
Vet. Reserve Corps.....	28,701	1,057	2,756,013 80
Totals.....	390,027	34,687	\$38,725,018 59

In closing, allow me to use the words of my colleague, [Mr. JULIAN,] over two years ago: "Equality is equity," and the nation cannot refuse to heed this maxim in dealing with the brave men who protected the law-makers of this Capitol during the war, and saved the country itself from destruction. Nor do we accept the plea of national poverty, so often urged, in the light of the boundless resources developed by our war of four years. The amount required for a fair equalization of these bounties, we are sure, has been much over-stated; but whatever it may be, we think it should be provided for with no unnecessary delay. "With the soldiers there was no task too great, no sacrifice too large, no duty too arduous, no hardship too severe; but with an alacrity that marked their earnestness in the cause, they cheerfully responded to every order; claiming none other shield than the consciousness that their banners were the emblems of liberty, of justice, and of truth." The prayer of these men must neither be denied nor evaded when they only ask the nation for justice.

Mr. JULIAN. Mr. Speaker, when my honorable colleague some time ago asked that this bill might be made a special order for one hour to-day, being opposed decidedly to the measure, I only agreed that it might be made the special order on the express condition that no action was to be had on it now. It is hardly necessary therefore to debate it at length. I have already discussed it with a good deal of thoroughness in a speech during the last session, and what I said in opposition to the policy and the principle of the bill is substantially untouched by any word that has been uttered by my colleague. I have had no opportunity to examine the facts and figures adduced by him as to the amount of money his bill would require; but if his calculations are correct, cutting down the aggregate

amount to fifty millions, he simply mitigates the force of the unanswered argument that I made on the basis of a larger amount. That argument has not been met, and I believe cannot be met; and perhaps I may as well restate it, so that the House may consider it in connection with that of my colleague. I will add, in the outset, that I subscribe to-day to every word of the report of the Committee on the Public Lands as quoted by my colleague; and that my opposition to this bill is perfectly consistent with what I said in that report.

Mr. Speaker, this bill provides that, instead of assignable land warrants, there shall be issued to the soldier a certificate of indebtedness for the amount of his bounty, computed at the rate of eight and one third dollars per month for his time of service, and drawing six per cent. interest, which certificate shall be used only by him or his heirs, and be payable only in land. This, in effect, though in other words, is the same thing as so many non-assignable land warrants. These certificates, as I shall presently show, would certainly be made assignable by Congress at an early day; but for the sake of the argument I will admit that their non-assignable character is to be preserved, and that such is the *bona fide* purpose of the bill. It must follow, then, most conclusively, that its aim is not to give land to those who really need it for cultivation. The fraction of our soldiers who are farmers, and actually want homes on the public domain, can have them now, under the homestead law; and under the House bill before referred to, which will doubtless pass the Senate, the soldier can have a home on the lands of the Government without money and without price. Probably a small portion only of our soldiers and seamen desire to settle on the public domain; but those of them who do would seek title under the homestead law, since a gift of lands under that would be just as good as a gift under a law providing the same thing under the name of bounty, while the certificates of indebtedness would of course be used in the purchase of other and additional lands, to be held for some indefinite time for a rise in the price. Who does not see that this would be the exact operation of this measure? The lands taken under it would be withheld from settlement and tillage, for the palpable reason that no man would buy them when just such lands could be had free of cost. To argue otherwise is first-rate nonsense. The quantity of land which would thus be locked up from the landless and laboring poor of the country is given in the following official letter from Secretary Stanton, in April last, in answer to an inquiry addressed to him by myself:

"In compliance with the request of the chairman of the Committee on the Public Lands of the House of Representatives, for a statement of the amount of public lands necessary to meet the requirements of the proposed bill (H. R. No. 940) 'to equalize the bounties of soldiers, sailors, and marines who served in the late war for the Union,' in the event of its becoming a law, I have the honor to communicate a report on the subject by the Paymaster General of the Army, dated the 2d instant, as follows:

"In a communication from this office to the Secretary of War, and dated March 31, 1866, will be found a carefully-prepared estimate of the amount of money required to pay the bounties under a bill then pending in the Senate introduced by the chairman of the Military Committee.

"That bill was substantially the same in its terms as this House bill No. 940, except as to the manner of making payment.

"The sum estimated was \$253,631,100.

"In my letter of August 6, 1866, addressed to General Vincent, Assistant Adjutant General, will be found another carefully-prepared estimate, showing the amount required to pay the additional bounties provided by the law of July 23, 1860.

"The sum estimated was \$58,634,300.

"Experience so far gives indication that this last estimate is rather short than in excess of the exact truth.

"Deducting this cost of the additional bounties from the amount of the first estimate for equalization of bounties, the remainder gives a pretty close approximate estimate of the further amount that would be required under the bill in question, namely: \$195,036,800, which, in land at \$1 25 per acre, will require one hundred and fifty-six millions forty-five thousand four hundred and forty acres. No note is taken herein of the local bounties not paid by the United States, for I have no means of ascertaining their amount."

The local bounties referred to, could they ever be ascertained, would somewhat reduce this estimate, but the aggregate amount may safely be set down as not falling very much below one hundred and fifty millions of acres. This immense area, enough for an empire, being equal in extent to the thirteen original colonies, save North Carolina and Pennsylvania, double the area of Great Britain and Ireland, and nearly nineteen millions of acres larger than the French empire, and consisting, of course, of picked arable land, is to be withheld from cultivation and productive wealth, in order that the soldier, who needs his bounty now in money, may at some future time get it in the price of his land, which is kept idle at the nation's expense, and to the cruel wrong of multitudes who long for homes. We convert him into a land-jobber, and conspire with him against the productive industry of the country. We set aside the homestead law as to more than one fourth of the tillable portion of the public domain by excluding from it the poor who would coin their labor into national wealth, extend the borders of our civilization, and realize the blessings of independence. It is said, I know, that we are not able to pay the soldier his bounty in money, and that we have nothing else but land with which to satisfy him. This I deny. The nation is able to do justice to its heroic defenders, and cannot honorably plead poverty as an excuse. But if that plea is to be accepted, then I reply that we are still less able to dedicate to solitude from one hundred to one hundred and fifty millions of acres of land, which else might be carved up into small homesteads, to be tilled by their owners and made the basis of revenue and of national wealth. The country, with all its great resources, is too poor thus to cut off its supplies by wholesale prostitution of its means and its opportunities, and it could far better afford to pay the soldier a reasonable bounty in money. Not one acre of land which any poor man needs for cultivation should be denied him in the interest of those who would grasp it for mere speculation. A member of this House from Illinois informs me that in the western border of that State George Peabody, years ago, purchased thousands of acres of wild lands, which he holds to-day. Settlers have established themselves around these lands, built their houses, planted their orchards, and created wealth. The grain and other products of their farms which are annually shipped to market on the railways made necessary by the settlement of the country, go to make up the sum of our national wealth. These settlers are every day adding to the value of Mr. Peabody's lands, while other settlers, who would long since have made them productive, have been driven further West in search of homes. The Government thus entered into partnership with Peabody in cheating our pioneer producers out of the homes to which they were entitled on these lands, and in staying the industrial development of the West for the benefit of nobody in the world but a single monopolist, whose home is on the other side of the Atlantic. I do not brand George Peabody as a robber, for he is known as an honorable, patriotic, and liberal man. The Government of the United States licensed him to do these things, as it has licensed other land speculators, and has been itself the plunderer of its citizens and the practical foe of national progress. But these evils are multiplied and compounded by the bill I am now discussing, for instead of a few thousands of acres it grasps many millions, and although the owners are multiplied the homeless poor of the country are equally excluded from this immense area which the nation pledged to them by its preemption and homestead laws.

Mr. Speaker, I have discussed this measure on the supposition that the bounty it proposes is to go to the soldier only, or his heirs, and that the certificates of indebtedness are never to be made assignable. I have thus given the proposition its best possible face, and have shown, I think, the utter impolicy if not viciousness of the project. I speak of course

of the measure itself, and not of the motives of its friends, which I doubt not are patriotic. But the truth is that should it become a law the certificates of indebtedness would be made assignable. On this subject I beg leave to quote from a recent letter of the Commissioner of the General Land Office, in which he speaks of this bill in the light of actual facts. He says:

"I have examined the inclosed bill (H. R. No. 940) to equalize bounties of soldiers, sailors, and marines who served in the late war for the Union, which I had the honor to receive from you with the request for a statement as to the probable effect of the measure in the light of the experience of this office."

"I find the bill provides for the issue to soldiers, sailors, and marines of interest-bearing certificates, to be used by them or their heirs in payment for public land which they may hereafter purchase from the Government; that such certificates are in no wise transferable, and that the interest may continue to accrue without limitation until the recipient may see fit to purchase land therewith."

"The act of September 28, 1850, granting bounty lands to soldiers who had served in any of the wars in which the United States had been engaged, contained a provision that the warrants thereby authorized to be issued should be located by the soldier or his heirs, thus preventing their assignment and sale. This provision gave such general dissatisfaction that Congress passed the act of March 22, 1852, authorizing the transfer of any warrant then issued or to be issued."

"The files and records of this office show that not one in five hundred of the land warrants issued and placed in the hands of the soldiers or their heirs have been located by them, or for their use and benefit; and further, that although the said act of March 22, 1852, made such warrants assignable, it is safe to assume that not to exceed ten per cent. of them have been used by preëmptors as assignees in payment for actual settlements, the most part having been used by persons to acquire title to the public lands for speculative purposes."

"Should the bill under consideration become a law, and by future legislation be so modified as to make the certificates assignable or available to the soldier or his heirs without becoming settlers on the public lands, there is no reason that can be suggested by this office why results like those in respect to the past issues may not be looked for in regard to the certificates contemplated by the present measure, the effect of which would be to transfer to non-resident proprietors large bodies of the public domain."

That, sir, is the authoritative statement of Commissioner Wilson, whose judgment, experience, and familiarity with the whole subject no one will question. That these certificates would be made assignable there can scarcely be a single doubt. The great body of our soldiers need their bounty now, and not the promise of it at some time in the uncertain future; and if the relative handful of the soldiers of our Mexican war were strong enough to carry a bill through Congress making their warrants assignable, it is quite certain the like thing would happen now at the bidding of the hosts who would demand it. Indeed, I believe some of the friends of the bill do not disguise the fact that ultimately these certificates are to become assignable by law, so that the holders of them may realize their value in money.

What, then, would be the effect of such legislation, both as to the soldier and the public domain? Mr. Wilson, in the letter I have quoted, says that not one in five hundred of the Mexican war land warrants were located by the soldiers or for their use and benefit, and that not to exceed ten per cent. of them have been used by preëmptors as assignees in payment for actual settlements, the most part having been used by persons to acquire title to the public lands for speculative purposes. He predicts very naturally the same mischievous results from the present bill should it become a law. But I ask particular attention to the following additional facts which I copy from the carefully-prepared report of the House Committee on the Public Lands already referred to:

"At the close of the last fiscal year there remained outstanding fifty-three thousand nine hundred and twelve military bounty-land warrants, issued under various acts of Congress, calling for the aggregate quantity of five million six hundred and three thousand two hundred and twenty acres. These warrants are selling at about one dollar per acre. Under the agricultural college act of 1852 scrip has been issued to non-public land holding States to the amount of five million three hundred and forty acres; and when the States of the South shall have received their shares under the act, the whole amount of land covered by it will be nine million six hundred thousand acres. This will be the subject of monopoly in the hands of speculators, and the price of the scrip will depend, to a considerable extent, upon the

quantity of it in market and of the unlocated military bounty-land warrants. The price has generally ranged from sixty to seventy cents per acre, but has sometimes gone much lower. As further affecting the price of warrants and scrip it should be remembered that over forty-three million acres of swamp and overflowed lands have been granted by Congress to the States, more than one half of which is probably in the hands of monopolists; that about two hundred millions of acres have been granted to aid in building railroads and for other purposes of internal improvements thus inaugurating further and fearful monopolies of the public domain; and that millions of acres of Indian lands, by virtue of the most pernicious treaty stipulations, are falling into the hands of monopolists, thus still further aggravating the wide-spread evils long since inflicted upon the country by the ruinous policy of land speculation. Every day gives birth to some new scheme of monopoly by which the paramount right of the people to homes on the public domain is abridged or denied, and its productive wealth seriously retarded; and no one will need be told that, should this policy be continued, the opportunities of settlement and tillage under the preemption and homestead laws must constantly diminish."

Mr. Speaker, I ask gentlemen to keep these facts in remembrance in considering the effect of this measure upon the soldier. I ask them to remember the present price of college scrip, the quantity of which is yet to be almost doubled, and which at one time sold as low as thirty-seven and a half cents per acre. Let them bear in mind the amount of old bounty-land warrants yet outstanding, and the stupendous monopoly of the public domain which is going on in other directions and threatening to swallow it up, and then ask themselves what would be the effect of putting in the market from one to two millions of assignable certificates payable in land. Every man can answer this question for himself, but I believe I am safe in saying that the price would fall as low as twenty-five cents per acre. Our Mexican land warrants at one time sold at from thirty-five to forty cents per acre, and this, it must be remembered, was before the enactment of the homestead law, while the quantity of warrants was a small fraction only of that of the certificates now proposed to be issued. The Great Republic, in speaking of this bill, says that after "paying notary and attorney's fees the whole money value to the soldiers of such a grant would not exceed \$20,000,000, and it would be a hundred times better for the country to make this payment in money, and thus leave the public domain to the laboring masses. The veil thrown over this hideous speculation is too thin to cheat the soldiers or citizens of the country. It should be stopped where it is. If further bounty is to be paid, let it be honestly paid in money, and thus close the door against further speculations in what is designed for, and should be reserved as, the homes of the industrious millions."

This is from the pen of Judge Edmonds, late Commissioner of the General Land Office, and one of the truest and most sagacious of our public men; and it appears in the columns of a well-conducted and influential journal, which I understand to be one of the principal organs of the loyal soldiers and sailors of the United States. He adds, that "the soldiers have asked for no such measure, nor do they want to be made the objects of any such fictitious gratitude," and declares that "the obligations of the country to them would be nearly canceled should they knowingly and purposely allow so monstrous a scheme of monopoly against the laboring men of the country to be perpetrated in their name."

But while the bill would thus prove a violated promise to the soldier, its effect upon the public domain would be still more deplorable. On this point I take leave to quote again from the same report:

"All the evils of land speculation, to an extent as alarming as it would be unprecedented, would be the sure result. Capital, always sensitive and sagacious, would grasp these warrants at the lowest rates. Land monopoly in the United States, under this national sanction, would have its new birth, and enter upon a career of wide-spread mischief and desolation. Speculators would seize and appropriate nearly all the choice lands of the Government, and those nearest the settled portions of the country, while homestead claimants and preëmptors would be driven to the outskirts of civilization, meeting all the increased expense and danger of securing homes for their families, and surrendering the local advantages of

schools, churches, mills, wagon-roads, and whatever else pertains to the necessities and enjoyments of a well-settled neighborhood. This policy would stop the advancing column of immigration from Europe, and of emigration from the States, which has done so much to make the public domain a source of productive wealth, a subject of revenue, and a home for the landless thousands who have thus at once become useful citizens and an element of national strength. It would, in fact, amount to a virtual overthrow of the beneficent policy of the homestead law, which has, perhaps, done more to make the American name honored and loved among the Christian nations of the earth than any single enactment since the formation of the Government."

Mr. Speaker, I submit that the facts embodied in this brief summary ought to settle this question in the minds of all men who will lay aside passion and allow themselves for a single moment to think. With me they are absolutely conclusive. I claim to be as true a friend to the soldier as any man in this Congress or out of it; but I am likewise the friend of the millions who toil, whether soldiers or civilians, and cannot, therefore, unite with any man or set of men, for any purpose, in opposing the homestead law, either by open assault or the insidious policy of indirection. I am quite as unwilling to aid in its overthrow now, on the pretense of giving bounties to soldiers, as I was five years ago on the specious ground of paying our national debt. Its policy is constantly invaded by stupendous grants to railroad corporations, by corrupt Indian treaties which sweep away the rights of settlers and curse vast districts of country, and by the growing spirit of monopoly, shown in multiplied forms, and threatening the very principle of democratic equality in the Republic. Sir, the duty to which we are summoned is not that of submission or acquiescence but of unflinching resistance to these unchristian and anti-republican tendencies of our time. No ephemeral advantages, if they were attainable by an opposite course, could atone for the enduring mischiefs to the country which would certainly ensue.

Mr. Speaker, if any further argument addressed to this House is needed I find it at hand. This body, in March last, passed without a division the following resolution:

"Resolved, That in order to carry into full and complete effect the spirit and policy of the preemption and homestead laws of the United States the further sale of the agricultural public lands ought to be prohibited by law; and that all proposed grants of land to aid in the construction of railroads, or for other special objects, should be carefully scrutinized and rigidly subordinated to the paramount purpose of securing homes for the landless poor, the actual settlement and tillage of the public domain, and the consequent increase of the national wealth."

Sir, I am quite sure the sentiment of this resolution would be most heartily indorsed by the great body of the people of the United States. Let us stand by it in the face of all temptations. It utters the true watchword and rallying cry of the people of all parties, and its gospel must be preached and practiced if our great national patrimony is to be saved from the greed of monopolists and the rapacity of thieves. I do not believe this House will now go back on the record it has made. Indeed, some of the friends of this bounty bill assure me that they desire its passage because they believe Congress will soon carry into effect the resolution I have quoted by providing that no more of our public lands shall be sold except under the preemption and homestead laws, the effect of which, they say, would be to bring these certificates of indebtedness nearly to par. I sincerely hope Congress will be wise enough to do what is predicted. I even hope for it at this session; but I deny that any such effect on the price of certificates would result. Such a measure could not interfere with the holders of college scrip, nor land warrants, nor Indian scrip, through which land could still be bought without the condition of occupancy and improvement; nor could it undo those huge land monopolies already existing under our Indian-treaty policy and swamp land legislation, through which the trade in land will be lively for a good while to come. There will be ways enough left to buy land without the obligation to live upon and cultivate it after the bill I

reported to this House some months ago to prohibit further land speculation shall have become a law. In no event would the price of these certificates give the soldier the bounty he is entitled to ask; but if it would, the injury which this policy would inflict upon the country, as I have already shown, utterly forbids its adoption. The soldier, if he understands this, will not ask it, and the nation has no right to entail upon itself a great and irreparable wrong in order to prevent a minor one, which it may remedy in another way, if any present remedy is indispensable. The best friend of the nation's patriotic defenders is the friend of justice and the public welfare; and the men who were unselfish enough to offer their lives as a sacrifice for these will never ask the representatives of the people to trample them under foot.

Mr. WASHBURN, of Indiana. In pursuance of the agreement by which this bill was brought into the House, as it could not come in under the rules in any other way, I now move that the bill be recommitted to the Committee on Military Affairs, and I propose, then, to move a reconsideration, so that whenever the House has leisure we may take it up again.

The motion to recommit was agreed to.

Mr. WASHBURN, of Indiana. I now move to reconsider the vote by which the bill was recommitted.

Mr. WASHBURN, of Illinois. I move to lay the motion to reconsider on the table.

The question was put on the motion of Mr. WASHBURN, of Illinois; and there were—ayes 38, noes 44; no quorum voting.

Mr. WASHBURN, of Illinois. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. JULIAN. Is it in order to move to refer the bill to the Committee on the Public Lands?

The SPEAKER. It is not, now. The bill has been recommitted to the Committee on Military Affairs.

Mr. MAYNARD. Would it be in order to ask whether if the motion to reconsider is laid on the table it does not defeat the bill?

The SPEAKER. It will leave the bill with the Committee on Military Affairs.

Mr. MAYNARD. Will it not prevent its ever being brought back?

Mr. WASHBURN, of Illinois. That is not a parliamentary question.

The SPEAKER. The Chair cannot answer that question.

Mr. MAYNARD. Will that committee have an opportunity to report again this session?

The SPEAKER. The Chair cannot answer that question.

Mr. WASHBURN, of Indiana. The committee will not be called again; they have been called once this session. The success of this motion would kill the bill.

The question was taken on the motion of Mr. WASHBURN, of Illinois; and it was decided in the negative—yeas 49, nays 81, not voting 91; as follows:

YEAS—Messrs. Ames, Delos R. Ashley, Bailey, Blair, Boles, Boyden, Broomall, Cary, Chanler, Cornell, Driggs, Eliot, Getz, Glossbrenner, Golladay, Goss, Gove, Griswold, Higby, Hopkins, Hotchkiss, Hulburd, Humphrey, Jencks, Johnson, Thomas L. Jones, Julian, Kelley, Kellogg, Kerr, Lash, George V. Lawrence, McCormick, Moore, Moorhead, Newcomb, Pike, Polesky, Stevens, Stone, Taber, Tift, Burt Van Horn, Elihu B. Washburne, Whittemore, Thomas Williams, James F. Wilson, Woodward, and Young—49.

NAYS—Messrs. Allison, Anderson, Arnell, Baker, Banks, Beatty, Benjamin, Benton, Boutwell, Buckland, Cake, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Corley, Covode, Cullom, Deweese, Dodge, Eokley, Elia, Fields, Gravely, Haight, Harding, Hawkins, Heaton, Hill, Holman, Hunter, Ingersoll, Alexander H. Jones, Judd, Kitchen, Koontz, Logan, Loughbridge, Mallory, Maynard, McCarthy, McKee, Mercier, Morrell, Mullins, Mungen, Newsham, Niblack, Norris, O'Neill, Paine, Perham, Peters, Pettis, Pierce, Plants, Robertson, Roots, Schenck, Scofield, Selye, Shanks, Shellabarger, Sitgreaves, Stewart, Stokes, Stover, John Trimble, Twichell, Van Aernam, Van Aiken, Vidal, Ward, Henry D. Washburn, Welker, William Williams, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—81.

NOT VOTING—Messrs. Adams, Archer, James M. Ashley, Axtell, Baldwin, Barnes, Barnum, Beaman, Beck, Bingham, Blackburn, Blaine, Bowen, Boyer,

Bromwell, Brooks, Buckley, Burr, Benjamin F. Butler, Roderick R. Butler, Callis, Churchill, Clift, Dawes, Delano, Dickey, Dixon, Dockery, Donnelly, Edwards, Eggleston, Eldridge, Farnsworth, Ferriss, Ferry, Fox, French, Garfield, Grover, Halsey, Hamilton, Haughey, Hooper, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Kelsey, Ketcham, Knott, Laffin, William Lawrence, Lincoln, Loan, Lynch, Marshall, Marvin, McCullough, Miller, Morrissey, Myers, Nicholson, Nunn, Orth, Phelps, Pile, Poland, Pomeroy, Price, Prince, Pruyn, Randall, Raum, Robinson, Ross, Sawyer, Smith, Spalding, Starkweather, Sypher, Taffe, Taylor, Thomas, Lawrence S. Trimble, Trowbridge, Upson, Robert T. Van Horn, Van Trump, Van Wyck, Cadwalader C. Washburn, William B. Washburn, and Wood—91.

So the House refused to lay the motion to reconsider on the table.

The question recurred upon the motion to reconsider the vote by which the bill was recommitted to the Committee on Military Affairs.

Mr. WASHBURN, of Indiana. I move that the motion to reconsider be postponed for three weeks—until Tuesday, the 2d of February next; after the morning hour.

Mr. WASHBURN, of Illinois. I call the previous question on that motion.

The previous question was seconded and the main question ordered; and under the operation thereof the motion to postpone was agreed to.

ORDER OF BUSINESS.

The SPEAKER. The morning hour has now commenced. The first business in order is the consideration of reports from the Committee on Foreign Affairs. The gentleman from Massachusetts [Mr. BANKS] is entitled to the floor.

Mr. PIKE. Will the gentleman yield to me for a few moments?

Mr. BANKS. I will yield if no great time is consumed by the gentleman.

NAVY AND MARINE CORPS.

Mr. PIKE. I ask unanimous consent to report back from the Committee on Naval Affairs the amendments of the Senate to House bill No. 941, to amend certain acts relative to the Navy and Marine corps.

No objection was made.

Mr. PIKE. I now move that the amendments of the Senate be non-concurred in, and that a committee of conference upon the disagreeing votes of the two Houses be asked for.

Mr. PAINE. Let the amendments be read.

Mr. PIKE. I can explain them in less time than would be required to read them.

Mr. PAINE. Very well.

Mr. PIKE. The House passed a bill some time since reducing the engineer corps and also reducing the Marine corps of the Navy. The Senate agreed partially to the bill of the House. We now ask a conference upon the disagreeing votes of the two Houses.

The motion of Mr. PIKE was agreed to.

The SPEAKER appointed as the conferees on the part of the House Mr. PIKE, Mr. STEWART, and Mr. ARCHER.

GOVERNMENT GRANTS, ETC.

Mr. BANKS. I ask unanimous consent to introduce and have referred to the Committee on Commerce a bill to prevent the alienation to foreigners of grants or privileges from the United States.

Mr. WASHBURN, of Illinois. Let the bill be read.

The bill was read at length. It provides that it shall not be lawful, without the express consent of Congress first obtained, to assign or transfer to any alien person or foreign corporation, any charter, grant, or privilege given by or derived from the United States, and designed to promote or regulate commerce with any foreign nation or the dominions thereof.

Mr. WASHBURN, of Illinois. I object to this bill. I understand very well the object of it; it is in the interest of the Atlantic cable monopoly.

Mr. BANKS. I presented it at the request of another member.

Mr. WASHBURN, of Illinois. I understand that.

CLAIMS AGAINST RUSSIA.

Mr. BANKS. I have been instructed by the Committee on Foreign Affairs to report the following resolution for action at this time, upon which I call the previous question:

Resolved, That the President be requested to use the good offices of this Government for the purpose of obtaining from the Russian Government a prompt and just consideration and settlement of the claims of Benjamin W. Perkins and other citizens of the United States arising under contracts with said Russian Government, made pending the Crimean war.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. BANKS moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HAYTI AND SAN DOMINGO PROTECTORATE.

Mr. BANKS. I have been instructed by the Committee on Foreign Affairs to report for consideration at this time a joint resolution.

The joint resolution (H. R. No. 405) extending the protection of the United States to the republics of Hayti and San Domingo was then read a first and second time.

The question was upon ordering the joint resolution to be engrossed and read a third time.

The joint resolution, which was read, authorizes the President of the United States to extend to the Governments and people of the republics of Hayti and San Domingo the protection of the United States for the purpose of assisting them to establish permanent republican institutions whenever those Governments, or either of them, shall apply to the United States for its protection, or whenever the President shall be satisfied that the Governments and people of those republics desire or voluntarily consent to the protection of this Government; provided that the President shall communicate to the two Houses of Congress immediate information of any action which the Government of the United States may take upon this subject; and provided also that no action which may call for or require any appropriation of money from the Treasury of the United States shall be authorized or commenced under the authority of this resolution without the previous consent of Congress.

Mr. HOLMAN. Does the gentleman propose that the House shall act upon this resolution to-day?

Mr. BANKS. I wish to state the grounds upon which this joint resolution is presented, and if the general judgment of the House be not against it I shall ask for the decision of the question, but if the general judgment of the House be against it I will not press it against reason. I wish, in the first place, to state the reasons for presenting it.

Mr. SCOFIELD. Is it presented with the authority of the Committee on Foreign Affairs?

Mr. BANKS. It is. This subject has been brought to our attention very recently. It proceeds upon the theory that the two republics of Hayti and San Domingo desire the action here recommended. I am not authorized officially to state the fact that the Governments or the people of those two republics have expressed that desire. It would be manifestly wrong to make such a statement, because if it were true, and the Government of the United States should hesitate or decline to make the proffer of its protection, it would place the Governments or the citizens of those republics in an embarrassing position. But I assure the House, upon my responsibility as a member, that, according to the best information I have, such is the desire of the Governments and the people of these republics. For that reason this resolution is presented; and it is expressly stated in the resolution that unless they shall voluntarily consent to the action proposed no action whatever is to be taken in the premises.

I presented this subject to the Committee on Foreign Affairs at its last meeting before the committee was called the other day; and there

was not time for a full consideration of the matter. The question is novel and of great importance, and therefore I did not ask the gentlemen of the committee to pledge themselves to the action proposed in the resolution, but simply for the authority to report the measure to the House. I received the unanimous authority of the committee to make this report, submitting a statement, as I do, of the circumstances under which it is presented.

Mr. MULLINS. Will the gentleman yield to me?

Mr. BANKS. I will yield for an inquiry.

Mr. MULLINS. I would like three or four minutes for an expression of opinion.

Mr. BANKS. I cannot yield for that; I prefer first to submit an explanation of the action which the resolution proposes.

Mr. MULLINS. Then I will merely inquire whether this resolution is not to some extent in conflict with the great principle of non-interference with foreign Governments?

Mr. BANKS. No, sir, not in any respect whatever. No European Government has the slightest claim upon the Island of San Domingo; and the resolution does not contemplate the intervention of the Government of the United States in the slightest degree for the purpose of controlling the Government of that island. As I shall have the honor to explain as I proceed with my remarks, the resolution is only for the purpose of assisting that people in maintaining their own institutions, nothing else, and is not amenable to the objection suggested by the inquiry of the gentleman from Tennessee, [Mr. MULLINS.]

Mr. INGERSOLL. I desire that the learned gentleman from Massachusetts [Mr. BANKS] shall inform the House as to the utmost possible extent of the future liability or responsibility of the United States by reason of this protectorate—this new relation proposed to be established.

Mr. BANKS. I may say that this resolution does not contemplate a protectorate in the European sense, according to which the protecting Government interferes with or controls or is in some degree responsible for the Government that is protected. Under the resolution nothing more will be required than that the United States shall, perhaps, send a vessel of war to that island, and in case of any interruption of the public peace, or any violent proceedings against the Government, to advise those parties attempting revolution that it would be better for them and their country to wait until the regular period of election should occur before they proceed against the Government. I am satisfied myself that that would be sufficient to secure the object contemplated by the resolution. I yield for a moment to the gentleman from Pennsylvania, [Mr. Woodward.]

Mr. WOODWARD. I wish to ask the gentleman one single question: is not the action proposed in this resolution an initial step toward those "entangling alliances" against which the Father of our Country warned us?

Mr. BANKS. No, sir; it is not an initiatory step to anything except the maintenance of a good government in the Island of San Domingo by the people of the island. No foreign Government has any claim whatever upon this island. England recognized its independence in 1850; France and Denmark a little later; and all the European Powers have recognized its sovereignty. In 1865 the Spanish Cortes by a statute renounced all claim to the sovereignty of the island, so that the case stands perfectly clear from any question with regard to any foreign Government.

Mr. WOODWARD. But the question in my mind is this: if we extend our protection over what claims to be an independent, though a very feeble Government, do we not invite aggression and incur the hazard of a dispute with all the powerful nations of Europe? Is not this the very way to form an offensive alliance?

Mr. BANKS. No, Mr. Speaker, we do not by this measure invite aggression, but we take

means to prevent aggression. When I state the circumstances the gentleman will see the necessity of action of this kind on the part of the United States; also the reason why these Governments should be in favor of the action proposed.

Mr. DELANO. Will the gentleman yield to me for a word of explanation?

Mr. BANKS. I will yield the floor to the gentleman from Ohio if it is for an inquiry.

Mr. DELANO. No, sir; it is to explain my own position.

Mr. BANKS. The gentleman will have an opportunity to do that; but I wish first to state the grounds upon which the resolution is proposed. I will yield to the gentleman from New York for an inquiry.

Mr. WARD. I should like the chairman of the Committee on Foreign Affairs to tell the House whether there is any precedent for this proposed action.

Mr. BANKS. There is no precedent for the proposed action. We are in an age when new action is required, and this is one of the instances.

Let me call the attention of the House to the facts. In 1855 Santana privately sold the Island of San Domingo to the Spanish Government for his own purposes; and the Spanish Cortes, in 1861, annexed that island of San Domingo to the Spanish Crown. That was in 1861. The rebellion against the United States had just begun. Afterward Spain sent troops to that island. Narvaez, the Spanish prime minister, was disposed after a time to withdraw the Spanish troops from the island. There was strong opposition to this policy on his part, and he was denounced for it, as the policy of Spain was in favor of the annexation. On this very question of the withdrawal of the Spanish troops from San Domingo Narvaez was driven out of the Government, and O'Donnell and his partisans came into power. This was in 1865. It was in August, after the defeat of Lee. O'Donnell, who had driven Narvaez from power because he had favored the withdrawal of Spanish troops from San Domingo, was compelled to follow the same policy, and actually did withdraw the troops. It had then been demonstrated to the world that the Government of the United States was to be maintained.

In San Domingo the president, who had only been in for a few months, was driven from power, when another one was elected for three months, or until the Spanish troops were withdrawn from the island. Before that time he was driven out and another president elected. I do not refer to all the names of these presidents, although I have them here. Revolution followed revolution in quick succession, until they have had, in the time I refer to, five or six. The reason of these constant revolutions in San Domingo is that the people have no employment which will occupy their time, which will absorb their capacity, and which will satisfy their ambition and personal interest; and, therefore, the moment that a president is elected they combine against him to oust him from power. Thus there has been revolution succeeding revolution, and so it will continue to the end of time unless some change occurs in the island.

The effect of these revolutions upon the industry of that country is shown by a letter which I received this morning from the consul of Hayti at New York—a letter, by the way, which had no reference to the subject I am now discussing and in no sense approving or disapproving this proposition. In reference to the trade of Hayti and San Domingo with the United States, he says that our trade with Hayti in 1864 was over six millions, while in 1868 it was only two millions. These exports from the United States were mainly from the West, in the shape of lumber, &c. This difference, with the character of trade, would require some two hundred vessels of the usual size trading with that country, or constant employment for some forty of the burden of two hundred tons each. The trade of San Domingo with New York

alone, some years ago, was \$1,500,000, while now it is not \$150,000. They received our exports to the extent of \$1,500,000, and now they have fallen off to less than one hundred and fifty thousand dollars.

There seems to be nothing left for the people of this island, where a man is hardly elected president and installed in office before combinations are made to turn him out and revolution succeeds revolution, unless a protectorate is established over them. The people have nothing to do but to attend to the affairs of government. In all other countries there is an intermediate class not affected by the passions of faction. In San Domingo all the people engage in the government, and in nothing else. Recognizing this fact, the Government of Hayti, as appears from the diplomatic correspondence of our Government, appealed to the Spanish minister in 1864, as one of the great maritime Powers of Europe, to establish a protectorate for that island. The Governments of Europe refused to have anything to do with the matter unless the United States would consent thereto. But in accordance with the established policy of the country this Government refused, and has always refused, to have any connection whatever with European Powers in the management of Governments on the American continent.

Mr. JUDD. If the gentleman will allow me, I desire to have him tell us whether there has been any communication of the executive department of this Government with the executive department of that island looking to this protectorate.

Mr. BANKS. I am not, as I have already said, at liberty to state the fact that there has been; but I state to the House on my own responsibility my belief that the Government and people of these republics desire this intervention, or at any rate that they will accept it. More than this I could not say without compromising both the Government and the people in the course of action proposed by this Government. In 1866, after the European states had rejected the application of Hayti for the establishment of a protectorate on the part of European Governments in this island, the Government of San Domingo made the same appeal to the Government of Spain, but that Government declared that she would maintain her power and foothold in San Domingo, and refused to receive any application on behalf of the people or the Government unless it was accompanied by an absolute surrender on the part of those who were in arms against her authority. If that was done she was willing to consider the question. But the Dominicans refused to make a surrender, and thereupon that application failed. At length, having seen for themselves that a government was necessary on their part; that revolution succeeded revolution; that trade was being diminished until it was reduced to little or nothing, it was very natural for them to look to that Power which had the ability to give them security and stability without any disposition on the part of that Power to interfere with their Government. Therefore, I may assume if they have not done this they will do it, and if we make this proffer it will be accepted by the Government and people of that country.

Now, sir, what is the proposition? Gentlemen speak of it as a protectorate, but it is not one in the European sense. The prominent protectorates which have occurred in the history of Europe are well known to gentlemen of the House. There was the protectorate which Poland gave to Cracow. There was the protectorate which for fifty years England has maintained over the republic of the Ionian Islands, which are now about to be united to the kingdom of Greece. There was the protectorate of the confederacy of the Rhine under the first Napoleon. There was the protectorate established by the treaty of Adrianople over Moldavia, Servia, and the Turkish provinces by Russia. There was the protectorate of the kingdom of Sardinia over Monaco. In these protectorates, which have been maintained by

one Government and another for two hundred years, the protecting Governments in every instance have reserved influence and control over the Governments protected. In some instances they go for the maintenance of fortresses; in others, of armed forces; in others, for the control of legislation; and everywhere it looks not merely to the protection of the people under the Government, but to the control of the Government, protected by the influence and intervention of the protecting Power.

There is nothing of that kind in the action proposed in this resolution. We do not, and we cannot, without a treaty made with these Dominican Governments which shall be confirmed by the Senate, gain any foothold, acquire any territory upon that island, or interfere in any way except by way of advice to the governments there existing. Therefore it is not in the European sense a protectorate that is now proposed, but in the American sense it is a protection of the people who are, at the moment, in circumstances over which they have no control, incapable of establishing permanent government for themselves. And this proposition is not for the purpose of establishing a control over this island. What we desire is the maintenance of a just and stable government by them, one that shall be satisfactory to the people, and that shall not oblige them either to appeal to the Governments of Europe for protection or to submit to revolution after revolution three or four times in a single year, as has been the case in the few past years.

Gentlemen may say this is, as the gentleman from Pennsylvania [Mr. WOODWARD] suggests, an initiatory step by which we may get possession of the island. It is not so intended, and, Mr. Speaker, it will not result in that action. In the protectorates of Europe, to which I have referred, running over a period of two hundred years, there is not a single instance where the protectorate has resulted in giving possession of the protected to the protecting Government. England has not possession of the Ionian Islands; Poland has not possession of Cracow; Russia has not possession of the Danubian principalities; Sardinia has not possession of Monaco, and so on through the whole list of protectorates. They have not resulted at any time or anywhere in giving to the protecting Power the possession of the protected Government. On the contrary, as I have stated, in every instance there has been a release of the protected party from the influence and control of the protecting Power, and it would be so in this case.

It would be idle for me to say, Mr. Speaker, in view of the history of this country and the opinions of such men as John Quincy Adams and those who acted with him at the beginning of the century, that the time will not come when the Island of San Domingo and the other islands of the Gulf of Mexico will incline to and become a part of the United States. I cannot say it, nor do I wish to say it; but I do say that it will not and cannot result from the action proposed in this case by the Committee on Foreign Affairs. The influence and effect of this action will be simply advisory, not with a view of overpowering or controlling or destroying the Governments of these people. It will be, as was said by the wise and clement emperor of Russia in regard to the protectorate on the Danube, an influence which grows out of the interest and friendship of the one party for the other. The only influence that the United States can have over Hayti and San Domingo under this proposition will be such as is incited by the friendship of the United States for those people and the friendship of those people for the United States; and if hereafter from these facts and from these motives the two Governments shall incline toward each other until they become united in one I certainly shall not make objection. But no such result can follow from the action which is proposed, and nothing of the kind is either desired or designed by either party, the people of these republics or the

Government of the United States, for which I speak in this connection. It is, on the contrary, a wise, a generous, a humane proposition on the part of a great Power just having escaped destruction from a combination of all its enemies and having established within its own borders peace and good government to extend to a free and unoffending people, who have great elements of prosperity within themselves, an opportunity to do for themselves exactly what the American people in the providence of God have done for their Government. That is the object of the resolution.

Mr. GARFIELD. Will the gentleman yield to me for a moment?

Mr. BANKS. Certainly.

Mr. GARFIELD. I have been very much interested in the statement which the gentleman has made, but I do not think he has stated very clearly exactly what this Government might be expected to do; what the protection is which this measure proposes to give. He said that we might send a ship of war down there to urge them to peace and quiet. Now, I do not see exactly how a ship of war could urge them to peace and quiet unless it was called upon to do something in the way of war. I wish he would speak more specifically as to the kind of work we might have to do in order to carry out the purpose of this measure.

Mr. BANKS. I will do it with pleasure; and, in the first place, I will say for the satisfaction of the gentleman from Ohio, what we cannot do upon any agreement with the republics of Hayti and San Domingo. We cannot take possession of their Governments, or send armed troops into their island; we cannot take possession of their territory or occupy their seas without a treaty made with them, and that treaty must be submitted for the ratification and confirmation of the Senate of the United States. We cannot, therefore, do any of those things which distinguished the protectorates of European history. What can we do, then? I refer to 1865, 1866, or 1867, when there were three revolutions in a single year; when a president was elected for three months, or until the Spanish troops could be withdrawn from the island, and was driven out of the country by revolution before even the three months had expired. If the people of Hayti or San Domingo should consent to accept the protection of the United States, and we should send a ship of war into the waters of that country by her consent or upon her application, it will be accompanied by officers of the United States. If there be a Government established there according to the constitution of that republic, proceeding in a just and proper way, without violence to anybody, and there shall be an organized revolution to overthrow that constitutional government, the officers of the United States would be authorized to advise the revolutionists to desist from their work until the period should occur when an election would afford them an opportunity to choose such man as they saw fit; and under such circumstances such advice would be accepted.

Mr. JUDD. The gentleman will allow me to ask this question: suppose the revolutionists refuse to accept that advice, what then?

Mr. BANKS. Then it is for the Government of the republic in connection with the Government of the United States to determine what ought to be done, and to submit that determination to the Senate of the United States in the shape and form of a treaty. This resolution does not give the power to the United States to enter with force of arms into that territory for the purpose of controlling that Government. It extends to those Governments the idea of protection, which may be carried under this resolution to the extent I have indicated, not requiring any appropriation of money. And if further action is required it must be upon an agreement between those Governments and the Government of the United States, and that agreement must be submitted to the Senate of the United States for ratification before it shall be carried into effect.

Mr. BINGHAM. I desire to ask the gen-

tleman whether it would not be well to limit this resolution, if it is to be passed at all, by adding words to the proviso. It was deemed important by the Committee on Foreign Affairs to so restrict the action of the President under this resolution as that no action should be taken which should involve the appropriation of money without first consulting the Congress of the United States. Would it not be well enough to add further words to that proviso? I would suggest the addition of these words:

And that no action shall be taken by the Executive of the United States without first consulting and obtaining the consent of Congress thereunto, which can by any possibility involve this country in a conflict of arms.

Mr. BANKS. I would cheerfully accept of such an amendment, but I am not authorized to do so myself, this being a report of a committee. But I do not object to such an amendment. We do not intend by this proposition to enter into any conflict of arms with any Power at home or abroad. What we propose is that this Government shall be authorized to extend to the people of these republics the idea of protection. Our interests and their interests are the same, and we want peace and good government there as here. Revolution succeeding revolution there destroys them and imperils the institutions of this country. If there should be a case when we would be required to enter into a contest of arms with any Government for this purpose, I submit, with the gentleman from Ohio, [Mr. BINGHAM,] that the Congress of the United States should be first consulted before any such action shall be taken. And this resolution contemplates such a course; because any action which shall require, or seem to require, an appropriation of money shall be inaugurated under the authority of the national Legislature. I would be very glad if the idea suggested by my friend can be embodied in this resolution in a proper form, which shall not contravene the object of the resolution itself.

Mr. FERRISS. While I concur mainly in many of the views expressed by the chairman of the Committee on Foreign Affairs, I do not see very clearly how this proposed protectorate can be established and made effectual with the very limited power which he proposes shall be exercised by this Government. At the same time I would ask the gentleman one question, and if he is at liberty to answer it I should be very happy to have him answer it; if not, then to say so. Did the Committee on Foreign Affairs, in determining to recommend this protectorate of these republics, regard it as a step to the ultimate annexation of these islands to the United States as a part of our territory?

Mr. BANKS. No, sir; the committee had no such idea, and I had no such idea myself. I ought to say that there was not full time for the consideration of this matter by the committee, and therefore I cannot speak for the views of the members of that committee. But they authorized me to report this resolution to the House.

Mr. WOODWARD. Mr. Speaker—

Mr. BANKS. I will yield to the gentleman for a question only.

Mr. WOODWARD. I want to move that this resolution be laid on the table, in order that we may have time to examine it.

Several MEMBERS. That is right.

Mr. BANKS. I cannot yield for that purpose now. The gentleman will have the opportunity to make that motion; he cannot be deprived of that.

Mr. WOODWARD. Does the gentleman propose to press this resolution to a vote to-day?

Mr. BANKS. I will not say as to that. I now yield to the gentleman from Illinois, [Mr. CULLOM,] my colleague on the Committee on Foreign Affairs.

Mr. CULLOM. I simply want to say, Mr. Speaker, that the understanding of the committee would not, I think, justify the gentleman in calling for a vote upon this resolution to-day.

Mr. BANKS. Very well; I do not care for a vote to-day.

Mr. CULLOM. I hope the gentleman will not press the resolution to a vote to-day, as the understanding was that we should have time to consider it after it had been reported to the House.

Mr. BANKS. I will yield for a motion to adjourn at any time.

Mr. JUDD. I ask the gentleman to allow me two or three minutes for an explanation.

Mr. BANKS. The gentleman will have ample opportunity hereafter to express his views.

Mr. WARD. If the gentleman from Massachusetts will yield for the purpose, I move that the House adjourn.

Mr. BANKS. I yield for that motion. If gentlemen of the House desire further time to consider this question, I am perfectly willing that an adjournment shall be had.

On the motion to adjourn, there were—ayes 68, noes 31.

So the motion was agreed to; and the House (at four o'clock and five minutes p. m.) adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: A memorial of the Grant and Colfax Association of Richmond, Virginia, praying that general amnesty shall not be granted in that State until after the adoption of a constitution, &c.

By Mr. BANKS: A memorial of the Sun Mutual Insurance Company of New York, asking that the claim of the company upon the Chinese indemnity fund may be referred to the Attorney General for adjudication.

By Mr. CLIFT: The memorial of Simon Gerstman, a citizen of the State of Georgia, praying for relief.

Also, a petition of the cigar and tobacco manufacturers of Savannah, Georgia, praying for the repeal of a portion of the act imposing taxes on distilled spirits and tobacco.

Also, the petition of John D. Rumble, praying for the removal of disabilities.

Also, a petition of citizens of the State of Georgia, praying for the enforcement of the reconstruction acts.

By Mr. FIELDS: The petition of Laura Clark, mother of Jason L. Clark, for arrears of pension from the date of her son's death.

Also, the petition of Maria Robins, mother of Theron H. Robbins, deceased, for a pension.

Also, the petition of Harriet M. Mills, widow of Samuel J. Mills, deceased, for a pension.

By Mr. GRAVELY: The petition of L. A. Sale, of Bedford county, Virginia, praying to be relieved from disabilities imposed by the fourteenth article of the constitutional amendments.

By Mr. KERR: Letters from Hon. Jeremiah Sullivan and General Tilghman A. Howard, on the subject of Senate bill No. 428, now pending before the Committee of Claims of the House of Representatives.

Also, the petition of Jonathan Elliott, late commercial agent of the United States at San Domingo and Porto Plata, praying compensation for services rendered and reimbursement for money expended in negotiating a treaty with the Dominican republic in the year 1856.

Also, the memorial of S. S. Potter, for pay for the use of his buildings in New Albany, Indiana, as hospitals.

Also, the claim of Scott & Brindley, for payment for the use of their buildings for hospital purposes in New Albany, Indiana.

By Mr. KOONTZ: The petition of John Trzeciak, adjutant of the German brigade, composed of the eighth, twenty-ninth, and thirty-ninth New York and twenty-seventh Pennsylvania regiments, for indemnity for horse lost while in the service of the United States.

By Mr. MOORE: Petitions from masters

and owners of vessels of Warham, Chatham, Wellfleet, Hyannis, and Provincetown, Cape Cod, Massachusetts, with accompanying papers, praying the intervention of Congress to protect all engaged in navigation from illegal exactions by State and municipal corporations.

Also, petitions of masters and owners of vessels of Boston, Massachusetts, praying the intervention of Congress to protect all engaged in navigation from illegal exactions by State and municipal authorities.

Also, petitions from owners and masters of vessels of Portsmouth, New Hampshire, praying the intervention of Congress to protect all engaged in navigation from illegal exactions by State and municipal corporations.

By Mr. MORRELL: The petition of James Ferguson, and 52 other freedmen, for compensation for services rendered in the hospitals of Natchez, Mississippi, prior to the organization of the Freedmen's Bureau.

By Mr. PAINE: The petition of Peter Stinebeck, for relief.

By Mr. PERHAM: The petition of Nancy True, for increase of pension.

Also, the petition of Lemina A. Bellington, for a pension.

By Mr. SCHENCK: A petition of merchants and importers of New York, praying Congress to give them relief from the construction of the Internal Revenue Bureau relative to wholesale dealers' sales.

By Mr. SHELLABARGER: The petition of Baker, Brown & Co., of seventh Ohio district, asking an amendment of the twentieth section of the revenue law of July, 1868, so as to relieve them from the assessment of tax on distilled spirits where deficiency of production below the estimated capacity of the distillery is the result of inevitable accident.

By Mr. WARD: A petition of 100 citizens of Steuben county, New York, in favor of giving bounty to drafted men.

IN SENATE.

WEDNESDAY, January 13, 1869.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of the Interior, in relation to Indian affairs at Fort Randall, Dakota Territory; which was referred to the Committee on Indian Affairs.

HOUSE BILL REFERRED.

The joint resolution (H. R. No. 404) providing for the disposition of certain papers relating to military claims accruing in the department of the West was read twice by its title, and referred to the Committee on Military Affairs.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a resolution of the constitutional convention of Texas, in favor of calling into the service a regiment of Texas cavalry to repel Indian invasions; which was referred to the Committee on Military Affairs.

Mr. SUMNER. I present the petition of Mahlon Loomis, M. D., of the District of Columbia, who believes that he has invented a new mode of telegraphing, which he submits as a great and valuable improvement upon any former mode known or discovered. He briefly says:

"The nature of the discovery or invention, in general terms, consists in establishing an electrical current or circuit for telegraphing without the aid of wires or cables to form such electrical currents and circuits."

"As in dispensing with the double wire (which was at first used) and using but one, allowing and relying upon the earth to form the one half of the circuit, so now I propose to dispense with both wires and all artificial batteries, using the earth, as now, to form one half of the circuit, and the continuous electrical element far above the surface of the earth for the other part of the circuit."

After setting forth at some length his invention, or his theory, he asks Congress for an

appropriation of \$50,000, under such restrictions as Congress may impose, to enable him during the next year to complete the demonstration. In presenting this petition I desire to say that I perform a duty, and I content myself with remarking that it is certainly a great case of moonshine or it marks a great epoch in the progress of invention. I do not undertake to express an opinion upon it. I ask the reference of the petition to the Committee on Patents.

Mr. WILLEY. I think that petition ought to go to the Committee on Appropriations. It is a matter with which the Committee on Patents has nothing to do.

Mr. GRIMES. I move to refer it to the Committee on Foreign Relations. It is a subject intimately connected with those great telegraphic movements which are now in operation. We have had one question of that sort referred to the Committee on Foreign Relations since this session commenced; and I trust this petition, instead of being referred to the Committee on Appropriations, will be referred to the Committee on Foreign Relations.

Mr. POMEROY. I did not understand the name of the petitioner. Was it given? Let the name be read, for I want him to have the benefit of it, whoever he is.

The CHIEF CLERK. The petition is signed "Mablon Loomis, M. D."

The PRESIDENT *pro tempore*. The Senator from Massachusetts moved that the petition be referred to the Committee on Patents, and the Senator from West Virginia moves that it be referred to the Committee on Appropriations.

Mr. SUMNER. I think if my friend from West Virginia had read the petition he would have seen that it undertakes to set forth an invention, and I think that the Committee on Patents is the most competent of any in our body to consider the value of the invention.

Mr. WILLEY. It is not an application, as I understand it, for a patent or anything of that character.

Mr. SUMNER. But it is for an appropriation, which will be a substitute for a patent.

Mr. WILLEY. I move that it be referred to the Committee on Appropriations. It strikes me the Committee on Patents has nothing to do with a claim of that character.

Mr. WILSON. I hope this petition will be sent to the Committee on Patents. I do not know that there is anything in the invention; probably there is not; but it is not worth our while to meet any propositions of this kind with a sneer. The world laughed at all the great inventions which have been made when they were first proposed. It is only a few years ago since the first men of this nation sneered and laughed at the magnetic telegraph, but the telegraph triumphed. Now, there may be something in this, and I hope that the papers will be sent to the proper committee, and that they will examine the subject.

Mr. POMEROY. I hope Senators will not think from any remarks I have made that I sneered at this improvement. I believe in it. I have seen two or three experiments, and I think there is something in it. I have seen it tested in a small way, and I am inclined to think it will succeed.

The PRESIDENT *pro tempore*. The question will be first put on the motion to refer to the committee first named. The Senator from Massachusetts moves that this petition be referred to the Committee on Patents.

The motion was agreed to.

Mr. CONKLING presented the petition of Charles Carlett, praying a removal of the civil disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

He also presented the petition of Patrick Moore, praying to be allowed a bounty of \$100, which he alleges to be due his son, Thomas Moore, late a private of company H, one hundred and fifty-first regiment New York volunteers; which was referred to the Committee on Pensions.

Mr. WILSON presented the petition of F. H. Hill, praying a removal of the disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

Mr. DAVIS presented the petition of the curators of the Kentucky University, praying compensation for the destruction by fire of the medical college known as Transylvania University, at Lexington, Kentucky, in May, 1863; which was referred to the Committee on Claims.

Mr. HARRIS presented the memorial of Samtel Jamison, praying compensation for property taken possession of by order of Major General BUTLER while commanding the military forces at New Orleans; which was referred to the Committee on Claims.

He also presented the petition of Thomas C. Anderson, praying a removal of the civil disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

He also presented the petition of Isaac H. Crawford, praying a removal of the civil disabilities imposed on him by acts of Congress, and praying the removal of the civil disabilities imposed on John Ward, Leroy S. Ward, and A. T. Osborn; which was referred to the Committee on the Judiciary.

He also presented the memorial of Theogene Castille, praying a removal of the civil disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

Mr. CAMERON presented the petition of the yearly meeting of Progressive Friends, at Longwood, Chester county, Pennsylvania, praying the adoption of a humane policy toward the Indians; which was ordered to lie on the table.

Mr. HENDRICKS presented the petition of Jonathan K. Hodges, praying that a bounty be granted to his wife for services rendered by Charles Jones in the revolutionary war; which was referred to the Committee on Claims.

REPORTS OF COMMITTEES.

Mr. SUMNER, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 729) to provide for the execution in the District of Columbia of commissions issued by the courts of the States and Territories of the United States and of foreign nations, and for taking depositions to be used in such courts, reported it with amendments.

Mr. WILSON, from the Committee on Military Affairs, to whom was referred the bill (H. R. No. 1489) granting a portion of the military reservation at Sault Ste. Marie to the American Baptist Home Mission Society, reported it without amendment.

Mr. CAMERON, from the Committee on Agriculture, to whom was referred the petition of C. Anderson Hullquist in behalf of the poor of Sweden, submitted an adverse report thereon.

He also, from the same committee, to whom was referred the resolution submitted by Mr. MORRILL, of Vermont, on the 14th of December last, on the expediency of authorizing a committee of five on education, reported the resolution favorably.

TRANSFER OF PRINTING APPROPRIATIONS.

Mr. ANTHONY. The Committee on Printing, to whom was referred the joint resolution (S. R. No. 194) authorizing the transfer of certain appropriations heretofore made for the public printing, binding, and engraving, have directed me to report it back without amendment and recommend its passage. I ask for its present consideration. It is a thing to which there will be no objection.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It directs the Secretary of the Treasury to cause the sum of \$194,000 to be transferred from the appropriation "for paper for the public printing," contained in the act entitled "An act making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1869," approved on the 20th

of July, 1868, in aid of the appropriations contained in the same act for the following purposes and in the following proportions, to wit: for the public binding, the sum of \$110,000; for lithographing and engraving for the Senate and House of Representatives, the sum of \$84,000.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 767) to incorporate the Washington General Hospital and Asylum of the District of Columbia; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. ABBOTT asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 768) for the relief of Mrs. Jane Northridge; which was read twice by its title, referred to the Committee on Military Affairs, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 769) to aid in the construction of a railroad and telegraph line from the Rio Grande to the Pacific ocean; which was read twice by its title, referred to the Committee on the Pacific Railroad, and ordered to be printed.

Mr. COLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 770) to incorporate the National Gold and Silver Mining Company of Washington, District of Columbia; which was read twice by its title, referred to the Committee on Mines and Mining, and ordered to be printed.

Mr. SAWYER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 771) authorizing payment to be made for certain services rendered to the United States in the late insurrectionary States; which was read twice by its title, referred to the Committee on Finance, and ordered to be printed.

Mr. BUCKALEW asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 772) to amend the representation of the people in Congress; which was read twice by its title.

Mr. BUCKALEW. As the bill is very short, I ask that it be read at length.

The Chief Clerk read the bill, as follows:

Be it enacted, &c. That in the elections for the choice of Representatives to the Congress of the United States, whenever more than one Representative is to be chosen from a State each elector of such State duly qualified shall be entitled to a number of votes equal to the number of Representatives to be chosen from the State and may give all such votes to one candidate, or may distribute them equally or unequally among a greater number of candidates, and the candidates highest in vote upon the return shall be declared elected.

Mr. BUCKALEW. I will ask the indulgence of the Senate to permit this bill to be referred to a select committee. I make the motion that this bill be referred to a select committee of seven, of whom the President *pro tempore* shall be one.

The motion was agreed to.

OREGON BRANCH PACIFIC RAILROAD.

Mr. WILLIAMS. Some days ago I introduced a bill (S. No. 660) to aid in the construction of the Oregon Branch Pacific railroad; which was referred to the Committee on the Pacific Railroad. I now propose to offer an amendment to that bill, which I will ask to have printed and referred to the same committee; and I desire to say, in connection with this amendment, that the original bill provided for subsidies according to the laws heretofore passed upon that subject, but this amendment provides, instead of such subsidies, that the Government shall guaranty the interest upon the bonds of the company, and those bonds shall be a first mortgage lien upon the road. To secure the Government it is provided that the proceeds of all the lands shall remain in the Treasury of the United States, and the proceeds of all the business transacted

by the road for the Government, shall also remain in the Treasury; and if those proceeds are found to be insufficient, then it provides that three per cent. of the gross proceeds of the road after its completion shall be paid into the Treasury for that purpose. A sinking fund is also provided for by which the bonds will be paid at the expiration of six years, this providing for forty-year bonds at six per cent. It is also provided that if there is any failure to perform the requirements of this law by the company the Government may take possession of the road and appoint a receiver for the purpose of protecting itself. I ask the attention of Senators to this amendment; I think it will be found to obviate all the objections that have heretofore been made to the assistance by the Government to railroad enterprises.

The *PRESIDENT pro tempore*. If there be no objection the amendment will be ordered to be printed and referred to the Committee on the Pacific Railroad.

LIGHT-HOUSES ON THE PACIFIC COAST.

Mr. CORBETT. Before the adjournment for the holidays I offered a resolution providing for the selection of points upon the Pacific coast necessary for light-houses. I presume there will be no objection to it; and I move now to take it up.

The motion was agreed to; and the Senate proceeded to consider the following resolution submitted by Mr. CORBETT on the 21st of December, 1868:

Resolved, That the President direct the Secretary of the Treasury to detail an officer to select such prominent points upon the coasts of Oregon, Washington Territory, and Alaska, as in his judgment may be necessary, for light-house purposes, in view of the future commercial necessity of the Pacific coast, and to reserve the same for the exclusive use of the United States.

The resolution was agreed to.

W. T. COGGESHALL.

Mr. SUMNER. There is on the Calendar a little bill which I reported yesterday from the Committee on Foreign Relations, for the removal of the remains of the late Mr. Coggeshall, minister at Ecuador. I move that the Senate proceed to its consideration.

The motion was agreed to; and the bill (H. R. No. 967) to provide for the removal of the remains of Hon. W. T. Coggeshall, late minister of the United States at Ecuador, to the United States, was considered as in Committee of the Whole. It proposes to authorize the Secretary of State to provide for the removal of the body of Hon. William T. Coggeshall, late minister of the United States at Ecuador, to the United States, and that of his daughter; and to appropriate a sum not exceeding \$1,000 to defray the expense of the removal, and also \$1,000 for the relief of the family of the deceased W. T. Coggeshall.

Mr. MORRILL, of Vermont. It is exceedingly unpleasant for Senators having no connection with the committees reporting bills to rise here and object to bills that are founded on charity or bounty, or any such consideration; and if it were not that this sets a precedent I certainly should not rise on this occasion. I believe this is the first instance of the kind in our history, and I am reluctant that it shall go on our records as a precedent. I am rather inclined to occupy the position of one of the old Virginia abstractionists who died here and with something of emphasis declared that he would not be buried at the public expense, for it was not constitutional.

Now, Mr. President, if this bill shall pass the result will be that a claim will be presented here for charging upon the Government the expense of the burial of every person who hereafter may die in the service of the country abroad. I do not know but that there are—and I presume there are—peculiar circumstances which recommend this bill to the heart of the Committee on Foreign Relations; but whenever a subsequent bill comes up here those circumstances will not be appealed to, but only the simple fact that such a personage died on such an occasion and that his funeral

expenses and the charge of bringing the body home were defrayed by the Government of the United States. If they may be defrayed in the case of a minister abroad, why not for a consul? and if for a consul, why not for a Navy officer? It will certainly be seen that this is a precedent which cannot be met without danger. I trust that it is enough to bring the subject to the attention of the Senate to lead them to refuse to vote for the bill.

Mr. SUMNER. Mr. President, I do not know whether the Senate desires to hear anything on the subject. I agree with my friend that this case is exceptional. I doubt whether it can be drawn hereafter into a precedent. Indeed it can be a precedent only in similar circumstances, and it is not likely that the circumstances will occur again. They were peculiar. The situation of the remains of this unfortunate gentleman, who died representing us abroad, at this moment is very peculiar, and his family are absolutely without means. Under those circumstances an appeal was made to the Department of State, and then to the generosity of Congress. The other House has yielded to that appeal. The whole case is stated in a letter from Mr. SHELLABARGER, of the other House, which is addressed to myself, and with the permission of the Senate I will read it:

HOUSE, January 8, 1869.

SENATOR: Pardon me for asking you, as head of the Foreign Committee, to favor, if you can, the House bill just passed, giving to the family of our late minister at Ecuador, William T. Coggeshall, \$1,000, and providing for bringing home the bodies of the deceased minister and of his daughter. The facts will appear in the debates of to-morrow's Globe; but to save you the labor of reading them may I state them to you? Mr. Coggeshall was a man of influence; long an editor, and valuable friend all his life of our cause; was in 1856 sent, in bad health, to Ecuador, was accompanied by his child Jessie, aged fifteen, but singularly mature, intelligent, and beautiful. She soon obtained the Spanish language, became the interpreter and secretary to the legation, and the nurse of her sick father; did most of the business of the mission, did it well, and under most fearful hardships aided in procuring (as her father did) those rights of Protestant burial which you remember were temporarily accorded to our people, and buried her father in the cemetery among the first ever so interred in Quito.

After her father's death, (and it is for this we beg your favorable consideration of the bill,) she continued at Quito, took care of, preserved, and had rightly disposed of the books and papers belonging to the Government, and remained there four or five months, namely, from August, 1857, the date of her father's death, until January, 1858. She then started home, traveling several hundred miles through mountains &c., on mules, and, after great suffering, reached the coast at Guayaquil, wheresh she was taken with yellow fever and died. The body of the father has been, by the revolutionary party there, taken up and put into a public warehouse. The salary drawn was only for about fifteen months, and was far less than the actual expense of the mission. The family is absolutely destitute, there being left a widow and a large family of little children. As the \$1,000 voted by the House is far less than the value of the four months' service actually rendered by Jessie, I sincerely trust you may find right to give the bill your indispensable favor.

Yours, very truly,

S. SHELLABARGER.

Hon. C. SUMNER, Senate.

This letter was read to the Committee on Foreign Relations yesterday; and I believe I may say that, taking it into consideration they recognized the case as absolutely exceptional, and unanimously voted that the bill should be reported to the Senate with a recommendation that it pass.

Mr. SHERMAN. I do not think it is necessary to add a word to the statement already made; but there is one fact which, if improved upon in the consular and diplomatic appropriation bill, I think will save all the money here appropriated and several times more. I will never consent myself to appropriate anything to pay for a minister at Ecuador, owing to the circumstances which occurred at the death of Mr. Coggeshall. He was denied Christian burial, and his body is now in a public warehouse and his family are not able to bring his remains here. The circumstances are peculiar. It seems to me that not only ought we to pay this money, but we ought to refuse to have any intercourse of a diplomatic character with a nation that would deny to a Protestant Christian a Christian burial.

Mr. EDMUNDS. Is there any doubt of the fact of the poverty of the family?

Mr. SHERMAN. None at all.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

WITHDRAWAL OF PAPERS.

On motion by Mr. POMEROY,

Ordered, That George E. Glenn have leave to withdraw his petition and papers from the files of the Senate.

SUITS IN THE REBEL STATES.

Mr. CAMERON. I move that the Senate proceed to the consideration of House bill No. 1261. I think it will take but a short time to pass it.

The motion was agreed to; and the Senate resumed the consideration of the bill (H. R. No. 1261) amendatory of an act entitled "An act relating to *habeas corpus*, and regulating judicial proceedings in certain cases."

The *PRESIDENT pro tempore*. The Chair is informed that the bill has been engrossed and read the third time, and the question now is on the passage of the bill.

Mr. GRIMES. I call for the reading of the bill.

The Chief Clerk read the bill as amended in the Senate on the 25th of July last, as follows:

That the provisions of an act entitled "An act relating to *habeas corpus*, and regulating judicial proceedings in certain cases," approved March 3, 1863, so far as the same relate to the removal of causes from the State to the Federal courts, be, and the same is hereby declared to extend to any suit or action at law or prosecution, civil or criminal, which has been or shall be commenced in any State court against the owner or owners of any ship or vessel, or of any railway, or of any line of transportation, firm, or corporation engaged in business as common carriers of goods, wares, or merchandise, for any loss or damage which may have happened to any goods, wares, or merchandise whatever, which shall have been delivered to any such owner or owners of any ship or vessel, or any railway, or of any line of transportation, firm, or corporation, engaged in business as common carriers, where such loss or damage shall have been occasioned by the acts of those engaged in hostility to the Government of the United States during the late rebellion, or where such loss or damage shall have been occasioned by any of the forces of the United States, or by any officer in command of such forces: *Provided*, That this act shall not be construed to affect any contract of insurance for war risks which may have been made with reference to any goods, wares, or merchandise which shall have been so destroyed.

Mr. WILLIAMS. I should like to hear some explanation of that bill. It is very difficult to understand its scope and effect simply from its reading.

Mr. CAMERON. This bill was very fully discussed just before the adjournment last summer, and would have passed then but for want of time. It is merely a bill to save wrong to express companies and other transportation companies that existed in the South. The bill only provides that they shall have the right to carry their suits into the United States courts. It is designed to protect the loyal people who have invested their money in transportation companies in the South from the dangers of local juries. Everybody, I take it, will see that it is a bill that ought to pass.

Mr. COLE. I was not able to hear all that was said by the Senator from Pennsylvania in favor of this bill; but I remember that a bill of a similar character was brought before the Senate at the last session to transfer suits against corporations in State courts to the United States courts. It seems to me a bad practice. It will preclude parties having certain rights or claims against these corporations from the possibility of getting justice speedily if they are to be transferred to the United States courts. It is well understood that the State courts are the handiest always, and I do not know why these corporations cannot obtain justice there as well as in the United States courts. Unless there is some good, sound reason for this bill, which I am not advised of, I certainly feel like voting against it.

Mr. CONKLING. If Senators will give their attention for one moment to the only point involved in this bill I think no valid objection will arise in any mind. It comes

from this state of facts in the southern States, and particularly in the State of Georgia; my attention has been called to cases there more than in any single State. Express companies and others, the stockholders living in the loyal States, are sued for property of which they were deprived by the rebel forces. They wish to raise the question whether that was the act of a public enemy so as to exempt them as common carriers, upon well-settled principles of law, from liability. The courts of Georgia do not merely rule against them, but they decline to make any ruling upon which an exception can be taken upon this question of law, and submit the case to the jury as a question of fact, virtually as a question of damages; and thus juries sitting in State courts find upon a mere question of *quantum meruit*, a mere question of how much was the value of the goods for which suits are brought. The purpose and effect of the bill is to enable defendants thus sued, where they find it necessary to do so in order to raise the question, to transfer to the Federal courts such actions as have for their defense the allegation that the public enemy destroyed the goods, to the end that that question may go to the Supreme Court to see whether it falls within the principles decided in the prize cases and in other cases or not. They insist that the war was of such a character and such dimensions that at common law they defend themselves when they show that the embodied power of the rebellion deprived them of the goods as much as if they had fallen into the hands, literally, of a public enemy—a foreign nation with whom we were at war. That question, at all events, they want to raise. That question they are not permitted to raise even as they might, in southern tribunals, by the fact that they encounter a refusal altogether to rule upon it as a question of law, and they encounter instructions from judges under which the case goes as a question of fact to the jury. Of course, we all agree that there should be some mode of ascertaining, and ascertaining in the court of last resort, this problem of liability; and unless some Senator can suggest a better mode of doing it than this I do not see how any objection is to be made to the bill.

Mr. COLE. I suppose the same reason would apply to the suits or actions brought against private individuals in the same portion of the Union. The same argument would hold good on their behalf.

Mr. CONKLING. If the Senator will allow me one moment there, he will perceive that it would not, for the reason that a common carrier is a special person. He becomes the insurer of all goods taken into his possession against every possible contingency, except the act of the public enemy and the act of God. Therefore, aimed at common carriers, and at common carriers alone, is this class of actions.

Mr. COLE. I suppose actions involving the same principles, actions involving the question whether property was destroyed by the public enemy, may arise on behalf of individuals in that section of the country, and I have no doubt they suffer like disadvantages with the express companies or other corporations; and I do not think it well to make an exception in favor of these express companies or large corporations which is not to be enjoyed by private citizens less able to take care of themselves.

Mr. CONKLING. If I do not interrupt the Senator, I ask him to allow me to make one other suggestion. If a private person is sued as a bailee the defense must be by showing diligence. He is mulcted in damages only in case he has been guilty of negligence. Therefore, no such question arises with him. But a common carrier, to defend himself, must show either that the act of God, technically, or the act of the public enemy, as defined by law, occasioned the loss.

Mr. COLE. Still common carriers are only one class of bailees. There are other classes to which I do not suppose the rule would apply, and there ought not to be any exception in favor of large corporations and companies which are

engaged in business as common carriers, and as such are bailees.

Mr. EDMUNDS. I did not have the honor to be present when this bill was reported from the Committee on the Judiciary, nor when it was considered. It is brought to my attention now for the first time. Grave difficulties occur to my mind touching our constitutional right to pass a bill of this description removing causes, irrespective of the citizenship of the parties, from the courts of a State to the Federal courts, if this bill permits it, as on a hasty reading it appears to me to do.

Mr. CAMERON. That is not the case. The stockholders of these companies reside, as a general thing, in the North. It is a mere question whether they shall have the right to appeal to the United States courts as corporations or not. Many suits are brought against them, and it is important for their interests that it should be decided immediately whether they shall have this right or not. It can do no harm, as I understand, to anybody. I feel a desire to pass the bill because a number of my constituents are very largely interested in it. As I have said, they only ask the right to go to an impartial tribunal, and they cannot have an impartial decision in the State courts as they are now organized.

Mr. EDMUNDS. Nothing would gratify me more than to accede to the wishes of my friend from Pennsylvania, or to see that all his constituents have fair and impartial justice; but I feel compelled, on a bill of this kind, which involves, as it seems to me, a wide departure from any previous practice of the Government, and to my humble apprehension a very wide departure from the Constitution, to express my respectful dissent, as anxious as I am to have the citizens of Pennsylvania have justice in all courts, and the citizens of Vermont, I should hope, would have the same justice; although as to some of them, and possibly it is so in Pennsylvania, it would not be to their advantage to have justice. I do not doubt there is a grievance. That is not the point to which I rise. I dare say that wrong is committed, systematic wrong; I may confess, upon these persons in the southern States; but those are wrongs which are incidental to the existing condition of things, and we ought not to violate the Constitution, nor any just and settled principle of practice under that Constitution, in order to redress them. This bill does not provide that the parties who are to remove these cases from the State courts shall be citizens of other States from the plaintiff who brings the action in the State court. It declares that the removing provisions of the *habeas corpus* bill, which extended only to acts done under the authority of the United States, and therefore came under the provisions of the Constitution, such as have always existed in one form or other, shall extend—

To any suit or action at law and prosecution, civil or criminal, which has been or shall be commenced in any State court against the owner or owners of any ship or vessel, or of any railway, or of any line of transportation, firm, or corporation engaged in business as common carriers.

It is not limited to citizens of other States from the States whose courts undertake to exercise jurisdiction.

Mr. CONKLING. Was the original act?

Mr. EDMUNDS. What original act?

Mr. CONKLING. The act which this bill amends.

Mr. EDMUNDS. Certainly not. The original act was limited by the subject, and the subject was not the subject of common carriers, but it was the subject of acts done under the authority of a law of the United States.

Mr. CONKLING. Will my friend allow me to obtain a little information from him?

Mr. EDMUNDS. Certainly.

Mr. CONKLING. Will he be kind enough to point out, as a jurisdictional question, the distinction between an action brought under the Constitution or laws of the United States, as those of which he is speaking, and an action the defense of which arises exclusively under the same authority?

Mr. EDMUNDS. I do not wish to point out any such distinction if it exists. I do not say that it does. That is not the point I am making at all.

Mr. CONKLING. Then, if the honorable Senator will pardon me, perhaps I do not understand him. If no such distinction exists, I do not see why, by parity and identity of reasoning, if we can allow parties who have actions arising under the laws of the United States to transfer them, we may not allow defendants whose defenses arise in the same way to transfer the action.

Mr. EDMUNDS. I do not rise to dispute that proposition. That is exactly the proposition which is in the existing law, the *habeas corpus* act, which allows any person who defends under the authority of the United States, under the command of an order of the President of the United States or any of the Departments—I may not express it in exact detail as it is, but that is the substance of it—when he is sued in a State court, to remove that cause into the United States court, upon the ground that he is to defend under the authority of Congress. Nobody disputes that proposition. If this bill proposed to do anything of that kind, it would be one thing; but as I say, in the first place, the class of persons who are authorized to remove causes under the authority of this bill are not the class of persons referred to in the Constitution or in any previous law. They are neither citizens of other States, although they might be by accident, some of them or all of them—that is not the ground upon which the bill puts it—nor are they officers or other persons acting under the authority of the United States, and who, therefore, would be entitled to have redress and defense in a Federal court. They are common carriers, persons engaged in private enterprises for their own profit, and it authorizes them to remove all suits against them arising out of their business as carriers—"where such loss or damage shall have been occasioned by the acts of those engaged in hostility to the Government of the United States." What has that to do with the Constitution?

Mr. CONKLING. If the Senator will pardon me right there—

Mr. EDMUNDS. If my honorable friend will wait until I get through, he will have an opportunity to address the Senate.

Mr. CONKLING. I wanted just at that point to get an answer to the question I put before. I do not wish to interrupt the Senator.

Mr. EDMUNDS. I shall be through in a minute. I will give my friend an answer after I have finished commenting on this particular clause of the bill.

Now, I repeat, as I was going on to say when my friend interrupted me, and which I do not complain of at all, that the active clause of this bill, the subject of it, is defenses to suits brought where the loss or damage was occasioned by persons hostile to the United States. Is that under the authority of the United States? Is that under the authority of any provision in the Constitution? Is the defense to be set up under any law of Congress? By no means. But the defense is—and it is a good one everywhere if you could have justice in State courts and from State juries—that the loss incurred by the common carrier happened through the act of the public enemy; and a rebellion of the proportions that this one was must certainly come within that definition. So nobody questions that these companies, under the circumstances named in the bill, have a defense to the suit; but the question is, whether, as citizens of the United States or citizens of any particular State, they must not seek their redress and make their defense in those tribunals that the Constitution has appointed for them. That is the question; and to my humble apprehension the Constitution of the United States, which points out most carefully and most explicitly the class of cases in which the Federal courts are authorized to interfere, denies to these persons, as hard and as unfortunate as it may be from local circumstances, the right to remove

their suits, or to prosecute them in the Federal courts, because they are not citizens of different States; because the defense that they wish to make does not arise under the authority of any law of Congress or the Constitution, but arises under a principle as old as the common law is, and that is, simply, that the carrier has lost his goods because a public enemy or the act of God intervened; and that is the whole of his defense that is referred to in this bill. Now, what have the Federal courts to do with such a question as that, any more than the State courts?

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the order of the day, which is the unfinished business of yesterday.

Mr. CONKLING. I ask the Senator who has the unfinished business in charge to let it lay aside informally until we dispose of this bill, or at least until I can make a remark which will vanish unless I make it now.

The PRESIDENT *pro tempore*. The unfinished business can be laid aside informally, if there be no objection. No objection being made, the Senator from New York will proceed.

Mr. CONKLING. I beg, now, to direct the attention of the honorable Senator from Vermont to the point which, because he was somewhat impatient of interruption, I was not able to bring clearly to his own apprehension and to my own. He makes no objection to an act of Congress operating upon citizens of the same State which allows one of the parties to set up as a defense an act done under the laws of the United States. That proposition he clearly conceded, and that proposition I think it is too late for any lawyer to deny. What I sought to present to him was this: the fact to be set up by these defendants is not the military disorder at all. On the contrary, it is a complex fact, a complex defense, a large part of which must be made out by the laws and the Constitution of the United States. The Senator will see that such a defense at once gives rise to the question which has been so largely discussed in Miss Sue Murphey's case, what were the dimensions, what was the character of the war? There the Constitution of the United States comes in; there acts of Congress come in; there enabling acts vesting the President with power to do what he did come in; and thus you see that while it is not technically the case already provided for, of an officer or a citizen acting under the authority of the United States, and therefore permitted to defend himself in the courts of the United States even against a citizen of his own State, it is still the case of a defense arising partially or totally under the Constitution and laws of the United States.

The honorable Senator says the simple question was whether he lost his property in consequence of the interposition of the public enemy. Certainly; but how is that question to be determined? By ascertaining the character of that enemy; by ascertaining whether, in truth, he was *pro hac vice* a public enemy, so as at common law to exempt a common carrier deprived by his interposition of his goods. How do you arrive at that? By appealing to the whole body of the laws which we have passed governing the question; appealing first, to the Constitution of the United States, and, second, to all the exercised powers of Congress derived in that regard from that Constitution.

Now, I beg to ask the honorable Senator again what the distinction is in point of principle? Under the laws as they stand one party is sued for an arrest. If he can spell a defense out of the laws of the United States he is permitted to transfer his cause to the courts of the United States. That case does not, technically, embrace this. Here is a party about to be visited with what he says is charged by the laws of the United States from a liability into a calamity for which he is not to blame. May he not go into the Federal courts and set up by the same reasoning his defense; and if

not, why not? Certainly not to my apprehension for any reason assigned by the honorable Senator from Vermont.

I agree with him that it is the accident of these cases that the parties upon whom, in truth, this is to operate are citizens of different States. The bill is not confined to that, and therefore upon such a demurrer as he makes to it we are bound to consider it as a bill operating upon citizens of the same State, opposing parties to the same litigation; and confining it, as he does now, for the purpose of testing this question, to that case, I repeat again, as it seemed to me in committee, that I see no reason for saying that we have not the power to allow these parties to set up their defense, under the laws and Constitution of the United States, in the same forum into which we have invited parties whose defense no more arises under the laws of the United States.

The PRESIDENT *pro tempore*. The question is on the passage of the bill.

The question being put, there were, on a division—ayes 23, nays 10; no quorum voting.

Mr. SHERMAN. Let us have another division.

Mr. CONKLING. There is a quorum here; let us divide again.

Mr. EDMUNDS. This is a matter of importance, and I call for the yeas and nays. We shall get a quorum in that way.

The yeas and nays were ordered.

Mr. WILLIAMS. Mr. President—

Mr. HOWE. If this bill is going to lead to further debate I must insist on the order of the day.

Mr. WILLIAMS. What is the question?

The PRESIDENT *pro tempore*. The question is on the passage of the bill.

Mr. HOWE. I have no objection to the vote being taken if the Senate is ready to vote; but if it is to lead to further debate, I think I ought to insist upon the Senate proceeding to the consideration of the order of the day.

Mr. WILLIAMS. I do not propose to debate the bill; but I wish to ask the Senator from New York, who seems to understand it, for a little further information. According to the bill, provision is made that the act relating to the *habeas corpus* and regulating judicial proceedings in certain cases, approved March 3, 1863, "so far as relates to removal of causes from the State to the Federal courts, be and the same is hereby declared to extend to any suit or action at law, or prosecution, civil or criminal," &c. The act to which this bill refers provides for certain proceedings to remove a cause, which are inapplicable to a case described in this bill. According to that law a person who has performed an act under the authority of the United States, if he is sued in a State court, may go before that court, and by petition representing that fact, to which is appended his affidavit, he may remove the cause into a Federal court. Now, what sort of petition or affidavit is a person who is sued under the provisions of this bill to make under that statute? It seems to me the statute is inapplicable, and the bill will be inoperative if it is passed. I only desire information from the Senator from New York on the subject.

Mr. CONKLING. I had no very special understanding of this bill, except that many persons in the State of New York are interested in it, having suffered very much in the way I have described. My understanding is that the petition in this case would set forth, in the language of the bill, that such loss or damage has been occasioned by the acts of those engaged in hostility to the Government of the United States during the late rebellion, or that the loss was occasioned by the forces of the United States or an officer in command of such forces. I understand that would be the *gravamen* of the petition in this case, as under the original bill the *gravamen* of the petition has usually been that the acts were done under the warrant or order of the President of the United States.

The question being taken by yeas and nays, resulted—yeas 32, nays 10; as follows:

YEAS—Messrs. Abbott, Anthony, Bucklew, Cameron, Cattell, Conkling, Corbett, Cragin, Ferry, Frelinghuysen, Harlan, Harris, Howard, Howe, Kellogg, McDonald, Morrill of Vermont, Morton, Nye, Pomeroy, Rice, Ross, Sawyer, Sherman, Sprague, Stewart, Sumner, Thayer, Van Winkle, Vickers, Wade, and Whyte—32.

NAYS—Messrs. Cole, Davis, Dixon, Doolittle, Edmunds, McCree, Norton, Trumbull, Williams, and Wilson—10.

ABSENT—Messrs. Bayard, Chandler, Conness, Drake, Fessenden, Fowler, Grimes, Henderson, Hendricks, Morgan, Morrill of Maine, Osborn, Patterson of New Hampshire, Patterson of Tennessee, Pool, Ramsey, Robertson, Saulsbury, Spencer, Tipton, Warner, Welch, Willey, and Yates—24.

So the bill was passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 941) to amend certain acts in relation to the Navy and Marine corps, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. F. A. PIERCE, of Maine; Mr. T. E. STEWART, of New York; and Mr. STEVENSON ARCHER, of Maryland, managers at the same on its part.

The message further announced that the House had passed a bill (H. R. No. 1673) to relieve William H. Bagley, of Wake county, North Carolina, of his political disabilities.

The message also announced that the House had passed the following resolution; in which it requested the concurrence of the Senate:

Resolved, (the Senate concurring,) That so much of the Capitol as is hereinafter mentioned be granted to the committee of control in which to conduct the inaugural proceedings, other than official, of President and Vice President, on the 4th of March next, to wit: the Rotunda, the old Hall of Representatives, the Senate corridors and Senate public reception room, the passages leading thence to the Rotunda and old Hall, and so much of the basement not used by the committees as may be required; the Senate Chamber, Hall of Representatives, committee-rooms, and all other parts of the building to be closed to the public, except the east entrance to the Senate; the occupation not to take place until after the official inauguration, and the building to remain all the time in charge of and under the control of the Sergeants-at-Arms of the two Houses of Congress.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of the Interior, communicating an estimate of appropriation for fulfilling treaty stipulations with certain bands of Ute Indians, under treaty of 2d March, 1863, for the fiscal year ending June 30, 1870; which was referred to the Committee on Indian Affairs.

HOUSE BILL REFERRED.

The bill (H. R. No. 1673) to relieve William H. Bagley, of Wake county, North Carolina, of his political disabilities, was read twice by its title, and referred to the Committee on the Judiciary.

MISS SUE MURPHEY.

The PRESIDENT *pro tempore*. The order of the day is the bill (S. No. 625) for the relief of Miss Sue Murphey, of Decatur, Alabama. That bill is before the Senate as in Committee of the Whole, and the Senator from Oregon [Mr. WILLIAMS] is entitled to the floor.

Mr. MORRILL, of Vermont. I desire to interrupt the Senator from Oregon for a single moment. A week ago I presented resolutions from the Legislature of the State of Vermont in relation to the subject of reciprocity in trade with the British provinces, and not being disposed at that time to interrupt the business of the Senate, I gave notice that I would call up those resolutions to-day at one o'clock for the purpose of occupying the time of the Senate with some remarks in relation to them; and I supposed then that I had the acquiescence of the Senate in that course. I supposed it would be agreeable to the Senate to hear me to-day. Now, I desire either to have the case of Sue Murphey go over until to-morrow or to have an understanding that to-morrow after the business of the morning hour I shall have the

floor upon those resolutions. I am willing to give way now with the understanding that I shall have the floor to-morrow.

Mr. POMEROY. When there is an understanding I should like to know who are parties to it. I found the other day that we got into difficulty because a few individuals had made some sort of understanding among themselves about the floor and those in my vicinity did not know anything about it.

Mr. MORRILL, of Vermont. This was an arrangement made a week ago, when I supposed the Sue Murphey case would be disposed of.

The PRESIDENT *pro tempore*. The unfinished business of yesterday is regularly before the Senate.

Mr. WILLIAMS. I do not propose to say much upon a bill that has been so exhaustively discussed as the bill now before the Senate. I have been familiar with this case from the time it was presented to Congress, and I have found some difficulty in reaching a satisfactory conclusion. My sympathies are all on one side, while the dictates of my judgment lead me to the other side. I have no doubt whatever as to the law of this case. If Sue Murphey could bring a suit against the United States to recover the value of the property taken as described in her bill, under the law of nations and the decisions of the Supreme Court of the United States it is perfectly clear that she would be defeated. Any court would be bound to hold that under the circumstances of this case no legal liability attached to the Government. When the rebellion broke out the eleven States concerned, as organized political bodies, combined together and formed a confederate government; each State also had a separate and independent government; and these organized political bodies, as States, made war upon the Federal Government. Citizens residing within the jurisdiction of these *de facto* governments partook of their character; and if they were belligerent toward the United States the citizens under those governments occupied the same attitude.

Objection is made to this view of the case on the ground that certain persons who reside within the rebel States entered into the Union Army and fought for the Government of the Union; but that objection has no force to weaken the law applicable to the question. Suppose that a war should occur between the United States and Great Britain, and an army of this country should invade Canada, and certain citizens of that portion of the British empire should attach themselves to the American Army, would that fact prove that the United States had not a perfect legal right to treat the citizens of Canada as enemies to the United States on the ground that the Government within whose jurisdiction they resided and the country in which they lived were at war with this country? Congress might, under such circumstances, extend any favor it saw proper, to any individual or individuals in the Army of the United States invading Canada, but it would be altogether a matter of grace; but if in the judgment of the authorities of this country it was necessary for the purpose of prosecuting the war to treat all the citizens of that country as enemies, there is no doubt, as it seems to me, upon the law of nations, that this Government would have a right to pursue that course. All that Congress may do favorable or friendly to the people of the rebel States, as I have always contended since the rebellion was conquered, is a matter of favor; and I have denied and do deny that the citizens of that portion of the country, those who were under the confederate States government, and citizens of the so-called confederate States during the war, have any right to demand anything at the hands of the Government of this country. All our proceedings from the beginning of the war up to the restoration of these States go upon that ground. When General Grant bombarded Vicksburg he made no distinction between the loyal and disloyal inhab-

itants of that city; all alike were killed; all alike had their property destroyed; not because it was desirable to pursue that course, but because the imperious necessities of war required that policy to be pursued in order to secure triumph to the Union arms.

When Congress proceeded to reorganize these rebel States it provided military governments for each one of them by which the constitutional rights that citizens of this country enjoyed elsewhere were denied to the people of those States. Nobody, it seems to me, can claim that this property was protected by that clause of the Constitution which says that private property shall not be taken for public use without just compensation, for all the provisions of the Constitution, that as well as others, that as well as those provisions securing the right of trial by jury or the right to the writ of *habeas corpus*, were inoperative in that locality, and it was left to the absolute discretion of the men who commanded our armies to kill such persons and destroy such property as in their judgment was necessary to conquer the rebellion and restore the authority of the United States. *Inter arma silent leges* is a rule as old as organized government; and if there ever was a time and place where that rule ought to obtain it was in the rebel States when they were carrying forward a gigantic war for the purpose of overthrowing the Government and destroying the integrity of this country.

When the Senator from Indiana [Mr. MORRIS] propounded a question yesterday to this effect, ought not a loyal person in the State of Alabama whose property is taken for the purposes of this war to be paid in the same way as a person in the State of New York whose property is taken for the purposes of this war under the same circumstances? It was said that the inquiry suggested a conclusive argument in support of this claim. Now, sir, I make this answer: no property could be taken in the State of New York during the rebellion for war purposes under the same circumstances as property was taken in the State of Alabama for such purposes. The fallacy lies in the unfounded assumption that the circumstances attending property in the State of New York were like the circumstances surrounding property in the State of Alabama. Property in the State of New York was under the protection of the Constitution and the laws of the United States, while property in the State of Alabama, in consequence of the rebellion, was not under the protection of the Constitution and laws of the United States. When, therefore, property in the State of New York was taken by the Government for the purpose of prosecuting the war, a legal liability attached to the Government to pay for that property; but when property was taken in the State of Alabama, a State at war with the Federal Government, no such legal liability attached.

Moreover, sir, it is to be remembered that the citizens of the State of New York contributed of their money in the shape of taxes and otherwise to the support of the Government in the prosecution of the war; every person in the State of New York was compelled by law to contribute to the prosecution of the war; while in the State of Alabama every citizen contributed to the rebellion against the Government. Law could take the property of citizens of New York, in the shape of taxes and otherwise to maintain the Government, while every cent which the Government obtained in the State of Alabama to support its cause was necessarily obtained by force of arms.

Assuming, then, Mr. President, that the Constitution of the country and the laws of nations do not impose any legal obligation upon the Federal Government to pay for this property, I ask how does the claim stand upon other grounds? While I was a member of the Committee on Claims I was made the organ of that committee to reject a claim which I will now describe. Somewhere in the State of Virginia, I think near the city of Norfolk, a woman who was a true Union woman was suspected by the

rebels of conveying valuable information to the Union Army, in consequence of which her husband was killed, her house and furniture were burned by the rebels, and she and her little family were turned homeless and penniless upon the world. She made application to Congress to pay her for her house and furniture, so that she might have something with which to assist in supporting herself and her dependent family, but it was the unanimous judgment of the committee that the claim could not be recognized. Every one can see that to have recognized that claim would have opened a door to millions upon millions of claims against the Government of the United States. I affirm, however, that every argument which has been adduced here to support the claim of Sue Murphey can be adduced to support the claim of this Virginia woman. One is, and I believe it is the one upon which the Senator from Wisconsin chiefly relies, that the Government of the United States is bound to protect its citizens. Was not this Virginia woman a citizen of the United States? Was not the Government as much bound to protect and preserve her property as to protect and preserve the property of any other citizen in the rebel States? Manifestly, if the correctness of the claim in question be put upon that ground, it would require the Government to pay the claim of this Virginia woman and all similar claims, for the Government did not protect her in the possession of her property, notwithstanding she was a citizen of the United States.

Another argument that has been adduced here, and it has been repeated with very many impressive embellishments, is that the loyal people of the South, in view of the circumstances by which they were surrounded, are entitled not only to praise but to favor at the hands of the Government. Now, sir, I ask if any case can be found where a woman in the southern States displayed more heroism and more devotion to the country than this Virginia woman; and though conspicuous in that respect her claim was unanimously rejected by the Committee on Claims.

Something has been said about the circumstances of Miss Sue Murphey for the purpose of commending her to the favorable consideration of the Senate; but if she, a young and handsome woman, it may be without property, but with other bright prospects in life, is entitled to the sympathy of the Senate, how much stronger is the claim of that afflicted and penniless widow with her children dependent on her for support? No appeal to sympathy was of any avail in that case.

Some effort has been made to create a distinction between property deliberately taken and property taken in another way for the purpose of prosecuting the war. I think that is a distinction without a difference. Suppose while General Grant was investing the city of Vicksburg it was necessary to tear down houses or destroy fields of grain in order to erect his batteries, was that property deliberately taken? Suppose that the Union Army during the war were compelled to cut down forests for the purpose of supplying themselves with fuel, was that property deliberately taken? Suppose that in the pursuit of or retreat from the enemy the Union Army was compelled to seize horses, wagons, boats, or other means of conveyance, was that property deliberately taken? Many railroads in the southern States, millions of dollars' worth, I presume, of railroad property in the southern States was destroyed by the Union armies to prevent the retreat or the pursuit of a rebel force. Was that property deliberately destroyed or not?

Sir, no distinction of that nature can be made between the different kinds of property and the circumstances under which it was taken and destroyed. Pass this bill and put it upon that ground and you open a door to the Treasury which can never be closed until the nation is brought to the verge of hopeless bankruptcy.

Millions of property were destroyed in the

South by means of the emancipation proclamation. Slaves were as much property in law as horses and cattle. Suppose that a Union man whose whole property was invested in slaves joined the Union Army and was killed in battle and the emancipation proclamation left his widow and children without a cent in the world; is not that a case where property was deliberately taken by the Government, and are not the circumstances such as to appeal to our warmest sympathies? It has been by a constitutional amendment declared that no compensation shall be made to those who were slaveholders in the South for the emancipation of their slaves; and from that I argue that the people of this country have decided this question. They have decided that there is to be no distinction between loyal and disloyal people in the South as to their claims, for that constitutional amendment cuts off the claims of loyal men to their property in the same way as it destroys the claim of disloyal men to their property in the southern States. That question has been presented to the people of this country, and they have deliberately affirmed the doctrine that there shall be no recognition of such claims by the General Government. I know a distinction can be made on moral grounds between that and other kinds of property; but there were loyal men in the South and loyal families who suffered as much in consequence of the emancipation of their slaves as Sue Murphey suffered by the destruction of her house.

It has been said, for the purpose of producing effect I suppose, that to reject this claim is to treat the petitioner and others who stand upon the same ground as public enemies. Sir, I deny the correctness of that proposition. I sympathize with the loyal people of the South who have suffered in consequence of this rebellion. I am willing to go as far as I reasonably can to repair the losses which they have sustained; but when I say to Sue Murphey that I cannot vote for her claim I simply say to her that she must abide by the calamities and misfortunes of the war that have fallen upon her as the orphans and widows, childless fathers and mothers of the North, must abide by afflictions brought upon them by the war.

That is all that is said in refusing to pay this claim. War was raging in the State of Alabama, and Sue Murphey suffered by the presence of that war like thousands of other people everywhere in every part of the southern States; and to reject this claim is simply to affirm that she must abide by the circumstances in which this wicked and unhappy war left her and the other people of this country.

Sir, how stands the account? Compare the sacrifices and sufferings of the loyal States for the Government with the sacrifices and sufferings made by the disloyal States for the same purpose during the war. More than a million men were taken from active labor and from their usual avocations in the North and put into the field to fight the battles for the Government, while low down in the thousands may be found the number of those in the disloyal States who assisted in fighting those battles. More than two hundred thousand brave men who entered the Army from the northern States now sleep in bloody graves, who fell in fighting the battles of the country, while comparatively few sleep by their sides who enlisted into the Army from the southern States. Look at the contributions of means and money made during the existence of the war; compare the millions and tens of millions that were poured into the public Treasury from the northern States with the amount that was put into the public Treasury from the States arrayed in hostility to the Government. Take these amounts and strike the balance, and tell me if the people in the North—the tax-payers and those who fought the battles and sustained the burdens—ought now to be made to contribute their means to repair the losses which were occasioned to the southern people by their rebellion against the Government?

Sir, if this claim is allowed and the precedent established, it will necessarily follow, in

my judgment, that millions of dollars will be paid to people in the South on whose skirts is the blood of your murdered sons and brothers. I cannot, of course, form any accurate opinion as to the number; but I venture to say that thousands of men in the South contributed to create that sectional feeling of hatred which developed itself in the rebellion, and when the clash of arms came they retired and occupied a neutral position during the war. Such men can, of course, succeed in proving that they were loyal during the struggle, while they are a thousand times more responsible for the rebellion than the chivalric and impetuous youth who, under their education and influence, took up his musket and gallantly fought for what he supposed to be the rights of the State in which he was born.

Sir, it will be impossible—and that is a legitimate argument to employ here—to distinguish between the friends and the enemies of the country if you undertake to pay these claims. Taking the standard of loyalty which would be set up by my distinguished friend from the State of Kentucky, and I will ask how many of the people of the South would be excluded from a right to payment of their claims by his view of the question of loyalty? Thousands of people in this country say, and I suppose they believe, that the so-called abolition party of the North constituted the disloyal portion of the people, and that the people of the South were only fighting for their constitutional rights. If those who entertain that view of the subject, or any view kindred to that, should obtain the ascendancy in Congress—not perhaps an impossible thing—and they could resort to such a precedent as this case would establish, there would be no end to the claims, and nothing would put a stop to the expenditure of funds in their payment except the perfect exhaustion of the Treasury of the country.

I do not wish to do anybody any injustice, but I have supposed that to some considerable extent this rebellion demoralized the people, or a considerable portion of the people of the southern States. I hear of Ku-Klux organizations and men sympathizing with them. I hear of murders committed there in broad daylight, in the face of the men whose business it is to maintain the authority of the law, and the offenders go "unwhipped of justice." I hear of trials there which amount to nothing but mockery. Now, sir, suppose that a person in the South, considering that this war on our part was wanton and wicked, and believing that all the calamities which were brought upon the South by its prosecution were the work of tyranny, and that he is justifiable in resorting to any means to make himself even with the Government—suppose that such a person should prefer a claim against the Federal Government for property destroyed, how easy would it be for his Ku-Klux associates, or those who sympathize with him, or those who sit upon juries and refuse to convict when the evidence shows crime in broad daylight, to prove his loyalty. How easy to establish his loyalty by the testimony of such persons! These men have not, so far as I know, been particularly scrupulous about the means which they have employed for the purpose of redressing their supposed grievances. I do not mean to make this as a general and sweeping charge against the people of the South; but I say that the history of the day places a considerable portion of that people in this category. Make this case a precedent, and a cloud of claim agents will swarm around this Capitol, and the Government—which was strong enough to resist all the forces of the great rebellion would reel and stagger under the weight of its own rottenness.

Some effort has been made to distinguish this case from others, on the ground that the Federal Army occupied the town of Decatur, in which Miss Sue Murphey lived. Does that make any difference in respect to the merits of the claim? Is it true that wherever property was taken by the Army, in or about its encampment, the Government is bound to pay, but

wherever it was taken elsewhere the Government is exonerated from payment? The Army of the Union moved from point to point through the southern States. At one point it was found to-day, and there, it is said, if property was taken, the Government must pay for it; but to-morrow it moves to another point, and the position abandoned becomes rebel territory, and at the other point, if property was taken, the Government must pay. What sort of a principle is this to introduce into the adjustment of claims from the southern States? This property was taken as a part of the military operations of the Army of the United States to conquer the State of Alabama and compel it to submit to the authority of the United States, and I say that, in my opinion, the Government is no more liable to pay for that property than it would be to pay for the grass or wheat over which the Army might march in its movements, or to pay for the wood or ground that it might take or occupy in its encampment, or the structures which it might destroy upon the field of battle.

Much has been said about the manner in which this property was taken. Military officers of the Government desired the site of Sue Murphey's house for a fortification, and so the property was torn down and destroyed for that purpose; and it is argued that those circumstances give the owner a right to compensation at the hands of the Government. To illustrate my idea and to show the fallacy of this position, let me suppose that Miss Sue Murphey owned a house in one end of the town of Decatur and Patrick Murphey owned a house in the other end of the town; coming to that town in the prosecution of the war the Union Army found it necessary to erect a fort upon the site of the house owned by Miss Sue Murphey, and they tear it down and put up the fort. Soon after a party of the enemy makes its appearance and protects itself behind the house of Patrick Murphey, and a ball or some missile hurled from the fort standing upon the site of Sue Murphey's house at the enemy destroys the house belonging to Patrick Murphey. Now, says the distinguished Senator, the Government must pay Sue Murphey for her house, but it ought not to pay Patrick Murphey for his house. Assuming that they are both loyal citizens, one is as much entitled to the favor of the Government on that ground as the other. The property of each was destroyed by the same agency; the Government of the United States destroys the house of both persons. They are both destroyed for the purpose of prosecuting the war; and in all respects, it seems to me, that the claims of these two persons stand upon precisely the same ground. Establish this precedent, and it will be very easy to extend the range of your argument, and so we shall go on, step by step, extending the jurisdiction of Congress over these claims until the time comes when they will all be embraced and all recognized as valid against the Government.

I do not oppose this claim from any feeling of unkindness to the people of the South, or any portion of its people. I desire as much as any man can to see that section of our country restored to peace and to prosperity. I was sorry to hear it suggested that if this claim and similar claims were not allowed by Congress the loyal men of the South would cease to be the friends and become the enemies of the Government. I can hardly persuade myself that this intimation has been authorized by any considerable portion of the loyal people of that country.

Mr. FOWLER. I presume the Senator from Oregon alludes to me; if he does, I wish to correct him.

Mr. WILLIAMS. In the remark which I have just made I did not allude to the Senator. I alluded to what was said by another Senator. I have had a high appreciation of the loyalty of the loyal men of the South, and I cannot convince myself that a loyalty which stood the ordeal of the rebellion can be destroyed by any mercenary considerations, whatever they may

be; and I was more grieved to hear a Senator say to the Senate, in effect, that if these claims were not allowed by Congress every man, woman, and child in the South would repudiate the public debt. Sir, the Senator who makes that proclamation may speak possibly for the rebel part of the people in the southern States, and he may possibly speak for a class not far removed from the rebels; but I venture to affirm that there is not a negro in the South who will sanction such a doctrine.

I submit, Mr. President, in view of the considerations which I have presented, that we ought to consider well before we make a precedent fraught with so many evil consequences to the country. While I should be glad to see the losses that Miss Sue Murphey sustained fully repaired, and all the losses of every other loyal person repaired, I know that it cannot be done. I know there were losses made in every part of this country that can never be repaired, and there is no greater legal or equitable obligation upon the Government to pay the loss in this particular case than there is in thousands of other cases in which it is admitted on all hands that no relief can or ought to be allowed by the Government.

Mr. HOWARD. Mr. President, I should not have troubled the Senate with the few additional remarks I propose to make had not the honorable Senator from Kentucky yesterday seen fit to allude to me so distinctly and frequently in the remarks he himself made. The honorable Senator but repeated yesterday the same strain of argument in which he has indulged, to my certain knowledge, to a greater or less extent since 1863, in reference to the legal character of the conflict through which we were passing, and out of which we have now emerged. For some reason or other he and I disagree very broadly as to the legal effects of that state of things which I have denominated and still denominate a state of war between the loyal portion of the United States and the insurrectionary portion. He denies that the rebel communities were in any sense enemies to the Government of the United States. He denies that they can be so treated, either in their persons or their property, if I understand him rightly.

Mr. DAVIS. With the permission of the honorable Senator I will correct him.

Mr. HOWARD. Certainly.

Mr. DAVIS. He states that I deny that the men who were in a state of insurrection against the Government of the United States were its enemies in any sense. I never have assumed any such position. I say that every man who was in a state of insurrection or rebellion against the Government of the United States was its enemy, and he was its individual and personal enemy. But such a state of insurrection did not make the State or the community an enemy; it was only the individual personally, and by himself, that was an enemy, and nobody else, unless he was leagued with that enemy.

Mr. HOWARD. Mr. President, if none but such as actually waged war against the United States during that conflict was an enemy of the United States; in other words, if all persons who were not engaged in the actual prosecution of hostilities against this Government were friends of the Government, then the aspect of the case as presented by the honorable Senator from Kentucky changes greatly for the worse, as I will endeavor to show.

Mr. DAVIS. If the honorable Senator will permit me—

Mr. HOWARD. Certainly.

Mr. DAVIS. While I stand by and listen to him I will not allow him to misrepresent me. I have not said that all men who were not actively engaged in the rebellion were not enemies of the country. I say this: that every man who met the United States troops or authorities, with arms in his hands, was an open and declared enemy; that every man, woman, and child who aided and abetted them in their resistance was an enemy; but each and all of them were individually and personally enemies,

and each one was responsible for his guilt and for his proper proportion of guilt without any regard to or involvement of the State or community in which he lived.

Mr. HOWARD. Yes. Let me then ask the honorable Senator a question, if he pleases. The Constitution declares that treason against the United States shall consist in levying war against the United States, or adhering to their enemies, giving them aid and comfort. Does the honorable Senator from Kentucky hold that all persons who did not commit that technical crime of treason were friends of the United States?

Mr. DAVIS. Does the honorable Senator desire an answer?

Mr. HOWARD. Certainly.

Mr. DAVIS. I never have assumed any such position.

Mr. HOWARD. I did not say the honorable Senator had assumed that position. I put him the question with a view to ascertain his views.

Mr. DAVIS. I will state to the honorable Senator my position, if he will allow me to do so. It is this: every rebel, every person engaged in the insurrection, and every person who aided or abetted the insurrection, was an enemy of the country; but the responsibility of persons so offending was as individuals. They were not responsible as members of the community, of the State of Alabama, for instance. I deny that there is any such responsibility in the matter. The whole liability, the entire responsibility, was personal, and depended upon the personal and individual guilt and the extent of that individual guilt in each particular case.

Mr. HOWARD. Very well, Mr. President. Then how does the honorable Senator characterize that large portion of the southern communities who did not either wage war against the United States or render aid and comfort to the rebellion? Are they friends or are they enemies in the sense of the law? Will the Senator answer me categorically?

Mr. DAVIS. I will answer the honorable Senator categorically. Every man engaged in resistance by arms to the execution of the laws of the United States was a rebel to be shot down; every man engaged in resisting the execution of the laws, or aiding in that resistance, was a rebel to be prosecuted criminally for that resistance. A man who was not engaged in active, positive resistance, and that was not found in arms engaged in that resistance, was not a rebel to be shot down at all. At the same time he was a criminal, but he could only be proceeded against civilly under the law which made it criminal to resist the execution of the laws of the United States, and he could only be tried in the civil courts. That is my position.

Mr. HOWARD. Mr. President, I think my question was very distinct and perspicuous in its form; and as the honorable Senator has entirely omitted to reply to it, I take it for granted he does not choose to answer.

Mr. DAVIS. Mr. President, I think I have answered the question if the honorable Senator had intellect enough to comprehend my answer.

Mr. HOWARD. I say nothing about intellect, Mr. President. I am entirely willing the honorable Senator should impute to me a want of intellect. It may be my right and my privilege to appeal from his profound judgment on that subject, however.

Mr. DAVIS. I will say "will" and not "intellect," then.

Mr. HOWARD. I shall not bandy epithets with the honorable Senator. I put to him a very plain question, sir, which he refuses to answer. There were large portions of the southern communities who did not render aid and comfort to the rebellion. Were they the enemies or the friends of the United States? He does not answer. Yesterday the honorable Senator, I thought in rather a boastful manner; but certainly I will not impute to him a disposition to boast, put me the question whether the present State of Michigan, once the Territory of Michigan, while in the occu-

pation of its British conquerors in 1812 was enemy's territory; and he insisted that if my argument was sound in regard to the southern States during the civil war, and if they were enemy's country in the sense of public law, then the Territory of Michigan while in such occupancy was in like manner enemy's country, and that General Cass, a distinguished citizen of my State, then at Detroit and serving in the Army of the United States, although made a prisoner there, was, according to my doctrine, an enemy of the United States.

Now, sir, it surpasses my comprehension how the honorable Senator from Kentucky could have drawn any such conclusion, or how his genius could have invented such a state of facts for the purpose of replying to my argument. Why, sir, there is some slight difference between the status of Alabama during the recent civil war and that of the Territory of Michigan during the foreign war of 1812. Michigan, then organized as one of the Territories of the United States, in the peaceful enjoyment of all her political rights, did not imitate the example of Alabama at the breaking out of the war and go over and join the public enemy. That perhaps is a sufficient reply to the question of the honorable Senator. The Territory of Michigan was occupied by British troops, and was temporarily a conquest of Great Britain as one of the results of her successful military operations, but it did not cease to be the territory of the United States at all. The allegiance of its people remained precisely what it was before; they were American citizens temporarily in the power of the enemy, but were as much American citizens as they ever were; and the fact which he cites is entirely inapplicable and has no weight whatever as against the argument I have urged on this bill.

He asks, with a similar tone, when did Alabama become enemy's territory? Of course he denies—the question itself is a denial—that the territory ever was enemy territory. In short, he denies that there was a state of actual war as understood and defined by learned authors treating on the subject. Now, I will tell the honorable Senator from Kentucky how, according to my apprehension, the State of Alabama became enemy's territory, and all the property in it and all the residents within its borders became enemy's property or enemies in person. The first step toward converting it from friendly territory into hostile territory was the passage of the ordinance of secession by the representatives of the people of that State sitting in formal and solemn council. The next step was an engagement of the actual government of that State in waging hostilities—war against the United States. The honorable Senator says that these were mere individual acts; that there was no government in Alabama which could be held responsible, but that all these acts of war were simply the acts of individuals. Sir, this is not so. The honorable Senator is entirely mistaken in his view of the subject. The loyal government of Alabama was completely overthrown and expelled. It had ceased to exist. There was not a shred or a vestige of the once loyal government of the State of Alabama. It had been extinguished, absolutely annihilated by a power higher than all law, all constitutions, all written covenants, all agreements, all compacts; and that power was military violence, military force, which is the last appeal of kings and of communities; the power before which all Governments, all statutes, all treaties sink in the dust and are trampled on by the heel of the combatants. The next piece of evidence to show that Alabama was hostile or enemy's territory is found in the statutes of the United States. Shortly after this rebellion broke out, as we all know, Congress was convoked in extraordinary session by President Lincoln, and in July, 1861, passed a law which contains the following provision, under which all our military operations regularly proceeded as in the case of war. Section five of that act declared:

"That whenever the President, in pursuance of the

provisions of the second section of the act entitled "An act to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions, and to repeat the act now in force for that purpose," approved February 28, 1795, shall have called forth the militia to suppress combinations against the laws of the United States and to cause the laws to be duly executed, and the insurgents shall have failed to disperse by the time directed by the President, and when said insurgents claim to act under the authority of any State or States, and such claim is not disclaimed or repudiated by the persons exercising the function of the government in such State or States, or in the part or parts thereof in which said combination exist, nor such insurrection suppressed by said State or States, then, and in such case, it may and shall be lawful for the President, by proclamation, to declare that the inhabitants of such State, or any section or part thereof, where such insurrection exists, are in a state of insurrection against the United States."

That is to say, the State—for there can be no distinction in law or in fact between a State or the government of a State, and the people, the inhabitants of a State, for the inhabitants and they only constitute the State; the government is but their instrument:

"And thereupon all commercial intercourse by and between the same and the citizens thereof"—

That is, the inhabitants of the State in insurrection, all the inhabitants without distinction, without attempting to draw the futile discrimination between inhabitants who are friendly to the Government and those who are hostile to it, and all the inhabitants—

"and the citizens of the rest of the United States shall cease and be unlawful so long as such condition of hostility shall continue; and all goods and chattels, wares and merchandise, coming from said State or section into the other parts of the United States, and all proceeding to such State or section, by land or water, shall, together with the vessel or vehicle conveying the same, or conveying persons to or from such State or section, be forfeited to the United States."

In pursuance of that statute the President in August, 1861, issued his formal proclamation declaring that the inhabitants of Alabama, among other States, were in a state of insurrection against the Government of the United States, and forbidding and prohibiting all intercourse and trade between the people of that State and of the other States of the Union. Now, let me ask the honorable Senator from Kentucky where in the Constitution of the United States is found a clause authorizing the Government of the United States to prohibit intercourse between two States of this Union unless it be under that clause authorizing the United States to make and carry on war or to suppress insurrection? Sir, without the existence of war, called at that time insurrection, it is perfectly clear that this clause has no foundation whatever in the Constitution. This act is therefore a direct and clear recognition by Congress, acting under the war-making power and under the power to suppress insurrection, of the existence of a state of war between the loyal and the disloyal portions of the United States. Nothing can make it more manifest. It is a clear, unequivocal legislative recognition of the existence of a state of war between these communities as such, applying to that status all the incidents belonging to a state of war between foreign nations, cutting off intercourse, preventing travel even, preventing a man in the South, whether a friend or foe, from passing our lines to visit his friends in the North, and *vice versa*, prohibiting citizens in the North from immigrating into or trading with the rebel country.

I believe the honorable Senator from Kentucky was not in the Senate at the time of the passage of this act; but his doctrine goes to deny the validity and constitutionality of that, the first statute passed by Congress upon the subject. His denial that a state of hostility, of enmity, existed between communities, in other words, between the rebel States and the loyal States, can be based upon no other principle than that we have had no war; that the conflict through which we have passed was not subject to the rules and usages of war, and, in short, that all we have done by waging war to put down the rebellion has been in violation of the Constitution itself. He would appeal to the courts, he says, for the punishment of indi-

viduals. Well, sir, Congress took a different view of it. Congress took the same view of the then condition of things between the two sections of the country as the writers upon public law and the laws of war take of ordinary civil wars when they say that when a country is divided by a civil war, and is so divided as to comprise on each side large portions of the community, those portions of the community in the prosecution of that civil war are, to all intents and purposes, to be treated and considered as two independent, sovereign nations waging the highest controversy known to mankind for the purpose of ascertaining which is the stronger. It then becomes not a question of statutes, not a question of constitutions, but a question of superior force, and you can put it upon no other ground than that of force. Which party shall go down, is the only question; which can deal the heaviest, the most destructive blows; not which can appeal to the Constitution, nor any particular clause of the Constitution, or treaty, or statute. It only illustrates the old maxim of the common law so often quoted, *inter arma leges silent*, there is no "law" in a contest of arms.

Mr. DAVIS. There is no such maxim as that in the common law.

Mr. HOWARD. Then the honorable Senator has been very forgetful of his Blackstone. I would commend him, if he will allow me, to enlighten his already brilliant intellect by a perusal of a few pages of that somewhat to him forgotten author. I fear he has little regard for Blackstone, and I am very sorry to see it.

The honorable Senator insists that all acts of the so-called rebel government were absolutely null and void. He makes it a contest of individuals. He will not allow that the usages and laws of war had any place in the controversy. He holds that all acts tending to that war on the part of the rebel States were absolutely void. He goes even further, and denies that any of the statutory regulations of the rebel governments had any force or validity as law. Let me read what he says:

"Mr. HOWARD. Will the honorable Senator allow me to ask him one question right there?"

"Mr. DAVIS. Yes, sir."

"Mr. HOWARD. I understood him to say that everything that was done by the rebel government was null and void."

"Mr. DAVIS. Yes, sir."

"Mr. HOWARD. Does he adhere to that principle?"

"Mr. DAVIS. I do, and I have always maintained it, and I expect always to maintain it. I say there was no government *de jure* or *de facto* in the southern confederacy."

That is at least sufficiently broad and comprehensive. I do not propose to argue that question at any length, but beg merely to say that I differ entirely with the honorable Senator from Kentucky upon that question. Sir, there were governments in the rebel States; there were legislatures in the rebel States. Those legislatures passed laws in very great numbers, to which every resident within the limits of the State owed, for the time being, at least, obedience, laws under which private rights were regulated, under which deeds and conveyances of land were made, marriages entered into, under which estates descended and were distributed, and under which, in fact, all the machinery of civil government was put and continued in operation; and social rights, the rights of property, the rights of commerce, and every other species of private right were regulated. Does the honorable Senator hold that under those laws, if one rebel deeded to another his land the deed itself was null and void? Does he hold that a marriage celebrated according to the statutes of a rebel State would be null and void in law? In short, does he hold—he is a lawyer and a good lawyer; he is a Conservative, and a distinguished Conservative—that in the southern country during the pendency of this war for nearly five years the people of the rebel States were without law? Does he rise here to inculcate that anarchy, absolute anarchy existed throughout the rebel dominions? No, sir; he cannot as a thinking,

reflecting man come to any such conclusion. He must recognize the laws of war and the public law of the world, which declare that during the existence of such a rebellion, the laws passed by the existing *de facto* Legislature, or by whatever legislative power, must have force, and that the rights of property and the rights of person must be recognized, not only during that period, but after the close of the war, whenever those rights are called in question in courts of justice.

Mr. DAVIS. If the honorable Senator will allow me, I will tell him what my position is in relation to the point that he now makes. The States whose people went into the rebellion were members of the United States. They had their own State constitutions and governments and statutory and common law. So far as these governments of the States with their different systems of law operated in friendliness or in harmony with their relations to the Government of the United States and in subordination to the Constitution of the United States, those laws operated validly in relation to all the matters to which the honorable gentleman has referred. But so far as any legislation, any acts of conventions called in the States whose people went into the rebellion were in conflict with the Constitution of the United States, or with their proper, peaceful, constitutional, and subordinate relations to the Government of the United States, they were, that far, absolutely null and void. That is my position.

Mr. HOWARD. I was entirely satisfied that the honorable Senator would find it necessary to modify the ground which he took yesterday.

Mr. DAVIS. I have not modified it; I have only defined it. The ground that I took yesterday was general. I now make a definition of my ground, and make a more particular application of it than I did yesterday, for yesterday I made none.

Mr. HOWARD. Very well. Then, in applying the general doctrine which the honorable Senator announced yesterday, he finds it necessary to interlard the text with various exceptions and limitations, does he? I thought he would. Yesterday, in answer to my question whether everything done by the rebel government was null and void, he said, "Yes; everything." Now he says some things done under the rebel governments were not null and void. I think he is right now.

Mr. DAVIS. Everything in the course of the rebellion, if the honorable Senator pleases, and in the course of resistance to the laws and authority of the United States.

Mr. HOWARD. Well, Mr. President, I will call the honorable Senator's attention to another supposititious case. Undoubtedly, the honorable Senator will hold that a rebel Legislature could not impose taxes upon the people of the State for the purpose of prosecuting the war of the rebellion. He would hold that to be an illegal act if he would hold any act to be illegal, I take it. Suppose that property had been seized at the South for the purpose of satisfying the taxation imposed upon the people of an insurrectionary State; and suppose that a tract of land had been put up at auction for non-payment of the taxes imposed by the rebel State government and had been sold to an honest purchaser for a valuable consideration and in strict pursuance of the statute imposing the taxation; I ask the Senator whether he holds that the title of the purchaser of that property under that sale would be void? No, sir, he cannot so hold. It must be conceded that private rights, where they arise out of the laws of a hostile Legislature, are to be respected even by the conqueror, and are to be respected by all courts in the future.

Now, sir, let us look for one moment at this case of Sue Murphey. I would most respectfully inquire of the honorable Senators from Alabama, who have participated in this debate, if they can inform the Senate at what time and in what manner the title of Sue Murphey to this farm accrued? Was it dar-

ing the war? Was it by inheritance? Was it by regular, formal conveyance? Or how did this transfer take place?

Mr. WARNER. I will say to the Senator that I am not able to give him the information. I do not know the facts in the case, and do not know anything about the case.

Mr. HOWARD. We know nothing about it, sir. We have no information on the subject. I have a surmise that this title came to Sue Murphey during the war. I may be mistaken about that. But if it came to her during the war and the doctrine of the honorable Senator from Kentucky holds good that the laws existing in Alabama *de facto* during that time were no laws, were all null and void, then I ask him how it is possible for him to reconcile it to his conscience to pay Sue Murphey for a piece of land which does not even now belong to her? If the honorable Senator is driven into that necessity, if he would pay Sue Murphey for the damages done to this land, he must be satisfied, in the first place, that she has a good title, and had a good title at the time the damage was committed. Still, according to his doctrine, if it shall turn out that she acquired the title under the rebel laws of Alabama, she has no title at all; and I fancy it will turn out that she did during that period acquire the title.

Mr. President, it is said that we are under an obligation to indemnify loyal persons of the South for damages done to their persons or property by the operation of our armies. So far as we have seen this obligation is confined by its advocates to loyal persons at the South. It has not yet been announced to us that we shall be called upon to pay disloyal persons for damages done to their property. Now, I ask those who favor the passage of this bill to listen to me for one moment. What is to be the test of loyalty at the South? How are the courts or the commissioners or a committee of this body to determine who was loyal and who was disloyal? What is the test which you will set up, what the criterion? You will find it impossible to establish any. Undoubtedly there were numbers of persons, not very large, however, in the insurrectionary States who favored the old Government, and who were at heart opposed to the rebellion. During the existence of the war ninety-nine out of a hundred of this class of persons could only remain silent. If they remained in the rebel country it was dangerous for them to open their mouths. They were silent. They dared not do an act in favor of their old Government nor say a word in its favor. The best that can be said of them is that they were neutral and silent, friendly to the old Government at heart, but timid and inefficient in its defense. They stayed at home enjoying their property, maintaining a discreet silence, but at the same time trading with the rebels at home, carrying on their business there, making money, and amassing fortunes.

Still they were, as it is and will be said, "loyal." You would pay this class of persons for damages done to their property; you would reward them for being silent on the ground that they were "loyal," as you say, while at the same time they have contributed by way of taxation, and perhaps in other modes, to the prosecution of the rebellion. Their property has been the fund from which the rebel Government has drawn support and supplies. They have enjoyed all the advantages of peace undisturbed—peace in the midst of a rebel population. You would pay them for the damages and the ravages of the war. Why? Your only answer is that they were silent and had at heart a friendship for the old Government. On the other side of the street is living a man, and has been living there during the whole of the war, who has maintained also a discreet silence, who also has done nothing but to contribute in the shape of taxation to the prosecution of the war, but who in his heart was a rebel, sympathizing with the rebellion and desirous of its ultimate success.

I ask gentlemen upon what principle of jus-

tice or law it is that you will draw a distinction between those two cases? Will you pay the Union man who has done nothing and said nothing for the damages which he has sustained, simply because he has done nothing and said nothing, and refuse compensation to the disloyal man, because, not having done anything, not having said anything, he entertained in his heart the desire that the rebellion might prove a success? Sir, you can never draw any such distinction either in law or common sense. If you pay the one you are bound to pay the other, because your only real excuse for paying the one is that the public necessities required the damage to be done to his property, and the same necessity compelled you to take the property of the other, the silent rebel on the other side of the street. It makes silence the test, and under this rule both are equally deserving.

Sir, I am entirely opposed to the adoption of any such principle. The whole southern communities were drawn into the war by their own consent. The fortunes of the minority necessarily followed those of the majority. If there were Unionists there of such undaunted pluck and of such desert as represented, how did it happen they remained in the enemy's country during the whole of the war? Why did they not make their escape? Why did they not sell their property and come out from among the rebels and show themselves men?

Mr. President, I can never be brought to adopt any such general principle as the one embodied in this bill nor any such doctrine as that which has been promulgated here in the Senate upon the subject of these claims. I tell you, sir, the time is not far distant, if this claim shall be allowed, when you will have uncounted thousands of claims in the name of loyal citizens of the South, but who during the war belonged to that silent class who did nothing and said nothing against either party, but who during the whole of the rebellion extended their sympathies to the rebels in the field. You will, in the course of twenty-five years or less, be called upon to pay every dollar of damages done to the property of all classes of persons, loyal and disloyal, at the South. And gentlemen will come here from the South, having the same feelings that members of the Senate and of the House of Representatives have had at other times, who for the sake of popularity, for the sake of getting votes and influence at home, will become the advocates even of rebel claims on this floor.

I concur entirely with the honorable Senator from Oregon [Mr. WILLIAMS] that the question of paying such claims has been substantially settled and decided by the people of the United States in the adoption of the fourteenth amendment to the Constitution. He pointed out attention to that clause which prohibits Congress from paying for slaves. The clause itself goes further. It declares that—

"Neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void."

This clause destroys in the pocket of Sue Murphey the confederate bonds, if she has any, and deprives her entirely of any claim growing out of those bonds or any other species of indebtedness which she may have received either from the confederate government or the government of the rebel State of Alabama. They cannot be enforced in any court of justice. They are declared to be illegal and void. Now, sir, what is the difference between depriving her of that species of property, rendering it entirely useless and valueless, and our withholding from her compensation for damages done to her freehold in the regular operations of war, when it is perfectly plain that the necessities of the service required the destruction of her house and the erection of a fortification upon its site?

Mr. President, I was a little pained to hear yesterday remarks falling, some of them from

the honorable Senator from Kentucky and some from other gentlemen who advocate this claim, indicating a disposition on their part to accuse members of this body of illiberality and indifference to the sufferings of the Unionists in the rebel States. This accusation comes with a very bad grace from the honorable Senator from Kentucky. He says we were living in our quiet homes in the North and saw nothing of the ravages of that dreadful war, and seemed to intimate that we were almost indifferent spectators to what was passing. Are the gallant people of my State amenable to such a charge as this? Why, sir, the very property, the very house of the honorable Senator from Kentucky, was defended and preserved by the strong arms of my own neighbors against the violence and ravages of the rebel columns and the rebel raiders.

Who defended the property of the Union men at the South? Was it Kentucky that defended the property of Kentuckians? To a very small extent, sir. But for the courage and gallantry, the bone and muscle, the resoluteness and the determination of the neighbors of Kentucky, Kentucky herself would have been swept into the vortex of the rebellion and would have become as thorough a rebel State as there was in the confederacy; the property even of the Senator from Kentucky might have been swept away by a rebel raid or a rebel confiscation. And the same may be said of thousands and hundreds of thousands of Unionists at the South—ay, sir, even rebels at the South—who during the first stages of the war were protected most scrupulously, and I will add most ridiculously, in the enjoyment of their property by the Union forces, acting under mistaken and erroneous instructions, are to-day indebted for their estates to the forbearance, as well as the courage of the Union troops.

Sir, let us hear no more of the indifference of northern men to the sufferings of southern Unionists. It was northern men who rescued them and saved to them their lives and their liberties. It was northern blood and northern treasure that put an end to the rebellion. And are we now to be met with charges like this, and to have superadded to them a threat that in case we shall not vote to pay off the damages done to Union men in Tennessee and elsewhere our present friends there will turn around and vote for repudiation? Sir, let the honorable Senator from Tennessee [Mr. FOWLER] go back to his constituency; let him go into East Tennessee, where the suffering has been most intense, where the courage and gallantry of Unionists has been most conspicuous, most admirable; let him go before the inhabitants of East Tennessee, who were scattered and persecuted as no people ever were for the cause of the Union, and preach the doctrine of repudiation to them. My apprehension is that they would laugh him to scorn. He would find no sympathy in the heart of any Tennessee Unionist, however great may have been his losses and sacrifices during the war. I have a higher respect for southern Unionists than seems to be entertained by him or by the honorable Senator from Kentucky.

Sir, we have all suffered in this war. The southern Unionists while within the enemy's lines have suffered far less. Let me tell you, than any other class of persons. They have remained at home as a general thing. I do not say this of all of them. I know that the southern Unionists have displayed upon occasions great determination, great patriotism, and that they are worthy of the highest praise; but, as a general proposition, I say that no class of persons have been so little disturbed and so little tormented by the recent rebellion. The mass of them remained at home taking no part in the war. They paid no taxes to support the Government. They could not do it. They were exempted by being in the enemy's country from that burden. But instead of paying taxes to their old Government, the rebel governments have levied taxes upon them and

they have paid them, thus aiding by their property in assisting the rebellion. This was one of the necessary results of their territorial situation. If they remained in a rebel State they were obliged to submit to the laws of that State and to contribute their proper proportion to the support of the rebel armies.

Mr. President, I have said more than I intended to say upon this subject. I hope, as this is a pioneer case, a specimen case out of which is to grow the established policy of this Government in reference to this class of claims, that the bill will be recommitted to the committee, and if necessary with instructions to report more particularly the facts connected with the case in order that we and the country may see the whole of this argument on both sides, and be fully informed upon it.

Let our friends who bring against us this imputation of being unkind to southern Unionists be a little cautious. Southern Unionists, as I have already remarked, are not the only persons who have suffered in this war. Let them be still more cautious how they invite persons at the South who are rebels, and have been rebels, to present their claims to Congress and ask payment for the destruction of their property; for that will be the next step—a short, but an inevitable step. I am free to say, Mr. President, that I would prefer to see this war waged over again, to see it fought out for four years longer, before I would submit to the humiliation, the absolute disgrace, of calling upon my people, the very soldiers who carried their victorious arms into the South, to contribute of their property to pay rebels for damages done by their own operations in the field! Sir, you may rely upon it the northern people will never submit to any such proposition. I warn our friends from the South to tread lightly, very lightly upon the toes of the northern soldiers who fought our battles. Do not ask them to pay the rebels for damages done to their property which they found it necessary to do in the honorable prosecution of the war to crush out the rebellion. Do not ask them to cover themselves with an infamy so enormous.

Mr. SAWYER obtained the floor.

Mr. FOWLER. With the permission of the Senator from South Carolina, I desire to make a personal explanation in reference to a matter that occurred here the day before yesterday. The Senator from Massachusetts [Mr. SUMNER] read a letter from a Mr. D. Humphreys in relation to Miss Sue Murphey's claim. At the time the letter was read I did not recall to mind any Mr. Humphreys of Decatur, and I asked the Senator from Alabama [Mr. SPENCER] who he was; and he gave me such an answer as fully warranted me in making the statement that I did. Since that time I have learned that I had met Mr. Humphreys and had entertained kindly feelings toward him and done him some service. I know nothing personally about his position in Alabama. I still retain my abhorrence for his improper course relative to the letter with regard to Miss Sue Murphey. He has given me to understand that it was written without due consideration. I hope that he may receive no injury from the statement made, and which I take pleasure in correcting. My knowledge of the character of the Senator from Alabama fully warranted me in making my statement, as I have implicit confidence in whatever he says, knowing him to be a prudent man and well disposed toward the people of his State and of the United States.

INAUGURATION BALL.

The PRESIDENT *pro tempore*. Before the Senator from South Carolina proceeds the Chair will lay before the Senate a resolution of the House.

The Chief Clerk read the resolution, as follows:

Resolved, (the Senate concurring.) That so much of the Capitol as is hereinafter mentioned be granted to the committee of control, in which to conduct the inaugural proceedings, other than official, of President and Vice President, on the 4th of March next, to wit: the Rotunda, the old Hall of Representatives, the Senate corridors, and Senate public reception room, the passages leading thence to the Rotunda and old

Hall, and so much of the basement not used by the committees as may be required; the Senate Chamber, Hall of Representatives, committee-rooms, and all other parts of the building to be closed to the public, except the east entrance to the Senate; the occupation not to take place until after the official inauguration, and the building to remain all the time in charge of and under the control of the Sergeants-at-Arms of the two Houses of Congress.

The PRESIDENT *pro tempore*. The resolution will be referred to the Committee on Public Buildings and Grounds, if there be no objection.

Mr. FESSENDEN. I think that resolution may as well be acted upon now. It is rather important that it should be settled one way or the other.

Mr. HOWARD. Let us pass it.

Mr. FESSENDEN. I will briefly state the facts with regard to it.

The PRESIDENT *pro tempore*. By unanimous consent it can be taken up now. If there be no objection it is before the Senate, and the question is on agreeing to the resolution.

Mr. GRIMES. The Senator from Maine is on the floor proposing to explain what it means. I should like to hear the explanation.

Mr. FESSENDEN. If the Senate will pass it without explanation I shall be very glad. I do not desire to make one.

Mr. GRIMES. I want one.

Mr. FESSENDEN. The Committee on Public Buildings and Grounds have already considered it, and they are all but unanimous. There is one member who has some doubt about it. The others are in favor of passing the resolution. They see no objection to it. I hope it will be passed.

Mr. GRIMES. What is it for?

Mr. FESSENDEN. It is merely to allow the use of certain parts of the Capitol for the proceedings.

Mr. GRIMES. The ball?

Mr. FESSENDEN. I presume it includes the ball.

Mr. GRIMES. I should like to inquire what this reception is to be, whether it is to be a ball or not. We may as well talk it out in the English language and have it understood.

Mr. POMEROY. It is the inauguration ball.

The PRESIDENT *pro tempore*. Does the Senator from Iowa call for the reading of the resolution again?

Mr. SUMNER. I should like to have it read.

The Chief Clerk again read the resolution.

Mr. SUMNER. Do I understand that the committee have reported the resolution?

Mr. FESSENDEN. No, sir; the committee have not reported it. The Committee on Public Buildings and Grounds were consulted in relation to the matter and came to the conclusion that it was not within their power to authorize the use of so much of the building, and they recommended therefore that an application should be made or a concurrent resolution introduced to see what Congress would say to it. But the committee considered the subject, and of the House members on the committee all were in favor of it, and of the Senate all but one. Now, sir, I will state the reasons for it. There is no building in which these ceremonies not official can be had in the city.

Mr. WILSON. Does it mean a ball?

Mr. FESSENDEN. I mean a ball, the inauguration ball. There is no doubt about what is meant, and I do not know why it is not so expressed.

Mr. SUMNER. There is the Patent Office, which was used four years ago for this purpose.

Mr. FESSENDEN. It has been used several times; but is now occupied.

Mr. NYE. That is full of things that do not dance. [Laughter.]

Mr. FESSENDEN. Yes, it is now occupied, so that it cannot be used for this purpose. The truth of the matter is simply this: they must either erect a building on purpose or they must use the Rotunda of the Capitol.

Mr. POMEROY. Is there any law requiring

these services? I mean, are they obliged to have them?

Mr. FESSENDEN. If public opinion and public sentiment are a law I think there is a law requiring that there should be an inauguration ball.

Mr. POMEROY. The Senator will see that this resolution provides that these rooms shall be all the time under the control of the Sergeants-at-Arms of the two Houses. Whether that means all the time, forever, or only during these services I do not know. But we have a rule that the Presiding Officers shall have charge of the building.

Mr. FESSENDEN. That is a sharp verbal criticism that will have what effect it may, I suppose, upon the minds of the Senators. I am stating the fact. Now, sir, they cannot afford very well, they say, to erect a building, as has been done, I believe, on one or two occasions, for this purpose; it would cost too much and make the affair too expensive. They therefore make this application to Congress. I am assured that it is to be under the control of gentlemen who will not allow any liquor to be brought into the Capitol or to be used on the occasion; and inasmuch as this seems to be a necessary part of the inauguration ceremonies, the Committee on Public Buildings and Grounds, all but one of them, thought it would be as well, under these restrictions and under the charge of the proper officers of the two bodies, and having a police to take care of the building, to let them have the use of it. For myself, although the day has gone by for me to go to balls, I have no sort of objection; and I really see no impropriety, no unfitness, inasmuch as it is a very necessary and useful part of the ceremonies of inauguration that it should be in the Capitol, considering the occasion, under proper restrictions and regulations. That influenced me in agreeing to it; and I suppose it influenced other gentlemen of the committee. It is, however, for the Senate to decide. Of course, it is a question in which the committee feel no personal interest.

Mr. CAMERON. I hope we shall not pass this resolution. It seems to my mind to be altogether wrong. I am not willing that the Senate of the United States shall become a part of the pageant for the inauguration of anybody as President of the United States. I remember hearing the older men in the Senate say that when Mr. Jefferson was inaugurated, he ordered his horse to the door, mounted it, rode up to the Senate Chamber, took the oath, and that was all there was of it. He tied his horse out here to a stake in front, and came up to the Senate Chamber to be sworn in, and I think, having the opinion of General Grant that I have, he would much rather do that than have a thousand soldiers leading him up to the Capitol, and coming in here and having a grand ceremony.

Mr. NYE. Will the Senator allow me to ask him a question?

Mr. CAMERON. I would rather not yield to a question from my friend, because I am afraid I should not be able to answer it, he is so smart. [Laughter.]

Mr. NYE. I should like to know if there is anything in this resolution to prevent General Grant coming here in the same way and hitching his horse to the same stake if he can find it? [Laughter.]

Mr. CAMERON. Certainly there is, because you invite him to a ball. I remember perfectly well the disgraceful scene that occurred here nearly four years ago. If the matter had all been settled in a quiet way we should not have been disgraced, nor the country dishonored, nor offense given to the foreign diplomats who were here.

Why should we have a ball at the inauguration? It is perfectly right that those who are fond of dancing should have a ball in honor of the ceremony of General Grant's inauguration; but let it be in some other part of the town; let it not be a part of the pageant which the Government brings forth for that occasion. I am perfectly willing to pay my share; I sup-

pose it will cost ten or twenty dollars apiece; and I will go there with pleasure if it will add anything to the dignity or the honor of the occasion. But I hope we shall not give a vote here which will make it a part of the official programme which inaugurates the President of the United States.

Mr. FESSENDEN. Oh, no; the language of the resolution is "proceedings other than official."

Mr. CAMERON. It will be official if we pass this resolution. You may call it unofficial, but it will be official; and after awhile some President-elect may come here and direct that we shall give him a ball here; that we shall open the Halls of both Houses and receive him as the conqueror of our liberties. I am not in favor of that. There is no good that can come out of it. I was just as anxious that General Grant should be elected as anybody else was, and I trust he will live long to do honor to the place, as I have no doubt he will; and I trust I shall live to see him inaugurated a second time; but I am not in favor of opening these Halls to any ball or any dancing party, especially when there is to be nothing on the occasion to make us joyful. [Laughter.]

Mr. GRIMES. That is contrary to Pennsylvania rules. [Laughter.]

Mr. CAMERON. Certainly it is. The good old Presbyterians of Pennsylvania always had something to make them joyful on joyful occasions. [Laughter.]

I trust, sir, that this resolution will not pass. It is all wrong. If there is to be a ball let it be given by the people of the city. Do not let us give it an official character, as we shall do by this resolution.

Mr. TRUMBULL. If the yeas and nays were to be called on this resolution I should content myself with simply voting against it; but as it seems about to pass without any division, I wish to say enough to show that I am opposed to the adoption of any such resolution. I think it exceedingly inappropriate to surrender up this building for a dance and a ball to be given on any occasion, and to turn it into an eating-house. It is said that no liquors are to be brought into the building. I apprehend liquors will be found very near the building, if not in it; and the scene which will be very likely to follow from the crowd and the rush and the victuals that are prepared in the building, I think, will be found not to be very creditable to the Congress which grants the permission. Like the Senator from Pennsylvania, I think it altogether inappropriate, and I am sorry the application has been made. It will be the opening and the beginning of such things. If it is granted now it will be followed up, and probably not only on occasions of inaugurations, but on other occasions applications will be made to have balls in the Rotunda; and how are you going to refuse them? It will be very unpleasant to vote against such applications.

I recollect some years ago applications were made for this Hall, and, I believe, on one occasion it was granted to some lady to lecture in. My friend from Oregon, [Mr. WILLIAMS,] perhaps, can remember the occasion. [Laughter.] The Senate, however, became so dissatisfied with it that I think we passed a resolution that it should be allowed no more; and I do not know but that we would pass such a resolution after this is granted. I shall take up no time in regard to it, but thinking it inappropriate and improper, that it will lead to scenes that we shall be likely to deprecate, I, for one, shall vote against granting it.

Mr. POMEROY. I call for the yeas and nays on the passage of the resolution.

The yeas and nays were ordered.

Mr. FERRY. Being a member of the Committee on Public Buildings and Grounds, to which this matter had been brought before the introduction of the resolution here, and having concurred with the majority of that committee in the opinion that the resolution might properly be passed, I wish now to state very briefly the reasons why I came to that conclusion.

I think it is a good thing to have a merry-making at the inauguration of our Presidents. I think our people do not have days of holiday amusement enough for their good. I believe the day of inauguration is a very appropriate time. I believe that the inauguration ball, which has been customary for a great number of years, as I am informed, may be conducted in such a manner as not to lead to any of the scenes which Senators seem to deprecate, and that it may be conducted so that no harm, but positive good, will ensue from it as an addition to the occasions of relaxation, of which, as I have said, I think our people have too few.

The resolution does not propose to occupy either of the Halls of Congress, but simply the Rotunda and the old disused Hall formerly occupied by the House of Representatives. The refreshments are to be below, prepared by the caterers, where they are prepared every day now and every night when we have evening sessions. The building is to remain under the Sergeants-at-Arms of the two Houses, and it has an efficient police. If the inauguration ball does not take place here and under this supervision, it will take place in a structure put up for the purpose, and without supervision, or without, in my judgment, as effective supervision. I think, therefore, that it is better, as it has become a part, as it were, of the proceedings of inauguration day to have such a festivity, that it should be done in this manner; and I see nothing in the character of the building as a public building which should lead us to vote against such a proposition any more than we should have voted against allowing the use of the Patent Office on a former occasion.

Mr. SUMNER. As I understand it there is no question whether there shall be a ball in honor of the inauguration. That is not the question; but the question is whether the ball shall be under the Dome of the Capitol. Now I must say—I may be in error; and when I see the tendencies of Senators about me, I am led to infer that I must be in error—but it does seem to me that this proposition is bad in itself and is worse as a precedent. Where will you stop? Forever hereafter on inauguration day the Dome of the Capitol is to cover a ball-room. Prepare yourselves for it. If you vote it, bear in mind the precedent that you adopt. Do not expect that the precedent is to be restrained to inauguration day. There will be other occasions. People will wish to dance on other days than inauguration day, in honor of some victory, some other incident of life; and you must be prepared then either to vote that they shall, or to deny it, and, if you deny it, to make a distinction between the two cases.

There was an old patriotic saying which our fathers borrowed from their English ancestors; and it was "oppose beginnings," *obsta principis*; and I incline to think that on this occasion it may be properly applied. That is one of the very arguments which have been sounding in this Chamber during the last week with regard to a famous claim of a person by the name of Sue Murphey, of the State of Alabama. Many of us oppose it on the ground that it is a bad precedent, that it will open the door wide to infinite claims on the Treasury; and now from that bad precedent we pass to the consideration of another of a very different character, but which I regard also as bad. I hope, sir, that the Senate will not adopt the resolution.

Mr. PATTERSON, of New Hampshire. Mr. President, I am very sorry for one to feel obliged to protest against a thing of this kind. I think it is in exceeding bad taste that it has been brought here. When I was a member of the House of Representatives a resolution was passed there shutting up the Hall of Representatives against all services except religious services, aside from legislation. And now from the same House has come to us a resolution proposing to open the old Hall of Representatives and the Rotunda under the Dome to a dancing party. I do not object to dancing on proper

times and proper occasions; and it may be very well to dance on inauguration day, but I do not think it is best to do violence, if you please, to the prejudices of any part of the people of the United States by opening the Capitol to amusements of this kind. There are other places in the city where this merriment may be carried forward.

Mr. FESSENDEN. There are none.

Mr. PATTERSON, of New Hampshire. Then, sir, I would pitch a tent; and if there is not a tent wide enough I would dance under the tent of heaven rather than to dance here in the Hall where the nation enacts its laws. I think, sir, it is doing violence to the prejudices, to say the least, and to the sentiments of a very large and respectable part of the people of the United States.

Mr. HENDRICKS. Mr. President, I suppose all Senators will desire that the incoming of the next administration shall be celebrated with all the ceremony which usually attends such a transaction. I desire to bestow the same honor on General Grant and Mr. COLFAX in coming into office as has been bestowed upon the great men who have filled those offices in time past. With a view of satisfying myself just how far we ought to go—I have not investigated the subject—I desire to inquire of the Senator who champions this measure whether any part of the Capitol has ever heretofore been made a dance-house?

Mr. NYE. Mr. President, as the dancers do not seem to have any particular champion here I propose to enter the lists myself. [Laughter.] My venerable friend on my left, [Mr. SUMNER,] and my still more venerable friend on my right, [Mr. CAMERON,] undoubtedly twenty years ago would have voted for this proposition cheerfully. [Laughter.] They having passed that age which I have just arrived at, I propose to let them dance, and let them dance in the Rotunda. I am sorry that my friend from New Hampshire should have had his religious prejudices aroused, because dancing is an old religious custom. There was dancing before the Ark. The Israelites danced after crossing the Red sea; they danced and sang under the temple that my friend proposes to dance under, which would be very well if it was warm weather, [laughter,] the canopy of heaven. They sang and felt good and would have enjoyed the Rotunda if they had had it.

Now, it seems that this is about the only place in this city that is suited to the occasion. I believe that this proposition goes a little further than what has been heretofore. On the occasions to which I have referred liquor was not excluded; but I am willing to keep a place for the accommodation of my friend before me, [Mr. WILSON,] and have no liquor in the Capitol except what persons bring in concealed about their persons. [Laughter.] I do not think there is any danger in that.

From the first inauguration of Washington to the present time there has been dancing at every inauguration; and they will dance when my friend and I have ceased to be.

Mr. DOOLITTLE. I will ask the honorable Senator whether they ever danced pursuant to act of Congress, or danced voluntarily? [Laughter.]

Mr. NYE. I will relieve my friend from any trouble on that score, as I know he does not dance; and I would be willing to relieve him from voting upon the question. This is not dancing by act of Congress, but it is a congressional permission that they may have the Rotunda to dance in, a common hall. These gentlemen who come here to dance own just as much of this tabernacle as we do.

Mr. DOOLITTLE. I ask my honorable friend if there is not a very large portion of the people of the United States who do not dance, and who do not wish to pay their money or have their property used for public balls?

Mr. NYE. No; I think not, Mr. President. [Laughter.] I deny that proposition. I think a very large majority do desire to dance; and when they get so old they cannot dance themselves, they desire to see others dance. I speak

from some experience on that subject. [Laughter.]

Mr. PATTERSON, of New Hampshire. I ask the Senator if he would not admit an amendment to the resolution; to have the "Black Crook" performed here? [Laughter.]

Mr. NYE. No, Mr. President, we have had shows here for a long number of years, and my friend has been an actor in one to-day. [Laughter.]

Mr. PATTERSON, of New Hampshire. Yes, sir, and the clown is now playing his part. [Laughter.]

Mr. NYE. I would not have theatrical shows here, but on the day of great national festival, on a day of a great triumph for human freedom, on the day of the elevation of the champion of the cause of liberty, old as I am, I shall be quite inclined to dance myself, and I think the spirit of the nation is such that the people will feel like dancing. I propose to let them dance. The idea that it will bring any dishonor on the Rotunda to allow dancing in it under the well-regulated management of the officers of the two Houses, is too ridiculous to think of. We have seen worse exhibitions than dancing here—[laughter]—a great deal worse than that can possibly be. I do not believe my friend from Wisconsin, although I know he does not dance, has any religious scruples about other people dancing, if they please.

Mr. DOOLITTLE. I will state to the honorable gentleman that I have no scruples about allowing those to dance who desire to dance; but I do say that there is a large portion of the American public, the religious public, who do not believe in and who have religious scruples against public balls. There is the Presbyterian church, there is the Methodist church, there is the Baptist church, and there is the Catholic church also, so far as the advice and action of the clergy of that church are concerned, opposed to public balls. Now, the question is shall those people, who own this Capitol just as much as those who desire to dance at public balls, be taxed. Shall they pay the expense of this arrangement? Shall their building be used for that purpose? May it not wound their sensibilities?

Mr. NYE. Possibly. I suppose I may speak on that point, for I was baptized a Presbyterian; I have been judicially declared a Baptist; I am by habit an Episcopalian, and by inclination a Methodist. [Laughter.] Therefore I am prepared to say a word on the point now suggested. I think, embodying all these creeds, I have a right to speak for them all. I know there is a sort of objection among Presbyterians to public dancing; but go to their houses and they will dance you blind. [Laughter.] So with the Episcopalians; so with the Baptists; and so with the Methodists. Therefore, I do not believe they will be greatly shocked if there should be a ball in the Rotunda of the Capitol. I hope, Mr. President, that the festivities of that occasion will not be marred or the old traditional custom broken in upon because there is no place in the city of Washington, the great capital of the nation, to hold this ball. It will not hurt this Capitol. Now, I rather think that after all what grieves my friend from Wisconsin most is that he is going to dance for the inauguration of Grant.

I hope now, sir, we shall reach the question and take the vote. Let us have a dance. My friend from Pennsylvania and my friend from Massachusetts and my friend from Wisconsin need not go unless they choose; but I fancy they will be there if it is held, to give dignity and honor to the occasion and to prove that the several churches are not against it.

Mr. DOOLITTLE. I desire to say but a single word. I, of course, did not favor the election of General Grant, but I give my honorable friend from Nevada to understand that I do not desire in any respect whatever to take anything from the joy of his friends at his inauguration, and I have no disposition to prevent those in Washington who desire to take part in the inauguration ball from doing

so. The only question with me is the question of propriety, of setting the precedent of opening for such purposes the Capitol, which belongs to the whole people, when we know that there is a large mass of the American people belonging to the churches I have named, although my honorable friend may claim to belong to all of them; who would not lend their sanction to public balls.

Mr. NYE. I saw people dance in the streets here when Lee surrendered, and I danced myself, and I believe the Senator from Wisconsin did, too.

Mr. CAMERON. I believe the Senator from Nevada was hardly just in his reference to me. I did not object to a ball, but I did object to a ball under the roof of the Capitol; and I have another strong reason why I oppose this resolution, which I will state to him. I do not believe in a ball where there is nothing to make it joyful. A dry dance is no dance at all, according to my notion. I want the ball to be somewhere in the city where the young people can go and enjoy themselves, and where the old people can go and take something that will warm up their blood—something stronger than ice-cream—not spirits, for I will not run counter to the ideas of my friend from Massachusetts, [Mr. WILSON,] but a little "generous wine." It helps the old and the young.

But, sir, I entirely disapprove of making this Capitol a place for pleasantries of any kind. It is set apart for the legislation of the country. I will go so far as to agree to walk through the first dance with the Senator from Nevada, if he desires it, for I should be honored in walking through with him; but I object to making a precedent which will for all time compel us not only to give this building for dances at inauguration time but for other purposes. I repeat, I would rather have no military pageant here. I should greatly prefer to have the President-elect ride to the Capitol in his carriage or on horseback, or walk if he thinks proper, and come into this Chamber and receive the oath of office as other men do. I would not establish this dangerous precedent. Why appropriate this Capitol for the purpose? It will cost but a few dollars to get a place to dance in, as has been usual heretofore; and if we desire to encourage it why not appropriate the money from our own pockets? I would rather appropriate money, if gentlemen think it right, from the public purse than to make that grand old Hall which the great men of the nation honored by their presence, which is made sacred by the eloquence of the men who established this Government, a dancing place to which all may come. I hope we shall not pass this resolution.

Mr. CONKLING. Mr. President, had the yeas and nays not been ordered on this resolution I should have been content to withhold the impression which it makes upon me; but as I am called upon to vote by the yeas and nays, I beg to state the reasons which will lead me to vote against its adoption.

The people of this country have managed since the country began to inaugurate their Presidents and conduct inauguration balls without bringing them into the Capitol of the nation. The question is, now, whether it is worth while by force of this resolution to select, in the first place, the most ill-contrived, the most inconvenient, I might say the most impossible place to conduct proceedings of this kind, and say that they shall take place there; and at the same time bring them into that building which, as has been truly said, pertains in its proprietorship alike to all the people of this country.

Something has been said about public opinion. If I were to govern my utterance by what I believe to be the public judgment I should venture to state two conclusions: first, that General Grant could swear into office and enter upon his duties without any ball at all, and the proceeding would be entirely satisfactory to the American people; and second, if a ball is to occur, that it could take place conveniently

and appropriately outside of the Capitol; and when it occurred that arrangements would be more satisfactory, whatever place might be selected, than it would be to have it occur in the Capitol of the nation. I think that is what public opinion would affirm, and that is what my judgment affirms. It seems to me that this resolution is in the worst taste and most obnoxious to criticism in point of propriety of various kinds. Therefore I shall vote against it, and if it fail the ball will occur no doubt, as it has occurred heretofore, in a more appropriate and, I think, more convenient building.

Mr. FESSENDEN. I have no sort of feeling about the matter at all. I do not care whether the resolution is passed or not; but I feel bound to defend the committee against the charge which has been made of exceedingly bad taste in allowing it to be brought in here. Matters of taste are a great deal matters of opinion, and they depend very much on the individuals. For myself, I could not see any objection when the application was made to me individually, to these ceremonies, if you please to call them so, being held in the Capitol. We all know what an inauguration ball means. It means this simply: that on this occasion a great many gentlemen and ladies from different sections of the country come here as to an occasion of rejoicing and from curiosity; they like to meet each other; they like to have some place where each can see the other and get acquainted and enjoy the occasion. The mere ceremonies of the inauguration are nothing. For that reason heretofore it has been the habit always to have something of this kind. I see no harm in it, and I never heard that any complaint was made by any religious denomination on account of it. Some of my friends about me, who seem to have very strong feelings on the subject, whose religious sentiments are terribly outraged—my excellent friend from Pennsylvania [Mr. CAMERON] among the number—with reference to this matter think it would be a very shocking affair to desecrate the Capitol of the nation by having ladies and gentlemen meet there from different sections of the country to interchange congratulations and the amenities of social life, get acquainted with each other; and if there should be a band of music there and some of them should like to dance gentlemen think that is a very humble affair to take place in the Capitol of the nation!

Well, sir, I do not dance myself and never did. I never go to balls; I never went to an inauguration ball in my life, and never expect to go to one. I believe I was a manager of one once, though I did not know it until I saw my name on the card; but I recollect that on cards for inauguration balls I have seen the names of the greatest and best men that our country has produced as managers on those occasions, the very best and the very ablest and most eminent men of all political parties. They did not seem to think there was any very great harm in providing for the meeting of persons on such an occasion. When I submitted the matter to the committee there were two gentlemen on it out of the five who happen to be Democratic in politics; and I found them both ready to say that they thought it was a very proper thing, indeed, and they gave their assent to it with a great deal of pleasure. There was no argument about it one way or the other. Having that instruction from the committee, I had the bad taste to suggest that all the members of the committee but one agreed to it, and that all the committee of the House agreed to it. Shocking "bad taste" they had, some gentlemen think.

Now, sir, what is the harm? We have a building here which may be used for this purpose. It is not proposed to open these rooms in which we meet; but we have a Rotunda, and we have a large hall, which was the old Hall of Representatives. These parties wish the use of them for the purpose of having this social gathering of people from different parts of the country. I may be exceedingly obtuse, and my moral and religious sentiments may be very shocking, but I do not think that any-

body will be harmed by it. If gentlemen's feelings are so very acute that they cannot witness that desecration of the Capitol by people just as respectable and as good as they are, then all they have to do is to stay away in case the thing should happen. I do not know that General Grant will be present. It is not exactly a part of the ceremonies of the occasion, but it is about as sensible as a great many of the ceremonies that we do vote money for. This does not call for an appropriation. These people propose to pay the expenses of the ball themselves. For my part I really think that the committees of the two Houses, when the question was stated to them, came to a very sensible conclusion, not only that it was proper to have this social gathering, but that it was very appropriate, as they ask to give these people the use for one evening of the Rotunda of the Capitol for that purpose; but if the Senate shall decide otherwise it will be quite as satisfactory to me.

Mr. YATES. Mr. President, I am not opposed to dancing, and am ready to take a part in it when it is not scientific. I could join my friend from Nevada or the Senator from Wisconsin in a reel or a cotillon; and I would be willing to hail with gladness, with songs of joy, with bonfires, with illuminations, the inauguration of General Grant as President of the United States; but, sir, I do think, really, that the Capitol of the United States is not the place for dancing. It is against the religious sentiments of the country, or at least a large portion of men whose feelings we should respect. This is the theater for legislation, for high and grand debate, not the place for dancing. Let us keep the Capitol sacred for the purposes for which it was designed. It is outside of the Capitol that dancing should take place. I shall certainly vote against the resolution.

Mr. WILSON. Mr. President, I do not wish to say anything that shall cast reflections on the committee that have brought this matter here. I do not think we ought to do so, but I believe that they and all of us will see that this is a mistake if the resolution shall be adopted, and therefore I hope it will not be. Some persons say here that they are opposed to it on principle. I believe there are men in Congress who are opposed to it on principle, and there are a great many people in the country who will accord with them and go further than they will. There are many sacred memories about that old Hall; people feel them; and in that Rotunda less than four years ago a murdered President lay, and tens of thousands of the people passed by to gaze on his face for the last time.

I do not think that that old Hall where John Quincy Adams fell on the post of duty, and that Rotunda where a murdered President was brought, should be converted into dancing halls. If we want to dance let us have a building erected, as was done, I think, when Mr. Buchanan was inaugurated. We know very well what these balls are. I remember something about them, and remember some of the scenes of the last one. Some high officials were there in a condition not very creditable to themselves or the country. Although it is proposed here that there shall be no liquors allowed in the building, you will find liquors will either come in in bottles or come in in some other way. A gentleman who was once in the Senate, Mr. Nesmith, on one occasion spoke of the wonderful capacity of some man on the Pacific coast to throw himself around a pint of whisky; and I think we shall find on that occasion there will be a great many persons here who will have great capacity for throwing themselves around whisky. I think that the thing had better be let alone. This matter had better be dropped, and I believe we shall all be glad of that determination. If we pass this resolution I think we shall all regret it, or most of us will regret it after the resolution is adopted.

Mr. MORTON. I have no prejudice against dancing or against balls, and I think it not at all

improper that there should be an inauguration ball for the purpose mentioned by the Senator from Maine. I myself rejoice as heartily in the election of General Grant as any other Senator, and I should be glad to see the occasion a festive one, a joyful one; but, Mr. President, there are proprieties in regard to time and place. That which may be perfectly proper in one place may not be proper in another. I do not believe that there is propriety in having a ball in the Capitol of the United States. I believe it would be essentially in bad taste, and would be so regarded by a large portion even of those who are fond of dancing and think there is nothing wrong about it. I think there would be just as much propriety in asking the vestry or trustees of any church in this city to allow the use of their church for a public ball or for an inauguration ball as to ask Congress for the use of the Capitol. Therefore, Mr. President, I shall vote against this resolution. It will be drawn into a precedent on other occasions, and will be a precedent for asking the Capitol for many other purposes beside inauguration balls. We have had inauguration balls before and it was never thought necessary to hold them in the Capitol. They can be provided for outside of the Capitol just as well now as upon former occasions.

Mr. PATTERSON, of New Hampshire. I should like to ask the Senator from Iowa, who, I believe, was Secretary of the Interior at the time, how much it cost to put the rooms of the Patent Office in repair or in a suitable condition for work after the ball which was held there?

Mr. HARLAN. The part of the Patent Office building occupied by the public for a ball was not at that time completed; it was the north wing of the building, but other portions of the building had to be opened to enable the public to get access to the hall. I was not at the time Secretary of the Interior, and was not present, but afterward there were bills paid for repairing the furniture and fixtures in that part of the building which had been completed and was occupied by the officers of the Government. I do not now remember how much they amounted to; I should think not to exceed from two to four thousand dollars.

Mr. SUMNER. Repairs?

Mr. HARLAN. Repairs of the furniture and plastering of the walls and things of that kind.

Mr. ANTHONY. I think this is quite too important a question to be decided to-night. I move that the Senate adjourn.

Several SENATORS. Oh, no. Let us vote.

Mr. ANTHONY. Senators all around me say they are ready to vote, and ask me to withdraw the motion. I do so.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution.

The question being taken by yeas and nays, resulted—yeas 22, nays 31, as follows:

YEAS—Messrs. Anthony, Cattell, Chandler, Cole, Conness, Davis, Edmunds, Ferry, Fessenden, Fowler, Howard, Kellogg, McDonald, Nye, Patterson of Tennessee, Rice, Spencer, Stewart, Thayer, Van Winkle, Wade, and Williams—22.

NAYS—Messrs. Abbott, Buckalew, Cameron, Conkling, Corbett, Cragin, Dixon, Doolittle, Frelinghuysen, Grimes, Harlan, Harris, Hendricks, McCreery, Morrill of Vermont, Morton, Norton, Patterson of New Hampshire, Pomeroy, Pool, Robertson, Ross, Sawyer, Sherman, Sumner, Trumbull, Vickers, Warner, Wiley, Wilson, and Yates—31.

ABSENT—Messrs. Bayard, Drake, Henderson, Howe, Morgan, Morrill of Maine, Osborn, Ramsey, Saulsbury, Sprague, Tipton, Welch, and Whyte—13.

So the resolution was rejected.

REPRESENTATIVE REFORM.

The PRESIDENT *pro tempore* announced the appointment of the select Committee on Representative Reform—Mr. BUCKALEW, Mr. ANTHONY, Mr. FERRY, Mr. MORTON, Mr. WARNER, Mr. RICE, and Mr. WADE.

COUNTING OF PRESIDENTIAL VOTE.

Mr. CONKLING submitted the following resolution; which was considered by unanimous consent:

Resolved, That the President of the Senate be au-

thorized to appoint the teller on the part of the Senate, provided for in the twenty-second joint rule of the two Houses, to receive and count the votes for President and Vice President.

Mr. EDMUNDS. Let the rule referred to be read.

Mr. CONKLING. The twenty-second joint rule covers everything except that it does not provide for the mode of the appointment. This resolution is simply to give the power to the Chair.

Mr. SUMNER. Let the rule be read.

The twenty-second joint rule was read, as follows:

"The two Houses shall assemble in the Hall of the House of Representatives at the hour of one o'clock p. m., on the second Wednesday in February next, succeeding the meeting of the electors of President and Vice President of the United States, and the President of the Senate shall be their Presiding Officer; one teller shall be appointed on the part of the Senate and two on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate, the certificates of the electoral votes; and said tellers, having read the same in the presence and hearing of the two Houses then assembled, shall make a list of the votes as they shall appear from the said certificates; and the votes having been counted, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote and the names of the persons, if any, elected; which announcement shall be deemed a sufficient declaration of the persons elected President and Vice President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses. If upon the reading of any such certificate by the tellers any question shall arise in regard to counting the votes therein certified, the same having been stated by the Presiding Officer, the Senate shall thereupon withdraw, and said question shall be submitted to that body for its decision; and the Speaker of the House of Representatives shall, in like manner, submit said question to the House of Representatives for its decision; and no question shall be decided affirmatively and no vote objected to shall be counted except by the concurrent votes of the two Houses; which being obtained, the two Houses shall immediately reassemble and the Presiding Officer shall then announce the decision of the question submitted, and upon any such question there shall be no debate in either House; and any other question pertinent to the object for which the two Houses are assembled may be submitted and determined in like manner. At such joint meeting of the two Houses seats shall be provided as follows: for the President of the Senate, the "Speaker's chair;" for the Speaker, a chair immediately upon his left; the Senators in the body of the Hall, upon the right of the Presiding Officer; for the Representatives, in the body of the Hall not occupied by the Senators; for the tellers, Secretary of the Senate, and Clerk of the House of Representatives, at the Clerk's desk; for the other officers of the two Houses, in front of the Clerk's desk and upon either side of the Speaker's platform. Such joint meeting shall not be dissolved until the electoral votes are all counted and the result declared; and no recess shall be taken unless a question shall have arisen in regard to counting any of such votes, in which case it shall be competent for either House, acting separately, in the manner herebefore provided, to direct a recess, not beyond the next day at the hour of one o'clock p. m."

The resolution was agreed to.

ORDER OF BUSINESS.

Mr. SHERMAN. I desire to give notice that to-morrow I shall, if I can get the floor, move to postpone the Sue Murphey bill with a view to take up the bill reported by me chartering some companies to build railroads. I do not desire to argue it now, but I give notice that I will take the sense of the Senate to-morrow on the question of taking it up if I shall get the floor.

Mr. POMEROY. I move that the Senate proceed to the consideration of executive business. I make this motion with the consent of the Senator from South Carolina, who is entitled to the floor on the pending bill.

Mr. CONKLING. Unless the Senator has something special in view I object to the motion. It is twenty minutes after four, and it is too late to conclude any business in executive session to-day. If the Senator wants an executive session for any formal purpose, as, for instance, to make a report, I shall not object.

Mr. POMEROY. I withdraw the motion now, but I give notice that to-morrow, at half past two o'clock, I will call for an executive session.

Mr. CONKLING. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, January 13, 1869.

The House met at twelve o'clock m.
The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

The SPEAKER. The first business in order this morning is the unfinished business pending at the adjournment last evening, being the joint resolution (H. R. No. 404) extending the protection of the United States to the republics of Hayti and San Domingo. This resolution was reported from the Committee on Foreign Affairs by the gentleman from Massachusetts, [Mr. BANKS,] who is entitled to the floor for twenty minutes.

CHARLES E. DOLE.

Mr. PETERS, by unanimous consent, introduced a bill (H. R. No. 1674) for the relief of Charles E. Dole; which was read a first and second time, and referred to the Committee on Commerce.

RELIEF OF POOR IN THE DISTRICT.

Mr. BUTLER, of Massachusetts. I ask that, by unanimous consent, the House take from the Speaker's table the bill to appropriate money for the poor of the District of Columbia.

The SPEAKER. If there be no objection the bill (S. No. 693) for the temporary relief of the poor and destitute people in the District of Columbia will be taken from the Speaker's table for action at the present time.

Mr. McKEE. I object.

COST AND INCOME OF UNITED STATES MINTS.

Mr. WASHBURN, of Illinois. I trust the House will consent to adopt at this time two resolutions calling for information which is desired by the Committee on Appropriations. The first is the following:

Resolved, That the Secretary of the Treasury be requested to furnish a statement of cost of the mint at Carson City, Nevada, with estimates showing the cost of running the same, and the revenue to be derived therefrom; also, the cost in detail of running the several mints of the United States, and the income received from the same.

There being no objection, the resolution was considered and agreed to.

NORTHWESTERN BOUNDARY COMMISSION.

Mr. WASHBURN, of Illinois, also, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of State be directed to communicate to the House the total amount expended for the United States northwestern boundary commission, and to give in detail the items of expenditure, the number and names of the persons employed in such commission, how long employed, and at what salaries, and the nature and extent of the services performed.

BELLE R. DAVIS.

Mr. KERR, by unanimous consent, introduced a bill (H. R. No. 1675) for the relief of Belle R. Davis; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MARY AND ALICE DAVIS.

Mr. KERR also, by unanimous consent, introduced a bill (H. R. No. 1676) for the relief of Mary and Alice Davis, minors; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ADAM HARDT.

Mr. KERR also, by unanimous consent, introduced a bill (H. R. No. 1677) for the relief of Adam Hardt; which was read a first and second time, and referred to the Committee of Claims.

SCOTT AND BRINDLEY.

Mr. KERR also, by unanimous consent, introduced a bill (H. R. No. 1678) for the relief of Scott & Brindley; which was read a first and second time, and referred to the Committee of Claims.

S. S. POTTER.

Mr. KERR also, by unanimous consent, introduced a bill (H. R. No. 1679) for the relief

of S. S. Potter; which was read a first and second time, and referred to the Committee of Claims.

INDIANS IN DAKOTA TERRITORY.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting a letter of the Commissioner of Indian Affairs relative to Indian affairs at Fort Randall, Dakota Territory, and asking an appropriation for additional supplies; which was referred to the Committee on Appropriations, and ordered to be printed.

INDIAN INVASIONS IN TEXAS.

The SPEAKER also laid before the House resolutions of the constitutional convention of Texas, requesting the Congress of the United States to call into service a regiment of Texas cavalry to repel Indian invasion; which was referred to the Committee on Military Affairs.

JAMES W. W. BOLTON.

Mr. HUBBARD, of West Virginia, by unanimous consent, obtained leave to withdraw from the files of the Committee of Claims the papers in the case of James W. W. Bolton, for the purpose presenting the same to the Senate.

LEAVE OF ABSENCE.

Indefinite leave of absence was granted to Mr. HULBURD and Mr. VAN AERNAM.

MEMBER SWORN IN.

Mr. DAWES. I present the credentials of Mr. JAMES T. ELLIOTT, elected to fill an existing vacancy in the second district of Arkansas. He has had his disabilities removed by act of Congress, I understand. I move, therefore, that the oath of office be now administered to him.

Mr. JAMES T. ELLIOTT accordingly appeared, and was duly qualified by taking the oath of office required by law.

NORMAN WIARD.

Mr. SCHENCK, by unanimous consent, from the select Committee on Ordnance, submitted a report in writing on ordnance contracts, and reported a bill (H. R. No. 1680) for the relief of Norman Wiard; which was read a first and second time, recommitted to the committee, and, with the report, ordered to be printed.

Mr. SCHENCK. As I do not desire to take any advantage by reporting this bill now, I move to reconsider the vote by which the bill was recommitted; and also move to lay the motion to reconsider on the table.

The latter motion was agreed to.

HAYTI AND SAN DOMINGO PROTECTORATE.

The House resumed the consideration of the unfinished business pending at the adjournment yesterday, being joint resolution (H. R. No. 404) extending the protection of the United States to the republics of Hayti and San Domingo; on which Mr. BANKS was entitled to the floor.

Mr. BANKS. Mr. Speaker, I have very little to offer in addition to what I said yesterday. The resolution has been printed and is before members of the House. It proceeds upon the theory that the Government and people of this island desire the protection proposed. I stated yesterday that I was not authorized to say that officially, though I believed it to be true. I wish to say this morning, in the most emphatic manner, that an appeal has been made to this Government for action of this character. It is upon the strength of that appeal that this resolution has been presented.

Mr. CULLOM. I desire to ask in what shape that appeal comes.

Mr. BANKS. I do not wish to go further than the statement I have made.

Mr. CULLOM. Is it made by the Government or by a portion of the people of that island?

Mr. BANKS. By parties authorized to speak for the Government and people. I make the statement this morning that the action proposed proceeds upon the fact that such an appeal has been made. I did not say this yes-

terday, but I do say it now. I do not wish to trouble the House further with remarks upon this subject at the present time. I do not wish to limit discussion. I desire the House to take all the time upon this subject that in the present condition of business it can accord to it, confident as I am that the more it is discussed the better it will be understood and the more strong will be the judgment in favor of the action now proposed by the Committee on Foreign Affairs. I desire to say, however, that I propose before action is taken, if no other member shall move in that direction, to submit an amendment which will preclude any possible danger of armed intervention by the United States in the affairs of the island or that shall involve us in any question of armed force as concerns that people. I now yield, to allow my colleague [Mr. BUTLER] to offer an amendment.

The SPEAKER. Does the gentleman desire that the amendment should be considered as pending?

Mr. BANKS. Yes, sir.

Mr. BUTLER, of Massachusetts. I offer the following as a substitute for the joint resolution:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he hereby is, authorized to extend the protection of the United States over either of the islands of the Antilles to such extent as he may deem expedient and not inconsistent with the laws of nations whenever the government established in either of them or the people thereof shall desire such protection of the United States: *Provided*, That any action in this behalf on the part of the Executive shall be forthwith reported to Congress: *And provided further*, That no payment or expenditure of money in carrying this resolution into effect shall be made or contracted for without previous authority of Congress.

Mr. SPALDING. I desire to offer an amendment to the substitute.

Mr. BANKS. I yield for that purpose.

Mr. SPALDING. I move to insert after the word "Antilles" the words "or any other islands in the Atlantic or Pacific oceans which lie nearer to the coast of the United States than to that of any foreign Government."

Mr. BANKS. I will yield to my colleague who introduced the substitute to debate it if he pleases. I only desire to say that it stands on a different principle from that of the original resolution. While I do not object to it if the House chooses to extend it, I do not wish to be understood as approving the substitute.

Mr. BUTLER, of Massachusetts. Mr. Speaker, I desire the attention of the House for one moment to the amendment which I have proposed. The original proposition is that whenever the Governments of Hayti and San Domingo desire the protection of the United States the President of the United States shall be in a condition, by the authorization of Congress, to extend it, provided that it shall not involve the United States in any breach of treaty obligations or expenses. The amendment which I have offered extends this right of protection to all the islands of the Antilles; and the honorable member from Ohio [Mr. SPALDING] proposes to extend the principle to every island adjacent to our territory on either shore, looking, I suppose, to the Sandwich Islands, if the time shall come or is ripe for most of these islands coming under our protection. The amendment that I have offered proposes that wherever in the islands of the American seas any body of men associated together under the forms of government desire the protection of the United States the President shall have a right, in his discretion, to extend that protection. I cannot help looking forward to the immediate future, and not a far-distant future, when the whole system of government in the islands of the Antilles—whether the Governments of Denmark or of Spain, or the republican governments there—will crumble to pieces, and the islands will go out, by natural process, from under their former governments. And they belong to us so far by position and by the laws of nature that it is required for us to interpose our good offices to aid them to come to us and under our laws.

Let me say here that no question of feeling against the present Executive or what the Executive may do should influence any gentleman on this question, for this power is needed to meet a case that may arise when we are not in session. When we are in session we can at once advise or restrain movements in this direction as we choose. There is now a revolution going on in Cuba in which we can take no part until the people of that Government have put themselves in a position to receive our protection by conquering their own independence, and then we should be in condition to assert our traditional doctrine, known as the Monroe doctrine, that there must be no unwilling dependencies of a European Government on the American continent. I call the attention of gentlemen who represent States that are interested in having the Mississippi river open to the navigation of the world to the fact that it is necessary to the full enjoyment of that navigation that we should have a right to extend our protection to our commerce in all the islands of the West Indies.

Let me say further that we have by our action put ourselves in a very anomalous position in regard to some of these islands. Our Executive called upon Denmark and asked to have the people of St. Thomas vote whether they would belong to Denmark or to this country. That people voted that they preferred to belong to this country, and thereupon they seem to have shut themselves off from Denmark, while we are not yet ready or willing to ratify the treaty by which we agreed to pay money for that island. And let me say to this House that by my proposition I do not look in any degree toward paying any money for any island or other land on the American continent. As I opposed the purchase of Alaska, so I should oppose hereafter the purchase of any foot of soil. But the question now is as to extending the protection of a republican Government. Gentlemen may ask, "Do you propose armed intervention?" To that I answer that the resolution carefully and expressly guards itself, by providing that the intervention or protection shall not be inconsistent with the laws of nations, violating no treaty stipulation and no national right. How such protection can be extended within the laws of nations is perfectly well settled by almost every text-writer that treats upon that subject. Therefore the simple question is this, to put it in plain, homely language: shall we have our mouths open ready to catch the plum which is now ripe and ready to fall, or shall we keep them shut and permit it to fall in the mouths of others?

And a word further; that for one I think the time has come for action upon this subject. This project cannot be met successfully by the assertion that there is no precedent for it. Sir, there is no precedent for our position in the history of the world. There is no precedent for our power. There is no precedent for our influence on this continent. But there is a precedent for us in every act of this Government toward the young republics of South America, in every act extending a helping hand to every people desiring either a republican government or a stable government under republican forms. And I trust that we shall not throw cold water upon the effort for the emancipation of slavery in Cuba, whether white or black, upon the efforts toward good government in Dominica and Hayti, and upon the disposition of those islands, so valuable in a commercial point of view, to put themselves under our protection.

I have listened to the amendment of my very conservative friend from Ohio, [Mr. SPALDING.] I know that he only desires to add to this resolution so that possibly the Sandwich Islands, and perhaps some others in the Pacific ocean, may be brought within its scope. Now, while I do not mean to antagonize the propositions submitted by the chairman of the Committee on Foreign Affairs, which I shall support if I cannot get my own adopted, still I desire that we shall make this a general pro-

vision, putting in the hands of the Executive the power to act; provided he shall pay no money for purchase, shall incur no expenditure, and do no act unless he immediately reports to Congress, and especially that he shall do no act contravening the law of nations.

Mr. DELANO obtained the floor.

Mr. SPALDING. I desire to say a few words upon this subject.

Mr. DELANO. I will yield to my colleague.

Mr. SPALDING. As I have offered an amendment to the substitute moved by the gentleman from Massachusetts, [Mr. BUTLER,] I desire to say a few words. I think I have oftentimes said upon the floor of this House that I was impressed with the belief that it was the destiny of the American Government to spread itself not only over the whole continent of America, but over all the islands adjacent thereto. And I believe this: if there be anything decreed in the councils of Infinite Wisdom it is this very fact. It is merely a question of time.

Now, sir, I do not say that it is sound national policy at this time to adopt any resolution upon this subject. But if we adopt any resolution to any extent, then, I say, let us open it wide enough to embrace acquisitions from either ocean, the Atlantic or the Pacific. And the gentleman from Massachusetts [Mr. BUTLER] does me no more than justice when he says I have reference to a cluster of islands in the Pacific ocean in which the work of disintegration is now rapidly going on. The pear is nearly ripe enough to fall, and when it does fall it must fall into the American lap.

I ask, therefore, that the members of this House, and especially those who are interested in the prosperity of the Pacific coast, vote for my proposition, which is in accordance with the spirit engraven upon the substitute offered by the gentleman from Massachusetts, [Mr. BUTLER.] It strikes me, sir, that the proposition is sufficiently guarded. We incur no risk of expense; we incur no risk of a breach of a treaty of peace or of any neutrality laws. We guard against that by the provision inserted by the astute gentleman from Massachusetts [Mr. BUTLER] in his substitute. The President can only extend this protectorate when the application comes voluntarily from the people interested, and without infringing any law of nations, any treaty, or any neutrality law. No money can be expended except upon application to Congress. No armed force can be employed but by the authority of Congress. The resolution being thus guarded, I, as a conservative man, (the gentleman emphatically says I am "conservative," but upon this subject—perhaps it is the only one—he will find me more radical, I trust, than himself,) will go "as far as he goes the furthest." I shall vote for the amendment to the substitute; I shall then vote for the substitute as amended, and for the original resolution.

Mr. DELANO. I yield to my colleague [Mr. SHELLABARGER] for as long a time as he may desire.

Mr. SHELLABARGER. Mr. Speaker, I have not sought the floor upon this extraordinary proposition because of any supposition that the views I may submit to the House will be either new or useful, but simply to indicate why I cannot support either the original proposition of the chairman of the Committee on Foreign Affairs or any of the amendments that have been submitted to the House. It is conceded both by the chairman and by other gentlemen who have spoken that this proposition is extraordinary—not only extraordinary in the common sense of the term, but so extraordinary that it is unprecedented in the history of this Government. That a proposition thus unprecedented should be brought into the House at this time, unapproved as it is by any committee of this House, and sought to be disposed of as this one is sought to be, is to me rather a subject of surprise.

Let us for a moment or two examine what

this proposition is. In its substance and effect I understand it to be a proposition by which the power, the force, the authority of the Government of the United States shall be transferred by Congress to the Executive of the United States, to be exercised under his unrestrained discretion in "protecting"—that is the operative and significant word of the resolution—in protecting the governments or the people of those islands indicated in the resolution. If it does not mean this it means just nothing at all. The Executive is to be authorized to protect these Governments or these people. Now, in the first place, I ask my fellow-members to consider what that word protect involves and means. If there is to be protection extended it must be a protection to be found in something, or else, as I have said, the resolution is meaningless. I shall assume, for the purpose of what I have to say, that it does mean something. That protection, Mr. Speaker, can be given by the exercise of the authority of this Government in the only way in which that authority of the Government can be exercised; that is, by the force which is found in the protection of the military and naval authority of your Government. You have no other way of "protecting" them than this. That moral protection which is to be found in the mere adoption of resolutions, in declarations of sympathy or of approval or disapproval, or which is to be found in the ordinary instrumentalities of diplomacy—such moral protection is clearly not the protection meant. Then, sir, it comes to this: a proposition that we shall now protect by the military and the naval authority of this Government the peoples of these islands or their Governments.

I know there are "salvos" in the latter part of the resolution, requiring that the President shall submit to Congress his action in the matter, and also a proviso that it shall cost us nothing. But I submit that these provisions and salvos in the resolution of the chairman of the Committee on Foreign Affairs, if it were not introduced by a gentleman so honorable, so ingenious, so frank and outspoken, might be denominated a "spring to catch woodcocks;" and it would, I think, be a very young woodcock in legislation that would be caught by that which is appended to this resolution. It is to cost us nothing, is it? We by the resolution solemnly decide that these Governments and their people shall be protected, and then there is an authorization to the President to extend that protection. It is to be effectual; it is not to be meaningless, but it is to be protection, and the President is demanded by the high command of the two Houses of Congress, speaking in the imperial voice of law, to attain that high end, the protection of these peoples and Governments. And then we admonish him that this execution of our high command shall cost us nothing!

First the action is to go forward, the protection is to proceed; the befriended Government is to be, by our commanding guardianship, made perpetual. This is the thing authorized by the resolution. When the protection of this Republic goes to these new wards of the nation it goes out under the sanction of Congress given in a joint resolution of the two Houses of Congress. We command the President, in all the emphasis and meaning of that word "protect," but protect so that it shall not cost. That is what the resolution, it is averred, comes to. But, sir, the resolution means that there shall be an effective thing done under it, and that thing cannot be less than that this Government shall protect; and by the resolution we agree that all the costs and consequences involved in giving that protection and in making it good and perpetual against all who may come to forbid, come either from the people there or other nations.

Suppose that the President has done this thing—has protected; that our Navy has been used for the purpose of this protection; that it has been sent there and has done what amounts to protection, and it has involved expenditure, who would vote that that protection thus au-

thorized, thus expensive, shall not be compensated? Bring it back to its original elements and I submit to the gentleman who introduced the proposition that it comes to this: that it is a declaration of war on the part of the Government of the United States against somebody—nay, sir, against everybody who may come to forbid our protection. I admit I do not know who we declare the war against. The resolution does not inform us whom it is we are to protect against. What that belligerent is that we are to fight is not indicated. But if it means something, as it does, it means that this Government shall embark now, here to-day, in that protection that can only be given by war in favor of somebody and against somebody, in favor of everybody whom the President—mark it—whom the President may deem it fit to make this Government the ally of, and a war against everybody who may be the enemy of our, or rather the President's, ally and ward.

Now, Mr. Speaker, I know that it may be old-fashioned, perhaps "stale and unprofitable," so here to do; still I will venture to bring my own mind, and so far as my feeble effort may enable me to do so, to bring the minds of my fellow-members back to those rules of national obligation, of wisdom, and of duty touching our foreign policies and affairs, upon which your Government was founded and upon which it has ever since so sublimely endured. Not long ago, within the memory of all of us, an old man fell stricken with death within the space now reached by the sound of my voice. That old man was young once, and when a boy he indicated and in letters gave to his country and mankind that which passed afterward into immortality in the Farewell Address of the Father of his Country. The great intellect of John Quincy Adams originated, matured, gathered into the forms and force of irresistible argument and precept the doctrines of that most approved, most cherished, and most loved part of the Farewell Address of the Father of his Country which admonished his countrymen against the intervention of this nation in the affairs of others, and against all entangling alliances—that policy which was first announced by your Government on the 25th of April, 1793, in the proclamation of George Washington, declaring the neutrality of this Government as between the French Government and the people of Europe. To the intervention in these affairs our people were then impelled by all the promptings of sympathy and of gratitude toward our recently, the people of France. The policy then and there inaugurated, I say, is one which I earnestly pray may be in our country perpetual, and for which I feebly beg. This Government, sir, may be strong in itself, may be irresistible in itself, may, God grant, be perpetual. But, sir, that immortality is to be found in our being to ourselves and for ourselves a Government of ourselves; not involving or embroiling ourselves in or interfering with the affairs of other Governments. That policy thus inaugurated has continued from that day to this. We have by our moral forces, which are growing into omnipotence, given our cheer to the struggling everywhere. Let us give it to-day to these people, to any people, to all peoples struggling for their rights, for the right. It is in that sublime moral power of your Government that you have found your controlling forces for good.

I beg, then, that the House shall pause. It is a feeble Power, perhaps, against which our guns are now to be by this resolution pointed, or whom we may now challenge to the determinations of war. But, sir, it is not the feebleness of the Power, but the potency of the precedent, that I now comment upon. To that I point; against that I implore my fellow-members to be on their guard. Be warned! The first step is here—is to-day. The last is—where? In departing from the inculcations of the fathers of the Republic, when they told us to let foreign wars alone, we embark on new seas—

seas you and I have not explored. I pause; I fear; I refuse to go.

Mr. Speaker, I sympathize, as you do and as every member does, with the struggling everywhere. We want republics to be established all over the world. If we take care well of our own Government we become, as was well said the other day, the light-house to the other Governments of the world. In that light, given in the honor, the justice, the power and the glory of this Government, will be found the moral power which is to furnish the true, the real and effective protectorate of the struggling or the feeble or the threatened republics of the world. That moral power is to be found in adhering to the old land-marks. I am unfashionable; I am unprogressive; I am out of style when I come back to that immortal address of the Father of his Country; but there I leave my remarks, here I leave my admonition that this is the beginning—if it is to be a beginning, which God forbid!—of a bad ending that will come out of this threatened departure from what we were taught by him whom we all yet cherish and love.

Mr. DELANO. I yield for five minutes to the gentleman from Tennessee, [Mr. MULLINS.]

Mr. MULLINS. I do not know that it is within my power to enlighten this House touching this question that is under consideration. I may be permitted to say that it is, of all the questions that have come up here since the assembling of this Congress for its last session, the most important that has addressed itself to my consideration. In the five minutes allowed me I cannot, of course, dwell upon the subject in detail. I must come up to the main features that present themselves to my mind. We are not a city that is to be buried. We are a city set upon a hill, whose light should not be hid under a bushel, but should shine forth that the nations of the earth that are living in darkness and bondage may see the light and look to us as their great light-house. And where do we hail from? We hail from an ancestry that God, in my opinion, has destined should spread its light over the whole earth and break the chains and fetters of empires, kingdoms, and dominions. And we will not only break those chains and fetters, but we will ride in grandeur and triumph. We spread out our arms like seas to those who are in fetters and bondage, and say "Come to us, and we will give you protection." We do not propose to fight their battles. That I believe is contrary to the fundamental principles, as has been indicated by the gentleman who has just preceded me, [Mr. SHELLABARGER.] As was wisely declared by the gentleman from Massachusetts, [Mr. BUTLER,] we put a stopper on this thing of buying territory. We define this position to this people adjacent to our land, to the great people here in the United States; and I declare, as I have a right to do, that in my opinion this is the new Jerusalem that comes down to us, [laughter,] and it will be the gathering in of all nations, showing its light to all. It is a harbor for all the ships that are not only to crowd around the Old World, but to come from there here.

Let us say to these little islands and to these people, we sympathize with your republican Governments as the fundamental principle of life that God has ordained when he established the garden and covenanted with man, that man was a moral free agent, and no monarch, king, or despot is decreed of God to domineer over the world. Let man in his own consciousness of right speak to these islands in darkness, and let them know that they have a friend here who sympathizes with them. And when the people, the fundamental strata upon which stands the Republic of the United States, shall respond to the will of the people of these islands, then they come to us as ripe fruit, and I would not let them lay there after they are ripe and become sour and spoil.

I for one will say this: that rather than go into war with these lands and this people I would let them alone; they will come to us

themselves. Let us under the auspices of this resolution, that covenants nothing but friendship—no blood to be spilled, no gold to be paid—it is a mere expression of the will of the American people, that we sympathize with them. They will feel it; they will get the knowledge; almost as a spiritual thing; it will be received by them as a sympathetic cord that reaches across from them to us, and will draw them here naturally when they are ripe. If there was a destiny of God in the formation of this Government—and I declare that the Governments and the nations of the Old World are held in check by it—then it is that we shall inhabit this land and all adjacent to it. This Saxon people are a burning meteor rushing on in space, and their empire is land and dominion upon earth. Five hundred years have given them empire over a portion, and five thousand more will give them the whole world.

[Here the hammer fell.]

Mr. DELANO. How much of my time now remains?

THE SPEAKER. The gentleman has twenty-seven minutes of his hour remaining.

Mr. DELANO. I will yield ten minutes of my time to the gentleman from Illinois, [Mr. JUDD.]

Mr. JUDD. Mr. Speaker, I recognize and subscribe to this doctrine of manifest destiny as connected with our surroundings as strongly perhaps as any gentleman upon this floor. I think the influence of our institutions is not to be limited simply to the territory that now belongs to us, but that in the process of time, if our Government remains stable and perpetuated, it is to extend to other lands, and I have no doubt but that influence will, by its own momentum, peaceably and consistently with all our engagements with other nations, bring these islands as well as the territory adjoining us within the embrace of our institutions. But it is with me a question of what is the proper manner in which to make our influence felt, and to spread that influence to these islands and to other portions of the earth.

I freely confess that I listened to the able remarks of the distinguished chairman of the Committee on Foreign Affairs [Mr. BANKS] on yesterday for the purpose of getting, if possible, at some reason for immediate action, and of obtaining information and facts, if there are any, that are in the possession of any Department of this Government showing the necessity for any action at the present time. The chairman of the committee [Mr. BANKS] replied that there was no information that could be given to the public. His mode of reply certainly left upon my mind the impression that there were some negotiations that for some reason could not be submitted to this House. It is due to the legislative branch of the Government that it should be fully advised as to what is going on in the executive department when called upon to invest it with these extraordinary powers. With annexation vast expenditures may follow in the train of the proposed action, and this House is called upon to invest all these in the executive department in advance.

It is not a year since these halls resounded with denunciation, in which, I think, my friend from Massachusetts [Mr. BUTLER] took part, taking exception to the secret diplomacy of the executive branch of the Government, under which and without the knowledge and assent of Congress territory was acquired, large liabilities incurred, which Congress must meet, and new populations introduced into our system. And all this by the executive branch of the Government. I may add, Mr. Speaker, that the people of this country were struck with amazement at the pretense and claims of this branch of the Government. Having apparently involved the honor of the nation, Congress was compelled under this cry to ratify such doings.

In objecting to these propositions I do not lose sight of the fact that such propositions when properly presented to the Congress of the Uni-

ted States, who hold the purse of the nation and the power of war—by responsible parties who have an interest in a stable Government, and ask for protection—will deserve the consideration and action of Congress. I freely confess, Mr. Speaker, that I have no such confidence in executive power as to be willing, under this resolution or any other, to delegate to it powers that properly and rightfully belong to the legislative branch of the Government.

It has been truly said by the honorable gentleman from Ohio [Mr. SHELLABARGER] that we do not know where this thing may lead. We do not know what interests may operate with the chief of the State Department to involve this Government, if not in a war, in an acquisition of territory which, if submitted to Congress before the making of this proposition, would not have been tolerated for one moment. My objection to this proposition at this time is that it contemplates the delegation to the executive department of a power which we cannot control, and which, by and by, under action which may be taken either carelessly or by design, may involve this Congress and this nation in consequences such as have been described by the honorable gentleman from Ohio. We ought not to delegate to the Executive the power of recognizing Governments in foreign countries, and especially in cases where there may be a dispute as to which is the rightful Government, and the additional power after such recognition to bring the power of this country to settle such contest. Such discretion ought not to be delegated to any one man in the nation. I am not so fond of extending executive power, and we have no information that any exigency exist calling for such action even by the legislative branch of the Government. As the gentleman from Massachusetts said yesterday, we are to give our moral support to the Government in the island of San Domingo. Who is to select the authority that is to be sustained when there is internal dissensions and revolution? According to the propositions in these resolutions, it is the executive department only that is to determine the question which is the rightful Government. Where there are two conflicting interests, where there is a Government (established under revolution; if you please) based upon republican principles, who is to determine whether the whole power of the Government shall be thrown into the one scale or the other? It is the executive department. I say, Mr. Speaker, that I dare not trust this power to the Executive; I prefer that it should be retained in the hands of the legislative branch of the Government. Let such questions be determined by Congress; and the Executive, in carrying out the determination of Congress, will reflect the will of the people.

Mr. DELANO. I now yield to the gentleman from New York [Mr. ROBINSON] for three minutes.

Mr. ROBINSON. Mr. Speaker, I intend before the vote is taken to offer an amendment to the amendment of the gentleman from Massachusetts, [Mr. BUTLER.] I propose to insert before the word "Hayti" the word "Ireland."

The SPEAKER. Such an amendment would be in order.

Mr. ROBINSON. The resolution with the amendment of the gentleman from Massachusetts and other amendments proposed will refer, in its phraseology, to "islands lying adjacent to the coast of the United States;" and as steam-power and the telegraph, particularly the telegraph, have made Ireland the most adjacent country to us in that part of the world, I desire that Ireland shall be protected. Her claims to our protection are higher than those of any other country. The blood and the heart of Ireland are in this country. Her people are brothers of ours and aliens to the Government which has usurped control over that country during seven centuries of oppression. I have no doubt, Mr. Speaker, that the time will come when Ireland will be annexed

to this country. I have no more doubt of that than I have that Cuba will be annexed to this country. Both of them will come to us by the natural laws of affinity, by their sympathy with us upon questions of politics and statesmanship. In the natural course of things, Ireland will become a part of the United States and will be represented upon this floor according to her population, and in the other end of the Capitol according to the number of the States of which she may be composed.

I have intended to take the floor upon some proper occasion to make a lengthy statement of my views on this subject. We want no war with England. We shall have no war with England. We shall obtain possession of Ireland peaceably. Her heart, as I have said, is here. She is a burden upon England—always has been, and always will be. The heavings of revolutionary feeling under British rule will continue. England, so long as she attempts to hold Ireland in subjection, will have no peace; she ought to have no peace. The people of Ireland and the people of the world will give England no peace. God Almighty, who rules the universe, will give her no peace until she lets the people of Ireland go; and the natural affinity of Ireland is with the United States.

Mr. DELANO. I yield five minutes to the gentleman from Massachusetts.

Mr. BUTLER, of Massachusetts. Mr. Speaker, I desire to add but a word or two in answer to what has fallen from the gentleman from Ohio, [Mr. SHELLABARGER,] who so eloquently and urgently asked our attention to the words of the Father of the Country. I believe they are in the manuscript writing of Alexander Hamilton, and I have not been so loyally his follower all the days of my life as to think that all intelligence and all progress in national affairs died when he did. I am inclined to think that we must adapt our legislation to the power and to the position and to the influence which we, as a nation, have now, and not to the power, not to the position, not to the influence that as a nation among the nations of the world we had in 1793.

Sir, I have no fear of war. The fourteen hundred thousand veteran soldiers that we disbanded when we ended the rebellion, on one side alone, and I doubt not that even the confederate soldiers, would rally around the old flag now against any foreign foe. I say that fourteen hundred thousand settled the question of war between us and any other nation, so long as we are true to ourselves and our own honor; and this nation will never do anything not consistent with that honor. We are strong enough to do right, we can appreciate the right, and no nation will go to war with us unless we are ourselves in the wrong.

Again, sir, I desire gentlemen to think whether or not we shall wait in our action because we may not have special confidence in this man or that man who may be at the head of the executive department or of the State Department. I want gentlemen to arise above all that as legislators and as men having the guardianship of the great interests of this country, looking forward to what is to come in the future, knowing that we are able to restrain any action that is wrong on the part of the Executive. Rising above all considerations, except that of statesmanship, I want gentlemen to see what is best for this country, and what is best for republican institutions throughout the world. And can any man say here in his heart that he doubts that within a short time, ay, a very short time in the history of nations, these islands must belong to us? Then, if this House answers that question in the affirmative, must we not further say that we ought to be ready to extend protection over them; and I do not by any means intend to belittle that word "protection." It is the protection which the strong can give to the weak without the former being involved in the affairs of the latter. It is the protection which the powerful always gives;

the protection which only a united, prosperous country can give to a weak and divided one. And in answer to the gentleman from Illinois, [Mr. JUDG.] allow me here to say that it is to give to the Executive of this Government some right to determine between these factions now destroying themselves and destroying American interests in these islands that I desire this protection. I say I fear not that we shall be involved in war thereby.

One word further. I had hoped that we might have been spared by the learned gentleman from New York [Mr. ROBINSON] a dissertation on Ireland at this time. No man can more deeply feel than I do the wrongs of Ireland, and the necessity that something should be done to right those wrongs. But let me say to him, respectfully, that the way to get Ireland to have any protection from this Government is not to drag before us in season and out of season, at any and every turn, an amendment as a rider to everybody's proposition. It simply trails her in the dust.

[Here the hammer fell.]

Mr. ROBINSON. I ask the gentleman from Ohio [Mr. DELANO] to allow me a single word, simply to say that I have never dragged Ireland in as a rider on any measure. The gentleman, I know, does not mean to be unjust, but he is extremely so in saying what he does. Ireland is suffering, and our citizens want protection there, and I ought to drag her in oftener, but I have refrained, because I do not want to obtrude myself too frequently upon the attention of the House.

Mr. DELANO. Mr. Speaker, the proposition now before the House in the resolution submitted by the honorable chairman of the Committee on Foreign Affairs is in itself so grave and so extraordinary that I desire as a part of my remarks the reading of the resolution, for the purpose of having the House distinctly understand and duly comprehend its import, its magnitude, its importance, its novelty. Will the Clerk do me the favor to read the resolution?

The Clerk read the resolution, as follows:

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and hereby is, authorized to extend to the Governments and people of the republics of Hayti and San Domingo the protection of the United States, for the purpose of assisting them to establish permanent republican institutions whenever those Governments, or either of them, shall apply to the United States for its protection, or whenever the President shall be satisfied that the Government and people of those republics desire or voluntarily consent to the protection of this Government: Provided, That the President shall communicate to the two Houses of Congress immediate information of any action which the Government of the United States may take upon this subject: And provided also, That no action which may call or require any appropriation of money from the Treasury of the United States shall be authorized or commenced under the authority of this resolution without the previous consent of Congress.

Mr. DELANO. Now, Mr. Speaker, what is it? That the President of the United States at pleasure may extend to the Governments of Hayti and San Domingo the protection of the United States in the establishment of Governments in those States, if said Governments, or either of them, apply for protection. That is the first part of it. The next part of it is that he may go there with protection, *suo sponte*, provided the Governments or the people in his opinion are willing to submit to it. Now, sir, is the Congress of the United States prepared to invest the Executive of this Government with such powers as are proposed by this resolution? It is not simply that he may give protection when called upon. That would not answer, I apprehend, the purpose and desire of those who favor this measure. But it is to enable him on his own judgment to go there with protection if he thinks these feeble Governments or the people therein will yield to it. I say, sir, that the analysis of this resolution is such as to convince everybody who listens to it that what I have said of it is correct. It is momentous, it is extraordinary, and before it receives the sanction of the American people

it certainly ought to be understood in all its scope and bearing.

I observed just now that the gentleman from Massachusetts [Mr. BANKS] rose. Does he desire to ask me a question?

Mr. BANKS. No. I rose to say that if that which has been stated by the gentleman from Ohio is the only objection he has to the resolution, that the President is to determine whether he will do this or not upon what he may suppose to be the facts, I am perfectly content that that proposition shall be stricken from the resolution. It proceeds upon the fact which I have stated, that the people of these republics appeal for this protection.

Mr. DELANO. Well, Mr. Speaker, I have a proposition in writing before me. On that I speak, and about that I must vote. Whenever the phraseology of the proposition shall be changed, then, as a lawyer ought to do and as a member of this House respecting his duty will do, I will speak to the changed proposition. I now speak to the thing as it is.

Mr. BANKS. I reply to the gentleman's interpretation, not to the language of the resolution, because he has not cited it to sustain him. The interpretation which the gentleman gives to the resolution I do not think is the right one.

Mr. DELANO. Then I understand that the gentleman denies my construction of the resolution?

Mr. BANKS. Yes, sir.

Mr. DELANO. Now, Mr. Speaker, I think it due to the House and to the country that it should be known exactly how such a proposition as this comes before the House. I therefore desire to say that this proposition has never had the sanction or approbation of the Committee on Foreign Affairs, and to my knowledge it has not the sanction or approbation of a single member of that committee save the chairman. There was barely a quorum present when it was agreed in the committee that the chairman should have leave to report it, and that leave was given last Friday under the apprehension that the committee would be called on that day, and for the last time during this session, and that the proposition could not be made to the House unless the committee consented to let it be made in the manner I have stated.

I think this statement is due to the nation, because this is a grave and momentous proposition, proposing to reverse the policy of this Government in its foreign relations from the foundation of the Government up to the present time. It seems to me that the Committee on Foreign Affairs ought to have given the proposition its sanction before it became a subject of agitation in the Congress of the United States.

Now, Mr. Speaker, I do not know that I understand what "manifest destiny" means. The eyes of a prophet have never to my knowledge been conferred upon me, and I do not know how much of this planet this Government will ultimately embrace within its control. All I do know is that I shall not prevent this progress so long as in making this extension we fail to violate any of the laws of good morals and are careful not to involve ourselves in a practice that will be disastrous to the future of this country, for which I hope I can see as glorious a prospect as those who are most eloquent on the subject of "manifest destiny." But, sir, if we have any manifest destiny worthy of approbation it is in obeying the laws of honor and justice, in showing to the world that we have a just and righteous Government that respects the rights of nations and of peoples; that will do no wrong itself and will submit to no wrong from others, and the Father of his Country and the founders of this Government, acting upon this definition of destiny, and believing, as I do, that the progress of our institutions would be best promoted by strict obedience to the laws of justice and of right, set at once and in the outset of the Government the example that we should not attempt to interfere with or control the affairs of other nations. I want to know now, sir, what you mean by protection?

Do you mean good offices in words, and to end there? Is that what this resolution means when it proposes that the President may at the invitation of these Governments or of his own free will offer them protection? Is it simply that he may go and give them good advice? I want to hear from the gentleman if that is the protection that they intend. Well, sir, silence gives consent, they say, in some places. I do not know whether it does in the House of Representatives or not.

Mr. BANKS. Not here at all. The gentleman alone has the right to speak now. If he gives me the floor I will answer him.

Mr. DELANO. I will yield to the gentleman for any reasonable length of time.

Mr. BANKS. I do not ask it now, but I will reply to the gentleman's question when my time comes.

Mr. DELANO. How much time have I left?

The SPEAKER. Eight minutes.

Mr. DELANO. Then I must hasten on. I know very well, as was intimated in the pregnant questions put by my colleague, [Mr. BINGHAM,] that this protection is meaningless unless it means that if necessary it shall be protection by war, protection by force, protection by power. We can give, as the Government of Great Britain gave to the rebels in our severe and serious conflict, a sort of protection which would bring down upon us the execration of mankind, as it brought down our indignation against the Government of Great Britain. Such a protection as that might or might not end in war, but in my opinion it would certainly end in dishonor and in disgrace. I am, sir, therefore opposed to this Government departing from its solid, honest, long-standing policy, which is, that it will not interfere in the affairs of other Governments. Especially am I opposed to this Government departing from that policy at this time. When these islands are ready to come to us let us take them, not by purchase at forty times the amount they are worth, with all the evils that may grow out of the policy of paying for land. When we find a people ripe for our institutions and ready for our plan of government let us incorporate them and then protect them afterward. But to go out as a protector of other nations who are struggling among themselves for self-government is to adopt a policy which will end in the overthrow of our institutions and in ruin to our nation.

Mr. Speaker, I am sure I do not know why this plan of protection by this Government is forced upon our consideration at this time. As I understand it, the Haytian Government is now in an unsettled condition, with a chronic rebellion still pervading its territory. I see it reported in the newspapers that certain parties in some of the eastern cities have been advancing money to the rebels of Hayti to carry on their rebellion against the Government *de facto*. I do not know that this fact has come to the knowledge and attention of the honorable and distinguished chairman of the Committee on Foreign Affairs.

Mr. BANKS. It has not.

Mr. DELANO. I supposed it had not, and therefore I now call his attention to it. But the fact has been stated in the newspapers. Now, suppose the statement to be true; suppose that some of the people of New York and of Boston, the filibusters and the adventurers, there are at work to foment and continue the rebellion in Hayti, and have invested money in it, then it would be a glorious thing for them if the Government of the United States would now come to their relief in this unlawful and dishonorable purpose, and in some form or other enable them to recover back at least their money.

Mr. BANKS. A moment.

Mr. DELANO. Certainly.

Mr. BANKS. The gentleman will allow me to say that this is for the protection of the Governments of those islands, not for the rebels.

Mr. DELANO. And what or who is the Government?

Mr. BANKS. The people make the Government.

Mr. DELANO. Yes, sir; and two parties of the people are trying to make it. Which party is right? I suppose your President is to say.

Mr. BANKS. The gentleman will allow me to say, inasmuch as he has referred in this regard to my constituents—

Mr. DELANO. Oh, no.

Mr. BANKS. If they have contributed money to weaken or overthrow the Government of Hayti then we are against them with all the power of this Government, and with all its influence, if it be needed, to sustain the Government there.

Mr. DELANO. I did not refer to the constituents of the gentleman. I hope that the old Bay State has no filibusters in it who would be guilty of any such enterprise as that. But if any such persons are engaged in that enterprise, and they get any relief from me or from this House, I shall be very much disappointed. No, sir; I have no idea that any of the constituents of the gentleman are engaged in that way, or that the gentleman knows anything about it if they are so engaged. Nor do I know that the newspaper article to which I have adverted has any foundation in fact. But I know that there is a chronic rebellion in Hayti, and I have seen those reports in the newspapers. And I say that if those reports be true then I can see in this proposition only an opportunity of perhaps benefiting the parties engaged in it if you confer upon the President this unprecedented and dangerous power.

Mr. Speaker, I pray this House to deliberate well before it inaugurates this new policy. Let us stand by the old landmarks of the Government. Let us strengthen ourselves here at home. Let us pay the debt of honor, burdened some in the extreme, that now rests upon us as the price of the life of our nation. Let us act justly, and show the world that this country of ours is a place where human rights are protected and secured to all. And then, by this high example, let us propagate our institutions; but let us not attempt to propagate them directly or indirectly by the physical power of the Government. Let us not go out and voluntarily, as we might under this resolution, interfere in a conflict for the possession of a Government in one of these islands. Let us wait till the people of those islands desire to come to us; and then, if we are ready to take them, let us take them and protect them as a part of ourselves. I should greatly regret to see such a proposition as this, with all its dangerous consequences, entailed upon the incoming Administration. I should much dislike to trust this power with the present Administration during its remaining days. I shall therefore move to lay this whole subject on the table, unless the gentleman from Pennsylvania, [Mr. WOODWARD,] who is about to take the floor, will agree to make that motion.

Mr. WOODWARD. I will make that motion; it was my intention to conclude my remarks with that motion. I understand, Mr. Speaker, that I am entitled to the floor for an hour.

The SPEAKER. The gentleman is entitled to one hour.

Mr. WOODWARD. Then I yield to the gentleman from New York [Mr. Brooks] for ten minutes.

Mr. BROOKS. Mr. Speaker, I am somewhat surprised that the gentleman from Massachusetts, [Mr. BANKS,] in view of the manifest sentiment of the House upon this subject, should undertake to press us to a vote upon the resolution which he has presented. I am not surprised, however, that the other gentleman from Massachusetts [Mr. BUTLER] should propose to add the Antilles to the proposition of his colleague with reference to Hayti and San Domingo. Nor am I at all surprised that the honorable gentleman from Ohio [Mr. SPALDING] should propose to add not only the Sandwich Islands, but all the innumerable islands of the Pacific ocean, including Japan, which may pos-

sibly be embraced in any future annexation or protectoration, if I may be allowed to coin a word. Nor was I at all surprised when my colleague from the Brooklyn district [Mr. ROBINSON] proposed to include Ireland in this contemplated protectorate. Nor shall I be surprised if in the progress of this discussion other gentlemen on this floor rise and propose to put the whole world under the protectorate of the United States, so that in the end all other countries may come under our control, thus making one united nation. I shall be especially surprised if some gentleman does not propose to extend the protectorate of the United States over the whole population of Africa.

But what surprises me most is that the honorable gentleman from Massachusetts, [Mr. BUTLER,] while proposing to embrace within the protectorate of the United States eleven British islands, should hesitate for one moment to extend a like protectorate over Ireland. That gentleman, who indulges in so magnificent a eulogium upon the omnipotence of the millions of soldiers of the United States of America, certainly ought not to hesitate to face Great Britain by advocating the annexation or protectorate of Ireland, when he proposes to take under the protection of the United States such little islands as the three Caymans; Barbadoes, an important island; Grenada, another important island; Grenadines, St. Lucia, St. Vincent, Trinidad, Tobago, and the very important Island of Jamaica, which are all included in the greater or lesser Antilles, and to which the gentleman proposes to extend the protectorate contemplated in this resolution.

Mr. BUTLER, of Massachusetts. Never without the consent of the Governments concerned.

Mr. BROOKS. Why, sir, a large majority—nine tenths at least—of the people of Ireland would to-day, but for the strong arm of Great Britain's military and naval power, demand the protectorate of the United States if they were allowed by the House of Representatives to indulge the hope that such a protectorate might be given. There is no earthly doubt that nine tenths of the population of Ireland are to-day hostile to the Government of Great Britain and pant for annexation to the United States, or even a protectorate by our Government. If a protectorate means a vote of the people of Ireland or the will of a government of that people a government already exists there, although in a secret form, in the Fenian organization, which would in a moment demand a protectorate of the United States if it could do so with hope of success. Why hesitate if our power is so omnipotent? The people of Ireland are a kindred people to ourselves. The blood of half the population of the United States is more or less mixed with that of Ireland; and yet to these Indian and African communities in the Antilles, not one drop of whose blood courses in our veins, you propose to extend your protection, while you hesitate to extend it to that little island from which so large a proportion of our own blood is derived. Sir, if this proposition is to pass I desire Ireland to be included. If that is done I shall be disposed to give it my vote; but if not, I am opposed to the whole proposition, and I trust it will receive but a small vote in the House.

Mr. WOODWARD. I yield ten minutes to the gentleman from Ohio.

Mr. BINGHAM. Mr. Speaker, believing as I do that the people of the United States have the power and the right for their own defense to intervene, under the authority of their own law and with their Army and Navy, in the affairs of any other people on this continent or adjacent thereto whenever it may be essential to their own safety so to do, and of the necessity of which intervention they are themselves the judges, responsible always for the exercise of that judgment to the nations of the world—because of this conviction, Mr. Speaker, I felt it my duty to listen to the proposition for the protection of the people and Governments of the Antilles, as it came from the Committee on Foreign Affairs. I was desirous to know what

the condition of things was that so affected the interests of the people of the United States as to require our intervention. I have listened, Mr. Speaker, but have listened in vain, for any suggestion from any quarter intimating any condition of things in any of the islands of the Antilles that involves, to any considerable extent at least, the interests of the people of this country, much less their interest to such an extent as to require the intervention by the people of the United States, through the law-making authority, of the whole power of this nation in the internal affairs of that people.

Mr. Speaker, what I desire to say to the House here, and what I attempted to suggest to the chairman of the Committee on Foreign Affairs yesterday, when he was kind enough to allow me a moment to interrupt him, is that whatever the relations of things may be between the people of the United States and any other people upon this continent or adjacent thereto requiring intervention it is all-important that that intervention be made in accordance with the requirement of the Constitution of this country. I listened with much interest to what was said by my honorable colleague [Mr. SHELLABARGER] founded upon the early legislation of this Government touching our neutrality laws, and upon the suggestion of that very profound and wonderful State paper, known as the Farewell Address of the Father of our Country; and I must say that I heard with something of surprise the remark of the honorable gentleman from Massachusetts [Mr. BUTLER] in reply thereto, almost partaking of the language of sneer, when he intimated that he was not willing to consent that political wisdom had died with the author of the Farewell Address of Washington. Sir, nobody claims that; but intelligent men in this land and in all lands know right well that the accredited author of that paper, Mr. Hamilton, and the great man who accepted it and made it his own, are entitled not only to the respectful consideration, but to the profoundest gratitude of the living generations of men.

Passing, however, out of the text of the Farewell Address and into the text of the Constitution of the country I come to the discussion of this measure. I say here, for myself, that in my judgment it is not within the compass of human wisdom to frame any bill of any kind or on any subject more directly in conflict with the express limitation of the Constitution of the country than this. That instrument is not to be disposed of by a sneer here or anywhere else. Through it and by it we came to be a people; through it and by it we must continue to be one people if we continue to be one people at all. The war-making power of this country, which is involved in this resolution, is in my judgment, by the express terms of the Constitution, not by mere construction, but by its express, solemn words, restricted to the legislative department of this Government. Congress alone, by the terms of the instrument, is authorized "to declare war," and Congress cannot delegate that authority. It is an old time principle of the common law, known and accepted among intelligent men everywhere all over the globe, that a delegated power never can be transferred by the agent without the consent of the principal. The people are the principal in this matter, and they delegated this great power, which involves the issue of life and death to all the people of this country, to the legislative department of this Government, and to that legislative department alone; Congress cannot authorize the President of the United States, therefore, at his pleasure, and, in the language of the substitute offered by the gentleman from Massachusetts, [Mr. BUTLER,] when he may "deem it expedient," to make war either among the people of the Antilles or among the peoples allied to them upon continental Europe.

Mr. BUTLER, of Massachusetts. Allow me a single explanation?

Mr. BINGHAM. I can yield for a moment only, as my time is limited.

Mr. BUTLER, of Massachusetts. Permit

me to say that I have not advocated that he should make war, because making war is in contravention of the laws of nations.

Mr. BINGHAM. I understand that the gentleman has not advocated it; he is too shrewd an advocate so to damage his proposition. But he will allow me to say that while he has not advocated it by speech he has advocated it much more potentially than by speech in presenting this substitute, and that is exactly the point I was coming to when the gentleman interrupted me. I submit to the candid judgment, not only of the members of the House but of the people of this country, that the very terms of the gentleman's substitute do vest in the President, if you pass the substitute and give it the effect of law, the power to make war. Why, the gentleman puts into his substitute a provision that the President shall exercise this power as he may deem it expedient in such way as shall not be "inconsistent with the laws of nations." I submit that it is hardly inconsistent with the laws of nations to make war. Our Constitution is not a part of the laws of nations.

It is not in the substitute provided that the President is to exercise this power as he may deem expedient, so as not to be inconsistent with the Constitution. That is precisely what was involved in the suggestion which I made yesterday, that as they were appending provisos to the resolution they might as well provide further that the President under it and by it shall do no act whatever which will involve a conflict of arms with anybody. It was my judgment that when you had put that proviso into the resolution there would be nothing left in it. In the words of my honorable colleague, [Mr. DELANO,] the whole thing would become meaningless; it would become an empty pretense, unworthy of the representatives of the people. But the language of the proposed substitute is that the President shall extend protection to such people of the Antilles as may request it when he may deem expedient, or to such Governments as may request it. I find the latter words, "the people," interlined in the manuscript text, and I suppose that is what is meant—either the people or the Government may request intervention. The President is first to decide what is the Government of one or all of these islands in our western archipelago; or he is first to decide who are "the people" in one or all of these islands; and having decided that, he is then to decide upon the expediency of protection; and having decided upon the expediency of protection, he is to extend protection; and when he extends protection, he is to extend it without limitation other than that named in the gentleman's substitute, to wit, that it shall not be "inconsistent with the laws of nations." This is the first time I have ever heard it intimated anywhere in the exigencies of debate that it is inconsistent with the laws of nations to make wars in order to give authorized protection. Instead of being inconsistent with the laws of nations, I hold that it is entirely consistent, not only with the laws of nations, but with the laws of the God of nations, to extend protection by all the powers and instrumentalities of war, when that protection is authorized and just and proper.

Now, if we are going to extend a protectorate over these islands, I propose to extend it according to law and with a due regard to the exigencies of the case.

[Here the hammer fell.]

Mr. WOODWARD. I now yield five minutes to the gentleman from New York, [Mr. ROBINSON.]

Mr. ROBINSON. I have asked for five minutes to say a word upon this subject, in addition to what I have already had an opportunity of saying. The distinguished gentleman from Massachusetts, [Mr. BUTLER,] against whom, on this subject, I will not say a single word, because I know his heart is right in the movement I have proposed, and the only sensible movement in the whole proceeding—the distinguished gentleman from Massachusetts

has said some things to which I desire to reply. Sir, I have an utter scorn and contempt for the party or the man who could go mousing around among the nations, with the powers of a nation whose tread to-day shakes the world, whose power is feared all over the earth; the leading Power of the world, who goes mousing around for some half-breed and weak and insignificant Government upon which to hurl the strength of its military and naval power. I want to go at the large game first; and then if we are compelled to come down to small game I will go with gentlemen as far as I can.

The gentleman from Massachusetts [Mr. BUTLER] has asked me why I bring in Ireland as a rider upon every proposition before this House. I say to him, through you, Mr. Speaker, and I say to the public, as far as my voice can reach, that I have said nothing at all upon Ireland since I have taken my seat here, but, with the help of God, and with the permission of the House, if I can get the eye of the Speaker I intend to say a few words before I close my term of service here. When have I brought in this subject before? Upon what occasion have I mentioned Ireland here? But once, at the suggestion of the distinguished gentleman from Massachusetts, the chairman of the Committee on Foreign Affairs, [Mr. BANKS,] who requested me to make a few remarks upon the subject when a resolution of sympathy was introduced here. We then put Crete and Ireland together in the resolution; that resolution went over to the Senate, and there they struck out Ireland, because Ireland was under a great power. I have said nothing upon the subject of Ireland here, nor have I brought it in as a rider upon any subject.

I have tried to arouse the sleeping attention of this House to the fact that Ireland is to-day but an English Bastille for the imprisonment of American citizens; I have done that without being able to wake up the latent energies of this country, without being able to summon up from the depths of the hearts of the Representatives of the people on this floor a blush of shame for their conduct in this respect. To-day at least two men—and I might mention others, but I refer to the two, Warren and Costello—are pining in British prisons, having been sentenced for fifteen years. They are to serve out that sentence for words spoken and acts done in the United States, and the man who contradicts that statement has not given any attention to this subject, and has not read the official reports which for twelve months past have been lying upon the desks of members here. For no acts done in Ireland have they been imprisoned. They did not even kick a stone in Ireland; they did not even spit upon the soil of Ireland. Whatever they did was done in New York and in Boston. And yet those men lie there in prison, and the gentleman from Massachusetts [Mr. BUTLER] blames me for bringing this subject before the House, saying that I am always putting Ireland as a rider upon subjects here.

I am trying to arouse gentlemen to what the distinguished gentleman from Ohio [Mr. BINGHAM] said, that if it is true it involves not only the peace but the honor of the Commonwealth. I told him then, as I tell the House now, that it does involve the honor of the Commonwealth. We will have no war with Great Britain; we cannot go to war for Ireland. We ask no protection farther than that you shall give Ireland fair play. Ireland alone is able to meet any Power upon the globe; she has more soldiers than any other nation except the United States; she has more brains and more disciplined troops to put in the field than Great Britain can oppose to her.

[Here the hammer fell.]

The SPEAKER. The five minutes of the gentleman have expired.

Mr. ROBINSON. I am sorry I have no more time.

Mr. WOODWARD. I now yield the floor for ten minutes to the gentleman from Tennessee.

Mr. MAYNARD. Mr. Speaker, I cannot quite agree with the declaration of the chairman of the Committee on Foreign Affairs, made in reply to the question proposed to him, that we had no precedent for a proceeding like this. With deference, certainly, to his superior information, I think we have had more than one precedent, and that of no small importance. The Monroe doctrine is the protectorate by this Government over all the Governments upon the American continent; and when my friend from Ohio stands upon the outposts of the Constitution, and challenges the production of any authority under that instrument for the measure that is here proposed, I reply by the same authority which has authorized us to assert the Monroe doctrine in every possible form except by force of arms and the expenditure of money to enforce it—by executive rescripts, by the action of our Legislature, by the action of our national conventions, and, more than all, by the imperial authority of the ballot-box more than once announced.

One example, sir, is Mexico, menaced as she was during our late war of the rebellion. We established a protectorate over her which found its way into our legislation in the form of "the republic of Mexico," and in the adoption of a resolution by this body, offered by my deceased friend, then a Representative from Maryland, in which we declared that the empire of Maximilian should not be established in Mexico, such being the sense of this body, reflecting the judgment of the people. That was a protectorate of a higher kind than that of arms. It showed the high moral purpose which was in force in this world at the close of the nineteenth century, more powerful than the prowess of your arms.

In all the republics established or attempted to be established in the colonies of Spain, Portugal, or France there has been a power, an influence, a spirit, by whatever name we may choose to designate it, that is hostile and averse to a republican form of government. It is in accord with a foreign Power and allied to it that has its seat upon the banks of the Tiber. That influence has been at work from the beginning to undermine and overturn every one of these South American republics. It is that Power which has created disturbances in all the South American republics. It is that Power which sent Maximilian across here and attempted to put him upon the throne of the Montezumas. It is that Power, sir, which, as soon as war succeeded the breaking out of our Revolution, created disturbances in this unfortunate Island of San Domingo. The people understand it there as well as we do here. At this juncture of their affairs the people of that island find themselves at last disentangled from other nations. The ill influence of the Power to which I have referred has been felt in that beautiful and heaven-adorned island as it has been in the neighboring republic of Mexico. It has been the cause of their agony for years. Now in their distress they turn to us and ask us to introduce the same influence among them that we have established so beneficently in Mexico. That I understand, from the reading of the resolution and the exposition of the Committee on Foreign Affairs, to be the action that is proposed on our part. It is to that extent and no more. I am ready, as my colleague has expressed it with so much force, to extend that moral influence to the people of that island or any other island when they come here like San Domingo and ask us for it.

I think, Mr. Speaker, with all deference to the distinguished gentleman from the Brooklyn district of New York, [Mr. ROBINSON,] that he had better bring in his proposition by itself and not insist upon it as an amendment to this resolution. The condition of the people of Ireland presents no analogy to that of the people of San Domingo. Ireland lies under the guns of a mighty Power which claims jurisdiction over it to-day, and which, according to his declara-

tion, is exercising it in a high-handed manner. But there is no power on earth to take jurisdiction over these people. They stand as free among the nationalities of this world as any other people who exist. They come to us—and that is the declaration upon which this proceeding is based—and they say that owing to the malign influence brought upon them, and which is still operating, they have been unable to establish—and by establishing I mean not merely organization—a republican form of government. They ask us to do for that island what we have been doing substantially for the whole American continent, and what we did during the late war in the case of Mexico.

I am satisfied, Mr. Speaker, that the people of the United States have a mission upon this continent higher and broader and loftier than to sit down and make money to put into our pockets. God Almighty did not plant this nation here to live for itself and itself alone. Our mission is coextensive with the continent upon which we are placed. It has been our instinctive feeling, and our perhaps not always conscious action since our beginning, and in adopting this resolution we are doing nothing different in kind or character from what we have been doing in numberless instances in this House by acts of legislation and every other form of expression of our opinion.

[Here the hammer fell.]

Mr. WOODWARD. Mr. Speaker, ever since Christopher Columbus discovered this continent these islands have been for some purposes considered as a part of it. Geographically they ought, perhaps, to be considered as a part of this continent. I am told by those who know more about such subjects than I do that the commerce of this country needs one or more West India ports. I know that the relations existing between these islands and ourselves are from time to time subject to disturbance. I know that more than once in the history of this nation there have been propositions to purchase Cuba, and perhaps other islands in the West Indies. Now, sir, speaking only for myself and according to the information I now possess, I regard these islands as a part of the American continent. I believe they naturally belong to us, and if I am in public position when any reasonable measure is brought forward for the acquisition and annexation of those islands I shall support it according to the best of my ability. I believe that we need them, and that we shall need them more in the future than we have in the past. I believe that the fathers of our country, who have been fortunately alluded to in this debate, considered them as part of our continent, and when they spoke of a continental congress and a continental army, and called their money continental money, and when everything they said or thought of seemed to be continental, I suppose they embraced these islands in their thoughts as possibly belonging in the future to our political system.

I have spent my life in endeavoring to carry out the ideas and principles of the fathers of this Republic, and what remains of it, Mr. Speaker, shall be devoted to the same end. I believe they included these islands in their thoughts of a continental government. I include them in my thought of a continental government. But, sir, I would acquire them in a manner worthy of ourselves. I would either buy them by open and fair negotiations or I would conquer them by our military power. I would not steal them, sir, as this resolution proposes; and by just so much as I approve of the ultimate acquisition of these islands in a fair, honorable, manly mode I am opposed to the proposition reported by the gentleman from Massachusetts, [Mr. BANKS,] from the Committee on Foreign Affairs, of acquiring them by indirection, which his resolution certainly contemplates.

Mr. Speaker, what is this resolution? He calls it a protection, and cheapens that down to a moral protection. If I understood him yesterday, this moral protection is to be enforced

by our men of war in those seas. I do not know whether we can enforce it in San Domingo in any other way than by the use of our military power. Well, sir, the history of modern attempts at protection show in what manner they usually end. Russia undertook to protect the "sick man" Turkey, and brought upon herself a great war. France undertook to protect the empire of Mexico, and look at the deplorable consequences which followed that act. When we undertake protection of feeble Governments as yet foreign to us we shall attract and invite assault from every powerful nation of Europe. They will understand instantly that it will disturb the balance of power. We will then have upon our hands a war, a constitutional war, according to the views of my friend from Ohio, because it would be a war forced upon us by powerful nations which we have provoked to war by our folly. What is the motive for this, sir, at this time? If these islands are unable to govern themselves let them be annexed to this country and we will govern them, and govern them badly if we govern them as we now govern the people of the southern States. Indeed, it is a marvel to me that the gentleman from Massachusetts should want more negroes brought within our limits in view of the actual condition of things in this country at this time. It seems to me that it would be time enough to annex San Domingo and involve ourselves in an attempt more or less sensible to govern them after we had settled our own disturbed affairs in the southern States.

Sir, I think that the gentleman from Ohio hit this measure exactly when he said there was a speculation in it. If I understand the proposed substitute for the resolution of the chairman of the Committee on Foreign Affairs, it includes Alta Vela as well as all the other outlying pigeon-roosts in those seas, and we know from what we have heard this winter that there is considerable speculation in Alta Vela. I hold that the Government ought to intervene in regard to Alta Vela so far as to protect the vested rights of our own citizens. I believe there are living in Maryland some honest men who own Alta Vela and who are good loyal citizens of the country, and the power of this Government ought to secure to these citizens their rights. But this is not the mode of doing it, nor is that object in the original contemplation of the resolution from the Committee on Foreign Affairs.

This proposition, sir, to engage the Government in a military protectorate which is most likely to involve us in a general European war seems to me to be ill-timed in all of its aspects, and especially while we have a national debt like that which is oppressing us at this moment. Why, sir, we have a war debt now which is far from being provided for. Gentlemen are not well agreed as to what should be done with it. Do they propose to increase it by bringing on another war, and that for the purpose of adjusting our relations with islands which will ultimately gravitate to us and become a part of this country? This is no time for such a policy, and the gentleman's resolution if otherwise unobjectionable would be exceedingly objectionable in point of time. I think the entire energies of this country ought to be directed to the paying of our national debt. I say the paying of it, and not the funding of it. You may change the form of our public debt as much as you please, but still it will exist as a burden and incumbrance upon us until it is paid. I am not, therefore, for any measure which will withdraw the country from that great central point and destroy those energies and abilities which should be directed to the extinguishment of that debt.

Let me tell you, Mr. Speaker, that unless we get rid of the debt we will have no Republic of our own in the future to maintain. I believe that every monarchy in the world has been built upon a national debt, and that a great debt hanging over any people is inconsistent with republican institutions. If we would maintain our republican institutions, therefore, we must put ourselves back upon

the principles of the fathers of the country, avoid all entangling alliances with all foreign Governments, and concentrate all our energies toward a redemption of our own country from the great burden of a national debt. If there was any one principle of George Washington and the other founders of the Republic better defined in their minds than another, it was that this should be a nation out of debt—a free and independent people, untaxed, and such a people we cannot be with such a debt as that which oppresses us at this time.

Now, Mr. Speaker, without going further into this debate, I will move that the resolution and the pending amendments be laid upon the table.

Mr. BANKS. I trust the gentleman will allow me a word.

Mr. WOODWARD. I withdraw my motion for that purpose.

Mr. BANKS. This is a question which cannot be evaded. It cannot be laid upon the table. By the providence of God and the movements of great nations it has been forced upon us, and must be decided. I trust that the House will allow the discussion to be continued for a reasonable time. I will not ask much. In order that we may act upon this question affirmatively or negatively, let us have a reasonable time for discussion. I do not ask unreasonable attention to it, but I do ask the House will discuss the question so that it may be understood fairly and fully, and we may have a decision in the affirmative or negative, and not evade it by the motion to lay upon the table.

Mr. WOODWARD. With every disposition to accommodate the gentleman from Massachusetts, I cannot with deference to the opinions of those around me withdraw my motion, and I must therefore insist upon it.

Mr. BANKS. Then I trust it will be voted down.

Mr. HOLMAN. I demand the yeas and nays.

Mr. CULLOM. If the motion to lay upon the table is voted down, will it not be then in order to move that the resolution and pending amendments be recommitted to the Committee on Foreign Affairs?

The SPEAKER. That motion would then be in order.

Mr. CULLOM. I give notice that I shall make that motion if the motion to lay upon the table does not prevail.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 126, nays 86, not voting 60; as follows:

YEAS—Messrs. Allison, Archer, Arnell, Delos R. Ashley, Axtell, Bailey, Baker, Baldwin, Barnes, Barnum, Beaman, Beatty, Beck, Benjamin, Benton, Bingham, Boyden, Boyer, Bromwell, Brooks, Broome, Buckland, Burr, Calkins, Cary, Churchill, Cleader, W. Clarke, Coburn, Cook, Corley, Cornell, Covode, Cullom, Delano, Dockery, Dodge, Eckley, Ela, Ferriss, Fields, Fox, Gots, Glossbrenner, Golladay, Goss, Gravelly, Griswold, Grover, Haight, Halsey, Harding, Hawkins, Heaton, Hill, Holman, Hopkins, Johnson, Alexander H. Jones, Thomas L. Jones, Judd, Kelley, Kerr, Kitchen, Koontz, Lash, George V. Lawrence, Lincoln, Loughridge, Marshall, Marvin, McCarthy, McCormick, McKee, Mercer, Miller, Moore, Moorhead, Morrell, Mungen, Newcomb, Newsham, Niblack, Nichols, Norris, O'Neill, Perham, Peters, Pettis, Phelps, Pierce, Pike, Poland, Polesley, Randall, Seofield, Shaubs, Shellabarger, Smith, Starkweather, Stevens, Stokes, Stone, Stover, Taber, Taffe, Thomas, Tift, John Trimble, Lawrence S. Trimble, Trowbridge, Upson, Van Auken, Burt Van Horn, Van Trump, Ward, Elihu B. Washburne, Welker, William Williams, James F. Wilson, Stephen F. Wilson, and Woodward—126.

NAYS—Messrs. Banks, Blair, Boies, Boutwell, Benjamin F. Butler, Roderick L. Butler, Chanler, Sidney Clarke, Clift, Cobb, Deweese, Driggs, Thomas D. Eliot, James T. Elliott, French, Garfield, Gove, Higby, Hooper, Hotchkiss, Ingersoll, Maynard, Mullins, Plants, Price, Prince, Sawyer, Sitgreaves, Spalding, Sypher, Twichell, Vidal, Henry D. Washburne, Whittemore, Windom, and Young—36.

NOT VOTING—Messrs. Adams, Ames, Anderson, James M. Ashley, Blackburn, Blaine, Bowen, Buckley, Dwyer, Diegel, Dixon, Donnelly, Edwards, Eggleston, Eldridge, Farnsworth, Ferry, Hamilton, Haughey, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Julian, Kellogg, Kelsey, Ketcham, Knott, Laffin, William Lawrence, Loan, Logan, Lynch, Mallory, McCullough, Morrissey, Myers, Nunn, Orth,

Paine, Pile, Pomeroy, Pruyn, Raum, Robertson, Robinson, Roots, Ross, Schenck, Selye, Stewart, Taylor, Van Aernam, Robert T. Van Horn, Van Wyck, Cadwalader C. Washburn, William B. Washburn, Thomas Williams, John T. Wilson, Wood, and Woodbridge—60.

So the resolution and amendments were laid on the table.

Mr. WOODWARD moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LOUISIANA ELECTION.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting, in compliance with the resolution of the House, the return of the vote by which the late James Mann was elected to Congress from the second district of Louisiana; which was referred to the Committee of Elections.

L. ALCAN.

On motion of Mr. WINDOM, leave was granted for the withdrawal from the files of the House of the papers in the case of L. Alcan.

WINCHESTER AND ALABAMA RAILROAD.

On motion of Mr. ARNELL, leave was granted for the withdrawal from the files of the House of papers in the case of the Winchester and Alabama railroad.

Mr. GARFIELD. Of course copies are to be left of these papers?

The SPEAKER. That must be done, unless otherwise ordered by special action of the House, and such action has not been provided for in either of these cases.

RESTRICTION OF FRANKING PRIVILEGE.

Mr. FARNSWORTH, by unanimous consent, from the Committee on the Post Office and Post Roads, reported back House bill No. 1549, to restrict and regulate the franking privilege; which was ordered to be printed, and recommitted to the same committee.

Mr. WASHBURNE, of Illinois. I wish to enter a motion to reconsider its recommittal. If I could do so I would insist that it should now be put upon its passage. It restricts the franking privilege, doing away entirely with *fac-simile* stamps, which the Postmaster General reports to us is the cause of a large deficiency in the revenue of the Post Office Department.

The SPEAKER. The motion to reconsider will be entered upon the Journal.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. HAMLIN, one of its clerks, which announced that that body had passed without amendment House bill No. 967, to provide for the removal of the remains of Hon. W. T. Coggeshall, late minister of the United States at Ecuador, to the United States.

It also announced that the Senate had passed House bill No. 1261, amendatory of an act entitled "An act relating to *habeas corpus*, and regulating judicial proceedings in certain cases," with an amendment, in which the concurrence of the House was requested.

It announced, in conclusion, that the Senate had passed a joint resolution (S. R. No. 194) authorizing the transfer of certain appropriations heretofore made for the public printing, binding, and engraving; in which the concurrence of the House was requested.

ALASKA.

Mr. ASHLEY, of Ohio, from the Committee on Territories, reported a bill (H. R. No. 1681) to provide a temporary government for the territory of Alaska; which was read a first and second time.

Mr. WASHBURNE, of Illinois. Let the bill be read.

Mr. ASHLEY, of Ohio. I will state to the House that there are but two provisions in this bill differing from those contained in the ordinary territorial bills; and unless the House wants the whole bill read I will ask the Clerk to read only those two provisions.

Mr. WASHBURNE, of Illinois. I ask the whole bill may be read. This is just what I expected when we went into this Alaska business.

The bill was read.

Mr. ASHLEY, of Ohio. This is a simple territorial bill, and contains the same provisions, with the exception of those to which I have referred, contained in previous territorial bills. The territory of Alaska having been acquired, the question now is, whether it shall have a civil or military government. The committee have instructed me to report this bill, and unless some gentleman desires to move an amendment I shall call for the previous question.

Mr. WASHBURNE, of Illinois. Will not the gentleman allow any discussion of this bill?

Mr. ASHLEY, of Ohio. How long does the gentleman want?

Mr. WASHBURNE, of Illinois. Ten minutes.

Mr. ASHLEY, of Ohio. I yield to the gentleman for ten minutes.

Mr. WASHBURNE, of Illinois. The Committee on the Territories, Mr. Speaker, has sprung upon us this morning this bill providing for a temporary government for the territory of Alaska in such a way that I do not know what will come next. We have just had before us the question of a protectorate over some of the islands in the West Indies, and all sorts of things in that direction down among the earthquakes, and now my friend from Ohio proposes to go up among the icebergs and establish a territorial government where, I am advised, outside of the Army there are not fifty white men living. He proposes to establish this territorial government there for this small number of white persons, and to impose upon the United States an annual expense of, I take it, not less than \$50,000. Before I vote upon this bill I desire that the gentleman from Ohio, instead of calling the previous question, shall submit to the House some observations showing, if he can, the absolute necessity for the establishment of this government. For one, sir, I can see no such necessity. All that we want in that territory is the military government which we have there at present. This military government affords full and ample protection to all our interests there, and involves us in no expense beyond the ordinary cost for the maintenance of the Army.

I have not had time, Mr. Speaker, to go over this bill in detail; but I was surprised at the statement of the gentleman from Ohio when he said that this is but the ordinary bill for the establishment of a territorial government. Sir, I find upon the eighth page of the printed bill an extraordinary section—section seven—and I undertake to say that this whole bill had its inception—of course without the knowledge of my distinguished friend—in that section. Now, sir, it is known that if there be any value at all in this territory of Alaska it is in the seal fisheries. The island of St. Paul, which is embraced in the Alaska purchase, is the only home of the fur-bearing seal in the world. The House will recollect that at the close of the last session, when this subject was brought to our attention by the Secretary of the Treasury and was referred to the Committee on Commerce, we passed an act making an appropriation of \$60,000, and providing that no seal should be killed until further legislation by Congress on the subject. At that time the opinion of the Secretary of the Treasury and the opinion of this House was that it was our duty to protect those seal fisheries, which, as I contend, are the only valuable part of that purchase. What do we now find? While the Committee on Commerce, under the lead of its chairman, the honorable gentleman from Massachusetts [Mr. ELIOT,] is, as I understand, considering this subject, and endeavoring to devise such regulations that the United States may derive a revenue from those seal fisheries, the gentleman from Ohio, in his bill for the establish-

ment of this territory, incorporates this extraordinary section, which I will read:

Sec. 7. And be it further enacted, That the Legislative Assembly of the territory shall at its first session provide by law for the preservation of the valuable furs in said territory, especially the sea otter, the seal, and the beaver.

Thus the jurisdiction of the United States over this subject is taken away, and the whole question is put under the control of the Legislative Assembly of that territory. Half a dozen speculators going up there may get into the territorial legislature, and by making such laws as they please may take possession of this whole seal fishery. That, I undertake to say, was one of the controlling considerations which induced the bringing in of this bill. Sir, I know what attempts have been made before the Committee on Commerce—my friend from Massachusetts [Mr. ELIOT] will state the facts more distinctly—to obtain the monopoly of those seal fisheries. Certain companies are endeavoring to obtain for a mere song the exclusive right of carrying on those fisheries.

But, sir, independently of the proposition embraced in this seventh section, which, I take it, the gentleman from Ohio will not undertake to press upon the House, my great objection to this bill is that there is no earthly necessity for the establishment of this territorial government; that such a measure is not demanded of us for the protection of any rights of American citizens there. If there be no necessity of this kind I ask why should this House embark in this scheme for the expenditure of the public money? Why is it necessary to establish this government in that territory when we have no people there requiring protection except those who can be protected by the military force already there? The accounts which we receive from that territory of the sickness and suffering of the people who are sent there show conclusively that it never will be inhabited to any considerable extent by white people. Why, sir, it was but the other day I saw that one of our Army officers there had committed suicide from sheer home-sickness in consequence of being driven there into banishment by the Government which placed him on duty in that territory. We shall have a small force there, and the smaller the better; and probably, as my friend from Massachusetts suggests, we shall have a bill brought in by my colleague [Mr. CULLOM] to bring home the body of this distinguished military officer who has sacrificed his life in the service of his country in the territory of Alaska.

Now, sir, I desire gentlemen should look over this bill; look at the machinery; look at your future delegate in Congress who will have to come a distance of five thousand miles, for which he will be entitled to mileage, to say nothing of his salary. And I presume he will be elected by a mass meeting at that. Look at your court and legislature, with all the paraphernalia of a government for fifty white people outside of your military force. I trust the House will vote down the bill, and that we shall hear no more of this expenditure for that territory.

Mr. MUNGEN. I rise to a question of order. The gentleman has no right, after the passage of the fourteenth article of amendment to the Constitution, to make any distinction on account of color. He talks about white people. [Laughter.]

The SPEAKER. The chair overrules the point of order.

Mr. FERRISS. I ask the gentleman from Ohio to allow me to offer an amendment to the bill.

Mr. ASHLEY, of Ohio. I will allow it to be read.

The Clerk read the proposed amendment, as follows:

Strike out all after the enacting clause and insert the following:

That the President be authorized to bind the United States by treaty to pay the sum of \$7,200,000 to any respectable European, Asiatic, or African Power which will accept a cession of the territory of Alaska.

Mr. ASHLEY, of Ohio. I decline to allow that amendment to be offered.

Mr. WASHBURNE, of Illinois. I would like to have a vote upon it.

Mr. ELIOT, of Massachusetts. I rise for the purpose of offering an amendment to the bill by striking out the seventh section:

Mr. ASHLEY, of Ohio. That motion may be entered.

The Clerk read the section proposed to be stricken out, as follows:

That the Legislative Assembly of the territory shall at its first session provide by law for the preservation of the valuable furs in said territory, especially the sea otter, the seal, and the beaver.

Mr. ASHLEY, of Ohio. I yield three minutes to the gentleman from Iowa.

Mr. PRICE. I wish to say that I think before passing this bill organizing the territory of Alaska we ought to know how many people there are there to be governed, and to know whether the expense we are proposing to incur is justified by the necessities of the case. I tried all I could when the question of the purchase of that territory was before Congress to prevent it. One reason why I opposed it was because I knew from the natural course of things that it would not be long before we would be asked to spend money to keep that which we were purchasing. And now if it be true, as I believe, that there are very few persons there, and as I believe the military forces in the territory can keep it in a better condition and at less expense than in any other way, I think we had better refuse to establish a territorial government there.

Look at the expense to be incurred—six dollars day for every member of the Legislature and six dollars for every twenty miles travel. The delegate to Congress will receive \$5,000 a year salary, and how many thousand dollars for mileage I cannot tell, not knowing the distance. It is almost to us a foreign country. I shall be surprised if this House, without knowing that there is a necessity for this measure, shall undertake to incur this expense and encourage this kind of thing. I hope, therefore, that it will refuse to organize the territory. Now that we have got it and cannot give it away or lose it, I hope we will keep it under military rule and get along with as little expense as possible. It is a dead loss to us any way, and the more expense we incur for it the worse it is for the country and the people. I hope, therefore, that the bill will not pass. If I had the floor to make a motion I would move to lay it on the table; but as I have not, the only thing I can now do is to vote against the bill.

Mr. ASHLEY, of Ohio. The argument of the gentleman who has just addressed the House would be very good as against the acquisition of this territory. But it having been purchased, and the sovereignty of the United States having extended over it under the obligation of the treaty made with the emperor of Russia, in my judgment, we are bound in good faith to extend to every citizen of Russia, made by that treaty a citizen of the United States, and to every citizen of the United States who now is or may hereafter be a resident of that territory, the benefit of a civil government.

Mr. MILLER. I desire to ask the gentleman what is the number of inhabitants in that territory exclusive of Indians?

Mr. ASHLEY, of Ohio. Exclusive of Indians there are several thousands. It was stated at the time the treaty was under consideration in the Senate that a large number of foreigners, several thousands, not only Russians but other foreigners, had settled and were resident there.

Mr. WILSON, of Pennsylvania. I desire to ask the gentleman whether he designs by this bill to establish female suffrage in the territory of Alaska?

Mr. ASHLEY, of Ohio. No, sir.

Mr. WILSON, of Pennsylvania. As I understand the fifth section of the bill it allows female suffrage there. And I desire to ask the gentleman whether a female may be appointed governor of the territory?

Mr. ASHLEY, of Ohio. The fifth section

of the bill, as reported by the committee, reads that "every male citizen of the United States above the age of twenty-one years" shall be an elector.

Mr. WILSON, of Pennsylvania. That is not in the printed bill I have before me.

The SPEAKER. The gentleman from Ohio stated that there were some changes in the printed bill.

Mr. WILSON, of Pennsylvania. The explanation is satisfactory.

Mr. PAINE. I wish to ask the gentleman who reported this bill whether it is not a fact, as I have been informed, that every single Russian has left that country?

Mr. ASHLEY, of Ohio. Upon that point I have no authoritative information—none that I can communicate to the gentleman.

A MEMBER. It is so stated in the newspapers.

Mr. FERRISS. Will the gentleman vouch of his own knowledge, or have the committee any knowledge, that there are a hundred persons in that territory now who speak the English language?

Mr. ASHLEY, of Ohio. Oh, yes, sir; more than that have gone there from California alone.

Mr. FERRISS. I mean outside of the military.

Mr. ASHLEY, of Ohio. And I mean outside of the military.

Mr. FERRISS. Do you know it?

Mr. ASHLEY, of Ohio. Yes, sir. As chairman of the Committee on the Territories I am entirely indifferent whether the House orders this government to be established or not, but as a member of this House I feel it to be my duty to vote for the establishment of a civil government of some kind in this territory; and I believe that a government, such as has been established in all the Territories and has been tried by practical working, is the best form of government for people in a distant and sparsely populated country.

Now, I desire to say a single word with regard to the section which my friend from Massachusetts [Mr. ELIOT] proposes to strike out. My friend from Illinois [Mr. WASHBURN] supposes that that section has been interpolated into the bill by some scheming individuals who have been mousing around the Capitol. I want to say to him that that section was put into the bill without any suggestion from any person except a Senator, and that it had the unanimous approval of the committee. So far from this section authorizing the Legislature to grant any special privileges to anybody, it expressly provides that they shall enact at their first session stringent penal laws for the protection of the valuable fur-bearing animals of the territory, and especially the sea otter, the seal, and the beaver. The committee having no knowledge as to the proper months in which those animals might be killed, or the number of them which might be safely and properly killed, they proposed to leave that matter to the territorial Legislature representing the interests of the people of that country. We provide specially in the bill that the Legislative Assembly shall not grant private charters or special privileges to any persons, but they may by general incorporation act authorize persons to associate themselves together as bodies-corporate for "mining, manufacturing, and other industrial pursuits." "Other industrial pursuits," I take it, covers the whole ground. They could pass a general incorporation law, and any number of persons who chose—whether one company or ten companies—could organize under that law and engage in the seal fishery, or in hunting for fur-bearing animals, or in mining, or any other industrial pursuit. I believe that when the House considers this matter they will see that that provision is to guard and protect the interests in the territory, and that to strike it out is but to invite men there without the restraints of local law to destroy these animals until such time as Congress may in its wisdom devise an act which shall comprehend and cover this whole question, which may be four or five years hence.

Now, sir, I hope this section will not be stricken out. I propose to call the previous question upon this bill; but before doing so I will yield to the gentleman from Massachusetts, [Mr. ELIOT,] that he may speak upon his proposition.

Mr. LOGAN. Before the gentleman does that will he yield to me for a question?

Mr. ASHLEY, of Ohio. Certainly.

Mr. LOGAN. I find in section six of this bill the following proviso:

Provided, That the Legislative Assembly shall not grant private charters or special privileges for any purpose, but they may, by general incorporation acts, authorize persons to associate themselves together as bodies-corporate for mining, manufacturing, and other industrial pursuits.

The seventh section of this bill provides—

That the Legislative Assembly of the territory shall at its first session provide by law for the preservation of the valuable furs in said territory, especially the sea otter, the seal, and the beaver.

Now, I would inquire of the gentleman whether a company could not be organized under a general law, and then be authorized by the Legislature, under the provisions of the seventh section, to take possession of the whole fur trade, with full power and authority under the general clause of "preservation of the valuable furs in said territory," depriving the Government of all control over the subject?

Mr. ASHLEY, of Ohio. I think my friend from Illinois [Mr. LOGAN] is too good a lawyer to have any doubt upon that point. I have provided in the most stringent manner possible that the territorial Legislature shall not grant any special privilege whatever.

Mr. LOGAN. I understand that. But the reason I asked the question is this: that the words "industrial pursuits" may by construction be made to cover all things of this character, where they are not in the nature of manufactures and things of that kind.

Mr. ASHLEY, of Ohio. Let me answer my friend by asking him, if he was called upon as a member of the Legislature to pass a general corporation act to authorize men to organize under it for any purpose, could he possibly organize any special corporation to exercise any exclusive right in any water or any part of the land of the territory? They must all be under a general law; and not only one but five hundred organizations may be made if there are people enough there and industrial pursuits enough there to justify them. Gentlemen will find this proposition substantially in the constitutions of all our western States. It is in the constitution of Ohio, providing that the Legislature shall not grant any special charters.

Mr. LOGAN. I will answer the question of the gentleman. I would understand the law to be this: section six, providing that no special privileges shall be granted, will apply to special legislation alone. Therefore the Legislature could provide specially for the organization of a company to pursue any particular pursuit. But it is also provided in the same section that the Legislature may provide for corporations under general law. Hence they may provide by general law for associations being formed by persons coming together and filing a certain instrument, or writing, or something of the kind, when they would become an organized company to all intents and purposes, as much so as though there was special legislation for the purpose. That is the manner in which I would construe that clause, and the gentleman will find that it will be so construed by almost anybody.

Mr. ASHLEY, of Ohio. Suppose this provision is in the constitution of Massachusetts; and I trust they have a provision like it. Does the gentleman from Illinois [Mr. LOGAN] contend that the Legislature of Massachusetts could pass a law granting the exclusive right to any corporation to fish in the waters of that State? Of course, they could not. But under a general incorporation law one company or ten companies might be organized to fish in the waters of Massachusetts wherever they may have the right on the shore to draw their nets.

Mr. WASHBURN, of Illinois. If the gentleman will indulge me for a moment, I will say what I think would be the operation of these two sections taken together. The sixth section provides that companies shall be incorporated under general law. Suppose that this bill becomes a law. The Legislature meets, and parties appear there who desire to get hold of the seal fisheries. I do not know who was the astute Senator who suggested this provision. But we will suppose that there are parties who desire to get control of the seal fisheries. The Legislature passes a general incorporation law, and those parties organize under it. What is the next thing to be done? You propose to confer upon that Legislature the right to pass laws for the preservation of seals and other fur-bearing animals. Here is a company that is organized; here is a power to preserve these seals; and so the Legislature proceeds to enact that the seal fisheries shall be preserved by this company and by no other. It gives the exclusive right to this company as it would have power to do under the authority conferred by this bill. That will be the operation of the provision.

Mr. ASHLEY, of Ohio. Mr. Speaker, I utterly deny—and I am surprised that the gentleman from Illinois should make such a declaration on this floor—that the Legislature under this grant of power would have the right to preserve the fisheries by giving a monopoly of the whole fur trade and fish trade of the territory to one corporation.

Mr. WASHBURN, of Illinois. The Legislature, Mr. Speaker, would say, "We believe that the only way in which the seal fisheries can be preserved is to confer the exclusive right upon this company. Congress has placed no restriction upon us, and we can use our own judgment as to the best means of accomplishing the object."

Mr. ASHLEY, of Ohio. Well, Mr. Speaker, I will answer all that by saying that no act of a territorial Legislature is valid if Congress chooses to nullify it; and if the Legislature of this territory should pass any law in contravention of the territorial act or of its true purpose Congress may annul such law. I now yield to the gentleman from Massachusetts, [Mr. ELIOT.]

Mr. ELIOT, of Massachusetts. Mr. Speaker, the chairman of the Committee on the Territories [Mr. ASHLEY, of Ohio] has thus far failed to indicate to the House any reason for the passage of this bill except the general one that here is a tract of land over which there is now no civil government. He has not shown to the House why civil government should at this time be extended over Alaska. If there are not more white men there than have been stated the gentleman will, of course, admit that in order to fill up the offices which the bill proposes to create there would have to be emigration from the States into Alaska; and thus gentlemen who have been in any way left without positions will find an opportunity under this bill to fill very respectable offices in that territory.

Mr. ASHLEY, of Ohio. And blow their brains out. [Laughter.]

Mr. ELIOT, of Massachusetts. And blow their brains out, if they choose to follow the example of the military officer mentioned by the gentleman from Illinois, [Mr. WASHBURN.]

But I want to say a word as to this seventh section. The House will remember that at this moment, under the law now in force, the killing of the fur-bearing seal in Alaska is prohibited. If the existing law should be continued in force during the next year the destruction of these animals would cease during that time, and they would have an opportunity to increase. The Secretary of the Treasury has under the existing law the power to regulate the taking of all other fur-bearing animals—the otter, the beaver, &c., the killing of the seal being altogether prohibited. Now, let me state to the House what would be the effect of passing this bill in the shape in which it stands. In the first place, it would impose upon the Treasury

of the United States the large expense of conducting civil government in Alaska. It may be that that is right; it is not that point I am considering. But the bill will not only impose upon the Treasury that expense—

Mr. ASHLEY, of Ohio. I trust the gentleman will give way for a moment. The hour is nearly out, and I desire to call the previous question before it expires. When the previous question has been seconded the discussion can go on and the gentleman can resume the floor.

Mr. ELIOT, of Massachusetts. Let me finish my sentence. The passage of this bill will not only impose upon the Treasury of the United States the expense of civil government in Alaska, but it will deprive the Treasury of a sum not less, in my opinion, than \$200,000 annually. This is the amount which will go into the Treasury every year if the killing of the fur-bearing seal be properly regulated by law.

Mr. CHANLER. I move the following as an additional section:

And it is made the duty of the Legislature of the territory organized under this act, as soon as practicable, to colonize a portion of said territory by transporting thither from the United States all persons convicted in any of the States or Territories thereof of crime and condemned to hard labor for a term exceeding two years.

Mr. BROOMALL. Would not that make the territory Democratic?

Mr. ASHLEY, of Ohio. I cannot yield for any such amendment.

Mr. CHANLER. What objection can there be to it?

Mr. ASHLEY, of Ohio. I cannot reply now. I demand the previous question.

Mr. WASHBURN, of Illinois. I move that the bill and amendments be laid on the table.

The House divided; and there were—ayes 95, yeas 26.

So the bill and amendments were laid on the table.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill and amendments were laid on the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILL SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (H. R. No. 967) to provide for the removal of the remains of Hon. W. T. Coggeshall, late minister of the United States at Ecuador, to the United States; when the Speaker signed the same.

RESUMPTION OF SPECIE PAYMENTS.

The SPEAKER stated that the morning hour had expired, and the first business in order was House bill No. 1364, to provide for the gradual resumption of specie payments, reported from the Committee on Banking and Currency by Mr. LYNCH, and made the special order for the first Wednesday in January, and from day to day until disposed of.

Mr. HUBBARD, of West Virginia. The gentleman from Maine [Mr. LYNCH] is absent on account of sickness, and at his request I move that its further consideration be postponed until next Friday after the morning hour.

Mr. WASHBURN, of Illinois. Make it Saturday.

Mr. KELLEY. If the House should adjourn from Friday to Monday and this special order should be postponed until Saturday, what would be the effect on this bill?

The SPEAKER. It would come up after the morning hour as the special order, as it is the special order from day to day until disposed of.

Mr. PRICE. I demand the reading of the bill.

The SPEAKER. The Digest says that a question of postponement does not bring up

the merits of a bill, and therefore the gentleman cannot demand the reading of the bill.

Mr. CULLOM. I think that it should be referred to the Committee of Ways and Means.

Mr. HUBBARD, of West Virginia. I accept the amendment of the gentleman from Illinois, and will move that its further consideration be postponed until Saturday next.

Mr. INGERSOLL. I hope that will be agreed to, as the gentleman from Maine is absent on account of sickness.

The motion was agreed to.

REPEAL OF TENURE-OF-OFFICE ACT.

The SPEAKER stated that Mr. ARCHER, having been absent when the vote was taken on the repeal of the tenure-of-office act, would, if he had been present, have voted for it, and Mr. BROOMALL, and Mr. WILLIAMS of Pennsylvania, would have voted against it.

UTE INDIANS.

The SPEAKER laid before the House a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of Indian Affairs, with an estimate of appropriations for fulfilling treaty stipulations with various bands of Ute Indians; which was referred to the Committee on Appropriations, and ordered to be printed.

NIAGARA SHIP-CANAL.

The SPEAKER stated that the next business in order was House bill No. 1202, to provide for the construction of a ship-canal around the falls of Niagara; which was made the special order for the second Tuesday of January after the morning hour, and from day to day until disposed of.

Mr. VAN HORN, of New York, took the floor.

Mr. CLARKE, of Kansas. I hope the gentleman from New York will yield to me to move that the House go into the Committee of the Whole, as I desire to submit some remarks in reference to the public lands.

Mr. VAN HORN, of New York. I do not object if it be the understanding that this bill will come up to-morrow after the morning hour and that I shall be entitled to the floor.

Mr. WASHBURN, of Illinois. I object to that.

The bill was read.

Mr. HUMPHREY. I ask unanimous consent that an amendment which I propose to move to this bill shall be ordered to be printed.

There was no objection; and it was ordered accordingly.

Mr. BENJAMIN. I move that the House do now adjourn.

Mr. WASHBURN, of Illinois. I move that, by unanimous consent, this bill shall go over till to-morrow with the gentleman from New York entitled to the floor, and that we shall go into the Committee of the Whole on the state of the Union to let the gentleman from Kansas submit some remarks, with the understanding that no further business shall be done this evening.

There was no objection; and it was ordered accordingly.

LEAVE OF ABSENCE.

Mr. ORTH was granted indefinite leave of absence.

JAMES A. DREW.

On motion of Mr. PETERS, leave was granted for the withdrawal from the files of the House of the papers in the case of James A. Drew.

ORDER OF BUSINESS.

Mr. BENJAMIN. What has become of my motion to adjourn?

The SPEAKER. The House has, by unanimous consent, agreed to resolve itself into the Committee of the Whole. The Chair asked if there was objection, and he heard none.

Mr. BENJAMIN. I did not consent to that.

The SPEAKER. Then the Chair will entertain the motion to adjourn.

The question being taken on the motion to adjourn, it was disagreed to.

PRESIDENT'S MESSAGE.

Mr. WASHBURN, of Illinois. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union upon the President's message of 1867.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. VAN HORN, of New York, in the chair,) and resumed the consideration of the President's annual message of 1867.

PUBLIC LANDS.

Mr. CLARKE, of Kansas. Mr. Chairman, our public-land system is one of the best safeguards of the Republic. Whoever owns the land of a country, be they many or few, will in the end control its politics. It is the appreciation of this fact that has been the motive of many of the agrarian struggles and agitations in the past history of the world. Where the masses of the people own the soil, that country is strong to resist all external foes and to overcome much of internal dissension. Where the land is controlled by a minority, poverty will surely abound and the national vitality will be destroyed. France and England are good illustrations of this fact. If 1703, with all its terrors, accomplished no more than to take the land from the oligarchy it overthrew and divide the same among the democracy it created, it gave to France a power which the banded armies of Europe could do no more than temporarily defeat. It found France a land of serfs and left it a nation of landholders. The transfer of the soil from the nobility to the people was the foundation of social equality.

Take Great Britain as an example of an opposite condition. Vast forces have cohered to hold her empire strong, in spite of the fatal malady which at home eats out its vitals. The capacity for colonization possessed by the English people has alone saved the English system from downfall. Land, denied at home, has been won by the Englishman abroad. Just in proportion as its occupation there has been untrammelled the colonies of England have grown great.

But the landed monopoly, increasing at so fearful a rate during the last century, is the Nemesis which pursues the haughty oligarchy that still controls England and hastens the fate that sooner or later overtakes all governments and peoples who build injustice and rapacity into systems. All students of modern politics know, that in Europe, Great Britain has descended from a controlling to a second rate position. Were it not for her broad colonies, with their rich and free lands to lift teeming millions from poverty into comfort, affording markets for the products of the busy workshops at home, the crash, in my judgment, would have come long since. Twenty-five years before our war of independence the soil of England was in the possession of over three hundred and fifty thousand persons. To-day the land of Great Britain, with its thirty odd millions of inhabitants, is outside of its cities owned by about thirty-two thousand persons. The yeomanry of the mother country were transferred to these shores, and brought with them that grand ideal of the Anglo-Saxon brain, a free government upheld by willing obedience to law—a land in which each family could own its own home, and where the soil should be in the possession of those who cultivated it.

Sir, in our own midst we have had fearful examples of land monopoly. No portion of our country has escaped its destructive influences. North and South the great evil has appeared to bar the public prosperity and to crush the unfortunate and the poor. Just in proportion in each of the States that the soil has been opened to the tiller, just so far as labor has been able to possess its fruits, security has been stable and progress assured. The

old slaveholders understood well the truth of this political axiom. They therefore steadily sought to obtain entire control of the soil in their own States, and as persistently hindered the development of that homestead policy into which the genius of our free institutions has molded our land system. At this moment the owners of the land in the South are striving, under the most fearful disadvantages, to maintain their control of the soil, confident if they can do so they will in the end resume a large share of the political power of this country. But they will fail. The land, like the slaves, will pass from their grasp. It will become the home of freemen, and the land oligarchy, which is only a remnant of the slave system, will pass away forever.

To insure the success of democratic institutions we need not only general intelligence but conditions of life conducive to the comfort of all who live under them. The elder Napoleon once said, sententiously, "that an army traveled on its belly," meaning that it needed a good commissariat. So do free institutions. Civilization wins continued growth more by its capacity for securing the means of living well than by all else that it produces. Make labor honored and you are certain to make it intelligent. Out of such conditions true democracy, the normal type of all untrammelled political aspirations, asserts itself. It is an understanding of these conditions which makes intelligent our admiration of our beneficent homestead policy and enables us to comprehend clearly the absolute necessity of guarding with jealous care its wise provisions from encroachment and overthrow. Sir, as it now stands, it is a proud monument of the liberality and sagacity of this great Republic. It is not only that, but, as cannot be too often repeated or too deeply impressed upon the public mind, especially upon those of us who are called to legislate on the subject, this homestead policy is one of the Republic's strongest safeguards.

And let it not be forgotten, Mr. Chairman, that to the Republican party, of which we have the honor in common with the large majority of this House to be members, belongs the honor of passing upon and almost perfecting the grand system of laws by which the public domains was wedded forever to the free homestead idea. Look for a moment at these two great facts: the gun at Fort Sumter had hardly woke a continent to arms ere their Representatives passed the acts by which the nation pledged itself to span the continent by the Pacific railroad and bind two oceans together in bonds that should never be severed. Within the eventful year that followed the Republican party passed the first homestead bill, and thus sealed the Republic forever, as with blood, to its highest hope and best ideal.

Mr. Chairman, it will be worth while briefly to note the path by which we traveled to this result. We shall see, in spite of the teachings of history, that we moved but slowly to that intelligent acceptance of an idea which has found so far one of its best embodiments in that homestead policy.

Our public-land system dates from the cession to the General Government by the State of Virginia of the great northwest territory. From that date we can really declare that the American Union began its continental destiny, even though the first act of the General Government was a restrictive one; so far, at least, as related to the occupation of the public domain. I refer to the proclamation by Congress in 1785, forbidding settlement thereon. But the crude and wrong ideas that then prevailed on the subject could not resist the influence of that beneficent condition which was fundamental to the acceptance of this great territory. The Jeffersonian ordinance by which slavery was forever excluded from its borders rendered inevitable another great and desirable result, the possession of the soil by the people thereof. The six great States which have since been carved out of that two hundred and ninety thousand square miles of free territory, have now at least eight million inhabitants, all free,

possessed of the means of education, and with ready access to the proper rewards of honest industry and intelligent enterprise.

We began our land system by forbidding settlement. We marked it about by sales of at least two huge tracts to private individuals and companies—I refer to the "Ohio Company" and the Symmes tracts, both in Ohio—and we followed this up in 1804 by the passage of an act that, like the proclamation of 1785, virtually forbade settlement. Nevertheless it went on. In 1807 the President was empowered to remove such persons until settlements were authorized by law. From that time until 1830, when the first general preemption law was passed, the legislation of the country recognized the principle involved, that the land belongs to the settler, by the adoption of special acts of preemption in individual cases. In 1830, in 1832, and 1834, laws were passed, general in their character but retrospective in action, giving to those who were already on the land and had labored there the right to preempt the same on certain conditions. The price was named and the quantity limited that any one head of a family could obtain. Before this the disposal of our public lands was altogether effected by public and private sales, without limitations of price or quantity, though land remaining unsold after a number of years was as now offered for sale at very small prices. In September, 1841, the first genuine step in the homestead policy was inaugurated by the passage of a preemption act prospective in its character. This wise law laid bonds on the future. When the Republic needed aid, out of the society this principle had nurtured, came the sturdy regiments that captured Fort Donelson, stood granite-like amid the bloody surges of Pittsburg Landing, dashed themselves invincibly against the ramparts of Vicksburg, opened the great river from the Falls of St. Anthony to the New Orleans delta, poured their blood like water at Stone river and Chickamauga, rose above the clouds and stormed the rebel works on Lookout mountain, fought like Titans from Chattanooga to Atlanta, marched with Sherman to the sea, drove Hood back from Nashville, swept through the Carolinas to where their great leader granted no respite to treason, and then, greatest wonder of all, marching homeward and melting away as they came into the great body of peaceful citizenship, graver, sterner, surer of a country, prouder of its fame, ready as before to die for it if need be, better citizens, and more faithful than ever to its laws and traditions.

From the passage of the act referred to in 1841, our legislation has been chiefly in one direction—that of a broader and more liberal recognition of occupation and labor and of limitation of quantity as the true basis of land-ownership. The preemption acts of 1853-54 made stable that policy and corrected most of its errors and abuses. From the quarter of a century which followed the passage of the law of 1841 the discussion over a proposed homestead law grew more interesting, year by year attracting more and more of the public attention. Those who led in the fight for that beneficent measure against the resistance of southern oligarchy and northern speculators are still with us, and are entitled to the continued gratitude of the American people.

The homestead act was passed by the Thirty-Seventh Congress, at its first regular session. Since the war closed, and as a part of our reconstruction system, Congress has passed two others, by which about fifty million acres of public land, situated within the rebel States—long since left a prey to the land speculator—was placed under the operations of the homestead system, the limit of each farm being in this section wisely placed at eighty acres.

Mr. Chairman, the result of the homestead policy "whoso runs may read," in rapidly-growing communities, in populated States where a few years since the buffalo fled before the Indian, in increased wealth, and the laying deep the foundations of a wide-spread pros-

perity. From 1862, when the first homestead law went into operation, down to June 30, 1867, the entries under the various acts have covered 7,000,000 acres, making a total of 43,750 farms of 160 acres each; supporting, according to the average rate of five persons to a family, a population of 218,750 souls. Within the late insurrectionary States the homestead entries, in less than two years, under the act passed for that section, have reached 3,764, an average of 225,840 acres, with a population planted on the soil of 18,820 persons.

Sir, these results enable the merest tyro in political economy to understand the advantages of the homestead policy, so far as it affects the general prosperity and consequent stability of society. They show what might have been had the system been adopted earlier. They enable us to understand what is the true value of that domain we have given and are still proposing to give in such munificent grants. Let us look for a moment at what would or might have resulted had our public lands been from the beginning disposed of only to actual occupants of the soil. The entire area of the "public land" States and Territories, beginning with Ohio and ending with Alaska, is estimated at 1,834,938,400 acres, of which over 435,000,000 acres are surveyed, and therefore open to legal settlement. Of this vast body the Government since its organization has sold over 154,000,000 acres. Thirty million acres of this land are still in the hands of those who hold them for speculative purposes. If it had been placed under the homestead or preemption system, it would have given us 187,500 homesteads of 160 acres each. It can hardly be a matter of doubt that if the circumstances had favored, as they now do, the whole would have been reduced to occupancy as farms.

Besides the 30,000,000 thus passed into the hands of monopolists, the Government has granted to Pacific railroads 124,000,000 acres; for other railroads, west and south, 57,000,000 acres; for canals, 17,000,000 acres; to the States, and already selected as "swamp and overflowed land," over 60,000,000 acres. To these must be added the 9,600,000 acres granted to the States in aid of establishing agricultural colleges, most of which has been or will be sold by scrip, and thus pass into the hands of the land speculators. If we take these figures we shall find that the total amount of our public lands disposed of since the organization of the Government reaches the enormous aggregate of more than 420,000,000 acres, to which amount we must add that granted for military and naval services. Their aggregate reaches 71,716,555 acres, making the total disposed of 493,816,555. According to the able commissioner of the General Land Office of the surveyed public lands there remain undisposed of 64,880,952 acres.

Of the nearly five hundred million acres thus disposed of, we can safely say that the enormous aggregate of at least 225,000,000 acres, is in the hands of railroad companies and private speculators and monopolists. This probably considerably underestimates the total area so locked up. Properly settled under the homestead acts it would give a total of nearly one and a half million farms of 160 acres each. Beside the various grants already named, by means of which so much of the public domain has been and is in process of being absorbed by speculators and monopolists, we are saddled with claims growing out of the Spanish system of land grants, which we have been obliged to recognize in our acquisitions of territory formerly held by Spain or Mexico. In California alone the recognized claims cover 5,690,500 acres, divided among 367 cases, giving an average of nearly 15,520 acres to each case. In New Mexico there are seventy claims allowed, of which only thirty-six are surveyed. These contain an area of 1,406,944 acres, or nearly 39,082 acres for each claim.

These startling figures, covering already one sixth of the entire public domain, show the necessity of pausing in our land-grant policy.

It is probable that the amount already asked for under various Pacific railroad enterprises will far more than double the figures I have given.

Sir, there are many cogent reasons why the public domain should be made to contribute, by just processes, to the aid of great internal improvements, by means of which much of the vast territory of the Republic has been opened to industry and enterprise, but there can be none given to justify the disposal of those lands—a trust we hold for the world's poor—at private sale for private speculation. Still less justice is there in permitting, under the pretentious guise of the treaty-making power, the despoiling of the people's right in that portion of the public domain now occupied by Indians. That, however, has been done in my own State and elsewhere. At the last session of this Congress this House placed on that policy a mark of emphatic condemnation. Great tracts of valuable lands, fertile, accessible, and well located, have under the treaty system been ceded to speculators. It

has been done in the secrecy of executive action at the other end of this Capitol, and clothes itself in the robes of a sovereign attribute of the Government.

Look for a moment at the pretense raised by such action, and wonder, Mr. Chairman, at the presumption of those who claim the exercise of such power to be legitimate. No Indian tribe has ever been admitted by this nation to have anything but a possessory title to lands in their occupancy. They have never had a power of sale conceded to them, nor could they make a treaty with any foreign nation or even sell their lands to private individuals. The reason is plain. The right of eminent domain rests in the Republic, and not in the Indians who may occupy a portion of the soil. The control of the public lands, by express terms of the Constitution, is delegated to Congress; not the treaty-making power, which consists of the President and Senate only. The Constitution says:

"The Congress shall have power to dispose of and make all needful rules and regulations respecting

the territory and other property belonging to the United States."

During the debate to which I have already referred as occurring at the last session it will be remembered that the honorable gentleman from Ohio [Mr. LAWRENCE] presented a very clear argument against this abuse of the treaty power, and with the valuable aid of the gentleman from Massachusetts [Mr. BUTLER] submitted a striking array of legal authorities in support of this position.

As a proof of the injury which this system inflicts, let me mention the fact that already about one fortieth of the area of the State of Kansas has been ceded away to a few corporations and individuals by treaty, and there are treaties now pending which, if successful, will dispose of over one ninth of the entire area of the State. In proof of the character of these immense land speculations, as indorsed by the Senate, let me submit here a table carefully prepared at the Interior Department, showing the amount of lands thus wrongly disposed of:

Schedule of Indian lands in Kansas sold to sundry individuals and corporations since January 1, 1860.

Reservation.	When sold.	To whom sold.	Acres sold.	Price per acre.	Total value.	By what authority sold.
Sac and Fox of Mississippi.	1864 and 1865.....	Carney & Stevens	2,490.36	\$1 84+	\$4,587 33	Treaty Oct. 1, 1859, Art. 4. Not published in Statutes.
Sac and Fox of Mississippi.		H. McCulloch.....	8,930.10	1 70+	15,246 25	
Sac and Fox of Mississippi.		William R. McKean.....	29,677.21	64+	19,180 80	
Sac and Fox of Mississippi.		Fuller & McDonald.....	39,058.27	73+	28,825 85	
Sac and Fox of Mississippi.		Robert S. Stevens.....	51,689.31	71+	36,965 78	
Sac and Fox of Mississippi.		John McManus.....	142,915.90	1 09+	156,937 65	
Sac and Fox of Mississippi.		Other parties.....	29,667.85	2 42+	50,127 71	
Kansas.....	1863, 1864, and 1865.....	J. W. McMillan.....	2,946.69	1 16+	3,446 05	Treaties Oct. 1, 1859, Art. 4, and March 18, 1862, Art. 1; Statutes, vol. 12, p. 1111 and 1221.
Kansas.....		Northrup & Chick.....	7,519.66	1 23+	9,628 36	
Kansas.....		Other parties.....	23,505.07	1 50+	35,264 00	
Delaware.....	Final payment, February 12, 1863.....	Union Pacific Railroad, Eastern Division, assignees of Leavenworth, Pawnee & Western.....	223,890.84	1 23+	286,652 82½	Treaties May 30, 1860, Art. 3, and July 2, 1861; Statutes-at-Large, vol. 12, p. 1129 and 1177.
Ottawa.....	June, 1864, to March, 1865.....	Sundry individuals.....	22,277.27	2 31+	51,640 28	Treaty June 24, 1862, Art. 9; Statutes-at-Large, vol. 12, p. 1237.
Kickapoo.....	August 16, 1865.....	Atchison and Pike's Peak Railroad Company.....	123,832.61	1 25+	154,790 76	Treaty June 28, 1862, Art. 5; Statutes-at-Large, vol. 13, p. 623.
Delaware.....	August 31, 1866.....	L. T. Smith, president Missouri River Railroad Company.....	92,598.33	2 50	231,495 82½	Treaty July 4, 1866, Art. 2; Statutes-at-Large, vol. 14, p. 793.
Cherokee Neutral.....	October 9, 1867.....	James F. Joy.....	640,199.69	1 00	640,199 69	Treaty July 19, 1866; Statutes-at-Large, vol. 14, p. 799.
Pottawatomie.....		Atchison, Topeka, and Santa Fé Railroad Company.....	339,165.57	1 00	339,165 57	Treaty February 27, 1867, Article 2.
*Osage.....		Leavenworth, Lawrence and Galveston Railroad Company.....	3,003,203.00	1 99	-1,600,000 00	Treaty May 27, 1868.
			9,774,566.63		\$3,664,154 73	

* Now before the Senate.

By this schedule it appears that 1,771,350 acres of Indian land have been disposed of in Kansas in eighteen different divisions, a large proportion being to private individuals and not at all coupled with any pretense of benefiting the State by public improvements. A further examination of the table will show that of over one and three quarter million acres disposed of under this abuse of the treaty power, nearly eight hundred thousand acres have passed into the hands of three individuals. But, sir, this is but a trifle beside a proposition to the character of which I called the attention of the House at its last session. I refer to the proposed Osage treaty.

The Osage lands in Kansas, ceded by the treaty of September 29, 1865, amounted in all to 3,222,402 acres. The diminished reserve now occupied by the Osage tribe, which, however, is to be included under the operations of the proposed railroad treaty, covers an area of 7,470 square miles, or 4,780,800 acres; making a total area proposed to pass into the hands of speculators of not less than 8,003,203 acres of valuable lands. There is sufficient to make, under the operations of the preemption laws, not less than 50,020 homesteads of 160 acres each. Allowing these to be occupied within the term the law allows for settlement, by families averaging five persons each, and we shall have a population of 250,100 souls on a tract it is now

proposed to throw into the hands of a few men. About six million acres of these lands are arable, and nearly all is valuable for stock raising.

If we take the 1,771,350 acres already sold under this wrong interpretation of the treaty power and add thereto this last gigantic attempt to plunder the public domain, we shall find that within the State of Kansas alone, under this system, there has been actually or prospectively transferred from under the feet of the settler and farmer to the hands of the speculator and monopolist an aggregate area of 9,774,566 acres of land, fertile and valuable, all of it located in the most desirable situations in the State, whether we regard the fertility of soil, proximity to the principal water courses, or the present and prospective lines of railroad communication.

The whole amount of land thus passed or proposed to be into few hands would make 61,091 farms, of 160 acres each, thus affording homes to at least 300,000 persons. If we take the total amount paid or proposed to be, for this great body of lands we shall only have a total of \$3,664,154, or an average price per acre of about thirty-six cents. The highest price paid under any of these treaty sales has been but \$2 50 per acre—this, too, for lands worth in the market an average of ten dollars—while the lowest offer yet made has been but

twenty cents an acre. Every acre of this nearly ten millions could have been, within a reasonable period, sold to actual settlers at the regular preemption price, who would have eagerly sought, as they have done under disadvantageous circumstances, to have obtained farms so favorably situated.

These lands were not needed for the construction of our railroads, the munificence of Congress having given to Kansas ample franchises to aid the construction of a system of roads commensurate with the importance of her position in the great interior continental railroad development of our day and generation. I say this deliberately, fully aware of the fact that I have in some degree contributed to the bestowal of these lands. The evil effect of this misuse of the treaty power has not been seen all at once. It needed that the speculators, grown reckless by success, should make the last bold attempt.

The loss to the Indians as well as to the Government which this system has entailed is apparent. The total area of 9,774,566 acres which now has or will have an average of about thirty-six cents per acre, would under the preemption system have netted, all expenses of survey, Land Office system, &c., included, not less than \$12,661,747.

But this is by no means a just estimate of the

genuine value of their occupation by the people. Putting the population they would have had within a reasonable time at three hundred thousand and the average productive value of each individual to the community at \$300 each, we should have had an accession in value of \$30,000,000. Instead of this we have vast areas withdrawn from production and held for speculative purposes, while the few are enriched and the many are kept poor by the heavy taxation necessary to sustain civil society. There is another element in this count which needs consideration. Under the beneficent system adopted by the General Government our public lands are made to sustain, as they should do, the people's schools. We give, and have for over thirty years, to every western State, the sixteenth and thirty-sixth sections in every township of the surveyed public lands for this purpose. Out of every six miles square there are given two square miles as an endowment to the public schools. Under the system of ceding lands by treaty, of which my State has been made so preeminently the victim, no provision has been made for school reservations. Like the slave and land oligarchy of the South, the cupidity of the speculator and railroad monopolist could not see, and does not desire to do so, the inestimable advantages of this endowment of our school system. If we examine the total area of the school lands out of that already ceded into private hands, and that proposed to be by pending treaties, we shall have a total of 2,179 sections, or 1,304,560 acres, which, retained until population had somewhat enhanced its value, would net at least \$5,000,000 to the school fund of the State of Kansas.

But, sir, this is not all. The evils engendered by the policy to which I have referred has another lamentable illustration in the unhappy condition of that large body of settlers located within the two counties of Neosho and Iabette, in southern Kansas, upon a tract of land relinquished to the United States by the Great and Little Osage Indians by a treaty known as the Osage treaty of September 25, 1865, (proclaimed January 21, 1867,) and embracing thirty by fifty miles off the east end of the Osage lands.

By the terms of this treaty it was agreed that this tract should be surveyed and sold as other public lands are surveyed and sold under existing laws, (excepting, however, preemption claims and homestead settlement) in trust for certain beneficial and philanthropic objects. Attracted by the tempting character of the fertile valley which traverses the entire length of these relinquished lands and contemplating the speedy extinguishment of the Indian title, hundreds of families had entered there and opened up thrifty and beautiful farms. The treaty was finally promulgated January 21, 1867, after a meaningless amendment had been inserted by the Senate in the first article of the treaty, attaching to the proviso for the sale of these lands, "under existing laws," the words "including any act granting lands to the State of Kansas in aid of the construction of a railroad through said lands."

Inasmuch as the treaty provides for the sale of all this land in trust for the Osage Indians, and also on account of the general civilization fund, it is not easy to see upon what principles of law or justice a large proportion of them have been withdrawn from sale. It is claimed by certain interested parties that an act of Congress passed March 8, 1863, four years before the date of this treaty, granting the Leavenworth, Lawrence, and Galveston Railroad Company every alternate section of land designated by odd numbers, for ten sections in width on each side of said road, from the city of Lawrence, Kansas, to the southern line of the State in the direction of Galveston bay, Texas, entitles that company to the alternate sections along the line projected by them through these lands.

This claim was repudiated by Hon. Joseph S. Wilson, Commissioner of the General Land Office, by his decision rendered May 17, 1867. Meanwhile settlement rapidly increased until

upward of three thousand families were located on the lands and opened farms in confident expectation of being able to secure their homes from the United States. A more thrifty, intelligent, and valuable class of immigration never crossed the borders of the State I have the honor to represent.

I call attention to the fact that no attempt was made by the Department of the Interior to undeceive these people in regard to the construction placed by them, by the Commissioner of the Land Office, and by the general public upon this treaty until November 8, 1867, more than nine months after its promulgation, when the Secretary of the Interior, upon the appeal taken by Senator E. G. Ross from the ruling of Commissioner Wilson, reversed that just, sound, and humane decision. Following this remarkable judgment, the lands were withdrawn from sale; and, without relief from Congress, this portion of my constituents are left to the cupidity of the railway company, which claims title to their homes.

It will be remembered that early during the last session a resolution unanimously passed this House providing for the sale of these lands to actual settlers at \$1 25 per acre, payable in four annual installments. That resolution went to the Senate, where it was referred to a committee, but, though the committee approves it, no action has yet been had by the Senate. As a consequence, doubt and uncertainty cloud the future of these people, at least 15,000 in number, and their every interest is being sacrificed. It cannot be doubted that any intelligent and just legislator, before whose attention the facts of this case are fairly placed, will say that the settler ought to get his lands and his title at \$1 25 per acre, as is provided by the resolution to which I have referred.

But, Mr. Chairman, these facts, alarming as they are, are not all. The monopolies created, the wrongs inflicted, and the enriching of the few at the expense of the many, do not stop here, so far as Kansas is concerned. In order to exhibit to this House and to the country the enormity of the land speculations sanctioned by the Senate, and for the purpose of resisting, as best I can, the great wrongs perpetrated by this treaty policy upon my constituents, I will present here the following statement in reference to the Cherokee neutral lands, which I have carefully prepared, and to which I invoke the serious attention of the House and of the country:

CHEROKEE NEUTRAL LANDS.

Statement showing actual areas, population, claimants, values, improvements, and school lands; together with a statement of the profits of the purchaser as shown by the Commissioner's synopsis and the actual total profits, including mineral values:

Actual acres.	
Total area of lands occupied by actual settlers.....	480,000 00
Total area of unoccupied lands.....	319,614 72
Total area of Cherokee neutral lands.....	799,614 72
Population and claimants.	
Population of Cherokee neutral lands.....	15,000
Number of actual claimants.....	3,000
Number of claimants to whom appraisers issued certificates.....	1,003
*Number of claimants whose certificates are valueless because on coal lands or on claims transferred since August 11, 1866.....	603
Number of claimants actually protected by treaty only.....	400
Number of claimants unprotected.....	2,600
Values.	
Total value of lands occupied by actual settlers (as appraised).....	\$720,000 00
Total value of lands unoccupied (as appraised).....	\$479,422 08
Value of coal beds per acre (as estimated by experts).....	\$175 00
Value of coal per ton in bank.....	10
Total value of coal fields in Cherokee neutral lands, estimated at 80,000 acres.....	\$14,000,000 00
Total value of Cherokee neutral lands, including coal beds.....	\$15,199,422 08

* Proviso in seventeenth article of treaty of August 11, 1866—"Lands not being mineral." Also, extract from Joy's letter of July 6, 1868—"a reservation will be made also of land where coal shall be found to exist capable of being worked to advantage."

Improvements.

Total area of improved lands in acres.....	120,000
Total value of improvements.....	\$1,800,000

School lands.

Number of acres in sixteenth and thirty-sixth sections to which Kansas is entitled by act of admission.....	44,423
Value of said school lands to the State of Kansas at \$5 per acre.....	\$222,115

Profits as shown by Commissioner's synopsis.

Total value of unoccupied lands as shown by Commissioner's synopsis.....	\$892,668 30†
Total amount required to be paid by purchaser under treaty.....	640,199 69

Profit of purchaser as shown by Commissioner's synopsis.....	\$252,468 61‡
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Actual profits, including mineral values.

Actual values of "unoccupied" lands, not including mineral values, if sold to settlers at \$5 per acre.....	\$3,200,998 45
Actual value of coal beds as above shown.....	14,000,000 00
Total value.....	17,200,998 45
Deduct amount required to be paid under treaty.....	640,199 69
Actual profits to purchaser under treaty.....	\$16,560,798 76

I have prepared this statement from information derived from official sources and from personal knowledge, and I have no doubt but what it is substantially correct. My estimate of the extent and value of the coal fields is far below the estimates of the geologist and other scientific authorities, and is less than one half as much as made by residents on the land. I know, sir, it will be charged by the land speculators that I am extravagant in my estimate of mineral values. To this I answer that I have taken no note of other minerals besides coal, though it is confidently believed that lead exists in large quantities, as gentlemen will remember is the case in the adjacent counties in Missouri; and it is to be said, also, that much of the surrounding country is deficient in coal resources, and for all time must be supplied from the inexhaustible coal deposits of the neutral lands. Though undeveloped to-day, the greedy speculators, watching the secret sessions of the Senate from which these schemes of public plunder emanate, see in these vast natural resources colossal fortunes which are easily secured through the cunning and corrupt chicanery of this treaty system.

In the case in hand, the simple words "lands not being mineral" cheat the people, monopolize fuel for four million population for all time, and enrich the few at the expense of the many. The homestead law, the preemption laws, educational interests, the rights of the citizen, equality of taxation, and all just principles of policy relating to the title and occupancy of the public domain, have been trampled down by the Senate, as one after another it has sanctioned the fraudulent Indian treaties transferring the land to the rapacious monopolists. Fifty thousand people in Kansas have been robbed directly or indirectly by these gigantic speculations thus officially indorsed, and have thus far appealed in vain to the Senate for relief. This House has passed measures of relief, allowing these brave and suffering pioneers to purchase their homes at \$1 25 per acre by authority of law, but the land monopolist only has yet been heard at the other end of this Capitol.

How long, Mr. Chairman, will the free people of this country thus submit to such flagrant outrages upon their most sacred rights? Let them continue, however, to demand justice of their public servants, and let them insist that the veil of secrecy be removed from the consideration of Indian treaties, so that if these outrages are to be still continued it may be done in the presence of the people whose rights are trampled down and whose homes are sacrificed on the altar of remorseless speculation.

It will thus be seen, sir, that the people of Kansas are deeply interested in the right disposition of this important question. It involves the homes of fifty thousand people already on

the Osage, Cherokee, and other lands. It involves the proper equalization of the burdens of State and local taxation. It involves the prosperity, present and prospective, of the common schools of my State. It is of vast importance even to the Territories west of Kansas. It is essential to the proper relations of the coordinate branches of the Government, of the right exercise of the functions that belong to each, and it may even affect the territorial integrity of the Union itself. This abuse of the treaty power once granted, and allowed to grow unchecked into precedent, may be but the stepping-stone to more dangerous assumptions.

Sir, the Republican party of the State of Kansas has expressed itself in an unmistakable manner as to the policy it sustains upon this question. At its last State convention the following was adopted almost unanimously:

"5. In the distribution of public lands and Indian reserves we demand the full protection of the rights of settlers, and the reservation of the sixteenth and thirty-sixth sections to which the State is entitled for educational purposes. Wholesale grants of territory to speculation and foreign corporations are unfavorable to the interests of the community, and inconsistent with the objects for which the national domain should be distributed. We especially condemn the policy of the disposing of Indian reservations to railroads or land monopolies, and insist that such lands be undeniably opened to actual settlement at not more than \$1 25 per acre. We demand, in the name of our frontier settlers, that the uncivilized Indians be driven from the State, and the civilized tribes be speedily removed to the Indian country."

The same convention did me the honor, in the face of a determined opposition made on account of the position I had taken in this House on the Osage treaty, and similar matters, to renominate me by a large majority. I went before my constituents on the issues raised by the Republican party, both in nation and State, and after canvassing the State, speaking at length and frequently on this question, among others, was reelected by a majority of over sixteen thousand in a vote of over forty-five thousand. It is my intention, therefore, as it is my duty, to be true to the trust which the people of Kansas have confided to my hands, as their only representative upon this floor, and especially to be faithful to the principles and purposes of the great party of freedom with which all the days of my political life have been associated; and, sir, one of the most cherished and cardinal of those principles is that of free homesteads—the preservation of the public domain for the occupation of the *bona fide* settler.

It shall be my purpose hereafter to resist every encroachment upon that principle. I shall continue to oppose that abuse of the treaty power which this House has already condemned, but which has not yet received its death-blow. It will be my purpose to vote hereafter in favor of only such measures as will increase the security and value of the homestead system. I shall oppose the direct granting of more lands to railroad schemes without conditions being previously annexed allowing settlement and purchase by the pioneer farmer at stated prices. I shall vote for all measures which make railroads already in possession of land subsidies throw open the same at the same rates and rules as this House has already indicated shall be required whenever any more land grants are bestowed.

In short, Mr. Chairman, whatever measures may be necessary to maintain the homestead policy unbroken and to keep the great bulk of the public domain as the Republic's best interests demand, for the occupation of the toiling and landless millions, will receive my most cordial support, as I am sure they will that of the people of Kansas.

Mr. CULLOM obtained the floor, but yielded to

Mr. ASHLEY, of Ohio, who moved that the committee rise.

The motion was agreed to.

The committee accordingly rose; and Mr. PRICE having taken the chair as Speaker *pro tempore*, Mr. VAN HORN, of New York, reported that the Committee of the Whole on the state of the Union had, according to order, had

under consideration the state of the Union generally, and particularly the President's annual message of 1867, and had come to no resolution thereon.

Mr. CULLOM. I move that the House adjourn.

The motion was agreed to; and thereupon (at four o'clock and thirty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of James W. Johnson, of Berryville, Virginia, for removal of his political disabilities.

Also, the petition of W. S. Andrews, of Whittle's Mills, Virginia, relative to the bankrupt law.

Also, the petition of Albert Sumner, of Alexandria, Virginia, for a grant of lands.

Also, a petition of the Union League of Anderson county, Texas, for the continuance of the Freedmen's Bureau.

By Mr. BECK: The petition and exhibits of James Saffell, of Kentucky, claiming compensation for horses and other property lost while engaged in the mail service of the United States.

By Mr. BROOMALL: A memorial of the yearly meeting of Progressive Friends, held at Longwood, Pennsylvania, praying that the American Indians be protected and treated with justice and humanity.

By Mr. DODGE: A petition of the citizens of Decatur county, Iowa, asking for a grant of land in aid of the Iowa Southern Railroad Company.

Also, a petition of citizens of Council Bluffs and Glenwood City, asking for the repeal of sections seventy-eight and ninety-four of the act imposing taxes on distilled spirits and tobacco.

By Mr. LAWRENCE, of Pennsylvania: The petition of Captain William Welsh, of the fortieth regiment United States troops, for the antedating of his commission.

By Mr. MOORE: A petition from captains and owners of vessels of Wilmington, Delaware, praying the intervention of Congress to protect all engaged in navigation from illegal exactions by State and municipal corporations.

Also, petitions from owners and masters of vessels of Jersey City, Elizabeth Point, Absecon, Tuckahoe, Somers' Point, and Leeds' Point, New Jersey, praying the intervention of Congress to protect all engaged in navigation from illegal exactions by State and municipal corporations.

Also, petitions from the Vessel Owners' Association of Philadelphia and 200 masters and owners of vessels, praying the intervention of Congress to protect all engaged in navigation from illegal exactions by State and municipal corporations.

By Mr. MUNGEN: The petition of James Porter and others, praying for the extension of mail route No. 9392, in the State of Ohio.

By Mr. PETERS: The petition of Patrick Hickey, for a pension.

By Mr. POLSLEY: The petition of the members of the bar of Kanawha county, West Virginia, against removing the circuit court of the United States from Parkersburg to Wheeling.

Also, a similar petition from the members of the bar of Mason county.

By Mr. RANDALL: A petition of the Board of Trade of Philadelphia, favoring a continuance of what is known as the fifty per cent. clause in the bankrupt law, which took effect in January, 1869.

By Mr. VAN TRUMP: The petition of Stephen D. Ford, praying for the passage of a special act granting him a pension for services rendered as a private in company A, one hundred and sixteenth regiment Ohio volunteers, in the war of the rebellion.

Also, the petition of Rachel Conkle, widow

of Henry Conkle, praying a pension as such widow of said Henry Conkle, who was a private in company D, seventeenth regiment of Ohio volunteers, in the war of the rebellion.

By Mr. WHITEMORE: A petition from the loyal men of Wilkinson county, State of Mississippi, asking Congress to admit the said State into the Union under the constitution lately ratified by the legal voters of the State, declaring such admission as the only means of protecting the life, peace, and property of loyal men.

IN SENATE.

THURSDAY, January 14, 1869.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented the petition of Charles Leigh and others, citizens of the United States, praying that the right of suffrage be extended to women in the District of Columbia and the Territories; which was referred to the Committee on the District of Columbia.

He also presented the petition of Edwin Booth and others, citizens of the United States, praying that the right of suffrage be extended to women in the District of Columbia and the Territories; which was referred to the Committee on the District of Columbia.

He also presented a petition of citizens of New Jersey, praying that the right of suffrage be extended to women; which was referred to the Committee on the Judiciary.

Mr. CONKLING presented a memorial of the New York, Newfoundland, and London Telegraph Company, signed by Peter Cooper, its president, praying permission to land its cable upon the shores of the United States; which was referred to the Committee on Commerce.

Mr. WILSON presented a petition of citizens of the United States, praying that the right of suffrage be extended to women in the District of Columbia and in the Territories; which was referred to the Committee on the District of Columbia.

Mr. HARLAN. I present the memorial of a convention held at Prairie Du Chien, Wisconsin, November 10, 1868, by their committee, Samuel Merrill, Governor of Iowa, B. J. Stevens, of Wisconsin, M. J. Gilechrist, of Iowa, and William J. LaDuc, of Minnesota, praying for an appropriation for the improvement of the Wisconsin and Fox rivers, with a view of securing water communication between the Mississippi river and the lakes. This is a very able document, setting forth the advantages that would result from the establishment of such a line forming a communication between the grain and food-producing States and the other parts of the Union. Perhaps I ought to state that this contemplated work has been surveyed by a board of engineers appointed by the Secretary of War, General Warren being the chief of the board. They ascertained that this improvement can be made by an appropriation of less than five hundred thousand dollars, so as to secure a channel three feet deep throughout the entire length, or four feet in depth by an appropriation of \$3,000,000, or five feet in depth by an appropriation of \$4,000,000. The memorialists, by the committee, submit also with this memorial a memorandum suggesting an appropriation in the nature of a loan with a regulation requiring tolls to be paid, and the interest on this loan to be paid out of the tolls, and ultimately the principal. I move that the memorial be referred to the Committee on Commerce.

The motion was agreed to.

Mr. WILLEY presented the petition of Alpheus C. Gallahue, praying an extension of his patent for an improvement in machines for pegging boots and shoes; which was referred to the Committee on Patents.

Mr. SPENCER presented a petition of citi-

zens of Mississippi, praying the passage of a permanent bankrupt law independent of any fifty per cent. restriction; which was referred to the Committee on the Judiciary.

Mr. ANTHONY presented a petition of citizens of the United States, praying that the right of suffrage be extended to women in the District of Columbia and in the Territories; which was referred to the Committee on the Judiciary.

Mr. ABBOTT presented the memorial of headmen and people of the North Carolina or Eastern Cherokees, protesting against the ratification of the treaty concluded on the 9th day of July, 1868, between the United States and the Cherokees residing west of the Mississippi river; which was referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. PATTERSON, of Tennessee, presented the petition of delegates of the Cherokee, Creek, and Choctaw Indians, protesting against the passage of the bill to restore the Bureau of Indian Affairs to the Department of War; which was referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. SUMNER presented two petitions of citizens of Pennsylvania, praying for such an amendment to the Constitution of the United States as will secure to all the citizens of the several States equal political rights, privileges, and immunities, without regard to class, race, or color; which were referred to the Committee on the Judiciary.

He also presented a petition of citizens of Philadelphia, praying such an amendment to the Constitution of the United States as will secure to all the citizens of the several States equal political rights, privileges, and immunities, without regard to class, race or color; which was referred to the Committee on the Judiciary.

PAPERS WITHDRAWN AND REFERRED.

On motion by Mr. WILLEY, it was

Ordered, That the papers and petition of Jerome J. Getty be taken from the files of the Senate and referred to the Committee on Claims.

REPORTS OF COMMITTEES.

Mr. GRIMES, from the Committee on Naval Affairs, to whom was referred the memorial of R. W. Meade, captain United States Navy, for restoration to the active list, reported adversely thereon, and moved its indefinite postponement; which was agreed to.

He also, from the same committee, to whom was referred the memorial of McKean Buchanan, paymaster in the Navy, praying to be indemnified for certain losses, reported adversely thereon, and moved its indefinite postponement; which was agreed to.

Mr. HOWARD, from the Committee on Claims, to whom was referred the petition of Brevet Brigadier General Orlando Brown, asked to be discharged from its further consideration, and that it be referred to the Committee on Military Affairs; which was agreed to.

Mr. SUMNER, from the Committee on Foreign Relations, to whom was referred the message of the President of the United States in relation to a decree of the district court of the United States for the southern district of New York, ordering the payment of certain sums to the defendants in a suit against the English schooner Sybil, libeled as prize of war, and recommending an appropriation for the payment of the same, reported a bill (S. No. 773) to carry into effect the decree of the district court of the United States for the southern district of New York in the case of the English schooner Sybil and her cargo; which was read, and passed to the second reading.

BILLS INTRODUCED.

Mr. CHANDLER. I move that the Senate proceed to the consideration of House bill No. 1460.

Mr. WILLIAMS. I desire to introduce a bill.

Mr. CHANDLER. Let this bill be taken up, and then I will give way.

The PRESIDENT *pro tempore*. The Senator from Michigan asks the unanimous consent of the Senate to consider the bill mentioned by him.

Mr. GRIMES. Let the title of the bill be read.

The CHIEF CLERK. "A bill (H. R. No. 1460) regulating the duties on imported copper and copper ores."

Mr. MORRILL, of Vermont. I desire to have taken up the resolutions of the State of Vermont on the subject of reciprocity treaties instead of that.

Mr. CHANDLER. I hope not. There was an understanding yesterday that this bill should be taken up for consideration, and I hope that understanding will be carried out.

The PRESIDENT *pro tempore*. Does any Senator object to taking up this bill at the present time?

Mr. MORRILL, of Vermont. I object now.

The PRESIDENT *pro tempore*. Then the motion cannot be received, and the morning business must be gone through with.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 774) to amend an act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867; which was read twice by its title, referred to the joint select Committee on Retrenchment, and ordered to be printed.

Mr. PATTERSON, of Tennessee, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 775) for the relief of James H. Willis, of Greenville, Tennessee; which was read twice by its title, referred to the Committee on Claims, and ordered to be printed.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 776) to amend an act entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific railroad in California to Portland, Oregon," approved July 25, 1866; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. MORTON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 196) for the relief of Mrs. Mary Lincoln, widow of the late President of the United States, who was killed during the war of the rebellion; which was read twice by its title.

Mr. MORTON. As this resolution is short, I will, with the permission of the Chair, read it myself at length:

Whereas the late President of the United States, Abraham Lincoln, while acting as President and Commander-in-Chief of the Army of the United States was killed in the war of the rebellion by the enemies of the United States; and whereas his widow, Mary Lincoln, is entitled to a pension upon the same principles and for the like reasons with the widow of any other officer who fell in the war: Therefore,

Be it resolved, &c., That Mary Lincoln shall receive a pension at the rate of — dollars per annum, to be computed from the day of the death of her husband, Abraham Lincoln, late President of the United States.

Mr. SUMNER. Do I understand that the Senator leaves the amount blank?

Mr. MORTON. I leave the amount blank at present.

Mr. SUMNER. Would it not be better in introducing the bill to fill the blank?

Mr. MORTON. I hardly know how to fill it myself.

Mr. SUMNER. I would suggest \$5,000.

Mr. THAYER. I ask that the bill be read again at length. We could not hear it distinctly in my neighborhood.

The Chief Clerk read the joint resolution.

Mr. SUMNER. Why not proceed with the consideration of the measure at once?

Mr. MORTON. I have no objection if the Senate desires to proceed to its consideration.

Mr. SUMNER. Will there be any objection to it?

Mr. SHERMAN. I think it had better go to a committee.

Mr. WILLIAMS. I should like to know

how much the amount is before I am prepared to act.

Mr. SHERMAN. I move that the joint resolution be referred to the Committee on Pensions.

The motion was agreed to.

Mr. DOOLITTLE. I desire, without previous notice, to introduce a joint resolution on the subject of laying telegraphic cables; and as some of these propositions have been referred to the Committee on Foreign Relations, and some to the Committee on Commerce, as this resolution is a short one I will read it, and then the Senate can determine to what committee it shall go:

Whereas cable telegraph companies organized under the authority of the United States propose to land their cables upon the shores of foreign Powers; and whereas also telegraph companies organized under the laws of foreign Powers propose to land cables upon the shores of the United States, and the consent of those Powers and of the United States are necessary: Therefore,

Be it resolved by the Senate and House of Representatives, That the President of the United States be, and he is hereby, authorized to consent to the laying of one or more telegraphic cables from the shores of any foreign Power to the shores of the United States by any company organized under the authority of any foreign Power: *Provided*, Such Power will also consent to the laying of cables from the United States to the shores of such Power upon reciprocal terms: *And provided further*, That until such Power consent thereto the consent of the United States is hereby withheld and the laying of any such cable upon the shores of the United States by or under the authority of such foreign Power is declared to be unlawful.

By unanimous consent leave was given to introduce the joint resolution (S. R. No. 197) in relation to laying telegraphic cables.

Mr. DOOLITTLE. I suppose it should go to the Committee on Foreign Relations, although I understand that some of these measures have been sent to the Committee on Commerce. I move that this resolution be referred to the Committee on Foreign Relations.

The joint resolution was read twice by its title.

Mr. DOOLITTLE. It is perfectly immaterial to me to which committee it shall go—the Committee on Foreign Relations or the Committee on Commerce. Some of these telegraph-cable questions have gone to the Committee on Commerce. I do not know whether any of them have been referred to the Committee on Foreign Relations. I ask the honorable Senator from Massachusetts as to that?

Mr. SUMNER. Yes, sir; one of them has been referred to the Committee on Foreign Relations.

Mr. MORTON. The first one introduced?

Mr. DOOLITTLE. Then I move that this joint resolution be referred to the Committee on Foreign Relations.

The motion was agreed to.

Mr. MORRILL, of Vermont. I move to take up the resolutions of the State of Vermont in relation to a reciprocity of trade with Canada.

Mr. CHANDLER. I object.

Mr. MORRILL, of Vermont. I make the motion. The gentleman has the right to vote against it.

The PRESIDENT *pro tempore*. The motion can only be entertained by unanimous consent until the morning business is disposed of.

Mr. CHANDLER. I object.

The PRESIDENT *pro tempore*. Objection being made, the motion cannot be entertained at the present time.

Mr. SUMNER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 777) to enforce certain provisions of the fourteenth amendment to the Constitution of the United States; which was read twice by its title.

Mr. SUMNER. I will state that that bill has become necessary with reference to certain transactions recently in the State of Kentucky. Persons disqualified by the fourteenth amendment have undertaken to exercise official functions in that State. I understand that this is the case also in Virginia and other States once in rebellion. There must be some legislation

on the subject. It seems that the amendment to the Constitution does not, as I had supposed it would, execute itself. It requires some legislation by Congress. I move the reference of the bill to the Committee on the Judiciary, and that it be printed.

The motion was agreed to.

Mr. KELLOGG asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 778) to aid in the construction of a southwestern railroad and telegraph line to the Pacific ocean, with branches and connections; which was read twice by its title, referred to the Committee on the Pacific Railroad, and ordered to be printed.

TRADE WITH CANADA.

Mr. CHANDLER. I now move that the Senate proceed to the consideration of House bill No. 1460, regulating the duties on imported copper and copper ores.

Mr. SUMNER. I thought there was an understanding that we should listen to our friend, the Senator from Vermont, [Mr. MORRILL,] to-day on the subject of reciprocity treaties.

Mr. MORRILL, of Vermont. A week ago yesterday I presented resolutions of the Legislature of the State of Vermont on the subject of reciprocity treaties, but not desiring to interfere with the business or convenience of the Senate on that day by addressing the Senate upon them I gave notice that I would a week from that time, that was yesterday, address the Senate upon the subject, and there was no dissent from any quarter. Yesterday I was compelled to give way to the Sue Murphey case; but I gave notice then that I should endeavor to seek the floor this morning. Under such circumstances I must say that since I have been a member of the Senate I have never known such a courtesy to be refused to a Senator. I merely ask for an opportunity to call up the resolutions of my State, which feels a deep interest in the subject, in order to occupy a little time in discussing the general question.

Mr. CONKLING. Allow me to inquire whether the Senator wishes anything more than an opportunity to submit his remarks?

Mr. MORRILL, of Vermont. That is all.

Mr. CONKLING. He proposes no action?

Mr. MORRILL, of Vermont. No, sir.

Mr. CONKLING. And the time spent is to be confined to that occupied by him?

Mr. MORRILL, of Vermont. Yes, sir.

Mr. CONKLING. I hope the Senator from Michigan will give him that opportunity.

Mr. POMEROY. I made some objection yesterday when the Senator from Vermont proposed to call up these resolutions; but I was not aware of the understanding referred to by him. I have no objection at all, and will make none, to the Senator from Vermont proceeding.

Mr. CHANDLER. As I understand the Senator will occupy but about an hour, if he will consent to take up this bill I will then give way and let him make his speech on the other subject.

Mr. SHERMAN. The Senator from Michigan will gain nothing by taking up the copper bill in the morning hour. It is a bill that will lead to discussion. I am in favor of the bill, as a matter of course, and shall support it when the time comes. It is a House bill, and can be taken up and passed without danger at this session; but it is a bill that naturally excites a great deal of opposition because there are formidable interests opposed to it, and it is utterly idle to take it up during the morning hour, in my judgment.

Mr. CHANDLER. I will state to the Senator from Ohio that there was an understanding yesterday among certain Senators that this bill should come up to-day, and that the discussion should continue until we obtained a vote upon it. I hope to obtain a vote to-day upon it.

Mr. CONKLING. The unfinished business of yesterday would take precedence of it at one o'clock without a vote.

Mr. CHANDLER. I shall ask the Senate

to continue the consideration of the bill, postponing the unfinished business, until we get a vote upon it.

Mr. TRUMBULL. The Senator from Michigan would gain nothing by taking up his bill now in the morning hour, because at one o'clock the special order would supersede it, and he would have to make another motion to postpone that. I suggest to him that under the circumstances, as the Senator from Vermont gave notice of his intention to submit some remarks upon a subject which he had heretofore introduced, he should be allowed to proceed, according to the uniform courtesy of the Senate, which I hope will not be departed from on the present occasion. Whenever any Senator has desired to address the Senate upon a matter in which he felt an interest, and has given notice of that fact some distance ahead, to which there has been no objection, I think it has always been accorded to him that he should have an opportunity to deliver his remarks. We all know the Senator from Vermont does not occupy a great deal of the time of the Senate in speaking, and I apprehend he will not speak many hours, and probably nothing would be gained by taking up the bill at this moment. I suggest, therefore, that the Senator from Vermont be permitted to go on.

Mr. CHANDLER. Very well; but I give notice that at the conclusion of the remarks of the Senator from Vermont I shall then move to take up the bill to which I have referred.

Mr. HOWE. I hope the Senator from Michigan will not make such a motion.

The PRESIDENT *pro tempore*. The Senator from Michigan withdraws his motion; and the question now is on taking up the resolutions indicated by the Senator from Vermont.

The motion was agreed to.

Mr. MORRILL, of Vermont. I ask to have the resolutions of the Legislature of Vermont read.

The resolutions were read, as follows:

Joint resolution relating to reciprocity of trade with the Dominion of Canada.

Resolved by the Senate and House of Representatives, That having an intelligent regard for the best interests of Vermont, it is the duty of our Senators and Representatives in Congress to use their influence against the consummation of any treaty relating to reciprocity in trade with the Dominion of Canada, and to insist that the subject of our trade and commercial intercourse with Canada, as well as with all other foreign countries, is not a proper matter of treaty stipulation, but belongs to Congress, and should be wisely regulated by a judicious tariff.

Resolved, That the secretary of State be, and is hereby, directed to transmit a copy of this joint resolution to each of our Senators and Representatives.

GEORGE W. GRANDJEY.

Speaker of the House of Representatives.

STEPHEN THOMAS.

President of the Senate.

Mr. MORRILL, of Vermont. Mr. President, the resolutions of the Legislature of the State of Vermont, I believe, only express the opinions of some of the ripest statesmen of the country in times past and the present sentiments of the agriculturists of nearly the entire nation.

I have sought the opportunity to submit some remarks upon the reference of these resolutions for the same reason that most likely induced the action of the Legislature of Vermont, because of a disposition manifested in some quarters—I hope it may be limited—to revive an unfortunate example in our history of negotiating more of that class of treaties, sometimes called reciprocity treaties, whereby our foreign trade is to be regulated by treaty instead of being regulated by the usual and accustomed laws of Congress—believing, as I do, that such treaties are contrary to the practice of the Government, contrary to the Constitution, and contrary to the interests of the whole country. Such a treaty, if made, has to be first considered in secret session of the Senate, and the people at large have no light or knowledge touching the nature of the treaty itself, nor of the facts or arguments which are supposed to control the action of the Senate, until that action becomes irrevocable, and the only debate in public is when the action of both Houses of Congress

happens to be required by the treaty to modify the revenue laws according to the terms proposed. At such a late period, the treaty having been made by the Executive and by the consent of the Senate, it is altogether too late to consider its merits exclusively, and to the House only the poor privilege remains of paring and clipping the revenue laws, upon the compulsory argument of necessity, to make them conform to the new treaty. The unbiased opinion of the House is out of the question. It has been forestalled. Upon a subject where the House of Representatives is entitled to have the initiative, or the paramount lead, it is forced to accept of a subordinate position and resign some share of the functions conferred by the Constitution in that provision of article one, section seven, which declares that "all bills for raising revenue shall originate in the House of Representatives." Excluded here from the lead, the claims of the House grow fainter as it is shoved into the background. According to some parties, it is an act of grace to submit an appropriation contained in a treaty to the consideration of the House at all, on the ground that a treaty is a law by its own vigor, and the supreme law, which crushes out the vitality of all other laws, although it would seem to be apparent that a treaty cannot be, and never could have been intended to be, any more supreme than the constitution under which treaties are made, or than the acts of Congress. The supremacy intended scarcely rises above more than State or local laws.

It must be conceded that these are subjects of too great importance to be disposed of in a half hour's secret debate, whether in regard to our organic law or as to the advantages or disadvantages commercially of any particular treaty had in view, and therefore I venture to invoke the judgment of the Senate in open session to the consideration of the general merits of the questions involved.

I remember that the learned Senator now so properly at the head of the Committee on Foreign Affairs, in earlier years, but when his voice in the country was hardly less potential than it is to-day, was a robust defender of the rights and privileges of the House in relation to treaties, following in the Senate then the lead of the present astute Secretary of State, and I hope he of all men will not go back upon his record. Let it not be said now, when no longer liable to be charged with belonging to an unhealthy organization of a minority, but holding a commanding position among the majority, that that is a sufficient reason for readjusting constitutional opinions elaborately considered and recorded. Liberals long retained in high official stations in other countries often become what is called conservative, but the Republican Senate of the United States is supposed to be a school not so favorable to the training of that class of statesmen, and the distinguished chairman most unpromising material for such a training.

SPECIAL TREATIES IMPOLITIC.

The exclusive policy so long maintained by the British Government and other nations relative to trade with their colonies having now been greatly modified, though not wholly abandoned, and the policy of granting equal favors to all nations with whom commercial intercourse is maintained having become almost universal among civilized nations, there is no longer inducement to seek by treaties special favors, or to attempt to overreach less enterprising nations by the arts of diplomacy. Secret treaties or partial treaties find little favor, and whatever is granted to one party is practically open at once to all others willing to accept of like terms. If England negotiates a treaty with China it is at once duplicated with the United States. If the United States make a treaty with Japan, equal favors are promptly obtained by England and other nations. It is even reckoned, if not discreditable, somewhat beneath the dignity of independent nations to grasp at any exclusive privileges by means of treaties, and a sure mark of imbecility for any nation to grant them. It has also been growing more and more

politically unsafe to hamper the trade of colonies with such badges of inferiority as make them tributary and subservient to the imperial selfishness of the mother country ever since the successful resistance of the United States to the policy of taxation without representation attempted by George III. When a Spanish ambassador represented to Cromwell that the inquisition and colonial trade were his master's two eyes, Cromwell replied, "Then I must trouble your master to put out his two eyes." The inquisition has been blotted out, and, while the language of Cromwell might not be accepted by modern diplomacy, it is questionable whether the world will long quietly tolerate any monopoly in colonial trade. The other eye will be put out. Laws made in the islands of the North sea to operate upon continents in the Indian ocean will at some time become obsolete.

Such favors as promote national interests, enlightened by the liberal policy of the age, are made by general statute laws, not upon the application of suppliants, and are applied universally; but such favors as cannot be open to so wide an application are entirely withheld from any narrower or more exclusive field of operations. Once these favors, secret and precious, are the bribes of offensive and defensive alliances, but such alliances have proved odious, if not unprofitable, to all mankind. Once they were terms extended or withheld by victors to or from the vanquished. But now it must be either a nation conscious of its weakness and desirous of leaning upon a stronger and more opulent power for support, or one sadly lacking spirit to stand toward all the world in the attitude of erect and broad independence, which can stoop even to those exceptional arrangements called reciprocity treaties, although they are in point of fact only reciprocal in words and never reciprocal in effects.

The confutation of opinions is always unwelcome, and more so when calling for a seeming renunciation of power; and I shall ask of Senators, not that they shall accept of my positions, but that they will calmly examine the questions presented for themselves. If there are Senators who hold opinions at variance with mine, as is not unlikely, I am conscious how feeble any effort of mine must be to effect a change, and I shall lament my own deficiencies rather than suspect the strength of the positions attempted to be maintained.

LEGISLATION NOT TO BE DONE BY TREATY.

Specific powers must always be construed to limit general powers. All legislative power, and especially the power to regulate commerce, having been delegated to Congress, the treaty-making power is thereby limited and restrained. I think it may be assumed in the outset, as a sound axiom under the Constitution of the United States, that subjects proper for legislation are not proper for treaties. Manufactures, trade, and agriculture are constant and fit subjects of legislation; and cannot be claimed by the treaty-making power. Reciprocal treaties always interfere with trade, manufactures, and agriculture, and are therefore unwarranted.

Such treaties are comparatively novel, and certainly they were unprecedented at the time of the adoption of our Constitution. Therefore, even if they did not militate against the special privileges of Congress, or of the House of Representatives, not having been originally contemplated, they cannot have been authorized; and what was not authorized must be outside of the limits of the Constitution.

Treaties were intended to embrace foreign objects beyond the reach of ordinary legislation—objects requiring the assent of some foreign Power—and it is a manifest absurdity to claim that tariffs may be made by treaty, yet tariffs must be the chief staple of all reciprocity treaties.

I shall first speak of the want of authority to make such treaties, and second, of their worthless character when made.

EXECUTIVE POWER OUGHT NOT TO BE INCREASED.

The President of the United States is required mainly to see that such laws as are in force are

faithfully executed, not to make laws by himself alone nor by himself and the Senate. This is the broadest field of his operations. He may recommend measures, but if Congress does not enact them they do not become laws any more than the recommendations of any private citizen. Treaties under monarchies are royal prerogatives and are made by the executive alone. Under our style of government, treaties being laws when made affecting the whole people and which they must obey, they are not confided alone to executive discretion. Jealousy of executive power is the theory of earnest republicans the world over. By the constitution of the late French republic, overturned by the biographer of Cesar and present ruler of France, the executive was authorized to negotiate and ratify treaties, but no treaty was to be definitive until after it had been approved by the national assembly; and it was also provided that amnesties should only be granted by an express law.

The President of the United States may initiate treaties, but until they receive the constitutional sanction of the Senate they are of no force. The whole legislative body, or both Houses, when appropriations are required, must participate in the office of carrying them into effect, and without the approval of two thirds of the Senate no treaty can be made. It is evident the framers of our Constitution regarded the treaty-making power with extreme jealousy, and had no intention to amplify it.

Presidents, as well as monarchs, however, are not only great sticklers for their legitimate powers, but rarely fail to struggle both overtly and covertly for the extension of executive prerogatives. It may be matter of indifference to the Senate *per se* whether certain matters are to be considered by them in a legislative or an executive session, as in either case their voice will be potential, but as conservators of a free Government, as a branch of that Government protected by the longest term of service, it should scrupulously guard the rights and privileges of the most numerous and popular branch of the Government. The Senate can have no interest in transferring power from the House of Representatives to the hands of the President. The theory of a republican form of government is that power is safe in the hands of many, and dangerous in the hands of one. The exclusive power of the House to originate revenue bills is one of the most explicit in the Constitution, and it was intended to be so hedged that no plausible pretext could be suggested by which it could be invaded or supplanted. This sole power being confided to the House, it must not be exercised elsewhere, nor can it rightfully be subverted. It should remain in its entirety. Even to allow any other branch to consider and amend revenue bills was reluctantly conceded by the framers of the Constitution. A treaty regulating custom duties, the main source of revenue heretofore and destined to be hereafter, trenches upon a cardinal principle of popular Governments—the right of the immediate representatives of the people to control the purse of the nation. It is obvious that a very limited multiplication of such treaties would soon absorb the whole power to originate revenue bills, so far as they concern the levying of duties upon the importation of foreign goods, and nothing then would be left to Congress except the mere husks of a tariff and excises and direct taxes.

PRIVILEGES OF THE HOUSE.

It has been faintly argued that such reciprocal treaties would still leave to the House of Representatives the privilege of originating revenue bills at its pleasure, but this does not rise to the dignity of a respectable sophism. It does not even wear the appearance of candor. It is a mockery. Whatever prior or subsequent legislative enactments there may be, a treaty, being according to executive interpretation always the supreme law of the land, overrides them, and wherever such enactments come in conflict with a treaty they are practical nullities, as has been proved, and will be so long as the Executive is the sole arbiter of the

question. The House may fling its net for revenue and toil all night, but they will catch nothing. When the revenue has been sequestered by force of treaty stipulations for the benefit of foreigners the House will find itself in the old attitude of being forced to make brick without straw. The pretense that such a treaty is not an invasion of the rights of the House, it seems to me, adds to the injury a contempt for the intelligence and sensibility of that body. To say that all this may be done even with the joint action and assent of the House does not relieve the matter—only complicates it. It is not in the power of the House, either alone or conjointly with the President and the Senate, to change or dispense with any portion of the Constitution. The powers given to the House are given for all time, as much for one Congress as another, and cannot be lawfully suspended by them nor by the treaty-making power, whether directly or indirectly. One House of Representatives has the same powers as any other, and no one can properly or lawfully intercept or hold them in abeyance for any length of time. The House of 1870 must be as free to act as the House of 1868. One House, indeed, may have so little spirit as to refuse to exercise its constitutional powers, but one or both Houses cannot exhaust their vigor, nor abdicate nor forfeit them for a moment, nor can any circumstances lift any law to such high sanctity that a new Congress, fresh from the people, cannot constitutionally repeal it, whatever of misfortune might attend such a repeal.

Revenue laws require adjusting annually, and for years to come the subject will be one of paramount importance. Taxation as a whole may steadily be diminished, but a careful consideration of the whole subject may require that burdens resting in one place may be removed to another better able to bear them or where they will be more widely and equally distributed. In spite of all inclinations for honorable peace, the just claims of the United States may be so long delayed that the only remedy for a high-spirited people will be war. In such an untoward event the whole resources of the country should be kept untrammelled, ready to be unleashed for instant use, and no part of them should be placed beyond our reach. The power to originate revenue bills, then, becomes imperative and indispensable to the preservation of national life. A war with one nation abrogates no treaties with any other. A compact of this reciprocity character, however inopportune or galling, must be fulfilled. To disregard it gives just cause for war. The executive branch of the Government, with the Senate in its executive capacity, having pledged the faith of the nation, no explanation of the frame-work of our Constitution will prevent any foreign nation from seeking a redemption of the pledge.

In the first article, section eight, of the Constitution it will be found that Congress—not the President and Senate alone—was to have the power "to regulate commerce with foreign nations." If Congress was to have the power to do this it is clear that it cannot be done by either the judicial or executive authority, nor was it the purpose to lodge the power in any body less responsible than the whole of Congress.

If to Congress belongs the power to regulate commerce with foreign nations, and the House has the exclusive right to originate revenue bills, it follows that the powers thus delegated should not be curtailed or frittered away by any treaty. If laws become weak and worthless in the face of the assumed supremacy of even illegitimate treaties, or such as cannot properly be considered as made "under the authority of the United States," the Constitution whenever appealed to retains its full vigor, and when its agents transcend its authority let them be disowned, and not the Constitution.

How greatly is it to be preferred that our Government should be left at all times unfettered and free to make such laws and regula-

tions as the interest of our people from time to time demands, and that we should be at liberty to extend favors or withdraw them, as our own sense of propriety may require, without any infringement of a compact, and especially of a compact made in conflict with a provision in the Constitution deemed most essential to the framework of a free Government?

LATITUDE OF THE POWER CLAIMED.

If such an innovation of the rights of the House or of the rights of Congress be allowed to go unchallenged there is little else in the way of legislation that may not be done by treaty. Why may not the right of suffrage be regulated by reciprocal treaties? Why not so fix the price of our public lands? Why may not internal improvements, canals, and railroads be secured on the international reciprocity plan? Why not have reciprocity in fortification treaties? Why not thus regulate the rates of postage? Why not reestablish slavery by a reciprocal treaty with Brazil or the king of Dahomey? Why not have reciprocal naturalization treaties? Why may not New England be thus put out in the cold or the State of Michigan be alienated by treaty with the Canadian Dominions? Why not borrow money or resume specie payment, by virtue of a reciprocity treaty?

These interrogatories give some indication of the possible scope of the powers claimed and the easy manner in which power may slide into the hands of the few, and, without changing the form of our Government, wholly subvert its popular character; nor can it be pretended that the exercise of the power in any one of the examples here used to illustrate its extent would not be equally justifiable with its exercise upon the subject of tariffs, and all are equally dangerous. It is a power subject to the winds and waves of party, and liable to engulf and absorb all legislative power.

Since the decision in the case of the Jay treaty and the recent treaty for the purchase of Alaska it may, perhaps, be considered the settled doctrine that a treaty made by the President, with the consent of two thirds of the Senate, involving an appropriation, binds the House, or at least overwhelmingly urges it, to make the appropriation without stopping to consider its justice or expediency, or whether the treaty is good or bad. Is not that enough? Foreign nations, it is argued, can neither interfere with our internal machinery nor know whether our agents exceed their authority or not, and they deal only with the sovereign authority; regarding the mouth-piece of that authority as the authority itself, whether so in point of fact or not. Such considerations should inspire great caution about amplifying or enlarging the jurisdiction of the Senate in the formation of treaties. It is enough that we confine the Senate to its legitimate and unquestioned functions, but when we step beyond and remove subjects of ordinary legislation by Congress within the control of the treaty-making power, we justly arouse a suspicion that if we are not aiming at consolidation we are removing step by step from the popular control of the people. Among the admirable checks and balances of our system of government there is none more revered than that of the Senate, but if it attempts to magnify its office by engrossing doubtful powers, from that moment its prestige will begin to wane and its usefulness will be seriously contested.

I regret that this question has not been handled by some Senator better able to present the argument, but a simple statement of the question would almost seem to be enough without argument. In its whole length and breadth it is this: can the President with two thirds of a quorum of the Senate repeal laws passed by both branches of Congress and approved by the President, and at the same time fasten upon the people an irrevocable law? If this cannot be lawfully done there is an end of reciprocity treaties.

I shall next briefly consider the history and character of these treaties.

TREATY WITH FRANCE.

It has sometimes been pretended that there are numerous precedents on record for making reciprocity treaties, but in point of fact there has never been one deserving that title, nor but one claiming it, and that was the late ill-advised treaty concerning trade with the British provinces. By the treaty with the first consul of France, in 1803, for the cession of Louisiana we agreed to permit French and Spanish vessels to trade in all the ceded ports of this territory for twelve years, in the same manner as our own vessels, and also agreed that no other nation should have the same privileges. It must be remembered that at that time we were few in numbers, and the acquisition of so vast a territory, with the port of New Orleans and the mouths of the Mississippi, offered temptations not to be resisted by any nation dreaming of maritime importance, and the terms demanded by Napoleon were no doubt very moderate. But subsequently France made large reclamations on the ground that we had failed to fulfill the part of the treaty already alluded to, and in 1831 we made a new treaty with France, by which she paid us in money for her spoiliations of our commerce, and we healed the breach in the treaty of 1803 by allowing French wines to be imported at fixed and specific rates of duty for eleven years. There was no reciprocity whatever, as no concessions were made by France in her revenue laws but to cancel large claims against the United States difficult to compute in money, and to avoid a vexed question Congress granted for a limited time a special favor to French wines. This is the slender prop upon which precedents are claimed to build up a system of reciprocity treaties! We are older now; and however proper the terms may have been at the time, they were not reciprocal, and whether they were or not no American statesman will hereafter venture upon a similar compensation, whatever may be the demand made by any foreign nation.

THE ZOLLVEREIN TREATY.

The first real negotiation in the way of a treaty of reciprocity was made by Mr. Wheaton, at Berlin. He had been instructed by Mr. Forsyth in 1837, then Secretary of State, to obtain a relaxation of the duties on tobacco—that was all—and after seven years of effort, or at least a lapse of seven years, he concluded what is known as the Zollverein treaty. Prussia and her German associates would consent to nothing without an equivalent. If Prussian duties on tobacco were to be relaxed then the United States must tender a relaxation of the duties on certain other articles of the growth or produce of the Zollverein, and these articles seem to have become coextensive with the number of the principalities embraced in that associated crowd. Each appears to have rushed in with some pet to be favored, and all would seem to have been gratified. The workers in hardware and in wool, worsted, silk, cotton, and linen were no sooner appeased than the fabricants of fish-hooks, snuff-boxes, and toys presented their budgets, and at last the proposed treaty contained an assortment of staples and *bijouterie* such as, I venture to say, were never before assembled together by Jew or Christian.

This proposed treaty was the work of a man whose historical and legal productions have contributed largely to the solid reputation of our country. His fame is part of the glory of our people; and if a treaty of this kind could ever be expected to find favor in the American Senate or with the American people this was brought forth by a man entitled, even though he labored under specific instructions, to a respectful hearing. It received the highest commendations of Mr. Calhoun, and yet, notwithstanding the wholly unexceptionable character of the negotiator, after being elaborately considered, it was reported against by the Senate Committee of Foreign Affairs, and upon being again urgently pressed by President Tyler, a second adverse report having been made, it was rejected by a large majority, and

rejected, not by a party vote, upon the ground of deference to the constitutional privileges of the House of Representatives, with which the treaty conflicted. The eloquent words of the first report, penned by a distinguished statesman of Massachusetts, (Mr. Choate,) and reiterated and amplified in the second report by Mr. Archer, of Virginia, declared that—

"The committee, then, are not prepared to sanction so large an innovation on the ancient and uniform practice in respect of the department of Government by which duties on imports shall be imposed; that the Constitution in express terms delegates the power to Congress to regulate commerce and impose duties and to no other; and that the control of trade and the functions of taxing belong, without abridgment or participation, to Congress."

It is somewhat remarkable, in stating the advantages of this treaty, that Mr. Lawrence, the biographer of Mr. Wheaton, should enumerate, among the benefits to accrue to the United States, but three American articles of export touched by the treaty, and of these no actual change of the rates of duty was to be made by the Zollverein except with regard to one. He speaks of the treaty as one which "would effect the long cherished object of procuring the reduction of the present duty on tobacco, secure the continued admission of our cotton free from all duty, and prevent the imposition of any higher duty on rice;" and he continues, "For these advantages!"—that is to say, stripped of all rhetorical verbiage, for a reduction of the duty on leaf tobacco amounting to about one cent per pound and of one cent and a quarter on stems, and with no change on cotton and rice (and lard) we were to reduce, or not increase, the duty upon at least five hundred articles, embracing (though wholly unmentioned by Mr. Lawrence) whole classes and many varieties, some of which, singly, were scarcely less, when compared in commercial magnitude, than the sum total of our Prussian tobacco trade. "For these advantages," practically confined solely to tobacco and tobacco stems, we were to dwarf and hamper our tariff to proportions satisfactory to the great nullifier of South Carolina. Had this clever scheme proved successful the direct benefit to the tobacco-growing States would have been inconsiderable; but it is hardly too much to say that the direct injury to the industry of the North would have been so serious that in their retarded growth it would have left the slave power of the country to-day in the undisputed ascendancy. Never was John C. Calhoun so nearly victorious.

It is singular that a man of such eminent patriotism, ability, and culture as Mr. Wheaton should have been dazzled by gems of such inconsiderable value, while throwing away such costly treasures, and even more singular that he should have overlooked such plain landmarks of the Constitution as were presented by the Committee on Foreign Affairs in their reports to the Senate in 1841 and 1843, then as now composed of Senators thoroughly versed in constitutional learning, but it is even marvellous that Mr. Wheaton should have felt that a treaty with such limited advantages, accompanied by such onerous burdens, offered any contribution to his already well-earned fame as a scholar and jurist, and can only be accounted for by supposing that his partiality for his offspring arose not on account of any merits, but from the length of the period of its gestation, or by that fatuity of genius which remains indifferent to fame fairly won and pines after that to be found in some by-path wholly aside from its reach.

The success of these reciprocity treaties requires secrecy while they are in progress. It will not do to let the whole substantive matter contained therein leak out in advance. A few nuggets may be unveiled, and then the imagination is left free to gild all the rest. If the whole should be at once exposed to the public gaze short work might follow such diplomatic achievements. The proposed Zollverein treaty of 1844 was supposed to relate chiefly to a reduction of the Prussian duty on tobacco and tobacco stems. I doubt not that was the understanding of most of our people. It stipulated for so much,

and that the duties upon rice, cotton, and lard should not be advanced. The duties on tobacco were not to exceed four thalers per centner, (or \$2 88 per one hundred and ten pounds,) and not over three thalers per centner on stems. We, through our minister, loudly protested *then* against the injustice of any higher duties, and yet we ourselves *now* impose upon unmanufactured tobacco imported into the United States a duty of thirty-five cents per pound, equal to about fifty-four thalers per centner, or more than thirteen times as much as then appeared reasonable to us that the Prussians should levy upon our tobacco! Yet to-day very few pretend that we can do with less. Beside, it will be seen by the tariff promulgated years since by the Zollverein that they have, without requiring any equivalent from us, continued cotton on the free list, as it was plain from enlightened self-interest they must, and have reduced the duty upon tobacco to the identical and magical figure of *four thalers per centner*. Without any treaty or so-called equivalents we now have all the advantages sought for by President Tyler.

The statesmanship of the State Department seems to have been unequal to the task of forecasting for twenty years, or even for fifteen. But this blindness will be much more apparent if we examine the equivalents, so called, which we were to have given for the distinguished consideration to tobacco. The catalogue of reductions to occur in our tariff are too long to be fully repeated, and embraces to a great extent the luxuries and toys of commerce—the very sources from which, since 1861, we have most largely increased custom-house supplies.

No higher duty than twenty *per centum ad valorem* was to be placed on woolen, worsted, or cotton hosiery, mitts, caps, bindings, drawers, shirts, and all similar manufactures made on frames, nor upon musical instruments, except pianofortes.

No higher duty than fifteen *per centum ad valorem* on any manufactures of silk, or of which silk should be a component material of chief value, nor upon Thibet, merinos, merino shawls, and all manufactures of combed wool or of worsted and silk combined, nor upon polished plate-glass, silvered or unsilvered, toys, wooden clocks, cologne water, scissors, files, saws, planes, scythes, needles, copper wire, bronze ware of all kinds, fish-hooks, leather pocket-books, and all sorts of similar fine leather manufactures, pocket looking-glasses, snuff-boxes of papier maché, lead-pencils, &c.

No more than ten *per centum ad valorem* on all thread laces, insertings, lace, tresses, tassels, knots, stars of gold and silver, mineral water, spelter, &c.

And, finally, we were to agree not to increase the then existing rates of duty upon wines; and the duties upon wines in 1844 were as follows: on Madeira and sherry, in casks or bottles, sixty cents; champagne, forty cents; claret, six cents per gallon; and on white wines, seven and a half cents in casks or twenty cents in bottles per gallon.

It is quite apparent that the American negotiator of the proposed treaty, however learned and accomplished in other respects, was sadly deficient in practical knowledge of revenue laws or of the industrial interests of the United States, and without any apprehension of the strides these interests were destined to make in the immediate future. Whatever of budding promise there might be in the efforts then being made or subsequently made to establish manufactures of worsted, of silk, of linen and hemp, of woolen and cotton goods made on frames, of scythes, saws, files, planes, fish-hooks, lead-pencils, and so on to the end, or whatever were the prospects of American wines, it is quite certain that if this treaty had been accepted all these varied interests, now counted by millions upon millions, would have received their death knell, or if not their advent would have been postponed for a generation; and if the treaty had been in force at the outset of the late rebellion the Government of

the United States would have been almost paralyzed, and without the power to mend its financial condition so far as that then depended upon receipts for duties upon foreign merchandise. It was found necessary, for revenue purposes, to place three or four times the amount of duties upon many of these articles which could not have been done had the Zollverein treaty been in force, and under such rates of duty the protection to home manufactures has been so great that we have largely diminished our dependence upon foreign supplies for silks, worsteds, and whole classes of other manufactures included in the treaty. This only illustrates the extreme inexpediency, not to say folly, of reciprocity treaties. A great and growing nation must be left free to act in any and all emergencies as its honor and interest may demand.

NATIONAL COMPLICATIONS.

But beyond the general impolicy of such treaties and their lack of constitutional authority there is another, and it would seem insuperable, difficulty. Before the Zollverein treaty had reached us Lord Aberdeen appears to have got possession of its terms, and at once notified Mr. Everett, our minister at St. James, that his Government would claim, under our treaty of 1815, an equal relaxation of duties in their favor. Upon the admission on the part of Mr. Everett of the propriety of the claim, provided it was accompanied by the same equivalents, Lord Aberdeen replied that "he conceived that by the convention of July, 1815, we should be bound to admit British fabrics, on paying the same duties as the German, without any such conditions on their part." Upon referring to article two of the treaty of July 8, 1815, it cannot be said that the position of Lord Aberdeen was untenable. The stipulation found there is the very common one in most modern treaties, and reads thus:

"No higher or other duties shall be imposed on the importation into the United States of any articles the growth, produce, or manufacture of his Britannic majesty's territories in Europe than are or shall be payable on like articles, being the growth, produce, or manufacture of any other foreign country."

Our treaty of 1829 with Austria is the same, but with an additional article, as follows:

"If either party shall hereafter grant to any other nation any particular favor in navigation or commerce it shall immediately become common to the other party freely, when it is freely granted to such other nation, or on yielding the same compensation when the grant is conditional."

The same provisions will be found in our treaty with Russia in 1832, and with Belgium in 1845, with this variation: "on allowing the same compensation or its equivalent if the concession is conditional."

It will be found that nearly all of our treaties bind us to extend to all nations with whom we have commercial treaties the same terms granted to the most favored nation, either with or without compensation. Therefore, a reciprocity treaty is neither more nor less than an extraordinary mode of amending the tariff so that it cannot be again amended in the ordinary way by Congress for a term of years, and for the consideration that some other nation will shackle itself in the same manner.

In discussing this subject it should be done wholly apart from the question of the propriety of a high tariff or a low one; that is not involved; for if a reduction of the tariff can be made by treaty it follows that an increase can be so made. But it should be noted, however, that practically these treaties, whatever may be the requirements of the Treasury, must invariably contemplate the surrender of more or less revenue. If the tariff is too high let it be reduced; if too low let it be increased; but solely with reference to the welfare of our own people, and in a manner that will not complicate our engagements with all foreign nations. By opening the door to the wool of Canada we leave the door ajar as to the wool of Buenos Ayres; and if the low grades of Hawaiian sugars be admitted the better grades of Cuba cannot be resisted; or, if they can be, then the Executive and the Senate will have become

the architects of a mottled tariff—white here and black there, and ring-streaked everywhere.

RECIPROCITY WITH THE BRITISH PROVINCES.

Only ten years after the Zollverein treaty had been set aside, for the gravest of constitutional reasons the Senate reversed its position, and the House of Representatives acquiesced, by making the treaty of 1854 for the benefit of the British colonies of North America. American statesmen in the North were lifted off their feet by the will-o'-the-wisp of annexation, and in the South by sectional advantages. This treaty, beyond all doubt, was made to induce annexation, but the arguments used to that end, without regard to the merits or demerits of that question by itself, have been buried too deeply by our eleven years of cruel experience under the treaty ever to be again resuscitated. That whatever desire any parties in the provinces may have entertained prior to the treaty for joining the United States was temporarily crushed out by the reciprocity treaty cannot be denied. And why not? If they had secured the chief benefits to be derived from annexation why should they not shun any and all of its duties and burdens? There was no inducement left to go further if the profit and loss account in all subsequent stages was to be nearly equally balanced. American statesmen vainly anticipated an era of good-feeling, hoping that our neighbors were, after all, imbued with some admiration of more popular institutions and with some ambition to become an integral portion of a great Republic; but the rebellion touched our provincial neighbors with the spear of Ithuriel. Then they assumed their true shape and boldly hoisted their true colors, and at once all these prophetic and coming glories vanished as the unsubstantial visions of maidens' dreams. Our recent border fair-weather friends seemed to be filled suddenly with envy and all uncharitableness. Eager for bargains in the purchase of our fugitive ships hiding from the pirates of the Clyde, greedy for the profits of blockade-running, in full sympathy with the master spirits of the rebellion, harboring raiders on our borders, and furnishing an asylum to those who were sending assassins one day, disease and death the next among our people, it became too apparent that the Government of the British provinces, instead of reciprocity, instead of building up the United States, would feel as lively a joy as that disclosed by Mr. Roebuck, their spokesman in the British Parliament, in having "the presumptuous and audacious bully of the world," as he styled us, humbled and destroyed. These undeniable facts show the folly of making an exception in favor of British subjects in the rule of treating foreign nations. They are and must be enemies in war; in peace, friends.

THE FISHERY QUESTION.

It may be said that the treaty of 1854 settled an important question relating to the fisheries. If there is any point where American diplomacy ought to blush it is in relation to this very question of the fisheries, and the last adjustment was hardly more wise than the pusillanimous surrender of 1818. Great Britain conceded by the provisional treaty of 1782, and reaffirmed word for word in the treaty of 1783, all the rights we demanded and all that ever could be of practical utility. The language was most comprehensive:

"The people of the United States shall continue to enjoy unmolested the right to take fish of every kind on the Grand Bank, and on all other banks of Newfoundland; also in the Gulf of St. Lawrence, and at all other places in the sea where the inhabitants of both countries used at any time heretofore to fish; and also that the inhabitants of the United States shall have liberty to take fish of every kind on such part of the coast of Newfoundland as British fishermen shall use, (but not to dry or cure the same on that island,) and also on the coasts, bays, and creeks of all other of his Britannic majesty's dominions in America; and that the American fishermen shall have liberty to dry and cure fish in any of the unsettled bays, harbors, and creeks of Nova Scotia, Magdalen Islands, and Labrador so long as the same shall remain unsettled; but so soon as the same or either of them shall be settled, it shall not be lawful for said fisher-

men to dry or cure fish at such settlement without a previous agreement for that purpose with the inhabitants, proprietors, or possessors of the ground."

Here there was little or no restriction upon our rights. We could fish at all places in the sea where the inhabitants of both countries used theretofore to fish and (except to dry and cure fish on the shores of Newfoundland) at all places used thereafter by British fishermen. The rights we possessed in the fisheries in 1782 were permanent, inherent, and indestructible, and ought no more to have admitted question once acknowledged, than our independence or our boundaries. War could not disturb them, because they were of higher authority than mere compacts, and time could not efface them because they were ever in use and never abandoned. In peace or war, like the title to our own soil, they were unconquerable. After the war of 1812 we made the treaty of July 3, 1815, and all subjects embraced in the treaty of 1783, not then questioned, must have been understood to be remain *in statu quo ante bellum*. It never has been pretended by Great Britain that any other article in the treaty of 1783 was abrogated by the war of 1812 save that relating to the fisheries.

Somewhat after the British style of doing things at Copenhagen, a vessel of war suddenly ordered our fishermen, in 1815, to retire *twenty leagues* from all the coast of British colonies! It is hardly to be credited that Great Britain should have claimed that the war of 1812, so barren of British laurels, had abrogated rights so freely acknowledged in the treaties of 1782 and 1783, or that any representatives of the United States, after a lapse of thirty-five years, could have yielded to such an unfounded, not to say impudent, claim. If Great Britain, whether stung by the rivalry her fishermen or her sailors had experienced, put forth such pretensions no dread of Waterloo should have prevented their plump denial. She had no valid claims, and if she had the time to have asserted them was in the treaty of peace in 1815. The treaty of 1818 was a weak surrender on our part of rights which peculiarly belong to us, and of other rights which belong to all other nations which choose to assert and exercise them. Not won by the blood and treasure of the parent country, they belonged to us by right of discovery and occupancy, and because while we were yet colonies our rights were fought for and our title confirmed by our own valor; but neither the French nor the British ought to be permitted to monopolize sea-fisheries. By any rule of facts or principle in the partition of territory and rights, when our independence was acknowledged we were entitled to *all* the fisheries rather than Great Britain, and might with much more propriety have insisted, not only that we would not be excluded, but upon excluding the British. We had always enjoyed them to a larger extent than all the world beside, and they were of greatest value to us. It is time the world refused to put fetters on the sea, and if any nation persists in such expansive despotism it challenges resistance. Exclusive rights to the products of the ocean is a relic of feudal ages, and as odious to nations as are game laws to common people.

It should be noticed that when Nova Scotia was ceded to Great Britain by the treaty of Utrecht the French subjects were thereafter excluded from fishing within thirty leagues of the coast, and this exclusion was renewed in the treaty of Paris, 1763, by which Spain was also wholly excluded from fishing rights in the neighborhood of Newfoundland. So it would appear that these exclusive claims have within the century past diminished from thirty leagues to three marine miles from the coast.

But we did agree in 1818, let us say it in sackcloth and ashes, to limit the boundaries of our fishing grounds and acknowledge some exclusive rights of the Hudson Bay Company; and we did agree to renounce forever "hook and line, bob and sinker"—on our own motion!—any liberty heretofore enjoyed to take, dry, or cure fish within three marine

miles of any coasts, bays, creeks, or harbors of his "Britannic Majesty's" dominions in America.

As a general international rule, the exclusion of foreign fishermen within three miles from the shores of any country is not, perhaps, to be complained of; but from these fisheries never having been so excluded prior to 1818 it was a strange renunciation on the part of the American negotiators, and cannot be atoned for with anything less than the complete restoration of our ancient rights.

Among the many treaties made between the United States and Great Britain there are four which will never be likely to increase the self-esteem of Americans. I mean those of 1794, 1815, 1818, and 1854. The inclusions and exclusions very noticeable in those treaties show, not a lack of ability upon the part of the American negotiators of the three earliest treaties, but a lack of weight in the cannon known to be behind them. The last-named treaty was negotiated shortly after a gross attempt had been made to bully us into a similar compact by sending a considerable fleet of vessels of war to seize by force and stealth and confiscate, as they did seize and confiscate, hundreds of the vessels of our hardy fishermen for pretended infractions of British rights under a new interpretation given by them to the old treaty of 1818. This was an affront that should have barred reciprocity treaties forever. Peace is eminently our necessity, but not more a necessity here than it is to Great Britain. Is it too much to claim that hereafter we shall treat and be treated by her, when we treat at all, as her equal, and, as to reciprocity, not to treat at all? No commercial privileges are worth purchasing. The interests of nations dictate policies of mutual benefits, and these will grow. They cannot be bought with a price. Let us bide our time.

ANNEXATION.

We should always remember that an adjoining people, weaker as a state than ourselves, must not only be envious of our power but of our prosperity. Railroads so far in advance of wealth and population that their receipts fall short of expenses must be a dead weight. That credit which requires the perpetual prop of an indorser is delusive. Emigration that runs away from the soil is a bad advertisement. That trade where the advantage depends upon profitable diplomacy or illicit traffic is unreliable, and furnishes no base to the character of a great people. Commerce blockaded by ice for seven months of the year badly needs a more sunny side.

It is true that most of these drawbacks would disappear if the British provinces were consolidated with the United States. For the present, however, the United States have room and verge enough to spread all of its surplus capital, population, and enterprise upon the prairies of the West and the savannas of the South. It might not be wise to weaken our strength by diffusion over a broader surface than at present so greatly tempts our national enterprise. If neighboring provinces, wedded to aristocratic titles, though unsupported by estates, choose to cling to a style of government whose chief strength discloses at every fresh alarm the fact of dependency, and so lag behind and retard their progress for a half century, why, in an economical view, the United States can afford to wait. When these provinces seek that aggrandizement which naturally flows over all the parts of a free, independent, and prosperous nation by a union of interests and honors, by a fraternal welding together of all their material forces and political aspirations, by an unreserved and uncalculating assumption of privileges and duties, it will be time enough to consider what measures will best advance their general welfare. Until then it is a study exclusively their own, about which it will be unbecoming for us to waste diplomacy.

CONCLUSION.

There is no error, as I think, in the statement with which I started, namely, that our history furnishes but one actual reciprocity

treaty accepted—and that was itself made contingent upon the action of Congress—and one, the Zollverein, negotiated and rejected by the Senate. As far as precedents go, the action of the Government has been decidedly adverse to them; and the character of that accepted even British subjects do not now pretend to have been other than very profitable to them, and most unprofitable to the United States. It is certain that we gave the notice for its termination at the earliest possible moment.

If a reciprocity treaty can be made with the queen of Great Britain or with the king of the Hawaiian Islands may not the same thing be done with the red chiefs of our Indian tribes? How would it do to mend the tariff by a treaty of reciprocity, "the supreme law of the land," with the Sioux or Comanches? How should we respond to the claims of all those nations with whom we have treaties—to Bismark or the Earl of Clarendon—for equal favors? It is not possible that the American Senate, with ever so strong a predilection in favor of reciprocity treaties—which I trust does not exist—would tolerate this latitude in their construction; but would it not be well to eschew a power so incapable of good and so full of possibilities of evil?

Our House of Representatives was an improved copy of the British House of Commons, whose rights and privileges are guarded with especial jealousy and unceasing formality. At the commencement of every session the Speaker goes to the House of Lords and claims "all their ancient rights and privileges," all of which the queen, either in person or by proxy, "agrees to allow and confirm in as ample and complete manner as has ever been allowed or confirmed by herself or by any of her Majesty's predecessors." It will not be wise for the Senate or the Executive to raise any dubious conflict with the other branch of Congress. Let it never be necessary for the House to ask of us or of the Executive to allow and confirm, in as complete a manner as has ever been allowed and confirmed by the Constitution, all their ancient rights and privileges!

ORDER OF BUSINESS.

Mr. POMEROY. Mr. President, I suppose the regular order of business, the bill in charge of the Senator from Wisconsin, [Mr. Howe,] will now be resumed unless the Senate vote to lay it aside. That is the bill for the relief of Miss Sue Murphey.

The PRESIDENT *pro tempore*. That is the unfinished business of yesterday, and is now regularly before the Senate.

Mr. POMEROY. I was about to say that there is a bill which I wish to bring to the consideration of the Senate to-day, or at least very soon. I feel no personal or pecuniary interest in it, but the people of my State do, and they expect that it will receive the action of the Senate. Next week I shall be obliged to be absent, and I have been requested by several Senators to call up the bill to which I refer to-day or to-morrow.

Mr. GRIMES. What is it?

Mr. POMEROY. The bill in regard to the Central Branch Union Pacific railroad, which we had up last session.

Mr. SHERMAN. If the Senator from Kansas does not desire to make a motion I desire to submit a motion.

Mr. POMEROY. I desire now, with the consent of the Senator from Wisconsin, if he is willing, to lay aside the Sue Murphey case, and move that the Senate proceed to the consideration of the bill I have named.

Mr. HOWE. The Senator from South Carolina [Mr. SAWYER] is, I believe, entitled to the floor on the regular order.

The PRESIDENT *pro tempore*. The unfinished business of yesterday is now regularly before the Senate, and the Senator from South Carolina is entitled to the floor.

Mr. POMEROY. I would not make any motion if I thought we were ever to complete the case of Sue Murphey, but it comes up from day to day and prevents the doing of

other business. The other day I made a motion to recommit that bill, and I supposed then that motion would prevail, but as I understood the Senator from Wisconsin and some other Senators desired to address the Senate I withdrew it.

Mr. HOWE. I sympathize with the difficulty that the Senator labors under, but I think we can close out the debate on the pending bill this afternoon. I do not know of any one else who wishes to speak except the Senator from South Carolina. He says he wishes to occupy some twenty minutes, and I then wish myself to make some remarks. I do not know of any one else who wishes to speak at all.

Mr. POMEROY. Very well, then; I give notice that as early as possible after the conclusion of this subject I shall call up the bill to which I have referred.

Mr. SHERMAN. With the leave of the Senator from South Carolina, who is entitled to the floor, I desire to submit a motion to take up another bill. I am satisfied that the debate on the Sue Murphey claim will not close to-day nor to-morrow. I wish to take up the bill providing for an air-line railroad from Washington to New York. I desire to take it up to-day in courtesy to a Senator who has been prepared for some time to speak against the bill. He is compelled to leave the city because of sickness in his family, and he is detained here in order that he may be heard on the bill. If I thought there was any prospect of getting a vote on the Sue Murphey case I would not ask the Senator from Wisconsin to yield, but I am satisfied that there are other Senators who intend to engage in the discussion of it. I trust, if he is not willing to postpone that bill any further than to allow the Senator from Maryland to say what he desires to say, it will be postponed that long, and the railroad bill taken up for that purpose, though I wish to have it kept before the Senate until it is disposed of.

Mr. HOWE. I really hope the Senator will not press that motion. Do I understand that the Senator from South Carolina gave way to the motion?

Mr. SAWYER. I do not wish to go in opposition to the will of the Senate as to taking up this bill to-day; but if the Sue Murphey case can be disposed of to-day and sent back to the committee it seems to me that it will be as well to do it now as at any time. Still I would not put my own wishes in opposition to those of the Senate.

Mr. SHERMAN. I will not press my motion if the Senator from South Carolina prefers to go on now.

Mr. SAWYER. It seems to me we can get through with that case pretty soon.

Mr. SHERMAN. Very well, I withdraw my motion.

INAUGURATION BALL.

Mr. CRAGIN. I ask the Senator from South Carolina to give me the floor for a moment. I move to reconsider the vote of yesterday by which the House resolution appropriating the Rotunda and Old Hall of Representatives for the purposes of a reception on the evening of the inauguration day was rejected. I do not ask for action on the motion now.

The PRESIDENT *pro tempore*. The motion to reconsider will be entered.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. WILLIAM G. MOORE, his Secretary, announced that the President had, on this day, approved and signed the bill (S. No. 174) for the relief of Mrs. Emma Wilson, of the State of Indiana.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting a report from the Secretary of War, together with the original papers accompanying the same, submitted in compliance with the resolution of the Senate of the 5th instant, requesting such information as is furnished by the files of the War

Department in relation to the erection of fortifications at Lawrence, Kansas, in 1864 and 1864; which was ordered to lie on the table.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPIERSON, its Clerk, announced that the Speaker of the House had signed the enrolled bill (H. R. No. 967) to provide for the removal of the remains of Hon. W. T. Coggeshall, late minister of the United States at Ecuador, to the United States; and it was thereupon signed by the President *pro tempore* of the Senate.

MISS SUE MURPHEY.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 625) for the relief of Miss Sue Murphey, of Decatur, Alabama.

Mr. SAWYER. Mr. President, this subject has received so long and so able discussion already that it is with considerable reluctance I rise to claim for a few moments the attention of the Senate. But the doctrine so ably urged by several Senators is so new to me, so repugnant to my sense of justice, so opposed to the ideas I have hitherto entertained as to the status of those men in the lately insurrectionary States who kept untarnished their faith to the Union, that I feel constrained to express my dissent from it, and to express as briefly as possible the opinions I entertain on the question before the Senate.

I am not prepared to express an affirmative opinion as to the propriety of making payment to Miss Sue Murphey for losses alleged to have been incurred by her in the taking of her house for the uses to which it may have been put. The Senate do not appear to be possessed of the proof that Miss Sue Murphey was a loyal person prior to the taking of the house alleged to have been hers. It is said that she was but sixteen years old at the date of the destruction of the house in question, and my personal observation of young ladies of that age in the States lately in insurrection justifies me in saying that any sentiments she may have held on the relations of herself or her State to the national Government could hardly be dignified with the epithet "loyal." It is hardly within the bounds of probability that she should have so far formed definite opinions on the questions at issue between the national Government and the rebel power as to entitle those opinions to much consideration. That she had prejudices and proclivities is quite probable, and it is equally probable that those prejudices were but the reflection of those entertained by her family and those around her. I understand it to be admitted that her relatives were avowed rebels, and I regard it as almost beyond the limits of probability that she entertained loyal sentiments in opposition to those of her relatives and friends.

It seems equally uncertain whether she was or was not the *bona fide* owner of the premises for the destruction of which payment is sought at the time when they were taken for public uses. I am not, therefore, ready to vote to pay Miss Sue Murphey for the house destroyed until these questions are definitely settled.

But this discussion has assumed a general character. Miss Murphey's case has given the occasion for a discussion of the principles which should govern the Senate in considering the claims of loyal persons resident within the States in insurrection whose property was taken for public uses. It is because the question is a general one, and one in which many of my constituents may be largely interested; in which, I believe, the honor and good faith of the nation are concerned, that I occupy the time of the Senate. I shall not attempt to argue the questions of public law with the honorable Senators from Massachusetts and Oregon. They may have stated correctly the principles applicable to the relations of the loyal men of the South with the national Government during the late war.

Grotius and Vattel, Puffendorf, and all other high authorities on public law, may have taught

such doctrines as these enunciated here, and the loyal men of the South may be proven, to the entire satisfaction of those who desire such proof, to have been public enemies. Possibly, by the principles laid down by these eminent writers on public law those men who, surrounded by the hosts of rebellion, urged by every consideration of personal interest to share that rebellion, subjected to a pressure which only the firmest could withstand, yet held fast their allegiance to the law and the Union, because they loved the law and the Union, must be classed as public enemies, though they never ceased to protest against the treason, though they never ceased to honor and love the Government against which treason was committed.

Learned and honorable Senators tell us this is so. The loyal men of the South will learn this fact, if it be fact, with surprise and pain. They saw the power of their Government in the States of their residence overthrown by an illegitimate body; they saw the machinery of their State governments pass from duly authorized and loyal hands into the hands of those who unlawfully usurped the power of the States; they saw the national emblem lowered at the demand of traitors; they felt in every relation of life the evils of the crimes of those traitors against the Government to which they owed and acknowledged allegiance, the Government whose flag was their flag, whose triumph was their triumph, whose defeats were their defeats. This rebel power came between them and the protecting arm of the Government of the United States. It overshadowed the whole land; it entered every man's house; it invaded every right; it violated every privilege. Yet these men bore all the sacrifices, endured all the hardships of their situation, not indeed without a murmur, but with the proud consolation of knowing that by and by the right would prevail, and that then their fidelity to the cause of liberty, of Union, of the country would be promptly, cheerfully, equally recognized. Never for an hour, never for a moment, did they bate their hopes or restrain their prayers for the success of the cause of the Union, which had to them become the cause of civilization. Proud of their devotion to that cause, they bore more easily the odium and frequent outrage to which they were liable, from the reflection that the day would surely come when, with the grand old flag floating over now rebel fortress and town, the American Union would again be able to protect and defend their hearths and their homes. Serving that Union by every possible means, offering up daily prayers for the success of the loyal armies, never faltering, but always hoping, they came at last to see the long expected triumph. They fondly hoped their relations to their Government were once more restored, that once more they could feel assured of the protection of their rights as loyal citizens. For long weary years they had waited till the devotion their hearts held for their country could find practicable outlet for action. Much of their property had been ingulfed in that flood which the demon of secession had poured over every interest of the land. Their bank-stock had been rendered valueless by the misappropriation of bank assets to rebel uses by directors, of whom a majority were always disloyal; their bills receivable had been paid in a currency worth from three to five cents on the dollar, yet which it was perilous to refuse in payment; they had been compelled to pay taxes to a despotic *de facto* government they despised and disowned; their commerce with the nations of the world had been broken up by a blockade rigorously enforced on account of crimes not theirs; they had in great numbers of cases been compelled to part with hard-earned possessions to furnish bread for their families; they had shared every evil of war to which the rebels were subjected, and they had been true and steadfast loyalists in spite of all. Nay, more, it is questionable whether the loyal North contributed a larger percentage of its loyal men to the Union

armies than the loyal men of the South. Far be it from me to take one jot or tittle from the meed of praise to which the northern loyalist is entitled. I regard the zeal and devotion of the masses of the people of the North to the cause of the Union in the late struggle as passing all praise. The labors in and contributions of the loyal North to the cause of our country in time of peril, the heroic and self-sacrificing spirit which exhibited itself in every northern State, are, and ever must be, the glory and boast of every true American. The loyal men of the South will be the last to detract from the praise due to the patriot soldiers, the patriot statesmen, or the patriot people of the North.

But the slur which has been attempted to be cast upon the loyal men of the South by the honorable Senator from Michigan is alike uncalled for and undeserved.

Mr. HOWARD. If the Senator from South Carolina will permit me to make a remark—

Mr. SAWYER. Certainly.

Mr. HOWARD. I have cast no slurs upon the loyal men of the South. I intended to cast no imputation upon them. On the contrary, I spoke in their praise for all the acts of loyalty which they did, and for all the words of loyalty which they spoke, and I cannot permit the Senator from South Carolina to put me in so odious a position as he seems to be endeavoring to do at present.

Mr. SAWYER. I am glad to be corrected if I have misrepresented the language of the gentleman; but it gave me the impression that he held in light esteem the services which had been rendered by the loyal men of the South. If I understood his language correctly, he intimated that their loyalty was rather of a negative than a positive kind. The impression that his language conveyed to my mind was that they deserved very little more than those who, entertaining different opinions, were alike passive with them.

Mr. HOWARD. If the Senator will allow me, I was speaking of that class of so-called loyal men at the South who did no act and underwent no sacrifices in behalf of the Government of the Union, but who stayed at home and remained silent. Far be it from me to disparage or underrate any act evincing loyalty among southern loyalists. I have done no such thing, and no such thing is in my heart, or ever was. I spoke of the neutral, silent portion of the so-called loyalists of the South.

Mr. SAWYER. I am quite satisfied that the honorable Senator from Michigan would not willingly do injustice to the loyal men of the South. I only took the impression which his language seemed to me naturally to convey. If I am in error in regard to the proper interpretation of that language, I am very glad to be corrected. The language of the Senator, as reported in the Globe, is as follows:

"The best that can be said of them is that they were neutral and silent, friendly to the old Government at heart, but timid and inefficient in its defense. They stayed at home enjoying their property, maintaining a discreet silence, but at the same time trading with the rebels at home, carrying on their business there, making money, and amassing fortunes."

Mr. President, I admit much that is there said. I admit that there were large classes of people in the South, and there are to-day large classes of people in the South, who claim to have been loyal men during the war, who did precisely what the honorable Senator from Michigan says they did; but those are not the men whom we at the South class as loyal men. That is not the class of men for whom we would ask that remuneration should be made for their property taken for public uses. When we speak of loyal men we mean those men whose loyalty is so well established that it was perfectly well known to the rebels in whose midst they lived.

Mr. President, the loyal men of the South did pay taxes to the rebel government. Refusal to do so would have been to incur danger to person and property, with no chance of benefit to the country—a useless martyrdom. The loyal men of the South did speak out

against the rebellion whenever it was possible to do so. They were not unknown in the communities in which they resided. The citizens of my State knew who of their fellow-citizens were loyal and who were otherwise. These loyalists were tracked by spies; every word and motion watched and reported to agents of the so-called confederate government; and it may well be imagined that wise men would hesitate to take the position of open and active hostility to a government which had the will and the power to suppress any such opposition in the most summary manner unless the expression of such hostility might clearly aid the national cause.

But if the honorable Senator thinks that the position of loyal men in the South was an easy one; if he thinks that because no loyal tax-collector could reach them, because no loyal recruiting officer could approach them, their couch was a bed of roses, I can only wish that Senator with his enthusiastic loyalty, with his devotion to his country, with his hatred of the slaveocracy, with his love of freedom, had spent a few, only a few, weeks in a rebel State during the rebellion. He might then, perhaps, have been in a condition to judge more correctly the suffering and the losses of Union men in the South. And here, Mr. President, let me say that the loyal men of the South are not afraid of "treading too heavily on the toes of the surviving soldiers of the Union" by asking that their just claims shall be allowed. They have had large experience of the manliness, good faith, and sense of justice which pervade the minds of the "surviving soldiers of the Union Army," and they know whereof they speak when they assert that the surviving soldiers of the Union appreciate full well, nay, much better than does the honorable Senator from Michigan, their real sufferings.

But, Mr. President, this is not a case which should be decided by comparison of sufferings or sacrifices between the men of the North and the Union men of the South. It rests upon a question of quite another character. It is simply a matter of justice. Shall the loyal citizen of the United States, that citizen who has never violated by thought, word, or act his allegiance to his Government, who resided in South Carolina and furnished supplies to the United States during the war, be refused payment for such supplies, while the citizen of Michigan who did the same thing is paid, and paid promptly?

Honorable Senators say yes. They tell us we were public enemies; all the books say so. But can the honorable Senator from Massachusetts or any other Senator on this floor deny that when he comes to such a conclusion he feels that his sense of justice is violated? Does not every manly sentiment, every dictate of right, point in an opposite direction? Do not Senators know that during the entire period of the war acts of national legislation, executive proclamations, military practice, and executive action were based on a different idea?

If the doctrines now laid down here were always the true ones, why was it that all branches of the Government made a distinction between the loyal and disloyal citizens of States in rebellion? Why is it that during the entire period of the war southern loyalists have been taught by the practice of the Federal Government that they were considered as friends and not enemies; and now that the war is over, now that the victory is won, now that our hopes are attained, our heart's desire gratified, and we see the flag which we regarded as the emblem of right, law, order, and civilization floating once more over our cities and our fields, we are gravely told that we have been public enemies, and they, the loyal men of the South, have no rights which the nation is bound to respect?

Sir, it is well that the loyal men of the South were not aware of their position, if this was their position, while the war was flagrant. They did not have to go to Vattel to find out how they stood in fact. Their hearts told them where they were as citizens of the United

States. The people of the North did not go to Vattel to ascertain what position was held by the loyalists of the South. The soldiers of our Army did not go to Vattel to find out who were public enemies. When immured in rebel prisons they found out who were their friends and the friends of their Government, and you cannot more thoroughly shock the sentiments of the great masses of the people than to declare the doctrine that the loyal men of the South were public enemies.

While I leave to abler hands than mine the task of exposing the fallacy that all the citizens of the States in insurrection were in precisely the same legal relation to the national Government regardless of their political beliefs, opinions; and acts, and while I am sure that this theory is false, I nevertheless regard it as of slight moment. For, in view of the past action of Congress, in view of the common opinions of the people, in view of the manifest equities of the case, I am sure the Congress of the United States will never consent to act on such a theory. Broader principles must prevail in determining our action. The application of those principles to each case will be a matter of labor and difficulty. I am well aware that there will be large numbers of claims for compensation. But I believe that the number will be much smaller than many Senators suppose; and I have no doubt that Congress will be able to establish such rules of evidence and apply such tests of loyalty as will effectually guard against the payment of claims held by rebels.

No reasonable person expects that the loyal citizen of Alabama whose house was destroyed by the bombardment of the town where he lived by our troops should be compensated for it. Nor is it expected that losses incurred by general measures, such as the blockade, the act of emancipation, the march of our Army, the destruction of buildings and crops on a field of battle, should be made good to loyal men who happened unfortunately to incur them. It has been said that our generals did not point their guns away from loyal men's houses when they threw shot and shell into towns occupied by rebels. True; such discrimination was an impossibility; but when our generals marched victorious into such towns, they were careful to protect the property of loyal men when they were known to be such. Our generals had not read Vattel and Puffendorf, or if so had read a different chapter from that cited by the learned Senators on the other side of the Chamber. I shall not attempt to draw the line between claims which should be paid when made by loyal men and those which should not be paid. But I am sure the line can be drawn, and some measure is practicable by which substantial justice may be reached, and that there is less danger in paying a few millions too much for these claims than there is in establishing as the law of the case the principles laid down by the honorable Senators from Massachusetts and others.

I trust, Mr. President, that no Senator on this floor who was a citizen of a southern State during the late rebellion may be met by the taunt of any of his constituents who may have been rebels that his loyalty to his Government has availed him nought; that he, like them, was in the eye of the law and for all practical purposes a public enemy; that his claims for his country's consideration are no more valid than those of the rebel whose hands are bloodiest. Southern loyalists do not desire this treatment. Scrutinize never so narrowly every claim of the kind presented now, sift the evidence as to validity and amount of claim never so thoroughly, demand the most undoubted and unquestionable proof of loyalty, but do not say to him who has stood all your tests, who has established beyond question his claims, "We can give you nought but sympathy. You were a public enemy within the purview of the law, and you must abide the fate of traitors though you hated the treason."

Mr. STEWART. Mr. President, I did not intend to make any remarks upon this bill; but

the discussion has assumed such a remarkable character that I cannot allow it to pass without a few observations. I am perfectly clear that anything which is given to the loyal people of the South must be given as a matter of generosity on the part of Congress for some meritorious services. I do not think that the law of nations or the practice of nations can place it upon any other ground. When it has been done in like cases it has been done as a reward for meritorious services. That for all practical purposes they were in the enemy country, that we had a war, that we had belligerent rights, there can be no doubt. Every department of the Government so held and so acted; and the argument of the Senator from Massachusetts [Mr. SUMNER], on that point will forever remain unanswered. We exercised belligerent rights, we had them, and one of the rights of belligerents when in an enemy country—and this was the territory of the enemy—is to take what property may be necessary or destroy what may be necessary to prosecute the war. There is no doubt about that proposition.

But I did not intend to make a discussion upon that branch of the case. I think that the argument of the Senator from Massachusetts and of several other Senators is perfectly unanswerable on that question. I simply rose to call the attention of the Senators representing the southern portion of the country, representing the reconstructed States, to a few propositions which I believe they have rather overlooked.

In the first place they say that loyal men should be paid for their property taken. They ought to reflect upon the difficulty of ascertaining the fact of loyalty in this tribunal. I undertake to say that it is impossible. It is very difficult now to determine the present status of men living in the South. In the case, for instance, of propositions to remove disabilities, the testimony as to how a person in the South is now acting is in almost every case conflicting. It is a very difficult thing to ascertain even the present status of a man in the South, whether he is supporting the Government or whether he is still disloyal, and there is testimony on both sides of almost every case.

Now, we have Senators and Representatives from those States. We have our local officers there. It is in time of peace. The question to be determined is how some individual acted in time of war, whether he was loyal or disloyal; for if you establish the rule that all the loyal men are to be compensated for their property you must determine the question of loyalty, and in many cases it will be a mere condition of the mind and nothing else, and of course it is going to be a very difficult matter to determine, and in determining it you will pay ten dollars to the disloyal where you pay one to the loyal. Let me assure you of that, because it will depend more on the activity of the parties in procuring testimony than upon the inherent merits of the case.

The impossibility of giving such attention to it in Congress as to enable us to determine it should be a sufficient argument with every Senator against passing this bill, or any such bill which has merely undergone the examination of a committee. If the question is to be determined properly it must be done in some other form; it should be judicially determined. We have not the time nor the means of obtaining the testimony and investigating the loyalty of persons within the rebel lines during the war. It cannot be done by Congress. No bill of this kind ought to pass, no matter how much we may be in favor of the principle of it; and no Senator, it seems to me, ought to vote for this mode of determining the question of loyalty.

But it is said that we should do something for the loyal men of the South. I appeal to the Senators from that section if we have not done something for the loyal men of the South: if this country has not been taxed somewhat for them? We established a bureau called the Freedmen's Bureau with the express purpose of saving the loyal men of the South from op-

pression and starvation. It was the "Bureau of Freedmen and Refugees," and we expended millions on it. One whole party in the North cried out against our bounties to the loyal men of the South; it has been an issue which we have had to meet before the people. Through the agency of the Freedmen's Bureau we extended the most effectual and beneficent relief that could be extended to those people, and many whites and many blacks were saved from starvation and many millions were charged upon the people of the North, who had borne the burden of this war, to save them from starvation. Was not that more generous, more humane, more worthy of the attention of Congress, to save the suffering poor in the South from starvation, than to take up a few claims of persons who are able to come here and procure testimony and lobby them through? I tell you this nation has not been unmindful of its friends in the South, but it has been generous, and I think there is no case in history where generosity was so discriminately extended as through the agency of the Freedmen's Bureau to these poor people.

If there are conspicuous cases of devotion to the Union in the South, of sacrifices for the great cause, let them stand upon another principle; let them be predicated upon the principle that the Government of the United States will reward meritorious services; let them be predicated upon the same principle on which we reward like services in the North or anywhere else, but do not let them be predicated on the principle that we are indebted for exercising the legitimate functions of war in time of war, and exercising the belligerent rights which we undoubtedly had. Do not involve us in a debt of that kind, which is likely to deplete the Treasury and scatter the bounty of the Government to the unworthy. Let us not commit ourselves to any such rule as that. If this Government has not been charged enough with charity for these poor people, charge it yet more, but let it be discriminately extended to all who have suffered, and those who are suffering now, and those who are needy.

Take the case under consideration, and what can more strongly illustrate the danger of the precedent that would be set by the passage of the bill than the very case which we are considering? Here is a beautiful young lady, of fine social position, who I presume is in every way a worthy person, who was sixteen years old when the Army passed through Alabama. Living there among the enemies of the country she naturally must have partaken of the prevailing sentiment of the community in which she resided; but she was generous and polite to the Union soldiers, and undoubtedly would have been the same to the rebel soldiers. In the course of our military operations it became necessary to tear down a house which was in her name. Perhaps it was hers, and perhaps it belonged to some belligerent and had been conveyed to her for the purpose of avoiding confiscation by the United States. Here is no case of need, no case of meritorious services, but simply a case where enemy property was taken. I call it enemy property because it was used to shelter the enemy where it was situated, and it was necessary to remove it because it was property that would be of benefit to the enemy if allowed to remain.

The Senator from South Carolina [Mr. SAWYER] misunderstands the whole drift of the arguments of the Senators who oppose these claims. We do not pretend to say that we will not make a distinction in the South between the loyal and the disloyal. No Senator has held any such position. We have said that during the emergencies of war, when we were exercising the rights of belligerents, we could not, from the very nature of the case, distinguish between the property of the loyal and the disloyal which was within the enemy's lines liable to be used for the benefit of the enemy, and which it was necessary for us to destroy in order to succeed. It is impossible, in the very nature of the case, to make such a discrimination; but have we not made a discrimination

between the persons of the rebels and the persons of loyal men? It has been the whole subject of our legislation for the last three years. We have endeavored to place the government and power of that country in the hands of loyal men. We have endeavored to save loyal men from starvation and oppression. We have taxed the people of this country to the utmost of their capacity to carry out these great benevolent designs. Are we making no discrimination? We mark it wide. We say the dire necessities of war will permit no distinction to be made in an enemy's country between enemy's property and friendly property. The distinction cannot be made. If such property was destroyed it was one of the calamities brought upon us by this war which the people of the South must suffer as an incident of the location of their property in that country.

Now, I hope that the position of Senators is understood in saying that enemy property is that which is within the enemy's lines, and which must be treated as enemy property from the very nature of things. Do you say that we ought to make a distinction between the persons of loyal and disloyal men? Look at our statute-books; see our practice, and see what the Republican party particularly have put forth before the country—appropriation after appropriation for the Freedmen's Bureau; and not only that, but the people of the North have raised subscriptions in almost every town and hamlet and sent them South to feed the starving Union men. Do not the people make a distinction, and draw it wide? But once commence the indiscriminate payment of large sums of money to people in the South who are not needy, who are able to come here and lobby bills through, whom the vigilance of Congress is unable to keep out of these Halls—let that commence, and then you will have a feeling of hostility, you will have a feeling on the part of the loyal people of this nation that they have been wronged. They will bear any just taxation if the proceeds of that taxation go to the amelioration of the oppressed in the South and can be fairly and honestly distributed. Do not attempt any special legislation, particularly in a case like this, which involves, if carried out, millions and millions of dollars. Besides, to take up these individual cases will demoralize the whole country and consume the time of Congress. If there are conspicuous examples of loyalty and good faith in the South point them out, and establish some rule upon which this Government and other Governments have acted for their indemnification, when you have a proper case; but if you pass this bill it will be looked upon hereafter as a precedent. The report of the committee is here, the testimony is in writing, the facts are of record, and the precedent will be judged by the facts. I have heard no Senator vindicate this bill very strongly on its merits. Then vote it down. It seems to me that is the sensible way to dispose of it, and the Senators of the South will see that there is no disposition to treat the loyal men and the disloyal alike. They will find every disposition to make every distinction that can be made in the nature of the case and according to the capacity of the Government.

Mr. THAYER. Mr. President, I do not rise to enter into a general discussion of the questions which have been evolved in the progress of this debate. We have had elaborate arguments here, references to various authorities, technical pleadings, and specious propositions advanced which are foreign to the issue before us. I may say here to my friend from Nevada that I have not heard of any Senator proposing that the Government of the United States should become the general almoner of public charity to the people of the South. I know of no such proposition pending. There is a bill here under discussion proposing to do or not to do certain things. I could have wished that this bill was not here. I am in favor of its recommitment. I regret that the effort has been made to make the vote

on this bill a test question. In my judgment the Senate cannot do it. The legislation of to-day may be repealed to-morrow. The vote of to-day may be reversed to-morrow. There may be enough Senators absent who, if present on some future occasion when a bill of a like character shall come before this body, may reverse the vote which you give now. I do not propose to make it a test question.

I imagine that if there had been no other claims or but few claims of a character similar to the one now pending we should not have been favored with these luminous dissertations on public law; we should have had no delving down into the musty pages of Grotius, Vattel, or Puffendorf to prove that those who were faithful friends of this Government during all the years of the war were its public enemies! Mr. President, with all the high respect I have for the honorable Senators who have laid down that proposition and have taxed their distinguished abilities to prove its truth, I am compelled to say that I revolt at that proposition.

Mr. WILLIAMS. Will the Senator allow me to ask him a question?

Mr. THAYER. Certainly.

Mr. WILLIAMS. When it is claimed, as it has been, that the Government is under a legal liability to pay this claim, I ask if it is not competent for those who oppose its payment to submit authorities showing that no such legal liability exists?

Mr. THAYER. I certainly have not questioned the right of the honorable Senators to do that; not in the slightest. I do not question the propriety of it; but I say that in my judgment those authorities do not bear on this question. It is a question which addresses itself to the common judgment and the common sense of every individual, and is one which every one is competent to decide for himself. I do not want Grotius or Puffendorf to tell me my duty in regard to a simple proposition of this character. I hold that the man who is faithful in his obligations to his country through a civil war, though he may be domiciled in a rebellious State, stands in the same relation to this Government as does the citizen of New York or Oregon. I know no difference; and when you press me to a vote on that proposition, however much I may regret to differ with those honorable Senators for whose judgment I have so much respect, I must follow the dictates of my own conscience regardless of the question whether it opens the way for a large draft upon the public Treasury or not. Sir, I am with those Senators in guarding the public Treasury. I am as much opposed to opening the way to it as they are; but that is not the ground, in my opinion, on which to meet this case. It is not necessary to lay down the proposition that those who lived in the southern States and discharged their duty to their country are enemies. We can meet it on other grounds. Let us divide the question; let us vote on that proposition and then vote on the other, which is whether the owner of property taken under the circumstances which surround this case is entitled to compensation or not.

I doubt that he is entitled; and furthermore, in regard to this case, I have to say I have serious doubts as to the loyalty of the party; but I beg of the Senate not to affix the mark of public reprobation upon the few in the South who were faithful to the flag of their country during the trying hours of the war. It is not necessary that this should be done. To do it is, in my judgment, the refinement of cruelty.

There were a few loyal people in the South during the war. They were few in numbers, I grant; but there were some who were faithful among the faithless, who endured such trials, such sacrifices as no human pen will ever describe. Do not brand them as the public enemies of this nation. I have seen them come forth from the gorges of the mountains, from the depths of forests, from the caves of the earth as our flag advanced into that country, where they had been compelled to live for six months and for a year, and for two years,

because they refused to be conscripted into the confederate ranks to fight against the flag of their country. They lived there thus, fed only by their wives and children, who would steal to them in the dead hour of the night. They endured all these sufferings rather than be false to their country.

Mr. President, I ask this Senate if we lay down this proposition and sanction it now shall we not be false to them; shall we not be false to our national faith and our national honor? Sir, if there shall be another rebellion could you blame every man and woman and child in the South if they joined the flag of secession if you vote this proposition to be public law? I have taken, many a time, the property of people in the South, and my quartermasters and commissaries were always directed to give vouchers conditioned for payment when the loyalty of the parties should be conclusively established. That was the universal practice of our armies, so far as my observation went, and it was the policy of the Government.

Mr. Lincoln undertook to organize civil governments in Louisiana and Arkansas upon the basis of one tenth of the people being loyal there. If there were so many as one tenth loyal he would organize civil governments. He held out inducements to them to remain there and to be the nucleus around which governments could be built up.

Belligerents they were, gentlemen say. I have always understood that we treated them as belligerents for the purpose of protecting the lives of Union soldiers who should fall into their hands. That I understood to be the reason; no other reason. Were they a coequal nation with which we were contending? Was that war like unto a war with a foreign Power? I never so understood it. But if they were belligerents why did we not treat with them as belligerents when the war closed? Why did we not negotiate for terms of peace? Would not that proposition be revolting to my distinguished friend from Massachusetts or my distinguished friend from Michigan? If they were belligerents in every respect why did we demand an unconditional surrender? Sir, I never treat with rebels. Some one hundred and eighty-five thousand loyal colored people living in the South enlisted under our banner and helped to fight the war through. Were they public enemies? Forty thousand white people residents of the South enlisted under our banner and helped us to fight the battles which finally won the victory over treason. Were they public enemies?

My honorable friend from Kentucky, in the course of his argument, alluded to the case of President Johnson to show that if this doctrine of loyal people being public enemies because they were domiciled in the South is true it would apply to him. I shall not take the case of the President as an illustration of my argument, for the President became a public enemy after the war was over. But, sir, I will point you to the case of a distinguished member of the other House, from Tennessee, Hon. HORACE MAYNARD. He was living at his home in Knoxville when the rebels entered that city. They took possession of his property and occupied it. He was driven from his home by the enemies of his country because he refused to recognize them, because he was true to his country. Was he a public enemy? The Federal Army then occupied Knoxville, and taking possession of it occupied his house and his property. They burned his fences. They destroyed much of his property.

Mr. PATTERSON, of Tennessee. They did not burn his residence, but they occupied his property.

Mr. THAYER. Some of his property was destroyed. He makes no claim here; but will you say by a solemn vote of the Senate that he was a public enemy?

Mr. President, this great Government of ours never appears in a more favorable aspect to me than when it stretches out the right hand of its power to Maine or to California, to Florida or to Oregon, or to the most distant quar-

ter of the world, whether upon the sea or on the land, wherever the American flag floats, and lays the mantle of its protection about the humblest of her faithful citizens. England has much to answer for in her national career, and much which will redound to her honor; but, sir, in my judgment, England never appeared in a nobler aspect than when she sent her armies into the fastnesses of Central Africa to redeem half a dozen British subjects who were held in captivity by a barbarous king. Great Britain and Abyssinia were at war. Were those captives public enemies to the British Crown?

I trust the vote at least on this portion of the proposition will not be held to proclaim any such doctrine. Let us meet this case on the other question. Let us refer it back to the committee, or let us rather say we will not entertain any claims of this character; but let us lay down the proposition that a citizen in South Carolina or Alabama who is faithful to the flag of his country is entitled to the same protecting care and the same reimbursement for property destroyed as is the citizen of Massachusetts, New York, or Connecticut.

Sheridan once said, in the British House of Commons, when the news reached England of a great victory achieved by the British arms in a remote quarter of the world where England was waging a war which was not creditable to her national renown, "This may be a victory of which all of you may be glad now, but of which I predict that none of you will be proud hereafter." So I say you may declare by a solemn vote of the Senate that those who were true to their Government through the war in the South were public enemies, but it will be a vote to which, in my judgment, none hereafter will recur with pleasure or pride.

Mr. MORTON obtained the floor.

Mr. POMEROY. Will the Senator yield for a motion for an executive session?

Mr. WILSON. I hope not. I hope we shall finish the bill to-day. I desire to offer an amendment to it.

Mr. MORTON. I prefer not to yield. I shall detain the Senate but a very few minutes.

Mr. President, the doctrine maintained by the Senator from Massachusetts, [Mr. SUMNER,] the Senator from Oregon, [Mr. WILLIAMS,] the Senator from New Jersey, [Mr. FRELINGHUYSEN,] and others, may be summed up in this general proposition: that so far as all claims against the Government for property taken for military purposes are concerned all loyal men in the rebel States must be considered and treated as public enemies. That is the general proposition maintained, I believe, by all those Senators. I endeavored to meet that proposition the other day by the other one, that wherever a loyal man living in the North was entitled to recover for property taken for military purposes the loyal man living in the South was entitled to recover property taken for military purposes under the same circumstances. I consider that no other rule can be adopted that will not only work injustice but bad faith; and I now call the attention of the Senate to the question of public faith that is involved in this controversy.

Mr. President, from the beginning of this war we did all in our power to encourage the people of the South to be loyal and to stand by the Government. We promised them protection for life and property so far as it might be in our power. What kind of protection did we promise to accord to them? I take it, the same kind of protection that we would accord to a loyal man living in the North. If it did not mean that it did not mean anything. We promised them that they should have the same sort of protection for life and property if they would remain loyal and stand by the Government that we would give to the loyal man living in a loyal State. What kind of protection is that to a loyal man in the South where you take his property upon the same terms and conditions that you take the property of a rebel? It is a direct violation of that promise; it is a violation of our whole policy to the loyal men

of the South from the beginning of the war. Why, sir, we have encouraged them by proclamations, we have encouraged them by acts of Congress, we have encouraged them by the general orders of the generals of the Army, we have encouraged them by the very policy mentioned by the Senator from Nebraska, that wherever our officers took property in the South for military purposes they would give a voucher for it conditioned for payment upon the proof of the loyalty of the claimant; and we thereby, at the time our armies were there, encouraged the loyal men of the South to stand by us, by our generals, saying to them in the form of vouchers, "You shall be paid for this property if you can prove your loyalty when the war is over." That was the promise we made to the loyal men of the South in every possible form and from day to day. Our solemn faith as a nation is pledged on this subject, and we cannot adopt the policy that has been advocated upon the floor of the Senate without compromising and violating that faith.

Why, Mr. President, have we not pledged this protection to the Union men of the South in every possible form? Have we not obtained political power upon it? Did we not go before the people of this country last year and rehearse the story of their wrongs? Did we not appeal to the people, to their hearts as well as to their heads, when we portrayed to them the sufferings and the wrongs endured by the loyal men of the South, how they were plundered of their property, how their lives were made insecure, how they had spent their days in imprisonment or in exile? All of these things we have done, and we have acquired political power partly in consequence of it. We have called them friends from the beginning; we have built upon their friendship; we are their friends in every particular until they come to us with a bill for payment, which a northern man would receive payment for under precisely the same circumstances, and when they come to us with such a claim we tell them, "We cannot pay you; we must regard you as public enemies; you had the misfortune to live in a rebel State, and must therefore be regarded as public enemies." Sir, I cannot find language that I am willing to employ with which to describe this proposition.

Sir, it is not for the Republican party to take this ground. Let us leave it to the Democratic party. But to their honor be it said their representatives on this floor have repudiated it. If this deed is to be done let it be left to that other party who have not been the friends of the Union men throughout the struggle, whose sympathies were not with them. Let it not be said that that party which has claimed to be the protector of loyalty both North and South, which has appealed to the people for the protection of the Union men of the South, which has excited the sympathy of the nation by the story of their wrongs, have as last played false to those same men; and, when peace has come, turned upon them coldly with this old metaphysical doctrine of international law writers, that they are to be regarded as public enemies.

One word further, sir, and I have done. I stated the proposition a day or two ago that wherever a northern man would be paid for property taken for military purposes during the war, the loyal man of the South whose property was taken for the same purpose and under the same circumstances, should also be paid. The Senator from Oregon, [Mr. WILLIAMS,] in a very able argument yesterday, undertook to answer that proposition; and I will ask the Secretary to read the passage in the Globe that is marked with ink, for it embraces the only answer that can be made to it.

The Chief Clerk read as follows:

"When the Senator from Indiana [Mr. MORTON] propounded a question yesterday to this effect, ought not a loyal person in the State of Alabama whose property is taken for the purposes of this war to be paid in the same way as a person in the State of New York whose property is taken for the purposes of this war under the same circumstances? It was said that the inquiry suggested a conclusive argument in support of this claim. Now, sir, I make this answer: no

property could be taken in the State of New York during the rebellion for war purposes under the same circumstances as property was taken in the State of Alabama for such purposes. The fallacy lies in the unfounded assumption that the circumstances attending property in the State of New York were like the circumstances surrounding property in the State of Alabama. Property in the State of New York was under the protection of the Constitution and the laws of the United States, while property in the State of Alabama, in consequence of the rebellion, was not under the protection of the Constitution and laws of the United States. When, therefore, property in the State of New York was taken by the Government for the purpose of prosecuting the war, a legal liability attached to the Government to pay for that property; but when property was taken in the State of Alabama, a State at war with the Federal Government, no such legal liability attached."

Mr. MORTON. Now, Mr. President, the reason given in answer to my question is, that the property of the man that was taken in New York was under the protection of the Constitution and laws of the United States, but the property of the loyal man in Alabama was not under the protection of the Constitution of the United States. I deny that proposition. It is at variance with the whole theory upon which we prosecuted this war. If that proposition is true, then a large part of our legislation in regard to the war is false, unfounded, and unconstitutional. We proceeded upon the theory that the Constitution and laws should protect the life and property of every loyal man in this country wherever he might be found. We proceeded at the same time upon the theory that the property and the lives of the rebels could not be protected, or they could not claim protection under the Constitution that they were fighting against and were laboring to overthrow. Why, sir, the idea that because of a rebellion on the part of a portion of the people of the State of Alabama, the protection of the Constitution was withheld from the loyal men of that State, has not got a single leg to stand upon. It has neither authority nor has it reason, but it is in conflict with every proclamation, with every statute, and with every step that we took to put down that rebellion, from beginning to end.

Again says the honorable Senator:

"But when property was taken in the State of Alabama, a State at war with the Federal Government, no such legal liability attached."

Are we prepared now to recognize the doctrine that the State of Alabama, as a State, was at war with the Federal Government? No, sir; never. We did not proceed upon that theory. When we were told at the beginning of the war that we had no authority to coerce a State we said, "We have nothing to do with States; we will coerce the rebel people of that State; with the State as such we have nothing to do." If it shall now be recognized that the State of Alabama, as a State, in her municipal character was carrying on a war with us by means of which the loyal men of that State were deprived of their protection under the Constitution there are many other consequences which will follow that doctrine which we dare not admit. Sir, that doctrine is heretical. We dare not, we cannot maintain it without overturning the whole theory upon which we have put down this rebellion.

Mr. President, in conclusion allow me to say that so far as this old doctrine of the books is concerned, though it may be well founded in reason as applied to the Governments and countries of the Old World and the times when it was propounded, we are, in the language of the lawyers, estopped from setting it up. We have promised these men from the first to be their friends, to protect their lives and their property; and if we turn around and say, when we have taken their property, "We are not bound by that pledge, because you were our enemies in contemplation of law," we dishonor and stultify ourselves. As I said before, it is not for the Republican party, at least, to take any such abhorrent position.

Mr. HOWARD. I ask the honorable Senator from Indiana whether the act of 1861 prohibiting trade and intercourse between the rebel States and all other portions of the United States was constitutional or not? If it was a

constitutional act, then I ask him whether that did not superinduce a state of war between the two sections, and whether the people of those sections, thus placed by statute in hostility, were not, in contemplation of public law, public enemies; and whether a Union man at the South, during the existence of that statute, could rightfully and lawfully, without a license, pass from the rebel States into the loyal States?

Mr. MORTON. Certainly not; but what has that to do with this question?

Mr. HOWARD. I think it has much to do with it.

Mr. MORTON. What has a regulation of that kind, which might even have been applied to a loyal State if it were necessary, to do with this question? We might have cut off the trade even between loyal States, as an act of war, if it would contribute to put down the rebellion; but what has that got to do with this proposition? If you take the property of a loyal man for military purposes in New York you are bound to pay him, and you have paid him; and when you take the same property from a loyal man in the South, under the same circumstances, you say you are not bound to pay him because, in contemplation of law, he was a public enemy. I say that is in violation of every pledge, promise, inducement, and understanding that we have held out to them from the first, and that we cannot do it without stultifying ourselves.

Mr. HOWARD. The honorable Senator speaks of doing this act "under the same circumstances" in the two cases. The supposition is impossible, simply. The law settled and fixed the character of the two communities who were engaged in war with each other. If he denies the validity of the act of 1861, then I shall not be disposed to contest the point with him at all. I supposed that that, however, was settled.

Mr. WILSON. Mr. President—

Mr. POMEROY. Will the Senator yield for a motion to go into executive session?

Mr. WILSON. No, sir; I want to finish this bill to-day.

Mr. POMEROY. This question will never terminate.

Mr. WILSON. I shall occupy the floor but a moment.

Mr. President, two years ago supposing that whatever might be the legal condition of the loyal people of the southern States Congress would deal with them on principles of equity, the Committee on Military Affairs reported a bill for a commission, or rather ten commissions, to visit the States lately in rebellion and examine into and report to Congress upon all the claims of loyal men. No action was taken by Congress on that matter; but the loyal people, or persons claiming to be loyal in the rebel States, have sent into the quartermaster's department 20,176 claims, amounting to \$10,202,000. A portion of those claims have been passed upon. Four hundred and ninety-six claims, amounting to \$318,000, have been allowed. There was a reduction of \$141,000 upon those claims. There have been rejected 1,574 claims, amounting to \$2,654,000. There are 5,394 claims now pending, amounting to about \$6,592,000. There have been 5,386 claims presented to the commissary department for \$2,918,000. Eight hundred and forty-five of those claims, amounting to \$249,000, have been recommended to be paid. Three thousand five hundred and forty-five claims, amounting to \$2,088,000, have been disallowed. So that of the whole number of claims in these two departments from the rebel States, amounting to over 25,000, most of them have been passed upon, and only a very small proportion allowed—\$500,000 against \$2,600,000 rejected in the quartermaster's department, and about \$250,000 allowed, and \$2,000,000 rejected in the commissary department. Of the \$13,000,000 claimed for quartermaster and commissary supplies furnished the Army of the United States, a very small portion has been allowed; and, I take it, a very small portion will be allowed. I am told by the officers who

examine these matters that a great number of them are fraudulent, and that it requires the most careful examination to detect them.

Some Senators say that if we enter upon the payment of these claims we shall entail upon the Treasury of the United States an expenditure of hundreds of millions of dollars. Why, sir, even the Senator from Alabama [Mr. WARNER] told us he did not think they would amount to more than fifty million dollars. The officers who for three years have had the examination of the claims that have come in from these States do not believe that they will amount to \$15,000,000. A large proportion of these claims come from Tennessee, and I am told by gentlemen from Tennessee that they have at least two million dollars of claims in that State, but I have no idea the loyal claims will amount to more than ten or twelve million dollars in the aggregate.

Mr. STEWART. I should like to inquire of the Senator if those presented are only those for which vouchers were given?

Mr. WILSON. Some are on vouchers, and some have no vouchers. They are claims for quartermasters' and commissary supplies for the Army. Some are on vouchers and some are not; but these are all that have been made for the two great sources, and there is nothing else left, or scarcely anything, except it be claims like the present one of Sue Murphey, where the Government took, by order of military commanders, some property for the use of the Army for fortifications, or something of that kind.

Now, sir, the law may be one way in this case; but I think that it would be sound policy for the Government to do exact justice in the case; and I do not believe it will cost this Government any of these tens of millions of dollars that have been mentioned, especially if the claims are thoroughly investigated and examined. I think that the case we have before us has no claim here; at any rate, no claim has been proved; and I take it, it will go back to the committee; and I propose, in order to have a thorough investigation of these claims of loyal men, to amend the bill by striking out all the enacting clause and inserting a substitute which I send to the Chair, and then let it go to the committee for consideration. I ask the Secretary to read the amendment.

The Chief Clerk read the amendment, which was to strike out all of the original bill after the enacting clause, and to insert in lieu thereof the following:

That Major General George H. Thomas, Brevet Major Generals E. R. S. Canby, Oliver O. Howard, Montgomery C. Meigs, and Amos B. Eaton be appointed commissioners to examine and report all claims for quartermasters' stores and subsistence supplies furnished the military forces of the United States during the late civil war by loyal persons in the States lately in rebellion.

SEC. 2. *And be it further enacted*, That the said commissioners shall have power to employ the necessary clerks, purchase the requisite stationery, to advertise, to rent rooms for the transaction of business, to provide transportation for clerks, and to incur all necessary expenses incident to the performance of their duties; and said expenses shall be paid by the Secretary of the Treasury on the requisition and certificate of said commissioners out of any money in the Treasury not otherwise appropriated.

SEC. 3. *And be it further enacted*, That the said commissioners shall commence their labors on the 1st day of April, 1869; and the said commissioners shall not continue to act longer than two years from and after the date of their entry upon their duties hereby prescribed.

SEC. 4. *And be it further enacted*, That all claims for quartermasters' stores and subsistence supplies furnished by loyal persons in the States lately in rebellion to the Army of the United States, and all papers relating to such claims on file in the offices of the Quartermaster General and Commissary General, shall be referred to said commissioners; and it shall be the duty of said commissioners to give public notice of their readiness to receive such claims, to hear and determine upon the evidence offered in support thereof, and of the loyalty of the claimants, as hereinafter provided, and upon such evidence to report to Congress what amount, if any, should in such case be allowed; and said reports shall include a copy of record, accompanied by original proofs of loyalty, and the oath provided by the following section.

SEC. 5. *And be it further enacted*, That in determining the loyalty of any claimant under the provisions of this act, it shall be the duty of said commissioners to require in every case satisfactory proof that the

claimant has faithfully and firmly maintained his or her adherence and allegiance to the Government of the United States by defending its cause against the government and forces of the so-called Confederate States of America in all suitable and practicable ways, and that the claimant earnestly, continuously, and openly desired the success of the military forces of the United States and the establishment of the authority of the national Government. And the said commissioners shall require each claimant to take and subscribe to the following oath as a prerequisite to the reception and examination of such claim, to wit: I, —, do solemnly swear (or affirm) that I have neither sought nor accepted, nor attempted to exercise the functions of any office whatever under any authority or pretended authority in hostility to the United States; that I have not yielded support to any pretended government, authority, power, or constitution within the United States hostile or inimical thereto; that I have always endeavored to the best of my ability to uphold the authority of the United States; that during the late war for the suppression of the rebellion I openly, earnestly, and continuously desired the success of the Army and Navy of the United States and the establishment of their authority over the insurgents; and that I take this oath without mental reservation or purpose of evasion. So help me God.

SEC. 6. *And be it further enacted*, That any person violating the oath prescribed by the previous section of this act shall be liable to the pains and penalties of willful and corrupt perjury. Any member of the commission appointed by this act may administer the said oath or any other oath that may be found necessary to taking evidence concerning claims to be examined. And it is hereby made the duty of said commissioners, or either of them, to cause the arrest and prosecution before the proper judicial tribunal of any person or persons, who, in their judgment, have corruptly taken and subscribed to said oath or oaths.

SEC. 7. *And be it further enacted*, That no claim shall be considered unless presented to the commission within six months from the date of public notice of the organization of the same, and no payment of such claims shall be made until authorized by Congress upon the report of said commissioners as hereinbefore provided.

Mr. WILSON. I will state that General Meigs in his report recommends the appointment of a commission for this purpose. He has been engaged for a long time in these examinations and understands the subject thoroughly and what the country needs. I have selected General Thomas, General Canby, and General Howard, three generals of the Army in whom the whole nation has great confidence, who can be trusted, and associated with them General Meigs, the head of the quartermaster's department, and General Eaton, the head of the commissary department. I should have full confidence in each one and all of these men being just to the whole country and just to all loyal claimants.

Mr. HOWE obtained the floor.

Mr. WILLIAMS. Will the Senator yield to allow me to make a word or two of reply to the Senator from Indiana? I will occupy but a few moments.

Mr. HOWE. I will yield the floor for that purpose.

Mr. WILLIAMS. Mr. President, I affirmed a proposition of law yesterday when I had the honor to address the Senate which the distinguished Senator from Indiana [Mr. MORTON] has seen proper to controvert and denounce as wholly unfounded and unprecedented in the judicial history of any country. One reason which I assigned to show that the circumstances of property in the State of New York were not like the circumstances of property in the State of Alabama during the late civil war was that the Constitution and laws of the country protected the property in the State of New York and did not protect the property in the State of Alabama. The Senator affirms that property in the State of Alabama was as much under the protection of the Constitution and laws of the country as property in any of the loyal States. I should like to hear the Senator justify his course in the Senate for two years if it be true that the Constitution of the United States was as much in force in the rebel as it was in the loyal States. How can he justify the military reconstruction bill? How can he justify the legislation by Congress which has assumed to regulate all matters in the insurrectionary States? Did not our legislation proceed upon the assumption that those States had forfeited their rights under the Constitution in consequence of the rebellion, and

that the General Government had the right, and could exercise the power, of dictating to them such laws as it saw proper?

Now, sir, without extending the argument, I wish to refer to an authority or two upon the subject which will show that the statement which I made was not altogether without authority. Chief Justice Chase, in the Milligan case, referring to this subject, says:

"The Constitution itself provides for military government as well as for civil government. And we do not understand it to be claimed that the civil safeguards of the Constitution have application in cases within the proper sphere of the former."

Where there is a military government, according to this authority, as there confessedly was in the State of Alabama, for it was under martial law, then the civil safeguards of the Constitution do not apply to life, person, or property, according to the opinion of the Chief Justice of the United States.

I refer also to the decision of the Supreme Court of the United States in what are called the prize cases, in which the position assumed by the honorable Senator is directly controverted and condemned. The court say in that decision:

"They contend, also, that insurrection is the act of individuals and not of a Government or sovereignty; that the individuals engaged are subjects of law; that confiscation of their property can be effected only under a municipal law; that by the law of the land such confiscation cannot take place without the conviction of the owner of some offence, and finally that the secession ordinances are nullities and ineffectual to release any citizen from his allegiance to the national Government, and consequently that the Constitution and laws of the United States are still operative over persons in all the States for punishment as well as protection.

"This argument rests on the assumption of two propositions, each of which is without foundation on the established law of nations. It assumes that where a civil war exists, the party belligerent claiming to be sovereign, cannot, for some unknown reason, exercise the rights of belligerents, although the revolutionary party may. Being sovereign, he can exercise only sovereign rights over the other party. The insurgent may be killed on the battle-field or by the executioner; his property on land may be confiscated under the municipal law; but the commerce on the ocean, which supplies the rebels with means to support the war, cannot be made the subject of capture under the laws of war, because it is unconstitutional. Now, it is a proposition never doubted, that the belligerent party who claims to be sovereign, may exercise both belligerent and sovereign rights, (see 4 Cr., 272.) Treating the other party as a belligerent and using only the milder modes of coercion which the law of nations has introduced to mitigate the rigors of war, cannot be a subject of complaint by the party to whom it is accorded as a grace, or granted as a necessity. We have shown that a civil war such as that now waged between the northern and southern States is properly conducted according to the humane regulations of public law as regards capture on the ocean.

"Under the very peculiar Constitution of this Government, although the citizens owe supreme allegiance to the Federal Government, they owe also a qualified allegiance to the State in which they are domiciled. Their persons and property are subject to its laws.

"Hence, in organizing this rebellion they have acted as States claiming to be sovereign over all persons and property within their respective limits and asserting a right to absolve their citizens from their allegiance to the Federal Government. Several of these States have combined to form a new confederacy, claiming to be acknowledged by the world as a sovereign State. Their right to do so is now being decided by wager of battle. The ports and territory of each of these States are held in hostility to the General Government. It is no loose, unorganized insurrection, having no defined boundary or possession. It has a boundary marked by lines of bayonets and which can be crossed only by force. South of this line is enemy's territory because it is claimed and held in possession by an organized hostile and belligerent Power.

"All persons residing within this territory whose property may be used to increase the revenues of the hostile power are in this contest liable to be treated as enemies, though not foreigners."—2 Black's R., p. 672-673.

Sir, I think that authority affirms that the State of Alabama, as a State, was at war with the Federal Government.

Mr. MORTON. Will my friend allow me to ask him one question?

Mr. WILLIAMS. Certainly.

Mr. MORTON. The Supreme Court there state that the people of the South claimed as States, and as several States to do this thing; but does the Supreme Court there or anywhere else recognize the validity of their action as States, or that it was anything else but a rev-

olutionary, rebellious, insurrectionary act? They are simply stating the facts; but they nowhere recognize, nor has this Congress ever recognized, that they were rebel States, and as such their action to be recognized by us.

Mr. WILLIAMS. Sir, the question is not whether their proceedings were valid or not, but the question is did the State of Alabama, as an organized political body, wage war upon the Federal Government, or was it a loose, unorganized insurrection of individuals? I say that the people of the State of Alabama did form a constitution and government in hostility to the Federal Constitution, and under that hostile government they made war upon the Union.

Mr. DAVIS. Will the honorable Senator allow me to ask him a question for information?

Mr. WILLIAMS. Certainly; but I do not wish to take up the time of the Senator from Wisconsin.

Mr. DAVIS. Only a moment. I understood the Senator to read from the opinion of Chief Justice Chase in the Milligan case.

Mr. WILLIAMS. I did.

Mr. DAVIS. The opinion of the Chief Justice in the Milligan case is not the opinion of the court; but it is the opinion of a minority judge against the opinion of the court.

Mr. WILLIAMS. I supposed that every Senator upon this floor knew that fact; but I simply cited the opinion of the Chief Justice to show that he and two or three of the other justices of the Supreme Court did support me in the position which I had assumed, and that I did not advance a proposition here, as the Senator from Indiana asserted, that was unknown in judicial proceedings. I have my own opinion as to whether the majority or the minority of the Supreme Court were right in the Milligan case.

But, sir, I think the opinions of Chief Justice Chase and Mr. Justices Wayne, Swayne, and Miller, entitle me to say, when I affirm a proposition which they judiciously determine to be correct, that it is not unprecedented in judicial history, and that it is possible, notwithstanding the majority of the court decided the other way, that it may be correct. But, sir, the proposition which I laid down from the opinion of Chief Justice Chase was not one of the controverted points in that case at all, and there is not one word or syllable in that entire case that controverts the proposition laid down by Chief Justice Chase. I read that because it was a clear and perspicuous statement of the point which I presented to the Senate, and the whole opinion of the Supreme Court is entirely consistent with that position.

Mr. HOWE. Mr. President—

Mr. POMEROY. I suppose the Senator does not intend to conclude his speech to-day. Will he yield for a motion for executive session?

Mr. HOWE. Unless there is some public necessity for an executive session I prefer to commence at least what I have to say at the present time. Whenever the Senate desire an adjournment I shall give way to a motion to adjourn.

Mr. President, before I go on I feel called upon to return devout thanks for that sparing mercy which has watched over and preserved my life until this late period of time. [Laughter.] And now, sir, I think myself happy because at last I shall answer concerning all the things whereof the principle in this little bill before the Senate stands accused—"by the Jews," as the Scripture hath it. [Laughter.] And first, I wish to make a remark by way of correcting a misapprehension which I think was communicated to the press through inadvertence growing out of the remarks I made a long time ago, in the opening of this discussion. I took especial pains at that time, I thought, to have it understood that in my own view of this case I made a broad and radical distinction between the treatment which, under our laws, is due to a Union man in that portion of the United States and the treatment

due to rebels there. I disclaimed, I thought, expressly and absolutely, all idea that under our laws we were bound to pay for any property taken by the Government from the rebels in those districts. The dispatches sent to the press, however, said only so much as this: that I contended that even if we were not bound to pay for property taken from rebels, we were bound to pay for property taken from Union men, conveying to the public the intimation that I had rather insisted upon the doctrine that we were bound to pay for property taken from both classes of these people.

And now, Mr. President, having set myself right on that point, I wish to say a few words with a view of defining what I understand to be the position of the Committee on Claims upon this question. I have before said that to the merits of this bill the present Committee on Claims is not committed. The Senator from Vermont [Mr. MORRILL] went further than that the other day, and I understood him to affirm that whenever and so often as the principle of this bill had been under discussion in the Committee on Claims it had been repudiated and rejected.

Mr. MORRILL, of Vermont. I believe the Senator nearly states my position; but my intention was to state this: that the principle had never been adopted by the committee; had been rejected in all our laws; rejected by the courts, and that even this claim had not received the sanction of a majority of the committee.

Mr. ANTHONY. As I reported this unfortunate bill originally allow me to say a word. The bill was reported from the Committee on Claims—I should say unanimously if my friend from Oregon [Mr. WILLIAMS] had not reminded me that he dissented, which I was not aware of at the time.

Mr. MORRILL, of Vermont. That was before I came to the Senate, when I was not a member of the committee.

Mr. ANTHONY. Certainly; it was when the Senator from New Hampshire, who is now the district judge of New Hampshire, (Mr. Clark,) was the chairman of the Committee on Claims; a man who was as careful as his successor is, and no man can be more careful to guard the interests of the Government. He spoke in favor of the bill when it was passed.

Mr. POMEROY. This case cannot be here by virtue of any report made at that time; that was during the Thirty-Ninth Congress.

Mr. HOWE. I have already explained that this bill is here only by the consent of the members of the committee, and with no recommendation from anybody in the world.

Mr. ANTHONY. I understood the Senator from Vermont to say that this principle had never received the assent of the Committee on Claims. This bill received its assent; whether the principle received its assent or not I do not know. The bill received its assent, and the chairman of the committee, Mr. Clark, called up the bill, advocated it, and indorsed it in the fullest manner, briefly, indeed, but very fully and completely, and some other Senators did, too.

Mr. HOWE. The Committee on Claims, so far as my recollection goes, has never debated as a question of law the principle which I understand to be involved in this bill, but once; and that was on the occasion to which I referred the other day when a report was presented to the committee upon the claim of the New York and Virginia Steamship Company, in which a proposition was submitted, which I understood, and which I suppose other members of the committee understood, to embrace that legal proposition which has been affirmed over and over again on this floor during this debate; and upon the propriety of retaining that clause in the report there was a debate in the committee, and by a vote of the committee it was stricken out of the report. But I do not think myself that that vote was an evidence that a majority of the committee were persuaded the proposition was wrong in law. That could hardly

have been the case, since a majority of those who then constituted the Committee on Claims have stood here on the floor protesting against that principle during this debate.

But the Senator from Vermont said, and undertook to prove, that the committee had made decisions which were directly in antagonism to the principle of this bill. He cited the case of a report made upon the petition of a couple of Sisters of Mercy from the city of Charleston; and also a report made by the committee on the petition of one Dennis Sullivan. The principle in both those cases, in my judgment, is widely and radically different from the principle involved here. The Sisters of Mercy, who presented their petition to Congress to be paid for an institution of learning which had been destroyed during the bombardment of the city of Charleston by our troops, did not pretend to have any claim upon the justice of the Government; they appealed to the equity of the Government, to the liberality of the Government, to the generosity of the Government. They said that they were engaged in a work of mercy; they were employed for the public good always and for the good of all the public without distinction; that their work had been injured by the necessary and unavoidable accident of war; that our Government and its troops had inflicted the injury, and they thought the Government in the exercise of its generosity could afford to make good those damages. I thought that application was rightly founded, and I voted to grant the prayer of the petition, or at least a portion of it; I forget just to what extent I was in favor of going. This claim of Sue Murphey is put upon the ground of an obligation; that claim was not put upon the ground of an obligation at all.

Again, the Senator cites us to the report made upon the petition of Dennis Sullivan, which was an application to Congress to pay for property not taken by the Government of the United States, but destroyed as an accident of war. This property, the property for which payment is asked in this case, was property not destroyed as an accident of war, does not fall within the description of what are known as the ravages of war, but it was property deliberately taken and appropriated to the use of the Government.

Now, sir, to the contrary of these citations I wish to call the attention of the Senator from Vermont and of the Senate to a few reports which have been made from that committee and which have received the sanction of this body, and between which and the case before the Senate I cannot conceive that there is any difference, nor do I believe any Senator on this floor can point out a difference.

The case of Armes, who had a building destroyed during the war, is not exactly parallel to this, though I think we went further in that case than we are asked to go in this, since, if I remember the facts in that case, that was property destroyed during a battle, for which we paid. I am not sure that I recollect the facts distinctly, but it was property in Virginia, and it was destroyed by this Government or the action of this Government.

The case of Segar has not been assented to by the Senate, but it has been assented to by the committee. The Senator from New Jersey [Mr. FRELINGHUYSEN] reminds me of a distinction between that and this case, because he says that was within our lines, and I suppose he means to say that this was not within our lines. Upon that point the Senator is already advised that he and I are at issue. I insist that this was within our lines, also. The property of Segar was in the State of Virginia, one of the States which we are so often told have been declared by the President of the United States to be in insurrection or in rebellion.

Again, this very bill, as you have been told over and over again, was reported by the Committee on Claims—not the committee existing during the last session of this Congress, but a preceding Committee on Claims; it was

reported while, as the Senator from Rhode Island has just said, a former Senator from New Hampshire was chairman of the committee. It passed the Senate, and not a vote was recorded against it—not carelessly, not in ignorance on the part of the Senate of what the bill was, for when the bill was read the Senator from Massachusetts [Mr. WILSON] remarked:

"I do not like the reading of that bill. I wish to hear an explanation of it."

I read from the report in the Globe; then the debate continued:

"Mr. POMEROY. I should like to hear the bill read again. I do not know what it is for. Is it for damages because our troops encamped on somebody's farm?"

"Mr. CLARK. Not at all. This lady lives at Decatur, Alabama. Her farm was occupied by our troops, and it became necessary to fortify the place. Her house was upon her farm, situated exactly in the corner of the fortification that it was necessary to erect. She is proved to have been an eminently loyal person by all those who had acquaintance with her. The Government destroyed her house entirely, took it down, and built a fortification right upon it; it became absolutely necessary to do so for the defense of the place."

"Mr. POMEROY. I think this must be a case about like the Armes case."

"Mr. CLARK. It involves the same principle as the Armes case; but here the house was taken down and a fortification put upon the spot."

"Mr. POMEROY. Have we passed the Armes bill?"

"Mr. CLARK. We passed it once, but it stands on a motion to reconsider."

"Mr. WILLIAMS. This was taken by order of the commanding officer directly."

"Mr. CLARK. There is no question of it."

"Mr. POMEROY. I will not oppose this, because I am in favor of the Armes bill."

"Mr. CLARK. It is a claim that ought to be paid."

"The bill was ordered to be engrossed for a third reading, and was read the third time, and passed."

And it was passed with a full knowledge of every fact upon which the passage of this bill has been disputed for weeks at the present session.

Mr. President, I desire now to call the attention of the Senate to another report made by the Committee on Claims which, if I do not misremember it, had the assent of the Senator from Vermont, and which had the assent, if I remember aright, of every member of the committee as constituted at the last session of Congress. It was a claim presented on behalf of L. Merchant & Co., and Peter Rosecrantz; it was for cotton. They were merchants in Mobile, in the same State of Alabama. They had purchased a quantity of cotton—I have the report in my hand—they had it in their possession in Mobile. When that place was taken by our forces, the rebel officer in command there undertook to burn all the cotton in the place; but the remonstrance made by the citizens was so violent against that course that he finally told the owners of the cotton that if they would remove it from the city they might do so. L. Merchant & Co. and Rosecrantz removed a large quantity of cotton up the river and secreted it, as the report says, in a bayou or creek or something of the sort, and there it remained until our troops took possession of Mobile. Then the cotton was brought down to Mobile; it was taken possession of by a Treasury agent; it was sent to New York; it was sold. The House of Representatives passed a bill to pay the money received for that cotton back to those owners. The Committee on Claims of the Senate agreed to that bill; the Senate agreed to it; the bill became a law; and I suppose the money has been paid. That was property owned by persons in Alabama. It was cotton. It was movable property. It was property which our own Supreme Court says, and which all our history shows, has constituted so large a share of the force and of the sinews of the rebellion, and yet we did not then claim that that was our property, or that we had any right to capture and confiscate it.

Mr. FESSENDEN. Will the Senator allow me to ask him a question?

Mr. HOWE. Certainly.

Mr. FESSENDEN. I ask whether the law that was passed by Congress early in relation to that matter, providing that all captured and abandoned cotton taken possession of by our

agents should be sold by the Government and that the owners might, within a given time, on proving their loyalty and proving their right of property recover the proceeds, did not take that description of property out of the general rule? I take it that any Government has a right by law, even where a legal principle exists, to vary that principle in regard to particular cases. If they varied it in regard to cotton it would not follow that they changed it in regard to other kinds of property.

Mr. HOWE. I think the question is entirely pertinent, and I will reply to it as well as I can. Unquestionably this right of capture, this right of confiscation, which is all the right that is asserted here, is a right which the sovereign may exercise or may waive. With reference to cotton; the suggestion of the Senator is that the Government determined to waive it and not to exercise it. That is true; but I think the inference is almost irresistible that when the Government solemnly decided through its legislative tribunal that it would not capture or confiscate cotton, it certainly ought to be concluded that it was the judgment of Congress that no property belonging to loyal people, to our friends, should be captured or confiscated.

But I wish to call the attention of the Senator to another piece of history connected with this cotton business. The language of that act was—I quote from memory—that only cotton abandoned or captured should be disposed of in the way pointed out by that statute; that it should be sold and the proceeds paid into the Treasury, and those proceeds for two years after the close of the war should be held subject to the claim of loyal people. But, I take it, it is within the knowledge of the Senator from Maine—it is a part, I think, of the history of our legislation—that large quantities of cotton and large sums of money in specie, the proceeds of cotton, were returned to just such people as this case presents Sue Murphey to be upon the ground that it was neither captured nor abandoned. That cotton and that money were not disposed of under the terms of that act; but I think I am authorized to assume that it was disposed of because it was the deliberate judgment of those officers of the Government that were in custody of the cotton and of the money, that inasmuch as the Legislature had spoken only in reference to captured and abandoned cotton, every other kind of cotton and every other kind of property were to be disposed of according to the established laws of the land, and inasmuch as no law was found authorizing the Government to reclaim any cotton unless it was captured or abandoned, all other cotton should go to the loyal claimant.

Mr. MORRILL, of Vermont. I desire to call the attention of the Senator from Wisconsin to the marked distinction between that case and the case of Miss Sue Murphey. In that case the claimants were citizens of Rhode Island, and the property had been run off into the country beyond Mobile and without the reach of our Army; and upon the fact being made known to the general in that case of how the cotton was situated, the parties obtained a direct promise on the part of the general that the cotton might be sent back to Mobile and shipped to New York under the protection of the United States flag, in consequence of the loyalty of the parties. Nor do I understand that the armies of the United States whenever they took possession of any city confiscated all the personal property of the citizens, whether loyal or disloyal. The question arises only in the case of the use or destruction of property on the part of the Army.

Mr. HOWE. Mr. President, the distinction pointed out or attempted to be pointed out by the Senator from Vermont, I think, does not exist in fact; for in point of fact those parties were not citizens of Rhode Island. Once they were natives and citizens of Rhode Island, so the report says, but the language of the report is this:

"The claimants were natives and citizens of the State of Rhode Island previous to the late rebellion, but doing mercantile business at Mobile, Alabama,

where these principal possessions were; and to protect their property until it should be disposed of they were obliged to remain in Mobile after the secession of the State of Alabama with the so-called southern confederacy."

Mr. MORRILL, of Vermont. But will the Senator allow me to ask him if the property was not placed in the hands of the general, under the direct pledge that it should be taken to New York and sold and the proceeds paid to the claimants?

Mr. HOWE. The report says something like that; but for the sake of meeting the case that my friend wishes to present here I will admit it says every word of that; and then I ask the Senator from Vermont, and I ask the Senator to say what right any one of your officers had to remit the property of the United States that was captured? It was our property, says the Senator; it was our property, says the law, which has been thundered through this Chamber ever since I was a young man, or, in other words, ever since this debate commenced. [Laughter.]

Mr. MORRILL, of Vermont. The Senator will remember that it was not captured, but surrendered, on the distinct pledge of the general.

Mr. HOWE. But if it was not captured in fact, upon which question there is great opportunity for dispute, it was where it ought to have been captured, and it did come into the hands of our Government, and we surrendered it; and it was cotton, it was property found in that part of the United States which, we are told over and over again, was enemy's territory, and it was in the hands of men whom we are told, over and over again, were enemies to the Government of the United States; and yet we paid back the proceeds of that cotton.

The Senator from New Jersey the other day stated to the Senate a distinction between the case of Sue Murphey and all these cotton cases, which, if I remember it, was something like this: that we paid back the money received for the cotton, because we had sold the cotton and got the money into the Treasury; and we could better afford to pay that out than we could afford to pay for this building of Miss Murphey's which we had taken down and which we had never got a cent for. What then? Is it the law of the land that we pay for property we take or not, according as we may make a good disposition of it or not? Is it the law of New Jersey that only property which is converted to the use of another is paid for when a wise use is made of the property? Certainly not. The Senator from New Jersey does not say that. Perhaps we can better afford to pay out money that we have in the Treasury than we can afford to pay for property that we never converted into money. But in point of fact I do not suppose we paid the identical money to Merchant & Co. that we received for their cotton; but after all what authority have we for saying that it was not just as important to have a fort at Decatur as it is to have cash in the Treasury? Is it not as good a disposition, as wise a disposition to be made of money, to put it into a fort as to put it into the Treasury?

Mr. EDMUNDS. By the permission of the Senator from Wisconsin I wish to make a statement for a moment touching the Merchant and Rosecrantz case at Mobile. The matter was investigated by a committee, of which I was a member, before it went to the Committee on Claims, and I remember the circumstances of the case perfectly. They have not been fully stated, and, without making any argument, I think it right to state them.

Merchant and Rosecrantz were the private owners of certain cotton in Mobile. It was in store there. When our Army was threatening Mobile the confederate authorities gave notice that all the cotton in store there should be burned lest it should be seized by our forces; but they said that anybody who could get transportation for his cotton might carry it up the river. These parties got two tug-boats on which they loaded their cotton, ostensibly for the purpose of carrying it up the river into the confederate lines. They started up the river and took it

up a few miles, and then hid it, with the vessels, in a bayou, so that the confederate cotton went by while these people slipped their little tugs with the cotton on board out of sight of them, beyond the lines that existed when we took Mobile.

When our forces under General Granger took possession of the city he wanted these vessels for the purpose of transportation about the bay. These people told him what the situation was; that the cotton on board these two tug-boats was hid some miles up the river. He gave them a safe conduct to go up with such help as they could get, and bring down the cotton and the vessels; and he said in this safe conduct that they might have their cotton if they would bring it back, and take it where they pleased. They did bring it back and gave him the vessels and put the cotton in warehouse on the shore, where a great amount of other cotton was stored which had been taken by our authorities. It was then shipped to New York by mistake, the whole body of the cotton in that warehouse having been shipped together, and then they made this claim. These were the facts on which the claim arose.

Mr. HOWE. Mr. President, I am obliged to say that I have not listened to the statement of the Senator from Vermont. I dare say he has stated the facts in the case of Merchant & Co. correctly, more accurately than I have; but, after all, he has not denied my statement that that was property found in a State which we are told was a rebel State, found in a State which we are told was enemy's territory, and that it was in the hands of those whom we are assured were enemies. I was speaking of the distinction made by the Senator from New Jersey. I wish, now, to call his attention to the fact that, however much that distinction may weigh in his mind, it has not controlled the action of the committee. That, I think, will be manifest to him if he recurs to the case of O. N. Cutler. Cutler asked of us to pay him for cotton which we never sold, cotton which he gathered in the State of Mississippi, near Vicksburg, cotton which he had in his possession or his agents had there, cotton which our quartermasters at Vicksburg sent out and seized and took possession of, brought into Vicksburg, and which they used to pack the boilers of one of these boats which General Grant employed to run his scows down by the batteries at Vicksburg.

On its way down the river the boat on which this cotton was, the Tigris I think she was called, was sunk by rebel shot. That cotton we never sold; the proceeds of that cotton were never paid into the Treasury; yet the owner of that cotton came before us and asked to be paid its value. We have reported a bill to pay him for that cotton, and I think I am justified in saying that every member of the Committee on Claims assented to that report. There was some discussion about the amount for which we should present a bill, but, I believe, not a word of discussion as to the propriety of paying a proper price for it.

And now, Mr. President, I think I may conclude that there is nothing in the action of the Committee on Claims which should prevent the Senate of the United States from attending carefully to whatever merits there may be in this bill, and certainly nothing which should prevent me from supporting the bill if in my judgment it is proper to be supported upon its merits.

Mr. EDMUNDS. With the permission of the Senator from Wisconsin, I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, January 14, 1869.

The House met at twelve o'clock m.

The Journal of yesterday was read and approved.

BRIDGE AT PHILADELPHIA.

On motion of Mr. O'NEILL, by unanimous consent, the Committee on Commerce was dis-

charged from the further consideration of the bill (H. R. No. 1559) giving the consent of the United States to the erection of a bridge across the Delaware river between Philadelphia and Camden; and the same was referred to the Committee on Roads and Canals.

NIAGARA SHIP-CANAL.

Mr. ELIOT, of Massachusetts. I call for the regular order.

The SPEAKER. When the House adjourned last evening it was understood that the gentleman from New York [Mr. VAN HORN] should be entitled to the floor when the House resumed the consideration of the bill (H. R. No. 1212) to provide for the construction of a ship-canal around the Falls of Niagara. By an order made by the House it is made the special order after the morning hour each day until disposed of, but by a further order of the House last evening the gentleman is now entitled to the floor.

Mr. WINDOM. I move to postpone the bill till after the morning hour.

Mr. WASHBURN, of Illinois. I object to the gentleman from New York [Mr. VAN HORN] yielding the floor for that motion.

Mr. ELIOT, of Massachusetts. I suppose it is competent for the House to postpone the bill.

Mr. VAN HORN, of New York. I do not object, provided my rights are preserved.

Mr. WASHBURN, of Illinois. I object to the gentleman having the floor after the morning hour, and I give notice that unless his bill is disposed of to-day I shall move to postpone it.

Mr. ELIOT, of Massachusetts. I suppose the House can regulate its own business.

Mr. WASHBURN, of Illinois. I suppose it can without the interference of the gentleman from Massachusetts. [Laughter.]

Mr. ELIOT, of Massachusetts. Yes, or the gentleman from Illinois. [Laughter.]

The SPEAKER. If the bill is postponed when the morning hour expires the gentleman from New York [Mr. VAN HORN] will be recognized as entitled to the floor under the usage.

On the motion to postpone until after the morning hour, there were—ayes 53, noes 18; no quorum voting.

Tellers were ordered; and Messrs. WINDOM, and WASHBURN of Illinois, were appointed.

The House divided; and the tellers reported—ayes 72, noes 40.

Mr. WASHBURN, of Illinois. I move to lay the bill on the table.

The SPEAKER. The Chair does not know under what parliamentary rule the gentleman can make that motion.

Mr. WASHBURN, of Illinois. The motion now being to postpone, a motion to lay on the table is in order.

The SPEAKER. The vote has not been declared on the motion to postpone. The gentleman cannot make a motion to lay on the table while the House is taking a vote on the pending motion.

Mr. WASHBURN, of Illinois. I demand the yeas and nays on the motion to postpone.

The yeas and nays were not ordered.

The motion to postpone was agreed to.

Mr. WASHBURN, of Illinois. I move to reconsider the vote by which the motion to postpone was agreed to.

Mr. WILSON, of Iowa. I move to lay the motion to reconsider on the table.

Mr. WASHBURN, of Illinois. The gentleman has not the floor to make that motion. I propose to state my reasons for the motion I have made.

Mr. JUDD. I desire to ask, as a point of order, whether my colleague is entitled to make that motion.

The SPEAKER. He is; by the rules any gentleman can move to reconsider when the vote has not been taken by yeas and nays; but the motion to reconsider, a motion to postpone to a day certain, the Digest states admits of very limited debate. It does not extend to the merits of the bill.

Mr. WASHBURN, of Illinois. Very well.

The SPEAKER. The Clerk will read the rule on the subject.

The Clerk read as follows:

"The motion to postpone to a day certain under the practice admits of but a very limited debate, but on a motion to postpone indefinitely the whole question is open to debate."

The SPEAKER. The motion to reconsider is governed by the same principles as apply to the original motion.

Mr. WASHBURN, of Illinois. I believe that I understand the rule, and I will try and confine myself to it. In the first place, I desire to have the bill read in order to show what it is, and to enable the House to determine whether it is not important to act upon it without this postponement until after the morning hour. I propose to show what the provisions of the bill are, and how important it is considered by the gentleman from New York, [Mr. VAN HORN,] who has charge of it, that it should pass. And I am surprised that a gentleman being upon the floor on such an important bill as this should consent to its postponement until after the morning hour, which will probably lead to its indefinite postponement to-morrow; I hope it will, at least. I will ask that the various provisions of the bill may be read in order to show how important it is that there shall be immediate action upon the bill.

Mr. ELIOT, of Massachusetts. I rise to a point of order. I submit that upon the motion now made it is not in order to call for the reading of the bill.

The SPEAKER. The Chair sustains the point of order. It is not in order on this motion to demand the reading of the bill.

Mr. WASHBURN, of Illinois. Well, Mr. Speaker, I certainly do not want to antagonize myself with the Speaker on a point of order.

The SPEAKER. It is the privilege of every member, however, to antagonize the Speaker on points of order. He decides according to the rules and the Digest, subject to revision by the House.

Mr. WASHBURN, of Illinois. Well, it would also be the privilege of a member who antagonized the Speaker to come off second best. [Laughter.]

The SPEAKER. That would be for the majority of the House to determine.

Mr. CULLOM. I hope my colleague will go on with his speech.

Mr. WASHBURN, of Illinois. I am very glad my colleague is so anxious to hear me. What I desired to say was this: that I think it somewhat extraordinary, when the House is acting upon a motion to postpone a measure, that they cannot know what that measure is. I supposed that I should have the privilege under the rules of the House of stating what the nature of the measure is that it is proposed to postpone, in order that the members of the House may determine whether or not it is proper to postpone it. Hence I desired to call attention to the provisions of the bill; I desired to show that it is right and proper that we should dispose of this matter at the earliest practicable moment, and that the people should know whether or not this large amount which the bill proposes to appropriate is to be made a charge upon the Government.

Mr. ELIOT, of Massachusetts. I rise to a point of order. The gentleman from Illinois, without taking an appeal from the decision of the Chair, is yet arguing the question which the Chair has already decided. My point of order is that the gentleman has not a right, on a motion to postpone for one hour the consideration of this bill, to go into a discussion of the merits of the bill.

The SPEAKER. The Chair sustains the point of order, which is sustained by the extract from the Digest which the Clerk has just read. A motion to postpone indefinitely brings up the merits of the question, and therefore it would be in order to call for the reading of the bill at that time. A motion to postpone to a day certain is a mere temporary laying aside of the bill, and all Speakers—and the gentleman from Illinois, as the senior member of the

House, must be familiar with the practice—have decided that the merits of the bill cannot be debated on that proposition. There is only one subject of debate which has been tolerated by Speakers upon a motion to postpone to a day certain, and that is the condition of the public business, and whether it requires that the motion to postpone should or should not be agreed to.

Mr. SCOFIELD. I would inquire of the Chair what committee will be entitled to the floor during the morning hour in case the motion to postpone should not be reconsidered?

The SPEAKER. The Committee on the Territories will be entitled to the morning hour.

Mr. WASHBURNE, of Illinois. As the Speaker has suggested that the condition of the public business can be discussed upon this motion, I propose to make a few brief remarks upon the public business which is before the House, in order to show that the interests of the public require that this bill should be disposed of as early as practicable.

Mr. CULLOM. Will my colleague allow me to ask him a question?

Mr. WASHBURNE, of Illinois. Very well.

Mr. CULLOM. I would inquire of the gentleman if it is his design to consume an hour in the remarks he proposes to make?

Mr. WASHBURNE, of Illinois. The intention of "the gentleman from Illinois" is to do his duty.

Mr. CULLOM. There will not be much time gained for the public business if the gentleman takes an hour to oppose the motion to postpone for an hour.

Mr. WASHBURNE, of Illinois. "The gentleman from Illinois" intends to do his duty, and does not think it proper for his colleague to catechise him.

Mr. VAN HORN, of New York. I would inquire of the Chair if I have a right to proceed with my remarks upon the merits of this bill?

The SPEAKER. Certainly not; for the House has postponed the bill, by a vote of 70 to 42, until after the morning hour.

Mr. WASHBURNE, of Illinois. If my motion to reconsider shall prevail, then the gentleman will be at liberty to proceed.

Mr. ELIOT, of Massachusetts. And after the morning hour he will have that right if the motion to reconsider shall not prevail.

Mr. WASHBURNE, of Illinois. The gentleman from New York [Mr. VAN HORN] says that if I will withdraw my motion to reconsider he will now proceed with his remarks on the bill.

The SPEAKER. The gentleman cannot do that, because the House has ordered that the bill shall be postponed until after the morning hour of to-day.

Mr. MOORHEAD. Will the gentleman from Illinois [Mr. WASHBURNE] yield to me to move that the House now resolve itself into Committee of the Whole on the state of the Union on the tariff bill?

The SPEAKER. That would require unanimous consent.

Mr. VAN HORN, of New York. I object to that.

Mr. SCOFIELD. It must be very evident to the gentleman from Illinois [Mr. WASHBURNE] that further opposition on his part will only result in the consumption of time, without accomplishing his purpose. I voted with him in opposition to the motion to postpone, but it is evident that the majority are opposed to us. I would, therefore, ask him to give way, and allow the morning hour now to go on.

Mr. WASHBURNE, of Illinois. I understand very well the strength of the appeal of my colleague on the Committee on Appropriations, [Mr. SCOFIELD.] But this is what I desire to say to the House in my justification, if any gentleman thinks that is necessary, though I do not think it is. The gentleman from New York, [Mr. VAN HORN,] against my protest, obtained a suspension of the rules for the purpose of making his bill a special order. The bill came up yesterday, and the

gentleman took the floor, but did not proceed with his remarks. Now it comes up again. I consider it necessary that it should be disposed of, in order that we may transact the public business, which it is imperatively necessary we should get through with; that is, the appropriation bills. But the gentleman now gives way for a motion to postpone, which I think I have a right to complain of.

Mr. FERRISS. I rise to a question of order.

The SPEAKER. The gentleman will state his point of order.

Mr. FERRISS. My point of order is, that the gentleman from Illinois [Mr. WASHBURNE] has not a right, upon the motion to reconsider, to discuss every question that has been, is now, or may be before the House for the purpose of consuming time. He should be required to discuss the question before the House if there is anything he can discuss.

The SPEAKER. The Chair thinks the latter remarks of the gentleman from Illinois were not out of order.

Mr. WASHBURNE, of Illinois. I hope gentlemen will keep cool, for I do not propose to put myself in antagonism to the House particularly. I wanted to state why I oppose this proposition to postpone. I think it is unfair to the business of the House which to a very small extent the House has placed in my charge. However, I will not proceed with the matter further now, but will move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS.

The SPEAKER. The morning hour has now commenced, and the first business is the call of committees for reports, commencing with the Committee on the Territories, which is entitled to another morning hour. The gentleman from Ohio [Mr. ASHLEY] is entitled to the floor.

SUITS IN THE REBEL STATES.

Mr. THOMAS. I ask the gentleman from Ohio [Mr. ASHLEY] to yield to me, that I may ask the House to take from the Speaker's table a bill which has already been passed by the House, and to which the Senate has proposed an amendment. The bill, as amended, is less comprehensive than the bill as passed in this House by a large majority. But the parties interested are willing to take the bill with the amendment. I therefore desire that the House shall consider and concur in the amendment of the Senate that the bill may become a law.

Mr. ASHLEY, of Ohio. I will yield for the purpose indicated, if the bill should not consume too much time.

The SPEAKER. The gentleman from Maryland [Mr. THOMAS] asks consent that the House take from the Speaker's table for action at the present time the amendment of the Senate to the bill (H. R. No. 1261) amendatory of an act entitled "An act relating to *habeas corpus*, and regulating judicial proceedings in certain cases." The amendment will be read, after which the Chair will ask for objections.

The Clerk read as follows:

Strike out all after the enacting clause, and insert the following:

That the provisions of an act entitled "An act relating to *habeas corpus* and regulating judicial proceedings in certain cases," approved March 3, 1863, so far as the same relate to the removal of causes from the State to the Federal courts, be, and the same is hereby, declared to extend to any suit or action at law or prosecution, civil or criminal, which has been or shall be commenced in any State court against the owner or owners of any ship or vessel, or of any railway, or of any line of transportation, firm, or corporation engaged in business as common carriers of goods, wares, or merchandise, for any loss or damage which may have happened to any goods, wares, or merchandise whatever, which shall have been delivered to any such owner or owners of any ship or vessel, or any railway, or of any line of transportation, firm, or corporation engaged in business as common carriers, where such loss or damage shall have been occasioned by the acts of those engaged in hostility to the Government of the United States during the late rebellion, or where such loss or damage shall have been occasioned by any of the forces of the United States, or by any officer in command of such forces: *Provided*, That this act shall not be construed to affect any contract of insurance for war

risks which may have been made with reference to any goods, wares, or merchandise which shall have been so destroyed.

The SPEAKER. Is there objection to the consideration of this amendment at the present time?

Mr. BECK. I object.

BOUNDARIES OF NEVADA, MINNESOTA, ETC.

Mr. ASHLEY, of Ohio, reported back from the Committee on the Territories a bill (H. R. No. 1625) concerning the boundaries of the States of Nevada, Minnesota, and Nebraska, and the Territories of Colorado, Montana, and Wyoming.

The bill, which was read, provides in the first section that there be added to the State of Nevada all that extent of territory lying within the following boundaries, to-wit: commencing at a point formed by the intersection of the one hundred and fourteenth degree of longitude west from Greenwich with the Colorado river; thence up the channel of said river to its intersection with the one hundred and thirteenth degree of longitude west from Greenwich; thence north along said degree of longitude to its intersection with the forty-first degree of north latitude; thence east on said degree to a point in Great Salt Lake midway between Antelope Island and the eastern shore of said lake; thence northwesterly on a line through said lake midway between Antelope and Fremont Islands and the eastern shore of said lake to Bear River bay; thence in a northerly direction to the mouth of Bear river; thence up the channel of said Bear river to the mouth of the Malada river; thence up the channel of said river to its intersection with the forty-second degree of north latitude; thence west along said forty-second degree of north latitude to the eastern line of the State of Nevada. This transfer is not to take effect until the Legislature of the State of Nevada accepts the same.

The second section provides that there be added to, and made a part of, the State of Minnesota all that extent of territory lying within the following boundaries, to-wit: commencing at a point formed by the intersection of the western boundary of the State of Minnesota with the forty-fourth degree of north latitude; thence west along said forty-fourth degree to its intersection with the ninety-seventh degree of longitude west from Greenwich; thence north along said ninety-seventh degree to its intersection with the forty-fourth degree and fifteen minutes north latitude; thence west along said line of forty-four degrees and fifteen minutes north latitude to its intersection with the ninety-eighth degree of longitude west from Greenwich; thence north along said ninety-eighth degree to its intersection with the forty-fourth degree and thirty minutes of north latitude; thence west along said forty-fourth degree to its intersection with the ninety-ninth degree of longitude west from Greenwich; thence north along said ninety-ninth degree to its intersection with the forty-fifth degree of north latitude; thence west along said forty-fifth degree to its intersection with the Missouri river; thence up the channel of said Missouri river to its intersection with the one hundred and second degree of longitude west from Greenwich; thence north along said one hundred and second degree to its intersection with the northern boundary of the United States; thence east along said northern boundary to the western boundary of the State of Minnesota. This transfer is not to take effect until the Legislature of the State of Minnesota accepts the same.

The third section enacts that there be added to and made a part of the State of Nebraska all that extent of territory lying within the following boundaries, to-wit: commencing at a point formed by the intersection of the forty-third degree of north latitude with the one hundred and second degree of longitude west from Greenwich; thence north along said one hundred and second degree to its intersection with the forty-fifth degree of north latitude; thence east along said forty-fifth degree to the

ninety-ninth degree of longitude west from Greenwich; thence south along said ninety-ninth degree to its intersection with the forty-fourth degree and thirty minutes north latitude; thence east along said forty-fourth degree and thirty minutes to its intersection with the ninety-eighth degree of longitude west from Greenwich; thence south along said ninety-eighth degree to its intersection with the forty-fourth degree and fifteen minutes north latitude; thence east along said forty-fourth degree and fifteen minutes to its intersection with the ninety-seventh degree of longitude west from Greenwich; thence south along said ninety-seventh degree to its intersection with the forty-fourth degree of north latitude; thence east along said forty-fourth degree to the western boundary of the State of Minnesota; thence south along said western boundary to the southwestern boundary of the State of Minnesota; thence due west to the Big Sioux river; thence down the channel of the Big Sioux river to its intersection with the channel of the Missouri river. This transfer is not to take effect except upon the condition that the Legislature of the State of Nebraska accepts the same and consents to the transfer to the Territory of Wyoming of all the territory of that State lying west of the one hundred and second degree of longitude west from Greenwich.

The fourth section provides that there be added to and made a part of the Territory of Montana all that extent of territory lying within the following boundaries, to wit: commencing at a point formed by the intersection of the one hundred and eleventh degree of longitude west from Greenwich with the summit of the Rocky mountains; thence in an easterly direction along the summit of said mountains to its intersection with the one hundred and tenth degree and thirty minutes of longitude west from Greenwich; thence due east to the one hundred and tenth degree of longitude west from Greenwich; thence north along said one hundred and tenth degree of longitude to its intersection with the forty-fifth degree of north latitude; thence east along said forty-fifth degree to its intersection with the channel of the Missouri river; thence up the channel of said river to its intersection with the one hundred and second degree of longitude west from Greenwich; thence north along said one hundred and second degree to its intersection with the northern boundary of the United States; thence west along said northern boundary line to its intersection with the one hundred and fourth degree of longitude west from Greenwich.

The fifth section enacts that there be added to and made a part of the Territory of Colorado all that extent of country lying within the following boundary, to wit: commencing at a point formed by the intersection of the one hundred and ninth degree of longitude west from Greenwich with the thirty-seventh degree of north latitude, being the southwestern boundary of the Territory of Colorado; thence west along said thirty-seventh degree of north latitude to its intersection with the channel of the Colorado river; thence up the channel of said river to its intersection with the one hundred and twelfth degree of longitude west from Greenwich; thence north along said one hundred and twelfth degree to its intersection with the thirty-ninth degree of north latitude; thence east on said degree to its intersection with the one hundred and eleventh degree of longitude west from Greenwich; thence north along said one hundred and eleventh degree to its intersection with the forty-first degree north latitude; thence east along said forty-first degree of north latitude to its intersection with the one hundred and ninth degree of longitude, being the present northwestern boundary of Colorado.

The sixth section provides that there be added to and made a part of the Territory of Wyoming all that extent of territory lying within the following boundaries, to wit: commencing at a point formed by the intersection of the one hundred and eleventh degree of longitude west from Greenwich with the forty-first degree of north latitude; thence west along said forty-first de-

gree of north latitude to a point in Great Salt lake; midway between Antelope island and the eastern shore of said lake; thence in a north-westerly direction on a line midway between Antelope and Fremont islands and the eastern shore of said lake to Bear River bay; thence northeasterly to the mouth of Bear river; thence up the channel of said river to the mouth of Malada river; thence up the channel of said Malada river to its intersection with the one hundred and twelfth degree thirty minutes longitude west from Greenwich; thence north along said one hundred and twelfth degree and thirty minutes to its intersection with the channel of Snake river; thence up the channel of said Snake river to its intersection with the one hundred and twelfth degree of longitude west from Greenwich; thence north along said one hundred and twelfth degree to its intersection with the crest of the Rocky mountains; thence in an easterly direction along the summit of said mountains to the one hundred and tenth degree and thirty minutes longitude west from Greenwich; thence due east to the one hundred and tenth degree of longitude west from Greenwich; thence north along said one hundred and tenth degree to its intersection with the forty-fifth degree of north latitude; thence east along said forty-fifth degree of north latitude to its intersection with the one hundred and second degree of longitude west from Greenwich; thence south along said one hundred and second degree to its intersection with the forty-first degree of north latitude; thence west along said forty-first degree of north latitude to the place of beginning. It is provided that all that territory included within this boundary which now forms part of the State of Nebraska shall not form part of the Territory of Wyoming until the Legislature of the State of Nebraska consents thereto.

The seventh section provides that the river which flows through the Territories of Idaho and Washington into the Columbia river, called Snake river, shall hereafter be known and designated as Oregon river; and that the river which flows through that part of Utah hereby added to the Territory of Colorado, called Green river, shall hereafter be known and designated as Colorado river.

Mr. ASHLEY, of Ohio. I desire to say, Mr. Speaker, that this bill proposes no increase of the expenditures of the Government, but paves the way for the decrease of those expenditures in the Territories. It creates no new offices. The Senators and Representatives from the States immediately interested in this change of boundary are in favor of the bill. The Delegate from the Territory of Wyoming is in favor of it.

Mr. WASHBURN, of Illinois. I should like to know who the Delegate from the Territory of Wyoming is. [Laughter.]

Mr. ASHLEY, of Ohio. I mean the gentleman claiming a seat as Delegate, and whose credentials were presented and referred the other day. The bill is not to take effect, so far as the change of boundary is concerned, except upon acceptance of the territory transferred by the States of Nevada, Minnesota, and Nebraska respectively.

In my judgment this bill will make the best disposition which can be made of the Mormon question, by reducing the territorial area of that prospective State, thus giving the Mormon community notice that no State government will ever be organized there by our consent; and that so soon as the population in the adjacent organized States and Territories shall be able to take care of this population, which, voting as a unit, has persistently for fifteen years defied the Government of the United States and for eight years flagrantly disobeyed its laws, the control of affairs there shall be given to the "Gentile" population. This was the motive which prompted the committee in reporting the bill, so that in the great central or mountain States of this country there should be territorial area enough when they come to organize State governments to have a population enough at least for one Representative, and that States might not be multiplied out of

Territories of the size of Utah with small populations, but that the area might be so extended that at the beginning they shall have population enough for one member and a prospective population for more. I desire to put the bill on its passage.

Mr. WASHBURN, of Illinois. I ask the gentleman to hear me a moment. I have had but a few minutes to look at this bill. From the reading of it, and from the statement of the gentleman, it seems to be a bill to dismember Utah Territory. I merely desire to suggest that as the Delegate from that Territory is not here, being detained by sickness, it seems to me it would be but fair to postpone it until he can be heard. The people who sent him here have a great deal of interest in this measure, and I suggest that it be postponed so that it can be reached at a given time hereafter.

Mr. ASHLEY, of Ohio. In reply to the gentleman's suggestion, I will say that I see no necessity for postponing the bill. It does not touch the settled portions of Utah, but it adds to the Territory of Colorado all that part of Utah unsurveyed and unoccupied by the Mormons, and thus extends the jurisdiction of Colorado over that part. It excludes the Mormons socially, of course, from that part, but they can move where they please. It concentrates whatever of the Mormon element governs the Territory of Utah within a limited jurisdiction, so that the force which they have played there for many years of electing a Governor and Legislature and enacting State laws may be annulled by the notice which this bill gives them that they shall not have territorial area enough left to make a State. I drew the bill originally to blot out the Territory, but the committee thought it was best to let that part of it remain where the great body of the Mormons were until such time as the population of the adjacent Territories and State would be able to take care of them, and not be overborne by the consolidated vote of that oligarchy.

Mr. WASHBURN, of Illinois. I do not think the gentleman has met my point. He acknowledges, in the first place, that this bill takes away a large portion of the Territory of Utah. That Territory is represented here. Now, I think it but fair and just to that Delegate, in a matter which so deeply affects his constituents, that he should be here when the bill is acted upon. He is detained by sickness; and I appeal to my friend if he were in the same situation whether he would not consider it rather sharp practice to dispose of the bill in his absence.

Mr. ASHLEY, of Ohio. My committee will not be called again this session, so that unless this is passed now there is no hope of getting it through the Senate.

Mr. WASHBURN, of Illinois. I do not ask to have the bill placed in any worse position than it is now. That would be unreasonable. But we can postpone it so that it will not be placed in a worse position.

Mr. CULLOM. When will the Delegate from Utah be here?

Mr. WASHBURN, of Illinois. I understand he has started from home; and the reason why he is not here is he is detained by sickness.

Mr. ASHLEY, of Ohio. If the House will agree to postpone the bill one week from today immediately after the reading of the Journal I will consent to it.

Mr. ELIOT, of Massachusetts. I object.

Mr. ASHLEY, of Ohio. Then say after the morning hour.

Mr. BROOKS. I think we should allow a longer time, so that the people of Utah can hear what is to be done. Say two weeks.

Mr. ASHLEY, of Ohio. Very well; I have no objection, if the bill shall then be taken up and disposed of.

The SPEAKER. If the order is made by unanimous consent the bill will be the special order at that time, and will be taken up and disposed of. Is there objection to postponing

the bill to this day two weeks immediately after the morning hour? The Chair hears none, and it is so ordered.

RAILROAD IN WASHINGTON TERRITORY.

Mr. ASHLEY, of Ohio, from the Committee on the Territories, reported back a bill (H. R. No. 1041) granting the right of way to the Walla-Walla and Columbia River Railroad Company, and for other purposes, with an amendment in the nature of a substitute therefor.

The Clerk read the substitute, as follows:

That the right of way through the public lands be, and the same is hereby, granted to the Walla-Walla and Columbia River Railroad Company, a corporation existing under the laws of the Territory of Washington and duly incorporated, for the purpose of constructing a railroad from said town of Walla-Walla to some eligible point on the navigable waters of said Columbia river in said Territory; said right of way hereby granted to said railroad is to the extent of one hundred feet in width on each side of said road where it may pass over the public lands; also all necessary ground, not to exceed five acres at each station, for station buildings, work-shops, depots, machine-shops, switches, side tracks, turn-tables, and water stations.

Sec. 2. *And be it further enacted*, That the county commissioners of the county of Walla-Walla, in the Territory of Washington, be, and they are hereby, authorized and empowered to aid in the construction of the Walla-Walla and Columbia River railroad, by subscribing to the capital stock of said Walla-Walla and Columbia River Railroad Company in the name and on behalf of said county of Walla-Walla, and by issuing bonds of said county, payable at such time as said commissioners shall think proper, and bearing interest of not more than eight percent per annum in payment for said stock so by them taken in said railroad company, or by issuing bonds bearing interest as aforesaid, as a loan to said company, to be used in the construction of said road, or to aid said company in the construction of said road by the credit of said county in any other manner the said commissioners may think proper: *Provided*, That the said subscription, loan, or other aid so given by said commissioners to said company shall in no case exceed the sum of \$300,000: *And provided further*, That the said subscription, loan, or other aid shall have been submitted to the people of said county and been voted for by three fourths of the legal votes cast at an election held for that purpose: *And provided further*, That if said vote be taken at a special election the notices shall be the same as provided by the laws of said Territory for general elections.

Sec. 3. *And be it further enacted*, That the county commissioners of the county of Walla-Walla, in the Territory of Washington, be, and they are hereby, authorized and empowered to hold a special election at such times as they may designate, after twenty days' public notice, which said election shall be governed by the general laws of said Territory upon the subject of elections, at which election the aid to be given by said county to said Walla-Walla and Columbia River Railroad Company, either by subscriptions to stock or otherwise, shall be submitted to and be voted upon by the legal voters of said county in such manner as said commissioners may designate.

Mr. ASHLEY, of Ohio. This bill grants to the Walla-Walla and Columbia River Railroad Company, an organization created by the laws of Washington Territory, the right of way through any of the public lands from Walla-Walla to the Columbia river, a distance of thirty miles, and at each of their stations or depots they are entitled to take five acres of the public lands. Otherwise there are no public lands and there is no occupancy of the public lands granted.

The county commissioners of Walla-Walla county are authorized to subscribe \$300,000 to the stock of this company on a vote of three fourths of all the voters, at an election of which the same notice is to be given as is given at a general election in the Territory. There is no grant of money from the Government involved in the bill. The Government has nothing to lose. I believe the bill is sufficiently guarded to secure the rights of the people there in that it requires three fourths of all the voters to authorize the subscription.

Mr. PRICE. I wish to know if the five acres for depot grounds includes the two hundred feet in width or is exclusive of it. The bill is not sufficiently definite on that point.

Mr. ASHLEY, of Ohio. They are to have one hundred feet on each side of the road and five acres in addition.

Mr. PRICE. The bill does not say so.

Mr. ASHLEY, of Ohio. The land only costs \$1 25 an acre. I have traveled over the ground, and I would not care to take some of it at that price.

Mr. PRICE. The bill does not exempt mineral lands from occupancy by the company. It has been the universal custom, in granting lands and the right of way through the public lands in the Territories of the United States, to exempt all mineral lands.

Mr. ASHLEY, of Ohio. Well, there are no mineral lands within a good many miles of this proposed road from Walla-Walla to the Columbia river.

Mr. PRICE. Is that certain?

Mr. ASHLEY, of Ohio. It is very certain. The only point in the bill is whether the House is willing to authorize the commissioners of Walla-Walla county, on a vote of three fourths of its electors, to subscribe to a road to let them out to the navigable waters of the Columbia.

Mr. WELKER. I desire to ask my colleague why it is necessary that we should pass an act of Congress to authorize a subscription to the capital stock of this road on behalf of this county in Washington Territory? Has not the territorial Legislature power to confer this right upon the county?

Mr. ASHLEY, of Ohio. I am glad to answer the gentleman that they have not. By an act which I drew myself no territorial Legislature has authority to grant any special privileges whatever. In addition to this, no territorial Legislature can dispose of or grant the right of way over the public lands of the United States.

Mr. JULIAN. How much land does this bill grant?

Mr. ASHLEY, of Ohio. One hundred feet on each side of the road, and five acres at each depot where there are public lands. I demand the previous question.

Mr. HOLMAN. I move to lay the bill on the table; and on that motion I demand the yeas and nays.

The yeas and nays were not ordered.

The question was put; and the House refused to lay the bill on the table.

Mr. ASHLEY, of Ohio. My colleague [Mr. DELANO] desires to offer an amendment, and I will withdraw the previous question to hear it read.

Mr. DELANO. I offer the following as a proviso to the last section of the substitute:

Provided, That this grant is made upon the express condition that any efforts by said company hereafter to obtain any land grant, subsidy, or pecuniary aid from the United States Government shall work a forfeiture of the grant.

Mr. ASHLEY, of Ohio. I will accept that amendment.

The SPEAKER. The gentleman has no right to accept it, as the bill is a report from a committee.

Mr. ASHLEY, of Ohio. Well, I hope the House will adopt it. I move the previous question.

The previous question was seconded and the main question ordered.

The amendment to the substitute proposed by Mr. DELANO was agreed to.

The substitute reported by the Committee on the Territories was then adopted.

The bill, as amended, was ordered to be engrossed and read a third time.

Mr. HOLMAN. I demand the reading of the engrossed bill.

The SPEAKER. The bill is not yet engrossed, and it therefore goes to the Speaker's table.

Subsequently Mr. ASHLEY, of Ohio, entered a motion to reconsider the vote by which the bill was ordered to be engrossed and read a third time.

TERRITORIAL ELECTIONS.

Mr. ASHLEY, of Ohio, from the Committee on the Territories, reported back, with an amendment in the nature of a substitute, the bill (H. R. No. 1624) to preserve the purity of elections in the several organized Territories of the United States.

The question was upon agreeing to the substitute.

The substitute was read. The first section provides that hereafter at all elections in the Territories of New Mexico, Arizona, Utah,

Colorado, Dakota, Wyoming, Montana, Idaho, Washington, and Alaska for territorial and county officers and for Delegates to Congress the elections shall be conducted as provided in this act. The Governor of each Territory shall appoint and commission, at least one hundred and twenty days prior to each general election, four responsible and competent citizens of each county in the Territory, who shall be designated a board of canvassers for the county in which they reside, and said board shall act until their successors are appointed and qualified.

The second section provides that the Governor, in appointing such board of county canvassers, shall select two members of each from citizens who are recognized members of the political party having a majority in said county at the last general election preceding their appointment, and the remaining two members of the board shall be appointed from members of the minority party in such county; or if there be two or more minority parties, with distinct political organizations, as contradistinguished from party factions, then from each of the two minority parties having the largest number of votes in said county at the last general election the Governor shall select one member of the board; it being the intent and meaning of this act to secure such a representation from each party on every board of county canvassers as will guaranty protection against fraudulent voting and fraudulent election returns.

The third section provides that the board of county canvassers thus appointed and commissioned shall, within thirty days after their appointment, signify their acceptance of the trust by notifying the Governor and by taking an oath before any officer duly authorized to administer oaths faithfully to perform the duties of the office to which they have been appointed; whereupon they shall organize by electing one of their number president and one of their number secretary; and all papers officially issued by said board of county canvassers shall be signed by the president and countersigned by the secretary; provided that no official paper shall be issued by any board of county canvassers except by the direction of three members of such board; and provided further that a majority of such board shall be necessary to constitute a quorum for the transaction of business.

The fourth section provides that if any member or all the members of any board of county canvassers appointed by the Governor, in pursuance of this act, shall neglect or refuse to accept such appointment within the time and as hereinbefore prescribed the Governor shall, by public proclamation, notify the electors of said county of that fact, which notice shall be published in any newspaper he may select in said county, if there be one published therein, and if not, then in some newspaper published at the capital of the Territory. The county committee representing the party of which such person or persons are members who decline to serve shall, on the publication of said proclamation, recommend to the Governor such person or persons as they may desire appointed to fill the vacancy on said board, which persons so recommended the Governor shall appoint; and if the county committee thus notified fail or neglect within twenty days after the publication of said notice to recommend such persons as will serve the Governor shall appoint from the qualified electors of any party in said county the requisite number of persons to fill all vacancies in such board of county canvassers.

The fifth section provides that after the organization of the board of county canvassers for each county, as hereinbefore prescribed, they shall appoint and commission, at least sixty days before each general election, four well-known and competent citizens to act as an election board for each township, ward, or voting precinct in such county. Two members of every such board shall be selected from the party which at the last general election in the

Territory had the largest vote in such township, ward, or voting precinct; the two remaining members of the board shall be selected from members of the minority party; or if there be two or more minority parties in such township, ward, or voting precinct with distinct county organizations, then from each of the two minority parties having the largest number of votes at the last general election the board of county canvassers shall select and appoint one member of the election board for every such township, ward, or voting precinct; it being the intent and purpose of this act to have such a representation of parties on each election board for the several townships, wards, or voting precincts as will secure protection against fraud, illegal voting, and fraudulent election returns.

The sixth section provides that the persons thus appointed and commissioned members of election boards for any township, ward, or voting precinct shall signify to the board of county canvassers their acceptance of such appointment by taking such oath as may be prescribed by the Governor, and filing a copy of the same with the board of county canvassers within fifteen days after their appointment. In case any person thus appointed a member of an election board shall neglect or refuse to qualify and report to the board of county canvassers within fifteen days, as hereinbefore prescribed, then said board of county canvassers shall appoint from the same political party another person to fill such vacancy; provided that if there are no other members of the same party in such township, ward, or voting precinct, or no other members who will serve on such board, said county board may appoint any person they may elect to fill such vacancy. The board of county canvassers shall officially publish, at least ten days before every election, the names of the persons who have been appointed and qualified as members of election boards for each township, ward, or voting precinct in the county, and publish the same in each of the leading party newspapers of the county, if there are two such papers, and if not, then in any newspaper published in the county. Each of said election boards for the several townships, wards, or voting precincts shall act until their successors are appointed and qualified.

The seventh section provides that if any member or all the members of any election board for any township, ward, or voting precinct, appointed by the board of county canvassers as authorized by this act, shall neglect or refuse to accept such appointment within the time and as herein prescribed, the board of county canvassers for said county shall by publication in a newspaper of the county, if there be one, notify the electors of such township, ward, or voting precinct at least twenty days before the election of such vacancy in their election board; and if neither the proper committee nor any member of the party residing in such township, ward, or voting precinct to whom such member of the election board belongs shall within ten days after the publication of the notice herein required recommend in writing any person for the board of county canvassers to appoint, the said board shall then appoint from the qualified electors of any party residing in such township, ward, or voting precinct the requisite number of persons from any party to fill all vacancies.

The eighth section provides that if on the day of the election any one or all the members of an election board thus appointed for any township, ward, or voting precinct for any county shall fail or refuse to meet and organize and proceed with the election as prescribed in this act, on or before eight o'clock a. m., then the qualified electors present at the time and place designated for opening the polls and holding the election in each township, ward, or voting precinct shall select competent persons to fill such vacancy in the election board, taking care that the board when organized shall be composed of two members to represent the party having a majority in the township, ward, or

voting precinct at the last general election, and two members to represent the minority party or parties.

The ninth section provides that a failure on the part of the board of county canvassers, or on the part of any election board, or on the part of the electors in any township, ward, or voting precinct to comply with the provisions of this act, either as to the organization of an election board or as to the manner of conducting any election which such board are appointed to hold, shall vitiate the election in such township, ward, or voting precinct; and if two or more responsible citizens of such township, ward, or voting precinct shall, within ten days after said election, appear before the board of county canvassers for their county and make oath that the provisions of this act for the appointment of their election board were disregarded and violated, or that the election was otherwise improperly and unlawfully conducted; either by the rejection of legal votes or by the admission of illegal votes, or by making false returns, or for any violation of law, specifying particularly the provisions of this act or the laws of the Territory which have been violated, such board of county canvassers shall furnish at least two members of such election board with a copy of the charges and specifications thus made, and notify them and the other members of the election board to appear before the board of county canvassers within ten days after such charges are filed and answer on oath the charges and specifications thus made; and the board of county canvassers may require other testimony in addition to the answer of any one or all the members of such election board; and in case of the neglect or refusal of such election board, or some one or more of its members, to appear and answer said charges on oath, and by the testimony of other witnesses if required, to the satisfaction of the board of county canvassers, the entire vote from such election precinct, ward, or township shall not be counted by the board of county canvassers.

The tenth section provides that at each place of voting in the several counties the polls shall be opened at six o'clock a. m., or as soon thereafter as the election board can be convened and organized, as provided in section eight of this act, and the polls shall be closed by the board promptly at six o'clock p. m. Immediately after each election board is organized they shall designate two of their number to keep each a separate poll-book, in which shall be recorded the name of every person voting. Each of said poll-books shall be signed and certified by each member of the election board, and said poll-books shall contain a statement of the whole number of votes cast and the number given for each person for whom votes were cast. One of said poll-books shall be preserved by the election board until after the next general territorial election, and the other shall be transmitted within ten days, either by mail or by messenger, as safety and celerity may require, to the board of county canvassers at the county seat; provided that the said board shall remain together and in possession of the ballot-boxes and poll-books until said ballots are counted and the proper certificate given; and said certificate shall be made within twenty-four hours after the election is closed. All questions arising before any election board thus appointed touching the qualifications of an elector and all questions relating to the conduct of the election shall be decided by a majority of such board when all the members are present, or by the affirmative vote of three members of the board.

The eleventh section provides that if after the organization of such election board on the day of any election one or more members, either from sickness or from any cause, should be unable or refuse to act, the remaining members of the board shall fill such vacancy by appointing duly qualified electors, taking care to preserve, as provided in this act, the political equilibrium of such board. Before the person thus appointed enters upon his duties

as member of such election board he shall take the oath of office prescribed by law.

The twelfth section provides that any person who shall accept an appointment and qualify as member of an election board for any township board or voting precinct, and shall as such member of any election board willfully disregard the provisions of this act or the territorial election laws, or shall as a member of the board do any official act with a view to deprive any elector of his legal right to vote, or for the purpose of defeating in such election precinct the fairly expressed will of the electors at the ballot-box, either by refusing to sign and certify the poll-books or by doing any act designed to defeat the legally expressed will of the people at said election, every person so offending shall be deemed guilty of a misdemeanor, and upon trial and conviction before any court of competent jurisdiction in such Territory shall pay a fine of not less than \$1,000 nor more than \$5,000, or be imprisoned in the penitentiary not less than one year nor more than five years, at the discretion of the court.

The thirteenth section provides that the board of county canvassers for each county shall, within thirty days after every election, open all the poll-books returned to them, and canvass the same and declare the result. They shall transmit to the Governor a certified statement of the whole number of votes cast in each township, ward, or voting precinct of the county, and the number of votes cast in each for the several persons voted for at the said election.

The fourteenth section provides that any person who shall accept an appointment from the Governor, and qualify as a member of any board of county canvassers, and shall disregard the provisions of this act or the election laws of such Territory, or shall refuse to sign and certify the result of such election to the Governor, or shall as a member of any board of county canvassers do any official act with a view to deprive any person duly elected of his legal right to such office, or for the purpose of defeating the lawfully expressed will of the electors of the county, or of any township, ward, or voting precinct, every person so offending shall be deemed guilty of a misdemeanor, and on trial and conviction before any court of competent jurisdiction shall pay a fine of not less than \$5,000 nor more than \$20,000, or be imprisoned in the penitentiary not less than five nor more than ten years, at the discretion of the court.

The fifteenth section provides that the Legislatures of the Territories named in this act shall provide by law the tribunal before which and the manner in which all contested elections, either for territorial, county, township, or municipal officers shall be heard and determined.

The sixteenth section provides that the Legislative Assemblies named in this bill shall, at their first session after the passage of this act, fix by law the compensation and provide for paying the members of the board of county canvassers for their services; and they shall also fix the compensation and provide for paying the members of election boards for the township, ward, or voting precincts in each county.

The seventeenth section provides that the Legislatures of the Territories hereinbefore named shall be authorized and empowered to enforce the provisions of this act by additional and appropriate legislation.

The eighteenth section provides that all acts and parts of acts, either of Congress or any of the Territorial Legislatures herein named, inconsistent with the provisions of this act, shall be, and are hereby, repealed.

Mr. ASHLEY, of Ohio. I desire to say that this substitute has the unanimous concurrence of the Committee on the Territories.

Mr. MULLINS. Will the gentleman yield to me for an amendment?

Mr. ASHLEY, of Ohio. I will hear the amendment.

Mr. MULLINS. The seventh section contains a provision requiring the publication in the newspapers of the county of the persons who have been appointed upon the election boards. I propose to amend by inserting at the proper place the words "and if not, then by writing, at three of the most public places in the county."

Mr. ASHLEY, of Ohio. I will allow the amendment suggested by my colleague on the Committee on the Territories [Mr. MULLINS] to be offered.

The SPEAKER. The amendment will be regarded as pending.

Mr. BROOKS. It is impossible for the House to understand, from its reading by the Clerk, a long bill like this. It seems to me it ought to be sanctioned by the Committee of Elections. I would suggest that before we are called upon to pass a bill regulating elections in all the Territories of the United States it should go before the Committee of Elections. I hope the gentleman will give way to a motion to that effect.

Mr. ASHLEY, of Ohio. I cannot yield for any such purpose. This subject has had the earnest consideration of the Committee on the Territories for two or three years past. It has come before them on petition after petition and memorial after memorial, from the people resident in the Territories, asking Congress for a registry law. This is the best form of a registry law which the committee have been able to devise. It does not require any man to be registered, but it requires that each board of county canvassers shall be composed of two members of each political party in the county, or if there be two or more minority parties that each minority party shall have one member of the board; and that no act of the board shall be valid unless it has the affirmative vote of three members of the board. And in like manner these boards of county canvassers are to appoint the judges of election in each township, ward, or voting precinct. They are to be constituted in like manner as the county boards; to be made up from the parties in each ward, township, and election precinct; two members from the party having the majority at the last general election, and the other two members to be taken from the minority parties. Therefore no vote can be admitted and no certificate of a poll can be made unless members of two of the political parties certify to its correctness.

[Here the hammer fell.]

The SPEAKER. The morning hour has expired, and this bill goes over to the morning hour of the next public bill day.

PILOTS, ETC., OF WASHINGTON TERRITORY.

Mr. ASHLEY, of Ohio. I ask unanimous consent that the Committee on the Territories be discharged from the further consideration of House bill No. 1591, repealing an act passed by the Legislature of Washington Territory relating to pilots and pilot regulations, and that the same be referred to the Committee on Commerce.

No objection was made.

REGULATION OF COMMERCE.

Mr. ASHLEY, of Ohio. I have been directed by the Committee on the Territories to report back House bill No. 1597, to facilitate commercial intercourse between the several States and Territories of the United States and foreign countries, and to ask that it may be assigned for consideration for two hours on next Saturday three weeks.

The SPEAKER. That requires unanimous consent.

Mr. WASHBURN, of Illinois. I object.

ELECTION CONTEST—SWITZLER VS. ANDERSON.

Mr. COOK, from the Committee of Elections, made a report in the contested-election case of Switzler vs. Anderson, with the following resolutions:

Resolved, That George W. Anderson is not entitled to a seat in this House as a Representative in the Fortieth Congress from the ninth congressional district of Missouri.

Resolved, That William F. Switzler is entitled to a seat in this House as a Representative from the ninth congressional district of Missouri.

The report was laid on the table, and ordered to be printed.

Mr. COOK. I give notice that I will call up this report to-morrow.

NIAGARA SHIP-CANAL.

The SPEAKER. The House now resumes the consideration of House bill No. 1202, to provide for the construction of a ship-canal around the Falls of Niagara; upon which the gentleman from New York [Mr. VAN HORN] is entitled to the floor.

Mr. VAN HORN, of New York. Mr. Speaker, in opening the debate upon this bill I feel the importance of the legislation proposed and the responsibility connected with its advocacy and the demand it makes upon the Treasury. I sympathize to some extent, at least, with the views of my distinguished friend from Illinois, [Mr. WASHBURN,] lately expressed in the very able speech upon economy and retrenchment which he made in this House, and I will coöperate with him in endeavoring to secure the results of proper legislation in this direction, but I do not, for a moment, suppose that he intended to be understood as being opposed to works of great national importance and necessity and appropriations to secure their construction. Certainly this did not enter into his calculation. No State in the Union is so deeply interested in this work as the State of Illinois, and no State has demanded its construction as loudly as has that State, and with a greater reason, or had more important public interests to benefit, protect, and advance. Discrimination should always be used by wise statesmanship in the advocacy and support of public measures, and I open this debate with the earnest hope that the House may consider this measure and the reasons that may be presented why it should become a law in the light of national interest, necessity, and benefit, and be governed by no other or less important considerations.

Very much may be said upon this measure, and in its favor. While it differs from all the bills upon this question which have preceded it, and been passed by this branch of Congress, the general question of a ship-canal to connect Lakes Erie and Ontario is doubtless familiar to all the members of this House, as it is also to all sections of the country. Indeed, it is no new question. Upon the files of this House are papers, petitions, resolutions of boards of trade from nearly all the northern, middle, western, and eastern States, as well as from the Legislatures of many of the States, asking Congress to aid in the construction of this great national work. They run back over many years, showing the deep interest that has for a long time pervaded various sections of the country in behalf of this important enterprise. In fact there is no question before the national Legislature in which the business communities of the entire West and their boards of trade take so deep an interest and in the solution of which they have so great anxiety as in relation to this question.

As early as 1808, in pursuance of a resolution of the Senate, the Secretary of the Treasury submitted to that body an able and elaborate report on the subject of roads and canals, in which, among many others of general interest that might require the aid of the Government, was a canal around the falls of Niagara. It was represented in that report as both practicable and of primary importance to the interests and domestic policy of the Union. If important and necessary at that early day, how much more so now, when the reasons for such an opinion have so greatly increased in number and importance. In 1835 the President of the United States ordered a survey to be made upon an enlarged scale, and selected for the work Captain Williams, one of the most skillful and eminent engineers that ever belonged to the service. His report is full of instruction, and demonstrated completely, as all others have, the entire feasibility of the work.

When this subject was up in the Thirty-seventh Congress I had the honor to submit a report upon it, stating at length its merits and showing the necessity of the work, and again in the last Congress expressed my views quite at length upon the general subject. In the last Congress the bill providing for the construction of this work after due consideration passed this House and went to the Senate. On account of the immense pressure of public business, which could not be set aside, and a difference of opinion among the friends of the canal in that body as to the mode of constructing the work, whether by the Government as a Government work entirely, or by a corporation aided by the Government, and partly because there was great doubt as to the probable cost of the work, the bill was not passed, but a joint resolution was passed, directing the Secretary of War to make surveys for a canal, of such routes as might be deemed advisable, and report to this Congress the facts ascertained. Under that report we are now acting. Colonel Blunt, a distinguished engineer of the War Department, has caused such surveys to be made, showing the cost of a canal with ample dimensions on three different and distinct routes, one of which terminates at three different points, making five routes as designated in his report, which is upon file for examination by all the members of the House.

The bill we have proposed, and which is now under consideration, provides that this work shall be constructed by the Government and be owned by it and under its control. Paid for out of a common treasury, it shall be free to all sections and all business, excepting so far as it may be necessary to impose tolls to cover repairs, expenses of management, and perhaps the interest of the money necessary for its construction. All this, however, will be at all times subject to the regulations Congress may prescribe. The bill follows the dimensions for the canal adopted by the engineer department in its recent estimates referred to, and which are believed to be ample to accommodate the largest shipping that now uses or that may hereafter desire to use the great inland waters which this work is designed to connect. I will briefly explain to the House the provisions of the bill. It is to be one hundred and twenty-five feet in width, in earth-cutting at water surface, and ninety feet at the bottom, and in rock-cutting with vertical sides it is to be one hundred feet. The lock chambers are to be two hundred and seventy-five feet in length and forty-six feet in width, and there is to be fourteen feet of water in depth.

The bill provides all the usual guards and protection to private rights, and secures ample means for compensation to owners of property taken for public uses in the construction of the canal. The President is authorized to enter upon and take all property necessary to carry out the purposes of the legislation proposed, to acquire title to said property by agreement, purchase, or voluntary cession upon reasonable and just terms if he can, and if unable so to do to apply to the courts for the appointment of commissioners to fix the compensation to be paid for any and all property taken for such public purposes and use. It is also provided that either party can appeal within a reasonable and fixed time from any such appraisal, and demand and have the judgment of a jury of twelve men upon the damages sustained and the compensation to be rendered. It is designed that every possible protection shall be given to the private citizen and owner of property taken, as well as to the rights of the Government.

The work is to be entered upon within twelve months after this act takes effect, and it is to be prosecuted with energy and diligence to as speedy a conclusion as possible compatible with the public interests. A sufficient number of experienced officers of the engineer and quartermaster's departments are to be detailed to superintend and direct said work, under such orders and rules as the Secretary of War shall prescribe. It is also provided that any

portion of the Army not otherwise employed may be assigned to duty in the construction of this canal, and all enlisted men shall receive the same extra duty pay which they receive by law or Army regulations for labor upon any military roads or fortifications. All payments are to be made through the pay department in the manner and upon the vouchers prescribed by law and the Army regulations for the quartermaster's department, and returns made to the Quartermaster General in the manner regulated by law for that department.

The bill further provides that the canal shall at all times during the season of navigation be kept open to the free use of the United States, and that until otherwise ordered by law all foreign vessels, lake crafts, and rafts shall pay the same tolls imposed on like vessels, lake crafts, and rafts by the Welland canal in Canada West in the year 1864. It is also provided in the bill for the regulation, management, and care of said canal after it shall have been constructed, and that proper surety be given for the faithful performance of all duties connected therewith, all to be under the direction of and subject to the approval of the War Department; and further, that said Department shall make all needful rules and regulations consistent with the laws of the United States concerning the navigation of said canal, and provide such fines for their violation as may be deemed necessary, all of which shall be subject to the approval of the President of the United States.

The bill further provides that the President shall cause to be made by skillful engineers all necessary preliminary surveys and examinations of the different routes proposed, and from them and those which have already been made and on file he shall proceed, by the aid of commissioners appointed by him for that purpose, to locate the route for the said canal, having a due regard to permanency of its construction and its greatest advantages for military, naval, and commercial purposes. To accomplish all this it is provided that \$12,000,000 shall be appropriated, or so much thereof as shall be necessary, to be drawn and paid out as the work proceeds. I have every assurance that this amount will be amply sufficient to finish the work. The estimates for labor and material were made, to my knowledge, in many instances above what they can be obtained for even now, and we can reasonably hope that before this work could be entered upon, should this bill become a law, labor, and especially materials of all kinds, will be still lower than at the present time. As prosperity advances the condition of the country becomes more and more settled, and taxation consequently reduced, such works can be prosecuted with greater advantage to the Government and with a corresponding reduction in cost. It is confidently believed that the amount asked will not all of it be needed; but if it be required it will be an investment worthy of a great people and a wise Government, inasmuch as it will be another and final link in the great chain of communication that bounds our northern frontier, through which will pass the surplus production of so many millions of industrious and enterprising freemen living along those inland seas and upon the broad prairies and fields of an empire beyond boundless in its resources, and almost limitless in its extent.

The reasons for the adoption of this measure by Congress, and consequently for the construction of this great national work, are manifold and sufficient. It being a national work, demanded by every consideration of national honor and commercial advantage, it commends itself to us all with the weight of its vast importance. Why should we, with resources and energy unparalleled as a people, having vindicated our superiority in every possible way that a great and powerful people can, with all the facilities for constructing our own lines of communication upon our own soil, with every necessary advantage, too, over all our neighbors, why, I ask, should we continue to pay

tribute to their power and resources, and encourage at the sacrifice of our own interests their enterprise and energy? Thus far a very large proportion of all the business done on the Welland canal has been American, and I may say that American enterprise and American labor and commerce have constructed and maintained thus far this Canadian canal; and in the certain prospect of such support being continued the Canadian Government is anticipating its enlargement to meet the increasing demands of our greatly extending commerce. Shall our neglect to do our duty, foster such a purpose, and tend to bring about such a result is the question for this House to settle, and it should be settled now.

The great lakes will be united in some way by water communication, and such communication will be used by our people engaged in commerce, if such use can be made advantageous to their commercial and business interests. The use of the Welland canal thus far, with its very limited capacity, is proof conclusive of the utility of such a work and of the advantages it does and will afford to the commerce of the great lakes. When we remember the hostility of our Canadian neighbors during our late deplorable civil war; their threatening attitude; their defiant words; their warlike preparations; their sympathy for our enemies; and their apparent, and I may say real, hatred of us, does it not suggest to us that to depend upon them for these commercial facilities and advantages is putting our trust in an uncertainty and hazarding, by our delay and inaction, our very best and highest commercial interests? If it be said that in case of a rupture between us we would take and appropriate to our own use their canal and its benefits, it is sufficient to say in reply, that while this would be our object in any event, whether we had a canal of our own or not, a wise people, with such constantly increasing commerce, cannot afford to wait for such a contingency, earnestly hoped never to arise, and in the mean time pour into their treasury from our own honest industry and enterprise an amount sufficient to construct a canal for ourselves far better and greatly more to our advantage than theirs. This argument is too simple and puerile to admit of serious consideration. Thus much we say in connection with the national aspect of this question: it is bound up in the national honor, and no longer should the work be delayed than to amply prepare for its rapid progress and successful completion.

Again, the importance of this great work can be seen by contemplating the military advantages to be derived from its construction. Concentration is a principle in strategy too well understood to be undervalued, and great efficiency is very often imparted to military force by it. In a time of war its advantages would be to give celerity to the movements of forces, munitions of war, shipping, and all the material of an army, and enable us to throw upon one lake or another, as the situation might require, all our resources and strength. In this aspect this work would be of very great advantage. The British and Canadian Governments understand the benefits to be derived from such internal communications and have acted wisely and provided them for their use, while our Government has been resting supinely for half a century under severe disabilities as to the defense of the lake frontier, imposed by the treaty of 1817, while also the British Government has been pursuing steadily and effectively a policy looking to the complete command of the lakes by a sufficient naval force, whenever she chooses to assert it, through the medium of her internal canals.

She has paid for them thus far over twenty million dollars, and is projecting others to complete her line of communication so as to command all our lake border. These works were constructed avowedly as military works, and during our late war she frequently boasted, in her press and otherwise, that she could pass gunboats from Montreal to Kingston in twenty-four hours and to Lake Erie in less than forty-

eight hours, which was and is undoubtedly true. While by existing treaty these vessels of war cannot be kept on the lakes, the fact that they can be thus concentrated by the English Government at a given point on our border and suddenly thrown upon our undefended and extensive frontier should be a matter of great concern to us, and demands the utmost vigilance and prompt attention and action of our Government in providing facilities equally adequate to defend the vast interests of our commerce and give ample protection to the vast number of our people along the border, now defenseless and unprotected. Thus exposed there is a shore line of over three thousand miles, forming a navigable water boundary for eight of the most important States of the Union, with a population in 1860 of over nine millions. All along and upon their coast and accessible to attacks from the water are towns, villages, and cities teeming with a population of more than a million of our most enterprising, industrious, and wealthy citizens, engaged in agriculture, manufactures, and commerce, and still there is no complete connection between these lakes upon our side and under our control by which we can throw our strength and resources, in case of an emergency, upon one point or another, as might be necessary to give protection or repel invasion.

This one link alone is wanting to make our intercourse between all these lakes complete; and how inconsiderable the expense necessary to complete the connection, in view of the great importance of it to the Government and its absolute necessity to put our northern frontier in a condition of security, and to give such protection to our citizens and their property which it is our duty to render under all circumstances and at all times. It is the constitutional duty of the General Government "to provide for the general safety and welfare." On the upper lakes the commercial marine is almost exclusively American, and from this fact may be learned the vast interests that the Government is bound to protect and defend. Nothing crippled us so much during the last war with England as the want of this very communication between the lakes, while it was the most serious obstacle to our arms. In the event of another war with England the struggle, of necessity, must be along these lakes and rivers; and knowing this the English Government has wisely provided necessary facilities, by means of her inland canals, to give the most ample protection to her frontier, and at the same time be able to throw all her strength upon any point along our northern boundary, while we are and would be powerless to resist, or even protect ourselves or our property. Justice to our people doing business on our lakes and who dwell on our frontier demands that this condition of things should no longer exist. Nowhere on earth in any civilized Government are so many and so vast public and private interests permitted to remain thus exposed to destruction, and completely at the mercy of an unfriendly Power.

This measure is urged, then, as one of urgent military necessity. It cannot be neglected longer without great fault, and its importance in a time of war cannot be well overestimated. To guard every point on our extended frontier by fortifications would be impossible; besides, it would swell the military expenses of the Government to an inconceivable amount and require a vastly greater number of men than should be used for such a result. Our system of warfare has undergone of late a great change. While fortifications will not be entirely abandoned the system of gun-boat fighting will be substituted as a means of protection and defense to a very great extent. To make this efficient celerity of movement is required, and means of transmission and every facility for rapid communication must be afforded. In the great aggregate the defense is more perfect and certain and the expense incident thereto far less and more definite. Construct this great work, and in six months of war with England and Canada it would save in property on the lakes

and along the border fourfold the amount of its cost, besides afford facilities for the protection of the homes and lives of a vast number of our people.

I know it is said, again, that in case of a war we would aim to and certainly possess ourselves of the Canadian border, and thus save ourselves the necessity of frontier protection. With or without a canal this ought to be our purpose, I admit, and we should gain all we possibly could by achieving this end as far as possible; but I remark again, in reply, that we are trusting to an uncertainty; and to save the expenditure of a comparatively small sum we will hazard interests that it is our bounden duty to protect and defend. Before this possession could be made complete, if at all, or amount to partial defense even, vast interests, private and public, would certainly be destroyed, and our commerce especially be left very much to the mercy of our enemies. The highest and best authorities who have spoken or written upon this subject all agree that as a military work and a work of defense and protection it would be of the utmost importance and advantage.

I desire now briefly to consider this canal in the light of its commercial importance and advantages. All will agree that it is its duty as well as its best policy for the Government to give such aid and encouragement to a wise and liberal system of intercommunication that our internal commerce may be developed and increased, and made to flourish commensurate with the enterprise and intelligence of the age. The great facilities which a well-regulated system of internal navigation will afford to the various operations of domestic commerce and all our forms of industrial pursuits all understand and appreciate. By it the products of one section of our country are exchanged for those of another, and thus all sections are made to participate in and enjoy the blessings and luxuries of each and all. Intelligence, enterprise, and happiness are all quickened and developed by the relations thus formed and sustained, and the greatest comfort and prosperity of our people must inevitably be the certain result. Everything that tends to break down monopoly of any kind, whether it be of trade, of means of internal communication, or of any sort of business in which our people are interested or with which their prosperity and happiness are more or less connected, tends to lift them and their interests above the control of avarice and oppression, and spreads broadcast over all the blessings and benefits of a common prosperity. Increase the facilities of internal trade between the different and all sections of our broad land, making the transitions from one section to another rapid, complete, and more frequent, and you increase the competition in business and commercial transactions that will result in every possible advantage to the producer and consumer which are to be aimed at and hoped for. Every new avenue opened up to trade, every additional facility offered to stimulate commercial enterprise, must inevitably, under the laws that govern trade, tend to the reduction of transportation, and consequently to the benefit of both the producer and consumer.

As this result is achieved and our remote parts are brought in close contact by these means with our great markets, where our productions are sold and used or exported, the effect will be to develop the resources of all portions of our country and add to its wealth, its prosperity, its power, and its happiness, as well as to fill its common Treasury from its constantly increasing abundance. What would be the value of real estate to-day upon our western borders and along the banks of our great rivers, where but a short time ago civilization had not made its habitation, had there not been adopted a wise and liberal policy of intercommunication by which these portions of our country have been brought into almost daily commercial intercourse with the East, making them as valuable, as rich, as prosperous, and as much to

be sought after as any portions of the Republic? Very much has been done already, and much more will be done. Roads and canals, while they follow civilization in its rapid advance, are nevertheless the great civilizers of the age, especially with us. They span the great rivers, traverse the trackless plains that spread out over an extent as broad as vast empires, run through the valleys that lie along the bases of the great mountains whose sides they climb or whose rocky hearts they pierce, scattering in their way and spreading broadcast civilization, population, enterprise, intelligence, wealth, prosperity, and happiness, and lifting up a whole people to a higher and nobler aim. But let us look at the business of our lakes thus far, and then contemplate what our internal commerce must be in the future.

In 1862 at least thirty-two million bushels of grain, including wheat manufactured into flour, besides other agricultural products of western States, came from the upper lakes to Lake Ontario through the Welland or Canadian canal and over railroads connecting Lake Ontario and the upper lakes, and outside of our borders. All of this went to sustain that canal and to pay tribute to Canadian enterprise and add to Canadian prosperity. More than three fourths of this grain found its way from Lake Ontario and the St. Lawrence through American channels to New York and New England. Nearly twenty millions of it was shipped eastward from Oswego and Cape Vincent, and some five million bushels from Ogdensburg over the Northern railroad; showing conclusively that nearly all of the commerce that will pass through this canal, if constructed, will reach our ports East, and not go out to the ocean by the St. Lawrence, as some insist and seem to fear.

If time would permit more might be said upon this point; but it can hardly be necessary. Suffice it to say that in all the past since the Welland canal has been in use but very little of the products of the West which have found their way into Lake Ontario, has escaped from our channels of communication with our eastern ports, for the good reason that there is commercial as well as natural disadvantages and obstacles in the way of such a result. Millions of money have been expended to open a safe way to the ocean, aside from what has been expended on her canals, and still the way out is difficult, exceedingly dangerous, and comparatively unfrequented, and must remain so forever. Some of the finest steam-packets, within a few years, in number eight, I think, have been lost in the intricacies of this route, and in the year 1863 but a single vessel cleared and entered American ports through this channel from foreign countries. Thus it will be seen that under no possible circumstances, were this canal built, any more than now when we use the Welland canal, would our commerce find its way out into the ocean through the Gulf of St. Lawrence and escape our ports, as some who object to its construction insist.

The business for the year 1862, to which I have referred as passing into Lake Ontario from the West through Canadian channels, is not an overstatement of the facts. During that and the preceding year the industry of the great West was paralyzed by the war on account of the absence of so large a portion of these who labor and produce. Again, the annual increase of products of the States west that are tributary to our roads and canals, and which carry such products to our markets, is at least twenty per cent., and this wonderful development must continue in operation for a long time to come. Not a tenth part of the land is yet occupied by the cultivator, although foreign and domestic emigration is fast filling up the country and rapidly developing its resources and adding to its production. Already over one hundred million bushels of grain are transported from the upper lakes to the tidewaters of the East by the routes of trade now in use, and with all the facilities necessary, and as

soon as they can be furnished, this amount can be increased to a thousand millions. We are giving Government aid to extend our lines of railroad across the continent, to open up and develop our vast domain stretching on to the Pacific coast, so that it may add its share to the great aggregate of production and wealth which the future must witness.

All this is just and proper, and should not be neglected; but we should at the same time remember that the resources and production of the West, this side of our unsettled territory, are already too great for the facilities we have to carry off to market its surplus, and that this deficiency must be more and more apparent and embarrassing as we proceed, unless we act with energy and haste. Many facts might be given to show the wonderful advance we are making, and consequently to impress upon us the necessity of the legislation we now ask, and other similar legislation; but I will give only a few. The great State of Illinois alone numbers two million two hundred and fifty thousand people, and those known as the northwestern States have a population of over ten millions. About forty years ago they contained scarcely one million people. Chicago was then an Indian trading post, while now it has a population of about a quarter of a million, and is said to be the greatest market for lumber, pork, and grain in the world.

At the end of the present century, at the expiration of about thirty-two years, according to the present ratio of increase, our population will be not far from one hundred million people. The West and that portion of our territory tributary to our lines of communication to our eastern ports will have of this vast population at least sixty millions. If our facilities are too limited now, and not adequate to carry off the surplus produce of ten million people, what will they do with the produce of sixty millions? This is no imaginary picture, but a startling fact it will be well for us all to ponder upon. We live not for to-day alone, but for the future as well. The statesman acts not for the present emergency alone, but should devise such ways and means as will not only care for and relieve the present, but meet the demands of the great future, and he is the wiser who comprehends what that future will require, and makes early and ample provision for its wants. I cannot enlarge upon this idea as I would like to have had time. The field is large, and the considerations that cluster around the theme that opens up to us as we contemplate it are of such surpassing importance that it would well repay the contemplation, but we must refrain from it at present. What advantage would this canal be to the producer and consumer is a question well worthy of consideration. Upon the general principle it would be a benefit by adding another facility to commerce, and thus tend directly to open up competition and reduce the cost of transportation.

The construction of the Welland canal had this effect; for after it began to produce its influence upon trade the cost of transportation on the regular lines of communication heretofore existing was reduced as a direct consequence of that competition. In 1855, Hon. W. J. McAlpine, State engineer of the State of New York, in his annual report on railroads, gave us the most reliable data we have, showing the actual cost of transportation by the different modes of communication, from which we take the following interesting statement:

Cost of transportation per ton per mile is:	Mills.
On the ocean, long voyage.....	1 1/2
On the ocean, short voyage.....	2 1/2 to 6
On the lakes, long voyage.....	2
On the lakes, short voyage.....	3 to 4
On the Hudson river.....	2 1/2
On the Mississippi and St. Lawrence.....	3
On the Erie canal (enlarged).....	4
On the ordinary canals.....	5
On the railroads (ordinary grades).....	12 1/2 to 13 1/2

Now, the distance by the lake from Chicago to Buffalo is one thousand miles; and the actual cost of transporting a ton of freight,

according to the estimate of Mr. McAlpine, is two mills per ton per mile, or—

For a ton of freight from Chicago to Buffalo.....	\$2 00
The distance from Buffalo to Troy is three hundred and forty-five miles, which, at four mills per ton per mile, makes the cost of transporting a ton from Buffalo to Troy.....	1 38
Add canal tolls, at three mills per one thousand pounds per mile.....	2 07
Cost of transportation per ton on the Hudson, at two and a half mills per mile.....	37.5

Making the whole cost, including canal tolls, of transporting a ton of wheat or flour from Chicago to New York, via Buffalo and the Erie canal.....	\$5 82.5
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Cost via the Niagara ship-canal and Lake Ontario:	
The distance from Chicago to Oswego, via the proposed ship-canal, would be eleven hundred and eighty miles, which, at two mills per ton per mile, would be.....	\$2 36
The distance from Oswego to Troy, by canal, is one hundred and eighty-seven miles, which, at four mills per ton per mile, for transportation, would be.....	74.5
Add canal tolls, at three mills per one thousand pounds per mile, on wheat or flour.....	1 12.2
Freight on Hudson river at two and a half mills per ton per mile.....	37.5
Add Niagara ship-canal expenses, per ton.....	20

Making the cost of transporting a ton of wheat or flour from Chicago to New York, via the proposed ship-canal and Lake Ontario.....	\$4 80.2
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The above statement is no doubt entirely correct; at least it remains unchallenged. From this it appears that the difference in transportation is in favor of the ship-canal route, and the cost \$1 02½ less on a ton of wheat or flour from Chicago to New York than by the cheaper other route by lake to Buffalo and Erie canal and Hudson river to New York. This is a little over three cents per bushel less on wheat and about fifteen cents per barrel less on flour.

Again this difference would be increased by the competition which always springs up between rival routes of trade, so that low freight would not be confined to this route, but all competing routes between the East and West would be obliged to reduce prices on through freight at least so as to conform to the cheaper channels, thus saving to the West annually millions of dollars, and to the East in the same ratio.

The reason of this difference is apparent in the fact that lake and ship navigation is cheaper than canal navigation. Vessels load at Chicago and do not break bulk before arriving at Oswego at least, and thus in large quantities the grain or flour is carried further toward tide-water before transshipment, saving one hundred and fifty miles of canal navigation and not increasing worth the mention the distance in the aggregate. Trade will go where inducements offer the greatest benefits, and although the Welland canal is inadequate and inferior, such shipping as can adapt itself to its capacity will avail itself of its facilities and reap the benefits that are offered. The question addresses itself to every Representative here and all the people we represent, whether we shall furnish necessary facilities to our own people and our own commerce, or whether we shall depend upon and take them from others outside of our borders, and who have no interest whatever in our advancement and prosperity, and who will furnish them when, and no longer, than their caprice is suited and their interests are subserved.

As a Representative from New York, I advocate this measure for the reason, among others which I shall notice hereafter in addition to those I have already given, that the facilities we propose by this bill to give to commerce will in a time of peace be extended in part or in whole by the Canadian Government, and consequently the great canals through New York will be no better off, so far as revenue is concerned, if this work should not be completed. Already the Canadian Government is arranging for the enlargement of her canal, to meet the constantly increasing demands of the trade of our lakes, and is waiting with the deepest solicitude to see whether our Government has enough of

independence, self-respect, and a regard for the rights and interests of our people and its own honor to give this great work its sanction and provide for its construction. It is, then, a question whether we furnish these facilities for ourselves within our own borders, under our own control, available for all purposes and in every emergency.

I do not believe that the canal revenues of the State of New York will be lessened one dollar by the construction of this canal, for without it the same facilities will be furnished by the Canadian Government, and our commerce will avail itself of them as a matter of course. But if I am mistaken in this view of the question the obligation to sustain the measure is just as strong upon me and upon every Representative from New York. First, this work is a national work entirely, free to all our people, and we should act upon it in our capacity as national Representatives. Upon this question touching the interest of the consumer, the laborer, and mechanic in our eastern cities, who has to buy his daily bread, as well as the interest of the sons of toil in the West who produce, no narrow, selfish State pride or policy should intervene to prevent doing the greatest justice and securing the greatest good to the greatest number. I should be ashamed to charge upon the great West any of the evils resulting from the system of operating our canals in New York or the poverty and embarrassment that their frauds and corruptions have visited upon our people. They all belong to ourselves, the system we have adopted, the dishonesty we have tolerated too long and too patiently endured. The canals have done their duty, and the great West has done its duty by crowding them with its surplus productions, and pouring into our Treasury a large proportion of all they have earned since they were constructed.

What are the facts? In the opposition made to this measure in the last Congress, and presented here by the canal officers of my State, it was assumed, and I think without good foundation, that this canal, if constructed, would lessen the revenues from the Erie canal, and therefore should not be entered upon, even by the General Government, for general and national purposes.

In the protest and statement then presented, and in other public reports, it is stated also that our canals cost, all told—interest, loans, damages, enlargement—\$100,000,000; and that between eighty-three and eighty-four millions have been returned to the treasury of the State, leaving about fifteen millions of disbursements unreturned. The great central line, however, which is the one with which the canal we propose to construct will come in competition, has more than met its cost, interest, loans, damages, and enlargement, and has paid into the treasury of the State, in addition to the above, \$9,000,000.

Any deficiency, however, now existing attaches to the lateral canals, and cannot justly enter into this controversy. I do not think, therefore, it becomes New York, located midway between the West and the East, in the light of the above showing, to interpose obstacles to the prosecution of this great work, and thus hazard her best and highest interests. I sustain this measure rather in the interests of my State than otherwise. What tends to quicken, develop, and advance the great West and invite its productions and wealth east will fill the lap of New York as inevitably as water will seek its level. This great tide of trade and commerce must pour through her channels in whole or in part, and fill her great cities and ports with activity and wealth, or if some small portion moves on further east it will leave all along her shores and upon her lines of communication that gain which comes from their use and by the contact. But I would warn all who with me feel a deep interest in the prosperity of New York, as well as a desire to act upon the high stand of the greatest general good and advantage, to beware

how they trifle with the expressed and growing determination of the West to secure every possible facility and advantage for their commerce to carry off their produce. It will force its way out in some way. You cannot block it up. If you throw up obstacles to its progress it will flow over or around them. If you stand in its way and deny it a route and adequate facilities it will seek other channels of communication, and at last, when too late, our folly and stubbornness will fill us with shame and cover us with disgrace.

We have already gone so far in our opposition to this great work that negotiations have been attempted with the Canadian Government to secure the construction of a canal through Canada between the Georgian bay and Montreal, and also the speedy enlargement of the Welland canal. Western Legislatures are moving in this matter; and it behooves New York, as represented here, to occupy no doubtful position, but to stand together in favor of this measure, which commends itself to her best and highest interests. Certainly no Representative from the city of New York should oppose this measure. It is but another outlet or an additional facility for the benefits of commerce to flow into her lap and fill her store-houses and add to her wealth. It can work no possible disadvantage to her, while in addition it is her duty, and the duty of her Representatives here especially, to stand by the policy this measure sustains, for its defeat will bring leanness and poverty to her people. The more and greater the facilities to trade between the West and the East the better for all concerned.

Let all our present lines of communication be improved and enlarged as ability will permit; let the number be increased as the growing tide of commerce swells with the increase of our population and expands with the constant development of our enterprise and industrial power. The business of the great future will be more than a match for all the provisions we may make. Our present lines of business, instead of going into decay or not being fully taxed to their capacity, even when further improved under the weight and pressure of what the future will throw upon them, will enjoy a prosperity not now conceived of, and will, in my judgment, fall far short of meeting the demands that will be made upon them.

The East, too, is deeply interested in this work. Its interest is manifest in what the internal trade of the country has done for it. By it the granaries of the mighty West have been unlocked and their contents poured out over the East in return for its productions, the result of its handiwork and skill. The bread for the million has thus been scattered profusely among the toiling artisans and laborers of New England, who wait upon, and expect from, the surplus and vast resources of the West sufficient to supply their daily wants. As you increase facilities for commerce between the different portions of our country, open up additional avenues of trade, and multiply the means of, and accelerate communication, you at the same time increase legitimate and wholesome competition, and in the one instance swell the results of labor, and in the other place in the hand of toil more ample means of support. Just in proportion as you multiply these facilities you invite and encourage industry and enterprise, cheapen transportation, and in the same proportion cheapen bread, and add to the comfort and prosperity of all our people.

This last, but not least, link in the long line of lake and river communication connecting the far West, its rivers and railroads, with the East and tide-water, should command the support of every member of this House, not even excepting my colleague [Mr. HUMPHREY] of the Buffalo district. I am no party to a policy of proscription by which any locality or section shall be crippled to build up another; neither will I favor a narrow, selfish, suicidal scheme, by which great national and general benefits

are to be lost, because of an imaginary or supposed local disadvantage. Commerce and trade are means to be used to promote the prosperity and happiness of all the people, and their benefits should be as widely extended and as universal as the wants and interests of the whole country demand.

This work is a national one, and its benefits are to be national and general. Every consideration of honor, self respect, and public interest demands that it be consummated.

In this legislation there are no interests to serve but the interests of the people of the whole country. It seeks to build up no corporation which in time may grind the poor or less favored into the dust and ignore the rights or interests of the people. Its benefits will not go into the pockets of a few speculators to build up their fortunes at the expense of the people's rights and the public Treasury; but they will be as widespread as our country, and enjoyed by all. It has been complained that the people's rights have been sacrificed to foster and build up great railroad corporations and monopolies of various kinds; that they are soulless when they once get power, and seek to perpetuate their power at any sacrifice of public or private rights and interests. However true this may be, no such charge can be made against this proposed legislation. This is a national work, and is to be the nation's property, for the benefit of all sections and all our people. It will more largely benefit the West and that section which furnishes such a vast amount of surplus production, and which must seek a market; but the East will also be benefited as the result of cheaper transportation, for it will cheapen every mouthful of food that sustains and encourages her industry and keeps alive her toiling millions.

There can be no good reason for delay or opposition unless it be found in the appropriation which this bill makes to accomplish the work proposed. While in itself it appears large, it should be considered in connection with other expenditures made by Congress for various purposes, and with reference to the vast and continual benefits that must flow from the final and successful completion of this great work. Paid for out of the national Treasury, it in return spreads its benefits over all the wide field of commercial transactions to the benefit of all our people, as I have shown. The increase of production, as it would tend to cheapen transportation and quicken commerce, would very soon repay the people of the whole country for all outlay to secure the objects of this legislation. Economy and honesty in the administration of public affairs, which we hope ere long to secure, and before this work could be entered upon, at the best, will, in a very short space of time, save vastly more than enough to meet all the demands this bill makes upon the Treasury, and which is now being divided among thieves outside and inside the Government service.

The amount asked by this bill will be called for only as wanted, and will thus be spread over a term of three or four years at least, making no heavy drain upon the Treasury at any one time. I agree with my distinguished friend from Illinois [Mr. WASHBURN] that it is time to look after the people's interests and legislate for their good and their prosperity. This is a people's measure. It can have no private interests in it. There are no stocks to be issued and no bonds to be divided. It is legislation to secure an additional and necessary outlet for the surplus products of an empire constantly expanding and increasing in wealth, enterprise, and production, already restrained and cramped in its energies by our present insufficient facilities for outlet. It is legislation for cheap food to the poor, the daily laborer, to the millions of our people who toil to earn their daily bread. If it be but one effort in this direction, it is nevertheless an important one, and should receive the support of the people's Representatives from all sections, not excepting my colleague from the Buffalo district. Let us save

money in some other way, by withholding from private jobs and enterprises, and make this appropriation in the people's interests and for the public benefit.

Mr. Speaker, with our vast domain, populated and developed as it is fast being done, and its mighty resources opened up and poured into the avenues of trade and commercial activity, all our present embarrassments will be as trifles and fade away before the swelling tide of wealth that pours into a common Treasury from a land whose resources are unbounded and whose wealth is untold. I have no fears as to the future. A nation free and just to all its people, with laws bearing equally upon all, with rights and liberty equal to all, with no restraint except in wholesome and just laws and limitless as to extent of country and resources, no one can foresee our boundless future or form any adequate conception of our future prosperity and wealth. All this, however, flows from the policy I have suggested and set forth. Employment, expansion, and physical as well as mental and moral development, are elements of true greatness and high national character and prosperity.

Mr. Speaker, whatever may be the fate of this measure, I feel that I have discharged my duty in relation to it, and close by expressing the earnest hope that it may be passed by the House.

Mr. HUMPHREY addressed the House. [See Appendix.]

Mr. PAINE. Mr. Speaker, I wish to urge upon the attention of the House some facts and arguments bearing upon the bill under consideration, which I have at different times and places addressed to the people of my own State. Two wonderful valleys pierce the North American continent at right angles, the one extending westward from the Atlantic ocean, and the other northward from the Mexican gulf. Through each of these valleys rolls an inland ocean capable of bearing upon its bosom a commerce the measurement of which would almost baffle even figures themselves. They meet each other in the center of the continent. Their waters intermingling there, again find a common level in the sea. Here lie the grain fields of America, the States of Ohio, Indiana, Illinois, Michigan, Wisconsin, Iowa, Missouri, and Minnesota, opulent in the accumulated fertility of ages, inviting the hand of agriculture to a future harvest adequate to the supply, not only of our own country, but of Europe also. They lie in the interior of a great continent, a thousand miles from the sea, where their infinite riches would be as useless to man as gold imbedded in inaccessible mountain ranges had not the hand of the Almighty opened for them these mighty water-courses to bear away their yellow harvests to the markets of the world.

But for these valleys of the Great Lakes and Mississippi, and the flowing seas that fill them, those eight States would be, not what they are to-day, the theater of the latest and highest and best development of human industry, but what they were yesterday, the hunting and fighting ground of the savage aborigines. But for them, Wisconsin, instead of growing in population, in the twenty years which intervened between 1840 and 1860, from thirty-one thousand to seven hundred and seventy-six thousand, would still be unknown to the civilized world except through the narratives of hardy explorers. And yet these natural highways, valuable as they were to the northwestern States, were not complete. They required improvement by human hands. It is always so. God's best gifts to man always require the cooperative activity of men to utilize them to the highest degree. The Greek poet said well, "For toil the gods sell all good things to men." There is never any exception to this rule; there is no exception in this case. It might have been very convenient for us if ocean steamers, starting from the head of Lake Superior, could for twelve months in each year pass through the lakes and straits and rivers

in their natural state without obstruction of falls, flats, or rapids, to the sea. It might be very satisfactory to us if ocean steamers, or even river steamers of the largest class, starting from the Falls of St. Anthony, could plow their fearless way to the Gulf unobstructed by rocks, or rapids, or sand bars, or snags.

Indeed, it might please us better still if our water-craft could be at the same time exempted from the burdensome expense of steam or other motive power, and enabled to "go alone" upstream as well as down. But before we look this gift horse in the mouth it might be well to consider how many centuries of uninterrupted toil of the entire human race would be required to scoop out these mighty valleys and drain the waters into them and make those water-courses to the sea as good as they were when nature placed them in our hands, and with energy to set about improving these good gifts, instead of grumbling because they are not better. Each of these lines of communication had its defects when first used by civilized man. Each has been from time to time greatly improved. But each has still imperfections and room for further improvement.

It is my purpose to-day to show the House that the interests of those States and of the entire Republic demand, imperatively demand, that the facilities for the transportation of the agricultural products of the Northwest to their legitimate markets shall be promptly and very greatly improved, and to indicate those improvements which, in my judgment, are practicable and will prove effectual for the relief of the agriculture of the Northwest.

In 1840 these eight States contained a population of 3,351,542. In 1850 their population had increased to 5,403,595, and in 1860 it was 8,955,932. If it had increased in each State from 1860 to the present time in the same ratio in which it increased from 1850 to 1860 the population of these eight States would now exceed 17,300,000. Making every possible allowance for the war, and for every other conceivable cause of diminution of their progress, their population to-day must greatly exceed 12,000,000. But if you will look at the five States lying nearest the intersection of these great valleys you will discover a growth still more amazing—I mean the States of Illinois, Michigan, Wisconsin, Iowa, and Minnesota. In 1840 the population of these five grain-producing States was 762,507. In 1850 it had risen to 1,752,806, and in 1860 was 4,083,981. If the population of each State had increased from 1860 to the present time in the same ratio in which it increased from 1850 to 1860, the total population of these five States would now exceed 11,250,000; for during that period the population of Illinois increased at the rate of 10.10 per cent. per annum on the figures of 1850, that of Iowa at the rate of 25.11, that of Michigan at the rate of 8.83, that of Wisconsin at the rate of 15.40, and that of Minnesota at the rate of 27.6 per cent. per annum. I am satisfied that the population of these five States is to-day not less than 6,000,000. In the two decades between 1840 and 1860 the eight States which I have named, including Ohio, Indiana, and Missouri, almost trebled their population. In the same period the five States of Illinois, Michigan, Wisconsin, Iowa, and Minnesota had increased more than five hundred per cent. Where else in modern history will you find a parallel to the majestic growth of empire revealed by these wonderful figures? Where is the lamp of Aladdin or the magician's wand that has wrought this miracle? The golden corn was the lamp of Aladdin. The waving wheat was the wand of the magician. While for ages the soil of Asia and Africa and Europe has been taxed for the sustenance of the human race, these natural grainfields have been accumulating a wealth of fertility which now suddenly disclosed to mankind proves potent enough to fix the seat of empire for a continent.

The product of wheat and corn in the eight northwestern States for the year 1865, as esti-

mated in the report of the Department of Agriculture, was, in bushels:

1865.	Wheat.	Corn.
Illinois.....	25,366,745	177,095,852
Indiana.....	13,020,803	116,069,316
Iowa.....	13,698,542	62,997,813
Michigan.....	15,378,488	17,520,305
Minnesota.....	3,429,467	5,577,795
Missouri.....	2,953,393	52,021,715
Ohio.....	17,601,472	91,119,644
Wisconsin.....	20,307,920	13,449,405
Total.....	112,752,930	535,851,945

For the whole country the estimates were—wheat 148,522,827 bushels, and corn 704,427,863 bushels.

For the five States of Illinois, Iowa, Michigan, Minnesota, and Wisconsin, in 1865, the amounts are of wheat 79,077,162 bushels, and of corn 276,641,170 bushels.

Now, putting these figures together, it appears that in 1859 the eight northwestern States had less than three tenths of the population of the Republic—that is to say, only 8,955,932 out of 31,443,322—and yet in 1865 the same States produced three fourths of the corn and more than three fourths of the wheat.

It also appears that the five States of Illinois, Iowa, Michigan, Minnesota, and Wisconsin, in the year 1859, had only a trifle more than one eighth of the population of the country, and yet in 1865 they produced more than half of the wheat and almost half of the corn. It would be superfluous to comment upon figures like these. And that there is still room for indefinite expansion we cannot doubt if we consider the fact that in 1859 the agricultural area of the country embraced only 168,110,720 acres, while the gross aggregate of uncultivated land, fertile and waste, was ten times as much; that is to say, 1,466,969,862 acres.

The wheat shipped from Lake Michigan eastward is a part of our surplus contributed to the aggregate product of the country, from which, after supplying those of our own States, whose consumption exceeds their production, is drawn the surplus which we export to foreign countries.

The aggregate export of wheat and flour from the United States in the three years 1861, 1862, and 1863 was 124,828,902 bushels; and in those years the shipments from Milwaukee, Chicago, Green Bay, Port Washington, Sheboygan, Kenosha, and Racine, on the western shore of Lake Michigan, amounted to 123,281,981 bushels; and this wheat was almost wholly the product of Wisconsin, Minnesota, Iowa, and northern Illinois. It would be difficult to overestimate the extent to which, in the peculiar situation of the country during these years, the national credit was invigorated by those exportations.

Meantime southern Illinois, Missouri, and Iowa supplied most of the flour consumed in Dakota, Idaho, Montana, Colorado, and a part of Nebraska. And during the same three years Wisconsin, Iowa, Illinois, Minnesota, and Missouri actually shipped eastward one hundred and fifty per cent. more corn and meal and twenty-five per cent. more pork than the whole Republic exported during the same period. Their aggregate contributions to the national surplus, which furnished our exports during those three years, amounted to \$205,726,706. But the entire exports of domestic produce for the same time, exclusive of gold and silver, amounted to only \$669,032,450. The surplus of wheat, corn, and pork sent eastward from these five States was thus almost one third of the entire exportation of the United States.

The average yearly tonnage of all vessels of all nations engaged in transoceanic commerce in the same three years and entering the ports of the United States was 5,341,867 tons. The wheat, corn, beef, and pork contributed by these five States to our foreign exports averaged not less than 1,250,000 tons per annum. These shipments, therefore, which equaled the entire exportation of these products and one third of the aggregate exports of all our domestic

products, except gold and silver, actually furnished outward-bound employment to one fourth of all the tonnage of all nations trading across the sea from American ports.

The Agricultural Report for 1865 places Illinois in the front rank of the wheat-producing States, looking not to population but only the number of bushels raised. Her crop exceeds twenty-five millions. Next comes Wisconsin, with a crop of over twenty millions. Ohio is third, Michigan fourth, Iowa fifth, and Indiana sixth. And as for corn, Illinois alone produces several million bushels more than Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, and Kentucky all together.

In 1859 the aggregate product of wheat in the States and Territories was five and one half bushels to each inhabitant. New England produced only eleven and one half quarts to each inhabitant. The middle States produced three and two thirds bushels to each inhabitant. The southern States produced three and one half bushels to each inhabitant. But the western States produced ten bushels to each inhabitant; and one of them, Wisconsin, produced more than twenty bushels for each man, woman, and child within her borders.

In 1869 the single State of Illinois produced, according to the census returns, 23,887,023 bushels of wheat, and yet the whole amount exported to foreign countries in the same year was only 17,213,133 bushels. In the same year she produced 115,174,177 bushels of corn, and the entire export of that year amounted to only 15,448,507 bushels. The first shipment of grain from Lake Michigan of which we have any record was one of 3,000 bushels of wheat, made in 1836, by the brig John H. Kenzie, from Grand Haven to Buffalo. The first shipment of grain from the western shore of that lake was made from Chicago in 1838, and consisted of thirty-nine bags of wheat. The first shipment of grain from Wisconsin was made in 1841, at Milwaukee, where a cargo of about 4,000 bushels of wheat was sent to Canada. But the shipments of grain and flour from ports of Lake Michigan were, in 1858, 27,879,293 bushels; in 1859, 25,829,753 bushels; in 1860, 43,211,448 bushels; in 1861, 69,489,113 bushels; in 1862, 78,218,675 bushels; and in 1863, 74,710,664 bushels.

The magnitude of the agricultural interest of the Northwest is shown in a striking manner by the figures, which exhibit the extent to which it furnishes business for the railway lines of this country. The report of the Milwaukee and St. Paul railway for 1865 shows that the amount of wheat and flour transported on that road in that year was 6,286,834 bushels and 271,000 barrels, amounting to 214,623 tons. But the entire tonnage of freight for that year was only 319,656 tons; so that the single article of wheat, ground and unground, contributed more than two thirds of all its freight. And yet during the same year the road also carried for the farmers of the Northwest 74,970 bushels of rye, oats, and barley, 18,425 bushels of corn, 18,797 bushels of potatoes, 10,580 head of cattle, 4,442 live hogs, 2,258,590 pounds of dressed hogs, 810,970 pounds of wool, and 2,156,190 pounds of hides.

The report of the same road for 1866 shows the amount of wheat and flour transported in 1866 to have been 5,945,948 bushels, and 305,685 barrels, or 208,139 tons. But the entire freight was only 361,687 tons; the wheat alone, therefore, contributed more than one half the freight.

The report of the Milwaukee and Prairie du Chien railway for the year 1866 shows that in that year it transported 5,724,051 bushels of wheat and 179,779 barrels of flour, amounting in the aggregate to 189,334 tons, or more than one half the entire freight for the year, which was only 369,320 tons. In addition to this ground and unground wheat, the road transported other agricultural products in large quantities, including 170,525 bushels of rye,

29,661 bushels of barley, 995,148 bushels of oats, 383,957 bushels of corn, 55,800 bushels of potatoes, 20,505,740 pounds of dressed hogs, 1,218,915 pounds of butter, 686,220 pounds of wool, 1,469,920 pounds of hides, 13,887 head of cattle, and 36,195 head of hogs.

The same report shows that on the McGregor Western road in 1866, of a freight business of 60,589 tons, the single article of wheat, ground and unground, furnished 35,466 tons, or more than seven twelfths.

The reports of the Chicago and Northwestern railway show that the entire freight revenue of that road in 1864 was \$4,448,598 57, of which grain and meat furnished \$2,193,953 08; that in 1865 the entire revenue from freight was \$5,744,895 57, of which grain and meat furnished \$2,812,042 75; that in 1866 its entire revenue from freight was \$6,649,589 81, of which grain and meat paid \$2,799,273 80.

Having presented these facts, indicative of the present development of the agriculture of the Northwest and suggestive of its indefinite expansion in the future, I will proceed to show how grievously it is crippled and hampered by inadequate facilities of transportation to its markets. The history of these States having demonstrated their agricultural productiveness, their prosperity hinges altogether upon the question of transportation. If this transportation shall keep pace in its expansion with our increasing production, then will our prosperity continue. If our means of transportation shall at the same time become better and cheaper as well as greater, then will our prosperity increase. It will increase, too, in proportion to the relative improvement of these facilities for reaching our legitimate markets. If the enlargement of these facilities shall not keep pace with our agricultural development our interests must languish, and in proportion to their inadequacy must we suffer. To the agricultural producer whose surplus does not find a market at his own door the question of transportation is a question of life or death. And where is the present market for the surplus grain and meat of those northwestern States? First, we must look for it to those States and Territories whose consumption exceeds their production, and next to foreign countries. The States which purchase most from us are New England and the Middle States. New York city, therefore, virtually conducts the distribution of these products to purchasers within the Republic as well as their exportation to foreign countries. New York, a mere cipher in our lumber market, is the mistress of our grain and meat markets, and at present our transportation lines must mainly tend toward that city, while for our export trade we ought to have, if possible, an unobstructed route to Europe.

I could comprehend the present condition of things if in this matter of transportation the interests of agriculture antagonized with those of manufactures. Then I should expect manufacturers to stand across our track. But in this case, where manufactures will gain as much by cheaper food as agriculture can gain by cheaper transportation, I am amazed at the temerity of local interests seeking to fetter the whole Northwest, and ashamed that we so patiently submit to it. New York produced in 1865, in round numbers, 12,000,000 bushels of wheat, and Wisconsin produced 20,000,000 bushels; and yet New York received for her wheat \$26,000,000, while Wisconsin received only \$22,000,000. New York received \$4,000,000 more for 12,000,000 bushels than Wisconsin received for 20,000,000 bushels. That is to say, Wisconsin virtually paid 3,000,000 bushels of wheat and \$4,000,000 in money to get the remaining 12,000,000 bushels of wheat to market. Pennsylvania realized \$23,000,000 for her crop of 11,000,000 bushels, while Iowa for her crop of 13,000,000 bushels realized only \$13,000,000. Pennsylvania produced 2,000,000 bushels less wheat, but realized \$10,000,000 more money. Minnesota produced three times as much wheat as New Jersey, and yet New Jersey realized \$200,000 more for her crop than

Minnesota. Poor Minnesota had to pay two bushels for the transportation of a third. All of New England and New Jersey produced, in the aggregate, 20,209,819 bushels of corn, and realized for it \$19,817,848; while Iowa for a crop of 62,997,818 realized only \$18,899,344.

The six New England States, together with New Jersey, New York, and Pennsylvania, produced, in the aggregate, 81,081,250 bushels of corn. But Illinois alone produced 117,095,852 bushels, almost one hundred millions more than the aggregate of those nine States, and yet Illinois realized for her entire crop only \$51,800,536, while they realized for theirs \$72,732,625. A bushel averaged 90 cents in those States, \$1 19 in New England, and only 29½ cents in Illinois. Illinois was obliged to pay, in round numbers, 100,000,000 bushels of corn and \$20,000,000 to get 80,000,000 bushels to an eastern market. The six New England States produced, in the aggregate, 10,082,947 bushels of corn; Illinois, as I have shown, 117,095,852 bushels. The entire value of the crop of New England was \$11,887,834. The value of the crop of Illinois was only \$51,800,536. The crop of Illinois was in quantity seventeen times that of New England, its value less than five times. The difference between the average value of corn in Illinois and in the State of New York was 65½ cents. If Illinois had paid that price to send her corn to market the transportation of her corn alone would have cost her more than the home value of her entire crop for the year, including corn, wheat, rye, oats, barley, buckwheat, potatoes, tobacco, and hay; for the freight on her corn alone would have been \$116,440,522, 69, whereas the home value of all her crops, corn included, was only \$116,274,321.

The average value of cattle in the six New England States was \$41 50 per head, while in the eight Northwestern States which I have named their average value per head was \$26 85. The average value of hogs in the six New England States was \$21 70 per head; in the Northwest, \$8 32. The main cause of this monstrous inequality is inadequate transportation, and the remedy will be found in improved transportation. If our transportation were what it ought to be, or anything approximating thereto, these evils could not exist. And while these odious figures stand before us it will be idle to expatiate upon the number of avenues by railway, canal, lake, and river, open from the Northwest to the sea-board, upon the number of canal boats in this or that canal, the tonnage of this or that railroad, or the number of bushels which this or that canal could by possibility move, working day and night, in a whole year.

The more we ship by such routes the worse is our condition. If we are to pay two bushels as freight on one the less we ship the better. What we want and must have is cheaper transportation.

When this measure was before the House on a former occasion the gentleman from Illinois [Mr. Cook] made the following statement:

"There are five routes by water and by rail from Chicago to the sea-board, and yet the demand for transportation last fall was so great, such vast quantities of agricultural products were waiting to go forward—more than all the lines could transport—that the price of transportation from Chicago to the sea-board was fixed by the dearest route of all, and flour or pork or beef could be as cheaply transported by Fort Wayne and Pittsburg and over the mountains of Pennsylvania as by the great water route."

It is not satisfactory to be told that on the Erie canal the freight and tolls on a bushel of wheat are only seventeen cents in the month of June, when we have no wheat to transport, if we know that in the fall, when we have wheat for transportation, we must pay nearer forty cents. Nor do we care to know what the average charge for freight and tolls is for the whole season, including the months in which there is no movement of wheat as well as the others; what concerns us is the cost in the months in which our wheat must go forward. On this point we need no further experience to satisfy us that the New York canals in their present condition are powerless to relieve northwest-

ern agriculture from burdens too grievous to be borne.

It is useless to expect us to bear these ills with patience until manufactures shall spring up to consume our surplus products. While agriculture is blended with the very rudiments of empire manufactures are of slow growth, and must have time for their development. Let us by all means have the highest possible development of our manufacturing resources at the earliest possible day, but let us not meantime, while waiting for that day, like idiots, spurn those resources of agricultural wealth which are now available, the very development of which will more surely and more speedily than anything else bring along that manufacturing prosperity which we covet. It is not the Northwest alone that demands these improvements; the whole country needs them, as well the eastern manufacturer who wants cheap food, as the western farmer who wants cheap freights. The wants of the present are urgent, but the wants of the future will be more urgent still when emancipation and reconstruction shall have opened the door for the development of the measureless resources of the Southwest, and given again to New Orleans that trade which nature gave and slavery took away, and the Mississippi valley, already the seat of empire, as well as the granary of America shall become densely populous and immensely rich and possess, as within the lifetime of many here present I hope it will possess, the capital of the Republic.

I proceed to point out those improvements which, in my judgment, are practicable, and will prove effectual for the relief of the agriculture of the Northwest.

In the navigation of the route of the northern lakes six great obstacles were encountered: the Falls of Niagara, the rapids of the St. Lawrence, the ice blockade in winter, the foreign ownership of the greater part of the St. Lawrence, the St. Clair flats, and the Falls of St. Mary.

In the navigation of the Mississippi route five great obstacles were encountered: the snags and sawyers, the sand-bars in low water, the ice blockade of the Upper Mississippi, the rapids at Keokuk, and the rapids at Rock Island.

Let us, in the first place, inquire what has been done by the Government since its origin to improve these avenues of communication in which so large a proportion of the people of the United States, both consumers and producers, are interested.

Common consent accords to Dewitt Clinton, one of the Governors of New York, the honor of the grand maneuver to flank the obstructions at Niagara Falls and on the St. Lawrence by a cut-off from Lake Erie to the navigable waters of the Hudson. His neighbors ridiculed him and his ditch. But in this they were two thousand years behind even the Chinese, who were then using a canal twice as long as the Erie canal, and older than Christianity itself. Clinton deserved what he won—imperishable renown; for his flank movement was a magnificent success. On the 25th day of October, 1825, was completed the Erie canal, a work destined to secure inestimable benefits to the city of New York, the State of New York, the States and territories of the Northwest, and to the whole Republic. A thoroughfare was thereby established within our own borders between the sea-board and the vast undeveloped fertile Northwest; and through it began at once to roll a tide of immigration and trade and travel which speedily wrought more marvelous transformations in the center of this continent than have ever been witnessed elsewhere on the face of the globe. It may be idle speculation to inquire what would have been the present condition of Canada and New England if nature had sent the waters of the great lakes directly from Lake Erie or Lake Ontario unobstructed through the State of New York to the sea.

But it is plain enough that, with these waters

in their present channel, if there had been no Niagara Falls there would have been no New York city. If the waters of the great lakes had poured through the Niagara and St. Lawrence, unvexed by cataracts or rapids, to the sea, the map of the United States would have been very different from what it now is. The commercial metropolis of the western Continent would not have been on Manhattan island. If the Alleghany range had been prolonged northeastwardly through New York, and the Hudson river been found an impracticable stream, the commercial center of the Republic might have been at Philadelphia, Boston, Baltimore, Hampton Roads, City Point, Norfolk, New Orleans, or any one of twenty other places as well as at New York. It is often said that "God made the country, man makes the city." But this is not always entirely correct. God made the city of New York—not Dewitt Clinton nor any other man. For it was the Almighty who fashioned the valleys and rivers and the continent, so that New York was not only a possibility but an inevitable necessity.

If Dewitt Clinton had never lived sooner or later some other man had initiated a cut-off from Lake Erie to the Hudson. But for that conformation which the continent received from the hand of God, no human labor could have forced the growth of such a city on Manhattan island. And if the Erie canal tended to develop the natural advantages of New York city, so did it also tend to develop the natural advantages of the Northwest. God made the city in the same sense in which he made the country northwest of the Ohio, by giving to each the natural advantages which it possessed. Of a truth the cataract of Niagara has been a boon of Providence to the city and State of New York. It has made one the Empire State of the Republic, and the other the commercial metropolis of the New World. Towering monuments ought to rise in its honor in front of the city hall in New York, and in front of the State house at Albany. And upon the State's coat-of-arms ought to be graven the mighty cataract circumnavigated by a canal-boat freighted with northwestern wheat.

The Erie canal extends from Buffalo, on Lake Erie, to Albany, on the Hudson river, and for more than 150 miles from Buffalo approaches within from 7 to 25 miles of the south shore of Lake Ontario. It is 350 miles in length, 7 feet in depth, and has a rise and fall of 644 feet, with locks 18 by 110 feet. From Oswego, on Lake Ontario, a canal of the same width and depth, having locks of the same size, extends to Syracuse, on the Erie canal. At present this Oswego branch cannot, of itself, materially relieve us from the pressure put upon our transportation by the Falls of Niagara, because all its freight must pass over the eastern portion of the Erie canal, and that portion, instead of being of greater, is unfortunately of less capacity than the western part. Nevertheless I am persuaded that hereafter this Oswego canal is destined to be a part of the great internal water route from the Northwest to the Atlantic. There is also a smaller canal extending from the point where Oneida river intersects the Oswego canal, across through the Oneida lakes to the point where Oneida creek intersects the Erie canal. But this cut-off transports no through-freights except such as pass over the Erie or Oswego canal.

The Welland canal is the result of another struggle with the great cataract. It lies wholly within the "Dominion of Canada," has a depth of 9 to 10 feet, locks 150 feet by 26½ feet, an aggregate fall of 331 feet, and an extreme length of 42 miles. It has two termini on Lake Erie, the shortest of the two lines between the lakes being 28 miles.

The Erie and Welland canals are, to the disgrace of our nation, the only artificial water communication hitherto established around Niagara falls. Inasmuch as the Erie canal connects Lake Erie with the tide-waters of the Hudson, its capacity and value are not limited

by those of any artificial water connections. It can be made to float whatever can navigate the Hudson river. There is, then, practically no limit to its capability of improvement, except in the will and means of those who control it. But with the Welland canal the case is quite different. When your cargo of wheat is fairly through the Welland canal, and upon Lake Ontario, it can escape from that lake by water only through one of three channels. It must enter the Oswego canal, and thus find itself either at Syracuse or Oneida creek, on the very same Erie canal which it might have entered at Buffalo, in which case the dammed up commerce of the Northwest flows back upon itself and finds no relief; or it must pass directly down the St. Lawrence; or it must pass through the Rideau canal, from Kingston, at the foot of Lake Ontario, to Ottawa city, on Ottawa river, a distance of 127 miles, and thence down the Ottawa to Montreal, using the three short canals (Carillon, Blondeau, and Grenville) constructed by our enterprising Canadian neighbors to overcome the obstructions of that river.

Now, if your wheat takes the second route, and passes directly down the St. Lawrence from Lake Ontario, its trials have but commenced with the passage of the Welland canal; for it must descend two hundred and twenty-three feet before it meets tide-water, at Montreal, and on its way must encounter six canals all within the "Dominion of Canada:" first, Galops, two miles long with a fall of eight feet; second, the Point Iroquois, three miles long, with a fall of six feet; third, the Rapid Plat, four miles long, with a fall of eleven and one half feet; fourth, the Farren's Point, three fourths of a mile long, with a fall of four feet; fifth, the Cornwall, eleven and one half miles long, with a fall of forty-eight feet; and sixth, the Beauharnois, eleven and one fourth miles long, with a fall of eighty-two and one half feet—having in the aggregate a length of thirty-two and one half miles and a lockage of one hundred and sixty feet. It is true that your cargo of wheat descending the river very rapidly may avoid nine and three fourth miles, almost one third of these thirty-two miles of canal navigation; may "shoot the rapids" down twenty-nine and a half feet, instead of taking the first four of these canals; but it is also true that your descending wheat must pass through the remaining twenty-two and three fourths miles of these Canadian canals, with a lockage of one hundred and thirty and one half feet; and beside, the vessel which bears your cargo of wheat must on her return trip ascend through every mile of these canals unless, indeed, she has the speed of a comet. But if you attempt to carry your wheat through the Rideau canal you find that its summit is one hundred and sixty-five feet above Lake Ontario, so that you must, in order to reach Montreal, first lock up one hundred and sixty-five feet, and then lock down three hundred and ninety feet, besides falling down with the Ottawa river ninety-eight feet more. Worse than that, you find only five feet of water in these canals, so that you must transfer your cargo to canal boats built and owned in the "Dominion of Canada." At the foot of Lake Champlain is the Chambly canal, eleven and one half miles long and six feet deep.

The Champlain canal connects Lake Champlain with the Erie canal at a point about nine miles north of Albany. It has the same depth and width as the Erie canal, with a length of sixty-two miles, and may hereafter form an important link in a system of ship-canals from the lakes to the Hudson river.

These are all the improvements in water transportation hitherto made east of Lake Erie in the great northern route. All of them, except the Erie, Oswego, and Champlain canals, lie in the "Dominion of Canada." But before your cargo of wheat reaches Lake Erie it will have encountered the obstructions so well known to lake commerce as the St. Clair flats. The waters of Lake Huron flow through the St. Clair river into Lake St. Clair, and thence through

the Detroit river into Lake Erie, and your wheat from Lake Michigan must take this course. The navigation of the two rivers is ample for the utmost dimensions of the future commerce of the Northwest. The obstacle is in Lake St. Clair itself. This lake is eighteen miles in length and in mean width about twelve miles. In the lake two miles from the mouth of St. Clair river, which enters it at its northern extremity, lies the obstruction called the St. Clair flats. It consists of an embankment, a mile in width, thrown across the track of navigation. The current, instead of sweeping directly forward through the lake, makes a detour on this bank of seven miles through a narrow circuitous channel, in its natural condition well nigh impassable to commerce.

All that was needed was to open a straight channel six thousand feet in length through this soft barrier, of sufficient depth and width, and to keep it open. In 1856 Congress appropriated \$45,000 toward this work. President Pierce vetoed the appropriation; but it was passed over his veto. That small sum was at once expended, and sufficed to cut a channel two hundred and seventy feet wide at the top, one hundred and fifty feet wide at the bottom, and nine feet deep at low water. This was a great improvement, but it was quite inadequate to the wants of our present lake commerce and navigation. Now our vessels require thirteen and a half feet of water. The action of propeller wheels, winds and currents, in two years, upon this shallow channel, brought it into such a condition as to be literally a nuisance on this great national highway. The Thirty-Fifth Congress made an additional appropriation, but President Buchanan smothered the bill by a pocket veto. The Canadians meantime expended \$20,000 for the improvement of these flats. A Michigan Senator asserted in 1860, upon the floor of the Senate, that the channel upon which that sum was expended was every inch of it in American soil. Canada, without one fiftieth of our interest in the improvement, had borne nearly half of the expense. This disgrace was too monstrous to be perpetual. In 1866 we appropriated \$80,000 for the St. Clair flats, the prompt and judicious expenditure of which will afford immense relief to the commerce of Lakes Michigan, Superior, and Huron.

We come now to the last of these great obstructions of the navigation of the great lakes, the Falls of St. Mary, between Lakes Superior and Huron. This seems less important than the others only because, being nearer the western extremity of the great chain, it has impeded the interests of a smaller, less developed, and less populous territory. The Falls of St. Mary have obstructed the eastward-bound commerce of Lake Superior only. The Falls of Niagara obstruct not only this commerce, but also that of Lakes Michigan, Huron, and Erie. The descent from Lake Superior to Lake Huron is almost twenty-three feet. This descent is overcome by a ship-canal constructed by a New York corporation, aided by a munificent land grant received through the State of Michigan from the Federal Government. This canal is twelve feet in depth, nearly one mile in length, and has two locks, each seventy-five feet wide and three hundred and fifty feet long. The commerce which seeks this outlet and which has been developed by it is already large. But in view of the mineral resources of the shores of Lake Superior, the development of northern Minnesota, Wisconsin, and Dakota, and of the valley of the Red river of the North, the annexation of Canada, the construction of the North Pacific railroad and the consequent probable diversion of a portion of the silk and tea trade from its wonted highway from China and Japan to England, it would probably be no less vain to attempt to measure the commerce which will seek this outlet at the end of fifty years than it was fifty years ago to essay to predict the present commerce of Lake Erie.

The peculiarities of the Upper Mississippi

navigation necessitate one species of improvement different from that required anywhere in the valley of the great lakes except at the St. Clair flats. Aside from the ice in winter, the difficulties consisted mainly of shifting sand-bars and snags and the Des Moines and Rock Island rapids. Here sand-bars and snags were to be overcome, not by permanent works like the Welland canal or the St. Mary's canal, but by annual expenditures made in accordance with the best possible plan of systematic improvement. It is necessary not only to clear the channel but to keep it cleared. This necessity will be perpetual, because the action of the river upon the loose lands which form its bed will be perpetual, while snags could not cease to vex its commerce as long as forests stood upon its banks or the banks of its upper tributaries.

In addition to this, works of another kind are necessary at the Rock Island and Des Moines rapids. Here we have to deal with rock. The first cost of these works will be greater, but the improvements, once made, will be more permanent. Both of these rapids were surveyed in 1837 by Lieutenant Robert E. Lee, who has since been more conspicuously though less creditably engaged upon the Potomac, Rapidan, Appomattox, and other Virginia rivers. In his report he states that the Des Moines rapids of Keokuk are 11,300 miles long, with a fall of 24,300 feet, and the river flows with great velocity over an irregular bed of blue limestone reaching from shore to shore, at all times covered with water, through which channels have been worn by the action of the current; that the rock lies in reefs, the passage of which becomes very difficult in low stages of the river in consequence of the shallowness of the water, its great fall and velocity, and the narrow and crooked character of the channel through them. "The upper or Rock river rapids," he says, "distant about one hundred and fifty miles from the Des Moines, commence fourteen miles above Rock Island and extend to its foot. Within this space the Mississippi falls 25,300 feet, descending over a rocky bed broken by reefs, which at some points reach entirely across the river, affording at low water a shallow channel, and, projecting at others from opposite sides, interlock and form a winding, difficult, and dangerous passage."

The history of Federal benefactions on the Upper Mississippi is very brief. Forty years ago the snags were the worst enemies of the navigator of the Mississippi and its branches. The national Government, soon after the enactment of the law of 1824 for the improvement of the Ohio and Mississippi rivers, undertook to remove the snags from the rivers by means of snag-boats, and to prevent accessions to their number by cutting the trees from the banks before they should be washed into their channels. These efforts, persisted in for many years, added to the immense consumption of wood by the river steamers and the gradual clearing up of the country, have at length nearly subdued this most formidable obstruction. And posterity, in the peaceful use of these mighty western rivers, will see little to remind them of this terror of the hardy pioneers of river navigation. The theater of this warfare upon the snags included the Upper Mississippi. In 1836 Congress appropriated \$75,000 for the improvement of the Upper Mississippi and the Missouri rivers.

In 1856 the sum of \$200,000 was appropriated for the improvement of the Des Moines rapids over a veto of the President. General Warren, in his report of June 21, 1867, states that some cuts were made through the two islands in front of Dubuque in 1853 and prior thereto at the expense of the United States; and also that some improvements had been made on a small scale, from time to time, in different localities by private or municipal enterprise. On the 23d of June, 1866, Congress appropriated \$200,000 for the Des Moines rapids and \$100,000 for the Rock Island rap-

ids, and able and energetic men are already at work organizing a victory over those natural enemies of the Northwest, which will prove most auspicious to the interests of Illinois, Minnesota, and Wisconsin.

I have now indicated all the improvements in water transportation heretofore made for the Northwest. Their utter inadequacy has stimulated the construction of the following auxiliary railway lines, namely, the Ogdensburg and Lake Champlain, New York Central, New York and Erie, Pennsylvania Central, and Baltimore and Ohio roads, with their numerous connections within the United States, and the Great Western and Grand Trunk roads in Canada. Having thus shown what has hitherto been done by the Federal Government to enable the Northwest to get to market, I will proceed to indicate those further improvements which are in my judgment demanded by the interests of these northwestern States and of the whole country.

An examination into the condition of the several freight lines from the Northwest to the sea at once discloses the cause of and remedy for our sufferings. In my opinion these two propositions rest upon established facts, and are beyond the reach of successful controversy. First, our products will not bear railway transportation to the sea-board. Second, our water carriage to the sea is now altogether inadequate.

The committee on canals in the late New York constitutional convention, in their reports to that body, record the following conclusion:

"The increased expense by rail is another insuperable objection. The actual cost to the railroad from Buffalo to New York for the past three years, as appears by the returns made under oath on behalf of the New York Central Railroad Company, has been double all the charges upon the Erie canal, and in excess of the water carriage from Chicago to New York."

They state the cost to the railroad per ton per mile and the canal freight and tolls per ton per mile for 1864, 1865, and 1866, as follows, namely: 1864, railroad 2 cents, canal, 1 $\frac{3}{4}$ cents; 1865, railroad 2 $\frac{5}{8}$ cents, canal 1 $\frac{3}{4}$ cents; 1866, railroads 2 $\frac{1}{2}$ cents, canal 1 $\frac{3}{4}$ cents.

Senator RAMSEY, in his speech delivered in the Senate in advocacy of the measure now under consideration, fixes the cost of transportation per ton per mile on the Mississippi river at 3 mills, and by railroad at 12 $\frac{1}{2}$ to 13 $\frac{1}{2}$ mills. Mr. McAlpine, late New York State engineer, in his report to the Legislature of that State in 1855, fixed the cost of transportation per ton per mile for railroads from 12 $\frac{1}{2}$ to 13 $\frac{1}{2}$ mills; canals, 4 to 6 mills; river, 2 $\frac{1}{2}$ to 3 mills; lake, 2 to 4 mills; and ocean, 1 $\frac{1}{2}$ to 6 mills. While it is impossible to give any particular figures which will be permanent or universal in their application, all who have inquired into the subject concur in the conclusion that the cost of transportation is one hundred per cent. greater by rail than by canal, and that the Northwest cannot be prosperous without some cheaper carriage to the sea than railway transportation.

Now, in 1865 the average value of one bushel of corn in New England, New York, New Jersey, and Pennsylvania, taken together, was 90 cents, and in Illinois 29 $\frac{1}{2}$ cents. The difference is 60 $\frac{1}{2}$ cents, and must, I think, approximate to the cost of transportation. Mr. Robb, of Dubuque, puts the freight from the Mississippi to New York at 65 cents, and the chairman of the Committee on Commerce, [Mr. ELLIOT,] in his speech in the House on the last river and harbor bill, puts it at 65 $\frac{1}{2}$ cents. The canal committee of the New York convention put the cost of railway transportation at 2 $\frac{5}{8}$ cents per ton per mile for 1865. That makes the freight on one bushel of corn 1,000 miles 70 cents. The approximation of these results to each other brings irresistibly to my mind the conviction that the average freight of corn from the Northwest to New York in 1865 was virtually fixed by the railroads, and was not less than 65 cents. But such freights the Northwest cannot pay.

Practically the Mississippi river and the New

York canals are our only water routes. I leave out of view the St. Lawrence, because it is under a foreign flag.

Citizens of western New York earnestly assert that their canals are sufficient for all our wants, and show us how many bushels of wheat they could transport for us in a year by keeping all their boats busy every day from the first of May to the first of December. But the committee on canals in the New York constitutional convention entertain a different opinion. The following is an extract from their report:

"Entertaining these views, your committee have devoted much of their time to the question as to what improvements, if any, are necessary, and whether the revenues will be sufficient for the purpose of such improvements without resort to taxation, or without any abandonment of the pledges of the existing constitution. Your committee found these questions very fully considered and discussed in the reports upon the subject made by the canal committee to the Legislature during its last session, and in the official reports of canal officers for several years past. They have also taken the examination of engineers, public officers, and practical operators who were deemed to possess the most reliable knowledge upon the subject.

"From these sources it appears that in the enlargement of the Erie canal about seventy miles of the eastern section (being the first portion enlarged) was constructed with what we term wall benches, and is from six to ten feet narrower on the bottom than the remainder of the channel. The reverse should be the case, and the eastern the wider portion, to accommodate the accumulation of boats as they come in from the other canals and approach the Hudson river. The removal of these wall benches, so as to make this portion of the canal as wide at least as the remaining portion, is indispensable to secure the full navigable capacity of the Erie canal. They are also of the opinion that the present locks upon the Erie, Oswego, and Cayuga, and Seneca canals do not furnish to the canals more than one quarter of such navigable capacity. The locks will not admit of the passage of boats carrying over about two hundred tons, and for considerable portions of the season of navigation they are not sufficient to accommodate the business now offered. The published estimates and tables, based upon an equal distribution of lockages through the entire season of such navigation, show that not over seventy-five or eighty per cent. of the capacity of the locks has yet been reached. But these estimates are fallacious in practice, as the main business is crowded into a much shorter period of time. The lockages cannot, in practice, be so distributed; and when boats are crowding for lockage the time of passing will always be more or less delayed by irregularities which unavoidably will occur. In the mode in which the business is now done the locks are taxed during the season, from harvest to near the close of navigation, to their full capacity, and at times beyond that. This is shown to have been the case for several years, resulting at times in serious and protracted delays in navigation."

In the introduction to the census report on agriculture for 1860 it is asserted, as the result of statistics given, that from three fifths to two thirds of our production is transported by railroad to our Eastern market. If this estimate is correct or any where near accuracy, what becomes of the assertion that the canals of New York are now adequate for our trade.

It is clear to my own mind that while we cannot spare our railway routes from the Northwest to the sea-board, it is absolutely indispensable that our great water routes should receive prompt and careful attention. Our interests in the present and immediate future, to say nothing of that more distant future so vast and brilliant as to overwhelm and bewilder the mind that attempts to grasp it, demand the prudent and expeditious improvement of all available water routes to the sea.

First, as I have said, the upper Mississippi must be made and kept clear, so that its trade may freely move to New Orleans or New York or Europe, as its exigencies or interest may require, so that wheat may be transported from Minnesota and western Wisconsin via New Orleans to New York for thirty-three cents per bushel instead of sixty-five, and for thirty-seven cents to Liverpool, when for the last five years it has averaged, in our currency, \$1 90. And if, when the South shall have put on the beautiful garments of freedom, it shall be found that the trade of Europe and the Northwest can better meet at New Orleans than New York, there is no divine law, there ought to be no human law, against it. In the next place, the nuisance of the St. Clair flats, where stranded propellers so often detain impatient fleets, ought to be abated. A wide and deep channel should be promptly made, and hence-

forth perpetually maintained, so that our wheat ships may plow the way not only to Buffalo, Oswego, and Ogdensburg, and eventually to New York, but also to London and Liverpool, if the day shall come, as I doubt not it will come, when Europe and the Northwest will make their exchanges on the Thames or Mersey or Lake Michigan, with no tribute to middle-men in New York.

The third measure necessary for our relief is the excavation of a ship-canal, through American soil, around Niagara falls. This project encounters most violent opposition from interests located at Buffalo, and between Buffalo and Syracuse on the Erie canal. We shall presently discover the secret of this hostility. Its enemies tell us in the first place that the ship-canal is not needed, because the harbor accommodations and elevating facilities of Buffalo are adequate to the transshipment of all our grain, and the New York canals to its transportation. But if the history of the eastward movement of our grain and meal has demonstrated anything, it has demonstrated that the New York canals are not sufficient for its transportation. And as I have shown, the canal committee of the New York constitutional convention declares that they are not sufficient. If the canals are inadequate what relief can we find in the character of the Buffalo harbor, or the capacity of Buffalo elevators? The adversaries of this project tell us, in the second place, that it will be unconstitutional for the national Government to attempt it. The friends of this project find its constitutional warrant in the power to regulate commerce among the States, and some also in the war power, and in the power to lay and collect taxes in order to provide for the common defense and general welfare of the country.

The grant of the power to regulate commerce is made in these words: "The Congress shall have power to regulate commerce with foreign nations and among the several States." The opponents of this measure say that the power to regulate is not the power to relieve, or aid, or improve, or advance. But the power to regulate foreign commerce and the power to regulate domestic commerce are conveyed by the same sentence, the same words; and the word "regulate" confers no power for the benefit of foreign commerce which it does not also confer, to precisely the same extent, for the benefit of commerce between the States. If, therefore, the word does not authorize the relief, assistance, or advancement of commerce, internal as well as external, every single expenditure of the Government, from the first session of the First Congress to the last session of the Thirty-Ninth Congress, for beacons, light-houses, breakwaters, harbors, the coastwise trade, the fisheries, and for removing obstructions to navigation from seaports and their approaches, and from creeks, rivers, sounds, and bays, has been made in violation of the Constitution. These expenditures have all been made for the relief, promotion, and benefit of commerce, external or internal; and their constitutionality can be vindicated on no other ground unless by a resort to the other powers to which I have referred. If it be unconstitutional for Congress to provide for the construction of this link in a chain of connection between more than twenty different States, it was also unconstitutional for Congress to make any one of these expenditures, hundreds if not thousands in number. The opponents of this measure tell us that the Convention which framed the Constitution rejected Dr. Franklin's motion to give Congress "power to provide for cutting canals when deemed necessary." But Mr. SHERMAN's objection shows what the proposition really was. Mr. SHERMAN said:

"The expense in such cases will fall on the United States, and the benefit accrue to the places where the canals may be cut."

This shows that the scope of Dr. Franklin's motion embraced not merely canals connecting several States, but also the shortest local canals which could not be links in the commerce

between the several States. And certainly the incident seems to afford but little aid in the construction of the general power to regulate commerce conferred by the Constitution. We are told, too, that the construction of this canal will involve injustice to the State of New York, by impairing the value of her Erie and Oswego canals, constructed at such great expense for our benefit. But our answer to that is, that we have already paid her in tolls on these canals millions of dollars more than she has expended in their construction, repairs, and operation. The report of the canal committee, to which I have already referred, contains these words:

"The canals we propose to have improved (including the Erie and Oswego) are creditors to the amount of over thirty-eight million dollars."

And yet in 1866 New York received as tolls \$4,436,689, most of which was paid by the West. Senator Harris, of New York, in the debate on the Niagara ship-canal bill, in July, 1866, stated that the State of New York had expended on her canals, in construction, repairs, enlargement, superintendence, and interest, \$166,000,000, and had not received back in all over \$90,000,000. But Senator Howe, of Wisconsin, promptly read from the report of the New York canal board, made March 12, 1866, the following statement:

"No direct taxation upon the people on account of the canal remains to-day unpaid; but on the contrary the treasury of the State has been reimbursed principal and interest in full, and has now in its coffers nearly one million dollars from the canal revenue in advance of any taxation for canal purposes. The Erie canal account shows the gratifying result of a credit of over nine millions above all cost to the State."

Furthermore, the auditor of New York reports to the late constitutional convention that the entire cost of all the canals and feeders, both productive and unproductive, and of maintenance and repairs, with interest at seven per cent., amounts to \$210,093,502 25, and the entire income, with interest, to \$202,619,510 08, leaving the canals debtors to the State in the sum of \$7,473,992 27. But the Champlain, Erie, Oswego, and Cayuga and Seneca canals, which alone carry western freights, are creditors to the State to an amount exceeding, as I have stated, thirty-eight million dollars. For that enterprise which gave to this region the inestimable benefits of the Erie canal our debt of gratitude to New York is indeed very great. Our debt in money was long ago all paid, and vastly overpaid. She now enjoys an annual revenue of \$3,000,000 from canals, the cost of which we have long since paid. But I shall presently show you that New York herself has an infinitely greater interest in the construction of this ship-canal than any other single State. I shall show you that it will enable her, if she is wise, to perpetuate her preëminence as the Empire State and that of her great city as the emporium of American commerce.

In my judgment, this ship-canal ought to have a depth of fourteen feet, and to admit the passage of vessels of fifteen hundred tons burden. The Welland canal has only a depth of nine to ten feet and is insufficient for vessels of over four hundred tons burden.

How shall it be constructed? Can the Northwest, can the nation, afford to have this highway subject to the control of any single State? Can we permit any one State to fix and regulate the tolls, to discriminate directly or indirectly in favor of her own citizens at the expense of other States, to fill her own treasuries with the wealth of contributions levied upon the industry of the Northwest? Can we intrust such powers to the still more dangerous hands of a private corporation, whether created by State or Federal law? In my judgment this would be suicidal folly. I think the canal should be subject to no tolls, unless possibly enough to defray the cost of its operation and repairs. I think it should be the work of the General Government. How shall the General Government construct it? Two plans are proposed. The first is to delegate the powers of the Government in the premises to a private corporation created by the laws of some State; the

other is to construct it by using the engineer's and quartermaster's departments of the Army. The first was the plan of the bill which passed the House of Representatives of the Thirty-Ninth Congress. The second is the plan of the bill now pending. Each has its advantages. Without stopping now to discuss them I will say that my mind strongly inclines to the plan of this bill, and I earnestly hope it may become a law. The cost of this work ought to be no fatal obstacle to its execution. Its friends ask for \$12,000,000. The corn crop of Illinois in 1865 was 177,095,858 bushels. The Erie canal tolls on that crop alone at the rate then levied, 4³/₈ cents per bushel, would have been \$8,558,730 69, more than two thirds of the amount required to build the canal in one year.

The next improvement to be made after the Niagara ship-canal is a ship canal of fourteen feet depth from Oswego to the navigable waters of the Hudson, to be constructed by the enlargement of the present canal. In my judgment this canal, too, should be subject to no tolls except such as shall be necessary for its maintenance and operation. In my judgment this, too, should be a national work. It seems to me utterly impossible to overestimate its value to the Republic. But I confess that the State of New York has an advantage here which, wisely used, will inevitably perpetuate her commercial supremacy and that of her great metropolis. She already has a canal seven feet deep from Oswego to the Hudson, with a cut-off of smaller dimensions by the way of Oneida river, lakes, and creek. If she shall promptly and adequately enlarge this she will occupy the whole ground, and make the Northwestern States her tributaries for many generations. But if she will not act promptly in this, let her surrender her canal from the Oswego to the Hudson river, for which we have already so largely overpaid her, to the United States, to be transformed at the cost of the nation into a great national highway, open to the commerce of all the States, subject to the control of none. While New York would thus lose three millions of tolls she would gain unspeakably more in the advantages of her improved and assured position as the Empire State of the Republic.

The completion of a ship-canal around the Falls of Niagara, and of another from Oswego to the Hudson, and the employment of steam-tugs upon those canals, will enable the wheat ships of Lake Michigan to reach the Atlantic without touching foreign territory. And if the experiments now in progress shall result in the utilization of petroleum for fuel, so as to enable us to shake off the heavy burden of coal which now so hampers ocean steamers on long voyages, there will be nothing to prevent American propellers, laden with wheat in Lake Michigan, from discharging their cargoes in Liverpool without ever touching anything foreign except the Liverpool docks.

There are certain other improvements that will at some future time demand the attention of the people of the United States if not of the Government. They are the improvement of the St. Lawrence from Lake Ontario to Montreal; the construction of a ship-canal from the St. Lawrence to Lake Champlain; the enlargement of the canal from Lake Champlain to the Hudson; the opening of a water route from Lake Huron to the Hudson, by way of the French and Ottawa rivers in Canada, and another from the Georgian bay to Lake Ontario. But we shall find it convenient to defer all or most of these until the American flag floats over the "Dominion of Canada."

There is another improvement auxiliary to all these demanded as well by the interests of the Northwest as by the interests of the whole Republic. It is steam navigation from the waters of the valley of the St. Lawrence to those of the valley of the Mississippi. The recent surveys of Generals Wilson and Warren show that the Rock river and Fox river routes are practicable, as well as that of the Illinois and Michigan canal. These works will be pre-

eminently national works. They are required for military and naval as well as commercial uses. One or more of them ought to be constructed by the Federal Government, so that the nation may use them, paying tribute to no States. But if the Federal Government shall neglect these works the States of Illinois and Wisconsin ought not to throw away this golden opportunity. I trust that very many here present will see the day when steamers will pass from Lake Michigan to New Orleans. When that day shall come, and the way to the Atlantic and the Gulf shall have been cleared, figures will indeed be inadequate to measure the rapidity of your growth. Every dime expended by the nation upon these great works will return to it a dollar in your developed ability to meet the burdens of the national debt, in better prices for the farmers of the West, and in cheaper food for the manufacturers of the East. And above all, better than all, every expenditure so made by the Federal Government will come back again, freighted with priceless blessings for a consolidated and perpetuated Union.

Mr. WASHBURN, of Illinois. I desire, before the House adjourns, to have some understanding in regard to the time which it is proposed this debate shall run.

The SPEAKER. The Chair will state that to-morrow being private bill day this bill will come up after the morning hour, unless the House shall set aside private business during the morning hour. By the rules, on private bill day the morning hour cannot be dispensed with except by a majority of the House.

Mr. CULLOM. I hope that after the morning hour to-morrow the rest of the day will be devoted to speeches in Committee of the Whole on the state of the Union.

The SPEAKER. Several gentlemen desire to speak in Committee of the Whole on the state of the Union on general topics.

Mr. WASHBURN, of Illinois. Before proceeding to address the House, if I address it at all—and I do not wish to do so this evening—I would like to come to some understanding when the debate shall be closed on this bill. I would ask my colleague, [Mr. JUDD,] who I understand desires to speak, if he would like to proceed this evening?

Mr. JUDD. I should prefer not to proceed this evening, and I hope there will be no special time fixed for closing this debate. There are several gentlemen who desire to be heard upon the bill, and it is a measure of sufficient public importance to be fairly discussed in the House. I think this is really "public business;" I may be mistaken, but I think so.

The SPEAKER. The Chair is informed of eight gentlemen who desire to speak upon this subject in addition to those who have already spoken.

Mr. WASHBURN, of Illinois. Well, Mr. Speaker, so far as the public business is concerned, so far as the appropriation bills are concerned, it is now the middle of January and the House has only passed three of them; the longest bills, and those that will take up most time, are yet behind, and have not gone to the Senate. It is a matter of the first importance that we should act upon those bills so that the Senate may have them, because they have to be passed before the 4th of March. I hope it will be understood that the debate on this bill shall close at three o'clock to-morrow. That will afford my colleague and other gentlemen an opportunity to be heard.

Mr. MAYNARD. Cannot those bills go over till the next Congress?

Mr. WASHBURN, of Illinois. Which bills?

Mr. MAYNARD. The appropriation bills.

Mr. WASHBURN, of Illinois. Not very well.

Mr. MAYNARD. Why not?

Mr. WASHBURN, of Illinois. Because I presume there will not be much business done at the next session of Congress; I hope not, at any rate.

The SPEAKER. The Chair would ask the gentleman from New York, [Mr. VAN HORN,]

who has charge of this bill, at what time he expects to demand the previous question upon it?

Mr. VAN HORN, of New York. I have no desire to hasten the close of debate on this bill. I would be glad to see it go on to-morrow after the morning hour for two hours and a half. That will be satisfactory to me. There are several gentlemen who desire to speak fifteen or twenty minutes or half an hour, and I think that will be long enough. I wish to suit the temper of the House and accommodate as many gentlemen as possible.

Mr. MAYNARD. I would like to make a suggestion in behalf of the Committee of Ways and Means, as our chairman [Mr. SCHENCK] is absent on account of ill health. The tariff bill, which is in the Committee of the Whole on the state of the Union as the unfinished business there, ought to receive early consideration that it may go to the Senate. It will be remembered that it is not a general revision of the tariff, but relates to a few exceptional articles in regard to which the present law seems, in our judgment, to require some amendment, and some articles that have been brought to our attention by changes in processes and in the course of trade. I hope the House will not so shape its affairs as that we shall have no opportunity to press that bill.

The SPEAKER. The Chair understood the gentleman from Illinois [Mr. Cook] to give notice that he would call up the contested-election case to-morrow after the morning hour.

Mr. WASHBURNE, of Illinois. What case is that?

The SPEAKER. The case of *Switzler vs. Anderson*, from Missouri.

Mr. COOK. I will let that go over; I will not call it up to-morrow.

Mr. WASHBURNE, of Illinois. I believe, from what I can gather from members around me, that we can come to an understanding by which we can have a vote on this bill to-morrow.

Mr. ALLISON. I do not know whether that understanding can be had unless we can know how the time to-morrow will be occupied. I desire, in the interest of my constituents, to make some remarks upon this subject. And I cannot tell at what time to-morrow, if at all, I can obtain the floor for that purpose. I trust, therefore, that no arrangement will be made upon this subject to-night; we can to-morrow control the business of the House as well as we can do it to-day.

Mr. BLAINE. Will this subject come up to-morrow?

The SPEAKER. It will.

Mr. INGERSOLL. I would suggest to my colleague [Mr. WASHBURNE, of Illinois] that "sufficient unto the day is the evil thereof." There is no use to attempt to say to-day what shall be done to-morrow. If I had charge of this bill, as the gentleman from New York [Mr. VAN HORN] has, I would not want to fix three o'clock or even four o'clock to-morrow to vote upon it, but I would allow such time to be devoted to it as the House might be willing to give.

Mr. WASHBURNE, of Illinois. It is not only very proper but very usual for the House to fix the time for closing the debate upon any particular subject. If we give to-morrow to the discussion of this bill we will have devoted two days to its consideration.

Mr. VAN HORN, of New York. I would suggest that we renew the debate upon this bill immediately after the reading of the Journal to-morrow.

The SPEAKER. That will require unanimity.

Mr. INGERSOLL. I object, and call for the regular order of business.

The SPEAKER. The regular order having been called for, the gentleman from Illinois [Mr. WASHBURNE] must proceed with his remarks or surrender the floor.

Mr. ALLISON. I move that the House now adjourn.

Mr. WASHBURNE, of Illinois. I do not yield for any such motion.

The SPEAKER. The gentleman will proceed.

Mr. WASHBURNE, of Illinois. My colleague on the Committee on Appropriations, the gentleman from Massachusetts, [Mr. BUTLER,] desires the unanimous consent of the House to take up a bill.

Mr. BUTLER, of Massachusetts. Not quite. Mr. INGERSOLL. I insist upon my demand for the regular order.

Mr. BUTLER, of Massachusetts. I move to proceed to business upon the Speaker's table, for the purpose of taking up the bill for the relief of the destitute poor of the District of Columbia.

Mr. INGERSOLL. I have no objection to that.

Mr. BENJAMIN. I object.

The SPEAKER. It is in order to move to proceed to business upon the Speaker's table after the expiration of the morning hour, and that motion will take a member from the floor.

Mr. BUTLER, of Massachusetts. Very well; then I make that motion.

SUPERINTENDENT OF EXPORTS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, in answer to a resolution of the House of the 6th instant, relative to postponing the time of the discontinuance of the office of superintendent of exports and drawbacks at the port of New York, &c.; which was ordered to be printed, and referred to the Committee of Ways and Means.

MILWAUKEE HARBOR.

Mr. ELIOT, of Massachusetts, by unanimous consent, from the Committee on Commerce, presented a report of the sub-committee in regard to Milwaukee harbor; and the same was ordered to be printed for the use of the committee, and recommended.

LEAVE OF ABSENCE.

Leave of absence was granted for one week to Mr. ECKLEY.

SERVICE ON A COMMITTEE.

By unanimous consent, Mr. DAWES was excused from service on the select committee appointed to accompany the remains of the late Mr. Finney from the city of New York to his former residence, and Mr. GLOSSBRENNER was appointed in his place by the Speaker.

The question recurred upon the motion of Mr. BUTLER, of Massachusetts, to proceed to business upon the Speaker's table.

Mr. SPALDING. I move that the House now adjourn.

The motion was agreed to; and accordingly (at four o'clock and twenty minutes p. m.) the House adjourned.

PETITIONS.

The following petitions were presented under the rule, and referred to the appropriate committees:

By Mr. HILL: The petition of Robert B. Clark, Rowland Johnson, and 68 citizens of Orange, New Jersey, asking for the revision of the naturalization laws.

By Mr. LINCOLN: The petition of Catharine Duffy, asking for a pension.

By Mr. LYNCH: The petition of Lorenzo Day, for a pension.

Also, the petition of Isaac Bickford, for a pension.

Also, the petition of T. C. Hersey, for an amendment of the tariff.

By Mr. MCKEE: The petition of Dupey & Company, of Flemingsburg, Kentucky, for change in revenue laws.

By Mr. MOORE: A petition from owners and masters of vessels of Baltimore, Maryland, representing over six hundred vessels, praying Congress to protect all engaged in navigation from illegal exactions by State and municipal corporations.

By Mr. MORRELL: The petition of Elizabeth Radigan, widow of John Radigan, com-

pany A, forty-ninth regiment Pennsylvania volunteers, for pension to herself and child.

Also, the petition of Mary Aurand, widow of Joseph R. Aurand, company F, seventh regiment Indiana cavalry, for a pension for herself and two children.

Also, the petition of John A. Parker, company K, fifth Kansas cavalry, for a pension.

By Mr. SCHENCK: The petition of the Ohio Chicory Company, asking for an increase of duty on chicory.

Also, the petition of Commodore Charles Steedman, United States Navy, praying Congress to grant him relief in the settlement of accounts while acting as paymaster, &c.

By Mr. WARD: The petition of citizens of Hume, Alleghany county, New York, in favor of the reduction of taxation and public expenditures.

IN SENATE.

FRIDAY, January 15, 1869.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Interior, communicating, in compliance with a resolution of the Senate of the 6th instant, correspondence relating to supplies of stationery to the Patent Office and the contract for the same; which was referred to the Committee on Patents, and ordered to be printed.

He also laid before the Senate a letter from the Congressional Printer, communicating his annual report, showing the condition of the public printing, binding, &c.; which was referred to the Committee on Printing, and ordered to be printed.

He also laid before the Senate a letter from the Secretary of the Interior, in relation to the application of Hugh McCormick for additional allowance for his services as disbursing clerk in the Patent Office; which was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a letter from the Secretary of the Interior, in relation to printing the maps and illustrations accompanying the annual report of the Commissioner of the General Land Office.

Mr. POMEROY. The Committee on Public Lands last year reported in favor of printing those very maps, but owing to some disagreement between the Committee on Public Lands and the Committee on Printing they were not printed. I wish to call the attention of the Senate at an early day to the subject again. A most important part of our public service connected with the public lands would be promoted if we only had correct maps published. We have not got them, and cannot get them until these maps are printed.

The PRESIDENT *pro tempore*. What disposition does the Senator propose to make of this communication?

Mr. POMEROY. I move that it be printed, and referred to the Committee on Public Lands. The motion was agreed to.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented three petitions of citizens of New York, one of which was signed by Henry Ward and Theodore Tilton, praying that the right of suffrage be extended to women in the District of Columbia; which was referred to the Committee on the District of Columbia.

He also presented the memorial of Rev. Charles King, D. D., remonstrating against the removal of the political disabilities of rebel officers of the State of Virginia; which was referred to the Committee on the Judiciary.

Mr. CONKLING. I present the memorial of a number of citizens and merchants of the State of New York, remonstrating against the passage of a joint resolution amendatory of the act entitled "An act to provide for an American line of mail and emigrant passenger steamships

between New York and one or more European ports." The memorialists set forth at length arguments on this subject, going to show that the passage of this resolution will inflict an injury upon commerce and upon the public interests. I move the reference of the memorial to the Committee on Commerce.

The motion was agreed to.

Mr. VAN WINKLE presented the petition of Agnes Ellen Kleiss, praying to be allowed a pension; which was referred to the Committee on Pensions.

He also presented the petition of Daniel Cole, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. HENDRICKS presented the petition of Mon-go-se-quah and sixty other Miami Indians of Indiana, praying to be established in their rights under certain treaties made June 5, 1854; which was referred to the Committee on Indian Affairs.

Mr. HOWARD. I present a petition of numerous persons, the most of whom are Indians or of Indian descent, resident in the State of Michigan, belonging heretofore to the Ottawa and Chippewa tribes, alleging that their affairs have fallen into confusion as connected with the Government, and that great injustice has been done them by the officers of the United States who have had the management of their affairs, and asking that a full and thorough investigation may be made of the relations between them and the United States in reference to their reserves and other property. I move that this petition be referred to the Committee on Indian Affairs.

The motion was agreed to.

Mr. POMEROY presented three petitions of citizens of the United States, praying that the right of suffrage be extended to women; which was referred to the Committee on the Judiciary.

Mr. POMEROY. I also present a petition from ladies in West Royalton, Massachusetts, reading as follows:

"We, the undersigned, want the right of suffrage."

I move that it be referred to the Committee on the Judiciary.

The motion was agreed to.

Mr. WILSON presented the petition of Dempsey Nash, praying a removal of the civil disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

Mr. HOWE presented the petition of William A. Wheeler praying to be reimbursed the amount of his losses on several contracts made with the Navy Department during the years 1863 to 1866; which was referred to the Committee on Claims.

Mr. SHERMAN presented the petition of William Pitt Putnam and David Putnam, praying to be relieved as sureties on a bond to Isaac N. Cook, additional paymaster United States Army; which was referred to the Committee on Military Affairs.

Mr. CATTELL presented the petition of captains and owners of vessels, citizens of different States, representing that States, cities, and sea-port towns have passed laws exacting harbor tonnage tax, pilot, license, and half pilotage laws, &c., contrary to the laws of Congress regulating commerce, and praying the intervention of Congress to protect all engaged in navigation from illegal exactions; which was referred to the Committee on Commerce.

PAPERS WITHDRAWN AND REFERRED.

On motion by Mr. WHYTE, it was

Ordered, That the petition and papers of John Robb be taken from the files of the Senate and referred to the Committee on Claims.

On motion by Mr. PATTERSON, of Tennessee, it was

Ordered, That the memorial and papers of Susan Coady and others be taken from the files of the Senate and referred to the Committee on Indian Affairs.

Mr. THAYER. I presented a memorial the other day praying for relief in the case of Chauncy A. Horr, and had it referred to the

Committee on Claims. It should have gone to the Committee on Indian Affairs. I move now that the memorial and accompanying papers be taken from the Committee on Claims and referred to the Committee on Indian Affairs.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs, to whom was referred the joint resolution (H. R. No. 404) providing for the disposition of certain papers relating to military claims accruing in the department of the West, asked to be discharged from its further consideration, and that it be referred to the Committee on the Judiciary; which was agreed to.

Mr. WILLIAMS, from the Committee on Public Lands, to whom was referred the bill (S. No. 679) to amend an act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State, reported it without amendment.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred a petition of citizens of the United States, praying the passage of an act authorizing the Postmaster General to contract with the National Steamship Company for the conveyance of the mails between New York and Europe, asked to be discharged from its further consideration, and that it be referred to the Committee on Post Offices and Post Roads; which was agreed to.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 907) to provide for the sale of certain lands and lots on Sea Island in Beaufort district, South Carolina, and for other purposes, reported it with an amendment.

Mr. WILLEY, from the Committee on Patents, to whom was referred the memorial of Mahlon Loomis, M. D., praying an appropriation to enable him to demonstrate his discovery of telegraphing, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom were referred the memorials of the Lake Shore Grape Growers' Association, praying the enactment of a law to grant letters-patent on new horticultural varieties, asked to be discharged from their further consideration; which was agreed to.

He also, from the same committee, to whom was referred the petition of Alpheus C. Gallahue, praying an extension of his patent for an improvement in machines for pegging boots and shoes, reported a bill (S. No. 781) for the relief of Alpheus C. Gallahue; which was read and passed to a second reading.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 1558) to amend an act entitled "An act to prescribe the mode of obtaining evidence in case of contested elections," approved February 19, 1851, reported it with an amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 568) explanatory of the act entitled "An act declaring the title to land warrants in certain cases," reported it with amendments.

He also, from the same committee, to whom were referred the following bills and joint resolutions, reported adversely thereon:

A bill (S. No. 234) to authorize the removal of causes in certain cases from the district courts to the circuit courts of the United States;

A bill (S. No. 245) to fix the terms of the circuit and district courts of the United States for the district of Oregon, and increase the salary of the judge thereof;

A bill (S. No. 254) to change the terms of the district court of the United States for the district of Maine;

A bill (S. No. 294) to regulate procedure in cases of impeachment, and to enforce the orders and judgments of the Senate in such cases, and for other purposes;

A bill (S. No. 87) to further define the qualifications of members of Congress;

A joint resolution (S. R. No. 158) to extend

the act establishing the Court of Claims to the claims arising under the act of the 2d of March, 1861, providing for the payment of the expenses of the Washington and Oregon war of 1855 and 1856; and

A joint resolution (H. R. No. 167) in relation to the prosecution of claims before the Executive Departments.

Mr. TRUMBULL. The same committee, to whom was referred the joint resolution (S. R. No. 133) proposing an amendment to the Constitution of the United States, declaring that no person elected President or Vice President who has once served as President shall ever be eligible to either office, have instructed me to report it back to the Senate with a recommendation that it do not pass. I would state that the same committee at a former Congress reported in favor of that resolution, and that I am in favor of it now; but a majority of the committee are adverse at this time to the resolution, and I report it under the instructions of the committee adversely.

The same committee, to whom was referred a joint resolution (S. R. No. 86) declaring the adoption of the amendment to the Constitution known as article fourteen, have directed me to report it back, with a recommendation that it be indefinitely postponed, the two Houses of Congress having already passed a concurrent resolution to the same effect.

The PRESIDENT *pro tempore*. In order to relieve the Calendar from these adverse reports, if there be no objection the bills reported adversely will be considered as indefinitely postponed.

Mr. SUMNER. There are some that I should like to look into. I am not sure about all of them.

Mr. WILLIAMS. I desire to have the bill providing for additional terms of the district court in the State of Oregon, and for raising the salary of the district judge excepted. I desire to take the sense of the Senate on that bill.

The PRESIDENT *pro tempore*. The reports can only be considered at this time by unanimous consent.

Mr. TRUMBULL. Perhaps they had better go on the Calendar.

Mr. SUMNER. They had better go on the Calendar, and some day they can all be called up.

Mr. STEWART, from the Committee on the Judiciary, to whom was referred the joint resolution (S. R. No. 8) proposing an amendment to the Constitution of the United States, reported it with an amendment.

He also, from the same committee, to whom were referred the following bills and joint resolutions, reported adversely thereon:

A bill (S. No. 111) to regulate the elective franchise in the United States;

A bill (S. No. 124) to enforce the several provisions of the Constitution abolishing slavery, declaring the immunities of citizens, and guarantying a republican form of government by securing the elective franchise to colored citizens;

A bill (S. No. 650) to enforce the several provisions of the Constitution abolishing slavery, declaring the immunities of citizens, and guarantying a republican form of government by securing the elective franchise to citizens deprived of it by reason of race, color, or previous condition;

A joint resolution (S. R. No. 59) submitting to the Legislatures of the several States a proposition to amend the Constitution of the United States; and

A joint resolution (S. R. No. 179) proposing an amendment to the Constitution of the United States.

He also, from the same committee, to whom were referred the following petitions and resolutions, asked to be discharged from their further consideration:

A petition of General James S. Brisbin and thirty thousand colored men, praying for negro suffrage in the State of Kentucky;

A petition of officers of the Pennsylvania

Equal Rights League, praying such an amendment to the Constitution of the United States that there shall be no legislation against any portion of the inhabitants on account of race or color, and that all such legislation now existing be declared void ;

Two petitions of citizens of the United States, praying Congress to adopt a law investing all men with the equal exercise of the elective franchise in all the States ;

Two petitions of citizens of Pennsylvania, praying the passage of a law investing all men with the equal exercise of the elective franchise in all the States ;

A petition of the delegates of the colored people of Kentucky, praying Congress to grant black men the right of suffrage in that State ;

Three petitions of citizens of Pennsylvania, praying such an amendment to the Constitution of the United States as to provide that there shall be no legislation or the enforcement of any law, rule, or regulation within the United States or Territories against any portion of the inhabitants on account of race, color, or birth ;

A petition of citizens of Pennsylvania, praying the adoption of a law investing all men with the equal exercise of the elective franchise in all the States ;

A petition of the Pennsylvania Equal Rights League, praying an amendment to the Constitution of the United States to secure to all the citizens of the several States equal political rights, privileges, and immunities without regard to class, creed, birth, race, or color ;

A petition of citizens of Georgia, praying the adoption of measures for the protection of their rights as American citizens ;

A petition of citizens of the United States, praying the adoption of a law investing all men with the equal exercise of the elective franchise in all the States ;

A petition from citizens of the United States, living in Louisiana, praying an amendment to the Constitution of the United States to secure to all citizens equal political rights ;

A petition from professors and students of Lincoln University, Oxford, Pennsylvania, praying for an amendment to the Constitution which will secure to all citizens equal political rights ; and

A resolution adopted at a mass meeting held in the city of New York, in favor of an amendment to the Constitution of the United States that will recognize and guarantee the right to vote and hold office to all persons, both white and black.

Mr. SUMNER. What disposition does the Senator propose of those papers ?

Mr. STEWART. I ask that the committee be discharged from the further consideration of these petitions. We have reported a constitutional amendment on the subject.

Mr. THAYER. Providing for universal suffrage ?

Mr. STEWART. Yes, sir. The amendment reported is very short ; I ask that it be read.

The Secretary read the amendment reported by the Committee on the Judiciary to Senate joint resolution No. 8. The committee propose the following article of amendment to the Constitution :

ART. 15. The right of citizens of the United States to vote and hold office shall not be denied or abridged by the United States, or any State, on account of race, color, or previous condition or servitude. And Congress shall have power to enforce the provisions of this article by appropriate legislation.

WILLIAM H. BAGLEY.

Mr. STEWART. I am instructed by the Committee on the Judiciary, to whom was referred the bill (H. R. No. 1673) to relieve William H. Bagley, of Wake county, North Carolina, to report it back and recommend its passage. This is simply to remove the disabilities imposed by the fourteenth amendment upon the clerk of the court in North Carolina, and I should like very much to have it passed now. This man has been appointed by the supreme court, and they desire to have him enter upon the discharge of his duties.

By unanimous consent, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

COLUMBIA INSTITUTION REPORT.

Mr. ANTHONY. I am instructed by the Committee on Printing, to whom was referred a resolution to print additional copies of the report of the Columbia Institution for the Deaf and Dumb, to report it back without amendment and recommend its passage. This resolution was once passed by the Senate, but recommended to the committee on my motion. I was under the impression that the expense of printing the report would be much larger than was supposed, but I find it will not. I therefore ask for the present consideration of the resolution.

There being no objection, the resolution was considered and agreed to, as follows :

Resolved, That the Superintendent of Public Printing be, and he is hereby, authorized to print fifteen hundred copies of the report of the Columbia Institution for the Deaf and Dumb, with its appendix, for the use of the Institution.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 860) for the relief of Luther C. McNeal, late postmaster at Lancaster, Erie county, New York, in which it requested the concurrence of the Senate.

BILLS INTRODUCED.

Mr. HENDRICKS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 779) for the relief of certain Miami Indians of the State of Indiana ; which was read twice by its title, referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. SHERMAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 780) for the relief of William Pitt Putnam and David Putnam, of Ohio ; which was read twice by its title, referred to the Committee on Military Affairs, and ordered to be printed.

Mr. YATES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 782) to enable the people of Colorado to form a constitution and State government and for the admission of said State into the Union on equal footing with the original States ; which was read twice by its title, referred to the Committee on Territories, and ordered to be printed.

Mr. HOWARD asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 198) in relation to certain testimony to be used before the court of inquiry now in session in the case of General Dyer, chief of ordnance ; which was read and passed to a second reading.

Mr. HOWARD. I ask that this resolution be passed at this time. There is a necessity for it, I am informed.

Mr. HENDRICKS. I think it had better lie over until to-morrow. I want to look into it.

The PRESIDENT *pro tempore*. Objection being made, the resolution cannot be considered to-day.

CREDENTIALS.

The PRESIDENT *pro tempore* presented the credentials of Hon. William A. Buckingham, elected a Senator by the Legislature of the State of Connecticut for the term of six years, commencing on the 4th day of March, 1869 ; which were read, and ordered to be filed.

HOUSE BILL REFERRED.

The bill (H. R. No. 860) for the relief of Luther C. McNeal, late postmaster at Lancaster, Erie county, New York, was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

GRAND RIVER BAND OF INDIANS.

Mr. HOWARD submitted the following resolution ; which was considered by unanimous consent, and agreed to :

Resolved, That the Secretary of the Interior be requested to communicate to the Senate a statement

of the tracts of lands selected by members of the Grand River band of the Ottawa and Chippewa Indians under treaty with those tribes of July 31, 1855, with the lists of the names of such Indians of said Grand River bands as were under said treaty entitled to land, with the date of making out said lists, and the date at which such selections were made ; and also a full list of the names of persons belonging to said Grand River band, to whom patents have been issued, and whether and at what time said patents were actually delivered to the respective patentees ; and also whether any and what tracts of land lying within the several townships withdrawn from sale for the use of said Grand River band have been sold to persons other than members of said band, with the dates of such sales.

POLICE OF THE CAPITOL AND GROUNDS.

Mr. DOOLITTLE. Mr. President, I feel it my duty to call the attention of the Senate to an affair which occurred last evening, about nine o'clock, upon the sidewalk adjoining the Capitol grounds, near the Senate Chamber. An aged and very respectable gentleman—I may say he is the father of the gentleman with whom I have rooms here on Capitol hill—walking quietly on the sidewalk adjoining the Capitol grounds, about nine o'clock last evening, was knocked down, severely wounded, left senseless on the sidewalk, and robbed. It occurred so near the Capitol building, upon the very sidewalk adjoining the grounds, that it becomes a question of personal safety which may concern not only the citizens of Washington but any member of the Senate, and I therefore feel it to be my duty to call the attention of the Senate to the subject. I have drawn a resolution, if it meet the approbation of the Senate, asking the Committee on Public Buildings and Grounds to inquire into the circumstances of this case and to see what, if anything, should be done for the better security of the Capitol grounds and better police regulations. I send the resolution to the desk, and, if there be no objection, I ask for its present consideration.

Mr. SUMNER. Let it be read.

The Chief Clerk read the resolution, as follows :

Whereas at about the hour of nine o'clock of last evening a respectable citizen of Washington, aged sixty years and upward, upon the sidewalk adjoining the Capitol grounds, between First street west and the Senate wing of the Capitol, was knocked down and robbed, and left wounded and senseless upon the sidewalk ;

Resolved, That the Committee on Public Buildings and Grounds be authorized to inquire into the facts, to send for persons and papers, and to report what measures should be taken for the better police regulations for the security of the Capitol.

There being no objection, the Senate proceeded to consider the resolution.

Mr. ANTHONY. I think the resolution is a very proper one, and I hope the committee will also see if we cannot get a sufficient police force to keep the Capitol and the Capitol grounds free from beggar boys. The Capitol is perfectly invested with them. I was accosted by six in going from my committee-room to the door of the Capitol the other evening. If we have not a sufficient police force to keep them out I think we ought to improve it.

The resolution was adopted.

AMOUNTS PAID TO RAILROAD COMPANIES.

Mr. CHANDLER. I move that the Senate proceed to the consideration of House bill No. 1460.

Mr. SUMNER. What does that relate to ?

Mr. CHANDLER. It is the copper bill.

Mr. SUMNER. I would not bring that up to-day. There is a little bill which I should like to call up.

Mr. CHANDLER. I cannot help it. I must insist on my motion.

Mr. SHERMAN. I object to it until we get through with the morning business.

Mr. CHANDLER. I thought you were through. You have been passing bills.

The PRESIDENT *pro tempore*. The morning business is in order in preference to anything else.

Mr. SHERMAN. I desire to offer a resolution of inquiry, and after that is disposed of I shall make no objection.

The PRESIDENT *pro tempore*. The resolution of the Senator from Ohio will be read.

The Chief Clerk read the resolution, as follows:

Resolved, That the Secretary of the Treasury be directed to communicate to the Senate the amount paid by the United States to the Baltimore and Ohio railroad for transportation of men and supplies each year from 1861 to 1866 inclusive, designating separately the sums paid for such transportation from Washington to the Relay House, and also the rate of such transportation.

There being no objection, the Senate proceeded to consider the resolution.

Mr. CAMERON. Before that resolution passes I desire to say a word upon it, and to move an amendment to it in some words like these: that the Secretary of the Treasury be directed also to state the amount paid to the Baltimore and Ohio Railroad Company above the price paid to other railroad companies for the same services.

Mr. SHERMAN. I do not think that amendment is necessary, because we know what that rate is.

Mr. CAMERON. I think it is necessary.

Mr. SHERMAN. We know the rate that has been paid to other companies; but as there is some dispute in regard to the rate paid to the Baltimore and Ohio railroad, and I do not wish to do any injustice to them, I should like to ascertain the rate.

Mr. CAMERON. The Senator's resolution, as it stands, will not obtain the information that I desire.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Pennsylvania, to add to the resolution:

And that he also state the amounts paid to the Baltimore and Ohio Railroad Company in excess of what was paid to other railroad companies for similar services.

The amendment was agreed to.

Mr. WHYTE. I desire to add the Northern Central also.

Mr. CAMERON. I will accept that.

Mr. HENDRICKS. I should like to hear the resolution read as amended.

The Chief Clerk read it, as follows:

Resolved, That the Secretary of the Treasury be directed to communicate to the Senate the amount paid by the United States to the Baltimore and Ohio railroad for transportation of men and supplies each year from 1861 to 1866 inclusive, designating separately the sums paid for such transportation from Washington to the Relay House, and also the rates of transportation. And that he also state the amounts paid to the Baltimore and Ohio Railroad Company in excess of what was paid to other railroad companies for similar services.

Mr. CAMERON. Now, Mr. President, I desire to state that in 1866 my colleague offered a resolution inquiring into the amount paid by the Government to the Baltimore and Ohio Railroad Company for services rendered, to which there has been no reply. Shortly after I came here, in 1867, I introduced a resolution which received the sanction of the Senate, asking for the same information, to which the then Senator from Maryland (Mr. Johnson) added the Pennsylvania Central and the Northern Central. That, it was supposed, would bring some additional information that I did not want; but that is not so. The object I have in view is this: the War Department, in 1861, called together the principal railroad presidents of the country and made an arrangement with them by which they were to receive two thirds of the ordinary rates charged by the different companies as a full compensation for their services in transportation for the Government during the war. The other railroads have stood by that arrangement, but the Baltimore and Ohio Railroad Company, as I understand—I do not know the fact, but I am so informed—have got one third more than was paid to any other railroad company in the United States. That belief, in my mind, is very much strengthened by the difficulty I have had in getting that information. Three years have passed since it was called for by the Senate; it is two years since I made the application myself; and yet there is no response. Why it is I do not know. If the War Department, or the Treasury Department, or the President, or anybody else, gave the Baltimore

and Ohio railroad one third more than other railroads received it is right that the country should know why they received so much more. If they earned it, very well. If they did not, we ought to know it. That is my object.

Mr. HENDRICKS. I will inquire if there is not a rule which requires that resolutions calling for information shall be considered by some committee with a view to ascertain the amount of labor in the Department necessary to furnish that information. I presume, though I know nothing about it, that this information has not been given, because it would require a vast amount of labor in the Department. I suppose that the business of that railroad company during the progress of the war was of enormous magnitude, and that a detailed statement of it furnished to the Senate would require the entire force of the Department for a very considerable time to furnish it.

Now I should like to know of the Senator from Pennsylvania what course the Congress of the United States can take, supposing the statement made by him to be in all respects accurate. Can Congress now pass a law which will enable the Secretary of the Treasury to recover the amount that has been paid over and above the contract price, and to pay it back again into the Treasury? I should like to know before a great labor is imposed upon any of the Departments what is the practical good to be arrived at by securing the information. If the object is simply to make an attack upon a railroad company here, I think it is not the business of the Senate of the United States to pander to purposes of that sort, and as a representative from the great Northwest I will not consent to it unless the public good calls for it.

I have heard the criticism of the Senator from Ohio on the conduct of the Baltimore and Ohio road; and it has not changed my judgment in regard to the great importance of that mighty channel of commerce to the Northwest. I feel that the men who invested their money, who undertook the great enterprise of constructing that road and the Pennsylvania Central road across the Alleghany mountains, overcoming difficulties that it was supposed prior to that time could not be overcome by the most skillful engineering, have contributed a great benefit to the commerce and business and wealth of the Northwest; and for no purpose except the public good will I consent that the Senate shall become a party to an attack upon these great works—works that are of so much benefit to our part of the country. And when I speak in regard to the benefit of these works to the great West I would extend the same remark to the roads that go through the State of New York, all contributing to bring the trade and commerce of the interior to the sea-shore.

If this be a controversy between different railroad companies I hope that the Senate will not become a party to it. I do not ask that there shall be a report in regard to the Northern Central road. I have heard much said in regard to that road. I have heard much said in regard to the Baltimore and Ohio road with respect to the peculiar privileges that they were supposed to enjoy during the progress of the war; but I suppose that the accounts are closed, the money has been paid by the Department with a full knowledge of all the facts; and I cannot conceive of any state of case in which Congress can pass a law to recover any of that money again. If it be the purpose here to raise a comparison between railroad companies to gratify an idle curiosity or in order to benefit any particular road at the expense of another, I shall not give my vote in favor of any such measure.

Mr. CAMERON. Mr. President, I agree with the Senator from Indiana in all that he has said eulogistic of these great railroad companies. I believe I understand just as well as any other Senator does the services which they have rendered the country. I am not going to detract an iota from that; nor have I any personal interest in this matter. Two years ago,

when I offered my resolution on this subject, the Senator from Maryland, (Mr. Johnson,) supposing that the resolution was invidious in its character, added the Northern Central and the Pennsylvania railroads. I happen to have some interest in those roads, though not so much as gentlemen usually suppose; but I have some interest in knowing why one railroad company got millions of dollars more than any other railroad company for the same services. The Senator might just as well say that if a fraud had been committed on the Treasury we could not at this day open the books and investigate it, and have that fraud, if there has been one, corrected. I do not understand that sort of logic, nor do I understand that sort of honesty which will prevent the investigation of an account, whether it be right or wrong. We, the representatives of the States here, have a right to know what has been done with our money. If we cannot get it back, we can at least hold up the example of those who did the wrong to those who are to follow us hereafter.

The Baltimore and Ohio railroad has done a great deal for the country. It was one of the first great improvements of the country, and it was carried through by the energy of that great city, for no city in the whole United States has shown more energy in behalf of its interests than the city of Baltimore. Her merchants (and many of them were originally Pennsylvanians) are among the ablest men in their profession in the country. Baltimore has many advantages which have been much improved. But there is no reason in my mind, if that road has received improper pay, why we should not know it. If no injustice has been done to the Treasury by them or those who paid them it is their interest that it should be known, for there is an impression that many millions more were paid to them for the same service than was paid to other roads. I desire to have that impression removed if it is incorrect, and I can see no wrong in asking for the information. You may add the Pennsylvania road if you like, and the Northern Central, and I believe I have a little interest in a road called the Shamokin road, and you can put that in if you will. I have an interest in various other roads, and you can put in if you like all the railroads in which the Senator from Pennsylvania happens to have a little stock.

Mr. WHYTE. I understood the Senator from Pennsylvania to accept the amendment which I proposed.

Mr. CAMERON. I did.

Mr. WHYTE. And therefore I ask that it be entered upon the resolution that the Northern Central railroad shall also be inquired into, and the amounts received by that company during the same period of time shall be stated by the Secretary of the Treasury.

Mr. SHERMAN. I wish to say in reply to the observation made by the Senator from Indiana that I have not the slightest feeling against the Baltimore and Ohio railroad. This resolution of mine is not offered with any hostile feeling against that road, nor have I any choice as to either of these railroads, or any interest in any of them. The reason why I offer this resolution is that Mr. Garrett, in the official report that I read the other day, stated that the amount paid by the Government to him, or to his road, was one dollar to one dollar and ten cents per passenger. I have heard that allegation controverted, and I have heard it stated by officers of the Government that the full amount of \$1 50 was paid. The only object of this resolution is to show to the Senate by the extraordinary or exorbitant charges of this road, more than other roads charged for the same service, the necessity of providing against such a contingency again; not with a view, however, to disparage the Baltimore and Ohio railroad, because I appreciate its importance in the railroad interests of the country.

As for the difficulty in getting this information, these disbursements are all paid by the quartermaster, as a matter of course, as all

transportation charges are. They can be easily ascertained from the reports in the Third Auditor's office, and I do not suppose it will take a competent officer of that bureau more than a day or two to furnish the information. No details are required, but simply the aggregates and the rates. I supposed the information was in our official papers until I inquired for it and found it was not there. Although the contract with the other railroad companies is on our files the contract with the Baltimore and Ohio road is not published, so far as I can ascertain, and I desire to have it.

Mr. POMEROY. I have not the least objection to this resolution so far as it relates to any railroads. But the Committee on the Revision of the Rules reported a rule to the Senate, which I believe the Senate did not adopt, although the Senator from Rhode Island [Mr. ANTHONY] urged it very strongly, that these resolutions calling for information where it was not known definitely what amount of clerical labor would be required to furnish it should first go to a committee, and there should be a report on that subject. I have seen resolutions so drawn here that when a Senator wanted only one item of information it required the Departments many months, and the report made a book. And yet we are constantly caviling at the Departments for the amount of clerical force that they keep employed, while we are continually loading them down, without a report from any committee as to its propriety, with labor. I said last year that I would not vote for another reference to a Department for information unless we had some reasonable assurance, or some knowledge or information was furnished the Senate that the expense of it would not be very considerable. I believe we ought to have a standing rule on that subject. I do not think, if the matter was up again in the Senate and it was fairly understood, we should vote down the rule that was proposed. I shall vote against any of these calls, simply because I do not know what they may cost. We cannot get anything printed until it is referred to the Committee on Printing and they report in favor of it with an estimate of the probable cost. Why should we subject a Department to the expense when we do not know the probable cost?

The PRESIDENT *pro tempore*. There is an amendment pending which will be read.

The CHIEF CLERK. The resolution, as proposed to be amended, now reads:

Resolved, That the Secretary of the Treasury be directed to communicate to the Senate the amount paid by the United States to the Baltimore and Ohio railroad and the Northern Central railroad for transportation of men and supplies each year from 1861 to 1866 inclusive, designating separately the sums paid for such transportation to the Baltimore and Ohio railroad from Washington to the Relay House; also the rates of such transportation. And that he also state the amounts paid to the Baltimore and Ohio Railroad Company in excess of what was paid to other railroad companies for similar services.

Mr. POMEROY. That involves what was paid to every railroad in the United States.

Mr. HARLAN. I do not think the objection urged by the Senator from Kansas ought to control the action of the Senate. If the head of a Department is called on for information by either branch of Congress, and shall ascertain that it cannot be furnished without interrupting the ordinary business of the Department, it will be an easy matter for the Secretary to so inform the House asking for that information, and to state the amount which will be necessary to employ the additional clerical force requisite to make out the statements called for. I apprehend the Secretary of the Treasury will do this. But if he can avail himself of the force now in the Department without interrupting the ordinary business of the Department and comply with the request of the Senate he will do so. I have no doubt that the failure heretofore to respond has been an inadvertence and oversight.

In relation to the objection urged by the Senator from Indiana, I have to say this—perhaps I ought to say it on account of my con-

nection with the business that appertains to the District of Columbia—that there is no implied censure, as it seems to me, on the Baltimore and Ohio Railroad Company in the passage of this resolution. If the company was paid more for the amount of service rendered the Government than was paid to other similar corporations it was with the concurrence of the officers of the Government, and doubtless for what they deemed a sufficient reason. There was a reason for it that satisfied the officers of the Government at the time, and that reason may weigh very materially in the decision of the Senate when they come to consider the railroad bills now on the files of the Senate. Perceiving, therefore, no implied censure of the railroad company named in the passage of the resolution, and no material obstruction to furnishing the information growing out of the consideration mentioned by the Senator from Kansas, I must vote for the resolution.

Mr. HENDRICKS. I should like to have the yeas and nays on the resolution.

MISS SUE MURPHEY.

The PRESIDENT *pro tempore*. The morning hour having expired, it is the duty of the Chair to call the attention of the Senate to the unfinished business of yesterday, which is the bill (S. No. 625) for the relief of Miss Sue Murphey, of Decatur, Alabama. That bill is before the Senate as in Committee of the Whole, and the pending question is the amendment proposed by the Senator from Massachusetts, [Mr. WILSON.]

Mr. HOWE. Mr. President, last evening I attempted to show, and I think did successfully show, that there was nothing in the past action of the Committee on Claims which should dissuade the Senate from giving their assent to the pending bill. I tried to show, and I think I did successfully show, that there was nothing in the past action of the Senate which should prevent them from giving their assent to the bill. On the contrary, I think I did show successfully that no man or woman had ever presented an honest claim for property taken and used by this Government and had been denied payment because of his or her residence in any particular portion of the Union. Up to this time we have known no distinction, the committee has known none, the Senate has known none, between the resident of one portion of the United States and the resident of another portion.

If there is, then, nothing in the past action of the committee nor in the past action of the Senate which should prevent us from giving a fair consideration to this claim I ask what there is in the nature of the claim itself which should lead the Senate to hesitate or to refuse? Looking at the formidable opposition which this bill has encountered perhaps I have some reason to be deterred from pursuing its support. Looking at that long muster-roll of distinguished Senators who have presented themselves here, one after another, to protest against the payment of this claim, perhaps I ought to conclude that I am wrong, and I believe I should so conclude if it were not for one little circumstance, and that is that I know I am right and not wrong, and I am so constituted that when I know I am right it takes a good deal of testimony to convince me that I am wrong.

For weeks every species of opposition has been offered to this bill that I ever heard of, I think. Every sort of plea, dilatory and in bar, has been made here. Pleas for delay; pleas to the jurisdiction; pleas of bankruptcy without number; pleas of infancy; and yesterday my distinguished friend, the Senator from Nevada, [Mr. SREWART,] really stood up here in the Senate and set up the large sums of money you have appropriated from year to year for the support of the Freedmen's Bureau as a set-off against the claim of Sue Murphey. I know in our practice but one form of defense which has not been interposed here, and that is the statute of limitations. That has not been set up yet.

The honorable Senator from Vermont [Mr. EDMUNDS] first sounded the alarm. I do not think he felt much alarm himself; but he said the bill required careful consideration. Well, sir, that injunction of his has been attended to. I trust the honorable Senator is prepared by this time to give his certificate that the bill has been carefully considered. The honorable Senator from Maine [Mr. FESSENDEN] was the first to take the alarm. He seemed to think, although he did not insist upon his position, that there had been somewhere some decision which militated against the principle of this bill, and he wanted precedents. On a former occasion I thought I had pointed the Senator and the Senate to precedents. I showed the Senate that there had been paid out of the Treasury, upon the adjudication of the head of a bureau, for property taken by the Government, taken within these very districts and appropriated to the use of the Government, more millions of money than ever will be paid out of the Treasury hereafter upon the adjudication of the Committee on Claims or of any Congress under the principle involved in this bill.

And the Senator from Kansas [Mr. POMEROY] interposed his objection, which was that we should not make a pet or a favorite of Miss Sue Murphey; that she was no better than anybody else in Decatur, and that as everybody in Decatur suffered under the orders of the general who commanded our Army, we should pay them all. I replied, as well as I could to the Senator, that we could investigate but one case at a time, and the case of Sue Murphey happened to be the individual case that was then before us.

The Senator from Vermont, [Mr. MORRILL,] with his eye always fixed upon the interests of the Treasury, interposed in the name of the national necessities, and he undertook to inform us, as other Senators have informed us since, that the Treasury could not stand up under the immense drain that would follow upon the passage of this bill. I have already said, in reference to that objection, that if the principle of this bill be just, if it imposes an honest obligation on this Government, I would stand here and defend it although it drove the Treasury to bankruptcy. Bankruptcy rather than dishonor and dishonesty! If it imposes no honest obligation upon the Government, then do not pay it, no matter how able your Treasury may be to meet it. But upon that allegation I shall have something more to say hereafter; I pass it for the present.

The Senator from Illinois [Mr. YATES] offered his objection that Congress ought not to consider these things; that they were more proper subjects for the consideration of the Court of Claims. I quite agree with the Senator. My judgment is that that would be the better tribunal of the two to investigate them. I am not very positive upon the point; but that is my judgment. But, sir, Congress has passed upon that question, and has excluded the jurisdiction of the Court of Claims, and has positively commanded the court to abstain from taking jurisdiction of this class of causes, and has commanded the heads of your quartermaster's and commissary bureaus to abstain from doing the same; and unless there is relief here there is relief nowhere.

The Senator from New Hampshire [Mr. PATTERSON] following in this debate, I think, on the whole, furnished the most unanswerable argument that I have heard in the course of the debate. His objection was founded, if I understood him, on the doctrine that "some things could be done as well as others." The honorable Senator did not tell us from which one of the writers on the rights of war he found the text of his doctrine; but I know the accuracy of his scholarship; I do not doubt that he quoted correctly, and I shall not undertake to controvert the principle. There may possibly be an answer to the application he made of it. He pointed us to the case of Mr. Lay, I think, who had some property near the line of the District of Columbia—a building which was

knocked to pieces, as I understood him to say, by the guns in the hands of our troops, and as I understood him, by the command of the President of the United States. He says that has not been paid for. He points us to some other cases, and he wants to know why Mr. Lay and others are not paid. I will tell the honorable Senator candidly that I do not know why they are not paid; but in view of the objections that are urged here I submit to him and to the Senate if it be not a fair conclusion to come to that whenever their claims are presented to the quartermaster or other department somebody as well informed as my friend has said to the head of the Department, "Do not pay this at present; Miss Murphey has not been paid yet." Would it not be as good a reason for the quartermaster refusing payment to Mr. Lay that Miss Murphey had not been paid, as for us to refuse payment to Miss Murphey because Mr. Lay has not been paid?

Mr. President, the Senator from Michigan [Mr. HOWARD] has repeatedly, or at least more than once, urged his objections to the payment of this claim. He has told us, over and over again, that there is no principle known in the science of government which requires a Government to protect its citizens against the destruction of property in war. So stated, I do not controvert it. We are not asking for any such protection as that. The Senator from Oregon [Mr. WILLIAMS] reiterated that statement, and replied to that doctrine as if it were the doctrine upon which this bill stands, as if it were the doctrine for which I had contended. But I had, over and over again, said to the Senate that I insisted upon no such doctrine. I do not stand upon the idea that the Government is bound to protect its citizens against all spoliation and all loss in time of war; but when the Government inflicts the loss, when the Government imposes the spoliation, it is no answer to turn round and say, "The Government does not undertake to indemnify and to protect its citizens." That plea was overruled long ago. That plea was interposed to the first case we have on record. When Cain was arraigned for the murder of his brother he met it with just such an objection. Said he, "Am I my brother's keeper?" And when Miss Murphey comes here and asks the Government to pay her for property which the Government has taken the representatives of the Government stand up and say, "Is the Government bound to take care of Miss Murphey's property?" The Almighty demurred to the plea of Cain, and the demurrer was sustained. It has not been tried since until this case came up. The Almighty was of the opinion that Cain was the keeper of his brother to the extent that he must keep his hands off. It is my deliberate judgment that the Government is the keeper of the property of all its liege subjects to the extent that it shall keep its hands off from the property, or taking it shall make compensation for it.

The Senator from Nevada, [Mr. STEWART,] I think, struck a new theory into the soul of the Senate by telling us that we must not assume any such obligation as this bill imposes upon us; we must not undertake to discriminate between loyal and disloyal down South, because we do not know enough to do it; we cannot determine one from the other. It is really impossible and impracticable, says the Senator from Nevada; and therefore—what? Conclude that they are all disloyal; treat them all on the footing of enemies. It is the simplest rule of government I have heard of in my life. So, then, murder is sometimes very difficult to detect; why not adopt the rule suggested to us by the Senator from Nevada, and when we find a murder committed in some district, instead of charging the officers of government with the duty of ascertaining who the man was that committed the murder, let the executive of the government place the inhabitants of some district in which the murder was committed, of certain limits, all under the ban of murder and hang them all? The doctrine stands upon precisely the same reason. You will not pay a

loyal subject of the Government, because if you consent to pay a loyal subject of the Government there is some danger that you will by-and-by get fooled, and pay somebody who was not loyal.

And the other day the Senator from Massachusetts [Mr. SUMNER] even, who, if he were as full of learning as he is replete with reading, I think really would suffice for a Congress himself, employed his gorgeous rhetoric here, not to make the Senate the palladium of the citizens' rights and safety; on the contrary, with a hostility almost vandalic, you saw him fling the image of Pallas from the boundaries of the Capitol and invoke the nation to become the spoliator of its liege subjects and citizens.

Mr. President, others have appeared here in opposition to this bill, denouncing it in the name and by the authority of that rule of international justice which they say is violated by the exactions of this bill. One might be deterred from meeting this array of authority; and yet I propose to meet it as well as I can; and I ask the Senate in all soberness what is this claim which has thus been battled, fore and aft? It is a request that the nation will pay for a piece of property taken by its authority and for its use, and applied to the occupation of an army and to the building of a fort. That the use made of the property is a beneficial one, that the kind of property taken is such as all law recognizes to be property and to be compensated for, nobody doubts, nobody denies. My colleague read the express words of Vattel; nay, everybody concedes that if such property was taken for such purposes elsewhere or from other persons it should be paid for. If the character of the property is such as that it should be paid for, and if the use made of it is such as to call upon the Government to make compensation, then there must be something in the character of the claimant or in the conduct of the claimant which should prevent payment. Now, who is the claimant? A citizen of the United States; a subject of the United States, owning allegiance to the Government of the United States, paying allegiance to the Government of the United States. So the case finds. This is the hypothesis upon which the case has been supported so far. I wish to say right here that upon this latter allegation as to whether this individual has paid due allegiance to the Government of the United States, I have been led to doubt by information which has been laid before the Senate since this debate opened. Upon that question I desire to be further informed. A motion has been offered here to recommit this bill to the Committee on Claims for a further examination upon that point. To that disposition of the bill I have no sort of objection, and indeed I am in favor of it; but so far the bill has been disputed upon the hypothesis that the claimant was loyal and did pay that allegiance which every subject owes to the Government which is over him. Then I say the claimant is a citizen and a subject of the United States, and a loyal subject of the United States. Then why should she not be paid? Why, we are told there was a war pending; "a civil war," says the Senator from New York, [Mr. CONKLING;] "a flagrant war," says the Senator from Michigan, [Mr. HOWARD.] Yes, Mr. President, that is a fact. There was pending a civil, flagrant, double and twisted war, if you please. What then? *Inter arma silent leges*, says the Senator from New Jersey, [Mr. FRELINGHUYSEN.] So then there was "chaos come again." The felonious taking of property was no longer larceny, for there was no law defining larceny. The forcible taking of property was no longer robbery, because there was no law defining robbery. The taking of human life with malice aforethought was no longer murder—there was no law defining murder—the laws were silent. Who told the Senator from New Jersey that in the midst of arms the laws are silent? Why, Marcus Tullius Cicero told him. For what purpose—upon what occasion did he avow that doctrine? There was an election pending for

the consulship, and his friend Milo was a candidate, and Claudius was an opponent of his; and we are told that the feeling around there was high, as is sometimes the case in elections elsewhere than Rome; and on the eve of the election Milo and Claudius met, they say, on the Appian Way—I wish we had the Senator from Massachusetts [Mr. SUMNER] to tell this story, [laughter]—with their followers, and a collision ensued, and Claudius was slain, and Milo was put upon his trial for the murder of Claudius, and Cicero defended him. Against Milo the stern precept of the Roman law was thundered, "He who takes a human life is not fit to live." Cicero said that Claudius lay in wait for Milo, and that Milo took his life in self-defense; but the Roman law knew of no such defense; its precept was general and universal, as is the law with almost all barbarian nations: "He who takes a human life is not fit to live." That is so, said Cicero; that is the law, said Cicero; but in the midst of arms the laws are silent, said he. What lawyer since Coke's time would have ever urged any such defense of Milo upon the facts, as Cicero stated them, as he did urge? Upon Cicero's version of the facts the law was not silent, but the law commanded Milo to defend himself even at the sacrifice of the life of his assailant. There is no principle of law better understood, no one principle, perhaps, more frequently applied than that. Cicero, unfortunately, had not heard of it; unfortunately I say for his reputation if he were to enter upon practice in our courts at this time; and yet he left quite a reputation behind him in spite of his not having been made acquainted with this principle; and I am told left quite a little property which he had accumulated in the practice of his profession.

I am not here to deny that Cicero was a man of very respectable parts. I am here to deny the proposition which he laid down on that occasion. Our faith requires us to believe that the sun and the moon stood still while Joshua thrashed the Amorites, but my faith will not enable me to believe that the laws were suspended while Milo and Claudius had a street fight. It was no war; it was a mere election broil.

Mr. President, that sophism so uttered in the very cradle of jurisprudence, set to the music of Cicero's oratory, has survived to our time; and now, two thousand years after it was uttered, it is made a stalking-horse to bring into the American Senate a rule of national conduct which dissolves the relation of sovereign and subject, which confounds all distinction between guilt and innocence, which denounces against loyalty the penalties that are due to treason, and which resolves the Government of this model Republic into that odious thing which no monarchy has dared to be since King John met his barons at Runnymede, a common marauder and a mere snatcher of purses.

Mr. President, I say the great Roman advocate uttered an untruth; and I call upon the Senator from New Jersey, not one whit behind him in the graces of the orator, not to help perpetuate that falsehood, but to help bury it. The laws are never silent. High above the roar of the cannon at Gettysburg and Antietam, above the whirl of Sheridan's cavalry as they swept up the valley of the Shenandoah, everywhere and always resounds the supreme law, the voice of the civil State always commanding what is right, and prohibiting what is wrong, and every loyal man hearkens to and obeys it. For different purposes the State prescribes different forms of procedure. A deficient fence is provided for by one; the title to property is tried by another; criminal trials are conducted by another; commerce is regulated by another law of procedure; and armies are marshaled by yet another. The healthful ministers of peace are guided by one code; the hellful agencies of war are controlled by another; but the State prescribes them both, and one or the other is always supreme.

And now, Mr. President, I ask if this war did not hush the voice of law, how is this bill

pending before the Senate affected by the existence of the war? The rights of this claimant and the obligations of this Government are to be determined in the light of the laws of war. Does any Senator claim any more from the existence of the war than that the right of this bill and the obligation of this Government are to be settled and adjudicated in the light of the laws of war? Well, then, what are the laws of war as bearing upon the questions involved in this bill? I am going to state my understanding of them, and I think I shall state them liberally enough to satisfy even the Senator from Michigan or the Senator from Massachusetts.

What may this Government do, then, in time of war and under the sanction of its laws? Why, sir, according to my understanding of that code, this Government may, in the administration of the laws of war, seize and confiscate every dollar of property owned by an enemy wherever the Government can find it, and within enemy's territory the Government may capture and confiscate all property, let it be owned by a friend or an enemy. When I say that, I am making all the concession that I hope will be asked of me. I think that is the doctrine of war to-day. I say to my distinguished friend from Kentucky, [Mr. DAVIS,] who does me the honor to listen to me, that I would fight against that definition, as able men than I have protested against it time and time again; but, after all, I think it is the doctrine to-day. The Senator from Massachusetts says that Bynkershoek is the highest authority, Bynkershoek's testimony is emphatic. The Senator says he is the authority of last resort. I am inclined to think the Senator is right; and that I may not be understood as having made this concession to the laws of war without a pretty respectable backing I will read from this writer of the highest authority his definition of war. "War is a contest by force," says Bynkershoek:

"I have not said by lawful force, for in my opinion every force is lawful in war. Thus it is lawful to destroy an enemy though he may be unarmed and defenseless; it is lawful to make use against him of poison, of missile weapons, of fire-arms, though he may not be provided with any such means of attack or defense; in short, everything is lawful against an enemy."—*Bynkershoek's Law of War*, p. 2.

So Bynkershoek said. I think myself that while he discusses the laws of war with a good deal of the genius of John Milton, he discusses them very much in the spirit of a Dutch butcher; but so he said, and although others have caviled at and remonstrated against it, I do not find very satisfactorily the authority which overthrows and denies it. Even the great John Marshall, whose intuitions revolted against against this monstrous doctrine, could do no more in the light of authority than to hang his head and to say in the language I am about to read to the Senate—

"Respecting the power of government no doubt is entertained. That war gives to the sovereign full right to take the persons and confiscate the property of the enemy wherever found is conceded. The mitigations of this rigid rule, which the humane and wise policy of modern times has introduced into practice, will more or less affect the exercise of this right, but cannot impair the right itself. That remains undiminished, and when the sovereign authority shall choose to bring it into operation the judicial department must give effect to its will."—*Brown vs. The United States*, 8 Cranch, 122.

But, Mr. President, while Chief Justice Marshall bowed his head in submission to this rule as within the scope of sovereign rights in war, he said one thing which must not be lost sight of, if we mean to do justice and to execute law, upon the simple bill which is before us. While he declared that the sovereign could confiscate the property of an enemy wherever it was found, and could capture all property in enemy country, he said that only the sovereign could do it—not that General Granger, not that any subordinate could do it. The national will must be declared upon the point; and if the national will said seize and confiscate, or capture and confiscate the property, it could be done. What has the national will said about that? What act has ever been put upon your statute-book or been proposed on your journals

which has offered to put a loyal citizen and subject of the United States on the footing of an enemy? That no one insists.

War, you see, Mr. President, introduces new distinctions, both geographical and political. War divides all human society into three classes: one is composed of friends; one is composed of enemies; one is composed of neutrals, neither friends nor enemies. How distinguished? Not by a visible line drawn between one and the other. That is impracticable. The line which separates or the marks which distinguish between the loyal and the disloyal are more like those blood stains which, as my friend from New Jersey knows, were drawn upon the doorposts in Egypt to designate the houses from which the first-born should be taken from those which should be passed over. But it makes another distinction, not political, but geographical. It divides all the world into three districts. One portion is friendly territory, another portion is enemy's territory, and another portion is neutral territory.

That mark is not invisible; those divisions can always be traced. You need not blunder in pursuing those. That Sue Murphey stood on the right line of the first division, that she was among the friends and not among the enemies of the country, is true, if she was loyal. That is what we mean by a friend. If she was not, (and that question is to be tried hereafter,) then she was on the wrong side, and her property was open to the confiscation of the Government. But if she was loyal, then where was her property? If that was in enemy's territory the Government could pursue it; at what cost and upon what terms is another consideration. The Government could pursue it; but was it in enemy's territory? Over and over again I put the question, what facts constituted Decatur, Alabama, in March, 1864, enemy's territory? and finally I put the question to the Senator from Michigan, and whoever puts him a question is likely to get an answer. Immediately I got one from him. If he does not always get a right answer I am sure it is rather the misfortune than the fault of the Senator, for I know he always intends to give the right answer. He gave me one. Several facts, he said, constituted that condition of affairs; first, the proclamations of the President.

Mr. HOWARD. No; first, the statute of 1861.

Mr. HOWE. Well, first the proclamation of the President, issued in accordance with the statute of 1861. Sir, do you know just where the President gets his authority to make one portion of the United States enemy's territory, and so to distinguish it from other portions of the United States? He has the power to pardon crime; and recently and very sternly we have heard on this floor his right denied to spread the grace of amnesty over a large district of country. If he cannot grace any portion of the country with an amnesty in the exercise of the pardoning power, where, in the name of law, does he get the authority to conclude a large portion of the country under the ban of guilt? He has no such authority. It was never breathed in my ears that he had any such authority until this debate came up. But, Mr. President, I ask when he undertook to exert any such monstrous power? In his proclamations? Not a word of it. What are those proclamations, of which so much has been said? That he declared Alabama, South Carolina, and Virginia to be in insurrection? No, sir; not that. There are several of them.

The first proclamation looking in this direction which he issued bears date on the 15th of April, 1861. That was to call out the militia. That was the object of it. What was his reason for calling out the militia? That half of the country was in insurrection? Why, he said that "the laws of the United States have been for some time past and now are opposed, and the execution thereof obstructed in the States of South Carolina, Georgia, Alabama," and others; and he wanted the militia to help to execute the laws. A little later than that he issued another proclamation, in which he said,

not that Alabama was in insurrection, but that an "insurrection against the Government of the United States has broken out in the States of South Carolina, Georgia, Alabama," &c., and therefore I order a blockade of the ports of those States; and a little later came another proclamation, in which he said an insurrection had broken out in Virginia and North Carolina and some other States. Then comes another proclamation:

"Whereas an insurrection exists in the State of Florida, by which the lives, liberty and property of loyal citizens are endangered; and whereas it is deemed proper that all needful measures should be taken for the protection of such citizens and all officers of the United States in the discharge of their public duties in the State aforesaid: Now, therefore, be it known that I, Abraham Lincoln, President of the United States, do hereby direct the commander of the forces of the United States on the Florida coast to permit no person to exercise any office or authority upon the islands of Key West, the Tortugas, and Santa Rosa which may be inconsistent with the laws and Constitution of the United States; authorizing him at the same time, if he shall find it necessary, to suspend there the writ of *habeas corpus*, and to remove from the vicinity of the United States fortresses all dangerous or suspected persons."

There was an insurrection in Florida, as there was in Alabama, as there was in Georgia, but was all Florida enemy's territory? Did the President mean that? What was his object in issuing that proclamation? To protect the lives and property of the citizens of the United States; and these proclamations are paraded to us day after day as evidence of a purpose on the part of the President not to protect the property of the citizens of the United States, and they are pleaded here as the authority by which and under which any officer commanding in the name of the United States any portion of your armies could plunder at will all property within all those States! It was in the light of this language, employed in these proclamations, that I ventured to ask my friend, the Senator from New York, the other day, if we were necessarily to conclude because the President said that an insurrection existed in a State that it involved the whole State.

My friend at my left [Mr. EDMUNDS] instances an insurrection which broke out in Pennsylvania; another one which broke out in Massachusetts; but I instance portions of the territory of the United States involved in these very proclamations. Several of these proclamations included the State of Virginia, and if we are to conclude that all Virginia was enemy's territory because these proclamations described Virginia as one of the districts in which the insurrection had broken out, why then the honorable Senators from that State were representing enemy's territory on this floor. Will Senators tell me that that portion of old Virginia which now constitutes what is known as West Virginia was ever enemy's territory, or was made so by these proclamations? Always on the eastern side of the Chesapeake bay there have been portions of what is still Virginia, always a part of Virginia, always included in this general term, which were never occupied by the enemy, and which I think no Senator here will pretend was ever enemy's territory.

But, Mr. President, all these proclamations had just one of two purposes: either to lay the grounds upon which the ports of these States should be blockaded, or to assign the reasons for calling out a larger military force to enforce the laws of the United States. Here is another proclamation to which the attention of the Senate has been repeatedly called, which had a different purpose. Its purpose was to regulate trade between that portion of the country which was friendly and that portion of the country which was hostile territory. There it was necessary to be a little specific. This is the proclamation which I understand was issued specifically in pursuance of the act of Congress to which the honorable Senator from Michigan referred.

Mr. HOWARD. The proclamation of August 16, 1861.

Mr. HOWE. Yes, sir. This proclamation, after reciting that an insurrection "against the laws, Constitution, and Government of the

United States had broken out within the States of South Carolina, Georgia, Alabama, Florida, Mississippi," &c., goes on to say:

"Now, therefore, I, Abraham Lincoln, President of the United States, in pursuance of an act of Congress approved July 13, 1861, do hereby declare that the inhabitants of the said States of Georgia, South Carolina, Virginia, North Carolina, Tennessee, Alabama, Louisiana, Texas, Arkansas, Mississippi, and Florida, (except)—"

Naming these States first, and then excepting and reserving—

"the inhabitants of that part of the State of Virginia lying west of the Alleghany mountains, and of such other parts of that State and the other States heretofore named as may maintain a loyal adhesion to the Union and the Constitution, or may be from time to time occupied and controlled by forces of the United States engaged in the dispersion of said insurgents, are in a state of insurrection against the United States."

And he then goes on to interdict all trade between the inhabitants of the friendly territory and the inhabitants of the hostile territory described and bounded in that proclamation; and from those boundaries are excluded in express terms certain portions of Virginia and every portion of the United States, where ever it may be, which maintained a loyal adherence to our Government, or which was, or might be thereafter, occupied by our forces. Sir, it is not enough for those who contend that Decatur, Alabama, was enemy's territory in 1864 to show that Decatur is in Alabama, and that Alabama is named in the proclamations of the President as one of the States within which an insurrection had broken out. They must show that it is not a part of those States which was occupied by our forces.

But, Mr. President, if the proclamation did not make Decatur enemy's territory we are told that the Supreme Court did in the prize cases; or if they did not make it so, they decided that it was such. Either the Senators who assert that have misread or misunderstood the judgment of the Supreme Court in the prize cases, or I have strangely misunderstood it. I assert here that so far from holding that Decatur was enemy's territory, the language which they used in those celebrated cases expressly excludes Decatur from enemy's territory. The particular locality within the insurrectionary districts about which they were inquiring, and to which their judgment applied, was Richmond in Virginia, the capital, the political metropolis of the rebellion, the headquarters of the rebellion, the seat of its principal army always. They said that was enemy's territory. But did they say that it was enemy's territory because of the President's proclamation? By no manner of means. The President's proclamation had nothing to do with making it enemy's territory. The enemy made it their territory, and made it their territory by occupying it, by possessing it. At one time they made Decatur enemy's territory, but it was no longer enemy's territory; it was not enemy's territory in March, 1864. Do I misunderstand the effect of this decision? The Court say:

"Several of these States have combined to form a new confederacy, claiming to be acknowledged by the world as a sovereign State. Their right to do so is now being decided by woe of battle. The ports and territory of each of these States are held in hostility to the General Government. It is no loose, unorganized insurrection, having no defined boundary or possession."

That is almost the language used by the Senator from Michigan, and in using that language he is supported by the Supreme Court.

"It has a boundary marked"—

How? By the description in the President's proclamation? By the description contained in any statute? No, sir—

"marked by lines of bayonets"—

That is a visible line—

"and which can be crossed only by force. South of this line is enemy's territory"—

Why?

"because it is claimed and held in possession by an organized hostile and belligerent Power."

Not because it is named in the President's proclamation at all. Decatur was not south of that line of bayonets; Decatur was north of

it. Trade between Decatur and New York, the commercial metropolis of the nation, was as free as between New York and Albany; but trade between either Decatur or New York, and any point south of that line of bayonets, which the Court says traces the boundary between enemy's and friendly territory, was pursued under great difficulties.

To corroborate my interpretation of this decision of the Supreme Court, by way of excluding the idea that that language is misunderstood by me, or can be misunderstood by anybody looking at it reasonably, I beg leave to read an extract from a letter published by Mr. Richard H. Dana, a lawyer of national reputation, who was of counsel in the prize cases, and a letter written for the purpose of explaining, or popularizing rather, really what was and what was not decided by the prize cases. I remember to have heard the late President of the United States say of that letter that until he read it he did not himself accurately understand what was the true scope and meaning of the judgment of the Court in the prize cases. The letter is not long, but I will only read a few extracts from it. He undertakes to reduce to a series of propositions both what the Court did not decide and what the Court did decide. He says:

"What the Court did not decide:

"1. The Court did not decide that the passing of the ordinances of secession made the territory of the insurgent States enemy's territory, or its inhabitants alien enemies.

"2. The Court did not decide that the passing of the secession ordinances terminated, or in any way affected, the legal relations of the insurgent States as bodies-politic with the General Government or with their respective States.

"3. The Court decided absolutely nothing as to the effect of the passing of the secession ordinances on the civil or political relations of the inhabitants of the insurgent States with the General Government or with their respective States, or on the relations of the insurgent States, as bodies-politic, with the General Government.

"4. The Court did not decide that the inhabitants of the seceding States are alien enemies at all, or that the territory of those States is enemy's territory.

"What the Court did decide:

"1. That in case of domestic war the Government of the United States may, at its option, use the powers and rights known to the international laws of war as blockade and capture of enemy's property at sea.

"2. That to determine whether property found at sea is 'enemy's property,' within the meaning of the law of prize, the same tests may be applied in domestic as in international wars.

"3. One of those tests is that the owner of the property so found has his domicile and residence in a place of which the enemy has a certain kind and degree of possession.

"4. Richmond, Virginia, was, at the time of the capture and condemnation of those vessels, under such possession and control of an organized, hostile, belligerent power as to render it indisputably 'enemy's territory' within the strictest definitions known to the laws of war."

That is Mr. Dana's understanding of it; and that this is the true understanding of it will be apparent to any lawyer who considers the reason of the rule that property may be captured at will within enemy's territory. The rule is because it is general; you can capture property there which is owned by your friends as well as that which is owned by your enemies. The reason is not because the owner of the property has subjected himself to any penalties, but because the property itself is guilty, so to speak; it is because the property is in that predicament that it is liable to contribute to the resources of the enemy. It is liable to do that only where it is within the jurisdiction of the enemy; only while it is in a locality of which the enemy has possession and has control, in the language of the Court and in the language of Mr. Dana. Decatur was no such place. When this property was taken the enemy had no control over Decatur, and from that time to this, and I humbly hope, if this Government continues that example of justice which it has heretofore shown, it never will again be under the control of any enemy of the United States.

But, Mr. President, if it were enemy's territory, I have said, the sovereign might capture property on land or on the sea within that territory at Decatur. But should the sovereign do it? Because the laws of war would permit

it; because Bynkershoek says it may be done, does it follow that the sovereign should do it or would do it? Without permission of the sovereign, says Chief Justice Marshall, it cannot be done; no subordinate can do it. Should the sovereign give permission? As to the effect of giving such permission or as to the probability of such permission being given by this Government we have a little evidence. Mr. Halleck says:

"In the invasion of the Spanish peninsula, Napoleon had to choose between methodical operations, with provisions carried in the train of his army or purchased of the inhabitants and regularly paid for, and irregular warfare, supplying his troops by forced requisitions and pillage. The former was adopted for some of the main armies, moving on prescribed lines, and the latter for the more active masses. Soult and Suchet, in favorable parts of the country, succeeded for a considerable length of time in procuring regular supplies for their armies, but most of the French generals obtained subsistence for their troops mainly by pillage. Napoleon, at St. Helena, attributed most of his disasters to the animosities thus created among the Spanish people."—*Halleck's International Law and Laws of War*, p. 459.

But you see Napoleon did not exert the rights which the laws of war vested in him, according to the authority I have read; which the laws of war vested in him according to the authority as it is given by the Senator from Massachusetts and the Senator from Michigan. He did not go within a summer's march of those rights. He did supply the outlying flanks of his army in this irregular way, but the main lines were supplied by regular trains and regular purchases, and were in a country which was foreign and alien to that which he represented. Spain was a foreign country. All its inhabitants were his enemies, bound by their allegiance to their own Government to be the enemies of France. He was in that country; and yet so far from asserting this extreme doctrine of the laws of war, that all that territory was his and all that property belonged to him as the conqueror, he only consented, and that as a measure of military necessity, to supply a portion of his army by these forced contributions.

General Scott was charged with the conduct of a war also upon enemy's territory, in an enemy's country, in Mexico. At first, as I said to the Senate the other day, he issued strict orders that not an article of food should be taken without just payment. Finally, and near the close of the struggle, under instructions from our Secretary of State, he did depart from that practice to some extent and did levy contributions upon the country in which he was prosecuting war, contributions as a compensation for the protection he furnished by his forces to the people and to the balance of the property in the country. But neither General Scott nor any other general who has been charged with the conduct of war at home or abroad has ever asserted the doctrine, or attempted to practice upon the doctrine which has been asserted over and over again here in the Senate in this debate, that all the property of the conquered country belonged to the conqueror; that private rights were blotted out forever.

I say then, Mr. President, in the light of the experience detailed to us by Napoleon and of the advice given by General Scott, as well as in accordance with the judgments of the best jurists and the best writers on international law of modern times, that the Government of the United States would not have asserted the right to capture any property of friends within Decatur if Decatur had been south of the line of bayonets. My judgment is that the Government of the United States never would have deliberately decided to venture upon the right of capturing the property of friends, although it was within enemy's territory.

But I am not left to conjecture on this point. We know exactly what the Government did decide upon. They considered it, and they put their decision on the statute-book. I will read it to you. It was arrived at not without a long and somewhat heated debate. There were two questions which were in debate. What do you suppose they were, Mr. President? How much

of the property of our friends we should capture within those districts within enemy's territory? Do you suppose that was one of the questions we debated? Not at all. From the beginning to the end of that debate no voice was heard in the Senate Chamber, no voice was heard in the other wing of the Capitol, suggesting that a dollar of the property of a loyal man might be applied to the uses of the Government without compensation. The questions were, how far we might go in exercising the right to capture and confiscate the property of enemies—enemies in fact, rebels in law—for past offenses, and how far we should go in the future. We put a statute on the book which describes minutely the very classes of rebels whose property might be seized and confiscated for offenses already committed, and then we put this further section upon the book as a caution to those within that country for the future. I will read it:

"And be it further enacted, That if any person within any State or Territory of the United States, other than those named as aforesaid, after the passage of this act, being engaged in armed rebellion against the Government of the United States or aiding or abetting such rebellion, shall not, within sixty days after public warning and proclamation duly given and made by the President of the United States, cease to aid, countenance and abet such rebellion and return to his allegiance to the United States, all the estate and property, moneys, stocks, and credits of such persons shall be liable to seizure as aforesaid; and it shall be the duty of the President to seize and use them as aforesaid, or the proceeds thereof."

Is that anything like the assertion of a right to seize, to capture, and to confiscate the property of your friends in that district? No. Sixty days for repentance and reform were allowed to your enemies in arms; but if within sixty days after notice and admonition they did not cease to make war upon the Government or to aid those who did make war upon the Government, so many as did not do that your law said became enemies whose property you might seize, capture, and confiscate.

But, Mr. President, that is not all. That is what the Congress said about it. But the Commander-in-Chief of your armies issued instructions upon the advice of a distinguished civilian, Professor Lieber. Under those instructions your armies went down there. I will read you a clause from them:

"The United States acknowledge"—

This was published for the instruction of your armies moving upon that portion of the United States which you are now told was enemy's territory. Those enemies were told that—

"The United States acknowledge and protect, in hostile countries occupied by them, religion and morality; strictly private property; the persons of the inhabitants, especially those of women; and the sacredness of domestic relations. Offenses to the contrary"—

Offenses which do not respect all those interests, private property among the rest—

"shall be rigorously punished."

That was the command of the Government whose representatives here insist upon their right to appropriate all property, both of friends and enemies, within that country!

Mr. President, I did not quite conclude the argument upon the question whether Decatur was within enemy's territory or not. I have read you the language of the Supreme Court in the prize cases, that very decision which has been cracked about the Senate Chamber ever since this debate opened as if it were a cat-o'-nine tails got up expressly to scourge Miss Sue Murphy. I have read you the language of that court excluding by express words, and for the very reason and the whole reason upon which the doctrine stands, Decatur from enemy's territory. But I am told that in another case, in the case of Mrs. Alexander's cotton, the court held that one district in Louisiana did not cease to be enemy's territory, although our Army was within it. That is true. The court said the occupation of our Army was so brief, so unstable, they were driven out so suddenly, that to hold that the district in which Mrs. Alexander lived was no longer enemy's

territory was to expose that property to the very perils to prevent which this whole doctrine was invented. Your right, I say, to take property in enemy's territory, that is, the property of your friends, springs from the fact that it is liable to contribute to the support of the enemy. Mrs. Alexander's cotton was in that predicament, because our troops were there at one time; they were not there to stay. The Senator from New Jersey says, however, that it was because they had not been there long enough. He thinks that was the reason why the court held that Mrs. Alexander's cotton was still in enemy's territory, and he argues that our troops had been there in the neighborhood of Mrs. Alexander as long as they had been in Decatur. I do not know how long they had been in Decatur; the case does not show; but I will say to the Senator from New Jersey that that does not turn upon the question of time at all. The troops had been in that country, I think, for more than six weeks. I will give you another case where our troops had not occupied a district but six days when the court held that it was no longer enemy's territory. In April, 1862, a citizen of New Orleans, I believe a British subject by birth, but he had been for many years a merchant in New Orleans, purchased a vessel, New Orleans then being occupied by the rebellion, and loaded her with cotton. The lading was completed by the 17th of April, and on that day she was run down into Lake Ponchartrain, and anchored. On the 1st or 2d of May following, General Butler took possession of New Orleans with our troops, and on the 6th of May he issued some sort of a proclamation to the people there. There was some resistance shown between the 2d and 6th. The flag I believe was pulled down on the 2d. On the 15th, or some day later, our forces went down and took possession of that vessel and her cargo, and took her to Key West, I think. She was libeled. Our troops had been there, I say, but six days when this proclamation issued. The court found in that proclamation evidence that our troops had gone there to stay, and found as matter of history that they had stayed, and they held that from the time that proclamation issued New Orleans ceased to be enemy's territory, and therefore that this vessel, although purchased before our troops went there, and loaded before our troops went there and run down into Lake Ponchartrain and lay there at anchor when our troops took possession of New Orleans, was not enemy's property and was not liable to confiscation, and the libel was dismissed.

Mr. EDMUNDS. Was it on account of the proclamation or on account merely of the facts recited in the proclamation?

Mr. HOWE. The court fixed the date on the day of the proclamation, and there are a variety of facts which they recite as their reasons why they fix upon that date. Some of the statements in the proclamation were among the reasons; but they say it is fair to conclude that from the 6th New Orleans ceased to be enemy's territory. The great reason, the only reason is, that it was then no longer in possession or occupation of the enemy, but was in the permanent possession and occupation of the troops of the United States, and property there was not liable to contribute to the uses of the enemy more than it was in Washington, in Baltimore, or in New York.

Mr. President, those who have resisted the payment of this claim have all stood upon a rule of technical law. The Senator from New Jersey [Mr. FREELINGHUYSEN] is the only Senator, so far as I now remember, who has ventured into the field of ethics and has ventured to dispute the passage of this bill upon the grounds of its inherent injustice; and I wish to call his attention more than the attention of the Senate to that portion of his argument. I think I have mislaid the paper; I do not find it here; but the general idea inculcated in it I remember, and shall remember longer than I want to. There are a great many men who

might have uttered the same sentiment and it would not have surprised me so much. I am bound to say that the Senator from New Jersey is almost the last man within the circle of my acquaintance from whom I should have expected a defense against the payment of this claim, supposing this claimant to be loyal upon the ground of its inherent injustice. The Senator from Massachusetts [Mr. SUMNER] apologizes for the principle he espouses here. He denounces it himself as harsh, but he says it is war. The Senator from New Jersey says it is just. He calls our attention to the fact that we went at great cost of blood and treasure down there upon the appeal of our loyal friends to rescue them from the grasp of the rebellion, and now he protests that it is unjust and wanting in magnanimity on their part for them to turn round and ask us to pay for property of which they have been despoiled.

Mr. President, did we go down there? Does the Senator from New Jersey really mean to insist that the nation went down to Alabama or elsewhere within the country of the rebellion upon the invitation of our loyal friends, or did the nation go there in its own interests and by its own authority, and to protect and preserve itself? Is it to be supposed that the citizens of Decatur would not rather live with their property protected under the government of the confederacy than to have it stripped from them by the Government of the Republic? Was it a beneficent thing in this Government to go down there upon the cry of our distressed friends to rob them and plunder them? I put it to the Senator from New Jersey if, when his house is on fire, he will not put out his hand to extinguish the flames, except upon the privilege of being allowed to rifle the pockets of all the guests in the house? The Union was tumbling about our heads, and is it to be said that we must not put forth an effort to sustain the Union except upon the privilege of being allowed to plunder all those citizens upon whose heads the falling rafters are pressing most sorely? I think not. I think we went there in the discharge of a national duty, and that that national duty was to preserve all the territory belonging to the United States intact, and to preserve the rights of every one of the loyal and obedient citizens of the United States, so far as it was possible to do so.

But, Mr. President, before I conclude I wish to call especial attention to some matters in the speech of the Senator from Massachusetts, [Mr. SUMNER.] He urges the same general doctrine which has been urged by others, the Senator from Michigan, [Mr. HOWARD,] the Senator from New Jersey, [Mr. FREELINGHUYSEN,] and the Senator from New York, [Mr. CONKLING.] But with that extraordinary command of language which is habitual to him, he has defined and stated that doctrine with that clearness and precision which make it not only entirely intelligible, but make it to stand out so prominently that I feel entirely authorized to plead to it the general issue and go to the country upon it. He states this doctrine in these terms:

"Here it is proper to observe three things; one concerning the petitioner, and two concerning the property taken: first, that the petitioner was domiciled in a rebel State, or, to use more technical language, in a State declared by public proclamation to be in rebellion; secondly, that the property was situated within the rebel State; and thirdly, that the property was taken under the necessities of war, and for the national defense. On these three several points there can be no question. They are facts which have not been denied in this debate."

"Bearing in mind these facts, several difficulties which have been presented during this debate disappear."

Again, he says:

"Three men once governed the mighty Roman world. Three facts govern the present case, with the power of a triumvirate. The domicile of the petitioner; the situation of the property; and the exigency of war. If I dwell on these three facts, it is because I am unwilling that either should drop out of sight; each is vital."

Mr. President, I altogether misunderstand the law of this subject if the Senator from

Massachusetts is not utterly wrong in that statement. Each of these facts is vital. What? "The domicile of the petitioner, the situation of the property, and the exigencies of the war." First, the domicile of the petitioner within a rebel State. The prize cases were suits on behalf of those who were not all of them domiciled in any rebel State. Some of the claimants there were Mexicans; some were subjects of Great Britain; and there was no evidence that they had ever seen a rebel district. Secondly, says the Senator, the situation of the property. Why, the cargo of one of the vessels which was in dispute in those cases never saw a rebel district. It was taken in Hampton Roads, outside, on the high seas. And the exigencies of war, says the Senator. Why, sir, the exigencies of war, unless I am terribly mistaken, have nothing to do with the rights of the Government. If property belongs to an enemy, or if it is so situated that it may contribute to the success of the enemy, you may destroy it; although you have not the slightest occasion for the use of it yourself. I understand that to be a familiar principle of the laws of war. But the Senator calls this a rebel State because it was described as a rebel State in the proclamation. The captures referred to in the prize cases were made before that proclamation was issued.

The character of the claimant I understand to be a proper subject of inquiry. If the claimant is an enemy, then you may exclude him from your tribunals; but if the claimant be a friend, I say there is no pretext of law, international or national, upon which you can exclude him from your tribunals; and unless his property was in that predicament that it was liable to contribute to the success of your enemy, you have no excuse whatever for the capture of it.

Mr. HOWARD. There may be a national necessity for it.

Mr. HOWE. I am obliged for the suggestion of my friend. I stated the principle too broadly. There may be other excuses. There may be a national necessity which will warrant the taking of the property, but not warrant the taking of the property without making compensation. It may justify the taking of the property, but it will require the Government to make compensation for it.

But, Mr. President, the feature in the speech of the Senator from Massachusetts which most astounded me was not this particular statement of this doctrine of international law; but it was, I was about to say the audacity—I will not use that term—it was the fearlessness with which he went on with his citations of history to illustrate the enormity of it. Side by side with his bold declaration that we must not put our hands into the Treasury to pay our friends for property which we have taken, he cites us to the example of two illustrious British statesmen who, when their country had been involved in a civil war, a war with a rebellion, and a war with a triumphant rebellion, did not hesitate to put their hands into the national treasury, not to compensate loyal citizens for property of which their Government had despoiled them, but to compensate them for property which was taken from them by their enemies; and that speech is going down in the parliamentary history of this country. There you have the doctrines of an American statesman and of British statesmen in sharp contrast.

I say Great Britain was confronted with a rebellion. Within the district of that rebellion there were subjects still loyal to the Government of Great Britain. In the effort to put down that rebellion Great Britain failed, as we did not. Great Britain was in debt, overwhelmed with debt, overwhelmed with disaster, but the loyalists who had suffered by the acts of their enemies appealed to the sense of justice of the British Parliament. The Senator from Michigan, the Senator from New Jersey, the Senator from Oregon were not members of that Parliament, and there was not a word heard there of their having been

exempt from taxation, and that therefore the treasury was to be released from the obligation to make good their losses, or to help to make good their losses. Nay, sir, with every one of the pretexts which have been pleaded here to exclude this class of our fellow-citizens from the justice of the United States pressing upon the British people, and pressing upon British statesmen with double the force that they press upon us, there were two eminent and bold statesmen standing up in that Parliament, and in the name of national justice striking upon the rock even of national adversity until great streams of refreshing tenderness gushed forth to the healing of oppressed loyalty.

Mr. HOWARD. If the Senator will allow me, he makes an illusion, I suppose, to the remarks of Mr. Pitt upon the petition of the loyalists for relief presented to the British Parliament. If he will look into the debates he will discover that Mr. Pitt expressly stated that the claims did not rest upon strict right or justice. I quote Mr. Pitt's exact words,

Mr. SUMNER. "Strict justice."

Mr. HOWARD. "Strict right or justice." So that after all it was a mere gratuity, an act of benevolence on the part of the Parliament to extend the relief which was prayed for; a mere act of brotherly kindness, and nothing else.

And while I am up I beg to say one word further, if the Senator will allow me. I know of no evidence to support his declaration when he says that those claims were founded upon the destruction of property by the American insurgents, for they were such at that time. It does not appear whether those losses accrued in consequence of the violence of the Americans or the necessities of the British armies then in the field in this country.

Mr. HOWE. The Senator was entirely right when he says that Mr. Pitt protested that this was not an obligation which he asked the nation to fulfill. He held that it was a duty which in common gratitude they owed to the loyalists who had suffered in their cause, not an obligation; and it was not any more than it was an obligation on the part of New York to pay her citizens for property which had been taken from them by the act of Vermont. But said Pitt, but said Burke, but said others: "These men were our friends, and notwithstanding our misfortunes we owe them compensation for the losses, not which we have imposed upon them, but the losses which they encountered in our service." The language which has been quoted from Mr. Pitt and from Mr. Burke was not the only language which was employed during that great debate. In the treaty of peace negotiated between the representatives of the two Governments the question what should be done with those loyal subjects of Great Britain who had been stripped of their estates by the colonial authorities was one of the greatest questions to be settled. The Federal Government refusing to enter into any stipulation on their behalf further than that they would recommend to the States some sort of consideration for them, it was finally settled upon that basis, and that settlement was attacked in the House of Commons. Let me read you a few statements of how the British statesmen looked upon the claims of their loyal subjects:

"In the House of Commons Mr. Wilberforce said that 'when he considered the case of the loyalists'—"

Loyalists stripped by their enemies, and not by their Government—

"...he confessed he there felt himself conquered; there he saw his country humiliated; he saw her at the feet of America; still he was induced to believe that Congress would religiously comply with the article, and that the loyalists would obtain redress from America." Lord North said that "never were the honor, the principles, the policy of a nation so grossly abused as in the desertion of those men."

What men? Loyal subjects of Great Britain despoiled by the acts of Great Britain's enemies.

Mr. SUMNER. Let me remind the Senator that was the desertion in the treaty.

Mr. HOWE. Exactly.

Mr. SUMNER. That, the Senate will understand, was a discussion in Parliament, where the treaty was arraigned; and the politicians of that day found occasion to criticize it, because, as they said, the loyalists were not sufficiently provided for. John Adams and our commissioners at that time resisted the appeals of the British commissioners.

Mr. HOWE. Yes, Mr. President; they were complaining of the desertion of those British loyalists, because ample compensation was not made for their losses in the treaty, instead of standing there to assert this great modern doctrine of international law that those who were fools enough to be loyal were fit subjects to be plundered by everybody, friendly Governments and hostile Governments alike:

"Lord North said that 'never were the honor, the principles, the policy of a nation so grossly abused as in the desertion of those men, who are now exposed to every punishment that desertion and poverty can inflict because they were not rebels.'"—*Sabine's American Loyalists*, vol 1, p. 99.

It was precisely to those punishments that these people were subjected during the reign of the rebellion and this duty is enforced not upon an unfortunate sovereign beaten in the conflict. It is an instruction laid before a victorious country, ample in resources, able to meet every one of its obligations, and with not an obligation now that it can shrink from without subjecting itself to that lowest depth of infamy to which ever national honor was subjected:

"Lord Mulgrave declared that 'the article respecting the loyalists he could never regard but as a lasting monument of national disgrace.'" Mr. Burke said, that "a vast number of the loyalists had been deluded by England, and had risked everything, and that, to such men, the nation owed protection, and its honor was pledged for their security at all hazards."

That is Burke; that is in the British Parliament. They had risked everything in the royal cause, and the nation was pledged to make them compensation at all hazards, not compensation for what their own Government had taken, but compensation for what the enemies of that Government had taken from them:

"The Lord Chancellor declared that the stipulations of the treaty are 'specific.'"

That is, that the Federal Government would recommend some consideration for these people to the States.

"And," said he "my own conscious honor will not allow me to doubt the good faith of others, and my good wishes to the loyalists will not let me indiscreetly doubt the dispositions of Congress," since the understanding is, that "all these unhappy men shall be provided for."

There was no such understanding:

"Yet, if it were not so, Parliament could take cognizance of their case, and impart to each suffering individual that relief which reason, perhaps policy, certainly virtue and religion required."—*Ibid.*, p. 102.

That is the lord chancellor; that is Burke, Mulgrave, Wilberforce, that even the rights of men who had no other claim upon the consideration of their Government than that they had been true and loyal to it, that they had been deluded into an unfortunate and a losing cause, but had been faithful to it, should be respected. Sir, I came to the Capitol this morning with one who is now a Representative of one of these rebel districts, as Senators delight to call them, a Representative from Tennessee, who told me that the bitterest moment he had been called upon to experience during his whole life was that on which he was visited by a mission from the rebellion; and he was ordered to choose one of three propositions: either to take the oath of fidelity to the rebel cause, or to absent himself from the rebel dominions, or to be hung by the neck until he was dead. Those were the alternatives offered to him. That he hesitated upon the three will not be thought strange, I think. It is more singular and more noticeable that he finally chose, upon the instinct and upon the advice of his heroic wife, who told him to accept the second, to turn his back on his home and on his family; to take the second of the propositions; to leave all that he loved, and to go into

that portion of the Union where she fondly believed, "deluded," in the language of Mr. Burke, there might be protection for loyalty and devotion. He acted upon that advice. He did turn his back upon all he loved, and he did seek the flag of the Union, and under that flag he rallied a regiment, and he went back to his own home, and it was with his help and by his aid that your flag floats everywhere to-day. And now, when that class of men come here and ask no indemnity for the property of which they have been despoiled by their enemies, but ask only a just compensation for that property, which you and your Government have taken from them, they are told here in the council chambers of the nation that they were legitimate subjects of the spoil of their own Government, for whose success they had risked everything.

Mr. MORTON. Will the Senator allow me to interrupt him for a moment?

Mr. HOWE. Yes, sir.

Mr. MORTON. Mr. President, I met this morning a very eminent citizen of the State of Arkansas, who lost a large property taken from him by the rebels, and was for a long time incarcerated in Fort Smith by them, who was under sentence of death for some two weeks, expecting every day to be executed; and he told me that the greatest humiliation that he had suffered since the end of the war was in listening to a debate in which he was told that if his property had been taken by our Government instead of by the rebels he would have been denied all compensation upon the ground that he was a constructive traitor.

Mr. HOWE. Mr. President, I will not detain the Senate much longer. I was obliged to confess my astonishment, not so much that the Senator from Massachusetts should have asserted this doctrine which I have been opposing as well as I could, but that he should have ventured to cite the Senate to illustrious examples so utterly at war with this doctrine; that in almost one breath and by one gesture he should unfold to us those two statesmen and others surrounding them, standing up there and appealing to an impoverished and a defeated country to make, out of its generosity, compensation to its friends who had suffered in its cause, and that then, speaking with reference to the very identical class, he should turn round and tap upon the tills of the Treasury Department, exclaiming, as I almost thought I heard him, in an under tone: "Pass by that sentiment of Wilberforce and of Burke; you have the duty of statesmen to discharge; it is not your duty to make compensation to those who have suffered in your cause; it is your duty to despoil them; strip the soil from under their feet; take the roof from over their heads; on the spot where the cradle stood plant your cannon; turn the orphan girl out of home shelterless into the world, and make havoc with the roar of your artillery in the very spot in which her childhood was put to sleep by the mother's lullaby."

Mr. President, when I am to be counseled to any such doctrine as this, I must not be admonished against it by any such examples as the Senator from Massachusetts has cited from British history.

Sir, I had thought to say a word upon the question of the amount involved in the principle of this bill. The Senator from California, [Mr. COLE,] who went into that subject more astutely, I believe, than any other Senator, made it out, if I understood him aright, something like five thousand million dollars. I read an editorial of a column or so in a leading newspaper of the Northwest which gravely asserted as an ascertained fact that if this bill was adopted, at least a million more would follow it, and that they would take out of the Treasury from five hundred thousand to one hundred thousand million dollars, which would make the estimate of the Senator from California a very beggarly estimate, and would make your final payments amount to somewhere from five thousand to five hundred thousand million dollars. This proposes to pay

nothing to anybody unless one who was loyal; nothing for anything unless it was property taken by the United States; and is any friend of the United States prepared to say that that handful of paupers within that portion of the country we robbed of more value than we raised in all the rest of the Union by taxation and otherwise? I would not make the confession if I thought it was true, and you know it is false.

But, Mr. President, let me say one word more, and I will conclude. Now, I am about to express a matter of opinion. I am about to tell these Senators who have asserted this doctrine in what they call the interests of the Treasury, that they have mistaken the interests of the Treasury as broadly as they have mistaken the law of the land. I tell the Senators that in my deliberate judgment it is time for you to hear all these claims, to decide now between the loyal and the disloyal, when there is a difference between them, when you can get some testimony. I admit we shall be deceived. I admit you will sometimes make appropriations to those who were not as true as they ought to have been. Take that risk; it belongs to you; but if you venture to close your doors against all classes alike to-day, year after year to shut your ears against the cry of the really loyal, I tell you you cannot stand upon that doctrine; and by-and-by, when these distinctions are blotted out, your doors will be opened and the Treasury will be opened to all classes as you now exclude all classes from it; and when you try these questions at the greatest disadvantage you will have the most of them to try. I am as confident that the interests of the nation as I am that the honor of the nation demand that you should meet this bill on the principles upon which it rests, and meet it squarely.

Mr. FRELINGHUYSEN. Mr. President, I do not rise to continue this discussion. I have listened to the finished and eloquent argument of my friend from Wisconsin with much pleasure; and although perhaps there may have been in it some strictures upon my own views, I do not intend to undertake a reply. I rise to say a word in reference to the amendment introduced by the Senator from Massachusetts, [Mr. WILSON,] (now the pending question,) and to submit that it is not germane to the original bill. Whether loyal men of the South should or should not be paid where the Government, or where its military agents agreed directly, by implication or by effect of law, to pay for Army supplies, is by no sense the question before us. Neither is the question how far we should emulate the example of the British Parliament, of Burke and Pitt and Wilberforce, in the bestowment of bounty or giving indemnity to loyal sufferers. I hope that the Senators will suffer their minds, after they have been led away by the eloquence to which they have listened, to come to the consideration of what is the issue before us. The question is whether the Government is under the obligations of law or of strict justice to pay the southern loyalists for the ravages of war; to pay for the thousands of houses which have been occupied and damaged by our troops; to pay for the thousands of mills filled with flour and of barns and granaries filled with produce, which have been destroyed; whether we are bound to pay for all the cotton belonging to loyalists which has been burnt.

You have not failed to observe that even the discriminating mind of my friend has failed to distinguish the case where property is taken for a fortification from these cases to which I have referred. Where property is taken to weaken the enemy it is just as much devoted to the use of this country as where it is taken to erect a fortification, and no one yet has been able to draw any line of distinction.

Mr. President, the true question is whether when we take part of the property of a loyalist, as the materials of which the house is constructed, for the purpose of preserving the residue of her property at a time when the whole was valueless had we not interposed,

being by the laws of nations and the laws of the confederacy subject to confiscation, we are bound to make payment for that part which we take in order to effect this rescue? The question is whether when my house is on fire and the firemen extinguish the flames I can sue the firemen for the damage the water has done my household property? The question is whether the property of the North, which for years has been subject to taxation in order to carry on the war and rescue Miss Murphey's property, is now to be taxed to make compensation for property which has borne no part of that expenditure? The question is whether this Government shall be bound to pay damages for the results of a war for which, unlike the British Parliament at the time of the American Revolution, it is in no wise responsible? I am free to say, even although it surprises my friend, that while the nation may be as generous and as tender-hearted toward the southern loyalists as their merit and the kind instincts of the nation dictate, that I am willing to be understood as holding the doctrine that this nation is under no legal obligation to pay the class of claims involved in this controversy.

Senators have grown indignant and eloquent that loyal men at the South have been called enemies. Why, Mr. President, that is a mere technical term. The feeling thus aroused reminds me of a case I remember once to have tried when defending a corporation under the plea of inevitable accident. I used the familiar term "act of God," and the opposing counsel read me quite a solemn lecture on account of my profanity. [Laughter.] When we in this argument speak of an enemy, we use a technical term. I would remind my friend that while he correctly classified the inhabitants of the country as friends, that he omitted to tell us enemies, and neutrals, the class termed enemies has a significant subdivision among enemies; one is known as *hostis*, and another as *inimicus*—a *hostis* being merely technically and in legal contemplation an enemy, while the *inimicus* is a virulent, inimical citizen. Therefore it is no disparagement for those who understandingly use technical terms to speak of the enemy country and enemy property. But although these are technical terms, they are of much importance. Involved in and associated with these technical words, is a doctrine which protects this nation from claims which would prevent its meeting its legal obligations—a doctrine which determines that the debt of the nation is to day only \$2,500,000,000, and not, perhaps, \$3,500,000,000. I do not object to the broadest liberality and bounty that the conscience of Congress will permit it to extend to the loyalists of the South; but I do object to this nation recognizing the position that we are under a legal obligation to pay as debts that which, by the law of nations, is no debt, because just here we may be determining on the ability of the nation to meet its obligations.

The Senator from Indiana [Mr. MORTON] said the other day that he would cast to the winds the doctrine which made any distinction between the legal rights of the northern man and the southern loyalists. Let me tell him that he cannot move the doctrine which distinguishes enemy property from friendly property than he can uproot the sturdy oak which has been anchored in the earth for centuries, and which has been growing more firm wrestling with the winds of time. That principle has lived through a thousand wars, and has not yielded even to the negotiations and diplomacy that have always succeeded them, and to-day has the sanction of every writer of authority and of all the Governments of the world. And I insist that whatever may be the proper extent of the bounty of the country toward southern loyalists, claims of the class in controversy are not a matter of debt.

The Senator from Wisconsin has painted the horrors of this war at the South; but have its effects been less fearful at the North? What northern heart has not bled? Has the South on this plea any claim on the tax-paying North?

Is the southern loyalist to be indemnified for the horrors of this war, while the expenditure, the blood, and the tears of the North are unrequited? Let us be content to suffer the consequences of the conflict to fall where they have been directed to fall. We cannot adjust them.

Let me refer to one or two positions of the Senator from Wisconsin. He still seeks to use the fact that the Government paid loyalists for their cotton seized as a precedent for this case. It is no precedent. There is a distinction so broad that all can see it between the duties which are incident to trusteeship the Government assumed in reference to this cotton and the liability of wrong-doers. We, as trustees, paid out the net proceeds of what we received, and that fact cannot be used as a precedent to hold the Government liable for such a use of property as is here in question in enemy territory. And as to the strictures upon my using the familiar maxim, "*silent leges inter arma*," let me say I invoked it only to show that the clause of the Constitution which says that private property shall not be taken for public use without just compensation, was entirely silent in enemy territory during the war. And in that position I know the Senator agrees with me.

As to the position that our Army had such an occupation of Decatur as to make it one of the exceptional cases mentioned in the President's proclamation of 16th of August, 1862, and therefore not enemy territory—let me call the attention of the Senator to the fact that on the 31st March, 1863, so much of the prior proclamation as excepted from the effects of the war localities occupied from time to time by the forces of the United States was revoked, on the ground that the exception was found to create embarrassment. The exceptions being thus revoked, the inhabitants of the several States were declared in a state of insurrection, and all commercial intercourse between them and the rest of the United States declared unlawful until the insurrection should cease or be suppressed, and notice thereof given by proclamation. This proclamation of 1863 is found in 13 Statutes-at-Large.

But, aside from all this, it cannot be insisted that as soon as our forces advanced into a territory, so that it became possible for them to seize and use its property to erect a fortification, that *eo instanti* it became friendly territory and not subject to the rules of war. If that position be true, we could never seize enemy property, as our very approach converted it into friendly property. The fact that our forces continued subsequently to hold the place does not affect the character of the taking, for events are to be judged of at the time and in the relations in which they occur.

Mr. ROBERTSON. Mr. President, I rise to renew the motion of the honorable Senator from Arkansas, to recommit this bill to the Committee on Claims, with instructions that they examine two points: first, was the claimant, Miss Sue Murphey, loyal before the occupation of Decatur by the United States forces; second, was she the owner in fee simple of the property before that time, and if so, for how long. I move to recommit the bill with these instructions to the committee.

Mr. WILSON. I hope we shall send this bill back to the committee to investigate the case in every respect. I do not believe there is any merit in the claim; but that has been lost sight of in the general discussion. I have information which satisfies me that this woman was a disloyal woman. I have not a doubt, nor a shadow of doubt, on that point. I hope, however, that the bill will be recommitted, and that with it the amendment I proposed will go to the committee, and I hope the committee will take up the subject and settle it on some general principle. I hope the committee will not only investigate this particular case thoroughly in all respects, so that the facts may be established, but will at the same time consider the question of proposing some general plan, such as is suggested in my amend-

ment, to settle other cases. I do not believe it is going to take the tens of millions of dollars which are spoken of to settle these claims. I know that that is not the opinion of the quartermaster's and commissary departments. The cases where property was taken under orders of this kind and damaged are very few indeed.

I think the whole matter should be settled, and settled within a few months, and settled forever, and kept out of our deliberations hereafter. We should adopt some plan of that kind; and I think we ought to have done it two years ago.

Mr. HARLAN. Mr. President, I have doubts whether these instructions ought to be given to the committee. I suppose the honorable Senator from South Carolina does not desire to establish any rule for the examination of claims by the committees of this body, and another and a different rule for the examination of claims before the judicial tribunals of the country. Congress at the last session established a rule which I suppose ought to be applied in such cases as these, if indeed these are to be examined with a view to their payment. I read from the statutes of the second session of the Fortieth Congress, forty-fifth page. The third section of the act provides:

"That whenever it shall be material in any suit or claim before any court to ascertain whether any person did or did not give any aid or comfort to the late rebellion, the claimant or party asserting the loyalty of any such person to the United States during such rebellion shall be required to prove affirmatively that such person did during said rebellion consistently adhere to the United States, and did give no aid or comfort to persons engaged in said rebellion; and the voluntary residence of any such person in any place where at any time during such residence the rebel force or organization held sway shall be *prima facie* evidence that such person did give aid and comfort to said rebellion and to the persons engaged therein."

This rule is applied in the examination of cases before the Court of Claims; it is a rule already established by solemn act of both branches of Congress; and I think that rule is quite sufficient in its application to other claims not included in existing laws. The instruction proposed by the honorable Senator seems to contemplate that if the petitioner in this case was loyal before the acquisition of the territory on which this house was situated, that would be sufficient. The rule contained in the law is that it must be shown that she was loyal during the rebellion; and it must be shown also, as it seems to me according to this rule, that she did not voluntarily live within the rebel lines during the war. If this is the rule to be applied to all other claims, why shall it not be applied to this? It is the law of the land now; and if this bill with the amendment shall be recommitted to the Committee on Claims generally, I suppose they will examine it with reference to the rule now existing. And this suggests a reason why it should be recommitted, for when this case was examined heretofore by the committee this law had not been enacted; it is a rule established since the report of the committee was made; it is now the law of the land, and this case ought to be tried by the law as it exists, or if the rule is to be relaxed in any way it ought to be relaxed generally, so as to apply to claimants who appear before the Court of Claims.

Mr. ROBERTSON. Mr. President—
Mr. ANTHONY. If my friend from South Carolina will permit me, I wish to suggest to him that a mere recommitment will effect all the purpose which he has in view, and I think it will be more in accordance with our custom, which is not to instruct committees except to inquire into the expediency of matters.

Mr. ROBERTSON. I was rising to withdraw the instructions which I had moved, so that my motion is simply for a recommitment generally. As I have the honor to be on the committee, I will make it a point to inquire into the matters which I suggested in the instructions.

The PRESIDENT *pro tempore*. The motion is simply to recommit the bill to the Committee on Claims.

Mr. SUMNER. Before this debate is closed

I ought, in justice to a gentleman who is not a member of this body, to whom I have referred in the course of the discussion, and whose name has been somewhat opprobriously mentioned by Senators on the other side of the Chamber, to make an additional statement with reference to him.

I have seen that gentleman since. I had the honor of seeing him at my own house last evening, and conversing with him more than an hour; and I feel that it is my duty after this long conversation to bear my testimony to the impression that he made upon me. He had resided in this very place or in this neighborhood as an editor of a paper, going down there from Ohio filled with loyalty and with sentiments of liberty. He, while there, was shocked by the conduct of this very family now so much in question. I believe his testimony. I could not listen to his conversation and witness his refinement of manner and the sensibility which he displayed not only on this subject but on all others to which we referred, without giving him my confidence; and I deem it my duty now to make this statement, especially as Senators on the other side, pressed by the letter which I introduced the other day, undertook to brand him so unjustifiably.

He has placed in my hands a further letter in the nature of testimony dated at Decatur, December 23, which I have shown to both the Senators from Alabama, and I have also shown it to the Senator from Rhode Island, whose name is mentioned in it. It is signed "Mary E. Austin." I mention the name so that the Senators over the way may make their criticism if they see fit. I believe there is no question about her loyalty. She writes as follows; I do not read the whole letter:

"I wish Mr. ANTHONY would visit Decatur. The Union people and rebels could tell him about her [the claimant's] pretended loyalty during the war. They could tell him of her devotion to the southern confederacy; how she urged every young man into the rebel army whom she had any influence over. Rebels here laugh enough about her going to Washington and playing off on the Senators."

I have received other letters also relating to this claimant. I make no further allusion to them, however.

There is another point on which I forebore to dwell with sufficient particularity when I spoke before. It is this. Assuming that this claimant is loyal, I honor her that she kept her loyalty under the surrounding pressure of rebellion. Of course, this was her duty; nor more nor less. The practical question is, shall she be paid for it? Had she been disloyal, there would have been no proposition of compensation. As the liability of the nation is urged on the single ground that she kept her regard for the flag truly and sincerely, it is evident that this loyalty must be put beyond question; it must be established like any other essential link of evidence. I think that I do not err in supposing that it is not established in the present case, at least with such certainty as to justify opening the doors of the Treasury.

But assuming that, in fact, the loyalty is established, I desire to go further, and say that not only is the present claim without any support in law, but it is unreasonable. The rebel States had become one immense prison-house of loyalty; Alabama was a prison-house. The nation, at every cost of treasure and blood, broke into that prison-house, and succeeded in rescuing the loyalists; but the terrible effort, which cost the nation so dearly, involved the loyalists in losses also. In breaking into the prison-house and dislodging the rebel keepers, property of loyalists suffered. And now we are asked to pay for this property damaged in our efforts for their redemption. Our troops came down to break the prison-doors and set the captive free. Is it not unreasonable to expect us to pay for this breaking?

If the forces of the United States had failed then would these loyalists have lost everything, country, property, and all: that is, if really loyal according to present professions. It was our national forces that saved them from this

sacrifice, securing to them country, and, if not all of their property, much of it. A part of the property of the present claimant was taken in order to save all else, including country itself. It was a case, such as might occur under other circumstances, where a part is sacrificed in order to save the rest. It was in some respects a case of jettison where a part of the cargo was thrown overboard in order to save the rest of the cargo, and the ship itself. According to all analogies of jurisprudence, and the principles of justice itself, the claimant can look for nothing beyond such contribute as Congress in its bounty may appropriate. It is a case of bounty, and not of law.

It is a mistake to suppose, as has been most earnestly argued, that a claimant of approved loyalty in the rebel States should have compensation precisely like a similar claimant in a loyal State. To my mind this assumption is founded on a misapprehension of the Constitution, the law, and the reason of the case—three different misapprehensions. By the Constitution property cannot be taken for public use without "just compensation;" but this rule was silent in the rebel States. International law stepped in and supplied a different rule. And, when we consider how much was saved to the loyal citizen in a rebel State, by the national arms, it will be found that this rule is only according to justice.

But I have no disposition to shut the door upon claimants. Let them be heard; but the hearing must be according to some system, so that Congress shall know the character and extent of these claims. Before the motion of my colleague I had already prepared instructions for the committee, which I will read as expressing my own conclusion on this matter:

That the committee to whom this bill shall be referred, the Committee on Claims, be instructed to consider the expediency of providing for the appointment of a commission whose duty it shall be to inquire into the claims of the loyal citizens of the national Government arising during the recent rebellion anywhere in the United States, classifying these claims, specifying their respective amounts and the circumstances out of which they originated; also, the evidence of loyalty adduced by the claimants respectively, to the end that Congress may know precisely the extent and character of these claims before legislating thereupon.

As this is a resolution of instruction simply to consider the expediency of what is proposed, I presume there can be no objection to it.

Mr. WILLIAMS. Before the honorable Senator takes his seat I should like to ask him a question, as he seems to have examined this British precedent. Is it not the fact that the persons for whom provision was made were persons who were compelled, in consequence of the success of our Revolution, to leave the United States and abandon everything and go and live within the British empire, so that they were completely separated from the inhabitants of the United States?

Mr. SUMNER. There were three different classes. The first was the class which the Senator has described; the second was a different class of persons residing in England whose property in the colonies had been confiscated; and the third class was placeholders, officeholders who had lost their appointments, which were usually for life. These three different classes in the report of the commission were put on different footings, and they were described under these different heads by Mr. Pitt on making the motion that he did.

Mr. WILLIAMS. It is quite different from the condition of our southern loyalists.

Mr. SUMNER. Of course it is very different. The PRESIDENT *pro tempore*. Does the Senator from Massachusetts move the paper he has sent up as an amendment to the motion to recommit?

Mr. SUMNER. I move it as an amendment to the motion to recommit—to recommit with instructions.

Mr. MORTON. Mr. President, of course this bill will be recommitted. Sue Murphey has long since dropped out of this debate, and this case would have excited but little interest

had it not been for the assertion of a doctrine, which in effect cuts off the claim of every loyal man in the South, no matter how true his loyalty or how great his sufferings or sacrifices for the Union. Hence this is not simply the case of Miss Sue Murphey; and a personal character cannot be given to this argument just in the conclusion of it.

Again, Mr. President, we have the illustration made by the Senator from Massachusetts [Mr. SUMNER] that a part of the cargo may be thrown overboard to save the ship and the residue of the cargo. The comparison is in point; but, as I understand the law, the ship and the rest of the cargo must contribute to pay for that which is lost, and the owner whose goods are thrown overboard shall not sustain the whole loss.

Again, sir, we are told by the distinguished Senator from New Jersey [Mr. FRELINGHUYSEN] that if my house is on fire and the firemen come and extinguish the flames and damage my furniture I am not to sue them for damages. Did that distinguished Senator suppose that was a case in point? Did we send our armies to the South simply to save the houses of the loyalists. No, sir; it was the Union that was the fire, it was the Government that was about to be consumed, in which I and you and all of us were interested as much as the loyalist of the South was interested. The Senator's comparison fails.

Mr. President, if we cannot recognize the claim of any loyal man in the South because by so doing we shall recognize the claims of rebels to a large amount let us put the case upon that ground. Let us tell our southern friends honestly that we cannot recognize any of their claims, because if we do so we shall have a vast mass of rebel claims that will sink the Government in insolvency. If we put it upon that ground they will be satisfied. Or if we cannot pay the claims of genuine loyalists in the South without making the Government bankrupt let us lay the case honestly before them and tell them that we cannot pay them for that reason, and they will be satisfied. But do not let us put it upon the ground, which is as unfair to them as it is dishonorable to us, that we cannot pay them because they are constructive traitors.

Mr. FRELINGHUYSEN. Will my friend be good enough to let us know whether, according to his view, the ship and cargo have not yet contributed to the jettison?

Mr. MORTON. I can answer the question. The Senator wants to know if the ship and cargo have not yet contributed. Ay, they have, and they will be called upon to contribute more. They have contributed to pay the loss of that man who lived in the North whose goods were thrown overboard; and all we ask is that the loyalist living in the South whose goods were thrown overboard shall be paid in the same way and upon the same principles.

Mr. HOWARD. Mr. President, I wish to make one single remark, and I trust the honorable Senator from Indiana will excuse me for so doing. He insists that we are calling our southern loyalists constructive traitors. That is entirely a mistake. We do not call them constructive traitors. We impute no treason to them at all; nor has any such intimation, to my knowledge, fallen from any gentleman who has participated in the debate on this side of the question. We call them technically, as has been very properly remarked by the honorable Senator from New Jersey, constructive enemies. That becomes inevitable, unless we abandon the ground taken by Congress in 1861, by which the rebel territory was substantially and in law declared to be enemy's territory. It is simply a technical designation of the people residing upon the particular territory.

Now, let me say to the honorable Senator from Indiana that there is a very broad distinction between a traitor and an enemy. A traitor is one who has committed treason under the Constitution of the United States by waging

war against the United States, or by adhering to their enemies. He may also be an enemy, and so the books declare. He may be punished as a traitor when he is apprehended, and during the war he may also be treated as an enemy or as a belligerent. Nothing is plainer; there is no distinction more transparent in the books than this to which I have alluded.

Mr. CONKLING. Mr. President, I want to ask the attention of the Senate for only one moment to the illustration this case now affords of the hazard, and, as it seems to me, the futility of entertaining upon any view of the law such claims as this, one by one, as is proposed, before the committees of Congress. The honorable Senator from Wisconsin, anticipating what I am now going to suggest, admonished us of the importance of hot-foot in this business, if I may say so, of allowing the testimony to be taken at once before it should be eaten by the tomb or covered by the dust of time. Now look at the case. This woman came here while the rebellion was still raging in fact; in 1865 her case was here and her proof was proffered; it was before a committee of the House of Representatives more than once and was the subject of reports there. It was here, actually passed this body, coming to the Senate from a committee.

Now, it is presented again by a committee of the same designation, but composed of different Senators; and after a debate which has wearied the Senate by the mere accident of the procrastination and weariness of that debate, it drops out that this claimant, in place of being that heroic woman—I borrow a phrase from my eloquent friend from Kentucky—and that conspicuous example of non-combatant loyalty which we thought she was, is upon the balance of evidence as it stands, not only *prima facie* within the statute to which the Senator from Iowa calls attention, but conclusively and in point of fact one of the last women in the South to receive anything either in law or generosity from this Government. That is the case of a person diligent as a suitor who presented her claim and challenged scrutiny while all the men were yet upon the stage the eye-witnesses of her loyalty or her treason.

Now, sir, without amplifying it, I beg of Senators to consider what, even at this distance of time, is to be the fate of claims hereafter presented, no matter how diligent we may be; and if that view of the law is to prevail which has been presented so ably by the Senator from Wisconsin, which makes enemy's country in this territorial war, as I understand it, a peripatetic institution, a thing ever fluctuating as the tides fluctuate, always ebbing and flowing, and not only so, but existing in spots which themselves were shifting like snow-drifts or the sands of the desert—if the view of the law is to prevail that where the Army bivouacked it was no longer enemy territory, and as it struck its tents in the morning and marched enemy's territory receded step by step before our advancing columns; if that is true for the sake of fancy or of fact, then I beg that we may have some general provision which shall sift these claims, which shall perpetuate the testimony upon which they are to be indorsed as loyal or branded as traitorous, which proceeding will involve, of course, some provision by which counsel, agent, or representative is to appear for the United States to cross-examine witnesses, and armed with some process to compel their attendance on the other side. If this can be done it will be something more than chance-medley; otherwise it will be a lottery in which anybody may draw a prize, an auction in which the pushing and the brazen are most likely successfully to bid.

Mr. ANTHONY. Mr. President, the Senator from Massachusetts has read a letter, which with his usual courtesy he showed to me before he laid it before the Senate, in which my name is used. All I have to say is that if I have been imposed upon in this matter the officers of the Army who were at Decatur were

imposed upon first. The testimony which I bore to the loyalty of this lady, and which is commented upon so sneeringly in that letter, is not my testimony; it is the testimony of our officers. They said before the committee that they were received hospitably and kindly into that house. Perhaps they were not. Perhaps the writer of this letter knows better than they do whether they were so received or not. They stated that they had received from this lady valuable information. It is not strange, with such evidence before us, that I, and that members of the committee much more astute than I, should have come to the conclusion that these officers knew what they testified to, and testified to the truth. If it is possible that this lady, a rebel, was capable of convincing our officers there during their long sojourn that she was loyal, and capable of so convincing the Committee on Claims, composed of men such as the late Senator from New Hampshire and the present Senator from Wisconsin, his successor in the chairmanship of that committee, then I think a woman of such remarkable talents could find much better employment for them than in trying to get her just dues out of the United States and this Congress.

Mr. DAVIS. Mr. President, I shall vote against the motion to recommit this bill. I have heard nothing on this floor that in my judgment impugns the loyalty of this woman. I never saw Miss Murphey but once that I remember, and that has been some two years ago; but after the Senate have heard the testimony of the military officers and the statements of the former chairman of the Committee on Claims in relation to the proof of the loyalty of this woman, I do not think the Senate ought to doubt. There is nothing that has been said or produced in the course of this debate against the loyalty of Sue Murphey that, in my judgment, ought to influence the decision of a single Senator in relation to the point of her loyalty, so far as it has been impugned in the course of the progress of this debate. Whatever has been brought up in that form, in my judgment, deserves the scorn and contempt of universal manhood.

Mr. DOOLITTLE. Mr. President, I never refer to private correspondence in the Senate, except under very extraordinary circumstances. I act upon the report of the committee, supposing that this case was investigated by them; but when a letter comes in at the end of the discussion which is to throw a doubt over the claimant's loyalty, I feel under the circumstances constrained to state a fact which under other circumstances I would not state.

Some year or two years ago, precisely the time when I do not remember, Judge Dox, a friend whom I knew at college, who graduated the year before I did, wrote a letter to me introducing Miss Sue Murphey, from Alabama, and speaking of her in high terms and as a loyal citizen of the United States. I feel bound to state that.

Mr. CONNESS. Will the Senator state the date of that letter?

Mr. DOOLITTLE. I cannot state the precise date, but it is a year or two since Judge Dox wrote to me.

Mr. EDMUNDS. What was the status of Judge Dox?

Mr. DOOLITTLE. Judge Dox, I believe, was a loyal man always, in the State of Alabama. He was originally from the State of New York, a resident of Ontario county, and went to Alabama many years ago. That is my understanding of his position during the war in Alabama.

Mr. HENDRICKS. My confidence in the judgment of the committee on this question has not been shaken. I have had some little experience in courts, and I say the kind of evidence that has been introduced here, in my opinion, would not disturb the judgment of a judge or of a court in the most trivial case that could possibly come before them.

In regard to this claim upon the pending point, the judgment of the committee is sup-

ported by the testimony of the officers who commanded at Decatur, in Alabama. Those officers had opportunities to know. They state not only their judgment about it, as I understand; but they state the conduct of this person, and that conduct establishes the fact that she was true to the Union during the war. Now, the Senator from Massachusetts made his argument, it seemed to me, mainly for one purpose. A few days ago he had introduced the testimony of a witness who was impeached—some person unknown to the Senate for any very respectable purpose—and the Senator comes up to-day with a view to support that impeached witness; and what is his support?

Mr. FOWLER. I should like to mention another fact, with the Senator's permission?

Mr. HENDRICKS. Very well.

Mr. FOWLER. I stated the other day what I meant to say in regard to Mr. Humphreys. I had friendly feelings toward him. I wish now to state another fact that transpired last night. Mr. Humphreys made two visits last night. For the first time in his life he visited Miss Sue Murphey and told her that he was sorry he had written that letter, and he blamed her step-father for not informing him that the Ku-Klux were going to drive him out of the place, and also for a matter in connection with some money that was owing him. This was the first time he had ever seen Miss Murphey.

Mr. HENDRICKS. That is the witness introduced to overcome the testimony of the commanding officers at Decatur. As I was going to suggest, the Senator from Massachusetts does not undertake to fortify the character of this witness by any knowledge of his character and his habits of life, which is the usual mode of supporting a witness in court; but he supports it by a conversation that he had with this witness last night, and wants the Senate to believe the witness because of the sweetness of his style and the consistency of his statements. Why, Mr. President, there are many of the most objectionable witnesses that ever come into courts who come in with a smooth tongue and a very delightful style. Of course, this witness is not to be credited here in opposition to the testimony of the officers known to the Senate, and such support as the Senator has been able to give to him will not establish him in the confidence of the Senate, in my judgment.

I am willing that this bill shall go back to the committee. If any Senator has any doubt on the question let the subject be considered again by the committee; but I do not vote that it go to the committee because of any supposed force found in the testimony that has been introduced by the Senator from Massachusetts.

Then, who wrote the letter he read from a little while ago? Who is she? What is she? What are the motives that govern her in trying to defeat a bill in favor of her own sex here? We do not know anything about it. It is better to rely on the testimony of the officers, who have no motives to govern them for any improper purpose.

The Senator's illustration will not serve his purpose, in my judgment; his effort to illustrate a principle of law by a figure of speech will not do. He says Alabama was a prison-house; therefore his argument is the people were all criminals. As a matter of fact that will not do. That is the only logic there is found in his illustration.

I had supposed that the debate was closed by the argument of the Senator from Wisconsin, and I was surprised at the Senator from Massachusetts reopening it; but unquestionably he felt a desire to support the witness whom he had called to the stand, and in that view perhaps is justified. When the witness fell here, of course it was his business to try and hold him up. I have done that many a time in court; but if the witness was not himself tolerably strong, my efforts generally did not do much good. I believe just what these offi-

cers have said about this girl. I do not think there is anything now before the Senate to weaken our confidence in their statements. I do not think the case stated by the Senator from New York furnishes any illustration or any admonition to the Senate against this class of cases.

Mr. President, my principal purpose in rising was to inquire whether the amendment proposed by the Senator from Massachusetts [Mr. WILSON] yesterday goes with the bill to the committee.

The PRESIDENT *pro tempore*. I suppose it does, if the motion covers the bill and the amendment.

Mr. HENDRICKS. That amendment does not relate to the bill; it does not relate to the class of cases of which the case of Sue Murphey is one, but to altogether another class, as I understand—claims for supplies furnished to the quartermaster and commissary service.

The PRESIDENT *pro tempore*. The Chair understands now that the motion was that the bill be recommitted, and it did not mention the amendment. The motion, therefore, only covers the bill, and does not carry the amendment with it.

Mr. HENDRICKS. I am glad the amendment does not go, because I think it ought not to be attached to this bill. It is not a part of the bill; it does not relate to it; it is not germane to the subject.

Mr. WILSON. I should like to make an inquiry of the Chair. I desire to know where the amendment goes to? [Laughter.]

Mr. HENDRICKS. The amendment stays on the table, I suppose.

The PRESIDENT *pro tempore*. The amendment has not been adopted, and therefore it does not go with the bill.

Mr. SUMNER. Then I suggest that the motion for reference be modified so as to include the bill and all pending amendments, which will carry the amendment of my colleague.

Mr. HENDRICKS. If that amendment is proposed I shall oppose it, and I should oppose it upon principle if it were an original measure. In the first place, I do not think it is right to try to burden one measure with another measure not kindred to it. It is hardly fair legislation upon a private bill to thrust another subject which ought not to be connected with it, and which has no natural relation to it. I would not support such a proposition as that made by the Senator from Massachusetts. I think if these claims are to be considered at any time by any accounting officers of the Government it ought to be by those officers already provided for by law. I do not think military men are specially qualified to audit accounts. This proposition that a civilian in office is not to be trusted, but that he is to be displaced and military men appointed to settle accounts against the Government, I do not agree to.

Mr. WILSON. I will simply say to the honorable Senator from Indiana that in preparing the amendment originally I put into it a provision that would cover this case; but I was not satisfied that it was clearly drawn and well defined enough, and I supposed if the bill was to be recommitted the amendment would follow the bill and that the committee could make such modifications as they saw fit to cover that point, and could do it in a way to be perfectly safe.

I want to say a word to the Senator in regard to another matter. There have been twenty-five thousand claims made before the quartermaster and commissary departments. They have examined nearly twenty thousand of these claims. Their practice is to send into the sections of country where the claims originate to ascertain them, and they have the most thorough system of investigation. They find a great many officers who have either forgotten the facts or make statements that cannot be relied upon, as probably some may be in this very case now pending. I hope the bill, the amendment, and everything pertaining to it will go to the com-

mittee, and that they will report some general measure guarding all cases that ought to be covered and that we ought to act upon.

The *PRESIDENT pro tempore*. The question is on the amendment of the Senator from Massachusetts [Mr. SUMNER] to the motion to recommit.

Mr. SPENCER. The honorable Senator from Wisconsin [Mr. DOOLITTLE] has mentioned the name of Judge Dox as being a loyal citizen. I know Judge Dox well, have known him for many years. I have known him since 1862. At the time of the breaking out of the rebellion in Alabama he went North and remained until the Union armies occupied the place. His loyalty is unquestioned, and he is a distinguished citizen, an honorable and high-toned man in every particular.

A word now in reference to Miss Murphey. Living in the town in which she resides, knowing all the parties, I have but simply a word to say. She came here first in 1865, at the suggestion of a distinguished general officer of the Army, the general officer who tore down her property, General John G. Stevenson, and pressed this claim. She relies upon the evidence principally of General John G. Stevenson and General Robert S. Granger, who know her well. She denies *in toto* her having committed any disloyal acts, and claims, upon the other hand, that she can establish by undisputed evidence that she has performed acts of distinguished loyalty toward the Government of the United States while the rebellion was in progress. I hope that her claim will not be unnecessarily prejudiced; and I do not stand here to defend it; but she is willing to furnish the evidence, and I hope the committee will give her ample opportunity to do so.

Mr. WARNER. As the name of Mr. Humphreys has again been brought before the Senate, I feel bound, as a duty to a constituent, to say a word in addition to what I said the other day. In the report of my remarks in the Globe appears my testimony to this gentleman's character; but it does not appear quite as distinctly as I should wish it to be, and therefore I propose now to say a word. He is known to me as a man of good character, a man of honesty, and a man of intelligence. At the time I spoke of him the other day, I had in my pocket a recommendation to the Secretary of the Treasury, indorsing him as a worthy man, signed by every member of the Alabama delegation in both Houses of Congress.

Mr. ANTHONY. I am in favor of the recommitment of the bill with all the amendments that Senators may choose to offer; but I do not wish any instructions to go to the committee. That is not our custom.

Mr. SUMNER. I propose only instructions to consider the expediency of a certain thing. That there can be no objection to.

Mr. ANTHONY. I have no objection to that.

Mr. SUMNER. I purposely put it in that form to avoid all objections.

The *PRESIDENT pro tempore*. The question is on the amendment of the Senator from Massachusetts by way of instruction.

The question being put, it was declared to be carried in the negative.

Mr. SUMNER. Which amendment have we been voting on?

The *PRESIDENT pro tempore*. The amendment of the Senator from Massachusetts now on the floor.

Mr. SUMNER. It could not have been understood.

Mr. ANTHONY. I think the Senator from Massachusetts had better offer his proposition as a resolution of inquiry separately, and let this bill go to the committee on its merits.

Mr. SUMNER. Let all the pending propositions go to the committee.

Mr. ANTHONY. After the bill is recommitment the Senator can then offer a resolution, if he thinks proper, instructing the Committee on Claims to inquire into the expediency of the proposition which he makes.

Mr. SUMNER. Why is not that all accomplished by one vote, that all pending propositions now go to the committee? That settles the whole question.

Mr. ANTHONY. Without instructions?

Mr. SUMNER. Without instructions.

The *PRESIDENT pro tempore*. That alters nothing. The committee can report as they please, whether they be instructed or not. The instructions fall, in all parliamentary rules, when the main proposition is referred. The committee have full power to report on the subject whether instructed or not.

Mr. SUMNER. Well, I move that the bill and all pending propositions be referred to the Committee on Claims.

The *PRESIDENT pro tempore*. Does the Senator withdraw his instructions?

Mr. SUMNER. They go as one of the propositions.

The *PRESIDENT pro tempore*. The Senator from South Carolina moves to refer the bill to the committee that reported it, the Committee on Claims.

Mr. SUMNER. I move to amend that motion, that the bill and all pending propositions relating to the bill be referred to the Committee on Claims.

Mr. CATTELL. I hope the motion of the Senator from Massachusetts will not prevail. Let this bill be referred back to the committee in its original shape. I understand, then, the practice is that all the papers go with it to the committee as accompanying papers merely, and I think the Senate are not disposed to send these as instructions to the committee.

Mr. SUMNER. Nothing is moved as instructions. The Senator misunderstands the proposition.

Mr. WARNER. Allow me to state that I understood the Senator from South Carolina to withdraw his motion to refer with instructions.

The *PRESIDENT pro tempore*. The Senator from South Carolina has withdrawn the instructions; so that his motion is a mere motion to refer. The Senator from Massachusetts offers an amendment to refer with instructions; which is the question now pending.

Mr. SUMNER. I beg pardon of the Chair. There is an amendment there of mine directing the committee to consider the expediency of reporting a certain bill. Now, I move that the bill with all pending propositions, which would include my amendment and include also the amendment of my colleague, be referred to the committee.

The *PRESIDENT pro tempore*. The Senator modifies his motion so that all the papers which have been offered shall go to the committee with the bill, with instructions—

Mr. SUMNER. There is no instruction. Simply that they go to the committee. My proposition is one of the papers, and they all go together.

The *PRESIDENT pro tempore*. The Senate has heard the motion stated.

Mr. SUMNER. That the papers go to the committee. The committee can do what they choose.

The *PRESIDENT pro tempore*. Of course they can, whether they are instructed or not. The question is on the motion to refer, as stated by the Senator from Massachusetts.

The motion was agreed to.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the enrolled bill (H. R. No. 1673) to relieve William H. Bagley, of Wake county, North Carolina; and it was thereupon signed by the President *pro tempore* of the Senate.

REMOVAL OF DISABILITIES.

Mr. STEWART. I desire to withdraw the motion that I made some days ago to reconsider the vote on the passage of the bill (H. R. No. 1598) to relieve from disability R. W. Best and Samuel F. Phillips, of North Carolina. I entered the motion for the purpose of

examining into some reports in regard to one of the parties.

The *PRESIDENT pro tempore*. The motion will be withdrawn if there be no objection.

ORDER OF BUSINESS.

Mr. CHANDLER. I move that the Senate proceed to the consideration of House bill No. 1460, regulating the duties on imported copper and copper ore, merely for the purpose of getting it before the Senate.

Mr. EDMUNDS. I hope that will not be done.

Mr. CHANDLER. Let me take it up.

Mr. EDMUNDS. I have something to say on that point if I can get the floor.

The *PRESIDENT pro tempore*. The question is on the motion of the Senator from Michigan, to proceed to the consideration of the bill mentioned by him.

Mr. EDMUNDS. If the Chair will permit anybody to say anything on this question before the motion is put I should like to say a word. It was stated some time ago, when the Sue Murphey case was not expected to last so long, that the Senator from Kentucky [Mr. DAVIS] desired to have a resolution, which was reported not favorably from the Committee on Finance touching the national debt, taken up, that he might make some remarks upon a proposition that he had to submit, and that I was desirous of making some brief remarks upon the same question; and I believe I had the assent of my honorable friend from Ohio, [Mr. SUMNER,] though not binding the Senate, of course, that when this case was disposed of that resolution might be taken up for this purpose; not his assent that the thing should be carried to a final vote, but the Senate could then lay it aside if they thought fit. That proposition has been before this body for a long time, and I think it of importance, and therefore I hope that the Senate will be willing to take it up, particularly as through some action of mine the Senator from Kentucky was prevented, voluntarily to be sure, from addressing the Senate upon the proposition that he had to submit when a kindred proposition was before us. I hope, therefore, that the Senate will not take up this copper bill at this moment, although I am not opposed to the bill that I know of, and will proceed to consider, at least for a time, the resolution which I have mentioned.

Mr. FRELINGHUYSEN. I move that when the Senate adjourn to-day it adjourn to meet on Monday next at twelve o'clock.

The *PRESIDENT pro tempore*. The motion can only be entertained by unanimous consent. If there be no objection the motion will be put.

Mr. NYE. I object.

The *PRESIDENT pro tempore*. Objection being made, the motion cannot be entertained now. The question is on the motion of the Senator from Michigan.

Mr. CHANDLER. I hope the Senate will permit this bill to be taken up. I do not wish, of course, to consider it to-day at this late hour. I understood my friend from Vermont to agree to stand by me on that bill in taking it up the day before yesterday.

Mr. EDMUNDS. I did; to take it up in the morning hour.

Mr. CHANDLER. Precisely; and to stand by me until I could get a vote upon it. I hope the Senate will take it up and leave it as the unfinished business, and to-morrow I am in hopes that in an hour we shall dispose of it. Therefore, I ask the Senate to take it up before the adjournment, so as to leave it as the unfinished business.

Mr. CONKLING. I rise to inquire of the Chair whether it is not in order, a motion having been made by a Senator and he having surrendered the floor, as he does of course after he makes the motion, to submit a motion that when the Senate adjourns it adjourn to meet on Monday next?

The *PRESIDENT pro tempore*. Two motions cannot be pending at the same time.

Mr. CONKLING. No, sir; the motions would not be at the same time; but when a motion is made and pending certainly it seems to me that a motion to adjourn or to adjourn over must be in order. I have no objection to taking up the bill of the Senator from Michigan at the proper time. The House of Representatives has adjourned over until Monday, and I think it will be inconvenient for a number of reasons to have a session to-morrow. There will be no Saturday, perhaps, during the session which it will be convenient to so many Senators to have in reference to departmental and other business as to-morrow. I should not like to vote upon the motion to take up this bill, and then have a motion at once to adjourn, so that we should not be permitted to take the sense of the Senate on the other motion. I shall be glad to vote with the Senator at the proper time, but I do not think it would be well to press his bill in such a way as to prevent an expression of the Senate on the other question. If he can prevent an adjournment over, that is all very well; but I should like to vote upon it. If the Senator has no objection, suppose we take a vote on that question now.

Mr. SHERMAN. I desire to submit a motion which, I believe, is always in order.

The PRESIDENT *pro tempore*. No motion is in order until this is disposed of.

Mr. SHERMAN. I think a motion to adjourn is always in order.

The PRESIDENT *pro tempore*. A motion to adjourn is in order, if a Senator has the right to the floor to make it.

Mr. SHERMAN. I believe I have the floor unless somebody is speaking.

The PRESIDENT *pro tempore*. The Senator from Michigan has the floor.

Mr. CHANDLER. I move that the Senate proceed to the consideration of the bill I have mentioned.

The PRESIDENT *pro tempore*. That is the motion pending.

Mr. CHANDLER. Then I ask for a vote upon it.

Mr. SHERMAN. Now, upon that motion, I move that the Senate adjourn.

Mr. CONKLING. Now, Mr. President, pending that motion to adjourn under the rules I move, as a privileged question, that when the Senate adjourns to-day it adjourn to meet on Monday next; and that motion, the rule says, shall be put first.

The PRESIDENT *pro tempore*. That is not a privileged question.

Mr. SHERMAN. The motion to adjourn is a higher motion.

Mr. CONKLING. I appeal to the rules.

The PRESIDENT *pro tempore*. The question is on the motion to adjourn.

Mr. CONKLING. Does the Chair rule that, pending that motion, it is not in order to move that when the Senate adjourns to-day it adjourn to meet on Monday next?

The PRESIDENT *pro tempore*. We hold that doctrine very strong. [Laughter.]

Mr. CONKLING. The shorter way is to submit, although I think the rule and parliamentary law are otherwise.

The motion to adjourn was not agreed to.

Mr. CONKLING. Is it in order now to make a motion for an adjournment over?

The PRESIDENT *pro tempore*. It is not in order because another motion is pending. The Senator from Michigan moves that the Senate proceed to the consideration of the bill mentioned by him, which is called the copper bill.

The motion was agreed to; there being on a division—ayes 26, noes 15.

The PRESIDENT *pro tempore*. The bill is before the Senate.

Mr. HENDRICKS. Now, I move that when the Senate adjourns it adjourn to meet on Monday next at twelve o'clock.

Mr. CHANDLER. I move that the Senate do now adjourn.

Mr. HENDRICKS. I voted with the Sen-

ator to take his bill up, and supposed that after that there would be no factious opposition to this other motion.

Mr. CHANDLER. I want to pass the bill to-morrow.

The PRESIDENT *pro tempore*. The question is on the motion to adjourn, which is not debatable.

The motion was not agreed to—ayes sixteen, noes not counted.

Mr. CONKLING. Is it in order now to move that when the Senate adjourns to-day it adjourn to meet on Monday next?

The PRESIDENT *pro tempore*. It is never in order while one motion is pending and undisposed of to make another, unless by unanimous consent.

Mr. CONKLING. Is there one pending now?

The PRESIDENT *pro tempore*. There is. The bill is before the Senate now as in Committee of the Whole.

Mr. CONKLING. And does the Chair rule that it is not in order at that time to make a motion to adjourn over until Monday?

The PRESIDENT *pro tempore*. It cannot be. That motion is not a privileged motion at all. A motion to adjourn supersedes it, but not a motion to adjourn to a certain day.

Mr. CONKLING. I yield the floor to the Senator from Illinois, [Mr. TRUMBULL.]

Mr. CAMERON. I move that the Senate do now adjourn.

Mr. CONKLING. I believe I had the floor and was trying to yield it to the Senator from Illinois.

The PRESIDENT *pro tempore*. The Senator from New York has not yielded the floor.

Mr. CONKLING. No, sir. I do yield it now to the Senator from Illinois, who asked me to do so.

Mr. TRUMBULL. I move that the pending bill and all prior orders be laid aside for the purpose of making the motion suggested by the Senator from New York.

Mr. CHANDLER. I hope that will not be done. I have got the bill just where I want it, and I hope the Senate will not lay it aside.

Mr. TRUMBULL. It is only for the purpose of submitting the other motion.

Mr. CHANDLER. If the Senator will withdraw the motion to postpone I shall not object to its being laid aside informally for the purpose suggested, but I do object to any postponement.

Mr. TRUMBULL. Very well; that is sufficient.

Mr. CONNESS. That can only be done by unanimous consent.

Mr. CONKLING. Then, if the bill is laid aside informally, I submit the motion to adjourn over.

Mr. POMEROY. That can only be done by unanimous consent, and I object.

Mr. CONKLING. Then I move, unless the Senator's motion is before the Senate, to postpone the pending bill in order that the motion may be made to adjourn over. Is that in order?

The PRESIDENT *pro tempore*. It is in order to move to postpone the present business.

Mr. CONKLING. For that purpose I make that motion.

The PRESIDENT *pro tempore*. It is moved that the present bill and all other prior orders be postponed for the purpose of submitting a motion that when the Senate adjourns it adjourn to meet on Monday next.

Mr. CHANDLER. I hope that motion will not be agreed to.

The motion was agreed to.

ADJOURNMENT TO MONDAY.

Mr. CONKLING. Now I make the motion, that when the Senate adjourns to-day it adjourn to meet on Monday next.

The motion was agreed to—ayes twenty-eight, noes not counted.

Mr. CHANDLER. I now move that the

Senate resume the consideration of the bill which was just laid aside.

The PRESIDENT *pro tempore*. The Senator from Michigan moves the Senate resume the consideration of the bill just laid aside.

Mr. TRUMBULL. Mr. President—

The PRESIDENT *pro tempore* put the question on the motion; and declared that the ayes appeared to have it.

Mr. TRUMBULL. I addressed the Chair before the vote was announced, and I desire to be recognized.

The PRESIDENT *pro tempore*. Then it ought to be put over again if that is the case.

Mr. TRUMBULL. I desire to make some remarks.

The PRESIDENT *pro tempore*. It is in order for the Senator to do so.

Mr. TRUMBULL. If I am recognized by the Chair, I move that the Senate adjourn.

Mr. CHANDLER. The bill is up already, I understand.

The PRESIDENT *pro tempore*. The question is on the motion to adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

Friday, January 15, 1869.

The House met at twelve o'clock m. Prayer by Rev. HENRY D. MOORE, Cincinnati, Ohio.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

The SPEAKER. This being Friday, the first business in order is the calling of committees for reports of a private nature, commencing with the Committee on the Post Office and Post Roads, which on Friday last reported a bill by the gentleman from California, [Mr. JOHNSON,] which bill is still pending.

Mr. ELA. I rise to make a privileged report.

The SPEAKER. If it is on public business it cannot be received on private bill day except by unanimous consent.

Mr. ELA. I desire to report a resolution from the Committee on Printing.

The SPEAKER. The resolution will be read; after which the Chair will ask for objection.

The Clerk read as follows:

Resolved, That twenty thousand copies of the report of the Special Commissioner of the Revenue, with the appendices complete, be printed for the use of the House, and one thousand copies of the same for the use of the Treasury Department, five hundred of which are to be bound.

The SPEAKER. If there be no objection, this resolution is before the House, and the gentleman from New Hampshire [Mr. ELA] is entitled to the floor.

Mr. ELA. Mr. Speaker—

Mr. KELLEY. I ask the gentleman from New Hampshire to allow me to be heard on this resolution.

Mr. ELA. For how long a time?

Mr. KELLEY. I cannot say precisely.

Mr. JUDD. I must object to the introduction of the resolution if it is to give rise to debate.

Mr. KELLEY. I desire to say a few words on this resolution whenever it may come up. I have a copy of the report in my hands, and would like to invite the attention of the House to several points in connection with it.

Mr. ELA. I withdraw the resolution for the present.

REPRESENTATIVE FROM GEORGIA.

Mr. DAWES. I rise to a question of privilege. The Committee of Elections, to whom were referred the credentials of John H. Christy and John A. Wimpy, claimants for a seat in this House as Representatives from the sixth congressional district of Georgia, have instructed me to submit a report, accompanied with three resolutions. I ask that the resolutions may be read, and the report laid on the table and printed.

The SPEAKER. The resolutions will be read.

The Clerk read as follows:

Resolved, That J. H. Christy, having voluntarily given countenance, counsel, and encouragement to persons engaged in armed hostility to the United States, is not entitled to take the oath of office as a Representative in this House from the sixth congressional district of Georgia, or to hold a seat therein as such Representative.

Resolved, That John A. Wimpy, not having received a majority of the votes cast for Representative in this House from the sixth congressional district of Georgia, is not entitled to a seat therein as such Representative.

Resolved, That the Committee of Elections be discharged from the further consideration of the question of removing political disabilities from John H. Christy, and that the same be referred to the Committee on Reconstruction.

The SPEAKER. If there be no objection the report will be laid on the table and ordered to be printed.

There was no objection.

ELECTION CONTEST—SWITZLER VS. ANDERSON.

Mr. STOVER. Mr. Speaker, I was not present yesterday when the report of the Committee of Elections in the case of Switzler vs. Anderson was presented, and I desire now to state that while I agree with the majority of the committee in a portion of their report, I entirely dissent from the resolutions as reported and concur with the former minority report. I may add that I shall have something to say upon the question when the report shall be called up.

ORDER OF BUSINESS.

Mr. CULLOM. This being private bill day, I desire to inquire what committee is entitled to be called during the morning hour?

The SPEAKER. The Committee on the Post Office and Post Roads has one bill undisposed of. When that shall have been acted on the Committee for the District of Columbia will next be called. The bill first in order during the morning hour is House bill No. 860, for the relief of Luther McNeal, late postmaster at Lancaster, Erie county, New York. The gentleman from California [Mr. JOHNSON] is entitled to the floor on this bill.

Mr. TIFT. I ask the gentleman from California to yield for a moment that I may introduce a bill for reference.

Mr. INGERSOLL. I must object to the gentleman yielding, on account of the consumption of time during the morning hour. I desire that the Committee for the District of Columbia shall be reached as soon as possible.

LUTHER M'NEAL.

The House resumed, as the first business in order during the morning hour, the consideration of the bill pending at the expiration of the morning hour last Friday, being the bill (H. R. No. 860) for the relief of Luther McNeal, late postmaster at Lancaster, Erie county, New York; on which Mr. JOHNSON was entitled to the floor.

The bill proposes to pay to Luther McNeal, for money and postage stamps belonging to the United States, and which were stolen from the post office at the town of Lancaster, Erie county, New York, while he was postmaster, \$178 35, which sum he has paid to the Government on settlement with the Post Office Department; the money to be paid out of the Post Office fund by the Postmaster General upon McNeal making satisfactory proof that the money and stamps were stolen without fault on his part.

Mr. JOHNSON. Mr. Speaker, I apprehend it is unnecessary for me to explain this bill again, having made an explanation of it on last Friday. I will state again, however, that the committee were unanimously of the opinion that Mr. McNeal ought to be repaid this amount. The burglars are now serving out their term in the penitentiary. We are satisfied that the robbery was not the result of any carelessness on the part of the postmaster, but that he used all the care that could be used under the circumstances. I move the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time; and passed.

Mr. JOHNSON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

COURT OF CLAIMS.

On motion of Mr. GARFIELD, by unanimous consent, the Committee on Military Affairs was discharged from the consideration of the bill (H. R. No. 1646) extending the act of July 4, 1864, limiting the jurisdiction of the Court of Claims, &c., to the loyal citizens of all the States now represented in Congress; and the same was referred to the Committee on the Judiciary.

QUARTERMASTER'S DEPARTMENT.

On motion of Mr. GARFIELD, by unanimous consent, the Committee on Military Affairs was also discharged from the consideration of the communication from the Secretary of War, transmitting a list of payments made and balances certified under the act of March 3, 1868; and the same was referred to the Committee on the Judiciary.

JOHN HEGEMAN.

On motion of Mr. GARFIELD, by unanimous consent, the Committee on Military Affairs was also discharged from the consideration of the memorial of John Hegeman, for the use of his pontoon bridges; and the same was referred to the Committee of Claims.

S. S. POTTER.

On motion of Mr. GARFIELD, by unanimous consent, the Committee on Military Affairs was also discharged from the consideration of the memorial of S. S. Potter, for payment for use of his buildings as hospitals; and the same was referred to the Committee of Claims.

SCOTT AND BRINDLEY.

On the motion of Mr. GARFIELD, by unanimous consent, the Committee on Military Affairs was also discharged from the consideration of the claim of Scott & Brindley, for payment of rent of building in New Albany, Indiana, for hospital purposes; and the same was referred to the Committee of Claims.

RILEY'S MANUAL.

Mr. McCULLOUGH, by unanimous consent, introduced a joint resolution (H. R. No. 406) for the purchase of Riley's Manual; which was read a first and second time, and referred to the Committee on Military Affairs.

FREDERICK SCHLEY.

Mr. THOMAS, by unanimous consent, introduced a joint resolution (H. R. No. 407) for the relief of Frederick Schley; which was read a first and second time, and referred to the Committee of Ways and Means.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HAMLIN, one of its clerks, announced that that body had passed a bill (H. R. No. 1673) to relieve W. H. Bagley, of Wake county, North Carolina, of political disabilities.

E. M. SARGENT.

On motion of Mr. JOHNSON, by unanimous consent, the Committee on the Post Office and Post Roads was discharged from the consideration of the memorial of E. M. Sargent; and the same was referred to the Committee for the District of Columbia.

UNIVERSITY FOR THE BLIND.

Mr. INGERSOLL, from the Committee for the District of Columbia, reported back the bill (H. R. No. 1563) to incorporate the University for the Blind in the District of Columbia, with an amendment in the nature of a substitute.

The substitute was read. The preamble

recites that an effort has been put forth to establish a national institution to advance the educational interest of the blind, by building up a library for their use in raised letters, preparing apparatus addressed to the sense of touch, and by erecting a university in which they may acquire a liberal education; that it is desirable to secure the coöperation of the friends of the enterprise in every part of the United States; that the blind of each State are to receive the benefits accruing from said library and university in proportion to the amount of money contributed in their State; that with a view to promote this object boards have been organized in various States and will be in other States, and a general organization is needed in order more effectually to carry out this effort; and that said institute has been located in the District of Columbia under the name of the American University for the Blind. The bill, therefore, incorporates a board of regents to control and manage the said institution, defining their powers, &c.

Mr. WASHBURNE, of Illinois. What is the proposition before the House? I understand there is a substitute for the bill, and I want the substitute read.

The SPEAKER. The Clerk has just read the substitute.

Mr. WASHBURNE, of Illinois. Very well; then I ask to have the original bill read.

Mr. INGERSOLL. Is not that rather too late now?

The SPEAKER. It is not; it may be asked at any time before the passage of the bill.

Mr. INGERSOLL. My colleague is just as factious as ever. [Laughter.]

The Clerk read the original bill.

Mr. INGERSOLL. If I can have the attention of the House for a few minutes I will endeavor so to explain the bill that I imagine there will be no objection to its passage. The whole and sole purpose of this bill is to advance the educational interests of the blind throughout the United States. The purpose of the bill is set out in detail in the preamble, which perhaps has been read by many members, and if not, they will find the whole scope of the bill expressed in the preamble. The committee that has had charge of this bill, fearing that this institution if located in the District of Columbia might become a charge on the United States Government, struck out that portion of the first section of the bill contained between lines eight and twelve, as follows:

Together with one other person to be appointed by the President, one by the Chief Justice, one by the President of the Senate, and two by the Speaker of the House of Representatives of the United States of America.

We struck out those words for the purpose of disconnecting this institution entirely from the Government, so that it will stand now as a benevolent institution organized by the friends of the blind throughout the United States, selecting the District of Columbia as a sort of neutral ground between the North and the South, the East and the West, with the sole purpose of promoting the educational interests of the blind. It can in no event become a charge upon the Government of the United States, for it is entirely disconnected from the Government; not like the institution for the deaf and dumb or for the insane located within the District of Columbia; they have become charges upon the Government, and were so intended at their organization. But this institution is intended to be supported by contributions from benevolent and philanthropic persons throughout the United States without any claim whatever upon the Government of the United States. The feature of the bill which has been stricken out by the committee was perhaps liable to an objection, for the reason that if the President of the United States could appoint one of the trustees, the Vice President one, the Speaker of the House two, and the Chief Justice of the Supreme Court one, it would connect it so far with the Government, and might be made the basis of a claim against the Government for some aid. This bill disconnects the institution

altogether from the Government. It is to be supported by voluntary contributions; and I will state here to the House that there was an institution similar to this once located in the State of Louisiana before the war; it has a fund accumulated of \$20,000 of cash capital which it proposes to turn over to this institution. Philanthropic men everywhere, I understand, propose to contribute for the support of this institution for this very benevolent and praiseworthy object. This is the sum and total of the purpose of the bill.

I move now to amend section ten of the substitute by inserting in line two, after the word "property," the words "owned by said university;" so that it will read:

That any and all property owned by said university, personal, real, mixed, or otherwise, be, and is hereby, exempted from taxation.

Mr. CHANLER. I would like to ask the gentleman, first, whether there is any petition before the House asking for this institution; and if so, by whom it is signed? Is this measure petitioned for from any section of the country?

Mr. INGERSOLL. Yes; it is.

Mr. CHANLER. By whom?

Mr. INGERSOLL. By gentlemen of very high character, one of whom was for a long time president of an institution of this character—an asylum for the blind in Ohio and another in Pennsylvania; and by other gentlemen of high character throughout the United States.

Mr. WASHBURN, of Illinois. I suggest that the petition be read at the Clerk's desk, so that we may know who the parties are.

Mr. INGERSOLL. I believe I have the floor.

Mr. CHANLER. I would like to ask the gentleman what prevents these benevolent gentlemen from moving their institutions here without an act of Congress?

Mr. INGERSOLL. It is evident that no institution of this character could be established and conducted without an incorporation, so that there might be somebody in charge of it that would be responsible to the contributors. You cannot have an institution of this character without an organization—there is not one in existence, and never will be, without an organization—based upon some legislative authority, so that its rights may be respected and protected and the rights of all connected with it preserved and enforced.

Mr. CHANLER. I would also ask the gentleman what there is particularly attractive in this District at this time which should require the blind of Pennsylvania and Ohio to remove here to be instructed? There are enough blind already in the District without providing for the removal here of the blind from other sections of the country.

Mr. INGERSOLL. In reply to the gentleman, I will say that even the blind can see the purpose of locating this institution in the District of Columbia. If the gentleman from New York [Mr. CHANLER] cannot see it I certainly am not in fault.

Mr. CHANLER. I ask to have the petition read.

Mr. INGERSOLL. I have the floor.

Mr. CHANLER. Will it be in order to call for its reading at some time during the consideration of this bill?

The SPEAKER. It will not, because the petition is not to be acted upon by the House.

Mr. INGERSOLL. I will state to the House very candidly why it is sought to establish this institution here. The benevolent people of the United States living in the northern States object to this institution being located in Richmond or Louisville or New Orleans because they think it would then be, perhaps, too much subject to southern influence. The southern people object to its location in Boston or Chicago for a similar reason. But they have all agreed on the District of Columbia as to them neutral ground where the interests of all would be best protected. That is the only reason, and it is a very good one. Now, with this explanation of the bill, I call for the previous question on the bill and amendments.

Mr. WASHBURN, of Illinois. I hope not. Mr. INGERSOLL. I hope it will be seconded.

The question was then taken on seconding the previous question; and upon a division there were—ayes 44, noes 50; no quorum voting.

Tellers were ordered; and Mr. INGERSOLL and Mr. CHANLER were appointed.

Mr. WASHBURN, of Illinois. I ask my colleague [Mr. INGERSOLL] to withdraw for a few moments his call for the previous question.

Mr. INGERSOLL. No, sir; there is no use in withdrawing.

Mr. WASHBURN, of Illinois. I want to state a few facts.

Mr. INGERSOLL. The bill is perfectly understood now.

The House again divided upon seconding the previous question; and the tellers reported that there were—ayes 61, noes 56.

So the previous question was seconded.

The question was upon ordering the main question.

Mr. WASHBURN, of Illinois. I move that the bill and pending amendments be laid on the table; and on that question I call for the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and it was decided in the affirmative—yeas 81, nays 68, not voting 78; as follows:

YEAS—Messrs. Anderson, Axtell, Bailey, Baker, Baldwin, Beaman, Benjamin, Benton, Boyer, Brooks, Broomall, Burr, Cary, Chanler, Churchill, Reader W. Clarke, Cobb, Coburn, Cook, Cornell, Delano, Eggleston, James T. Elliott, Fields, Fox, Getz, Golladay, Haight, Harding, Holman, Hotchkiss, Asabel W. Hubbard, Chester D. Hubbard, Humphrey, Hunter, Johnson, Thomas L. Jones, Judd, Kerr, Knott, William Lawrence, Loughbridge, Marshall, McCarthy, McCormick, McKee, Mercer, Moore, Morrill, Mullins, Newcomb, Niblack, Nicholson, Paine, Peters, Polesley, Randall, Raun, Root, Sawyer, Scofield, Shanks, Stigreeves, Spalding, Starkweather, Stover, Sypher, Taber, Taffe, Taylor, Tift, Lawrence S. Trimble, Trowbridge, Van Aiken, Burt Van Horn, Van Trump, Ward, Elihu B. Washburne, Thomas Williams, Stephen F. Wilson, and Young—81.

NAYS—Messrs. Arnell, James M. Ashley, Banks, Barnes, Beatty, Beck, Bingham, Boles, Boutwell, Boyden, Buckland, Roderick R. Butler, Callis, Sidney Clarke, Clift, Corley, Cullom, Deweese, Dodge, Beckley, Thomas D. Eliot, Farnsworth, Ferriss, French, Goss, Gove, Gravely, Heaton, Higby, Ingersoll, Jenckes, Alexander H. Jones, Julian, Kelley, Koontz, Lash, Marvin, Maynard, McCullough, Miller, Newsham, Norris, Perham, Pierce, Platts, Poland, Price, Prince, Ross, Schenck, Shellabarger, Stevens, Stokes, Stone, Thomas, Twichell, Henry D. Washburn, William B. Washburn, Welker, Whittemore, William Williams, James F. Wilson, and John T. Wilson—68.

NOT VOTING—Messrs. Adams, Allison, Ames, Archer, Delos R. Ashley, Barnum, Blackburn, Blaine, Blair, Bowen, Bromwell, Buckley, Benjamin F. Butler, Cake, Covode, Dawes, Dickey, Dixon, Dockery, Donnelly, Driggs, Edwards, Ela, Eldridge, Ferry, Garfield, Glossbrenner, Griswold, Grover, Halsey, Hamilton, Haughey, Hawkins, Hill, Hooper, Hopkins, Richard D. Hubbard, Hulburd, Kellogg, Kelsey, Ketcham, Kitchen, Ladin, George V. Lawrence, Lincoln, Loan, Logan, Lynch, Mallory, Moorhead, Morrissey, Mungen, Myers, Nunn, O'Neill, Orth, Pettis, Phelps, Pike, Pile, Pomeroy, Prudden, Robertson, Robinson, Selye, Smith, Stewart, John Trimble, Upson, Van Aernam, Robert T. Van Horn, Van Wyck, Vidal, Cadwalader C. Washburn, Windom, Wood, Woodbridge, and Woodward—78.

So the bill and amendments were laid on the table.

Mr. WASHBURN, of Illinois, moved to reconsider the vote last taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

The SPEAKER. The morning hour has expired; and the next business in order is the bill pending at the adjournment yesterday, to provide for the construction of a ship-canal around the Falls of Niagara. The gentleman from Illinois [Mr. WASHBURN] is entitled to the floor.

Mr. MAYNARD. Will the gentleman from Illinois yield a moment that I may introduce a resolution inquiring into the efficiency of the police force in this District?

Mr. WASHBURN, of Illinois. I have agreed that, with the consent of the House and the Speaker, my colleague [Mr. JUDD] shall have the floor at the present time, and that I shall follow him.

The SPEAKER. The Chair understands that by an arrangement between the friends and opponents of this bill the gentleman from Illinois, [Mr. JUDD], who is in favor of the bill, will precede in debate his colleague, [Mr. WASHBURN] who is opposed to the bill. The Chair, therefore, recognizes the gentleman from Illinois [Mr. JUDD] as entitled to the floor. Does he yield to the gentleman from Tennessee, [Mr. MAYNARD], who wishes to submit a resolution of inquiry?

Mr. JUDD. Yes, sir.

POLICE OF THE DISTRICT.

Mr. MAYNARD, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Whereas Mr. James Wells, a clerk in the Sixth Auditor's office for the Post Office Department, was knocked down and robbed at the hour of nine o'clock last night about seventy-five yards above the west entrance to the Capitol grounds, and while on his way to his residence on Capitol Hill; Therefore,

Be it resolved, That the Committee for the District of Columbia be requested to inquire into the police arrangements of the city, and whether increased efficiency is needed for the protection of persons passing by the national Capitol.

ORDER OF BUSINESS.

Mr. BROOMALL. I call for the regular order. I shall be obliged to be absent from the Hall soon, and I want to vote against this Niagara ship-canal bill before I go away.

Mr. FARNSWORTH. I ask my colleague [Mr. JUDD] to give way for a few minutes that I may make a personal explanation.

The SPEAKER. The gentleman from Pennsylvania [Mr. BROOMALL] insists on the regular order.

Mr. FARNSWORTH. I ask the gentleman from Pennsylvania to withdraw that demand for a few moments.

Mr. BROOMALL. I shall be called away in a short time; and I want the vote on the pending bill to be reached soon that I may vote against it.

Mr. FARNSWORTH. I will occupy but a very short time.

Mr. BROOMALL. I am very sorry that I cannot withdraw my demand for the regular order.

NIAGARA SHIP-CANAL.

The House, according to order, resumed the consideration of the bill (H. R. No. 1212) to provide for the construction of a ship-canal around the Falls of Niagara.

Mr. JUDD. Mr. Speaker, the project of a ship-canal around the Falls of Niagara has been before the people of this country for at least a quarter of a century. It has gathered strength by the discussion which the question has received and by the necessities growing out of the increase of commerce and business, and the creation during that time of a comparatively new nation west of the Lakes. If honorable members will reflect for one moment upon the nature of the project as connected with the navigation to which the Falls of Niagara constitute one interruption they will see how important to the nation, East and West, is the removal of this obstruction. This line of navigation and channel of commerce through Lake Superior, river St. Mary, Lake Michigan, Lake and river Huron, and Lake and river St. Clair, Lake Erie, Niagara river, and Lake Ontario to the St. Lawrence, where it becomes Canadian, constitute about two thousand miles of navigable waters, and add to it the St. Lawrence to the sea-board and you have a total of about twenty-five hundred miles.

We have of American coast on these rivers and lakes over three thousand miles, and this, as I may term it, inland sea-coast is to-day dotted with thriving and flourishing cities—cities the natural result of the settlement and cultivation of the fertile lands that border upon most of it—and all dependent upon those waters for the transportation of the products to market, not only agricultural, but the rapidly increasing products of numerous mines, has become within the last twenty-five years, in point of population and production, an empire

within itself. As was shown yesterday by the gentleman from Wisconsin, [Mr. PAINE], eleven millions of people in a few of those northwestern States now demand at the hands of the Government of the United States some facilities for the transportation of their surplus productions to the markets that need them.

Mr. Speaker, it has been said by the gentleman from New York, [Mr. HUMPHREY], in connection with his claims for the State of New York, that there is some constitutional objection to the project now before the House. Sir, if honorable members will place their eyes upon the map they will see that from the head of Lake Superior down to Lake Ontario and the St. Lawrence, where it comes within the British dominions, only three natural obstructions to the navigation exist on this entire route: first, the rapids at Sault Ste. Marie; second, the St. Clair flats; and third, this obstruction in the Niagara river. The Government has, by appropriations made by act of Congress, removed in part the first two obstructions, and the question now arises shall this beneficent policy, entered upon in the interest of commerce and the interest of a large portion of the people, be arrested at this stage of their progress?

Why, Mr. Speaker, do we build light-houses on all these lakes? Why do we remove rocks from the harbor of New York? Why is this Government to-day expending its money to remove obstructions in the navigation of the Mississippi? Why is it that at the gentleman's own city of Buffalo the Government has spent its millions in constructing a harbor for the protection of commerce? If, then, the Government can remove obstructions in New York harbor, can build a harbor at Buffalo, can remove obstructions in the Mississippi river in accordance with the Constitution, why is that instrument thrown at us when we propose to remove another obstruction on the line I have described more annoying than all of them? We do not propose by this bill to create any new line, as has been alleged, or new avenue of commerce, but simply to obviate a natural obstruction to this grand avenue of commerce so that it may be used with greater facility by this Government and the people than it has been hitherto.

To say the Government has not constitutional power to do this work is to belie the entire history of this Government upon these questions; for from its very foundation it has, under that clause of the Constitution which confers upon Congress the power "to regulate commerce with foreign nations and among the several States," built harbors, light-houses, and beacons, and cleared the channels of rivers. To do the last the work must be of a national character. I do not contend, Mr. Speaker, that there is power to remove an obstruction in every river, but when a river bears to market the commerce of various States no sane man will doubt the power of Congress in the premises; but, in the language of another, "great and widespread benefits give to any enterprise a national character."

The gentleman from New York seems to intimate that the Government of the United States cannot enter within the territory of a State to interfere with its soil or its sovereignty in the execution of these powers. Why, sir, I have shown that from the beginning of the Government to this time it has been the uniform practice of the Government to enter within the territory of States for the purpose of making improvements of a national character, and the State of New York, grand and noble as she is, cannot stand in the way of the demands of a large portion of the people of the country.

The gentleman tells us that this is a scheme, and he repeats it over and over again. He can hardly find epithets strong enough to characterize the measure. Why, sir, if he had looked at the bill he would have seen that there is no scheme in the sense that the gentleman uses that word. It grants no privilege, it creates no corporate powers; no individual inter-

est is connected with the enterprise. There is no appropriation of bonds, there is no subsidy provided for in the bill. It is a direct application by the Government of the United States of its money to construct a great public work for the public benefit. It bears no analogy to the schemes so often denounced on this floor for depleting the Treasury for private interests and purposes. There can be no pretense under this bill that there is anything of that kind.

Let me say to members of the House that this is simply a question whether the Congress of the United States will remove an obstruction that stands in the way of the prosperity of a large portion of the people of this country. It is not, I perhaps cannot too often repeat, a project for creating a new line of transportation or channel of commerce. That is the distinction between it and any other project for the alleged development of our resources that has been presented for the consideration of Congress. I say, then, that when any gentleman charges us with advocating a speculative scheme or project he has not read with care the bill, or he designs to leave an impression which the provisions of the bill do not warrant.

The gentleman from New York [Mr. HUMPHREY] has said that this canal will not be profitable if constructed, and he gives as an argument that if it would be profitable capitalists would have seized it before this time and corporations would have built it. Suppose it will not be profitable, that is the very reason why, if the necessities of commerce and the interest of the people demand the improvement, that the Government should build this canal. I say, then, that it is no argument to address to the members of this House that capitalists would not enter upon an enterprise of this kind. But there is another feature of this subject which to my mind is stronger than all others in view of the current history of the day. There is no man within the sound of my voice who looks at public transportation and at the organization and consolidations of railroads that are now going on but would say that if there is an avenue that the people demand it should be kept free from any sort of position in which these monopolists can grab it at the expense of the people. Let me tell my friend from New York that if it is in the hands of a private company, profitable or unprofitable, and those railway lines that reach to his city and which extend to mine desired it, you would find them in possession, and tolls would be levied that would entirely obstruct business and transportation upon this canal.

Mr. HUMPHREY. I would ask the gentleman if he voted for the bill that was passed in the Thirty-Ninth Congress incorporating a company to construct this work?

Mr. JUDD. I did not, because I was not a member of that Congress. Had I been, I might have taken it as a last resort, but I do not think I should. The gentleman's argument in regard to this question of constitutional power might have applied to the creation of a corporation within a State for the purpose of constructing these works. That is the objection that I understand prevailed in the other branch of Congress, and that is the reason the bill did not pass, because men strongly in favor of the measure and looking upon the work as absolutely necessary to the prosperity of the country, refused to intrust such power to a corporation that might by and by entirely obstruct by their charges and exactions the passage of produce and commerce through this canal. That was the reason, and I say to my friend from Buffalo that it was upon due consideration and careful reflection in regard to the possibilities growing out of the use of that power that the friends of this measure decided that if it was a work that was entitled to favorable consideration it was a work that ought to be done by the Government and not trusted to the hands of any corporation.

While asserting that the proposed improvement would not be profitable the gentleman

said the Welland canal had ceased to be profitable. There are reasons for that. When the Welland canal was built the commerce on the lakes was a mere tithe—no, not a tithe, of what it is at present. Economy in transportation and the increasing freights has caused the building of larger vessels, and that business is done with a class of vessels that cannot pass through the Welland canal and do business upon Lake Ontario. That is a good reason, and I will tell the gentleman that the statistics show that up to the time that this large class of vessels were brought into use so as to diminish the use of that canal, freights were always cheaper to Oswego, two hundred and fifty miles beyond the mouth of this canal, or thereabouts, than to Buffalo.

My friend from Wisconsin [Mr. PAINE] demonstrated so clearly the onerous burdens that were levied upon our surplus productions by the present mode of carriage that it would be a work of supererogation for me to undertake to give any more figures upon that subject. It is known to every intelligent man that the Northwest produces immensely more than we want for our own use. We feed New England and half of New York. It has been said that "the carrying trade is the right arm of all agricultural industry, of commerce and of civilization." Cheap transportation is absolutely essential to the successful and profitable cultivation of the vast agricultural regions of the Northwest. The cheapening of transportation by this measure will not redound alone to the benefit of the Northwest. It will operate equally for the benefit of New England and New York that want our surplus products. In creating new avenues and cheapening transportation you benefit both sections of country, and thus distribute your blessings equally.

Mr. Speaker, the time has arrived when the Government should do something to relieve us from the taxes imposed upon us by the constituents of the gentleman from New York, [Mr. HUMPHREY], for the use we make of the Erie canal.

New York has received back into her coffers, by tolls levied upon the products of the West, every dollar, and more than she has invested in the Erie canal. It is time that she should cease her grasp upon the industry of the region of country that I, in part, represent.

The gentleman from New York seems to think that there is something wrong in this bill, because under certain sections of it authority is given for making contracts. He says: "There is where the scheme comes in." Well, there is where the scheme comes in in every public improvement. In everything that is done by the Government you must vest such a power somewhere. It is a power conferred upon every corporation. The work can only be done in whole by the day's work, or in part, it may be let out under contract. The gentleman forgot to tell us that full provision is made in the bill for public advertising and letting to the lowest bidder.

But the gentleman says that under certain circumstances a portion of the Army is to be used for this scheme. Now, if I had not supposed that my friend from New York [Mr. HUMPHREY] was a very serious man I should have considered that observation a most excellent joke. The idea that any unemployed portion of the Army of the United States should be allowed to earn wages—that is the provision of the bill—by digging on this canal in the same way that they earn wages by building forts, barracks, and other public works, seems very shocking to the gentleman.

There can be no doubt that the necessities of the country, as I said before, absolutely demand the construction of this work. I propose to devote a very few moments at this time to the project offered by the gentleman from New York [Mr. HUMPHREY] as a substitute for this bill. He will excuse me if I remark to him that it is a strange proposition in view of his bold assertion that all appropriations of money for works of internal improvement are schemes

that he intends most stoutly to resist, and that the present bill is a part of this great system of peculation upon the Treasury which it is charged is being urged by a lobby here who are contriving ways and means for robbing the Treasury of the United States; and, as a sequence of his own virtuous indignation against these plunderers, he asks by his substitute that the Government of the United States should give to the State of New York the sum of \$10,000,000, which is but \$2,000,000 less than we ask for the completion of the work authorized by the bill under discussion. He has told us in his argument that it is for the enlargement and ultimate free use of the Erie canal. The gentleman's substitute leaves it discretionary with the State of New York as to the time for completing. And what after completion? Why, tolls are continued to be levied substantially in the discretion of New York until the entire cost, principal and interest, has been repaid to the State and the General Government, and in addition thereto the canal debt of the State of New York. New York has already collected from the revenues of that canal more than all the cost of its construction, with interest thereon. Under that proposition I do not believe that my friend, even with his youthfulness, will live to see free transportation on the Erie canal.

His proposition is an ingeniously prepared scheme. I shall not consume the time of the House now by examining it in detail. But if I misrepresent the proposition in my general statement of its provisions he can correct me. But I say now, in my place, that there is no pretense, so far as any official act is concerned, that New York will act upon that plan at all.

Mr. HUMPHREY. Will the gentleman yield to me for a moment?

Mr. JUDD. Certainly.

Mr. HUMPHREY. I desire to state that in 1862 the State of New York passed a law asking the Federal Government to do this very thing.

Mr. JUDD. Mr. Speaker, I am advised that that was limited to five years; my friend from New York [Mr. VAN HORN] tells me so. But no matter about that. Mr. Speaker, I am not content to let the State of New York, if we can avoid it, rule over us in this matter. I prefer that we should be under the guardianship of the Congress of the United States as to the rate of toll which we are to pay for the transportation of our produce to market. I infinitely prefer that the public, as represented in the Congress of the United States, should be our guardian, instead of the sovereignty of the State of New York, whose interests are to be protected at the expense of the producer in the West and the consumers at the East. I prefer that the Representatives from all the States of the Union should have something to say as to the amount of tolls to be levied upon any canal through which the products of the West may seek a market.

Mr. HUMPHREY. I have here a copy of the bill, and I should be glad to have the gentleman examine it.

Mr. JUDD. It does not matter whether the term be five years or ten years. My objection is that it should not be left in the power of any State to make levies in its discretion upon the commerce passing through it, and that, too, after it has received a bonus of \$10,000,000 from the Government of the United States. I will read a portion of the bill for the benefit of the House. When the substitute was offered by the gentleman I could not think he was in earnest, but that it was a little measure designed to cripple, to embarrass, and if possible defeat the pending measure; that it was, as we say upon the prairies, whose products we are trying to relieve by this legislation from unjust burdens, "setting a back fire." I want to call attention to the terms upon which this Erie canal is to be made free, if it should ever be enlarged sufficiently to allow the passage of ships:

That when said enlargement is completed and the amount of the liens and charges upon the revenues

of said canals ascertained and determined, the State of New York, through the agency of its canal board or otherwise, will annually thereafter establish a rate of tolls upon the property, boats, vessels, rafts, and other craft passing through said canals, and not exempt from tolls, sufficient to raise such sum or fund, and also to pay for the annual superintendence and repair of said canals; and in establishing such rate of tolls no discrimination shall be made between the property of the citizens or products of the State of New York and the property of the citizens or products of any other State, Territory, or foreign country; and that after the payment of the said liens and charges, or accumulation of a sinking fund sufficient for the payment thereof, said State of New York will never impose or levy upon the property, boats, vessels, or other craft passing upon said canals any other or greater rate of tolls, charges, or imposts than shall be necessary to pay the annual superintendence and repair of said canals; that said State of New York will faithfully apply all the moneys received from said tolls and charges, as follows: first, in payment of the superintendence and repair of said canals; second, in discharge of the interest and principal of the several lines and charges aforesaid thereon, in such manner as shall be just and equitable between the State of New York and the United States.

Sec. 3. And be it further enacted, That upon compliance with the conditions of this act by said State of New York, and the approval of the plans and specifications for the enlargement of said canals by the Secretary of War of the United States, as in this act provided, the Secretary of the Treasury of the United States is hereby empowered and directed to pay said sum of \$10,000,000 to the State of New York, by the delivery to said canal board or any authorized agent of said State the bonds to the United States as hereinbefore specified, in such amounts and at such times as may be required by said board in the proper prosecution of said work.

Now, Mr. Speaker, I refer to these things simply to show that, assuming the State of New York would do what is proposed, we should get no step forward, but would remain in precisely the same condition in which we are at the present time, subject to the duties, the tolls, and the tonnage; and it is not within the power of my friend from New York to tell when we shall be freed from this levy of tolls. There is no arithmetical or mathematical calculation that will enable him or any other person to demonstrate when the people shall have the free use of that canal. Cost of repairs and superintendence are sometimes very great.

But, Mr. Speaker, I have heard from many of my friends in this House the objection that this is an improper time for the spending of large sums of public money. I subscribe most fully to that general proposition, and the reason for it is our large indebtedness and the necessity for lightening the burdens of taxation and at the same time preserving the public faith. If the expenditure of a certain sum will enable the producer to meet more easily the necessary demands of the tax-gatherer; if it will cheapen food to the laboring man; if it will add largely to the productiveness of the country, then, sir, the subject is worthy of the serious consideration of the legislative branch of the Government. The proposed expenditure will, in my opinion, accomplish all these purposes. Cheap transportation for the surplus productions of the West will increase the ability to pay taxes and create new resources for the support of the Government. All these questions are to be considered in determining the soundness of the objection which is raised. Why, Mr. Speaker, if a man owned a farm, only fifty acres of which were under cultivation, and if he could put under cultivation another fifty acres by building a road at some additional cost, and thus giving him more means to more certainly meet his liabilities, would good judgment and sound economy authorize the incurring of this expense? My judgment is that he would, although already largely indebted. Such, in my judgment, would be the effect of the measure now before the House.

I yield to no man in my conviction of the necessity for retrenchment and economy in the public expenditures at this time. In attempting to follow out this proper principle do not let us cripple the resources of the country, but nourish, aid, and assist them, and in their turn they will have more ability to respond to the demands of the Government. Judicious distinction should be made between on the one hand aiding projects new and untried, and in which individual interest predominates or has an interest in by money,

bonds, or subsidies of any description; and, on the other hand, a project for the removal of an obstruction in one of the highways of commerce that would cheapen, as I have said before, the passage of surplus products to a certain and profitable market. The statistics presented by my friend from Wisconsin [Mr. PAINE] has demonstrated that such would be the effect of the measure now under discussion; and I believe everything this Congress can do to enable the West to pay its taxes more easily, to enable the laborer to get his bread more cheaply, is, if not involving an unreasonable expense, within the line of our legitimate duty.

The last section of the bill appropriates \$12,000,000, not to be expended to-day nor tomorrow, but it is to be used on work the completion of which will necessarily extend through five or six years. The amount named is the estimated cost made by the engineer department of the Government after a thorough survey. It was thought expedient by the committee to name the entire sum in the bill that the project might cost, so that the House and the country might understand what it was engaged in. The appropriation, if made, is to be paid out from time to time as the work progresses. It is not a gross sum to be expended within the next one, two, or three current years. I think that any individual whose private estate was in the condition that the estate of this Government is, if he saw before him the means of making that estate valuable by an expenditure within his power, would certainly undertake that expenditure. And I know of no just and proper rule in regard to the conduct of private business that would not apply to the conduct of public affairs in regard to the expenditure of money.

My friend from New York thinks we owe to that State a debt of gratitude. I am not going to consume any time on that question. As I said before, the State of New York has been very well paid, and the people are very much obliged to her for doing what she has done, even if she has done it through a selfish motive. But now, when the necessities of a portion of the country demand a different policy, I would wish that New York would show that same magnanimity and patriotism upon this question that is claimed was shown in her internal improvements, and step out of the way of the progress of the age.

Mr. HUMPHREY. That is what my bill proposes.

Mr. JUDD. The gentleman tells me that is what his bill proposes. I cannot see it in that light; and if I did see it, as I said before, I prefer not to place the interest of this nation under the control of any one State. I prefer that the interest of my constituents and the people to be benefited by this measure be under the guardianship of the Congress of the United States, and that the tolls on this canal should be controlled by the United States.

I have endeavored to show that this is distinguished from all other plans or measures wherein private interests are to be promoted, or where subsidies or loans are made or guaranteed. There are no elements of individual interest or private speculation that enter into the project now before the House. I ask gentlemen, then, as they view the interests of the great Northwest, as they feel an interest in preserving the credit of the Government by enabling the people to pay their taxes out of their surplus productions, as they value the cheapening of produce to the consumer by facilitating transportation, to lend a helping hand to this improvement. And I say to my friend from New York, whose beautiful city of Buffalo is one of the gems of the lakes, that he must join the current; for the flow of commerce will be onward in spite of him or me. Its power is all-pervading and irresistible. You may stand to-day in the way of an improvement which the public interest demands; you may stand for an hour in the way of what the people want for the transportation, of their

produce to market; but you will be as surely rode over by the demands of commerce as that the Niagara cataract now stands in the way of our reaching cheaply a market. You can no more dam up the channels of trade by a city even so beautiful as that of Buffalo than you can stop the current of Niagara.

There are laws that govern these things to which the people and the legislators of the country must yield, and my conviction is that this is one of those cases; that the power that is gathering, and which is beginning to make itself felt from the States and Territories in the West—a power that is now traversing the country with such rapid strides to the Pacific coast, will demand that you cheapen transportation by every reasonable means in your power.

I desire to see the principle that this work is national recognized by the Congress of the United States. The proposition has been before Congress from time to time, receiving the sanction of the House of Representatives. While this measure is important to my constituents, it is not so important whether the canal shall be constructed next year or five years hence as it is for Congress to say that the work shall be done. I appeal to my fellow-members to join me in passing this bill, and let us remove the greatest obstruction that exists upon any one line of commerce within the United States of America. I now yield the remainder of my time to the gentleman from Massachusetts, [Mr. BUTLER.]

Mr. BUTLER, of Massachusetts. I am sorry that I am not able, from failure of voice, even to occupy the time which has been so kindly yielded to me by the gentleman from Illinois. I wish, primarily, however, to give a reason or two why I shall vote for this plan, or "scheme," as my friend from New York [Mr. HUMPHREY] designates it, of public improvement, while as a rule I propose to put myself very steadily against all public improvements to be carried on by private corporations through subsidies from the Treasury. It will be remembered that this bill, or a bill to carry out this project, once passed this House. It failed in the Senate, and for the reason, as I understand, that it was not thought judicious to give power to a private corporation to enter upon the lands of a State by right of eminent domain. This bill proposes to assert itself under the provision of the Constitution which gives to the United States the right to take any means for defense, to construct any military road; but while we claim that as the grant of power, yet I by no means shall advocate the passage of the bill upon the ground of that necessity.

I have no fear of Canada, either in pieces or as a whole, whether as province or as a dominion. I want to put in a *caveat* here and say to my friend from New York that I do not yield to him or to any other gentleman in this House in opposition to any reciprocity treaty with Canada. I am against all treaties of reciprocity, because I think they trench upon the privileges of the House; and I am not in favor of any reciprocal legislation with Canada. When she is ready to take the burdens with us she may have the benefits of the United States, but not till then; we cannot grant the benefits until she takes her share of the burdens. But, sir, claiming the power to carry out this project through that constitutional right, I think it is better that the improvement should be done by the United States and for the United States as free as possible from all taxes which shall be a burden upon transportation. If there is any one great defect in our laws more than another, it is that they are so defective that out of the transportation upon our railroads and steamships and canals a single man by his energy and shrewdness has been able in a single lifetime, and that not a very long one, to make a fortune of \$60,000,000. While I do not blame him, but rather praise him for taking advantage of those laws if the community give him the privilege, yet I do say that that system of laws is exceedingly defective which allows a man to accumulate an immense fortune out of the highways, out of the

means of transportation to the South and West by railroads and steamboats.

Mr. HUMPHREY. Will the gentleman allow me to ask him a question?

Mr. BUTLER, of Massachusetts. Certainly.

Mr. HUMPHREY. I would ask him whether there would be any difference between allowing a man to make a fortune in the way he speaks of, and in the way a large number of men in New England have made fortunes out of the privileges granted to them by high tariffs?

Mr. BUTLER, of Massachusetts. No, there would not; but I do not by that answer mean to admit the fact that a very large number have done so. Certainly none have made so princely and enormous a fortune as this. The manufacturing property of New England taken as a whole, carried on with all our industry and enterprise, and with all our over-work of men and women, has not by any means averaged twelve per cent. on the capital invested.

Mr. HUMPHREY. I would ask the gentleman if the profits upon the capital invested in railroads have been on an average six per cent.?

Mr. BUTLER, of Massachusetts. No, sir; because the directors have stolen all the profits by gambling and watering the stocks.

Mr. HUMPHREY. Has not that been equally the case with manufactures?

Mr. BUTLER, of Massachusetts. Not at all.

Mr. DAWES. My colleague has placed the amount of profit upon manufactures a great deal too high.

Mr. BUTLER, of Massachusetts. Well, I certainly wanted not to make it a great deal too low.

Mr. DAWES. If my friend will allow me I will say that the statistics of the manufacturing property of New England during the last thirty years show that it has not brought in during that time an income of five per cent.

Mr. HUMPHREY. Was not there a report made to this House during the Thirty-Ninth Congress to the effect that during the previous two years the profits upon manufactures had averaged more than twenty-five per cent.?

Mr. DAWES. I cannot tell what may have been reported as the profits for any given six months. My statement was that for the last thirty years, with all the industry, all the energy, and all the devotion to business of which New England has been capable, the manufacturing property of New England has not paid five per cent. upon the amount invested.

Mr. BUTLER, of Massachusetts. I do not now propose to pursue this investigation into all its details. Some time I shall do so, with the leave of the House, but not now. But I desire to say that I wish to have this work carried on by the Government and paid for by the Government, so that there shall be no toll except what is necessary to keep this great improvement in repair. My friend from Buffalo [Mr. HUMPHREY] has been kind enough to assert that all of us who favor this "scheme," as he calls it, may be considered to have some interest in it.

Mr. HUMPHREY. Not at all. The gentleman will allow me to deny making any personal allusions.

Mr. BUTLER, of Massachusetts. Oh, no; only the interests of our constituents, certainly. He has adopted the first device of a good lawyer and advocate, by taking the attack in order to endeavor to shield himself. I know of no city of the United States that can by any possibility be injured by this proposed canal except the city of Buffalo. Her grain elevators may possibly have a little less to do. But she has levied tribute upon the West and built herself up, rightfully or wrongfully—and I will not suggest that it has been done wrongfully—until she should be willing to stand one side and give somebody else a chance.

The gentleman says that we should not build this canal because private enterprise has not been willing to engage in it. Sir, this canal is not a subject for private enterprise any more

than the canal across the Isthmus of Darien or the canal across the Isthmus of Suez. I pray the gentleman from New York to tell me whether the Erie canal would have been built by private enterprise if the State of New York had not taken hold of it? Would private capital have built that which is now shown to be the wisest and best work ever done by any statesman for his State, and which has immortalized its great author? Before the Erie canal was built, Newport and Boston were the rivals of New York for the commerce of the world. And Rhode Island remained out of this Union for two years, and refused to adopt the Constitution of the United States, and the great argument made in her convention for so doing was that if she came into the Union New York would outstrip Newport in the race for the commerce of the world, Newport then being the superior commercial port. How true that foresight was is now seen. But it would hardly have been seen had not that great avenue of transportation from the lakes to the city of New York been opened by the State of New York.

And I speak for my section when I say that we desire the benefit of this canal because of what we have lost by the construction to the tolls of the Erie canal. You have taken from us our commerce, and compelled us to resort to manufactures. And you have taken toll on our manufactures when we sent them to the West. You have taken double tolls on our breadstuffs when we brought them to the East; and then, not content with that, when we ask the Government to open an avenue which shall bring nearer together the great manufacturing part of the country and the great producing section, you, in order to embarrass us, throw in our faces the poor profits we have made in our manufactures by industry, energy, and skill.

Again, sir, I shall vote for this bill chiefly because it does differ from every other scheme in the fact that with honesty of administration, or an approach to honesty of administration in the War Department, there is no possibility that there should be any "job" in the project anywhere. There is no possibility that it can put anything in the pocket of any private man, except the mere amount of the compensation for the land which may be taken. While I yield to no man in the desire that this Government shall be carried on with economy, and while I intend to oppose all hazardous and doubtful enterprises, especially any that looks to a possibility of any man putting money into his own pocket out of the Government, yet true economy on the part of this Government consists in opening between the East and the West every possible avenue of communication.

Nor am I at all disturbed by the fact that at the present time a portion of the traffic which this canal will open must be through Canadian soil in order to use the St. Lawrence river; for the gentleman from New York [Mr. HUMPHREY] knows very well—no man knows better than he—that before we can build this canal, with all the energy we can put upon it, Canada, unless the tide of events should roll backward, will be ours, not by conquest, but by the wish and desire of the majority of its inhabitants, a law-abiding people, homogeneous with ourselves, and who, if left to their own desires, would long since have come to us.

I do not propose, sir—neither my time nor my strength will permit it—to go into an examination of the statistics bearing on this subject. Nor do I propose to raise any question as to the amount of the appropriation. Certain I am, judging from what I have known of the present administration of the War Department, and also the last administration, (I call upon gentlemen to have as much trust as I have in the future,) there will be no possibility of spending any of this money in a manner that shall not be just and economical with reference to the interests of the Government. I do not believe that this work is going to require an expenditure of ten or twelve million dollars; for in my own town private enterprise,

in the prosecution of those manufacturing interests which are always thrown at New England when one of her sons speaks in her behalf, has dug a canal one hundred feet wide, twenty feet deep, with all the necessary guards and locks, and large enough to float a line-of-battle ship, much of it out of solid rock, the length of the canal being a mile and a half; yet it has been constructed for less than five hundred thousand dollars. The man who constructed that work still lives, and can construct a similar work around Niagara Falls, which may be a length only of six miles. But how much will this work cost? Little or nothing. Whatever the sum that may be expended in the first instance, the saving of a single year in freight will pay one half of that expenditure, and the saving of another year will save the whole.

There is but one objection that I see to the bill as now drawn, and that is merely an objection of detail. I see that the proposed depth of the canal is fourteen feet, the object being, I suppose, to accommodate the St. Clair flats. Be it so; then, I think that the width of the lock should be at least sixty feet. This, however, is a matter to be dealt with in the way of amendment hereafter. So far as concerns the main proposition in its general scope and purpose, it is, in my judgment, just and economical, and contemplates a proper expenditure of money. Hence I have no hesitation in giving it my vote.

Mr. WASHBURN, of Illinois. I am sorry that the state of the country and the condition of the Treasury would prevent me from giving my support to the bill before the House. In former years I have supported a similar bill; but it was at a time when Congress was voting money for almost every project that was presented, and as this measure had more merits than a vast majority of the schemes that were going through, I struggled to have some of the money go into this channel. I cannot go into a discussion of the merits of the bill, but I find that the last section thereof proposes an appropriation of \$12,000,000. It is enough for me to know that there is no money in the Treasury to meet such an appropriation. We are now owing a debt of \$2,500,000,000, and are paying six per cent. interest in gold on an immense bonded debt. We have between three and four hundred million dollars of irredeemable paper money afloat in the country which is only worth seventy cents on the dollar. Taxes are oppressive, and there is a party in this country who only want an excuse for repudiation. If we augment the taxes and increase our already enormous public debt the party of repudiation will gather strength and power; and I will warn gentlemen against pushing things to an extent that might tend to involve the country in a crime more hideous in its nature and extent than any ever committed by a nation pretending to the least vestige of honor or decency—the crime of repudiation, of bad faith, and national dishonor. My constituents are greatly interested in this work, but I believe I speak their sentiments when I say they will wait until we shall get the reduction of our public debt under a good headway, until taxation can be reduced, and until the work can be done a third cheaper than it can be done under the present inflated prices. Another reason why I cannot support the bill is, that the commencement of this new work, costing such a vast sum of money, would tend to prevent appropriations for completing important works of improvement already commenced.

There must be an appropriation to complete the work on the Rock Island and Des Moines rapids, now nearly finished—a work which when completed will afford immense relief to the great producing States of the Northwest. Facts have recently come to my knowledge which render it a matter of vast importance that the Mississippi river improvement shall be completed at the earliest moment. Under a great pressure Congress has allowed the construction of railroad bridges across the Mississippi river, and among others one at Dubuque. A bridge

has been built at Dubuque, not by the railroad company, whose road crosses the river, but by parties mostly inside the company, as I learn, and they have made the bridge an engine of stupendous oppression to the public, adding vastly to the expense of transit of both freight and passengers. Before the bridge was built it cost a railroad passenger ten cents to cross the Mississippi river at Dubuque, and it now costs the same passenger twenty-five cents by the railroad bridge. And it is understood the advance in freight is about the same. A gentleman, lately from Iowa, has informed me that the advance in freight exacted by the bridge company over the old rates would cost a single county in Iowa for the present crop of wheat \$30,000. Indeed, as freights now are, it costs just one bushel of wheat to get three bushels of wheat from eastern Iowa to Chicago. This state of things admonished me and I think it should admonish the Representatives from the Northwest, that if money was to be spent by the Government it should be spent where it will effect the most.

Why is this? Among other things it is because of the additional toll charged by this railroad bridge company. The gentleman from Iowa to whom I have already referred told me that the difference in the charges made by this bridge company, so far as one county in that State is concerned, would cost the farmers of that county \$30,000 more than it ever did before. We see too many appropriations for special objects, and I understand them well. Mr. Speaker, while the people have been fighting the battles of the country, railroad, express, and telegraph monopolists have been working to take from the people the rights they already had; and, sir, unless something is done we shall, in my judgment, see such a revolution of public opinion among the people as we have never before seen. We have subdued the monopoly of slavery; but there is to be another battle to subdue these other monopolies, which are destroying us and eating up the substance of the people. It requires only a small appropriation to complete the rapid improvements, making a free and unobstructed channel of water communication from the Falls of St. Anthony to New Orleans. I think, sir, that it would be madness for us, while our other great works of improvement remain uncompleted, to pass this measure, which, in the first instance, will involve an expenditure of \$12,000,000.

Now, sir, my friend from Iowa desires I should yield the floor to him for a few moments, and I do so.

Mr. ALLISON. I understand that the gentleman from Illinois purposes to submit some motion at the conclusion of his hour.

Mr. WASHBURN, of Illinois. Yes, sir; I do.

Mr. ALLISON. Therefore I desire to make some remarks in reply to what he has said, and in reference to the general subject now before us for action. I shall not ask for more than twenty or twenty-five minutes.

Mr. WASHBURN, of Illinois. How many have I left?

The SPEAKER. Forty minutes.

Mr. WASHBURN, of Illinois. Other gentlemen desire I should yield to them, and in order to do so I can only give the gentleman ten minutes.

Mr. ALLISON. It is impossible for me to say what I desire to say in ten minutes, and if I cannot get more time I will run the risk of getting the floor before the House adjourns and not take the floor now.

Mr. WASHBURN, of Illinois. I will yield the floor to the gentleman for fifteen minutes.

Mr. ALLISON. I submit the following, to come in as an additional section.

The Clerk read as follows:

SEC. —. And be it further enacted, That for the purpose of extending the advantages of improved water communication to the Mississippi valley, to enlarge and extend the military defenses of the country, and to enable the Government and people more fully to enjoy the benefits of the Niagara ship-canal, the sum of \$1,000,000 of the money by this act appropriated

shall be devoted to the improvement of the navigation of the Wisconsin river, by canal or otherwise, so as to connect Green Bay and the Mississippi river by way of the Fox and Wisconsin rivers, according to one of the plans recommended by General G. K. Warren in his reports to the engineer department, said money to be expended under the direction of the Secretary of War; and all the conditions and limitations hereinbefore prescribed shall apply to the appropriation made by this section.

Mr. ALLISON. Mr. Speaker, the people of the western States are more deeply interested in this general subject of transportation than perhaps any other subject which could possibly be brought before this Congress. They are at present, especially the agricultural interests of the western States, burdened by the heavy impositions of the railroad corporations which now have in their hands, almost exclusively the means of transportation of their products from the place of their production to the lake ports and the great markets of the world. The gentleman from Massachusetts [Mr. BUTLER] has truly said that if the western States are indebted to New England for the manufactured goods which they consume, New England, New York, and the East generally are mostly indebted to the grain-growing States of Iowa, Illinois, and Wisconsin for the bread they eat while producing those manufactured goods. Therefore I regret exceedingly that the gentleman from the Galena district of Illinois, [Mr. WASHBURN], chairman of the Committee on Appropriations, should at this early period indicate his purpose to submit a motion hostile to this bill, which, with the amendment which I have offered adopted as a part of this measure, supplies the great object desired by the West—the cheapening of transportation from the West to the East and the East to the West.

Before I enter upon any discussion of this measure or any explanation of my amendment I will say a few words in reply to the remarks of the gentleman from Illinois in reference to the bridge across the Mississippi river located at the city of Dubuque, where I live. The gentleman who furnished information to him, as he says, relative to that enterprise, totally misapprehended the facts of the case. The truth is that the construction of that bridge across the Mississippi river has cheapened the transportation across that river very materially. I know that of which I speak; for, sir, I am a member of that corporation and know what the facts really are. There is a graduated scale of tolls established for that bridge, the minimum being less than twenty cents per ton, and the maximum only reaching seventy cents per ton. Now, it is well known to every man who has ever transported any products from the East to the West, or the West to the East, even to and from Dubuque only, that it has cost on the average one dollar a ton to transport freight across that river during the winter, which generally lasts during six months of the year, and a very little less on the average during seasons of navigation. The gentleman from Illinois, therefore, is entirely mistaken in the statement which he made to this House in reference to this Dubuque bridge.

And I will say further, Mr. Speaker, that this bridge enterprise at the city of Dubuque is not in the interest or under the control of the Illinois Central railroad, which is the only railroad corporation which uses that bridge. It is open to all railroads who may choose to use it upon equal terms. It is controlled by a corporation which is interested, as the whole people of Iowa are interested, in cheap transportation, and only desire a fair remuneration for the money they have invested in this enterprise.

Now, Mr. Speaker, I presume there is no western man here who would stand up in his place in this House of Representatives and say that he was opposed to the building of this Niagara ship-canal. Certainly I would not do so. I am in favor of this measure, as I am in favor of every measure which has a tendency to cheapen transportation between the East and the West; but in the present condition of the Treasury of the United States it becomes a question for the people of the West to deter-

It also appears that less than one sixth part of the population of the United States has raised more than one half of the wheat, about

one third of the corn, and about one third of the grain, including wheat and corn, which in the year 1865 was produced in all the States and Territories of the United States.

The total value of the grain crop of the United States for the year referred to was by the Commissioner of Agriculture estimated at \$1,118,904,376; in which estimate the crop of the five States referred to was put down at nearly one third of the whole, \$391,596,000.

The actual yield is possibly greater than the amount claimed in the statement. The Governor of Iowa estimates the wheat crop of that State for 1867 at twenty million bushels, and for 1868 at twenty-five million bushels. The census returns made to the secretary of State of Wisconsin indicate that the wheat crop of Wisconsin for 1860 was over twenty-seven million bushels, while the secretary of the State Agricultural Society estimates the crop of 1861 at twenty to twenty-five millions, and of 1863 at twenty-five to thirty million bushels.

The reports of the Chicago and Milwaukee Boards of Trade show that of the shipments East nearly all were by water, except that in 1864 eight per cent., and in 1865 eleven per cent., and in 1866 eighteen per cent. were by rail. Two thirds of this entire surplus product would seek a water-line from the Mississippi river if such was attainable.

In this estimate of the business on this line or to be effected by a water-line I have only indicated shipments East. This water-line would open up a cheap mode of transit for all heavy freights required west of and along the line of the Mississippi river, such as lumber, coal, salt, railroad iron, steam machinery, and a thousand other articles that will not easily bear high rates for transportation.

At the season of the year when it is most desirable for the farmer to transport his products to market he finds all the railroads worked to their utmost capacity of rolling stock, and dealers and shippers are compelled to await the convenience of railroads running into Chicago and Milwaukee and are met with freight rates which require a sacrifice of one bushel of wheat in order to reach these markets with three other bushels; or, in other words, to sacrifice one fourth of the crop in order to pay for the transportation of the remaining three fourths to Chicago or Milwaukee.

Mr. Speaker, I have made this amendment in obedience to the will and judgment of the States of Iowa, Wisconsin, and Minnesota, whose Legislatures have by memorial requested Congress to undertake this improvement as a national work. In its character affecting, as it does, the consumer, by enabling him to secure cheap bread, and affecting the producer by enabling him to receive a portion of the profits of his crop, now wasted to him in the price he is compelled to pay in transporting it to market, I urge it as germane to the main proposition now before the House, which has for its object the removal of one of the obstructions now in the way of a continuous water-line from the Mississippi river to the Atlantic ports. I shall ask a vote upon it, and hope it will receive the sanction of a majority of the House, because I believe it is more essential to open up a cheap water-line from the Mississippi to the lakes than to connect Lakes Erie and Ontario. But I hope at an early day to see all these great improvements made, so as to form a system of water navigation by means of lakes and canals to the sea-board via the St. Lawrence, and to the city of New York, the great distributing point of the continent for the productions of the East, South, and West.

Mr. WASHBURN, of Illinois. I yield for five minutes to the gentleman from New York, [Mr. BAILEY.]

Mr. BAILEY. Mr. Speaker, as I represent a district to some extent interested in this proposed work, and as I must vote against it, I desire to give my reasons for so doing, and they may be all summed up in very few words.

I do not believe this nation can now afford to make the expenditure to construct this work. Twelve million dollars are now asked by this

bill; but according to our experience in the past, fifteen or twenty million dollars will be required before the work is completed. Now, the people of this country desire almost unanimously the restoration of the national credit, for the business of the whole country depends on that, and we cannot have a sound currency or any available measure of value for property or labor until that is attained. Until that time business must be simply a speculation, and the remuneration of labor uncertain and unsatisfactory. While the people may be interested in works of this kind they do not now demand them. On the contrary, they demand emphatically that they be postponed, for whatever interest they may have in these works, they have a far deeper interest in the restoration of the national credit.

It is argued here in behalf of these and similar measures that the country never was so prosperous as now; that labor never was so well paid as now. With all deference to the gentlemen who thus speak and think, I deny the proposition. The simple truth is that we have borrowed some thousands of millions of dollars, and are now magnificently spending the proceeds. Every foot of American soil is mortgaged for that debt, and every item of public property in the land is pledged for its payment. Notwithstanding this boasted wealth and prosperity, our promises to pay, which we are now so brilliantly spending, are hawked about the world at a most shameful discount. Labor now paid better than ever before! What a delusion! I affirm that the wages of labor to-day are not equal to the same wages before the war, their producing capabilities being considered. If labor is better paid than before, why, let me ask, these chronic "strikes" of labor all over the land, amounting nearly to insurrection? Let us not be deceived in this matter, for, whether we are or not, depend upon it the people are not deceived. They believe they are carrying an immense public debt, that our credit is at a woful discount, and that the only way to give substantial prosperity to the country is to restore that credit by commencing to pay our debts. Every dollar needlessly expended is forced from an overtaxed people and then perverted from its legitimate use of lessening the public debt. Nay, Mr. Speaker, every dollar needlessly expended is a practical increase of the public debt, for it injures the public credit, and thereby compels us to pay a higher interest for the moneys we must borrow to pay the accruing indebtedness.

Now, sir, if I should concede all that has been said in favor of this bill I should earnestly protest against the House passing it at this time.

Mr. WASHBURN, of Illinois. I now yield for ten or fifteen minutes to my colleague, [Mr. LOGAN.]

Mr. LOGAN. Mr. Speaker, I do not expect to enter into a general discussion of this bill, for I do not think in the limited time allotted to me I could do so; but I desire to give one or two reasons why I think this measure should receive the assent of this House. So far as the question of economy is concerned, I presume we all agree that we should be as economical as possible, in order to protect the Treasury of the Government, but I deny that that is an argument either in favor of or against this proposition. It appeals to the fears more than it does to the judgment of men in reference to measures before this House. It is not the fact, because men may be inclined to vote for a proposition of this kind, that they are inclined to dispose of the public money in any but a frugal manner, or in any manner other than that of gentlemen who claim to be on the side of economy. I do not understand any such statesmanship. It is like the man we have all heard of who tried to see if he could not do without eating and thus save the expense of provisions. He took less and less every day until he had so managed his appetite that he believed he had reached that point that he could do entirely without eating, but just then he unfortunately died. It seems to be the

same in reference to the strange freak which seems to have come over gentlemen that the United States Government must never inaugurate any great improvement for the benefit of any or all sections of the country, because, forsooth, we happen to be somewhat in debt.

Now, sir, I expect to go hand in hand, all the time that I may be here, with those gentlemen who seek to economize and prevent extravagant appropriations. But while we do that let us inquire what we must do in regard to promoting the interests of the great American people. Is or is not this question of a ship-canal a matter of interest to all the people of the country, rather than to any particular section? Pass this bill and build this canal, open up water communication from Chicago to the ocean eastward in competition with railroad transportation, and you will cause the railroad monopolies to reduce their rates and equalize them, or, at all events, you will afford the people the advantage of cheaper water transportation.

Sir, this question is not to stop here. It is a great question of governmental policy, a question of vast interest to the whole West as well as the East—to everybody in the West who sells bread, and to everybody in the East who eats it. All the States that border on the Mississippi river and that lie beyond it, all that border on the lakes, Superior, Michigan, Erie, and Ontario are greatly interested in this improvement. What will be the result of the construction of this canal? I know the owners of the elevators at Buffalo may not make so much money as heretofore, but the people of the country will derive a great benefit. They will not rest satisfied with this single improvement. They will demand of the State of Illinois the opening of the Illinois and Michigan canal to the Illinois river, so as to carry the line of communication to the Mississippi river. They will demand that the State of New York shall open its canals so as to give vessels of large draft an outlet to the ocean at New York city. Thus you will have a continuous line of water transportation from the port of New York via the Hudson river and the Erie and Oswego canals to Lake Ontario, thence through this Niagara ship-canal and the lakes, thence through the Illinois and Michigan canal to the Illinois and the Mississippi river, so that you will have one grand system of water transportation through the interior from New York to New Orleans. That will bring competition with the railroad transportation so that the people of the West will no longer have to burn their corn for fuel, as they have had to do in times past, on account of the high rate of transportation, which barred it from the eastern market. It will make breadstuffs cheaper at the sea-board, and thus benefit the poor consumer as well as the rich. It seems to me that he who cannot see this is blind to the great results that must be developed from the carrying out of this measure.

This thing of attaching to the bill propositions of minor importance reminds me of a policy once inaugurated in my own State. In 1836 there was a policy of internal improvement inaugurated in Illinois, of building a great central trunk railroad from Cairo to Chicago, for the purpose of opening up a large portion of the State, which was then almost a wilderness. Each man in the Legislature who had a little country seat on a little spring or river branch moved to amend the bill by appropriating money to clear it out and make it navigable, and to make a little arm of the railroad shoot out to it. In that way the whole State was about to be covered with these branches, and so many side improvements were proposed, requiring so much money, that the result was the whole system went down. But the theory of those who proposed the original scheme was to take the most important interest within the State and appropriate money to develop that, leaving the minor interests to be attended to afterward. So I say now to the gentleman from Iowa develop first the great interest; let this great work of constructing a ship-canal around

the Falls of Niagara be done, and the other works incident to that will come afterward, if they come at all; but do not saddle it with any proposition for any other canal or any other river, for if you do you will defeat the proposition. You will only inaugurate a policy that is not statesmanlike, that of not letting a bill stand upon its own merits, but of saying, "I will not vote for this proposition unless you vote for mine." That is not statesmanship, nor is it for the true interests of the country. The true theory of legislation is to adopt a proposition upon its merits or to let it fail upon its demerits. That is all I desire to say at present on this proposition.

Mr. WASHBURNE, of Illinois. I now yield for five minutes to the gentleman from Louisiana, [Mr. SYPHER.]

Mr. SYPHER. Mr. Speaker, I am in favor of any possible outlet to the West. I am in favor likewise of low freights and quick transit. I am in favor of every legitimate scheme of internal improvement, and at the same time I am in favor of guarding the Treasury of the United States until our national debt shall have been paid. I regret that gentlemen who are here upon this floor advocating this measure have lost sight of the only natural outlet to the West. They are looking across the country in a straight line to New York, expecting that by putting their hands into the national Treasury they can construct a line which will give them a safe and quick transit with cheap freights to the markets of the world. I regret to say that they have never once cast their eyes southward and thought of the great Father of Waters, where their freights will float much cheaper than they can drag them up hill with locomotives.

The gentleman from Illinois has spoken of the Michigan and Illinois canal, which should be opened into the Illinois river. I concur with the gentleman most heartily. They would then load their barges with corn and wheat, and go from this canal into the Illinois river, and thence into the Mississippi river, float them to our grain elevators at New Orleans, and reship their freights there at an expense of one cent. per bushel and carry them to Liverpool for three cents per bushel less than they could carry them from New York for. I desire to present some statistics on the subject of freights and time from St. Louis to New York and Liverpool. From St. Louis via New Orleans to New York the freight per bushel is twenty-seven cents, and the time eighteen days; from the same place via Chicago and Buffalo to New York the freight is forty-four cents, and the time thirty-three days; making a difference in favor of the route via New Orleans of seventeen cents per bushel and fifteen days in time. I think this of itself is conclusive evidence that the natural outlet is via the Mississippi river and not via the lakes and canals of the North, or through a canal to be constructed at a cost of \$12,000,000 out of the national Treasury. The old theory that grain cannot be shipped through southern ports in consequence of the climate is an exploded humbug. Mr. Higby, of Milwaukee, who has been in the grain traffic for over twenty years over the lakes and canals of the North, has removed his elevators to New Orleans, and has declared, from the experience of the last year, that he can dry and air grain and ship it thence to New York and the ports of Europe without damage and at less cost than it can be shipped for by any other possible route. This is conclusive evidence in favor of the natural outlet, which is the Mississippi river. If the Government, instead of appropriating \$12,000,000 to construct a canal through miles of rock, will appropriate \$1,000,000 to keep open the mouth of the Mississippi river they will do a work that will be more beneficial to the whole people of this country. That is the natural outlet and the only one for the West, and they must resort to it yet, although they may succeed in getting an appropriation for the construction of this canal. [Here the hammer fell.]

Mr. WASHBURNE, of Illinois. I now yield five minutes to the gentleman from New York, [Mr. BARNES.]

Mr. BARNES. Mr. Speaker, I do not expect to be able to instruct this House upon the merits of this bill and the questions involved in it, after the exhaustive arguments upon both sides to which we have listened. But I am unwilling that the great city of New York, which I have the honor in part to represent, shall remain silent upon a subject of this national importance—a subject in the history of our internal improvements, in my estimation, second to none which has ever been proposed in the national Legislature or in the Legislature of any of our States. In the infant days of this Republic, when values were represented in a ratio of one to four as compared with what we now consider them, the Congress of this nation appropriated \$15,000,000 to open transportation from the northern and western States, by means of the purchase of Louisiana, and thus securing the control of the Mississippi river. We propose now to bring the North and the West to the doors of the East for the interchange of our commerce at a saving of millions upon millions, the amount of which I will not undertake to estimate, by the appropriation of \$12,000,000 to overcome the great natural obstructions around the Falls of Niagara.

Lake Ontario presents one hundred and eighty miles of water front; one portion stretching along the borders of the State of New York, and another portion along the borders of a foreign nation and under the control of a foreign Legislature. Another one hundred and fifty miles will carry us down to the commencement of the rapids of the St. Lawrence. All of this increase of water communication will be added to the wealth of the country in the reduced prices at which produce will be brought from the West and commerce will be carried from the East. This enterprise is entitled to the hearty and favorable consideration of the constituency which I have the honor to represent, and should not be disapproved by them from the fear that it will divert commerce from the port of New York to more northern and eastern ports. But even if that should be the effect of this measure, I still would ask of my constituents and of my colleagues upon this floor from the State of New York what reason we have to claim entire control of the exportation of western products from the ports of the East? If the West—and not the West alone, but all the country—can be enriched by a saving of from two to five cents per bushel upon the cereals of the West, does it become the city of New York, which has been enriched by western products and the commerce of nations, by national legislation in the way of appropriations of public money, which we have received and are now receiving—does it become us to undertake to deny to this section of country this increased opportunity for the transportation of its products?

Sir, the exportation of western cereals to Europe makes but a small figure in the total exportations of the United States. It is the internal commerce of this country which we now seek to protect, and the burdens of which we propose to lessen. And if my honorable colleague from the Buffalo district [Mr. HUMPHREY] is fearful that this measure, if carried into execution, will result in the destruction of the local interests of the city of Buffalo, I beg leave to say to him that my greatest objection to this proposed canal is that it is not wide enough and not deep enough and does not call for the appropriation of money enough to accommodate all the demands of commerce. But we hope that it will be deep enough to enable him to float through it his grain elevators when they become unprofitable in his city, if they ever do so become, to cities further east, where they may be made profitable. Sir, it is impossible for us to resist the onward progress and demands of our internal commerce. For twenty-five years the great demand of the

West has been to secure communication around the thirty-three hundred and thirty-three feet of natural obstructions at the Falls of Niagara and in the Niagara river. But the Legislature of the State of New York has persistently refused to incorporate organizations within our own limits which might secure the accomplishment of this important result.

[Here the hammer fell.]

Mr. WASHBURNE, of Illinois. I now yield three minutes to the gentleman from Ohio, [Mr. SPALDING,] after which I will yield two minutes to the gentleman from Tennessee, [Mr. MULLINS.]

Mr. SPALDING. Mr. Speaker, I take the floor to explain my present position in reference to the subject of a ship-canal around the Falls of Niagara.

No man can be more thoroughly impressed with a sense of the importance of such a work than myself. No man's constituents have a deeper interest in such a channel of communication than my own. I have heretofore introduced and advocated bills for the construction of such a canal. I am still in favor of the project, but I do not deem it sound statesmanship to add to the liabilities of the Federal Government until we have our present national debt "well in hand," and in a process of liquidation.

Mr. Speaker, we have put down the rebellion, but the fruits of the rebellion are upon us in the shape of taxes that are grinding our people between "the upper and nether millstones." Whispers of repudiation occasionally salute our ears, and these whispers will become whirlwinds if we do not listen to the dictates of prudence in the assumption of national liabilities.

I have been told, and I believe the fact to be, that the sum of \$12,000,000 involved in this bill is but a "specimen brick" for this Fortieth Congress. If we assume this liability, we are to be pushed with claims for Pacific railroads and other subsidies to the tune of perhaps \$100,000,000, and in the end we shall incur the risk, if not the reality, of repudiation, which last will endanger our institutions of government far more than the "great rebellion."

Mr. WASHBURNE, of Illinois. I now yield to the gentleman from Tennessee [Mr. MULLINS] for two minutes.

Mr. MULLINS. Mr. Speaker, it is almost impossible for me, under the pressure of an allowance of but two minutes, to say anything explanatory of the vote which I shall give on this bill. I would have it distinctly understood that as an individual I have never been opposed to internal improvements by the General Government when that Government had physical power to make the improvements. But I have uniformly opposed the creation of corporations by the Government and the levying of a tax upon the people generally that the corporate body might enrich itself at the expense of the masses. There is being carried on by incorporated power a war against the vital interests of the Republic; and sooner or later the Republic will have to bleed, or, rising in self-defense, shake off the shackles which are being put upon it by partial legislation.

I cannot vote for this bill. Why? Because the Government to which we owe our allegiance is to-day overburdened with debt. The body-politic is depleted; it is running at every pore. And, sir, the people of the country have not come here and asked us to appropriate \$12,000,000 for the purpose of cutting through the rocks and constructing this ship-canal. The people understand their own interests, and will make members of this House understand them if we should so far forget those interests as to squander the public money upon a work of this kind when the Government is so much encumbered with debt.

[Here the hammer fell.]

The SPEAKER. The two minutes of the gentleman from Tennessee [Mr. MULLINS] have expired.

Mr. MULLINS. Oh, I hope the gentleman from Illinois [Mr. WASHBURN] is not going to stop me now. I am just getting into the crust of the subject. [Laughter.]

Mr. WASHBURN, of Illinois. What the gentleman has said has been so well said that it is unnecessary for him to say anything more.

Mr. MULLINS. Oh, I will say the balance still better. I never flash in the pan. [Laughter.]

Mr. WASHBURN, of Illinois. I yield two minutes to the gentleman from New York, [Mr. CHANLER.]

Mr. CHANLER. Mr. Speaker, I rise merely to explain the vote which I shall give on this subject, which will be cast in accordance with what I believe to be the will of the people of the city of New York, whom I represent in part upon this floor. I should not, however, have spoken on the question had not my colleague from the Brooklyn district [Mr. BARNES] assumed to speak for my constituency. The building of this canal would undoubtedly conduce to the advantage of the city of New York. I recognize the fact that it would tend to advance the commercial interests of the people of that city. But we do not wish, in contravention of the authoritative acts of the sovereignty of our State, to burden the people of the whole Union for the advancement of any scheme, however advantageous to us it may be. We hold that the interests of the great West, rightly considered, are our interests and the interests of the Pacific coast. We hold that in due time these common interests will be developed; that the system of internal improvements of which the State of New York has given the example, will be imitated in other States. The Mississippi river and the Pacific coast are at the command of the West.

[Here the hammer fell.]

Mr. WASHBURN, of Illinois. I now yield to my colleague from the Peoria district, [Mr. INGERSOLL.]

Mr. INGERSOLL. I desire to offer an amendment.

The SPEAKER. Does the gentleman from Illinois [Mr. WASHBURN] yield to allow an amendment to be offered?

Mr. WASHBURN, of Illinois. Yes, sir.

Mr. INGERSOLL. I move to amend by adding the following as a new section:

And be it further enacted, That, for the purpose of extending the advantages of improved water communication to the Mississippi river, improving the military defenses of the country, and promoting the general welfare, the sum of \$3,000,000 of the whole sum by this act appropriated shall be devoted to, and expended in, deepening, widening, and improving the Illinois and Michigan canal, said money to be expended under the direction of the Secretary of War, subject to the conditions and limitations hereinafter prescribed.

The SPEAKER. Does the gentleman from Illinois [Mr. WASHBURN] yield to allow his colleague [Mr. INGERSOLL] to debate this amendment?

Mr. WASHBURN, of Illinois. Yes, sir, I yield to him, reserving just enough of my time to enable me to move the reference of the bill to the Committee of the Whole on the state of the Union.

The SPEAKER. The gentleman has just half a minute remaining.

Mr. WASHBURN, of Illinois. I move, then, that this bill be referred to the Committee of the Whole on the state of the Union; and on that motion I demand the previous question.

Mr. DELANO. Mr. Speaker, is it in order to move to lay the bill on the table?

The SPEAKER. That motion is in order, and would take priority of the motion to refer.

Mr. DELANO. I move, then, that the bill be laid on the table.

Mr. JUDD demanded the yeas and nays.

The yeas and nays were ordered.

Mr. MAYNARD. What will be the next step, supposing this motion does not prevail?

The SPEAKER. If the motion to lay upon the table does not prevail the next question

will be on seconding the demand for the previous question on the motion to refer.

The question was taken; and it was decided in the negative—yeas 77, nays 84, not voting 61; as follows:

YEAS—Messrs. Bailey, Baldwin, Beatty, Beck, Benton, Bingham, Boies, Boyden, Boyer, Brooks, Broomall, Buckland, Cary, Chanler, Covode, Delano, Eln, Ferriss, Fox, Getz, Golladay, Griswold, Grover, Haight, Halsey, Hawkins, Hill, Holman, Chester D. Hubbard, Humphrey, Hunter, Johnson, Thomas L. Jones, Julian, Kelley, Kerr, Kitchen, Knott, Koontz, Lash, George V. Lawrence, William Lawrence, Marshall, Marvin, McCarthy, McCormick, McCullough, Mercer, Moore, Morrell, Mullins, Newcomb, Nicholson, Polstey, Randall, Seofield, Shellabarger, Sitgreaves, Spalding, Starkweather, Stover, Sypher, Taber, Taffe, Taylor, Thomas, Tift, Trowbridge, Van Auker, Van Trump, Ward, Elihu B. Washburne, Welker, Thomas Williams, William Williams, John T. Wilson, and Stephen F. Wilson—77.

NAYS—Messrs. Allison, Arnell, Axtell, Baker, Banks, Barnes, Beaman, Blaine, Blair, Boutwell, Brownell, Buckley, Benjamin F. Butler, Roderick R. Butler, Churchill, Clift, Cobb, Coburn, Cook, Corley, Cornell, Cullom, Dawes, Dewesse, Dodge, Driggs, Eckley, Eldridge, Thomas D. Eliot, James T. Elliott, Farnsworth, Fields, French, Garfield, Goss, Gove, Gravelly, Harding, Heaton, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, Ingersoll, Jencks, Alexander H. Jones, Judd, Kellogg, Lincoln, Logan, Loughridge, Mallory, Maynard, McKee, Miller, Mungen, Newsham, Norris, Paine, Perham, Peters, Pierce, Poland, Price, Prince, Raum, Root, Ross, Sawyer, Schenck, Shanks, Stevens, Stokes, John Trimble, Twichell, Upson, Burt Van Horn, Vidal, Henry D. Washburn, William B. Washburn, Whittemore, James F. Wilson, Windom, and Young—84.

NOT VOTING—Messrs. Adams, Ames, Anderson, Archer, Delos R. Ashley, James M. Ashley, Barnum, Benjamin, Blackburn, Bowen, Burr, Calkins, Reader W. Clarke, Sidney Clarke, Dickey, Dixon, Dockery, Donnelly, Edwards, Eggleston, Ferry, Glossbrenner, Hamilton, Haughey, Hopkins, Richard D. Hubbard, Halburd, Kelsey, Ketchum, Laffin, Loan, Lynch, Moorhead, Morrissey, Myers, Niblack, Nunn, O'Neill, Orth, Pettis, Phelps, Pike, Pile, Plants, Pomeroy, Pruyn, Robertson, Robinson, Selye, Smith, Stewart, Stone, Lawrence S. Trimble, Van Aernam, Robert T. Van Horn, Van Wyck, Cadwalader C. Washburn, Wood, Woodbridge, and Woodward—61.

So the House refused to lay the bill and amendments on the table.

During the vote,

Mr. NIBLACK stated that he was paired with Mr. LAFLIN.

Mr. BARNES stated that his colleague [Mr. ROBINSON] was detained from the House by sickness.

Mr. WARD said: Mr. Speaker, several of my colleagues are absent on account of important business. [Laughter.]

The vote was then announced as above recorded.

The previous question was seconded and the main question ordered to be put.

Mr. COOK. Mr. Speaker, although I reported this bill, and am entitled under the rules to an hour for the purpose of closing this debate, I shall occupy the attention of the House but for a very few moments.

I recognize as strongly as any gentleman upon this floor the necessity of absolute economy in the expenditures of the Government and the necessity of refusing all demands upon the Treasury not absolutely essential to the welfare of the people; but I believe this spirit of economy may be carried so far as to defeat its own objects and ends. I remember that in Illinois, when we were burdened with a debt so large that it seemed almost impossible that it could ever be paid, and when a large party in the State was in favor of repudiating it upon the ground that it was beyond the ability of the people to pay it, the first step we took in order to relieve ourselves of that incubus was to incur a debt of \$1,000,000 for the completion of the Illinois and Michigan canal. The completion of that work and the incurring of that debt made it certain that the debt of the State would be paid and not repudiated.

And, sir, in relation to the work proposed in this bill this suggestion occurs to me with great force: the great agricultural region of the West is burdened with excessive toll demanded for the transportation of its produce to the markets of the East. This tax is burdensome and oppressive. Those products of the West, seeking outlet to the sea-board, find obstruction at Buffalo. The capacity of the Erie canal is not sufficient to afford an outlet. The tolls from

Buffalo to New York are so great as to impose burdens grievous to be borne upon the producers of the western States, and that is an imposition upon them far heavier than the national taxes. It is a burden which is oppressing the industry of the West more than any other. If we had proper facilities for transporting our commodities from the West to the sea-board it would very largely increase the ability of our people to bear the burdens imposed upon them by the existing financial condition of the country. We are subjected now to the expense of handling all the products of the West at Buffalo for the sake of getting an eastern outlet. We are subjected to that outlay incident to the fact that there are not sufficient means of transportation from Buffalo to the sea-board. The very crowded state of the Erie canal, the fact that more produce is offered for transportation than the capacity of the canal will accommodate, enhances the price of freights to the sea-board, and thus imposes a burden upon the products of the West which is very hard to be borne. It is true that the different channels of communication from Chicago eastward are so overborne that the price of freights is regulated and fixed by the dearest route of all. A larger amount of produce being offered than all the lines of transportation can accommodate, owing to the obstruction which the water carriage meets at Buffalo, the result is that the longest line of railroad has fixed the rate of freight for all the different lines from Chicago to the sea-board. The Pittsburg, Fort Wayne and Chicago, and the Pennsylvania railroad have fixed the price of freight on every route eastward.

I call attention to that as illustrating the fact of the heavy burden that is borne by the producers of the West. The future prosperity of the country demands that this outlet should be made. It is a part of a system of improvement that has already been entered upon by the Government. There is no reason that occurs to my mind why this improvement should not be made which does not apply with equal force to the improvement of the navigation of the lake and river St. Clair. For many years this Government has expended money for the purpose of facilitating the water communication between the East and West, by deepening the channel and improving the navigation of that lake and river. Every constitutional objection which may be urged against this measure can be brought against that; and yet the settled policy of the Government has been to aid in removing the obstructions to navigation at that point.

There is no analogy between granting aid to a work of this kind, improving a natural water communication, and granting aid to a great line of railroad from the Mississippi river to the Pacific ocean. That analogy has been attempted to be drawn to-day, but there is no such analogy. This bill does not propose to incorporate a company that is to come and ask for subsidies and grants. Accurate surveys have been made by officers of the Government, the cost of the work is well ascertained and understood, the amount necessary to complete it is before the House and is vouched for by the official character of gentlemen who have made the surveys, and who have no interest in the matter otherwise than to give us correct information on the subject. I am well satisfied that there is no measure which would add so greatly to the prosperity of the country as the construction of this work, affording, as it will, an uninterrupted, cheap, and easy water communication between the East and West, and a great market for the surplus products of the agricultural States of the West. I am sure that if this market could be obtained, if this burden could be raised from the agriculture of the great West, it would add to the prosperity of that section more than any other single measure would do, thus enabling the people the more readily to meet the demands upon them for the support of the Government.

But, sir, I do not intend to discuss this question at length, and I have no right to consume

the time which belongs properly to the gentleman from New York, [Mr. VAN HORN.] I therefore resign the floor to him.

Mr. VAN HORN, of New York. I now yield to my colleague, [Mr. CHURCHILL.]

Mr. CHURCHILL. Mr. Speaker, no one needs to make apology for standing up at the present day to advocate the construction of the work contemplated by this bill, which, when completed, will place one of the noblest results of human industry beside the great cataract which since its discovery has attracted, as it must always continue to attract, the wondering admiration of every beholder. The construction of a ship-canal around the Falls of Niagara has for more than half a century been urged by the ablest, the wisest, and the most far-seeing of our public men. In 1808 it received the emphatic indorsement of Albert Gallatin, then Secretary of the Treasury. For many years after it held in equal poise in the minds of the great men who originated the canal policy of the State of New York, the route of the Erie canal, and the scale was turned, not by the commercial advantages of the latter route as a better communication with the great but then undeveloped West, but by the superior advantage of that route to the State of New York itself in opening to settlement the rich fields of western New York, then almost uninhabited, and in giving its infant but growing towns access to a remunerative market. On the 11th of September, 1834, a State convention held at the city of Utica, presided over by James G. King, of the New York Chamber of Commerce, and attended by not a few of the men who helped to lay the foundations of the commercial prosperity of that State, adopted unanimously the following resolutions:

"Resolved, That among the great objects of internal improvement indisputably of a national character this meeting regards the construction of a navigable communication between Lakes Erie and Ontario as the most prominent, the most simple, to be obstructed by fewer difficulties, to be accomplished at the least expense, and most likely to contribute to the common defense and the general welfare of the Union.

"Resolved, That the military defense of the extensive frontier lying upon the St. Lawrence, the lakes, and the communicating rivers is worthy of the highest consideration of the national Government, and that in the opinion of this meeting no measures would more largely contribute to that defense than a free navigation from the St. Lawrence to the headwaters of Lake Michigan.

"Resolved, therefore, That the construction of a ship-canal around the Falls of Niagara, by which an uninterrupted navigable communication may be effected between Lake Ontario and the upper lakes, is an object worthy of the immediate attention of the General Government, and claiming a liberal appropriation of the surplus revenues of the nation; that a memorial expressive of the wishes and purposes of this convention be transmitted to our Senators and Representatives in Congress, and that they be requested to present the same to the House of Representatives, and to make use of every honorable effort to carry into effect the foregoing resolutions."

One of the results of the movement thus inaugurated was the survey by Captain W. G. Williams, of the United States Army, made during the year 1835, and which, from the fullness and accuracy of its details, yet remains an authority upon all matters connected with this canal. Since 1835 this canal has been the subject of numerous favorable reports from successive standing and select committees of this House; one of the ablest of which was written and presented by the Representative from the Erie district, in the State of New York, and more than once it has received the approval of this House by decided majorities. State Legislatures, the Chamber of Commerce of the city of New York, and other public bodies have given it their emphatic indorsement; among the last but not the least of which was that of the national commercial convention held at the city of Boston in February, 1868, composed of delegates from thirty-six boards of trade and chambers of commerce, from Maine to California, and who unanimously adopted the following resolution:

"Whereas navigation affords the cheapest of all known means of inland transportation; and whereas Lake Ontario extends lake navigation nearly three hundred miles farther eastward; Therefore

and is a commercial necessity that demands the attention and the action of Congress."

A work which has so long held its place in the public eye, and has received the approval of such men and bodies of men, will not suffer from cries about schemes and jobs coming from men whose craft is in danger, from which they have their wealth, nor even by the perhaps pertinent inquiry of my colleague, the honorable gentleman from the Erie district, why private individuals have not contributed the large sums and assumed all the risks of a great public work—coming though the inquiry does from the Representative of a State not one foot of whose nine hundred miles of canals has been built by private enterprise. The importance of the work proposed by this bill is twofold—military and commercial. As a military work alone its importance justifies the expense of its construction. The navigable coast line of the great lakes and their connecting rivers exceeds, within our Territory, three thousand miles, dotted along nearly its entire extent with rich and populous cities and towns, and with a commerce constituting more than one third of the whole commerce of the United States, all of which would be at the mercy of an enemy having possession of the Lakes. The opposite shore is held by the only naval Power with which we have ever carried on war, and the only Power with which we are likely to have hostile collision in the future.

It will not do to say that the probability of such a war is too remote to make it a proper ground for the appropriation of so large a sum of money, since to provide against that very probability we have appropriated more than eight million dollars within the last five years for permanent fortifications along the sea-board, besides the large sums we have expended in maintaining a Navy in great part for the same purpose. For the protection of a navigable coast of equal extent, with a population soon to be of equal numbers, and with a commerce of nearly equal value, we have less than half a dozen small forts, and, with the exception of half a dozen revenue-cutters, but a single armed vessel. The average annual appropriation for the defense of the sea-board would alone suffice to commence and carry on the construction of this great work. *Pas est ab hoste doceri.* It is worth our while to observe the course pursued by our ancient and possibly future enemy.

At the close of the last war with Great Britain, she, profiting by the experience she had gained in that war, and with the sagacity which makes her guard the most distant outpost of her empire, determined to improve the defense of her colony. To that end she caused careful surveys to be made of the country between Lakes Erie and Ontario, and between the latter and the navigable waters of the St. Lawrence; and in 1818, when she had not yet recovered from the strain of her great wars, nor begun to reduce her enormous debt, nor resumed specie payments, she commenced the construction of the Rideau canal, and soon after of the Welland canal, both of which were built as military works at the cost and under the supervision of her war department. To them were afterward added the canals around the rapids of the St. Lawrence, costing, with the others, more than \$20,000,000. By these she can place a large part of her navy at once upon our undefended coast.

The capture of Mason and Slidell brought us into unexpected danger of immediate war with Great Britain. All that our Government could then do was to call upon the Governors of the northern States to take measures to protect the unprotected borders. Great Britain, on the other hand, as the list of her navy shows, had at that time more than two hundred steam gun-boats and other vessels of war of dimensions to pass the locks of her canals and to enter Lake Ontario. It was with reason, therefore, that meetings of anxious citizens were then held all along the lake frontier to consider how they could best protect themselves from the impending danger.

In the event of war we could not give up Lake Ontario. To do so would not only abandon three hundred miles of coast to the ravages of the enemy and introduce that enemy into the heart of the country, but would make tenable only at enormous cost the two principal communications between the East and the West, to wit, the New York Central railroad and the Erie canal—for, running as they do for one hundred and fifty miles parallel to Lake Ontario, and at a distance varying from six to thirty miles from it, they could only be defended against the incursions of an enterprising enemy having possession of the lake, by maintaining an army whose cost would soon equal the expense of the construction of the proposed canal.

To hold the lakes without any communication between them on our part would make it necessary for us to put upon each lake a fleet equal to what Great Britain could put upon both, since we would be liable at any time to meet her entire fleet upon either. This necessary duplication of ships, armament, and men would also soon equal in expense the sum mentioned in this bill. The battle for the supremacy of the lakes, in the event of another war with Great Britain, would be fought upon Lake Ontario. If successful there the upper lakes would be safe. With proper communication between them the commercial marine of the lakes, with their large and staunch screw steamers and sailing vessels, would furnish a fleet which might be ready for action before the first English gun-boat had reached their waters.

But this danger is sneered at because, in the event of war, we should promptly protect ourselves by taking Canada. The military strength of the Canadas has been increased by their consolidation; for it will give unity to their councils, and our own history gives us an example that three million people, fighting upon their own soil, can baffle and finally defeat an enemy many times their number. But we may well hesitate in adopting such a suggestion when we remember that in our last struggle with this people our repeated efforts at invasion were repeated failures; that we were ourselves the invaded quite as often as we were invaders, and that in one of their invasions of our own territory the home of the honorable gentleman who proposes this mode of removing the danger was reduced to ashes by the enemy he despises.

In the event of a war, should such an invasion be attempted, for the purpose of obviating a danger which the power to concentrate our naval force upon the lakes might have guarded against, we should be paying in the blood and lives of brave men for the treasure we had withheld from this object. The Government of Great Britain has expended \$20,000,000 in gold to protect a distant province. This bill asks for less than half that sum in gold to protect by the same mode the heart of our country. The people of the Northwest, who have contributed their share of the large sums which have been expended in forts and navies to defend the sea-board, have a right to demand, as they do demand, that this work, so essential as it is to the proper defense of the country of the great lakes, shall no longer be postponed.

But, Mr. Speaker, unlike fortifications and navies which absorb vast sums and contribute nothing of wealth or happiness to their builders, the commercial advantages of this work are greater, and its commercial necessity, if possible, more imperative than its military importance. We can make no greater mistake in our legislation than to forget the magnitude of the country for which we legislate, and the constant and wonderful progress of the development of its material interests. The great lakes of the Northwest, which this work would make one continuous sea, drain 335,000 square miles of our own territory, or more than the whole territory of France, added to that of Great Britain and Ireland, and with a capacity to support a human population equal to theirs.

Their shores are the boundaries of eight great States, whose population in 1870 will exceed 18,000,000—quite one half the population of the entire Union. New York has a coastline upon these great waters nearly equal to that of Spain upon the Mediterranean; Ohio more than that of France; Michigan more than Italy; and Pennsylvania and Indiana, each with their single port, have as broad a foothold upon these waters as Phœnicia or Venice, when each from its single port ruled the commerce of the world.

The commerce of these lakes in 1818 was less than \$1,000,000; in 1841 it was \$65,000,000; in 1856 it was \$608,000,000, and now exceeds \$1,000,000,000 in annual value. The growth of this commerce cannot be better illustrated than by the growth of the shipping by which it is moved. In 1818 there was but a single steamer and forty sailing vessels, only two of which exceeded 100 tons burden, on all the lakes above the Niagara river. In 1833 the number of vessels upon all the lakes was estimated at 665, averaging about 110 tons each. In 1860 they had increased to 1,600. But in 1868, as shown by the last report of the Secretary of the Treasury, their number was 2,681, averaging about 200 tons each. The anthracite coal of Pennsylvania forms an important item in the trade of the lakes, the production of which has increased from less than 365 tons in 1820 to more than 12,000,000 tons in 1868. But much the greater part in bulk and value of this vast and growing commerce is the food production of the western States on its way to market in the eastern States, or passing through the eastern States on its way to foreign markets. The relations which the eastern and western States bear to each other in the matter of food, demand and supply, can be best illustrated by a few facts from the census reports.

The population of the eight northeastern States, to wit, the six New England States, with New York and New Jersey, in 1850, was 6,815,055. The population of the same States in 1860 was 7,678,050, showing an increase of 1,862,998. The production of wheat in the same States in 1850 was 15,813,582 bushels, and in 1860 was 11,521,513 bushels. The production of corn in the same States in 1850 was 36,798,970 bushels, and in 1860 was 38,883,913 bushels, showing a falling off in the production of wheat of 4,292,069 bushels, an increase in the production of corn of only 2,089,943 bushels, and a falling off in the aggregate production of 2,102,129 bushels. The supply of food produced in those States prior to 1850 was insufficient for their population, and yet with an increase in population of more than one million and a quarter in 1860, there had been a falling off in the home supply of these great staples of human food of more than two million bushels; and the census of 1870 will undoubtedly show that this increase of population and deficiency of food production in those States has been maintained.

The wheat crop in the seven northwestern States, Ohio, Indiana, Illinois, Michigan, Wisconsin, Iowa, and Minnesota, in 1850, was 40,860,836 bushels, and the corn crop 185,993,965 bushels. In 1860 the wheat crop of the same States was 88,666,017 bushels, and the corn crop 319,397,474 bushels; showing an increase in wheat of 47,806,681 bushels, in corn of 133,403,509 bushels, and in the aggregate of 181,210,140 bushels, or 4,774,248 tons, or more than the entire weight of all articles carried upon all the canals of the State of New York in the year 1865. And this aggregate, if not ratio of increase of production, has undoubtedly been maintained to the present time, since the corn crop of the three States of Indiana, Illinois, and Iowa in 1866 was 335,808,881 bushels, or more than that of the whole seven States in 1860.

The average price of corn in the three last-mentioned States in the year 1866, as shown by the report of the Commissioner of Agriculture for that year, was 44 cents per bushel, while in New York it was \$1 16, in Con-

necticut \$1 26, and in Massachusetts \$1 34 per bushel. An addition of five cents a bushel to the value of the corn crop of those States for that year, by an improvement of the facilities for transportation, would have added to the wealth of these three States \$16,794,444, or one and one third the entire cost of the proposed canal. These figures not only show the sources from which the deficiency of food in the eastern States is to be supplied, but also show that the demand for a market at the West is as imperative as the demand for food at the East, and that the interests of each require that the communication between them shall be made as cheap and as accessible as possible. That communication is, and always will be, mainly by the great lakes; and when we add the 4,000,000 of New England to the 18,000,000 who inhabit the States bordering on those waters and Iowa, we find more than half of the population of the Union immediately interested in the improvement of their channels of intercommunication and the reduction of the cost of transportation upon them.

How shall this be accomplished? We affirm that the only way in which it can be done is by establishing upon our own soil a communication between Lakes Erie and Ontario which shall enable any craft ordinarily navigating either of those lakes to reach the other without difficulty, and this for two reasons:

First. The ports upon Lake Ontario are more numerous, nearer, and more accessible to the great centers of demand and consumption of western products than those at the eastern extremity of Lake Erie, and with equal access to the western lakes can more cheaply transport those products to their consumers, and convey also to the West the eastern merchandise and manufactures which they need.

Second. The competition thus established between the ports upon Lakes Erie and Ontario will keep the charges upon each at a point of reasonable profit; and should these channels become clogged, or the charges upon them for any reason become excessive, the way will be opened to the St. Lawrence, which ever points the way of unbroken water communication to the distant ocean, and thus will always operate as a valuable check upon the charges by the other route.

The fear that with the construction of this canal our own channels of communication will not be able to compete on even terms with the route of the St. Lawrence is founded upon a want of acquaintance with the facts of the case. The Canadian ports on the north shore of Lake Ontario, which have access now to this route, notwithstanding their natural prejudice in favor of their own route, send quite as much grain to Great Britain by the way of Oswego and New York as by the St. Lawrence. The entire exportation of grain from Canada to Great Britain and Ireland by the way of the St. Lawrence in 1866 was 3,334,812 bushels, while the amount of grain received from Canada at the port of Oswego alone during the same year was 5,854,187 bushels, a great part of which was on its way to Great Britain by the way of New York. But we are assured by my colleague, the honorable gentleman from Buffalo, that the construction of this canal will not improve the communication between the East and the West, because the Welland canal now connects Lakes Erie and Ontario, and its business is steadily decreasing. I admit the fact of the decrease, and desire to call the attention of the House to the reason; for that reason is the controlling one why this bill should pass, aside from the fact that our commerce should have its own channels, and not be dependent upon those of a rival, and possibly hostile foreign country.

Twenty years ago no vessels were built upon the lakes for the purpose of carrying freight that were not adapted to the locks upon the Welland canal, so that they might at pleasure take freight to ports either upon Lakes Erie or Ontario. At that time freight could be carried cheaper by Oswego than by Buffalo. With the increase of the volume of commerce upon the lakes, and with the deepening and improvement

of the St. Clair flats and of the entrances to lake harbors, there has been since that time an increase in the size of vessels built upon the lakes and a larger proportion of the upperlake fleet from year to year which could not pass the locks of the Welland canal and were thereby excluded from the ports upon Lake Ontario. As this proportion increased the ability of Oswego to compete with Buffalo on equal terms continually grew less. I append hereto a statement prepared by a Buffalo authority, showing that in 1857 the cost of transportation was less by Oswego; that the difference grew steadily less until 1863, when it changed in favor of Buffalo and has since steadily increased in the same direction:

Buffalo, average Lake and Canal.		Oswego, average Lake and Canal.	
Wheat, bu.	Corn, bu.	Wheat, bu.	Corn, bu.
1857.....25.2.9	20.7.5	24.7.5	20.4.1
1858.....16.2.8	14.2.6	16.1.7	14.2.9
1859.....17.5.9	15.7.8	17.4.2	15.7.6
1860.....24.8.3	22.3.5	24.8.2	22.1.0
1861.....26.5.5	24.6.7	26.5.4	24.3.9
1862.....26.3.3	23.3.6	26.2.8	23.8.5
1863.....22.9.1	19.9.4	22.6.2	19.9.6
1864.....28.3.6	25.4.9	28.4.6	25.7.6
1865.....26.6.2	23.6.0	27.2.3	24.9.7
1866.....29.6.1	25.8.4	30.6.2	27.3.3
Average 10 Years.....24.4.4	21.6.0	24.5.1	21.8.3

The fact that a vessel carrying 30,000 bushels of wheat to Buffalo is navigated with the same number of men and at about the same expense as a vessel carrying 16,000 bushels which can pass the Welland canal to Oswego, added to the fact that a large part of the upper lake fleet from the size of the vessels is absolutely excluded from Lake Ontario, will show that no fair competition does or can exist between the two routes. We yet receive six or seven million bushels of western grain, about half of which is consumed in our own manufactures of flour and starch, but Oswego and other Lake Ontario ports are no longer dangerous competitors of their great rival, Buffalo, for the commerce of the West, and their power to regulate excessive charges upon that commerce is gone and will not return until by the construction of this canal or some similar work they are again made equal rivals for the trade of the West.

Whether the West or the East can afford to have competition lessened while the volume of trade is so wonderfully increasing is for them to determine. Oswego has a capacity in her elevators and warehouses and canal and railroad facilities to handle the entire eastern movement of western grain, could that movement be distributed equally over the whole period of lake and canal navigation; but her vast facilities are comparatively useless for the effect they ought to have, and, with the construction of the Niagara ship-canal, would have upon the charges of transportation between the East and the West.

To show the capacity of the Oswego canal and the growth of its business I append hereto a statement of the entire movement of freight upon it for the last twenty-one years:

Statement showing the total tonnage of property shipped from and arrived at Oswego, by canal, for a series of years

	Tons.
1847.....	293,026
1848.....	335,060
1849.....	403,242
1850.....	461,879
1851.....	570,162
1852.....	580,110
1853.....	717,013
1854.....	536,980
1855.....	561,631
1856.....	744,936
1857.....	524,139
1858.....	725,162
1859.....	597,818
1860.....	944,194
1861.....	795,236
1862.....	858,504
1863.....	824,025
1864.....	676,440
1865.....	745,593
1866.....	866,215
1867.....	906,312
1868.....	1,132,371

The honorable member from Buffalo thinks nothing is gained by the use of the Oswego canal in furnishing facilities for the transporta-

tion of freight because that canal joins the Erie canal at Syracuse, and therefore argues that the Erie canal, which for half of its distance is common to both, is the measure of facility furnished, and that nothing is gained whether produce enters the Erie canal at Buffalo or at Syracuse. But it should be remembered that the great volume of western produce is moved, in fact, during two or three months in the year, and that at that time the charges for elevating, storing, discharging, and other charges incident to transportation, as well as freight, are greatly increased, and that it would be for the great advantage of commerce to have an equal competition between rival ports to control this increase. It should also be remembered that during this same period of enlarged freight movement the canals become clogged, and great detention, loss and expense is entailed thereby upon shippers. But as Syracuse is one hundred and eighty-six miles, or considerably more than half way, from Buffalo to Albany, it will be seen that more than one half of this detention and loss will be saved by the use of the Oswego route.

But my colleague from the Erie district, in answering the question, where would this property go to if once afloat on Lake Ontario? omitted all mention of the railroads of the State of New York. When we remember that the entire freight movement of all the railroads of the State of New York for the year 1867 was more than ten million tons, or twice that of all the canals of the State, it will be seen that this is too important an omission to be overlooked. The great centers toward which the produce of the West, moving upon the lakes, tend, and from which it is distributed to consumers through the country or carried to its foreign market, are Baltimore, Philadelphia, New York, Boston, and Portland. An examination will show that each of these ports are nearer to ports upon Lake Ontario or the river St. Lawrence by rail than to Buffalo, (which is selected for the comparison as the port upon Lake Erie most favorable of the Lake Erie routes,) and that, too, by distances which will more than save in cost of railroad transportation what is lost in the increased distance by water.

From Baltimore to Buffalo, by rail, is 416 miles; from Baltimore to Charlotte, on Lake Ontario, is 361 miles, or a saving of 55 miles by rail. From Philadelphia to Buffalo is 441 miles; from Philadelphia to Charlotte is 386 miles; from Philadelphia to Oswego is 330 miles, or a saving in the one case of 55 miles, and in the other 111 miles, by rail. From New York to Buffalo is 423 miles; from New York to Charlotte is 386 miles, a saving of 37 miles. From New York to Oswego, by the Erie, is 343 miles; from New York to Oswego, by the Delaware, Lackawana, and Western, is 320 miles; from New York to Oswego, by the Central and Syracuse, is 327 miles; from New York to Oswego, by the Central and Rome, is 324 miles, or a saving of 80 miles by the longest, and of 103 miles by the shortest of these routes. From New York to Cape Vincent is 356 miles, or a saving of 67 miles, as compared with Buffalo.

The distance from Boston to Buffalo is 500 miles; from Boston to Oswego is, by Rome, 381 miles, and by Syracuse 389 miles, or a saving in the one case of 111 and in the other of 119 miles. The distance from Boston to Ogdensburg is 416 miles, or 84 miles less than by Buffalo. The distance from Portland to Montreal is 297 miles, or more than 200 miles nearer than to Buffalo.

These distances are taken upon existing continuous routes by rail between the points named. They are, many of them, not yet combined and organized for freight transportation between those points, and with the practical exclusion of the trade of the West from Lake Ontario they have no inducement for such combination. In addition to these routes, the Southern Central railroad, terminating at Little Sodus, upon Lake Ontario, is rapidly being pushed forward to completion, and will furnish Philadelphia with the best and most ac-

cessible lake port, and Pennsylvania with the best outlet upon the lakes for her coal, and that, too, upon a harbor not surpassed upon the whole line of the lakes.

The New York and Oswego Midland railroad, which is also under most efficient management, being pressed forward to completion, will give a connection between Lake Ontario and New York forty miles shorter than any existing route. The Oswego and Rondout road, being built under the energetic presidency of a member of this House, will furnish, when completed, the very shortest communication between Lake Ontario and the deep water of the Hudson. The effect of the competition of all these roads and routes on even terms with the New York Central and Erie railroads and the Erie canal, for the trade of the West, I need not explain to this House. They know what that effect would be, and know that it would revolutionize that trade, and by regulating and cheapening transportation would confer benefits which we cannot compute upon both the East and the West. I will not longer detain the House. He is said to be a real benefactor of his race who makes two blades of grass grow where but one grew before. But he is equally, and far more widely a benefactor, who by wise legislation brings closer together the producer and the consumer, and gives cheap bread to the one at the same time that he secures a more ample remuneration for his labor to the other.

Mr. VAN HORN, of New York. At the close of my remarks yesterday I intended to have offered an amendment to the bill, in the nature of a substitute for the third section. It escaped my attention at the time, but I desire now to ask consent to present the amendment and to have it pending. I will state that it embraces in it all of the third section as it stands in the bill with an addition. I hope there will be no objection.

There was no objection; and the following amendment in the nature of a substitute for the third section of the bill was received:

SEC. 3. *And be it further enacted*, That the President shall cause to be made, by the most skillful engineers of the Army, such examinations and surveys as he may deem to be necessary, and from them and surveys already made, the route of said canal shall be located in the manner following: he shall appoint five capable, disinterested persons who shall be citizens of five different States, who shall act as commissioners to locate said canal. Said commissioners shall examine in person the different routes surveyed, also the surveys, maps, plans, and estimates already provided for in this section, and proceed to locate said canal upon the route having the greatest merits, with a due regard to the permanency of its construction and its greatest advantages for military, naval, and commercial purposes; and the engineers provided for in this section shall make and file, in the office of the Secretary of War, a survey, map, and profile of said canal where located, and before the work thereon shall be commenced. Before the location of said canal shall be final, as made by said commissioners as above provided, it shall be approved by the President of the United States; and said commissioners shall each receive eight dollars for every day actually employed in the service herein provided for, to be paid in the same manner as other expenses and labor on said canal are provided for and paid.

Mr. VAN HORN, of New York. I now yield five minutes to the gentleman from Illinois, [Mr. Ross.]

Mr. ROSS. It is objected to the passage of this bill that the finances of the country are not in a suitable condition to justify it. I am not unaware that the country is now embarrassed, but to refuse to make an appropriation of this character at this time, it seems to me, would be analogous to the conduct of a farmer who owned a large tract of land, and should refuse to purchase the stock and implements necessary to cultivate his farm for fear of increasing his debts. In my judgment, this is one of the most important and proper appropriations that has ever come before this Congress. It is not sectional in its character, for it is the interest of the western farmer to send his products to the eastern markets cheaply, it is equally the interest of the eastern consumer of those products to get them cheaply. Consequently, there is a mutual interest of producer and consumer to remove this obstruction to navigation between these two great inland seas.

But it is objected by gentlemen in whose opinions I have great confidence that we have no constitutional power to make this improvement, because it is within the boundaries of a State, and we have not obtained the consent of the State of New York to make this improvement. Now, sir, I do not hold that the great Northwest is to be dependent on the judgment of the sea-board whether we are to have access to the markets of the world or not. We have been in the habit of making appropriations for the removal of obstructions from the Mississippi river and other water-courses; but suppose the State of Mississippi should conclude, when a sand bar was formed in the Mississippi river in that State, that the national Government should not remove that obstruction? I think we should have a right to remove it. Gentlemen behind me say the Mississippi river is a great highway. That is true; but are not the great inland seas of this country great national highways as much as the Mississippi river? and if we have a right under the Constitution to appropriate money for the purpose of removing snags and sand-bars from the Mississippi river, I ask why we have not a right under the same power to remove an obstruction to the navigation between these two great inland seas so as to give the surplus products of the Northwest an opportunity of reaching a market?

In relation to the question of expense and the financial condition of the country, I may say that while I have been a member of this House I have uniformly voted against all unnecessary appropriations. But, sir, let us cut off expenditures in some other direction. Let us cut down this large standing Army which is unnecessary, and which is costing us \$100,000,000 a year. Let us cut down the expenses of the Navy, which is costing the people \$47,000,000 a year. Let us cut down the expenses of the Freedmen's Bureau, which is costing us twelve or fourteen million dollars a year. By lopping off these unnecessary expenses it will be easy for us to find money by which we can remove this obstruction between these two great inland seas, and let the products of the great Northwest move to a proper market.

[Here the hammer fell.]

Mr. VAN HORN, of New York. I do not desire to continue this debate any further, so far as I am concerned, and I now surrender the floor.

The question recurred upon the motion of Mr. WASHBURN, of Illinois, that the bill and pending amendments be referred to the Committee of the Whole on the state of the Union.

Mr. JUDD. Upon that motion I ask for the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and it was decided in the affirmative—yeas 81, nays 60, not voting 81; as follows:

YEAS.—Messrs. Arnell, Bailey, Beatty, Beck, Benjamin, Benton, Bingham, Blair, Boyden, Boyer, Buckland, Chanler, Covode, Delano, Ela, Ferriss, Fox, Getz, Golladay, Griswold, Grover, Haight, Hawkins, Hill, Holman, Chester D. Hubbard, Humphrey, Hunter, Johnson, Thomas L. Jones, Julian, Kelley, Kerr, Kitchen, Knott, Koontz, Lash, George V. Lawrence, William Lawrence, Loughbridge, Marshall, Marvin, Maynard, McCarthy, McCormick, McCullough, Mercer, Miller, Moore, Morrell, Mullins, Newcomb, Polsey, Price, Randall, Scofield, Shellabarger, Sitgreaves, Spalding, Starkweather, Stevens, Stokes, Stover, Taber, Taffe, Taylor, Thomas, Tift, Lawrence S. Trimble, Trowbridge, Upson, Van Auker, Van Trump, Ward, Elihu B. Washburne, Welker, Thomas Williams, William Williams, John T. Wilson, Stephen F. Wilson, and Young—81.

NAYS.—Messrs. Allison, Baker, Banks, Beaman, Blaine, Bromwell, Benjamin F. Butler, Churchill, Sidney Clarke, Clift, Cobb, Coburn, Cook, Corley, Cornell, Cullom, Dawes, Deweese, Dodge, Eckley, Thomas D. Eliot, James T. Elliott, Farnsworth, Fields, French, Goss, Gove, Harding, Heaton, Higby, Hooper, Jenckes, Alexander H. Jones, Judd, Kellogg, Lincoln, Logan, Mungen, Newsham, Norris, Paine, Perham, Peters, Pierce, Poland, Prince, Raun, Roots, Ross, Sawyer, Shanks, John Trimble, Twichell, Burt Van Horn, Vidal, Henry D. Washburn, William B. Washburn, Whittemore, James F. Wilson, and Windom—60.

NOT VOTING.—Messrs. Adams, Ames, Anderson, Archer, Delos R. Ashley, James M. Ashley, Axtell, Baldwin, Barnes, Barnum, Blackburn, Boies, Boutwell, Bowen, Brooks, Broomall, Buckley, Burr, Rod-

erick R. Butler, Cate, Callis, Cary, Reader W. Clarke, Dickey, Dixon, Dockery, Donnelly, Driggs, Edwards, Eggleston, Eldridge, Ferry, Garfield, Glossbrenner, Gravely, Halsey, Hamilton, Haughey, Hopkins, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Hulbard, Ingersoll, Kelsey, Ketcham, Ladin, Loan, Lynch, Mallory, McKee, Moorhead, Morrissey, Myers, Niblack, Nicholson, Nunn, O'Neill, Orth, Pettis, Phelps, Pike, Pile, Plants, Pomeroy, Pruyn, Robinson, Robinson, Schenck, Selye, Smith, Stewart, Stone, Sypher, Van Aernam, Robert T. Van Horn, Van Wyck, Cadwalader C. Washburn, Wood, Woodbridge, and Woodward—81.

So the motion was agreed to.

During the call of the roll,

Mr. AXTELL said: I am paired upon this bill with the gentleman from New York, Mr. Brooks. Upon this question he would vote "ay" if he were present, and I would vote "no."

Mr. NIBLACK said: On this vote, as on the previous vote, I am paired off with the gentleman from New York, Mr. LAFLIN. If he were present he would vote "no," and I would vote "ay."

Mr. KELLEY said: I desire to state that my colleague, Mr. O'NEILL, is absent under the order of the House, attending the obsequies of our late colleague, Mr. Finney.

Mr. RANDALL said: My colleague, Mr. GLOSSBRENNER, is absent by direction of the House. If he were present he would vote "ay."

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the House referred to the Committee of the Whole on the state of the Union the Niagara ship-canal bill; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PRINTING LAND OFFICE REPORT.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, in relation to printing the maps and illustrations accompanying the last annual report of the Commissioner of the General Land Office; which was referred to the Committee on Printing.

DISBURSING CLERK OF PATENT OFFICE.

The SPEAKER also, by unanimous consent, laid before the House a communication from the disbursing clerk of the Patent Office, asking additional allowance for services in that capacity; which was referred to the Committee on Patents.

TREASURY PRINTING BUREAU.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury, transmitting, in compliance with a resolution of the House, reports of the First Comptroller, First Auditor, and Register of the Treasury, relative to the past and the existing condition of the Engraving and Printing Bureau of the Treasury.

Mr. DAWES. That is in answer to the resolution I introduced.

The SPEAKER. To what committee does the gentleman wish the papers to be referred?

Mr. DAWES. I only want them ordered to be printed.

Mr. RANDALL. The Committee on Retrenchment have had that subject under consideration; and I move that the communication and accompanying papers be referred to that committee, and ordered to be printed.

The motion was agreed to.

ENROLLED BILL SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled House bill No. 1673, to relieve William H. Bagley, of Wake county, North Carolina; when the Speaker signed the same.

ORDER OF BUSINESS.

Mr. WASHBURNE, of Illinois. I move that the rules be suspended and the House now resolve itself into the Committee of the Whole on the state of the Union upon the special order, which is the legislative appropriation bill. I make the motion merely for the purpose of having that bill receive to-day its first

reading in Committee of the Whole. It is a very long bill, and if unanimous consent can be had to dispense with the first reading of the bill in the Committee of the Whole I will not press my motion.

Mr. FARNSWORTH. I object.

Mr. WASHBURNE, of Illinois. Then I make the motion I have indicated.

Mr. ELDRIDGE. I move that the House now adjourn.

Mr. FERRISS. I move that when this House adjourns to-day it be to meet on Monday next.

The SPEAKER. That motion has precedence of the motion to adjourn.

The question was then taken upon the motion of Mr. FERRISS; and upon a division there were—ayes 69, noes 48.

Before the result of the vote was announced, Mr. WASHBURNE, of Illinois, said: I call for tellers. And before the question is taken I desire to say to the House—

Mr. FARNSWORTH. I object to debate.

The SPEAKER. Debate is not in order.

Mr. CULLOM. I would like to say one word in regard to a session to-morrow.

Mr. SPALDING. I object.

The question recurred on the demand for tellers.

Mr. HIGBY. I call for the yeas and nays.

The SPEAKER. The call for yeas and nays has precedence of the call for tellers.

The question was taken upon ordering the yeas and nays; and upon a division there were—ayes 25, noes 55.

So (one fifth voting in the affirmative) the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 71, nays 62, not voting 89; as follows:

YEAS—Messrs. Archer, Axtell, Barnes, Beaman, Beatty, Beck, Boyer, Bromwell, Buckland, Chanler, Sidney Clarke, Clift, Cobb, Cook, Cornell, Dewees, Dodge, Eldridge, Farnsworth, Ferriss, Fox, Getz, Holladay, Goss, Gove, Gravely, Grover, Haight, Halsey, Harding, Hawkins, Holman, Chester D. Hubbard, Humphrey, Ingersoll, Thomas L. Jones, Kelley, Korr, Knott, Koontz, Lash, George V. Lawrence, Marshall, Marvin, McCormick, McCullough, Mungen, Niblack, Norris, Paine, Peters, Phelps, Price, Randall, Raum, Ross, Scofield, Spalding, Taber, Thomas, Tift, Lawrence S. Trimble, Upson, Van Aiken, Burt Van Horn, Van Trump, Vidal, Whittemore, Thomas Williams, James F. Wilson, and Young—71.

NAYS—Messrs. Allison, Arnell, Bailey, Baker, Benjamin, Benton, Bingham, Blair, Boles, Boyden, Buckley, Benjamin F. Butler, Churchill, Corley, Covode, Cullom, Delano, Ella, Thomas D. Eliot, James T. Elliott, Fields, Frongh, Garfield, Griswold, Heaton, Higby, Hill, Hunter, Johnson, Alexander H. Jones, Julian, Kellogg, William Lawrence, Lincoln, Loughridge, Maynard, McCarthy, McKee, Mercut, Miller, Moore, Morrell, Mullins, Newcomb, Newsham, Perham, Roots, Sawyer, Shanks, Stigreeves, Starkweather, Stevens, Stover, Trowbridge, Twichell, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, William Williams, John T. Wilson, and Windom—62.

NOT VOTING—Messrs. Adams, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baldwin, Banks, Barnum, Blackburn, Blaine, Boutwell, Bowen, Brooks, Broomall, Burr, Roderick R. Butler, Cate, Callis, Cary, Reader W. Clarke, Coburn, Dawes, Dickey, Dixon, Dockery, Donnelly Driggs, Eekley, Edwards, Eggleston, Ferry, Glossbrenner, Hamilton, Haughey, Hooper, Hopkins, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Hulbard, Jenckes, Judd, Kelsey, Ketcham, Kitchen, Ladin, Loan, Logan, Lynch, Mallory, Moorhead, Morrissey, Myers, Nicholson, Nunn, O'Neill, Orth, Pettis, Pierce, Pike, Pile, Plants, Poland, Polesey, Pomeroy, Prince, Pruyn, Robinson, Robinson, Schenck, Selye, Shellabarger, Smith, Stewart, Stokes, Stone, Sypher, Taffe, Taylor, John Trimble, Van Aernam, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Stephen F. Wilson, Wood, Woodbridge, and Woodward—89.

So the motion of Mr. FERRISS, that when the House adjourns to-day it adjourn till Monday next, was agreed to.

The question then recurred on the motion of Mr. ELDRIDGE, that the House adjourn.

The motion was agreed to; and the House (at four o'clock and thirty-five minutes p. m.) adjourned till Monday next.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BECK. A petition of the manufac-

turers of copper-distilled whisky in the sixth and seventh districts in Kentucky, for a ratification of portions of the internal revenue law, approved July 20, 1868.

By Mr. BROMWELL: The petition of Dr. John H. McQuoun, of Coles county, Illinois, praying an allowance of his claim for services as surgeon during the war for the suppression of the rebellion.

By Mr. ELA: The petition of J. C. Hutchins, of Dover, New Hampshire, and 20 others, for a modification of the law relating to manufactured tobacco and cigars which have paid tax.

By Mr. GARFIELD: A petition of Department clerks, for an increase of pay.

By Mr. HALSEY: A petition of captains and owners of vessels of Newark, New Jersey, asking Congress to protect them from the tax imposed by the different States and cities known as harbor tonnage tax, &c.

Also, the petition of Peter P. Batte, of Prince George county, Virginia, asking that his disability may be removed.

By Mr. HARDING: A memorial of citizens of Quincy, Illinois, relative to the tax on cigars.

By Mr. HOTCHKISS: A remonstrance of the Hubbard Hardware Company, of Middletown, Connecticut, against the further increase of the duty on steel.

By Mr. KELLEY: A petition of 250 citizens of New York, praying Congress to propose an amendment to the Constitution securing the right of suffrage to citizens without regard to race or color.

By Mr. LAWRENCE, of Pennsylvania: The petition of Julian Chambers, of Greene county, Pennsylvania, for \$100 bounty.

By Mr. MOORE: Petitions from owners and masters of vessels, of New Haven and Fair Haven, Connecticut, with accompanying papers, praying the intervention of Congress to protect all engaged in navigation from illegal taxes by States and municipal corporations.

Also, petitions of 1,400 masters and owners of vessels of Bath, Bangor, Dumfriescott, Belfast, Waldoboro', Thomaston, French Beach, Warren, Brunswick, and Portland, Maine, representing 10,000 vessels, praying the intervention of Congress to protect all engaged in navigation from illegal exactions by State and municipal corporations.

By Mr. PLANTS: The petition of Thomas Stevenson and 32 others, citizens of Beverly, Ohio, for the establishment of a mail route from Beverly, Washington county, to Moscow Mills, in Morgan county, Ohio.

By Mr. WILLIAMS, of Pennsylvania: Three petitions of citizens of Armstrong and Butler counties, Pennsylvania, praying for the establishment of a daily mail route between Brady's Bend, in Armstrong, and Brownington, in Butler county, and the discontinuance of sundry existing routes.

By Mr. WILSON, of Pennsylvania: The petition of E. Andrews, and others, of Williamsport, Pennsylvania, against any further increase of duty on imported steel and a letter of E. Andrews on the same subject.

IN SENATE.

MONDAY, January 18, 1869.

Prayer by Rev. E. H. GRAY, D. D.

On motion by Mr. POMEROY, and by unanimous consent, the reading of the Journal of Friday last was dispensed with.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a letter of the Secretary of the Interior, in relation to the condition of certain appropriations under the control of that Department; which was referred to the Committee on Appropriations.

He also laid before the Senate a letter of the Secretary of the Interior, transmitting an estimate of the appropriations required for fulfilling stipulations with the Senecas, mixed

Senecas, Shawnees, Quapaws, Confederated Peorias, Kaskaskias, Weas, and Piankeshaws, Ottawas of Blanchard's Fork and Roche de Boeuf, and certain Wyandotts, under the treaty of February 23, 1867, for the fiscal year ending June 30, 1870; which was referred to the Committee on Indian Affairs.

NAVY AND MARINE CORPS.

The PRESIDENT *pro tempore* laid before the Senate the action of the House of Representatives non-concurring in the amendments of the Senate to the bill (H. R. No. 941) to amend certain acts in relation to the Navy and Marine corps, and asking a conference on the disagreeing votes of the two Houses thereon; which was referred to the Committee on Naval Affairs.

Mr. DRAKE subsequently said: I understand that a moment ago House bill No. 941 was laid before the Senate with a message that the House had disagreed to certain amendments made by the Senate, and that the bill was referred to the Committee on Naval Affairs. I think the proper course it should take would be for the Senate to insist on its amendments and accede to the conference asked by the House of Representatives. If there be no objection I move that the order sending the bill to the Committee on Naval Affairs be reconsidered.

The PRESIDENT *pro tempore*. It will be considered as reconsidered if there be no objection.

Mr. DRAKE. I move that the Senate insist on its amendments to the bill non-concurred in by the House, and that a committee of conference be appointed on the part of the Senate.

The motion was agreed to; and Messrs. DRAKE, NYE, and HENDRICKS were appointed conferees on the part of the Senate.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a petition of citizens of Massachusetts, praying that the right of suffrage be granted to women in the District of Columbia and the Territories of the United States; which was referred to the Committee on the Judiciary.

He also presented a petition of Gary Davis, of Georgia, praying protection in the enjoyment of his civil rights; which was referred to the Committee on the Judiciary.

He also presented resolutions of a meeting of the Board of Supervisors of Dubuque county, Iowa, in relation to the free navigation of the St. Lawrence river by Great Britain, and for the speedy completion of a route to the lakes by the way of Wisconsin and Fox rivers; which was referred to the Committee on Commerce.

He also presented the petition of citizens of Kansas, praying a revision of the naturalization laws; which was referred to the Committee on the Judiciary.

Mr. WILSON presented the petition of honorably discharged soldiers who lost their legs while serving in the Union Army during the late war, praying the passage of an act giving them an artificial limb; which was referred to the Committee on Military Affairs.

Mr. FERRY presented the petition of Thomas P. Lewis, of West Virginia, praying a removal of the political disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

He also presented a petition of Eliza Whiting, widow of Brevet Brigadier General Whiting, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. RICE presented the petition of William J. Patton, collector of internal revenue second district of Arkansas, praying the passage of an act relieving him from the payment of certain money stolen from him by his deputies; which was referred to the Committee on Finance.

Mr. TRUMBULL presented a memorial of William B. Campbell, praying compensation for losses sustained by him in consequence of the seizure by the United States, in 1861, of a steamboat belonging to him then lying at Mound City, Illinois; which was referred to the Committee on Claims.

He also presented a memorial of members of the Association of Medical Superintendents of American Institutions for the Insane, praying that superintendents in the late disloyal States be relieved from all political disabilities; which was referred to the Committee on the Judiciary.

Mr. MORRILL, of Vermont. I present the petition of Duncan, Sherman & Co., E. D. Morgan & Co., Ewell & Co., and a large number of other bankers and business men of the city of New York, and of Thomas Robins, Edwin M. Lewis, William Rushton, jr., Joseph M. Patterson, and a large number of merchants and bankers of the city of Philadelphia; and of E. A. Presbrey, Briggs & Co., M. K. Frothingham, Samuel Phillips, jr., Whiton Brothers & Co., Potter, White & Bayley, and a large number of other merchants, bankers, and business men of Boston, and of W. N. Coolbaugh, C. T. Wheeler, Josiah Lambard, and a large number of other merchants, bankers, and business men of Chicago, praying that Congress would pass such laws that hereafter all purchases or sales of the loans and bonds of the United States on account of the United States shall be made by inviting public competition through advertising of proposals, and that all sales of gold for account of the United States shall be made at public auction by an authorized official of the Treasury Department at such time and place, which shall be duly advertised, as the Secretary of the Treasury shall designate. This petition embraces as large a number of the solid business men of the country as any which has ever been presented to Congress. I move that it be referred to the Committee on Finance.

The motion was agreed to.

Mr. PRELINGHUYSEN presented the petition of Mrs. Elizabeth Clarke, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. CRAGIN presented the memorial of the Legislative Assembly of the Territory of Dakota, praying for the extension of the Sioux City and Pacific railroad to Yankton, in that Territory; which was referred to the Committee on the Pacific Railroad.

He also presented a petition of Jacob I. Cragin, of Hampshire county, West Virginia, praying compensation for property taken for the use of the United States Army during the late war; which was referred to the Committee on Claims.

Mr. HENDRICKS presented a letter of Vice Admiral David D. Porter, United States Navy, in relation to the application of Commander B. B. Taylor for a higher rank in the Navy; which was referred to the Committee on Naval Affairs.

Mr. SUMNER presented a memorial of citizens of Boston, remonstrating against the renewal of the reciprocity treaty; which was referred to the Committee on Foreign Relations.

He also presented a memorial of claimants against the Government of Venezuela, praying that the Government of the United States pay them the amount allowed them by the commission appointed to adjudicate the same; which was referred to the Committee on Foreign Relations.

He also presented a petition of Mrs. Kate Murphey, of Philadelphia, for relief in the nature of compensation for the loss of her husband, a Union soldier, who died in the war; which was referred to the Committee on Claims.

Mr. SUMNER. I also present the petition of certain freedmen of Hilton Head, South Carolina, and vicinity, praying for the passage of House bill No. 907, entitled "An act to provide for the sale of certain lands and lots on the sea islands of Beaufort district, South Carolina." As my friend from Kansas [Mr. POMEROY] reported a bill on this subject the other day, I ask him whether this petition should go to the Committee on Public Lands or lie on the table?

Mr. POMEROY. The committee have reported in favor of it.

Mr. SUMNER. In favor of the House bill?

Mr. POMEROY. It is not a House bill; it is a Senate bill.

Mr. SUMNER. Then I will venture to ask that this petition shall be referred to the committee, for it asks something more. I move that it be referred to the Committee on Public Lands.

The motion was agreed to.

Mr. SUMNER. I also present a petition from artists, chromo-lithographers, engravers, print-publiishers, journalists, authors, and others interested in the progress of American art, numerously signed, in which they set forth that the rapid perfection of the process of chromo-lithography in the United States renders necessary an addition to our national legislation in order to protect the rights of artists and of honest art publishers. And after setting forth their reasons, they proceed to ask from Congress an act declaring that the purchase of a painting or work of art does not convey the copyright thereof, which inheres and shall inhere in the artist, unless specially conveyed to the publisher. This petition is headed by Louis Prang, of Boston, the eminent chromo-lithographer, who has done so much to introduce that beautiful art into our country, and I find by looking over the names those of many eminent artists, sculptors, painters, engravers, and authors. I move the reference of this petition to the Committee on Patents.

The motion was agreed to.

Mr. POMEROY. I present a petition from the Association of Tobacco Manufacturers in the State of Kansas. This petition is signed by Valentine Grimm, president, and Hugo Grimm as secretary. They represent that the act of Congress passed in July, 1868, is oppressive to the manufacturers of cigars, and particularly those who manufacture in the West, and they set forth their reasons at considerable length. I do not know the merits of it myself. I move its reference to the Committee on Finance.

The motion was agreed to.

He also presented the petition of Daniel N. Denman and Ebenezer Townley, administrators of John Denman and George Townley, deceased, praying to be compensated for beef cattle sold by the commissary department during the revolutionary war; which was referred to the Committee on Revolutionary Claims.

He also presented a petition of citizens of Massachusetts, earnestly requesting that in any change or amendment of the Constitution Congress may propose to extend or regulate suffrage there shall be no distinction made between men and women; which was referred to the Committee on the Judiciary.

Mr. POMEROY. I also present a petition signed by Hon. E. M. Davis, and others, of Philadelphia, relating to the question of finance. I have never said a word on that question to the Senate, because I know so little about it; but I should like, with the leave of the Senate, to have the petition, or at least a portion of it, read. I do it because the writer is an eminent man in Philadelphia, and a friend of mine of long standing.

The PRESIDENT *pro tempore*. It will be read if there be no objection.

The Chief Clerk read as follows:

"We assert that the frequent and sudden fluctuations in the money market affect disastrously the legitimate business of the country, subjecting honest, cautious industry to the avarice of gold and stock gamblers. That confidence in regular productive business is thus weakened, non-producers are increased, and general prosperity is gradually undermined, and that these evils are largely owing to our false money system. We assert that this system fosters the antagonism between labor and money; and that as money gets by law from six to ten per cent. per annum, and the wealth of the country increases about three and a half per cent. per annum, the inequality cannot exist without robbing labor, the real source of wealth.

"That the money business of the country is a gigantic and dangerous monopoly by a few, benefiting but few, and seriously injuring the many. That it would be no more just or injurious to give by law to a few the exclusive right to raise and sell grain, than it is to a few the power now held and wielded by the national banks.

"We claim that as money is the medium by which enterprise enriches the country, that the amount should only be limited by the wants of the country.

That as the amount varies from year to year, and even in different seasons, to limit it by law would cramp one period, flood another, and prevent that elasticity demanded by wholesome trade."

Mr. SHERMAN. I move that the paper be referred to the Committee on Finance.

Mr. POMEROY. I have no objection, but I hope the Committee on Finance will read it.

Mr. SHERMAN. Nobody is listening to it here.

The PRESIDENT *pro tempore*. It will be so referred.

Mr. WILLEY presented the petition of E. G. Roberts, president of the West Virginia Central Railroad Company, praying the passage of a law authorizing the sale to it of a certain amount of public land, to be paid for by the transfers of its stock to the Government of the United States; which was referred to the Committee on Public Lands.

Mr. COLE presented the petition of Dr. J. G. Cooper, of San Francisco, California, praying compensation for services as naturalist of the Northern Pacific railroad expedition and survey for the years 1865 and 1866; which was referred to the Committee on the Pacific Railroad.

Mr. WILSON. I present a petition signed by ex-Governors Bullock, Clifford, and Washburne, of Massachusetts; Nathaniel B. Shurtleff, mayor of the city of Boston; Harvey Jewell, speaker of the house of representatives of Massachusetts; William Lloyd Garrison; Professors Agassiz and Lowell, and a large number of gentlemen in and about Boston, petitioning for the passage of Mr. JENCKES'S bill to regulate the civil service of the United States and promote the efficiency thereof. There are to this petition the names of about six hundred gentlemen engaged in all the departments of life, gentlemen of intelligence and character. I move the reference of the petition to the Committee on the Judiciary.

The motion was agreed to.

Mr. SHERMAN presented a petition of citizens of Ohio, praying that a pension be granted to Colonel J. B. W. Haynes, a soldier in the war of 1812; which was referred to the Committee on Pensions.

Mr. ANTHONY. I present resolutions in the nature of a memorial from the Providence Board of Trade, urging upon Congress such legislation as will secure the immunity of private property not contraband of war upon the seas and upon land. These resolutions are so much in harmony with the views which I have had the honor to express to the Senate that I am happy to present the resolutions, and I think it is a subject of congratulation that the mercantile interests are moving in a matter of so much importance. I move the reference of the resolutions to the Committee on Foreign Relations.

The motion was agreed to.

Mr. FOWLER presented the memorial of Thomas Rigney, E. D. Morgan, and other merchants of the city of New York, asking for congressional legislation with respect to certain charges illegally levied by the custom-house at New York; which was referred to the Committee on Commerce.

Mr. NORTON presented the memorial of Joseph R. Brown, praying for compensation for losses sustained in transportation of Government supplies by reason of the default of officers of the Government; which was referred to the Committee on Claims.

PERSONAL EXPLANATION.

Mr. HARLAN. Mr. President, I ask the indulgence of the Senate to make a few remarks somewhat personal to myself, and I think personal to other members of the Senate. The reason for the expression of this wish will be manifest from the reading of an article copied in the New York Tribune, of January 15, from the Cincinnati Gazette, headed "A startling history of fraud and dishonest legislation—how the public lands are squandered—ten great States given away." To relieve me from the labor I ask the Secretary of the Senate to read the article.

The PRESIDENT *pro tempore*. The paper will be read if there be no objection.

The Chief Clerk read as follows:

A Startling History of Fraud and Dishonest Legislation—How the Public Lands are Squandered—Ten Great States Given Away.

General Boynton writes as follows to the Cincinnati Gazette:

"The subject of the great railroad frauds grows at every attempt to ascertain its limits, and it is only by investigating one scheme after another that the full sounded infamy begins to appear.

"The Sioux City Branch.—There was a clause in the original Pacific railroad bill which required the Union Pacific Railroad Company to construct a branch from Sioux City to connect with their main road by the 'nearest and most practicable route.'

"The road thus provided for would, if any attention had been paid to the law authorizing it, have been built from a point on the Missouri river, opposite Sioux City, in a direction almost exactly southwest, to Columbus, in Nebraska, on the main stem, a distance of ninety-six miles.

"Instead of doing this, however, the road was built down the rich and level bottoms of the Missouri, in a direction considerably east of south, and for sixty-eight miles of this distance at the end of each successive mile the track-layers were further from the Pacific ocean than when they began, and at the sixty-eighth mile were twenty miles further east than the meridian of Sioux City. Then, turning westward and crossing the Missouri thirty miles above Omaha, the line strikes the main stem at Fremont, making the branch thus built one hundred miles in length and its terminus at this point of junction only six miles nearer the Pacific ocean than the point where its first rail was laid.

"And for this road lying almost wholly in the State of Iowa, in no sense a Pacific road, and in almost all senses a private one, bonds, by way of Government subsidy, have been issued by the Secretary of the Treasury, at the rate of about \$16,000 per mile, and lands have been certified by the Secretary of the Interior at the rate of twelve thousand eight hundred acres per mile; and by legislation already perfected this branch, thus constructed in violation of law, is regularly receiving its proportion of these subsidies, and claims the whole, namely: \$1,600,000 and one million two hundred and eighty thousand acres of land.

"Burlington and Missouri River Extension.—By the amended Pacific railroad act of 1861 certain Iowa parties secured an amendment authorizing this company to extend its line from a point on the Missouri river, near Nebraska City westward, to a point near Fort Kearny, or any point east of the hundredth meridian. The distance was about one hundred and fifty miles, and the land grant twelve thousand eight hundred acres per mile. Here Mr. Secretary HARLAN stepped in and withdrew from public sale not only all the lands south of this road to the Nebraska line, but went over into Kansas and withdrew all the lands down to those which Senator POMEROY'S company had already received. Between these two gentlemen and their friends a tract large enough for a very respectable State came near passing into the hands of a few individuals. But the Kansas Legislature and the Kansas delegation in the House made such an exposition of the transaction as to compel Secretary HARLAN in self-defense to restore the Kansas lands to the market.

"The Sacramento and San José Branch.—All the irregularities connected with this branch system have not been upon the eastern ends of these roads. Under the original Pacific railroad act the Central Pacific railroad of California was authorized to construct a road either from San Francisco, or the navigable waters of the Sacramento river, to the eastern boundary of California. The company selected Sacramento City as their point of departure.

"Subsequently, however, another company chartered by the State, claiming to have an assignment from the first company, proceeded to build a road from Sacramento by way of Stockton to San José, a point not on the Pacific coast. The line was one hundred and twenty miles long, and it received a subsidy of \$1,920,000 and a large grant of land beside. The facts, as given above in the case of these two branch roads, were charged on the floor of the House in March last by General C. C. WASHBURN, of Wisconsin, and not denied.

"Leavenworth, Lawrence, and Galveston Road.—This is one of the rotten Kansas swindles. It runs from Leavenworth southwardly through the eastern portion of the State, and, of course, through some of its richest lands. This latter feature is a peculiarity of these latter-day roads. At the East, where companies pay for their lands, they run their roads as far as possible over the poor lands; but at the West the reverse is true: the companies do not pay, but become wealthy by selecting the richest lands.

"The portion of this road which lies in Kansas is one hundred and fifty miles long, and the cost of building this will not average over \$20,000 per mile. This road has already received the following aid: The Government has granted it five hundred thousand acres of excellent land; the State of Kansas has given one hundred and twenty-five thousand acres, and the counties through which it passes have issued their bonds to the amount of \$93,000.

"This company, in the person of a representative, is now before the Senate urging the ratification of a treaty known as the Osage treaty, which enables this company to buy eight million acres of land at nineteen cents per acre, the payment having fifteen years to run. These lands have been variously estimated by good judges, who are all acquainted with the tract, as worth from eight to twelve million dollars.

"The whole affair has been from its inception a gigantic plundering scheme, and Senators have been in it, are in it still, and it is said that one has declared that some time when the Senate was tired and most had gone to dinner he would get it through.

"The treaty for these lands was negotiated by a commission sent out from this city. It is understood that the treaty was drawn here in advance. The approval of the Indians was secured by threats. In the speech made to the Indians on the subject by Commissioner Taylor, on the 23d of June last, he threatened the Indians with the displeasure of the Government and a withdrawal of provisions if they did not agree to the treaty. Colonel Murphy, Indian superintendent, and one of the commission, promised to make peace between the Osages and their enemies on the plains if they would sign, but if not nothing should be done for them.

"Colonel Boone, another commissioner, told them they could choose between the treaty and fighting the plain Indians.

"As already stated, this treaty thus secured is pending before the Senate of the United States; and although its attention has been repeatedly called to its character it has been rejected.

"The Cherokee Neutral Land Job.—This is, in its main features, a Republican venture. Mr. Secretary HARLAN was the principal official actor. The treaty regarding these lands provided that he might sell them in a body at not less than one dollar per acre, and for cash. He sold to a company called the Connecticut Emigrant Company, which was, in reality, an Iowa company, in which his friends, at least, were largely interested. Instead of selling for cash, he, in violation of law, sold the tract of eight hundred thousand acres on time, requiring only \$25,000 as a first payment. The sale was disputed, and the Attorney General decided that the whole affair was illegal. Here it rested till a supplemental treaty could be worked through the Senate authorizing a sale on time. The lands were then sold by Secretary Browning, without advertising, to James E. Joy, a very prominent western railroad man here, acting for the Kansas and Neosho Valley Company, for one dollar per acre, he agreeing with the Connecticut company to pay back the \$25,000 they had deposited in the Treasury on their bogus purchase. So far as those in official position are concerned the chief responsibility for this transaction rests directly upon Senator HARLAN. Leaving entirely out of view the Iowa feature of the so-called Connecticut company and the circles of his friends who were enriched, the mildest aspect which can be put upon it is that the Attorney General decided the operation to be outside the bounds of the law. Even the final sale to Joy by Secretary Browning was without advertising, as appears from a report he sent to Congress, where he is obliged to admit that he only 'authorized an unofficial statement to be made in newspapers' that proposals would be received till a certain day. At that time Joy was the only one offering to buy, and so he got the lands—as was intended. Senator POMEROY was sufficiently interested in this same Kansas and Neosho Valley road to introduce and attempt to pass a bill granting twelve thousand eight hundred acres of land per mile for about one hundred miles.

"Grand Totals of Land Grants.—Congress up to March last had granted in all to various western and southern States over fifty-seven million acres lands for railroad purposes. It has given besides over seventeen million acres to canals and similar improvements. The Pacific railroad and branches have received one hundred and twenty-four million acres, and if to this is added the even-numbered sections along those routes, which the Secretary of the Interior decided to be closed for settlement, it will appear that nearly one third of the entire public domain has been made over to the control of railroad companies.

"The quantity of lands conveyed by these grants," says the Commissioner of the General Land Office, "is of empire extent, exceeding in the aggregate, by more than five million acres, the entire areas of the six New England States, added to the surface of New York, New Jersey, Pennsylvania, Ohio, Delaware, Maryland, and Virginia." He says the grants to the Pacific railway line alone "are within about a fourth of being twice the united area of England, Scotland, Wales, Ireland, Guernsey, Jersey, the Isle of Man, and the islands of the British seas, and within less than a tenth of being equal to the French empire proper."

"In 1860 and 1861 the Government sold two hundred and thirty-four thousand acres of Delaware lands to the Leavenworth, Pawnee, and Western road. In 1866 it sold ninety-two thousand acres of Delaware lands to the Missouri River road, and in 1859 it disposed of two hundred and seventy-eight thousand two hundred acres to only thirty-six purchasers. Among them were the following: Hon. Hugh McCulloch, seven thousand and fourteen acres; Perry Fuller and McDonald, thirty-nine thousand and fifty-eight acres; John McManus, one hundred and forty-two thousand nine hundred and fifteen acres; Robert S. Stevens, fifty-one thousand six hundred and eighty-nine acres, and so on.

"In 1865 Senator POMEROY, being then president and one of the principal owners of the Atchison and Pike's Peak Railroad Company, a treaty was carried through the Senate by which this road purchased one hundred and twenty-three thousand eight hundred and thirty-two acres of as rich lands as there are in Kansas.

"The above facts and figures were brought to the notice of the House by Mr. JULIAN, chairman of the Committee on the Public Lands, in March last, and Mr. CLARK, of Kansas, has given direct testimony upon most of the points involved in the attempted Osage and the completed Cherokee swindle.

"These things are in the past. But hundreds of similar schemes, quite as extensive, are now before

Congress, and the lobby engaged in pushing them is larger and more influential than ever before."

Mr. HARLAN. Now I ask the Secretary to favor me by reading the editorial on the inside of the same paper referring to this article—that part of it which I have marked.

The Chief Clerk read as follows:

"The whole business of Pacific railway legislation hath an unpleasant savor. Read the remarkable letter of General Boynton, which we print in another column. General Boynton is a well known citizen, and responsible for these grave charges. If history is true, then Congress has been recklessly voting away empires of the richest lands on the earth to greedy speculators, and the wise and necessary enterprise of a railway to the Pacific has been made to cover the most shameful legislation that ever disgraced Congress. Much scandal has surrounded the Halls of Washington. We have seen members of the Legislature publicly avowing that \$500,000 had been spent by one company to secure the passage of a certain bill. Certainly men do not spend \$500,000 without corresponding results. We are for Pacific railroads at all times, but we beg representatives in doing business for the nation to show the same prudence and honesty that would characterize them in doing business with each other."

Mr. HARLAN. Mr. President, I have for the first time in my life on the floor of the Senate called attention to a newspaper editorial paragraph and a letter of a newspaper correspondent, not so much on account of the allusions made to me personally as for public reasons; and in any remarks that I may now submit I do not wish to be understood as reflecting on the high-minded and honorable portion of the gentlemen in this country who conduct the public press, nor on the respectable portion of those who may correspond for influential journals. All professions have those whose talents and accomplishments ornament their calling. They also have those of mediocrity who give the profession respectability. Every profession has also another class who may perhaps be properly styled the lazzaroni, who live on the crumbs. They may be fitly described as the scavengers of the profession, who go around and do the work which the respectable and illustrious portion would not stoop to dabble with. To which class of these professional men connected with the newspaper press General Boynton belongs I leave for his associates to decide; I do not know him well enough to give him his proper place. All I have to say in relation to him is, that this article exhibits a degree of carelessness or of ignorance, if nothing worse, that, as it seems to me, would unfit a gentleman to be a correspondent for any respectable journal.

I shall not delay the Senate long enough to refer to all that is contained in the article. I will take notice only of that portion of it which has reference to my official conduct and to the State which I represent in part on this floor. And I think I ought to say here that I do not feel very much annoyed personally on account of the publication of this article or of similar articles that I have occasionally noticed in the public press, not that I am careless in relation to what men may think of me, for I admit that I would prefer to enjoy the good opinion of mankind than the reverse. I suppose that a love of approbation has been implanted in the mind of every man by the Deity himself, and for a wise purpose. It is one of the props of virtue. Hence no one ought to permit it to be ruthlessly knocked away from his own support or that of his associates in a deliberative assembly. We ought not to permit men to make no distinction between those who are virtuous and intend to do right and those who are known to be vicious.

Mr. President, I am now forty-eight years of age. During the first eighteen years of my life I was under the guardianship and control of my father and mother. Since that time, a period of about thirty years, I have been paddling my own canoe as best I could. I do not think that anything that General Boynton could write, or anything that the Cincinnati Gazette could publish, or anything that the New York Tribune could reiterate and seem to indorse, could seriously and permanently affect my reputation among my countrymen. I have always believed that even mediocratic talent, coupled

with an honest purpose to do right, would triumph over slanders, however powerfully they may be supported. Time usually cures all of these things. If, in fact, my reputation could now be seriously and permanently affected by such influences, however potential, I would consider my life a failure.

The first paragraph in this article in which my name occurs is headed "The Burlington and Missouri River Extension;" that is, the Missouri and Burlington river branch of the Pacific railroad, in which the writer says, and the New York Tribune by implication seems to indorse it, that I, by an improper order as Secretary of the Interior, attempted (using plain language) to put into my own pocket and the pocket of my honorable friend from Kansas, [Mr. POMEROY,] and also the pockets of our personal friends, a district of country large enough to make a respectable State, but was prevented from doing so by the remonstrances of the Legislature of Kansas and the Kansas delegation in the other branch of Congress, which I suppose means my other honorable friend, [Mr. CLARKE,] as that State now has but one Representative on that floor. Now, what are the facts in that case? Congress did pass a law authorizing the Burlington and Missouri River Railroad Company to extend its line of road through the eastern part of Nebraska, to connect with the Omaha branch at or east of the one hundredth meridian, and to enable it to do so made a grant of ten sections of land on each side of the proposed line of that extension. The law also provided that when the company should file its map indicating the general route of the road it should be the duty of the Secretary of the Interior to withdraw the public lands from market in order that that quantity of land might be severed from the rest of the public domain for their benefit. Some time in the year 1865 this map of the general route was filed, and an order was issued from the Department of the Interior to the Commissioner of the General Land Office, a copy of which I have in my hand and will ask the Secretary to read.

The Chief Clerk read as follows:

DEPARTMENT OF THE INTERIOR,

WASHINGTON, January 30, 1866.

SIR: I have to acknowledge the receipt of your communication of October 7, 1865, with the inclosures therein referred to, relative to the lands granted by law to the Burlington and Missouri River Railroad Company, and in reply, for the present, think it proper to direct that you take the necessary steps for the withdrawal of the odd-numbered sections of land situated north of the grant to the Atchison branch of the Union Pacific railroad and south of the Omaha branch of said Union Pacific railroad lying within the State of Kansas and the Territory of Nebraska.

I am, sir, very respectfully, your obedient servant,

JAMES HARLAN, Secretary.

Hon. J. M. EDMUNDS,
Commissioner General Land Office.

Mr. HARLAN. It will be seen, Mr. President, by this that it was merely a preliminary order issued in pursuance of the provisions of the statute on the filing of a map of the general route of the road, and was intended to be superseded by a specific order limiting the amount of lands withdrawn from market to the exact quantity granted just so soon as the specific location of the line of the road should be made. The persons representing this company were notified that although the lands were under this order withdrawn from public sale—not "all the lands," as stated in the article, but one half the lands; that is, the odd-numbered sections within a reasonable distance—they would not be withheld from settlement and occupancy by homestead and preemption settlers until the company had laid down the track of the road on the earth's surface, and that so soon as they did this a specific withdrawal would be made. When that map was received the additional order was made, a copy of which I have in my hand, and ask the Secretary to read.

The Chief Clerk read as follows:

DEPARTMENT OF THE INTERIOR,

WASHINGTON, D. C., March 8, 1866.

SIR: I inclose herewith map of definite location of Burlington and Missouri River railroad extension from Kearny City to the one hundredth meridian of

longitude west from Greenwich, authorized to be constructed under the act of July 2, 1864.

You will ascertain the approximate length of said road and withhold from market ten alternate sections, or equivalents in parts of sections designated by odd numbers, not sold, reserved, or otherwise disposed of by the United States, and to which a preemption or homestead claim may not have attached at the time the line of said road may have been definitely fixed, for each mile of the whole length of said road, situated as near to the line thereof as practicable, on the south side thereof, and ten sections as aforesaid to be situate as aforesaid for each mile of said road on the north side thereof, so as to include a quantity equal to twenty sections per mile for each mile of said road; after which you will restore to market any lands withdrawn in pursuance of any former order emanating from this Department not necessary to carry into effect this order.

After making a copy of said map you will return the original to this Department.

I am, sir, very respectfully, your obedient servant,

JAMES HARLAN, Secretary.

Hon. J. M. EDMUNDS,
Commissioner General Land Office.

Mr. HARLAN. It will be seen from this, Mr. President, that the exact provision of the law was followed; that when the map indicating the general location of the road was made a temporary order for the withdrawal of lands generally within a reasonable distance of the line of the road was made, and when the specific location of the road was marked out on the earth's surface a specific order followed for the selection of the exact quantity of land that the company would be entitled to under the grant. In relation to the insinuation that this order was made for the purpose of benefiting myself and the honorable Senator from Kansas, and our personal friends, I have only to say this: I have not now, I had not then, I never had, and I never expect to have, one particle of interest in the Burlington and Missouri River Railroad Company's road or its extension; nor do I know who the persons are who are pecuniarily interested in that organization, with the exception of two, of whom my honorable colleague [Mr. GRIMES] is one, as he happened to inform me incidentally. When a bill was pending in this body, having for its object the facilitation of the construction of the road, he informed me that he could not either vote for the bill or do anything to promote its passage in this body, for the reason that he held some of the stock; and, at that time, or on some other occasion, he introduced me to another gentleman, I think of the name of Forbes, residing, if I remember correctly, in Boston. I saw him the one time in company with my colleague, never saw him before or since, and never held any other correspondence with him.

The next paragraph that refers to me personally is headed "The Cherokee Neutral Land Job." I did explain that once in the Senate, and I regret very much to allude to it again; but my brother Senators will bear in mind that that explanation was made in executive session, and I prefer that the same explanation may go to the country. The facts in that case are briefly as follows: I think in the year 1835 the United States made a treaty with the Cherokee Indians, and in payment of a claim which this nation of Indians held against the United States the Government deeded to that tribe of Indians in fee simple a tract of land lying in the southeast corner of the State of Kansas, about fifty miles in length and twenty-five miles in breadth. This was not sold and conveyed to these Indians for a home reservation; they never occupied it; they never lived on it; it was an outlying possession. They lived a long distance south of it, in what is called the Indian territory. A few years ago Congress passed a law directing the Secretary of the Interior, as rapidly as practicable, to make treaties with the Indian tribes in the State of Kansas, with the view of extinguishing their titles located in that State and of removing the Indians to the Indian territory, and throwing open the lands thus acquired to occupancy by the white people. In the year 1865 or 1866 a treaty was negotiated with the Cherokee Indians providing for the sale of these lands—not the extinguishment of an easement, the right to occupy and possess, the kind of tenure by which almost all other In-

dian tribes hold their lands, but for the sale of the fee of the land. The treaty provided that it should be sold to two classes of persons. The first class was the white people then living on the reservation, so called; not that those white men had any right to go on to this tract of land any more than they would have had to go on to a tract of land owned by you, Mr. President, and held by a title in fee simple. They were naked trespassers; nevertheless the treaty provided that they should have the prior right to buy their homes at the appraised value of the land separate from the value of their improvements. There were about twelve hundred of these claimants, each having the right under the treaty to purchase one hundred and sixty acres, making in the aggregate nearly two hundred thousand acres. The residue, the treaty directed, should be sold to the highest bidder, but not for less on an average than \$1 25 an acre; or it might be sold in a body "for cash to a responsible party or parties" for a price not less than one dollar an acre.

Exercising this discretion thus conferred, I sold this part of these lands in gross for "cash," at one dollar an acre, this being the highest price offered, and in my opinion their full value.

The Attorney General did afterward write an official letter, at the request of my successor, advancing the opinion that the treaty required the whole of the price to be paid in hand at the time of the sale. In relation to this opinion I have but a word to say. The treaty said, as I have quoted, that the land should be sold for cash to a responsible party or parties for not less than one dollar an acre. The Attorney General did hold that that meant cash in hand. Having been privy to the negotiation of the treaty, I knew that it did not mean any such thing as understood by both of the contracting parties, as understood by the Indians themselves and by the Department. And these Indians are not savages. They are civilized people. Their chief at that time was John Ross, a man who, measured by his talents, would not have disgraced a seat in this body, or in any other deliberative assembly. Their leading men are men of marked ability, of fine culture, who understand their rights as fully at least as the average of white men. They desired the term "cash" to be put into the treaty, not to prevent a time sale, but to prevent a sale of the land for certified Indian indebtedness. There was outstanding a large amount of Indian scrip, so called, in the nature of a county order, which will be understood by my brother Senators who hail from western States. To prevent the purchase of this land by the use of depreciated Indian scrip or evidences of indebtedness of the tribe they desired to have it stipulated that the land should be sold only for cash; and that, you will perceive, is in harmony with the added phrase, "to a responsible party or parties." Why examine into the responsibility of the purchaser if he paid down in lawful money for the thing sold? Whether the Attorney General was right in his construction or not is not material to my purpose here to-day. He was wrong as to the understanding of both contracting parties, the officer who represented the Government of the United States and the delegates who represented the Cherokee nation of Indians. The contract was made in strict pursuance of the understanding of the treaty had by both contracting parties at the time the treaty was negotiated.

But it is said, or intimated, that these lands were worth vastly more than the amount they were sold for. There could be no other cause of complaint. The treaty provided for the sale, and if there was a technical legal error committed by the organ of the Government in making a contract that fact alone would not be evidence of either error of judgment as to the value of the land or of moral turpitude. The question is not as to the legal construction of the treaty, but as to the honest disposition made of the property which was its sub-

ject. The inference suggested by these newspaper critics is that the lands were worth vastly more, and that the Secretary did or ought to have known it. Now, I happen to know personally that they were not. I adopted the means of knowing that the refuse lands, after taking out the lands selected by the settlers, were not worth more. Here were eight hundred thousand acres of land in Kansas, of which two hundred thousand acres were selected by the settlers themselves, these two hundred thousand acres of land embracing every stick of standing timber on the whole tract, and every visible outcropping of rock or coal, and every mill-site or desirable valley. The residue of the land could not be in that country, at that time, worth more than one dollar an acre, taken in the aggregate. I know this because there was land at the time being offered for sale in the immediate vicinity of this tract at eighty cents an acre. I knew it, moreover, because college scrip was then selling at from sixty to eighty cents an acre, subject to location in detail on what Thomas H. Benton used to call "the ears and eyes and heart of the public domain." And when a man could buy scrip and with it purchase the best of the land picked out in detail for that price, I knew that the refuse of a tract of land in Kansas could not be worth more than a dollar an acre in the aggregate.

But with the charge against me on that subject is coupled one against my successor in the Department of the Interior, Mr. Browning. It is not my province to defend him. He needs no defense, I apprehend, as far at least as this transaction is concerned. That is my judgment. Deeming the contract not binding, he advertised for a bidder for these lands, as he says, for a number of months in the leading journals of the country, and he obtained not one bid at a greater price and only one bid at a dollar an acre, and he contracted the land to that bidder. He, however, had additional evidence on this subject. He had sent out appraisers under the provisions of the treaty, he appointing one and the Indian tribe appointing another. The Indians appointed Colonel Philips, formerly, I believe, a writer for the New York Tribune, and for a long time during the recent war in command of the military district including the Indian territory. The Indians knowing him personally, and confiding in him, selected him as their representative to sit in judgment on the value of this land. The Secretary of the Interior appointed another, whose name I have never known. These two gentlemen went to the territory and examined the land in detail, section by section, and reported the adjudged value of each tract. The average value placed on it by these commissioners under oath was "\$1 28 $\frac{3}{4}$ per acre." And Secretary Browning says, in an official report made to Congress, that he deemed it for the interests of the Indians to sell the whole in one sale for a dollar an acre rather than to sell it in detail—in dribbles—for a few cents more per acre.

He thought it would be worth more to them in the end to be sold in a body for a sum of money certain than to permit it to be eaten up by the expenses which must necessarily accrue from a sale in detail. But although this land was sold to Joy according to Mr. Browning's idea of the meaning of the treaty "for cash" in hand, his sale proved to be merely theoretically "cash in hand." Not one dollar was in fact paid down. The matter ran along for more than a year without a dollar of money being paid; and the Indians expecting the interest at least, but receiving neither interest nor principal and being in need of funds, sent their delegates to Washington to attempt to arrange it. Learning the condition of this business, and being satisfied with the first sale made by me—preferring it to the second sale made by my successor—they requested the Commissioner of Indian Affairs to take such steps as might be necessary to ratify it. In order to carry their wishes into effect, a supplemental treaty was made, ratifying the first sale. That treaty was sent to the President by the Secretary of the

Interior, and after receiving his approval, was submitted to the Senate and ratified by a nearly unanimous vote. If I remember correctly there were but three votes in the negative. Thus the sale made by me, denounced in such unmeasured terms, was ultimately approved by the Indians, by the new Commissioner of Indian Affairs, by my successor, Mr. Browning, by the President, and by the United States Senate. I need only add on this point what I said in relation to the extension of the Burlington and Missouri River railroad grant, that I had not at the time, have not now, never had and never expect to have, one cent's worth of interest in the subject-matter of the treaty.

The next and only other paragraph to which I shall call attention is the one referring to the Sioux City branch of the Union Pacific railroad, although I never had any personal connection with this transaction.

This writer charges that the company organized to construct the Sioux City branch of the Pacific railroad have violated the plain provisions of the law. He says that the law provided that a road should be built from Sioux City directly across Nebraska, in a southwestern direction, to some point on the Union Pacific railroad in the Valley of the Platte, which point of proposed junction, he says, is ninety-six miles from Sioux City; that instead of building on this line they made a detour and went down the valley of the Missouri river in Iowa for some sixty-eight miles, and then diverged across the river and connected with the Omaha branch of the Pacific railroad at Fremont, thirty miles from the borders of Iowa, making in the aggregate, if the figures are stated correctly, ninety-eight miles. Now, notice the absurdity of this gigantic swindle that this gentleman thinks he has discovered, which has been thrown broadcast all over the country by the Cincinnati Gazette and copied with an implied indorsement by the New York Tribune and sent out to its two or three hundred thousand readers. The direct line, the writer says, on which the road ought to have been built was ninety-six miles long, and they made a detour requiring the construction of a road ninety-eight miles long—two miles longer than, as he thinks, the law contemplated. This must have involved a terrible swindle!

I have nothing to say as to the propriety of the location of that branch of the road. I am of the impression that it would have been better for my State, at least the northern end of my State, and for the people of Minnesota and the northern part of Wisconsin if the road had been built diagonally across Nebraska, provided an available railroad line could have been secured. I think it would have been better for our part of the country had that been done; but the question is a question of swindling the Government of the United States.

Now, what are the facts? The law, a copy of which I have in my hand, provides that this company may build a railroad from Sioux City across Nebraska so as to connect with the Union Pacific railroad at or east of the one hundredth meridian. If any one will take the trouble to look at a land office map, a sectionized map, he will perceive that the one hundredth meridian is thirty-four or thirty-five ranges, to use the language of the land office, west of Sioux City. The ranges are about six miles apart. Sioux City is also about sixteen townships north of the point on the one hundredth meridian where the Union Pacific railroad crosses it; so that the road might have been built in conformity with the provisions of the act so as to become the hypotenuse of this triangle, one side of which would be a little over two hundred miles long, and the other side a little less than one hundred miles. Any boy with his pencil can calculate how long it must have been, if constructed on this line—at least two hundred and twenty-four or two hundred and twenty-five miles—and estimating the necessary curvatures in order to secure an eligible track over a rough country it would probably have been two hundred and fifty miles in length.

If this company were really prompted by a desire to swindle the Government by securing subsidies in bonds and land, and not by a desire to secure the public interests, why, pray, did they not adopt the longer route, which would have given a direct connection with several railroad lines across Nebraska, Iowa, and Wisconsin, and with the Union Pacific railroad trunk line? They would thereby have secured just \$4,000,000 of bonds and one million six hundred thousand acres of land. By adopting the shorter line, but about one hundred miles in length, they received but \$1,600,000 in bonds and nominally six hundred and forty thousand acres of land. For it will be observed that the grant of land to this company is five sections of land on each side of this line, and not ten, as alleged by this writer, giving nominally six thousand four hundred acres to the mile, and on one hundred miles six hundred and forty thousand acres, and not one million two hundred and eighty thousand acres, as he states. I ought to add that this short line runs a part of the way down the valley of the Missouri river through the settled parts of Iowa. And the greater part of the valley of the stream had previously been conveyed to the State of Iowa under the swamp-land grant. Two other and prior railroad grants lie directly across the track of this branch road, with the right to take the lands in one case for fifteen, and in the other, I believe, for twenty miles on each side, thus absorbing all the land for the whole length of that part of this road lying in the State of Iowa; so it is not probable that on this short line they will be able to secure lands to the amount of even one hundred thousand acres.

But, nevertheless, the route being more eligible, they adopted a short line, on which they receive but very little land and only \$1,600,000 in bonds, when if they had been prompted by this greed of gain, with a desire to secure a large amount of subsidy, and not by their opinions of utility, and had built the road directly across Nebraska to the one hundredth meridian, which they had the right to do under the law, they would have received \$4,000,000 in subsidy bonds, and one million six hundred thousand acres of land.

Mr. President, I shall not follow this article in detail. I have said enough to show that it is a tissue of falsehoods, interspersed with some disconnected truths, from beginning to end.

Now, Mr. President, I conclude with a suggestion of the motives which may have prompted the introduction of this extraordinary paper and its publication in journals of the character of the Cincinnati Gazette and the New York Tribune.

This could not have been prompted by malice toward me personally. No one of these gentlemen has ever had cause of grief on my account. I have never laid a straw in the pathway of any one of them. I have never treated them except, in my humble way, with the utmost kindness. They could not, therefore, have been prompted by personal grievances growing out of anything I have ever said or done, and yet they must have had a motive. And I must be pardoned for doubting that they were prompted solely by a desire to correct an existing evil and to promote the public welfare; for gentlemen impelled by such high and noble purposes are usually careful to know first that wrongs really exist before opening their batteries; they do not usually fire at random and in the dark; they generally are careful about the facts. But in this case, if they had taken the trouble to open the statute-books and to look at the public records, they could not have failed to know that their allegations were in the main untruthful and consequently slanderous. I am, therefore, compelled to conclude that they may have been impelled by the one or the other of two following motives: there are people hanging around Washington writing for newspapers, styling themselves correspondents, and occupying seats in that gallery by the courtesy of the Senate, who,

when they are unable to hire themselves to advocate measures involving appropriations from the public Treasury, endeavor to teach the parties in interest their importance by denunciation and abuse. If they cannot be hired on the one side they endeavor to sell to the other. They make the effort to levy blackmail on all the approaches to the Treasury. Citizens of the United States coming here on public business, however meritorious their claims may be, are given to understand by these lazzaroni of the American press that nothing can be done until they receive their *douceur*; that they must have their levies paid before they will permit anything to go through either branch of Congress, and too frequently succeed in deluding those who are not conversant with the personal integrity of the members of this and the other branch of Congress to believe in the existence of their power, and I fear sometimes succeed in collecting their illegal and demoralizing fees.

Those who, being better informed, refuse to pay these unrighteous demands are compelled to suffer defamation. For example, railroad companies refuse to hire this class of correspondents. They must be brought to terms. Their enterprises must be denounced, the character of the companies must be assailed, the public indignation must be aroused, and the known friends of this class of public improvements, in either branch of Congress, must be afflicted with their calumny, not out of feelings of personal malice, but to weaken their influence; because they have votes and voices that may be used in support of such public measures. I, however humble, must be made the target for these slanders because I am a declared friend of a judicious use of public lands, and, where necessary, the public credit, to stimulate this class of public improvements and to secure the more rapid development of that part of our great country from which I hail. In this case the motive prompting this slander is probably only to weaken my influence both here in this Chamber and before my countrymen. And yet there may be a deeper reason, an ulterior purpose, prompting denunciation of such measures and such Senators and members. It has been thought by some that the construction of the Union Pacific railroad across the continent will open up a channel of trade that will change the current of the commerce of the world; that instead of going round the capes of South America and Africa the trade of Europe and Asia will be carried on directly across the Atlantic and Pacific, and by railroad across the American continent. If this fond anticipation should be realized—and I am inclined to think it will be to a very large extent—then the monopoly of the carrying trade across the continent on a single railroad line would be one of such gigantic proportions as to be without parallel in the world's history. There may be those connected with this railroad enterprise who do not desire the construction of a rival line. If the eastern division of the Union Pacific railroad, so called, the Kansas branch, should ultimately be extended across Kansas, New Mexico, and Arizona to the Pacific, and another road from the western point of Lake Superior across the State of Minnesota and the undeveloped Territories of Dakota, Montana, Idaho, and Washington, to the Pacific ocean, there would be two parallel and rival lines to the Union Pacific railroad. I was a friend of the Union Pacific railroad, and did what I could to secure the passage of the bills which I thought would be efficient in stimulating its rapid construction. But I do not wish that it shall remain forever the only line of transit across this continent.

Sir, I am in favor of the construction of parallel roads just so rapidly as the financial condition of this country will permit. I desire this not on my own account individually. I desire it as a representative in part of one of the States of the Union, and as a constitutional representative of the whole country. I am not willing that one company shall have the right,

without a rival, without fair competition, to tax the commerce of this nation, and possibly a large part of the commerce of the world. It may be that some members of that company, having the sagacity to perceive the vast importance of such a monopoly, may have the disposition to take the necessary steps to secure it. This possibility is not conclusively negated by the fact that this company is sometimes also made the subject of assault, for its completion at an early day is now assured. Here you have motives sufficient to account for these newspaper harangues. If owners of these great journals do not entertain such motives, as in fact I think they do not, they should see to it that they are not made the blind instruments of such a work.

I feel now as if I ought to ask the pardon of the Senate for saying what I have said. I have said it, as I remarked in the outset, not so much on my own account, although I am not careless of my personal reputation, as from a sense of public duty. It is the duty of the Senate, as it seems to me, to protect its own character and to expose these mercenary assaults on the integrity of its members.

EVIDENCE IN CONTESTED ELECTIONS.

Mr. POMEROY. I desire to submit but a few remarks on this subject. I shall not occupy the time of the Senate more than ten minutes.

Mr. CONKLING. I ask the Senator from Kansas to yield to me for one moment. There is on the table a very short bill from the House of Representatives which concerns the privileges of the House, enabling some testimony to be taken in contested-election cases, or rather supplying an officer to take testimony. Time is important. I think it will lead to no debate, and if it does not, I ask the Senate to allow it to be taken up and put on its passage.

Mr. POMEROY. If the Senate will do that by unanimous consent I will not object.

Mr. CONKLING. I think there will be no objection to it.

The PRESIDENT *pro tempore*. If there be no objection, the bill indicated by the Senator from New York will be taken up.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1558) to amend an act entitled "An act to prescribe the mode of obtaining evidence in case of contested elections," approved February 19, 1851. It proposes to authorize the register in bankruptcy resident in any congressional district the right to represent which is contested to take the testimony and to perform any of the other acts which a judge of any court of the United States is authorized to do by the third section of an act entitled "An act to prescribe the mode of obtaining evidence in cases of contested elections," approved February 19, 1851.

The Committee on the Judiciary reported the bill with an amendment, in line three to strike out the words "the register in bankruptcy," and to insert "any commissioner appointed or hereafter to be appointed by any circuit court of the United States, with authority to take bail, affidavits, or depositions in causes pending in the courts of the United States."

Mr. CONKLING. There was some difference of opinion in the committee as to the propriety of authorizing registers in bankruptcy to take this testimony, and therefore this amendment was reported, which was not satisfactory to the whole committee; and now the entire committee deem it wise to substitute in lieu of these officers notaries public. That will create no additional expense, and there are enough of them. Therefore, I ask that the amendment of the committee be non-concurred in, and then I shall move to insert "notaries public" in lieu of "registers in bankruptcy." That is satisfactory to the whole committee.

The PRESIDENT *pro tempore*. The question is on the amendment reported by the Committee on the Judiciary.

The amendment was rejected.

Mr. CONKLING. I now move to strike out the words "the register in bankruptcy" and to insert "notaries public."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

PERSONAL EXPLANATIONS.

The PRESIDENT *pro tempore*. The Senator from Kansas is entitled to the floor.

Mr. CHANDLER. By permission of the Senator from Kansas I desire to make a report to go on the Calendar.

Mr. POMEROY. I do not wish to interrupt anything that can be done by unanimous consent. I merely desire to submit some remarks, occupying perhaps five or ten minutes; but if the Senate desire to do anything by unanimous consent I am not going to stop that.

Mr. SHERMAN, (to Mr. POMEROY.) You had better go on and finish your remarks.

Mr. GRIMES. Senators can keep their morning business for five minutes until the Senator from Kansas gets through.

Mr. WILLIAMS. It will not spoil in five minutes.

Mr. TRUMBULL. I desire to introduce a couple of bills.

Mr. SHERMAN. I have a report to make, and I insist on proceeding in order.

Mr. TRUMBULL. The Senator from Kansas has proposed to give way, and we may as well get these bills out of our hands.

Mr. POMEROY. If Senators desire by unanimous consent to have bills and resolutions introduced at this time I am not going to interpose any objection.

Mr. SHERMAN. I have a report which I desire to make, but I think the Senator had better go on and conclude his remarks.

Mr. POMEROY. Then let the Senator object.

Mr. SHERMAN. I do object. Let things come up in their order.

The PRESIDENT *pro tempore*. The Senator from Kansas will proceed.

Mr. POMEROY. As the Senator from Ohio objects to the further introduction of morning business at this time, I will proceed with the few words that I have to say. The matter that has been before the Senate this morning would not have attracted my attention at all except as it has attracted the attention of the Senate. But some allusions having been made to me, I desire to say, as briefly as possible, that the communication that has been read from General Boynton, and indorsed apparently by the New York Tribune, so far as it relates to railroads in my own State, does not set forth the material facts correctly. There are some immaterial facts stated correctly; but it is almost entirely incorrect in its material facts. Without going, as my friend from Iowa did, into details in reference to every road, I will only refer to the one to which he referred. General Boynton says that a road there of one hundred miles in length had a subsidy of twelve thousand eight hundred acres of land to the mile. The fact is, that although that was the letter of the law, and the one hundred miles were built, yet settlers having located upon the lands the company did not get on many miles an acre; and if you will go to the Interior Department you will find that not one acre of land has as yet been given to that company, although they have built the road. The same is true with regard to most of the grants in that portion of the State where the settlers are. Every man at all familiar with the West knows that these grants are made subject to the rights of homestead settlers and preëmptors; and, indeed, the State of Rhode Island located its agricultural college scrip in that portion of the country, and thus prevented the railroad companies from getting the lands. In this way, although it may appear that there was an im-

mense subsidy of lands granted, if you will examine the records of the Land Office you will see that these companies, so far as they have been able to build in the settlements, have received almost no public lands.

There is an allusion to myself in this communication as being interested in all these roads. Now, I desire to state very frankly that before I was a member of the Senate, and while a private citizen of my State, when these companies were incorporated by our Legislature, without my knowledge and without the knowledge of any one with whom I am connected, the names of different persons in the State were inserted as incorporators. And it is now here proposed to incorporate a company to build a road from Washington to New York, and the Senator from Ohio [Mr. SHERMAN] inserts in the bill the names of men all over the country who he thinks will make suitable incorporators, and they are to hold the franchise temporarily until the company is organized and goes into the hands of the men who build the road. That was my relation to nearly every road in my State. The Legislature put in my name as one of the incorporators. The people of a new State do not build their own roads; but they hold temporarily these franchises until they find men in Ohio, Pennsylvania, Boston, or New York who take hold of and build the roads; and then we assign the franchises to them. I do not know of a man in my State who ever took a dollar for the holding and transferring of one of those franchises. That is why it appears that myself and various citizens of my State seem to have a great deal to do with railroads. We were original incorporators, put in by the Legislature without our knowing it often, probably not always, and we held the thing in trust until we found men in the East who had capital and who would build the roads. Not one dollar of interest have I now or have I had for some time in any one of the roads that are either asking now or have heretofore received subsidies.

I should not have said this but for the fact that the charge is made in this letter of General Boynton; and this, by the way, is only one letter of a series. General Boynton has been writing for the last month or so to the Cincinnati Gazette about General Howard and myself, as though we were objects of especial spite by him or somebody connected with him for some reason that I do not know and do not care about. The people of my State and the settlers on the public lands in my State, so far as I know, are satisfied, and I undertake to represent my State; and if I am not satisfactory to General Boynton I cannot help it. I have not asked to make my peace in that direction. I will say, however, that the writers and reporters generally have reported me always correctly and fairly, and of the whole number—twenty or thirty—I do not know of more than one or two exceptions where I have seen any intentional deviation from what I regard as a truthful statement of the case. I have no general war to make on the reporters. They are industrious and generally truthful. There are a few exceptions, and I think the Senator from Iowa characterized those exceptions very properly, and I could say something more in that direction.

What was said in that letter with reference to the California branches of the Pacific road I will not say anything about. I understand it is not correct; but if it is not correct I do not know it.

One word more, and I will close. The general tenor of this letter is against the system of granting lands to aid in the construction of railroads. I submit it to Senators from the old States, whether they have not uniformly approved of that system. I found it here when I came to the Senate eight years ago. We have not deviated from it. The Government gives alternate sections of the public lands to certain roads within certain limits, and adds \$1 25 to the price of the other sections, and

thus does not give away a dollar. I know men who own large tracts of land, but I do not know one of them who would not give away every other section to any party who would build a railroad through the entire tract. The Government owns the public lands, and the Government can very well afford to give away every odd section if by so doing it can double the value of the even sections. That is the basis on which these land grants are made. I am disposed to continue that system. I am for the extension of these States of ours to the West. We will soon have a line of railroad to the Pacific, and in that way will develop the public domain and promote the sale of the public lands. The settlers are satisfied; our new States are increasing rapidly under this process, and why should any one undertake to attack it merely for the purpose of reflecting upon some individual as being chairman of the Committee on Public Lands?

I am referred to in one letter as having "fathered" twelve land-grant bills. I suppose I shall report twelve more if I am continued as chairman of the committee. If not, some man who is the chairman will do so, I have no doubt. We intend to pursue this system of developing the public domain by encouraging the building of thoroughfares through it, and that develops the State. Tell me of a railroad in Missouri, Iowa, or Kansas that has been built without a subsidy of public lands? You cannot put your finger on a road, and yet those States are growing up under this system with a magnificence and importance that has been unparalleled in the history of the country anywhere else. My own State, as the Senator from Iowa says, has but one member at present in the House of Representatives, but at the next census we shall have three, if not four. The progress of our empire is thus moving westward, and all by the development of the new States, and that development is secured by the building of railroads, and those railroads are secured by the grant of public lands. That is the question that we who live in the new States are able and willing to defend anywhere, and a wholesale attack like this falls very harmlessly upon us. I do not care anything about any personal allusions to myself. I am looking to the interest of my people at home and the nation at large, and if they are satisfied with my conduct I shall not try to make my peace with any writer of the Cincinnati Gazette or the New York Tribune.

Mr. CONNESS. Mr. President, I trust the Senate will bear with me for a few minutes on this subject, although I am not personally mentioned in the correspondence attributed to General Boynton and copied by the New York Tribune; but as he relies for his facts upon a statement made by General WASHBURN, of the House of Representatives, during the past session of Congress, which, he says boastfully, has never been answered, and which applies to what is known as the Western Pacific Railroad Company and the grant made to it in California, I desire to say a word.

After Mr. WASHBURN had made that speech I called his attention to it, and found, as a matter of course, that he was inexact in his facts.

The statement I will first notice is the one made that the Central Pacific Railroad Company, of California, located their road from Sacramento to the eastern boundary of California. That is true; but they at the same time located it from Sacramento to the city of San Francisco, and were entitled under the law to every grant for the one part of it that they were for the other.

It is stated additionally that an empire of land has been given away to the Western Pacific Railroad Company. General WASHBURN has made a line which he says is a meandering line—I supposed it was the straightest line that engineers could make—from Sacramento to San Francisco, and then he has calculated the land at ten sections on each side of the road for each mile of that line, when it is a fact,

and he can ascertain it at the office of the Commissioner of the General Land Office, that there was not an acre for every fifty thousand granted that fell to the company, because the lands were all occupied. The grant of lands was a mere *bagatelle*, amounting to nothing in point of fact to the company. But it makes a grand paragraph in a speech that an empire of land is given away to a railroad company; and on this point of granting and giving these empires of land to railroad companies it would appear as though the recipients of the land put it in their pockets and ran away to another country with it, and that the acres or sections of land were never returned to the place that they originally occupied upon the earth's surface! The truth is that not one acre in fifty of the land over the line of the Central Pacific Company is fit to be utilized for any purpose for the use of mankind.

It is true that large grants of land have been made to companies through valleys in the West, which lands have been of great value; but those lands lay there and could not previously have been given as a gift to anybody. But when a company were found with brains and enterprise and means enough to project a railroad and to build it, the land became of value, and the companies profited by it; and so do men profit everywhere by what they engage in and give their ability and industry to; and they engage in nothing but that which promises them profit.

I say this much, sir, in connection with the general subject, and particularly the grant spoken of in my own State, and now will close my few remarks by alluding to an article of this class that I saw in the New York Herald within two or three weeks past, in which I found my own name with that of five or six other honorable Senators. I saw stated in that article, and the editors stated in it that they were informed that I had no less than five jobs connected with this Congress, and one of those jobs, the only one mentioned, was what is called the Sutro tunnel job. Well, sir, the tunnel job and its projectors have always been so objectionable to me in every single point of view that Mr. Sutro does not call upon me. I have always at all times repudiated the project as wild, unprofitable, impracticable, and one, as I told him in the first instance, that I could not with the knowledge that I had of mining and with the charge that I felt I had as a representative of the country engaged in mining, recommend to my fellow-Senators to support. And yet this is the scheme named, in connection with which some inaccurate, careless writer mentions my name.

If the practice obtained in this country as it should, in my opinion, that every man who wrote an article should be required to put his name to it, there would be less of this, very much less of it. I had thought until I saw that article in the Herald, that I at least (while I concede as much to my fellow-Senators here) had been clear of all taint connected with public affairs; that no person in the guise of a friend or an interested party had ever attempted or used me in these connections. But these great reformers who write for the public press defend the public against the attacks of public men to such an extent that it is a *prima facie* case against the character of any man to occupy any place in public life. They make public sentiment, but it is time that public attention was called to the loose, careless, and extraordinary manner in which they attempt to make it.

Mr. President, this is all I have to say in this connection. I felt it due to my State to say part of what I have said, and due to myself to say the remainder.

Mr. CHANDLER. I now move that the Senate proceed to the consideration of House bill No. 1460.

Mr. GRIMES. Allow me to say a word on the subject which has been before the Senate.

Mr. SHERMAN. There is some morning business yet to be presented, and I trust the Senator from Michigan will not press his motion for a few minutes.

Mr. CHANDLER. I hope the Senate will take up the bill, and then I will give way.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Michigan.

Mr. SHERMAN. I desire to say to the Senator from Michigan that I have no objection to taking up his bill, but I hope he will allow the business of the morning hour to be disposed of.

Mr. GRIMES. I desire to say a word in regard to the subject that has been before the Senate this morning, and only a word.

Mr. POMEROY. I hope the Senator from Iowa will proceed. Let us finish this business while it is before us, and not have it up again.

The PRESIDENT *pro tempore*. Does the Senator from Michigan withdraw his motion?

Mr. CHANDLER. Let the bill be taken up, and then I will give way.

Mr. GRIMES. I will not occupy as long a time as the Senator has already occupied.

Mr. CHANDLER. Very well; go on. I do not withdraw the motion, but let it be laid aside informally.

Mr. GRIMES. Mr. President, from what I know of the Cincinnati Gazette and the New York Tribune, I am fearful that anything I might say in vindication of my colleague would only operate to his injury; still I feel that my duty to myself requires that I should say a word in regard to one of the charges brought against him, of which I have personal knowledge.

In regard to the Cherokee transaction I know nothing. I happened to be away from Congress when that subject was under consideration upon both of the occasions when it was here in the Senate. But I do know all about the grant to the Burlington and Missouri River Railroad Company. I can say most conscientiously that the whole charge on that subject is a trumped-up affair; that there is no reason whatever for making any charge of dereliction of duty or improper conduct of any kind against my colleague in that connection. If my recollection serves me correctly the grant that extended that road through the then Territory of Nebraska originated in the House of Representatives, and when brought to the Senate was concurred in here. A few months afterward my colleague was made the Secretary of the Interior, and as such he made just such orders as the law compelled him to make. They have been read by the Clerk, and they are known to each of us. It was not possible for him to make any other order, or to do anything else and do his duty, than what he did do. If there was any error in that connection it was in Congress in passing the law. He has stated correctly that I am a stockholder in that company. At that time I think I was a stockholder to the extent of twenty-five shares, the market price of which was fifteen cents on the dollar. I did not see fit to take any part in connection with the subject while it was under consideration in the Senate, nor so far as I know did my colleague take any active measures to secure its passage, for the truth was there was no opposition to the bill; nor did I, or any agent of the company, or anybody professing to represent the company, ever approach my colleague, as the Secretary of the Interior, to induce him to make the order that he did make, withdrawing those lands from market. The law made it imperative upon him to do so whenever the plat of the survey was filed; it was filed, and he made the order withdrawing them. So much in regard to that subject.

As to the motives that may have impelled the writer of this article to make the attack I know nothing. I have simply thought it due to myself, as well as to my colleague, that I, knowing all the facts, as I do, should state here that there is no truth whatever in that charge of which I happen to know all the particulars. I doubt not that the other charges and insinuations are equally baseless.

ORDER OF BUSINESS.

Mr. CHANDLER. I now ask for a vote on my motion to proceed to the consideration of

the bill (H. R. No. 1460) regulating the duties on imported copper and copper ores.

Mr. SHERMAN. Pending that motion I desire to submit a report.

Mr. CHANDLER. Let me take up the bill first, and then I will give way.

Mr. SHERMAN. It is contrary to the order of business to interpose a motion to take up a bill in this way.

Mr. CHANDLER. Just let me take it up, and then I will give way.

Mr. SHERMAN. Very well.

The motion was agreed to.

Mr. CHANDLER. Now, the bill being up, it may be laid aside for the present to receive morning business.

REPORTS OF COMMITTEES.

Mr. SHERMAN. I desire to report from the Committee on Finance a bill (S. No. 798) in relation to the public debt and the currency. I will state that two or three members of the Committee on Finance desire to offer amendments to the second, third, and fourth sections of the bill. I move that the bill with the amendments as they are offered be printed, and that it be postponed to and made the special order of the day for Monday next at one o'clock.

The bill was read a first time by its title, and passed to a second reading.

Mr. EDMUNDS. I think it had better not be made a special order. The Senator can have it taken up on the day named on motion, after giving notice.

Mr. SHERMAN. I made the motion that the bill be made a special order because it is desired generally. The subject is an important one.

Mr. EDMUNDS. We have had a course of practice now for a year or two against having special orders. The Senator can get the bill taken up on his own motion at any time.

Mr. SHERMAN. We know very well at this period of the session what a struggle there is for the floor and how difficult it is to get up an important bill. A measure of this kind, in which every Senator takes the same interest, a great number will desire to examine beforehand, so as to be prepared to meet it in discussion. I think it is just a case where there ought to be a special order. Then, as a matter of course, every Senator will come prepared to take up the bill on Monday next. I put it off one week so that every person may then be prepared. I trust, therefore, the bill will be made a special order, as it is a special case, and that that order will now be made.

The PRESIDENT *pro tempore*. It is moved that the bill mentioned by the Senator from Ohio be postponed until Monday next and made the special order for that day.

Mr. EDMUNDS. I do not know that I should have any objection to making it a special order if I knew what the bill was.

The PRESIDENT *pro tempore*. The bill can be read by its title.

Mr. EDMUNDS. Allow me to ask first whether the bill is before the Senate.

The PRESIDENT *pro tempore*. It has just been presented.

Mr. EDMUNDS. Is it before the Senate for consideration?

The PRESIDENT *pro tempore*. No, sir, it is not before the Senate; but there is a motion before the Senate to receive the bill and read it a first time.

Mr. SHERMAN. No, sir; the bill is regularly reported from the Committee on Finance, and has had its first reading.

Mr. EDMUNDS. My question is whether it is before the Senate for action.

The PRESIDENT *pro tempore*. It is not before the Senate for action except by common consent, having been reported this morning.

Mr. STEWART. Let the bill be read.

Mr. CONKLING. Let the title be read at least.

Mr. EDMUNDS. Let the whole bill be read, that we may know what it is.

The CHIEF CLERK. The title is "A bill in relation to the public debt and the currency."

Mr. EDMUNDS. Let the bill be read. Is it very long?

Mr. SHERMAN. No, sir.

Mr. CHANDLER. I object to its reading; we have not time.

Mr. EDMUNDS. I object to its consideration if it is not before the Senate.

Mr. POMEROY. If the bill is not before the Senate for consideration how can a motion in regard to it be entertained?

The PRESIDENT *pro tempore*. It can only be done by unanimous consent.

Mr. POMEROY. Then I object.

The PRESIDENT *pro tempore*. Objection being made, no motion in regard to the bill can be entertained.

Mr. WILLIAMS. Mr. President, I desire to give notice that when the bill just reported by the Senator from Ohio comes up for consideration I shall propose certain amendments which I wish to have printed with the bill. The amendments I send to the desk; it is difficult to understand them without a reading of the bill. I should prefer to explain them at this time.

The PRESIDENT *pro tempore*. The amendments will be received, and ordered to be printed if there be no objection.

Mr. MORRILL, of Vermont. I also give notice that I shall have some amendments to offer when the bill comes up for consideration, which I will submit before that time, not having them ready this morning.

Mr. FRELINGHUYSEN. My colleague [Mr. CATTELL] having been called away, in his name I offer an amendment to the funding bill, which has just been reported, and ask that it be printed.

The PRESIDENT *pro tempore*. That order will be made.

Mr. SHERMAN. I am further directed by the Committee on Finance, to whom was referred the bill (S. No. 678) to provide for the redemption in coin of United States notes and fractional currency, and requiring the national banks to redeem their notes in coin, known as the bill of the Senator from Indiana, [Mr. MORRIS], to report it back, and to state that so much of it as has been approved by the committee is embodied in the bill already reported, and we therefore recommend that this bill lie on the table.

The PRESIDENT *pro tempore*. That order will be made if there be no objection.

Mr. PATTERSON, of New Hampshire, from the Committee on the District of Columbia, to whom the subject was referred, reported a bill (S. No. 786) to provide for the paving of Pennsylvania avenue; which was read, and passed to a second reading.

Mr. MORRILL, of Vermont. I am directed by the Committee on Commerce, to whom was referred the bill (S. No. 731) to authorize the New York, Newfoundland, and London Telegraph Company to land its submarine cable upon the shores of the United States, to report it back with a recommendation that the bill do pass; and as it is a very short bill, to which I presume there will be no objection, I ask to have it passed at this time.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider the bill at this time.

Mr. GRIMES. I object.

The PRESIDENT *pro tempore*. Objection being made, the bill goes over, under the rule.

Mr. WILSON, from the Committee on Military Affairs, to whom was referred the bill (S. No. 489) to relinquish the interest of the United States in certain lands to the city and county of San Francisco, reported it with amendments.

He also, from the same committee, to whom was referred the bill (H. R. No. 1490) to define the pay of officers of the Army detailed to act as military instructors, reported it with an amendment.

BILLS INTRODUCED.

Mr. SUMNER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 783) in regard to the discharge of poor convicts; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 784) to amend the judicial system of the United States; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 785) concerning divorces in the District of Columbia; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. PATTERSON, of New Hampshire, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 787) to incorporate the Grueble Verein of Washington, District of Columbia; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. PATTERSON, of Tennessee, asked and obtained leave to introduce a bill (S. No. 788) for the relief of Cowan & Dickinson, of Knoxville, Tennessee; which was read twice by its title, referred to the Committee on Claims, and ordered to be printed.

Mr. FOWLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 789) making an appropriation and authorizing the purchase of additional ground for the Nashville custom-house; which was read twice by its title, referred to the Committee on Commerce, and ordered to be printed.

Mr. RICE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 790) for the benefit of Mrs. Sarah E. Brooker; which was read twice by its title, referred to the Committee on Pensions, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 791) to amend the existing laws in relation to the jurisdiction of the circuit courts of the United States; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 792) for the relief of W. J. Patton, collector of internal revenue for the second district of Arkansas; which was read twice by its title, referred to the Committee on Finance, and ordered to be printed.

Mr. DRAKE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 794) to regulate the construction of bridges over the Mississippi and Missouri rivers, and for other purposes; which was read twice by its title, referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

Mr. KELLOGG asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 795) to guaranty the payment of certain bonds to be issued under the authority of the governments of the States of Louisiana, Arkansas, and Mississippi, for the purpose of building and repairing the levees in said States; which was read twice by its title, referred to the Committee on Commerce, and ordered to be printed.

Mr. NORTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 796) making a grant of land to the State of Minnesota to aid in securing the navigation of the Mississippi river immediately above the falls of St. Anthony; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 797) to amend and consolidate the several acts establishing and relating to a Metropolitan police of the District of Columbia; which was read twice by its title, referred to the

Committee on the District of Columbia, and ordered to be printed.

Mr. MORTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 798) to punish the collection of illegal taxes on passengers; which was read twice by its title.

Mr. MORTON. With the permission of the Senate, as the bill is a very short one, I should like to read it. It is as follows:

Be it enacted by the Senate and House of Representatives in Congress assembled, That it shall be unlawful for any officer or agent of any railroad or other corporation created by authority of any State to pay to the government of said State, or to any agent or officer thereof, any sum of money as a tax upon passengers or for the transportation of passengers into said State or out of it or across its territory; and that any agent or officer of any corporation as aforesaid, paying money as aforesaid to any State government, or to any officer or agent thereof, for the purposes aforesaid, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not exceeding \$5,000 nor less than \$1,000.

Sec. 2. *And be it further enacted,* That any person pretending to act by or under the authority of any State, who shall collect or receive from any person or persons, or from any railroad or other corporations, any sum of money on behalf of such State as a tax, price, or condition upon passengers coming into, going out of, or through such State, or for the transportation of passengers into, out of, or through such State, shall forfeit and pay to the United States the sum of \$2,000, to be collected by action of debt.

Sec. 3. *And be it further enacted,* That the circuit and district courts of the United States shall have jurisdiction for the trial and punishment of all misdemeanors and actions arising under the first and second sections of this act, and the Supreme Court shall have appellate jurisdiction in all cases arising under this act.

I move that the bill be printed and lie on the table.

The motion was agreed to.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 799) to enable the people of Colorado to form a constitution and State government, and for the admission of said State into the Union on an equal footing with the original States; which was read twice by its title.

Mr. POMEROY. I desire to state that this bill only differs from the other bill on the subject in reference to the boundaries of Colorado. I move that it be referred to the Committee on Territories, and be printed.

The motion was agreed to.

COWAN AND DICKINSON.

Mr. PATTERSON, of Tennessee. I offer the following resolution, and ask for its present consideration:

Resolved, That the Secretary of War be requested, if not incompatible with the public interest, to forward to the Senate copies of all papers on file in the War Department relative to the claim of Cowan & Dickinson, of Knoxville, Tennessee, for damages resulting from the appropriation of cotton by General A. E. Burnside for the defense of Knoxville in November, 1863.

Mr. POMEROY. The only objection I have is the form of it, that the Secretary of War is to judge whether it is compatible with the public interest or not. The Secretary of War does not run this Administration. It is the President that is to judge whether anything is compatible with the public interest.

Mr. PATTERSON, of Tennessee. I will accept the amendment.

Mr. CHANDLER. Let it lie over.

Mr. PATTERSON, of Tennessee. I hope it will not lie over.

The PRESIDENT *pro tempore*. Does any Senator object to the present consideration of this resolution?

Mr. POMEROY. The Senator proposes to strike out the words to which I take exception, and I have no objection.

Mr. CONKLING. Then it should be read as amended.

The Secretary read the resolution, as amended, as follows:

Resolved, That the Secretary of War be directed to transmit to the Senate copies of all papers on file in the War Department relative to the claim of Cowan & Dickinson, of Knoxville, Tennessee, for damages resulting from the appropriation of cotton by General A. E. Burnside for the defense of Knoxville in November, 1863.

The resolution, as amended, was agreed to.

PACIFIC RAILROAD SURVEYS.

Mr. KELLOGG. I offer the following resolution, and ask for its present consideration:

Resolved, That the Secretary of War be, and he is hereby, directed to communicate to the Senate an abstract of all the surveys that have been made for a railroad to the Pacific under the direction of the Government of the United States, together with a brief statement of the views expressed in those official reports, and such abstracts as he may deem important from any official communications of Major General A. A. Humphreys, chief of the engineer corps of the United States Army.

Mr. HENDRICKS. I think that resolution ought to be referred to the Committee on the Pacific Railroad. It would seem to me that it would be a great labor to digest the sixteen very large volumes that have been published. I move its reference to that committee, to see how much trouble it is going to make.

The motion to refer was agreed to.

QUARANTINE LAWS.

Mr. NYE submitted the following resolution; which was referred to the Committee on Commerce:

Resolved, That the Secretary of the Treasury be requested to examine and report as to the fitness of Morris Island, South Carolina, for a quarantine and hospital station, and as to the propriety of purchasing said island for such purpose; and that he be further requested to report in regard to the feasibility and propriety of adopting a uniform system of quarantine laws applicable to foreign vessels and vessels of the United States, whether engaged in the foreign or coasting trades, and of placing the superintendence of the execution of such laws exclusively under the control of the Treasury Department.

DUTIES ON IMPORTED COPPER.

The PRESIDENT *pro tempore*. The bill (H. R. No. 1460) regulating the duties on imported copper and copper ores has been taken up and is before the Senate as in Committee of the Whole.

Mr. ANTHONY. I offer an amendment which I believe is acceptable to the Senator who has charge of the bill. It is to add:

On copper in rolled plates, called brazier's copper, sheets, rods, pipes, and copper bottoms, eyelets, and all manufactures of copper or of which copper shall be a component of chief value, not otherwise herein provided for, forty-five per cent. *ad valorem*.

Mr. CHANDLER. I have no objection to that. I hope the amendment will be adopted. The amendment was agreed to.

Mr. MORRILL, of Vermont. I offer the following amendment, which is the first of a series I have prepared: in line nine, after the word "ores," to insert the words "containing sulphur."

Mr. President, I had supposed that at the close of the war our tariff had reached its maximum rate, and that our earliest duty after taking off taxes upon the various manufactures of the country would be to reduce the amount of the tariff to the extent of the compensation which we had made in the tariff for the internal taxes; but I am aware that there are several articles in any readjustment of the tariff that need perhaps some further favor in the way of increased duties, and among them is copper.

It is very difficult, and I am willing to acknowledge my repugnance to taking up a single subject of the tariff and fixing a satisfactory rate of duties upon it, either by raising or diminishing the duties, because it will be found almost impossible in practice to do anything in that way without inflicting as much injury upon some other articles as good in the direction aimed at. And this measure as the bill was reported, in my judgment, would not have been any benefit whatever to the copper interest, for the reason that while it raised the duty on raw copper it left many of the manufactured articles with less rates than the raw material.

Such for instance as copper plates, which in some degree has been amended by the Senator from Rhode Island, and such as sheathing copper, which is a cent and a half a pound less than the pig copper could be imported for. It seems to me that it is much better to raise the rates of duty upon some of those other articles if you are going to raise the duty upon pig copper, because it is perfectly evident that instead of the raw copper being imported, the unmanufactured article would be imported, as it

could be imported at a less rate of duty. But for the amendment of the Senator from Rhode Island many of the articles that are manufactured from copper would not be made in the country after the increase of the price upon the raw material.

But one of the chief questions involved in this bill is in relation to copper ores. It seems to me the bill will be more perfect if we amend it so that ores not containing sulphur shall be admitted at something of a less rate than the sulphurets. We are obtaining at the present time, with a strong probability of an increase, a very considerable amount of copper ores from the British provinces, and these are all sulphurets. We are obtaining a much larger amount of the carbonate ores from Cuba and from Chili. These ores that we obtain from Cuba and Chili are not essential to the manufacture of our ores containing sulphur; but the sulphurets are essential to the manufacture of the carbonates. I mean to say that they are not essential in places where fuel is plenty, where wood for the making of charcoal can be obtained; but the two worked together increases the profit of both.

Therefore I think that there should be a discrimination between the two kinds of ores, and that those ores which work together economically and profitably should be allowed to come in at something of a less rate than the sulphurets, of which we produce an abundance.

Besides, Mr. President, although my own State, perhaps, is as largely interested in these ores as any State in the Union—for we are producing a very large amount of these copper ores containing sulphur—I do think it would be wrong to strike down the importation of all carbonate ores, for at the present time they afford a very valuable trade to our shipping interest and a large amount of capital is invested in smelting the ores in quite a number of the Atlantic cities. Therefore it will be seen that I propose in the amendment I have now offered and in the second amendment to make a discrimination between the two kinds of ores.

Then, in the third amendment which I shall offer, I propose that the duty on sheathing copper in sheets of fourteen by forty-eight inches, weighing fourteen to thirty-four ounces per square foot, shall be raised to six cents per pound. It is now three and a half cents per pound, and one cent per pound in advance of copper in bars is reasonable. Those are not included in the amendments proposed by the Senator from Rhode Island. Then, on sheathing metal composed in part of copper and not any part of iron ungalvanized, in sheets of fourteen by forty-eight inches, weighing from fourteen to thirty-four ounces per square foot, five and a half cents. The duty upon these articles now, upon the one is three cents and upon the other three and a half cents. If you put the duty on raw copper at five cents a pound and leave these articles at three and three and a half cents it would be a manifest impropriety, and it would break down whatever manufactures of them we may happen to have in the country.

Mr. CHANDLER. That is covered by the amendment of the Senator from Rhode Island already adopted. All manufactures of copper ore are covered by that amendment, so that what the Senator now suggests is totally unnecessary.

Mr. MORRILL, of Vermont. I do not so understand it.

Mr. CHANDLER. The Senator is mistaken. All manufactures of copper ore are covered by the amendment of the Senator from Rhode Island.

Mr. MORRILL, of Vermont. The Senator from Michigan is mistaken. My throat is so sore this afternoon that I am hardly able to speak at all, and therefore I shall not occupy much time. The Senator is mistaken. Sheathing metal is not embraced, nor is copper sheathing, because there is now a specific duty levied on it; and even if it is embraced, I do not like the policy of changing a specific to an *ad valorem* rate of duty.

My fourth amendment is in relation to brass, and will be offered only in case the amendment with regard to copper should prevail. It is manifest that brass at fifteen per cent., which is all the duty upon it at present, would be left entirely to be brought in from abroad, and there would be no copper used in the manufacture of brass, and to make that it takes at least one half of the weight in copper.

But, Mr. President, whether my amendment passes in relation to copper ores or not, the fact is that the country is now using far less of copper than formerly, and the American producers of copper will not derive any very great amount of benefit from an increase of the duty on copper. I am in favor of doing something in relation to the subject; but I do not wish it to be understood that we believe it to be possible to afford any great amount of benefit by anything that can be done here. In the first place, the country has abandoned the use of copper in its coinage. In the next place, whenever you place a duty upon the sheathing metal, which, perhaps, affords the largest amount of consumption for copper, our vessels go abroad to get copper-bottomed, and the introduction of iron vessels has superseded the use of copper for that purpose to a very large extent; and now our vessels, instead of being copper-bottomed at home, go abroad and have that done upon their first foreign voyage. Even our vessels engaged in the coasting trade, instead of getting the work done here, go to some of the British provinces for a load of plaster or of coal or of grindstones, and get that work done there. Under these circumstances it is impossible that any great increase in the consumption of copper can be had.

I understood the Senator from Michigan to be not opposed to this amendment in the first instance; and, I suppose, the only reason why he is not in favor of it now is because I propose to make a discrimination in the ores. I think it is just that there should be such a discrimination. If any Senator here feels a lively interest in the protection of these sulphurets ores, it ought to be myself, because they are located in my own State and in my own county; but I believe that the rate I have proposed would be satisfactory to those who are engaged in that business, and that it is beneficial to the country to have the business continued that we now have with Cuba and South America in the importation of their ores. I am willing to raise the duties to some extent on all ores, but not to the extent proposed in the bill. It is at least three times the amount of the present duty, and I submit that is too much and that less would be far more likely to secure permanent support hereafter.

Mr. CHANDLER. I ask that the amendment already adopted, which, I think, covers a great deal of the ground, be read.

The CHIEF CLERK. The amendment already adopted is to insert at the end of the bill the following clause:

On copper in rolled plates, called brazier's copper, sheets, rods, pipes, and copper bottoms, eyelets, and manufactures of copper, or of which copper shall be a component of chief value, not otherwise herein provided for, forty-five per cent. *ad valorem*.

Mr. CHANDLER. That covers the precise case the Senator from Vermont has presented, and I supposed he was entirely satisfied with that amendment as offered by the Senator from Rhode Island. It gives all the protection he asked, and a little more.

Mr. SUMNER. I should like an explanation as to the forty-five per cent. *ad valorem*. What is the protection which this bill gives in other respects?

Mr. CHANDLER. Twelve and a half per cent. on copper in the ore, taking the home valuation.

Mr. SUMNER. How much is that *ad valorem*?

Mr. CHANDLER. Perhaps fifteen or sixteen per cent., taking the foreign valuation.

Mr. SUMNER. Fifteen per cent.?

Mr. CHANDLER. About fifteen per cent., taking the foreign valuation; but taking the whole valuation it would be about twelve and

a half per cent. on the copper in the ore; that is all. The amendment gives gives forty-five per cent. upon the manufactured article, and as that covers the case stated by the Senator from Vermont, I supposed it would be entirely satisfactory to him.

Mr. SUMNER. There is a case I have in my mind, and I should like to have the attention of my friend from Vermont, to know whether the bill covers the case of sulphate of copper or blue vitriol?

Mr. MORRILL, of Vermont. It does not. Mr. SUMNER. I wish to have that come into this bill. There is a considerable quantity of it made in Massachusetts.

Mr. FERRY. I desire to have the first amendment offered by the Senator from Vermont read. Let us see what that is.

Mr. MORRILL, of Vermont. My first and second amendments go together.

The CHIEF CLERK. The first amendment is in line nine after the word "ores" to insert "containing sulphur;" so as to make the clause read, "on all copper imported in the form of ores, containing sulphur, three cents on each pound of fine copper contained therein."

Mr. CHANDLER. That opens the whole subject whether you will levy the duty of three cents per pound upon all imported ores. The Senator from Vermont desires to make a discrimination between carbonates and sulphurets. Now, if he makes a discrimination, it should be in favor of the other side. It is the foreign carbonates which are so largely imported into the United States; there are few, if any, sulphurets imported; I believe none at all.

I hold in my hand reports from different smelting works and from scientific gentlemen, showing that sulphurets require no carbonates in their smelting, but that carbonates cannot be smelted at all without sulphurets. The product of Chili is chiefly carbonates, though there are some sulphurets, but all the sulphurets raised in Chili are used with their carbonates to produce copper, and the sulphur, a poor kind of carbonate ores, are exported from Chili to the United States to mix with our sulphurets. If we did not receive these ores from them they would be compelled to import our sulphurets to mix with their carbonates. The very class of ores, if any, that we wish to exclude is these carbonates. That is the very class that should pay the highest duty. It is a class that is not required in our smelting. It is true sulphurets require carbonates; but the carbonate of lime or the carbonate of iron or any other carbonate will answer just as well; but carbonates must have sulphurets or else they cannot be manufactured into copper. Hence, if these carbonates were excluded the Chilians would be compelled, if they could not increase their own production of sulphurets, to come to us for our sulphurets to mix with their carbonates to produce copper.

But, sir, it comes down to this point: are we asking an unreasonable protection upon the products of our mines? The Senator from Vermont told me that a few years ago, when we were reorganizing the tariff, he himself proposed a duty upon copper and copper ores, and that then we of the West declined it because we did not need it. That is true. At that time our ingot copper was bringing twenty-eight cents a pound in gold, and it cost about half as much to raise the copper then as it does now. It is now worth about twenty-three and a half or twenty-four cents in currency, and costs double the amount to raise that it did then. It is an interest in which more than fifty million dollars of capital is engaged, an interest that is absolutely being crushed by foreign competition—the competition of convict-raised ores in Chili. We ask simply a protection of twelve and a half per cent. upon the home valuation. Taking the foreign valuation and adding the difference in the price of gold the percentage would be larger, but on the home valuation it is simply twelve and a half per cent. Every other pro-

duct, every other raw material is much more heavily protected. Take for example pig-iron. The protection is more than sixty per cent. On railroad, it is between forty and fifty per cent. On coal, it is more than fifty per cent. Even tin, of which we produce very little, is protected by a duty of fifteen per cent. And now we come on behalf of this vast interest and ask a reasonable protection in order that our works may go on.

Mr. WHYTE. Will the Senator from Michigan permit me to ask him a question?

Mr. CHANDLER. Certainly.

Mr. WHYTE. The Senator has referred to manufactured articles. I will ask him whether there is any tariff, any duty upon iron ores imported into the United States? He has alluded to pig-iron and railroad iron, which are manufactured iron. I ask him if there is any duty whatever upon iron in the ore?

Mr. CHANDLER. Probably not. I do not know anything about that. It would not pay transportation anyhow; and I do not suppose any Senate would be so foolish as to put a duty on iron ores, though perhaps it has been done heretofore; I cannot tell. Pig-iron corresponds with regulus of copper. That is protected by nine dollars a ton, and it is worth about fourteen dollars a ton in Great Britain.

Mr. WHYTE. The Senator will allow me to state that the objection is not to the tax upon the regulus of copper or to the tax upon copper in pigs or in ingots or plates; but it is to putting a tax upon the ores which our own miners require in this country.

Mr. CHANDLER. We put a tax upon the copper taken from the ore. Now, Mr. President, copper has been called a raw material. The Senator from Connecticut [Mr. FERRY] represented it as a raw material. Well, sir, two thousand feet under ground, embedded in solid rock, it is a raw material; but it costs us twenty cents a pound to mine and raise that ore to the surface and put it into ingot copper, while it costs his manufacturers of clocks not more than two or three cents a pound to put the sheets into clocks. It is a raw material in the bowels of the earth; but it costs more to raise it and put it in the form of ingot copper than it costs to manufacture it after it is in that form.

Now, sir, after you have voted liberal tariffs for the protection of all manufactures, we claim that this great interest of Michigan and of the nation should receive a reasonable protection, or protection enough to keep our works in operation. Three fourths of the mines of Lake Superior are to-day stopped because these foreign carbonates raised by convict labor, with a duty on the Chilian value of five per cent. are brought in and smelted at such a price that we cannot run our works in competition with them. The indirect taxes paid to-day by the raisers and producers of copper in this country are more than four times the amount of this five per cent. protection on the ore.

I hope that the Senate will stand by the bill as it is. It is the same bill, word for word, that this body passed two years ago after a very thorough discussion, and I ask the Senate to stand by it now and give us three cents a pound duty on copper in the ore, both carbonates and sulphurets.

As for the amendment of the Senator from Vermont imposing six cents a pound on sheathing copper of a certain kind, I have no objection to that; but we have already adopted an amendment which allows much more, and which, as I supposed, was entirely satisfactory to the Senator from Vermont.

Mr. FRELINGHUYSEN. I should like to hear the amendment which was offered by the Senator from Rhode Island, and which has been adopted, read.

The CHIEF CLERK. The amendment already adopted is to add to the bill:

On copper in rolled plates, called brazier's copper, sheets, rods, pipes, and copper bottoms, eyelets, and all manufacturers of copper, or of which copper shall be a component part of chief value, not herein otherwise provided for, forty-five per cent. *ad valorem*.

Mr. FRELINGHUYSEN. With that amend-

ment I have no objection to the bill. The manufacturers of copper in this country are very much interested that this bill without that amendment should not be adopted. I hold in my hand a specimen of copper manufacture, being a copper wire cloth, which costs, manufactured in England with the tariff here, when it arrives here \$2 72, and it cannot be manufactured here for less than \$3 42 putting down the copper in England at I think twelve cents and here at twenty-four cents. So the copper already costs the manufacturer in this country a great deal more than it does the English manufacturer; but the duty of forty-five per cent. I suppose would enable the American manufacturers to compete with the English.

Mr. MORRILL, of Vermont. Mr. President, in dealing with such subjects as these I have always found that it was necessary to be just to all interests. The present duty upon copper ore is only five per cent. Therefore the specific rate of duty here of three cents a pound on ores upon all the copper contained therein is at once a very large increase, and it will inevitably have the effect to be disastrous to all who are engaged in commerce in bringing the ores here; and our shipping at the present moment throughout the country is very much depressed. I would not in helping and aiding the copper interest strike down another of equal magnitude.

It is true, as the Senator has said, that when the tariff of 1861 was put upon copper two cents a pound upon raw copper was looked upon as something entirely inconsequential to the interests of Michigan, and its representatives then said that it would not be five years before they would be able to supply the world with all the copper that was needed; and in point of fact at that time they were exporting raw copper from this country to a very considerable amount.

Now, sir, the real trouble in regard to this matter, after all, in manufacturing iron or copper or anything else, is in consequence of our inflated currency. It is impossible that we should compete with foreigners and do business successfully while we have an inflated currency.

Mr. President, when we place a duty upon the sulphurets we shall place all that is demanded on the part of the Senator from Michigan upon those ores that come in from the British provinces. I only propose that there shall be one cent a pound less upon the carbonates which are brought here and are needed in the country even for the manufacture of our own sulphurets where they have not wood. For example, on the Pacific coast, in California and in Oregon, they will protest against the idea of having a duty placed upon carbonate ores that shall be prohibitory, because on the Pacific coast they have not wood, they have not coal by which those ores can be smelted, and it is therefore profitable to them that they should be continued to be brought together. In my own State for years we sent these sulphurets to Boston and to Baltimore even; but recently they have established smelting works, so that they are going to smelt at home, and we have no interest in the matter.

But I do contend that it is necessary that we should be just in all these adjustments of the tariff to all interests that are involved; and it seems to me that my friend from Michigan ought to be content with one cent a pound less upon the carbonates. I think we shall be likely to enact a measure which will be far more stable and arouse much less hostility if we do that. I hope the Senator will consent to that.

Mr. CHANDLER. The protective duty on lead ore is a cent and a half a pound, or more than fifty per cent.

Mr. MORRILL, of Vermont. For the simple reason that lead ores are almost pure when taken out, yielding not less than seventy-five per cent. of pure metal.

Mr. CHANDLER. Well, the duty on lead in bars is fifty per cent. All we ask for copper

is three cents a pound on twenty-four cents. Is that an unreasonable protection to so large an interest? The Senator from Vermont proposes to reduce that to two cents on the carbonates. If we reduce it on the carbonates I would just as soon he should reduce it on the sulphurets at the same time. It is carbonates that we mean to reach; it is carbonates that trouble us, and not sulphurets. It is a pretense of relief to pass a bill providing three cents a pound duty, if you confine it to sulphurets.

I hope the Senate will grant this reasonable relief to this large interest, for I assure members of this body that it is the very least that will keep our mines in operation. This is a very moderate protection. While lead is protected fifty per cent. both in the ore and in bars, while coal is protected sixty per cent., while iron is protected more than fifty per cent. on an average, is it reasonable or is it just that you should throw out this great interest in which more than fifty million dollars are invested, feeding on Lake Superior alone something like twenty or thirty thousand people? I ask, is it right to leave this great interest with the small protection of two cents a pound, which would amount to only about eight per cent. on a home valuation? We are reasonable on our demands, and I hope the Senate will accede to these reasonable demands and will vote down this amendment of the Senator from Vermont.

Mr. FERRY. Mr. President, I am in favor of the amendment proposed by the Senator from Vermont, and I intend at present to confine the few remarks that I make to the subject-matter of that amendment. The amendment does not particularly affect any manufacturing establishment in my State, but it is simply on account of its intrinsic justice that I advocate it; and in order to ascertain what we ought to do in reference to an amendment of this kind, it is desirable to ascertain what is the comparative amount of the interests which are here in conflict.

The Senator from Michigan informs us that the Lake Superior copper mines, for whose benefit alone this bill is offered here, represent an interest of \$50,000,000, and that that interest is now so depressed that not more than three-fourths of the companies are in operation.

Now, sir, what is this Lake Superior mining interest? It is in the procuring of the native copper from its natural beds in the earth. It commenced as an interest about the year 1845 with a joint stock excitement in Lake Superior mining stocks somewhat akin to the petroleum excitement of four or five years ago. A large number of mining companies were formed, joint stock companies. I have a list of them in my hand which, I take it, will not be disputed by the Senator from Michigan, the paper being "statistics of the Lake Superior copper mines, from the commencement of operations in 1845 to January 1, 1868, including detailed statements of the operations of 1867, carefully collected and compiled by H. McKenzie, editor Portage Lake Mining Gazette, Houghton, Michigan," which I believe is the best authority for statistics of the mines of the Lake Superior region. These joint stock companies, if you add up their nominal capital, represent \$50,000,000 undoubtedly.

Mr. HOWARD. They are not all joint stock companies; they are corporations.

Mr. FERRY. Be it so. These corporations, then, represent perhaps \$50,000,000; but in not one of them is the capital stock paid in full, according to the report which I hold in my hand; and the capital stock is only paid in in the proportion of from one-fifth to one-twenty-fifth of its nominal amount. The list before me shows the amounts paid in; and in corporations whose shares have a par value of twenty-five dollars I find the amount paid in ranges from a dollar and a half to five dollars a share. Added to this is a large nominal value of the land; and the total amount, including this nominal value of the land originally put in as part of the paid up capital of these corporations, amounts to \$16,600,000.

I have been unable to ascertain how much of this represents cash actually paid in. But, sir, the real difficulty with the Lake Superior mining companies is not the want of protection, but it is that the stockholders in those corporations, unwilling to pay in their capital into the enterprise, are endeavoring to derive that capital by bounties assessed by Congress upon the whole body of the people.

Now, sir, what interests come in conflict with the Lake Superior mining companies? We have before us, adverse to this bill, the petition of the Baltimore Copper Company, with a capital of \$1,000,000; we have a petition of ship-builders of the United States; we have a petition of ship-owners of the United States; we have a petition of three California mining companies; we have the petition of Moore & Co., of the Keystone copper mine; another of the copper mines of Nevada; another of the Mineral Hill mine of Maryland; of the Cornwell ore bank of Pennsylvania; of the Bear Hill mine of Maryland, and of the Waterbury Copper and Brass Company of Connecticut—interests very diversified, embracing those engaged in the smelting of American ores by combining them with foreign ores, in the proportion of three of the American ores to one of the foreign; embracing our great ship-building interest, and also our commercial interest, represented by the petition of the shipowners. We have these other various copper mining associations who need to use these foreign carbonates for the purpose of carrying on their business successfully. And, sir, it is not a mere question whether we will benefit these corporations, who own the Lake Superior mining region and are unwilling to assess themselves to pay up their capital stock that they may have sufficient capital to continue their operations; it is not simply these that are to be considered, but whether all these other interests who come in here and protest against paying bounties to the corporations owning the mines in the Lake Superior region shall be regarded by the Senate.

I find upon the Atlantic coast in the smelting of ores four corporations: the Baltimore Copper Company, as I have said, with a capital of \$1,000,000; the Bergen Point Smelting Company, with a capital of \$250,000; the Revere Company, of Boston, with a capital of \$500,000, and Crocker Brothers, at Taunton, Massachusetts, with a capital of \$500,000. And it is substantially admitted here that the passage of this bill, levying this tax upon importations of the carbonate ores, will strike down and destroy all this great interest, and connected with this interest is also the commercial interest engaged in the importation of these ores from Chili.

The Senator from Michigan says it would be absurd and foolish to levy a tax upon iron ore, because it would not pay the importation. Is it possible that in the production of native copper from the bowels of the earth in our own country capital in sufficient amount properly invested in such an enterprise cannot compete with those who are obliged to import the bulky and expensive (in importation) article of ore from Chili and from Cuba?

Now, sir, as I said, I intend at present to confine myself entirely to the amendment properly before the Senate at this time. The Senator from Vermont has expressed a sentiment which I think ought always to actuate the Senate, and that is, that in dealing with our revenue system, whether internal or tariff, the Congress of the United States ought, above all things, to be just. Here is this large interest upon the Atlantic coast, with industry, with enterprise, with energy, with capital, embarking in the production of copper by the admixture of a small portion of foreign ores with a threefold proportion of American ores, which it is proposed absolutely to destroy in order that some additional profit may be made by the mining companies of a particular region.

The Senator from Michigan tell us that this mining interest is struck down; that three-fourths of these companies are not in employ-

ment. Why, sir, three-fourths of these companies have not been actively engaged in mining copper for fifteen years. The Senator can take the list; and if he will look over the list which I hold in my hand, the correctness of which I think he will acknowledge, he will find the fact to be so. The fever, the excitement as to the copper joint stock or corporate organizations in 1845 soon died out, but the companies were left. Pass this bill and you will double the value of the shares temporarily, and enable the speculators in Boston and New York to dispose of them at a profit.

But, sir, is it really so that this interest is struck down? Let us see. I hold in my hand, in the statistics to which I have already referred, an account of the product of the Lake Superior copper mines from 1845 to 1868; and straight on that production has been steadily increasing and is increasing still. The years 1845 to 1854 are given in the aggregate, and also 1855 to 1857, and after that the product is stated annually. Here it is:

	Tons.	Pounds.
From 1845 to 1854.....	7,612	-
From 1855 to 1857.....	11,312	-
In 1858.....	3,500	-
In 1859.....	4,200	-
In 1860.....	6,000	-
In 1861.....	7,400	-
In 1862.....	9,682	-
In 1863.....	8,548	-
In 1864.....	8,472	-
In 1865.....	10,790	1,156
In 1866.....	10,375	1,688
In 1867.....	11,735	552

The last year there was produced a larger amount than in any preceding year. I also had here, but cannot lay my hand on it at this moment, a statement of the production for each month for the year 1868 up to and including the month of July; and the production of each month was more than that of the month preceding. How am I to reconcile these statistics from the most authoritative journal in this mining region—statistics showing a steady increase in the production of copper from these mines—with the statement which is made here that they are absolutely prostrate, that thousands of laborers are not employed, and so on? The two seem to me entirely irreconcilable. If the Senate will take a list of these mining corporations and select those which have had the largest amount of their capital paid in to work on he will find that those who have assessed themselves and obtained the capital to work on have declared remunerative dividends; but the great mass of them, like the hundreds of petroleum companies of 1864 and 1865, of course, have sunk into non-existence.

The simple question arising for the consideration of the Senate upon the amendment of the Senator from Vermont is whether while you are protecting the interests of the Lake Superior mining companies you will also protect the smelting companies of the Atlantic coast from absolute destruction. The mining companies of Lake Superior, if they will assess their corporators and compel them to pay in the capital which they pledged themselves to pay when they subscribed for their stock, will have a working capital on which I have no doubt they can operate successfully. The mining companies, by the report which I hold in my hand, have been steadily increasing in their product up to the present hour—a certainly sure indication of prosperity; and they are not going to be destroyed by not giving the full length of protection which the Senator from Michigan asks. Some protection the amendment of the Senator from Vermont gives them; but the fault which is found with the amendment of the Senator from Vermont is that it does not destroy the vast interests upon the Atlantic coast, and that object the Lake Superior interest seeks to accomplish. I hope the Senate will vote for the amendment of the Senator from Vermont.

Mr. CHANDLER. Mr. President, I hold in my hand a table of the production of copper from 1845 down to the present hour. The Senator says that the capital of these companies has not all been paid in. That is true. These companies started mining as far back

as 1845, and went on from year to year investing their whole earnings in improvements. They have not divided three per cent., since the mines were started, upon the capital actually invested in these works; but they have gone on up to the present time investing the product of the mines in improvements instead of dividing the profits. Is not that as much actual *bona fide* capital paid in as though they had originally taken the money out of their own pockets? But, sir, there has been in assessments, in actual cash paid in, over sixteen million dollars.

Mr. FERRY. May I ask the Senator a question?

Mr. CHANDLER. Certainly.

Mr. FERRY. Is there not included in that \$16,000,000 the valuation of the lands which were put in as part of the capital stock?

Mr. CHANDLER. No, sir. There has been more than \$16,000,000 in hard money taken there and invested in operations upon these mines, and they have gone on for more than twenty years, using the earned capital to improve and develop their works, and now, forsooth, they are to be called pauper concerns because with the capital earned in twenty years they cannot make the business remunerative under the system of tariff protection adopted and carried out in the Senator's State in Connecticut, which taxes them beyond their power to work their mines.

Sir, the Senator from Connecticut does not surprise me in his opposition to this bill. It is not the first time that Michigan interests have been attacked from Connecticut. She has attacked our lumber, our salt, our copper, our iron, our wool, everything that we produce. She is in the situation that Jeff. Davis was after he had organized his confederacy and set his government in motion—he wanted to be let alone; and that is what Connecticut wants. The Senator told me the other day that he was in favor of free trade, and said that if we would take off the duty on wool he was prepared to take off the duty on manufactured goods. Well, sir, let us see where we should land, for there is where we are coming to. The day has gone by when they are to be let alone with these really protective and remunerative tariffs that exist in all the manufacturing States. If you are going to strike down these new interests rising in the West and Northwest rest assured we will not let you alone, but we will take a horizontal tariff, which will be a good protection for our copper, our iron, our lumber, our wheat, our wool, and you may fix the amount; I do not care what you make it, twenty, thirty, forty, or fifty per cent.; it will be protection to us, and then if your clocks will not run, let them stop. [Laughter.]

Now, let me show what are some of the "equal" duties we now have! If we should take off twelve cents duty on wool the Senator says he is content to take off the duties on manufactures. I find that the present duty on all flannels under thirty cents a pound is twenty-four cents a pound specific and thirty per cent. *ad valorem*; on all flannels over thirty and under forty cents, twenty-four cents a pound specific and thirty-five per cent. *ad valorem*; on carpets worth \$1 25 a yard seventy-five cents a yard specific; and so you may go through the whole list. I have it here, and every article produced in the State of Connecticut is protected overwhelmingly; and now where we have over fifty million dollars invested in works that save to this nation millions upon millions in gold that would to-day go out for the purchase of this article if it were not produced here, the Senator says "let us alone; we will not give you any protection; stop your mines; what do we care." Very well I say in return, "we will stop your factories, if it comes to that; the day has gone by for protecting one interest to the injury of another." Sir, you will find that the Northwest will be solid and the South will be solid; you must grant equal protection to all interests throughout the United States, or you must abandon your own protection; we will treat

you as we did Jeff. Davis's government; we will not let you alone!

Mr. President, as I have shown before, there is not a single interest in all the United States that is not more liberally protected than the protection we ask upon this copper interest. You may call copper a raw material; but, as I said before, it is a raw material two thousand feet under the surface of the earth, embedded in the rock, and it costs us \$400 a ton to raise that raw material and make it into ingot copper. Now, sir, will you protect your clocks, will you protect your buttons, will you protect your carpets and your flannels, and then cry to us, "Let us alone; we will slaughter your lumber; we will slaughter your salt; we will stop your iron mines; but let us alone!"

I hope, Mr. President, that this amendment of the Senator from Vermont will not be adopted, but that you will grant us this reasonable, this smaller protection than is granted to any other interest, of twelve and a half per cent. on the home valuation, or fifteen or sixteen per cent. upon the foreign valuation. I hope the amendment will not prevail.

Mr. FERRY. Mr. President, I do not know what I have said or done that should draw upon my little State of Connecticut the vengeance of the Senator from Michigan to this extent. I have said nothing about lumber or salt or wool. I have been arguing here for justice to certain great interests, not one of which has an establishment in my State; and instead of meeting my argument the gentleman turns upon me with a threat that all protection shall be taken off from all fabrics manufactured in Connecticut; that they will not let us alone; that we shall be treated as he would have treated Jeff. Davis! Well now, sir, I have just this to say about my State of Connecticut in this connection: we ask no favors of the Senator from Michigan; we have not been accustomed in that little Commonwealth to look up to the Government of the United States to help us in developing our resources and building up our enterprises. Sir, by the energy, the industry, the capital of Connecticut, invested and developed through the indomitable perseverance of its people since the very foundation of this Government, its rocky hills have been made to blossom as the rose; its every valley has been made to resound with the hum of machinery.

Sir, you may strike off from your statute-book every farthing of protection which you give to our interests, and Connecticut will go on as she has gone on in the past. You may take away from us your tariffs; you cannot take away from us the indomitable energy of our people. You may take away from us your protection as you term it; but, sir, a people whose sailors visit the remotest regions of the Arctic and the Antarctic zones, whose merchants follow the sea-birds in their flight to the lone guano islands of the Pacific to bring back home fertility to our rocky hill-sides; a people who have gone out the pioneers of civilization all over this land, whose foot-prints are seen in the church and the school-house from the Atlantic to the Pacific, are not to be put down by taking away your tariff and your protection. We ask no favors; and, sir, the people of Connecticut, as a part of the governing power of this great Republic I know will be unwilling that their representatives here shall stand silently and see this nation pledging itself to injustice by absolutely striking down and destroying the great interests of one section of the land to build up a mere local interest in a single State. It is not right, sir; and because it is not right, not because it affects my local interests, do I stand here to oppose this bill unless the amendment of the Senator from Vermont should be adopted.

Mr. WHYTE. Mr. President, I desire to add a proviso, after the word "therein" in the tenth line of the bill. I send it to the desk to be read.

The Chief Clerk read as follows:

Provided, That if any person, corporation, company, or partnership engaged in the business of

smelting copper ores shall import any foreign carbonate copper ores into the United States, and shall, on making such importation, file with the collector of the port into which such foreign copper ores were imported, a bond, with security, to be approved by the collector of said port into which said ores are imported, to use two tons of copper ore, mined in the United States, to one ton of said imported ores in the smelting of copper, such person, corporation, company, or partnership shall be entitled to a drawback upon the foreign copper ores so imported to the extent of the duty paid thereon: *Provided*, That said person, corporation, company, or partnership shall furnish evidence under regulations to be established by the Secretary of the Treasury, that he, it, or they have, or has used the said copper ores so imported, and also copper ores mined in the United States in its, his, or their business, in the proportion of two tons of copper ore mined in the United States to one ton of imported copper ore.

Mr. WHYTE. Mr. President, I ask the indulgence of the Senate for a very brief period while I state the reasons which have impelled me to ask the adoption of the proviso which has just been read by the Clerk. I will state frankly, to begin with, that I am opposed to any change in the duty upon copper at all; but if there is to be a change, I think it but right and proper that an equitable and just rule should be adopted.

By the tariff act of March 2, 1861, there is levied upon copper ores imported into the United States an *ad valorem* tax or duty equivalent to about three fourths of a cent per pound. A proposition was made, I believe, during the last session of Congress, to revise the whole tariff act, and the subject was in the Committee of Ways and Means of the other House, when suddenly this bill left its associates in the general bill, came into the House with velodipal speed, almost passed at its last session—indeed I believe it was on its passage at the moment when the Speaker's hammer fell and announced the adjournment of Congress. At this session in its very opening the same bill shot from the House of Representatives into the Senate like a meteor, was referred to the Committee on Finance, and reported back with favor almost before the ink had dried with which its reference had been recorded. And now, and daily almost since its report here, we have heard and seen it pressed with an ardor and warmth unsurpassed by anything I have witnessed during my short service in this Chamber.

Now, let us see, Mr. President, what this bill proposes. It proposes a change in the duties on various articles; but I shall confine myself solely to the ores, and leave to other gentlemen more familiar with the subject to discuss the other propositions contained in the bill. It proposes in regard to ores to raise the duty from three fourths of a cent a pound, or its equivalent when imposed as an *ad valorem*, to three cents a pound.

I would ask the Senators who have listened to the discussion of this bill what reasons have been proposed why this change should take place? I have looked and listened in vain for any argument other than that it is required and wanted by the copper miners on the southern shore of Lake Superior. I find no argument of a general character; I find no reasons large and liberal for such a policy; nothing whatever to command the support and sanction of the Senate but that the copper miners of Lake Superior desire and demand it!

Sir, I am frank to say that if the issue here was one between American laborers and foreign laborers—I care not whether they be convicts or not—if the issue here was simply for the protection of American laborers against foreign laborers, probably there would be but one side to the question in this Chamber. Or, again, if it were to benefit a class of worthy men in our country and not to the detriment of another and larger and quite as worthy class in other parts of the country, it might have some pretext for its claim to the sympathy and to the support of the Senate. But we hear a protest from the smelters and the miners throughout the country on the Atlantic and Pacific coasts against the injustice of the passage of this bill. We are called upon to act on it as a Senate legislating not for a class, not for a locality,

not for two counties in a State, but legislating for the whole country and the people of the country.

We have heard the cry of distress from the shores of Lake Superior. We have heard that echoed and re-echoed in this Chamber by the distinguished Senators from the State of Michigan. We have heard of the tenantless houses and the homeless laborers. We have heard all that, and it meets with a response of sympathy in every heart. But we can go into the great city of New York and stand almost within sound of the clinking of the gold in Wall street and find two hundred thousand men, women, and children out of work, raising up their hands and asking for bread. Would to God we could legislate for them all; but we might as well pass laws to give work to the unemployed in New York and Pennsylvania and Massachusetts as to pass a bill like this, which is to benefit only a small class in a State and to damnify a larger and equally meritorious class in other States.

Now, what is the issue? The distinguished Senators from Michigan tell the Senate that they need this protection in Michigan—need it where they have the native virgin copper, where they have no expense of smelting, where all that is required is to melt their copper. With all these advantages they need protection, and cannot live under a tariff which imposes three fourths of a cent a pound duty! The smelters and miners on the Atlantic coasts tell you that if you take the tariff of 1861 and revise it by granting a greater rate of duty than that already imposed the duty becomes prohibitory, and while you benefit that class in Michigan you but rob Peter to pay Paul; you but take from the miners and smelters on the coast and in the interior of the country their livelihood and their support, because the tariff you impose becomes prohibitory in its character. They go a step further, and they tell you that they have no desire to prevent the enhancement of the tariff upon sulphuret ores, which are the competing ores with the ores of our country; but they say to you that if you put such a duty upon carbonates, which are absolutely essential for them in the economical smelting of the sulphuret ores of that country, that tariff becomes prohibitory and you destroy their work.

Why, Mr. President, when I look to the operation of this bill and see that while it may be beneficial to the gentleman's constituents in Michigan it commits a most destructive assault upon worthy people in other parts of the country, I am amazed that Senators whose voices so often thunder in the Senate in behalf of equal rights and equal privileges to all American citizens should stand upon this floor and ask protection to a class not exceeding ten thousand in the aggregate as against a class numbering hundreds of thousands throughout the United States.

No man who knows anything really of the smelting of copper will maintain that you cannot smelt sulphuret ores without the admixture of carbonates. If any such statement is made in any paper upon Senators' tables, it is a misprint; the word "economically" has evidently been left out. No man who knows anything of smelting will assert that you cannot smelt them; but he who knows anything of the process of smelting will tell you that you cannot smelt them cheaply or economically, you cannot compete with the foreign copper unless you can smelt cheaply your domestic ores by an admixture of foreign carbonates.

I ask the attention of the Senate very briefly—for I do not desire even on a subject of as much interest as this to trespass long on the time of the body—to that statement which I have just made, that you cannot smelt cheaply sulphuret ores without the admixture of carbonates. In the letter of Professor Piggot, the only man I know of in America who has ever published a book on the subject of smelting, a man who stands preëminently high in his profession, speaking of this very subject, says:

"It is difficult to define exactly the relative expenses of the two processes."

That is, the smelting without carbonates and the smelting with carbonates:

"To attempt to smelt copper from sulphurets alone would ruin any one who undertakes it at our present prices of labor and coal."

And on page 12 of the same pamphlet, which I find lying upon the tables of Senators, he says:

"The judicious use of carbonates greatly diminishes the number of operations. The abbreviation of smelting, in this respect, will depend upon the skill of the workmen. In Chili they get blister copper from the mixed carbonates and sulphurets in three operations."

"I should suppose, in view of all these facts, that the economy effected by the use of the ores in question would be at least five cents a pound on the copper produced."

Again:

"The smelting of sulphuret ores by themselves would probably ruin either the miners or the smelters. If copper remains at its present price the expenses of its production would be so enormously increased that the price of ores, which are certainly low enough already, would go down to a point at which the miner could not afford to raise them. The result would be the destruction of both the mining and smelting interests. If, on the other hand, copper should rise in value every article in which this metal is employed would be enhanced, and the whole public would be taxed without benefit to any one"—except to the Lake Superior miners.

I might refer also to the statement of Professor Ewell, which I find also upon the tables of Senators, in which he maintains identically the same ground; and therefore I say that Mr. Raht or Mr. anybody else need not combat the argument that you cannot smelt copper sulphuret ores at all. I do not suppose any man of sense will make such an assertion; but in order to smelt them without the use of carbonates it requires ten or twelve processes, involving the most enormous labor and expense, while if you use the carbonates you can reduce the processes to from four to six or seven. There is the point of the whole thing. It may be true that the Tennessee Mining Company does not use any carbonates in smelting its ores. It is situated far from the Atlantic coast and the expense of transporting heavy ores over railroads or by navigation to their mines in order to get carbonates might be much more expensive than to cut down the wood all around them, and to use charcoal for the process by which they smelt; but that gentleman does not tell us how cheaply he has smelted, and he does not tell us how much money he has lost by his smelting. And if it be true, as I have heard it alleged—and his letter bears some ear-marks like it—that the stockholders of the Consolidated Mining Company of Tennessee are more largely interested in the mining companies upon the shores of Lake Superior, the profit that is to be made by the imposition of such a tariff as this on the copper stock of Lake Superior will counterbalance all the losses upon the Tennessee stock. Wall street understands that sort of financing.

Another distinguished gentleman, but who, I presume, is not an expert, Mr. Sibley, states that it is from the carbonate that the Atlantic smelter produces copper, and not from the native sulphuret ore. The easiest and best reply to that is simply to ask the attention of the Senate to what the cost of carbonate ores is in South America without imposing any duty at all, and then to look at the price of copper, and then to inquire why it is that the smelters of Maryland and all along the coast of New Jersey are satisfied that the tariff should remain as it is, and with copper at only twenty-three cents per pound. The cost to import carbonate ores from South America on the 30th of December last was as follows:

"A quintal is one hundred and one and forty-four hundredths pounds.	
Ore usually costs in South America three dollars per quintal, which is, per ton of 2,240 pounds.....	\$66 54
Export duty about.....	1 00
Commissions for buying and shipping, five per cent.....	3 34
Cost of sampling, assaying, &c.....	1 00
Freight, £3 5s. sterling.....	15 73
	<hr/> \$87 61

"One ton of eighteen per cent. ore is four hundred and three pounds copper, making copper in ore cost twenty-one and three quarter cents per pound in gold, not including any duties or exchange."

If it costs in South America twenty-one and three fourths cents per pound without duty, and without adding exchange, without the cost of smelting in this country, how can it be true when these smelting companies tell you they are satisfied that it shall remain as it is, and copper only brings twenty-three cents a pound? If we are to depend upon facts and arguments, it is unanswerable. If we are to be led by feeling, if it is the desire merely to foster and pamper one class to the damnification of another class, facts and figures are valueless; but if they are argument, I ask some gentleman to tell me how can it be true that the president of a smelting company is satisfied things shall remain as they are with copper bringing but twenty-three cents a pound, and carbonates in Chili costing twenty-one and three fourths cents per pound? The answer is that the allegation of the smelters is true and not false, that they only use a proportionate part of foreign carbonates to work the sulphuret ores of our own country; that they use them in the proportion of one ton to two of the others. All that they ask is, and that is the proviso which I have submitted to the consideration of the Senate, that they may be permitted, for the purpose of working the mines of your own country, for the purpose of developing the wealth of your own land, to import that which is necessary to the economical smelting of the ores of your country in the proportion of one third foreign to two thirds native.

Now, I ask the attention of the Senate to another proposition. As I said before, the copper mines of Lake Superior furnish copper in the mass—virgin copper. From 1845 to 1851 they turned out but five thousand tons in the whole eight years; and now the production is only about nine million pounds; and yet there are consumed in this country and exported from this country from twenty-four to twenty-five million pounds each year, showing that the Lake Superior mines only contribute to the amount of copper consumed in and exported from this country a proportion of one third; and yet you are asked to put a tax upon the two thirds in order to pay the one third more than its get now. What else will it do? It is nothing more nor less, taking as the basis nine million pounds a year, than this: if they have not sold that copper you are making them a present of \$225,000. That is the effect of this bill—a bonus to the Lake Superior mines of \$225,000 this year, and next year, and in proportion as they produce. Where does it go? Who is to pay for it? The ship-builders of Maine and Massachusetts; the manufacturers of Connecticut, Massachusetts, and New Jersey. All those have got to pay for the copper that they roll a bonus of \$225,000 to the copper mines of Lake Superior.

But that is not all. The Government of the United States, which it is our duty to protect upon the floor of this Chamber, is bound to contribute a large portion of this tax that you are putting upon the copper of the country. Go to the Washington navy-yard and see there the magnificent copper-rolling mill belonging to the Government. There you will find that they use about one million six hundred thousand pounds a year, only one half of which comes from Lake Superior; the other half comes from the copper-smelting companies on the Atlantic borders. I tell the Senate—and they will pardon me if I say so—for sixty odd years my people were manufacturers of copper; but never since 1866 have any of us had any relation with the copper interests of the country, either in the holding of a dollar's worth of stock of any sort or description, or in any other way. But for sixty odd years we were manufacturers of copper, and manufactured the very copper that covered the dome of your Capitol until it was displaced by the iron structure which now adorns it. After being personally, for ten years, interested in the business of rolling and manufacturing copper, and president of a copper company, I assert, upon my knowledge and responsibility,

that no company on the Atlantic coast can roll the lake copper without the admixture of other copper to make their copper good. I ask Senators to go to the copper-rolling mill at the navy-yard, which is now presided over by a man whom we educated and gave to the Government, and ask him if he will roll Lake Superior copper unless he has the Baltimore copper to admix with it. It is too soft. In refining the copper—I speak from personal experience—I always, while president of a company, found that it was absolutely necessary to use one third of the Lake Superior copper with two thirds of the Baltimore copper. If you put this high tariff upon copper, you put the lake copper in possession entirely of the market; and when you go down to your own rolling mill here at the Washington navy-yard, and see there a million and a half pounds of copper rolled in the year, you will find that by your vote you gave to the Lake Superior mines \$36,000 as a bonus to drive out of the market every other class of copper in this country.

These are facts which no man can gainsay; and with these facts before the Senate will the Senate say that they will listen to the complaint of miners in one State alone, occupying probably two counties of that State? Will they hear their cry and turn a deaf ear to the cry of others from all parts of the country? Is it right to create a monopoly in copper, to build up one class to the injury of another? Will you strike down the miners upon the Pacific coast who have sent thousands and thousands of tons to Baltimore and to Swansea—nearly as much to Baltimore as to Swansea; the miners of Nevada, North Carolina, Maryland, Vermont, and New Jersey, to benefit those of Michigan alone? But, on the other hand, will you not do even and exact justice to all, and by adopting the proviso which I have offered for the consideration of the Senate put your high tariff, if you please, on sulphuret ores which compete with our native sulphurets, but in order to the working of our native sulphurets allow us a drawback upon the carbonate ores when we satisfy the proper officers of the revenue department that we have used two tons of native ore to each one ton of foreign ore that we have imported?

Mr. SHERMAN. Mr. President, I do not rise to speak in behalf of any interest in my own State, or of any interest whatever; but I feel bound to state very briefly the reasons why the Committee on Finance reported this bill in its present form. It was introduced into the House of Representatives at the last session, reported from the Committee of Ways and Means, and finally at the present session was passed by a vote of about two to one. It came to the Senate and was referred to the Committee on Finance, and there it was more or less discussed.

The rates proposed by this bill are substantially the rates agreed upon two sessions ago, when the whole tariff question was before the Committee on Finance. The rates then reported by the Committee on Finance were:

"On regulus of copper, fifteen per cent.; on copper in pigs, five cents per pound."

The same that is now provided.

"On old copper, fifteen per cent. *ad valorem*."

Taking copper at the foreign valuation, at from twenty-five to twenty-seven cents, which Senators on all hands agree to be the present market price, the rates fixed by this bill are a little less than twenty per cent. on the foreign valuation; so that they are about the same with scarcely any variations as the rates agreed upon two years ago in the general revision of the tariff.

It seems to me it is not necessary to go into a comparison of duties to show that this is a very low rate of duty. There is no other article even of raw production that can be produced in this country which bears a lower rate of duty. I believe twenty per cent. is the rate of duty even on lumber, the process of unmanufactured material. So that the rate of duty provided by this bill is as low as any rate that

can afford any protection to the Lake Superior interests. It is less than or about as low as any duty levied on any American production, however raw may be the state of it.

Now, the question occurs, why separate this subject from the general tariff bill? Why take up and consider this matter for the relief of the interests of Lake Superior until we can revise the general tariff, which cannot, probably, be done at this session? The only answer that can be made to that is, that the copper interest, according to the testimony produced before us, was in a state of utter distrust and prostration. They did not formerly desire any protection on copper. It appears from the history of the discovery of the mines and working of mines of copper in Lake Superior that until the war there was no demand on the part of the Representatives of the State of Michigan, or on the part of those interested, for any protection whatever; but they allege that the taxes put upon industry in various forms during the war, the increased price of living, the increased cost of labor, and all the various elements that enter into the increased price of the manufacture of copper place them at a disadvantage, a disadvantage created by our laws, and unless we can give them some protection to counteract the disadvantage thus created against them they will lose the benefit of the home market, and the native ores of Lake Superior, which are dug out in a state of almost pure metal, will be driven out of the market and superseded by the productions from the copper ores of Peru, Chili, and other foreign countries. These considerations seemed to be sufficient to account for separating this question from the general tariff bill and asking the vote of the Senate upon it. The bill came to us in this form from the House of Representatives.

Mr. President, I have carefully examined the papers submitted to us by Mr. Martin, the president of the company referred to, and the various papers presented against this bill, and I must confess they have not made much impression upon me. According to their statement it requires about one ton of carbonate of copper to mix with two or three tons of sulphuret of copper to make copper, and the production from these ores united with the copper of Lake Superior, which is produced by smelting, makes the best form of copper. I will ask my friend from Maryland if I am right about that?

Mr. WHYTE. Yes, sir.

Mr. SHERMAN. Now, if you pass this bill what will be the effect of it? The only duty levied upon the carbonate of copper is three cents per pound of pure ore in that copper. The pure ore is worth, in gold, on the foreign valuation, at the present market price, twenty-seven cents a pound; so that the only tax upon the ore will be three cents on twenty-seven, or about eleven or twelve per cent. And remember that this tax does not apply to the whole of the ore used in the production of copper in Baltimore, but it only applies to one ton out of three, or one ton out of four. They use three of sulphuret for one of carbonate. So that the Baltimore manufacturer will only have to pay a duty of three cents on an article that is worth in its foreign state, in gold, twenty-seven cents, or only about eleven or twelve per cent., or one third of the ore used by him in the manufacture. It seems to me this is not so severe a burden upon him; not so great as to destroy his business, that we should refuse to give to an interest that maintains a large population in a remote portion of Michigan, and which has already caused the investment of over fifty million dollars, some immediate relief. The duty now levied upon copper, when distributed and added to the price, as it will be, of the copper manufactured, will not be any very material increase of the cost of the manufactured article.

I think, myself, that in connection with this increase of duty on the ore, there ought to be some increase on the coarser fabrics of copper manufacture; but that would open a very wide

and very difficult subject, because copper is made the basis of an infinite variety of manufacture, extending to a multitude of small articles, screws and a great variety of objects, where the great cost of the article is in the labor of manufacture and not in the cost of copper. Indeed, copper forms the element, the basis of manufacture in a multitude of small articles of household economy where the cost of the copper forms but a very small portion of the cost of the finished article. It seems to me, therefore, that the increased cost of copper made by this bill will not seriously damage any manufacturing industry, while it will give a reasonable relief to an interest that on all hands is admitted to be in the sorest distress.

These are the reasons, briefly stated, why the Committee on Finance reported this bill without amendment. It does not, as I said before, affect any of the interests of Ohio. We are not interested in copper ore or the production of copper ore. But we cannot maintain the tariff system by any serious discrimination between articles of American production. The idea of exempting the raw material from all taxes and putting a heavier duty on the manufactured article is only a question of degree. Every article of American production is a raw material in some state. Copper to the miner is not a raw material; it is the product of his labor. The copper in the mine is of no value whatever. The value of that copper represents the amount of labor it costs to produce it. When it is smelted and put into bars it has an additional value. When it is rolled into sheets it has an additional value. Then the sheet copper becomes a raw material in the manufacture of a great multitude of other articles, and those articles themselves become the raw material with which the house-builder builds a house, with which a locomotive may be built, and the locomotive completed, with copper making a part of its cost, becomes a raw material for the great railroad interests of the country; so that it is impossible to discriminate and say that on an article of manufacture a duty may be levied, but on a raw product of the mine, or of the farm, or of the workshop no duty should be levied. I believe that the coarser the fabric, the more bulky it is, the less protection is required. It seems to me that the rule and theory of protection would extend to every branch of American industry. The great difficulty is in apportioning and arranging and distributing the burden of protective duties. I think that this is not an unreasonable duty, and that the passage of this bill will not oppress any interest, while it will relieve the copper interests of Lake Superior.

Mr. HOWARD. Mr. President, I shall occupy the time of the Senate but for a few minutes. Being entirely unable to throw any additional light on the subject, I think my best policy will be to make a very short speech and let this bill be brought to a vote at the earliest possible moment.

It is not to be denied, of course, Mr. President, that the great interest felt in the passage of this bill is confined more particularly to that class of our fellow-citizens who are interested in mining in what is known as the upper peninsula of Michigan. The reason is very plain. That region contains the richest deposits of the ore of copper to be found anywhere upon the continent. We have invested, honestly and fairly, in the business of copper-mining in that upper peninsula more than sixty million dollars, the productiveness of which investment depends upon the productiveness and value of the mines. This is not to be doubted. Nobody who has given the subject proper attention will be disposed to deny, for it cannot be truthfully denied, that in consequence of the present low rate of duty upon copper ores that interest has become almost prostrated, and unless those who are interested in the business receive something like reasonable aid and protection at the hands of the Government they will be compelled to discontinue their labors, to withdraw their capital, so far as it is possible to withdraw it, from the present investments, and

many of the companies will be driven to absolute bankruptcy.

Sir, it is a great interest, speaking in the national sense. It is not confined merely to the limits of the upper peninsula or to the boundaries of the State of Michigan, but it is coextensive with the United States. Wherever copper is used this interest has a certain influence, and is to a certain degree felt.

There appears to be but one very potent opposition in the way of the passage of this bill, and that consists of the Baltimore smelting works. I suppose that is a corporation. Its business is smelting copper. It has invested, as I understand from credible sources, not more than one and a half million dollars. The real question before us is, as I understand it, whether the paltry interest of the Baltimore Copper Smelting Company is to prevent the passage of an act the benefits of which are to be coextensive with the United States, and particularly beneficial to those persons who are interested in the Lake Superior copper mines. Shall an interest of \$1,500,000 invested in smelting counterbalance and overcome before this body an interest amounting to more than sixty million dollars all told? That is simply the question. I take it that that will not be the opinion of the Senate. I hope not.

What particular claim, I ask of the gentleman from Maryland, have the Baltimore smelting company to oppose the passage of this great, necessary, and national measure; for it is such in all its aspects? At the breaking out of the war, as I have been told, that company, from some motive or other, I will not undertake to say what, saw fit to ship to Europe and to deposit in England and in Germany some three million pounds of their copper. In 1863 they saw fit, on the invitation of some Government agents, to reship home about one half of the quantity which they had carried abroad. Now, sir, I do not say this reproachfully toward that company. There may have been a motive which I do not understand, and which I have not thus far perceived; but it appeared to me, when I was told this, that they were not acting fully and completely in the spirit of a self-sacrificing patriotism in that the great crisis of the country.

The honorable Senator from Maryland will have it that it is necessary to intermingle the carbonate ores which are produced in Chili and other foreign countries, chiefly in Chili, with the sulphuret ores of this country in order to make a good article of copper; or, I should state it otherwise, that it is very difficult and very expensive to smelt the sulphurets of the United States without the intermixture of foreign carbonates. Now I wish to call the attention of the Senate for a moment to a paper which Senators will find lying on their tables on that particular subject. It is a letter of Mr. Alexander Trippel, chemist and metallurgist, a member of the Board of Experts of the American Bureau of Mines, addressed to the secretary of the Quincy Mining Company. This is the letter:

NEW YORK, January 9, 1869.

DEAR SIR: Your letter of the 7th is received. You ask me if there is any truth in the assertion that "American sulphuret copper ores cannot be reduced without the admixture of a certain amount of foreign carbonate ores," and whether the reduction of such sulphuret ores causes metallurgical difficulties without the admixture of carbonates; and further, if it makes any material technical difference what kind of fuel is used for roasting and smelting, or if charcoal possesses any power in the reduction of these sulphurets which good mineral coal has not?

In reply to these questions I will say, first, that there is not the least good reason for the assertion that "American sulphurets cannot be treated without foreign carbonates." In all probability, the person making such assertion has been misinformed, or, rather, he committed an error by perverting the information received, as he undoubtedly wanted to convey the idea that carbonates could not be treated to advantage without sulphurets. This latter version would have been substantially correct, and be considered so by every practical metallurgist or smelter.

In order to substantiate the correctness of what I say, I refer here to the well known difficulties encountered in Russia, and everywhere else where carbonates have to be reduced without sulphurets; and further, to the frequent want of sulphurets at

various periods in our Atlantic smelting works, when sulphurets were eagerly sought for and comparatively better paid than carbonates.

I would also call your attention to the successful treatment of the Ducktown (Tennessee) copper ores, all sulphurets, where in four successive operations the ore is converted into the finest quality of ingot copper, while I had occasion to count not less than eight operations in the Baltimore smelting works for the same purpose, and with mixed ores, sulphurets and carbonates: which proves beyond all doubt that the mixture of carbonates and sulphurets did not produce the slightest advantage, unless the manipulations in these works have been irrational and improper. To be short, it is the first time that I ever heard such an assertion. Admitting that carbonates are useful for mixing under certain circumstances, I deny that sulphurets could not be treated separately, and say so from a long practical experience in this business.

The answer to your second question is partly given above. There are no practical difficulties to treat sulphurets alone; nothing is easier than to expel the sulphur sufficiently by roasting the ore and to form oxides in such proportions as to give very satisfactory results.

Unfortunately, some of our Atlantic smelting-works do not give enough attention to a proper roasting, and thereby prolong the process; but the want of proper skill and foresight should not be the excuse for an erroneous opinion.

To your third question, whether charcoal has any special power, or exercises any other influence on either class of ores than mineral coal, I can only reply that the whole difference between charcoal and mineral coal lies in their respective pyrometric effects, which affects the economy of the smelting manipulations, and nothing else.

If the Ducktown Smelting Works had mineral coal instead of charcoal their success would be more complete yet, and I know that the railway which will connect the mines with mineral coal beds is considered one of the greatest questions for the prosperity of the copper interest of East Tennessee.

This, I believe, covers the information you desire to have. If I did not intend to be brief, I would, with more detailed arguments, certainly convince you of the errors into which your informant has fallen.

Let me have the fine sulphuret ores of Tennessee, North Carolina, Virginia, or Vermont, and I demand nothing better to produce the best quality of ingot copper, with either charcoal or mineral coal, at reasonable cost.

Respectfully, yours,

ALEX. TRIPPEL,
Chemist and Metallurgist.

WILLIAM HART SMITH, esq.,
Secretary Quincy Mining Company.

There is abundance of testimony to the same effect, the statements of skillful experts who have had great and long experience in the treatment of copper ores and in smelting them; and the pretense that is now set up for the purpose of defeating the passage of this bill, that the carbonates of Chili are necessary to the smelting of copper, is but a mere pretense. The testimony is all the other way.

Now, Mr. President, I will not dispute the statement of fact which is so earnestly and emphatically made here and insisted upon by the honorable Senator from Maryland, that in order to make a good quality of copper it is necessary that the Baltimore article should be mixed with the Michigan article; that the Michigan article is entirely too soft for useful purposes; too soft to be relied upon. I will not controvert that proposition; but I must say that, although somewhat acquainted with the copper trade and copper business for the last fifteen years, this is the first time I ever heard of it. I never before understood that in order to render the Michigan copper useful for manufacturing purposes or anything else it was necessary to mix the Baltimore product with that of the upper peninsula of Michigan; and I fancy that the honorable Senator on further investigation may discover that that statement is to be taken with many grains of allowance, if not to be entirely discarded.

After all, sir, the rivalries growing out of this bill or connected with this bill consist of the mines of Lake Superior on the one side, constituting a population of about twenty thousand, the large mass of whom are engaged in the business of mining, whose income, whose living, whose very bread depends upon the success of the mining enterprises up there, an enterprise in which a very large amount of money has been invested honestly and fairly, an amount which is by no means contemptible, an amount which deserves the attention of every patriotic statesman in the land; and on the other hand, gentlemen in Baltimore and

elsewhere who are engaged in smelting, whose capital is scarcely to be talked of in the same day with the capital invested in our State in mining.

Sir, we appeal to the Senate to give us a reasonable measure of protection. We cannot say that we are satisfied as citizens of Michigan while our copper has no protection, at all comparatively, and the iron of Pennsylvania is protected to the tune of fifty per cent., and the lead of Iowa and the Mississippi is also protected almost to the same degree. We are not satisfied with this, sir. If iron and lead are thus to be protected to the extent to which these several articles receive protection at the present time we are not content that our interests should be totally neglected and treated even with contumely and contempt by certain gentlemen in this Chamber. We ask simply for equal justice; no, sir, not even equal justice; we ask for enough protection to make it certain that the capitalists and the laborers whose money and whose labor is so intimately connected with the copper mining interests of Lake Superior shall receive a proper degree of regard at the hands of the Senate.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Maryland [Mr. Whyte] to the amendment of the Senator from Vermont, [Mr. Morrill].

Mr. MORRILL, of Vermont. I submit that that amendment is not germane to the amendment which I offered. If it comes in as an amendment to my amendment I raise that question upon it. It would come in more properly at the end of the bill as a proviso.

Mr. SUMNER. I would suggest to the Senator from Maryland that he reserve his amendment, and move it at the end of the bill when it will be in order.

Mr. WHYTE. I offered the amendment for the purpose of submitting the remarks which I made in regard to carbonates. It struck me that after the adoption of the amendment of the Senator from Vermont it would not be appropriate to make those remarks. I have no objection, therefore, to withdrawing my amendment now temporarily. I intend to offer it afterward as a proviso at the end of the bill.

The PRESIDENT *pro tempore*. The amendment to the amendment being withdrawn, the question now is on the amendment of the Senator from Vermont, [Mr. Morrill].

Mr. FESSENDEN. I should like to hear that read.

The PRESIDENT *pro tempore*. The amendment will be read.

Mr. MORRILL, of Vermont. I submit that the first and second amendments sent to the Chair should be read, and the question taken on both together. The first amendment retains the duty upon copper ores as presented by the original bill at three cents a pound where they contain sulphur; and the second reduces the duty upon carbonates one cent a pound. It takes two amendments to reach that object; and therefore both amendments should be read.

The PRESIDENT *pro tempore*. Then the two propositions will be treated as one amendment. The Senator from Vermont proposes to amend the bill by inserting in line nine, after the word "ores," the words "containing sulphur," and after the word "therein" in line ten inserting "and on all copper imported in the form of ores, not containing sulphur, two cents on each pound of fine copper contained therein;" so as to make that part of the bill read:

On all copper imported in the form of ores, containing sulphur, three cents on each pound of fine copper contained therein; and on all copper imported in the form of ores, not containing sulphur, two cents on each pound of fine copper contained therein.

Mr. CHANDLER. I hope that amendment will not prevail; it will defeat the bill. I ask for the yeas and nays on it.

The yeas and nays were ordered.

Mr. ANTHONY. I wish the Senator from Vermont and the Senator from Michigan would

compromise their little difference on this amendment. I do not want to vote against either of them on this bill. I should think they might agree to a compromise on this point.

Mr. CHANDLER. I would not agree to abandon the copper interest. This amendment destroys it. If it is the intention of the body to destroy the bill be it so.

Several SENATORS. Let us adjourn.

Mr. CHANDLER. I want this matter decided. The Senator from Vermont and I have had all the consultation we are likely to have on the subject.

Mr. SUMNER. There are several other amendments to be proposed. We had better adjourn.

Mr. ANTHONY. I would not move an adjournment against the wish of the Senator from Michigan; but I think we had better adjourn now.

Mr. FERRY. There are several other amendments to be offered.

Mr. CHANDLER. Let us have a vote on this and see how it comes out.

Mr. CORBETT. I ask for the reading of the original bill.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Vermont.

Mr. WILSON. I move that the Senate adjourn. I am sure we cannot pass the bill now.

Mr. SUMNER. There are several amendments.

Mr. WILSON. If Senators wish to take a vote I will not press my motion now.

Mr. SHERMAN. Let me state to the Senate that the present duty on ores is five per cent., and the duty reported by the committee in this bill is about eleven per cent. The rate now proposed by the Senator from Vermont is about midway between the two. Eleven per cent is about the duty imposed by this bill, being three cents a pound on all the fine copper contained in the ores.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Vermont, and the Secretary will call the roll.

Mr. WHYTE. Is the vote to be taken on the entire amendment, or only on that part of the amendment which imposes a tax of three cents on sulphuret ores?

The PRESIDENT *pro tempore*. On the entire amendment.

Mr. FESSENDEN. Before the vote is taken I will state that my colleague [Mr. MORRILL] is paired on the questions relative to this bill with the Senator from New Jersey, [Mr. CATTELL.] My colleague, if present, would vote against the bill and for the amendment.

The question being taken by yeas and nays resulted—yeas 20, nays 27; as follows:

YEAS—Messrs. Anthony, Cole, Conkling, Cragin, Davis, Dixon, Edmunds, Ferry, Fessenden, Fowler, McCreery, Morrill of Vermont, Patterson of New Hampshire, Spencer, Sumner, Trumbull, Van Winkle, Vickers, Whyte, and Wilson—20.

NAYS—Messrs. Abbott, Cameron, Chandler, Corbett, Doolittle, Frelinghuysen, Harlan, Harris, Hendricks, Howard, Howe, Kellogg, McDonald, Morton, Osborn, Patterson of Tennessee, Pomeroy, Rice, Robertson, Ross, Sawyer, Sherman, Stewart, Thayer, Wade, Warner, and Willey—27.

ABSENT—Messrs. Bayard, Buckalew, Cattell, Conness, Drake, Grimes, Henderson, Morgan, Morrill of Maine, Norton, Nye, Pool, Ramsey, Saulsbury, Sprague, Tipton, Welch, Williams, and Yates—19.

So the amendment was rejected.

Mr. MORRILL, of Vermont. I now withdraw my other amendments as the principle has been decided, as it seems to me, that no amendment is to be introduced against the original bill.

Mr. WILSON. I ask now to have the bill read as it stands, as I propose to move an amendment.

Mr. SUMNER. I have two or three amendments to move.

Several SENATORS. Let us adjourn.

Mr. EDMUNDS. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, January 18, 1869.

The House met at twelve o'clock m. Prayer by Rev. J. C. HOLBROOK, D. D., of Homer, New York.

The Journal of Friday last was read and approved.

ORDER OF BUSINESS.

The SPEAKER. This being Monday, the first business in order is the call of the States and Territories, commencing with the State of Maine, for the introduction of bills and joint resolutions for reference to their appropriate committees, not to be brought back into the House by a motion to reconsider. Under this call memorials and resolutions of State and territorial Legislatures may be presented.

PENSION LAWS.

Mr. PERHAM introduced a bill (H. R. No. 1682) relating to the operations of the pension laws, and for other purposes; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

NATIONAL BANKING SYSTEM, ETC.

Mr. POLAND introduced a bill (H. R. No. 1683) providing for the issue of United States bonds, for retiring United States notes, and for a free system of national banking; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

TESTIMONY OF DEFENDANTS.

Mr. POLAND also introduced a bill (H. R. No. 1684) allowing the defendant in criminal cases to testify; which was read a first and second time, referred to the Committee on Revision of Laws of the United States, and ordered to be printed.

DEFENSES OF WASHINGTON, ETC.

Mr. POLAND also introduced a bill (H. R. No. 1685) to repeal section two of an act passed February 13, 1862, entitled "An act making an appropriation for completing the defenses of Washington, and for other purposes;" which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

CHURCH PROPERTY IN REBEL STATES.

Mr. BUTLER, of Massachusetts, introduced a bill (H. R. No. 1686) relating to church property in the late rebellious States; which was read a first and second time, and referred to the Committee on Reconstruction.

ALIENATION OF GRANTS OR PRIVILEGES.

Mr. BANKS introduced a bill (H. R. No. 1687) to prevent the alienation to foreigners of grants or privileges from the United States; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

FUR-SEAL TRADE.

Mr. ELIOT, of Massachusetts, introduced a bill (H. R. No. 1688) to regulate and protect the fur-seal trade at the Islands of St. Paul and St. George, in the territory of Alaska; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

BOSTON AND WASHINGTON TELEGRAPH.

Mr. VAN HORN, of New York, on behalf of his colleague, Mr. STEWART, introduced a bill (H. R. No. 1689) for the construction of lines of telegraph between Boston, New York, Philadelphia, Baltimore, and Washington, under the direction of the Post Office Department; which was read a first and second time, referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

NATIONAL LIFE INSURANCE COMPANY.

Mr. WOOD introduced a bill (H. R. No. 1690) to repeal an act to incorporate the National Life Insurance Company of the United States of America, approved July 25, 1868;

which was read a first and second time, and referred to the Committee for the District of Columbia.

LOANS ON LEGAL-TENDERS.

Mr. BARNES introduced a bill (H. R. No. 1691) to prevent the loaning of money upon United States legal-tender notes; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

INTEREST ON DEPOSITS.

Mr. BARNES also introduced a bill (H. R. No. 1692) to prevent banks of issue from paying interest upon deposits; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

TAX ON MANUFACTURES.

Mr. BROOKS introduced a bill (H. R. No. 1693) to amend an act entitled "An act to exempt certain manufactures from internal tax, and for other purposes," approved March 31, 1868; which was read a first and second time, and referred to the Committee of Ways and Means.

CHRISTINA ARMEL.

Mr. KOONTZ introduced a bill (H. R. No. 1694) granting a pension to Christina Armel; which was read a first and second time, and referred to the Committee on Invalid Pensions.

CHARLES MAUS.

Mr. MILLER introduced a bill (H. R. No. 1695) granting a pension to Charles Maus, of Lewisburg, Pennsylvania; which was read a first and second time, and referred to the Committee on Revolutionary Pensions and of the War of 1812.

POST ROADS IN MARYLAND.

Mr. STONE introduced a bill (H. R. No. 1696) to establish certain post roads in the State of Maryland; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

INTERNAL TAX LAW.

Mr. BOYDEN introduced a bill (H. R. No. 1697) to amend the internal tax law, approved July 20, 1868; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

POST ROUTES IN NORTH CAROLINA.

Mr. DOCKERY introduced a bill (H. R. No. 1698) to establish certain post routes in North Carolina; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

RELIEF FROM DISABILITIES.

Mr. YOUNG introduced a bill (H. R. No. 1699) to relieve J. J. Morrison, T. S. Ward, C. Pittman, and Thomas Hooper, of the State of Georgia, from political disabilities.

CLAIMS OF SOUTHERN CENSUS-TAKERS.

Mr. PRINCE introduced a bill (H. R. No. 1700) extending to certain citizens of certain States the privileges of an act entitled "An act making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1867, and for other purposes," approved March 2, 1867; which was read a first and second time, and referred to the Committee of Claims.

LEGAL ADVERTISEMENTS.

Mr. TIFT introduced a bill (H. R. No. 1701) to amend the seventh section of the act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes, approved March 2, 1867; which was read a first and second time, and referred to the Committee on Revision of Laws of the United States.

BANKRUPT ACT.

Mr. TIFT also introduced a bill (H. R. No. 1702) in amendment of an act entitled "An act to

establish a uniform system of bankruptcy throughout the United States," approved March 2, 1867; which was read a first and second time, and referred to the Committee on Revision of Laws of the United States.

KU-KLUX OUTRAGES IN ALABAMA.

Mr. CALLIS introduced a joint resolution (H. R. No. 408) to provide for the appointment of a special committee for the investigation of certain outrages committed on loyal citizens of Alabama by the Ku-Klux Klan; which was read a first and second time, referred to the Committee on Reconstruction, and ordered to be printed.

SALE OF GOLD AND BONDS.

Mr. KELLOGG introduced a joint resolution (H. R. No. 409) relative to the sale of gold and bonds; which was read a first and second time, and referred to the Committee of Ways and Means.

RAILROAD LAND GRANT.

Mr. NORRIS introduced a bill (H. R. No. 1703) granting to the Eufaula, Opelika, Oxford, and Guntersville Railroad Company the right of way through the public lands of the United States, and lands for the purpose of aiding in the construction of the railroad of said company; which was read a first and second time, and referred to the Committee on the Public Lands.

RIGHTS OF THE RECONSTRUCTED STATES.

Mr. NORRIS also introduced a bill (H. R. No. 1704) securing certain rights to the lately reconstructed States; which was read a first and second time, and referred to the Committee on Reconstruction.

LOUISIANA AGRICULTURAL COLLEGE.

Mr. SYPHER introduced a bill (H. R. No. 1705) to enable the State of Louisiana to receive the public lands donated to that State by the act for the benefit of agricultural colleges, &c., and for other purposes; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

READMISSION OF MISSISSIPPI.

Mr. BINGHAM introduced a bill (H. R. No. 1706) to admit the State of Mississippi to representation in Congress; which was read a first and second time, referred to the Committee on Reconstruction, and ordered to be printed.

BUTCHERS' BENEVOLENT ASSOCIATION.

Mr. WELKER introduced a bill (H. R. No. 1707) to incorporate the Butchers' Benevolent Association of the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

BRIGADIER GENERALS IN THE ARMY.

Mr. GARFIELD introduced a bill (H. R. No. 1708) to fix the number of brigadier generals in the Army; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

BOUNTIES TO COLORED SOLDIERS.

Mr. ARNELL introduced a bill (H. R. No. 1709) to facilitate the payment of bounties to colored soldiers; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

MAJOR FRANCIS M. M'KEE.

Mr. STOKES introduced a bill (H. R. No. 1710) for the relief of Major Francis M. McKee, of Smith county, Tennessee; which was read a first and second time, and referred to the Committee of Claims.

DISTRIBUTION OF OFFICES.

Mr. SHANKS introduced a bill (H. R. No. 1711) to distribute the number and rank of Government employes among the several districts and Territories; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

ROBERT FORD.

Mr. SHANKS also introduced a bill (H. R. No. 1712) for the relief of Robert Ford; which was read a first and second time, and referred to the Committee on Invalid Pensions.

POST ROUTE IN INDIANA.

Mr. NIBLACK introduced a bill (H. R. No. 1713) to establish a certain post route in Indiana; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

CLOSE OF LAND SYSTEM.

Mr. JULIAN introduced a bill (H. R. No. 1714) to close the land system in certain States; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

NATIONAL HOMESTEAD ASSOCIATION.

Mr. JULIAN also introduced a bill (H. R. No. 1715) to incorporate the National Homestead Association; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

DISABILITIES OF JOHN H. CHRISTY.

Mr. KERR introduced a bill (H. R. No. 1716) to relieve from all legal and political disabilities John H. Christy, of Georgia; which was read a first and second time, and referred to the Committee on Reconstruction.

POST ROUTE IN INDIANA.

Mr. KERR also introduced a bill (H. R. No. 1717) to establish an additional post route in Indiana; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

ROSANNA MINGER.

Mr. NEWCOMB introduced a bill (H. R. No. 1718) to place the name of Rosanna Minger on the pension list; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MRS. NANCY REED.

Mr. BOLES introduced a bill (H. R. No. 1719) granting a pension to Mrs. Nancy Reed, of Pike county, Arkansas; which was read a first and second time, and referred to the Committee on Invalid Pensions.

REMOVAL OF DISABILITIES.

Mr. BOLES also introduced a bill (H. R. No. 1720) to relieve from political disabilities certain persons engaged in the late rebellion; which was read a first and second time, and referred to the Committee on Reconstruction.

ARKANSAS AND PACIFIC RAILROAD.

Mr. BOLES also introduced a bill (H. R. No. 1721) to aid in the construction of the Arkansas and Pacific railroad; which was read a first and second time, referred to the Committee on the Pacific Railroad, and ordered to be printed.

CAPTAIN W. J. PATTEN.

Mr. ELLIOTT, of Arkansas, introduced a bill (H. R. No. 1722) to increase the pension of Captain William J. Patten, late of company K, fourth Arkansas cavalry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MATES IN THE NAVY.

Mr. FERRY introduced a bill (H. R. No. 1723) to reorganize and increase the efficiency of the grade of mate in the United States Navy; which was read a first and second time, and referred to the Committee on Naval Affairs.

IMPROVEMENT OF HARBORS IN MICHIGAN.

Mr. UPSON introduced a bill (H. R. No. 1724) making appropriations for certain harbors in the State of Michigan; which was read a first and second time, and referred to the Committee on Commerce.

JUDICIAL SYSTEM.

Mr. WILSON, of Iowa, introduced a bill (H. R. No. 1725) to amend the judicial system

of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

NORTHERN PACIFIC RAILROAD.

Mr. WINDOM introduced a bill (H. R. No. 1726) additional to an act granting land to aid in the construction of a railroad and telegraph line from Lake Superior to Puget sound on the Pacific coast, by the northern route; which was read a first and second time, and referred to the Committee on the Pacific Railroad.

KANSAS CLAIMS.

Mr. CLARKE, of Kansas, introduced a bill (H. R. No. 1727) authorizing the appointment of a commissioner and the settlement of claims of citizens of Kansas; which was read a first and second time, ordered to be printed, and, with accompanying papers, referred to the Committee of Claims.

CALIFORNIA AND OREGON RAILROAD.

Mr. ASHLEY, of Nevada, introduced a bill (H. R. No. 1728) to amend an act entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific railroad, in California, to Portland, Oregon," approved July 25, 1866; which was read a first and second time, and referred to the Committee on the Pacific Railroad.

POST ROUTE IN NEBRASKA.

Mr. TAFTE introduced a bill (H. R. No. 1729) to establish a post route in the State of Nebraska; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

NEW MEXICO UNIVERSITY.

Mr. CLEVER introduced a bill (H. R. No. 1730) to incorporate an educational university in Santa Fé, Territory of New Mexico; which was read a first and second time, referred to the Committee on Education and Labor, and ordered to be printed.

BRIDGE ACROSS MISSOURI RIVER.

Mr. CAVANAUGH introduced a bill (H. R. No. 1731) to authorize James Gallaher and his associates to construct and maintain a bridge across the Missouri river, at the three forks of the same, in the Territory of Montana; which was read a first and second time, and referred to the Committee on Roads and Canals.

THOMAS WORTHINGTON.

Mr. SCHENCK introduced a joint resolution (H. R. No. 410) for the relief of Thomas Worthington, of Ohio; which was read a first and second time, and referred to the Committee of Claims.

DISTRICT OF COLUMBIA.

Mr. ARNELL introduced a bill (H. R. No. 1732) to provide for the representation of the District of Columbia in the Congress of the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

FRANKING PRIVILEGE.

Mr. LAWRENCE, of Ohio, introduced a bill (H. R. No. 1733) to limit the franking privilege; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

GEOLOGICAL SURVEYS OF THE STATES.

Mr. JONES, of Kentucky, introduced a joint resolution (H. R. No. 411) relative to geological surveys of the several States of the United States; which was read a first and second time, and referred to the Committee on Mines and Mining.

MRS. CAROLINE BOWMAN.

Mr. DEWESE introduced a bill (H. R. No. 1734) for the relief of Caroline Bowman, of the county of Green, State of Tennessee, widow of S. Bowman; which was read a first and second time, and referred to the Committee on Invalid Pensions.

REV. D. HILLHOUSE BUEL.

Mr. GRISWOLD introduced a bill (H. R. No. 1735) for the relief of Rev. D. Hillhouse

Buel; which was read a first and second time, and referred to the Committee of Claims.

MELINDA HARMON.

Mr. BUTLER, of Tennessee, introduced a bill (H. R. No. 1736) for the relief of Melinda Harmon; which was read a first and second time, and referred to the Committee of Claims.

LUCINDA PAUGLE.

Mr. BUTLER, of Tennessee, also introduced a bill (H. R. No. 1737) granting a pension to Lucinda Paugle, of Tennessee; which was read a first and second time, and referred to the Committee on Invalid Pensions.

NATIONAL BANK STATEMENTS.

Mr. BARNES introduced a joint resolution (H. R. No. 412) to compel national banks to make statements six times a year at previous dates; which was read a first and second time, and referred to the Committee on Banking and Currency.

ORDER OF BUSINESS.

The SPEAKER. The call of States and Territories for the introduction of bills and joint resolutions having been completed, the next business in order during the morning hour is the call of States for resolutions, commencing with the State of Indiana, where the call was arrested on last Monday.

WELLS, FARGO AND COMPANY.

Mr. COBURN submitted the following resolution, on which he demanded the previous question:

Resolved, That the Committee on Public Expenditures be directed to inquire into and report to this House all the facts and circumstances concerning the contract with Wells, Fargo & Co., for carrying the United States mails between the termini of the Pacific railroads, the character of the contract, its terms, the probable cost of the service, and the manner in which the service has been and is being performed; and that said committee have power to compel the attendance of witnesses and examine them under oath, and to employ a stenographer at the usual compensation, and to report at any time.

The SPEAKER. The last clause of this resolution, proposing to authorize the committee to report at any time, cannot be adopted without unanimous consent or a suspension of the rules, which cannot be had during the morning hour of Monday. The Chair therefore rules that part of the resolution to be out of order.

Mr. WASHBURN, of Illinois. Is there any objection to allowing the committee to report at any time?

The SPEAKER. The Chair will ask for unanimous consent after the expiration of the morning hour. He cannot, under the rules, ask it during the morning hour of Monday.

Mr. FARNSWORTH. I hope there will be no objection.

Mr. SCOTFIELD. I suggest to the mover of the resolution that he strike out that part providing for the employment of a stenographer. The House has stenographers regularly employed to report in committees.

Mr. COBURN. I modify the resolution by striking out that clause.

Mr. HOLMAN. I object to debate.

Mr. FARNSWORTH. I will ask whether there is any objection to allowing the committee to report at any time?

The SPEAKER. The Chair will reserve that point and ask unanimous consent after the morning hour.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. FARNSWORTH moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RAILROAD LAND GRANTS, SUBSIDIES, ETC.

Mr. HOLMAN submitted the following resolutions, on which he demanded the previous question:

Resolved, That in the present condition of the national finances no further subsidies ought to be granted by Congress, either in bonds or money, to

railroad or other corporations, or to promote local enterprises, but the whole resources of the country ought to be applied to the pressing necessities of the public service in such manner as will relieve the people from the burdens of taxation.

Resolved, That grants of the public lands to corporations ought to be discontinued, and the whole of such lands ought to be held as a sacred trust, to secure homesteads to actual settlers, and for no other purpose whatever.

Mr. BENJAMIN. I move to refer the first resolution to the Committee of Ways and Means, and the second to the Committee on the Public Lands.

The SPEAKER. The gentleman from Indiana [Mr. HOLMAN] has demanded the previous question. Motions to refer are not in order unless the previous question should not be seconded.

On seconding the call for the previous question there were—ayes 49, noes 31; no quorum voting.

The SPEAKER, under the rule, ordered tellers; and appointed Mr. HOLMAN and Mr. BENJAMIN.

Mr. BROOKS. Are these resolutions divisible?

The SPEAKER. They are.

Mr. SCOTFIELD. I rise to a parliamentary inquiry. If the previous question should be seconded can we have a separate vote on the resolution relative to public lands?

The SPEAKER. A separate vote can be had on each resolution.

The House divided; and the tellers reported—ayes 65, noes 57.

So the previous question was seconded.

The question then recurred on ordering the main question.

Mr. CAVANAUGH. Mr. Speaker, would it be in order to move the reference of the resolutions?

The SPEAKER. It would not be, the previous question having been seconded.

Mr. WINDOM. Would it be in order to move to lay the resolutions on the table?

The SPEAKER. It would be.

Mr. WINDOM. I make that motion.

The motion was not agreed to; there being—ayes thirty-four, noes, not counted.

The main question was ordered.

Mr. SCOTFIELD. I ask for a separate vote on the resolutions.

The SPEAKER. The resolutions will be voted on separately; and the question is first on agreeing to the resolution relative to subsidies to railroad or other corporations.

Mr. WASHBURN, of Illinois. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 90, nays 67, not voting 65; as follows:

YEAS—Messrs. Allison, Bailey, Baker, Baldwin, Beaman, Beatty, Benton, Bingham, Blair, Boutwell, Bromwell, Brooks, Buckland, Burr, Benjamin F. Butler, Cary, Chanler, Reader W. Clarke, Cook, Cornell, Cullom, Delano, Dockery, Ela, Farnsworth, Ferriss, Ferry, Fields, Getz, Grover, Harding, Hawkins, Heaton, Hill, Holman, Chester D. Hubbard, Jenckes, Johnson, Alexander H. Jones, Thomas L. Jones, Judd, Julian, Kelsey, Kerr, Kitchen, Knott, Koontz, Lash, George V. Lawrence, William Lawrence, McCarthy, McKee, Mercur, Miller, Moore, Mungen, Niblack, Nicholson, Paine, Phelps, Pike, Pile, Plants, Price, Randall, Ross, Scofield, Shanks, Shellabarger, Sigreaves, Spalding, Stone, Sypher, Taber, Taylor, Trowbridge, Upson, Van Auker, Van Trump, Van Wyck, Ward, Elihu B. Washburne, Henry D. Washburn, Welker, William Williams, James P. Wilson, John T. Wilson, Wood, and Young—90.

NAYS—Messrs. Anderson, Arnell, Delos R. Ashley, Axtell, Banks, Beaman, Beck, Benjamin, Boles, Boyden, Buckley, Roderick R. Butler, Callis, Churchill, Clift, Cobb, Coburn, Cook, Corley, Covode, Cullom, Delano, Dewesse, Dockery, Dodge, Driggs, Eggleston, Thomas D. Eliot, James T. Elliott, Ferriss, Ferry, Garfield, Golladay, Goss, Gove, Gravely, Haughey, Higby, Hopkins, Humphrey, Ingersoll, Kelley, Kellogg, Lincoln, Mallory, Maynard, McCormick, Morrill, Mullins, Myers, Newcomb, Newsam, Norris, O'Neill, Perham, Peters, Pierce, Prince, Baum, Roots, Sawyer, Schenck, Smith, Starkweather, Stokes, Stover, Taffe, Thomas, Tift, Lawrence S. Trimble, Twichell, Van Aernam, Burt Van Horn, William B. Washburn, Whittemore, and Windom—67.

NOT VOTING—Messrs. Adams, Ames, Archer, James M. Ashley, Barnum, Blackburn, Blaine, Bowen, Boyer, Broomall, Cake, Covode, Dawes, Diekey, Dixon, Donnelly, Eckley, Edwards, Eggleston, Eldridge, Thomas D. Eliot, Fox, French, Glossbrenner, Griswold, Haight, Halsey, Hamilton, Hopper, Hotchkiss, Asahel W. Hubbard, Richard D.

Hubbard, Hulburt, Hunter, Ketcham, Laffin, Loan, Logan, Loughridge, Lynch, Marshall, Marvin, McCullough, Moorhead, Morrissey, Nunn, Orth, Pettis, Poland, Polsley, Pomeroy, Prayn, Robertson, Robinson, Selye, Stevens, Stewart, John Trimble, Robert T. Van Horn, Vidal, Cadwalader C. Washburn, Thomas Williams, Stephen F. Wilson, Woodbridge, and Woodward—65.

So the first resolution was agreed to.

The question recurred on agreeing to the second resolution.

Mr. WASHBURN, of Indiana. I move to lay the resolution on the table.

Mr. JULIAN. I ask my colleague [Mr. HOLMAN] to allow a substitute for the pending resolution to be reported.

Mr. HOLMAN. I will do so.

Mr. JULIAN. I desire to offer the following as a substitute for the resolution:

Resolved, That no more public lands should be granted to aid in the construction of railroads except upon condition, of actual settlement in quantities not greater than one hundred and sixty acres to one purchaser, and for a fixed maximum price.

Mr. WASHBURN, of Indiana. If this is accepted as a substitute I will not object to it.

Mr. HOLMAN. I decline to accept it.

Mr. DELANO. Is it in order to move the reference of the resolution to the Committee on the Public Lands?

The SPEAKER. It is not; because the previous question has been partly executed.

Mr. WASHBURN, of Indiana. I move to lay the resolution on the table, as the substitute is not accepted.

On laying the resolution on the table there were—ayes 74, noes 43.

Mr. WASHBURN, of Illinois. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. CULLOM. If the resolution is not laid on the table will it then be in order to move to refer it to a proper committee?

The SPEAKER. It would not; the previous question operating and being partly executed.

The question was taken on laying the resolution on the table; and it was decided in the affirmative—yeas 110, nays 55, not voting 57; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, Axtell, Banks, Beaman, Beck, Benjamin, Bingham, Blair, Boles, Boyden, Buckland, Buckley, Roderick R. Butler, Cake, Callis, Churchill, Clift, Cobb, Coburn, Cook, Corley, Covode, Cullom, Delano, Dewesse, Dockery, Dodge, Driggs, Eggleston, Thomas D. Eliot, James T. Elliott, Ferriss, Ferry, French, Garfield, Golladay, Goss, Gove, Gravely, Haughey, Heaton, Hooper, Hopkins, Hotchkiss, Asahel W. Hubbard, Hunter, Ingersoll, Jenckes, Johnson, Alexander H. Jones, Judd, Julian, Kelley, Kellogg, Knott, Lash, Lincoln, Mallory, Marvin, McKee, Mercur, Miller, Morrill, Mullins, Myers, Newcomb, Newsam, Norris, O'Neill, Orth, Perham, Peters, Pettis, Phelps, Pierce, Pile, Poland, Price, Prince, Baum, Roots, Sawyer, Schenck, Shanks, Smith, Starkweather, Stokes, Stover, Tabor, Taffe, Tift, John Trimble, Lawrence S. Trimble, Trowbridge, Twichell, Van Aernam, Burt Van Horn, Van Wyck, Henry D. Washburn, William B. Washburn, Welker, Whittemore, Thomas Williams, William Williams, James F. Wilson, and Windom—110.

NAYS—Messrs. Bailey, Baker, Baldwin, Barnes, Beatty, Benton, Boutwell, Burr, Benjamin F. Butler, Cary, Chanler, Reader W. Clarke, Sidney Clarke, Ela, Farnsworth, Fields, Getz, Grover, Harding, Hawkins, Holman, Chester D. Hubbard, Thomas L. Jones, Kelsey, Kerr, Koontz, George V. Lawrence, William Lawrence, Marshall, McCarthy, McCormick, Moore, Mungen, Niblack, Paine, Pike, Plants, Randall, Ross, Scofield, Shellabarger, Sigreaves, Spalding, Stevens, Stone, Sypher, Taylor, Thomas, Upson, Van Auker, Van Trump, Ward, John T. Wilson, Wood, and Young—55.

NOT VOTING—Messrs. Adams, Archer, James M. Ashley, Barnum, Blackburn, Blaine, Bowen, Boyer, Broomall, Brooks, Broomall, Cornell, Dawes, Diekey, Dixon, Donnelly, Eckley, Edwards, Eldridge, Fox, Glossbrenner, Griswold, Haight, Halsey, Hamilton, Higby, Hill, Richard D. Hubbard, Hulburt, Humphrey, Ketcham, Kitchen, Laffin, Loan, Logan, Loughridge, Lynch, Maynard, McCullough, Moorhead, Morrissey, Nicholson, Nunn, Polsley, Pomeroy, Prayn, Robertson, Robinson, Selye, Stewart, Robert T. Van Horn, Vidal, Cadwalader C. Washburn, Elihu B. Washburne, Stephen F. Wilson, Woodbridge, and Woodward—57.

So the resolution was laid on the table.

During the roll call, Mr. WASHBURN, of Illinois, stated that he had been called out of the House; if he had been here he would have voted "no," emphatically.

Mr. WASHBURN, of Indiana, moved to

reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. HOLMAN moved to reconsider the vote by which the first resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NAVAL APPROPRIATION BILL.

The SPEAKER. The House resumes the consideration of the motion made on Monday last by the gentleman from Illinois, [Mr. WASHBURN], and pending at the adjournment, to suspend the rules to enable him to offer several amendments to the bill (H. R. No. 1599) making appropriations for the naval service for the year ending 30th June, 1870, reported from the Committee of the Whole on the state of the Union with sundry amendments.

Mr. WASHBURN, of Illinois. One of the amendments which I desire to have the rules suspended to enable me to offer is in the nature of a third section of the bill. The gentleman from Pennsylvania [Mr. KELLEY] has prepared a substitute for that amendment, which I understand meets the approbation of the Committee on Appropriations, and also of gentlemen who are opposed to the section as offered by me. The gentleman from Pennsylvania can now offer that substitute.

The SPEAKER. It cannot be offered yet. The motion is to suspend the rules to enable the amendments to be offered.

Mr. KELLEY. I will say that my substitute is in accordance with a bill passed by the Senate and acted upon by the House committee.

Mr. WASHBURN, of Illinois. I will accept it as a modification of my amendment.

The Clerk then read the amendments proposed, as follows:

At the bottom of page 3 insert the following: *Provided*, That all amounts appropriated for the support of the Naval Asylum, at Philadelphia, the beneficiaries therein, the pay of officers, repairs, contingent and other expenses, shall be charged to and paid from the income of the naval pension fund.

On page 11, after the first paragraph with reference to the Marine corps, insert the following:

Provided, That the number of non-commissioned officers, musicians, and privates authorized and allowed to be enlisted into the Marine corps of the United States be, and the same is hereby, fixed and declared to be fifteen hundred, and no more.

Insert the following as section three: *And be it further enacted*, That no commissioned or non-commissioned officer of the Marine corps shall be appointed till the officers of the corps be reduced by death, resignation, retirement, or expiration of term of service to one colonel, one lieutenant colonel, two majors, one adjutant and inspector, one paymaster, one quartermaster, one assistant quartermaster, twelve captains, eighteen first lieutenants, eighteen second lieutenants, and the number of sergeants, corporals, and clerks be reduced to two fifths of the number now fixed by law.

Mr. RANDALL. I desire to offer a further amendment, to which I do not think there will be any objection.

The SPEAKER. It can only be entertained by the gentleman from Illinois accepting it.

Mr. RANDALL. I ask him to accept it. It is to add to the third section the following:

That this act shall not affect the field officers now in the Marine corps, and that there shall not be promotions to lieutenant colonels and majors until the number of officers in those grades be reduced to the number established by this act.

Mr. KELLEY. That is a mere repetition of my proposition.

Mr. RANDALL. I do not think yours is in such plain terms.

Mr. PIKE. Will the gentleman from Illinois allow me to say one word before the vote is taken?

Mr. WASHBURN, of Illinois. No, I cannot.

Mr. PIKE. I merely want to state that this whole subject-matter is before the Naval Committees of the Senate and of the House, and a committee of conference has been appointed to take up and consider this very matter.

Mr. WASHBURN, of Illinois. I do not yield to the gentleman to make a speech.

Mr. PIKE. Well, I hope the House will not suspend the rules for any such purpose.

Mr. WASHBURN, of Illinois. We went through the same form last session, and we never got the legislation which the country demands.

The SPEAKER. If the motion to suspend the rules is agreed to the amendments will be subject to a separate vote after the amendments reported from the Committee of the Whole on the state of the Union have been disposed of.

Mr. WELKER. I ask the gentleman from Illinois to allow an amendment which I desire to offer to be read. I am in favor of the object of his amendment, but I do not think the way in which he proposes to attain it is the proper one.

Mr. WASHBURN, of Illinois. After the rules are suspended the gentleman can offer his amendment.

The SPEAKER. If it is out of order he cannot. The motion to suspend the rules only covers the amendments that have been read.

Mr. WASHBURN, of Illinois. I will modify my motion, and move to suspend the rules to enable the amendments which I have designated to be offered and any amendments that may be offered thereto.

The question was put; and there were—ayes 70, noes 42.

So (two thirds not voting in favor thereof) the rules were not suspended.

Mr. WASHBURN, of Illinois. Very well; let it go. The gentleman from Maine [Mr. PIKE] says he will bring in a bill which will cover these amendments.

The first amendment reported from the Committee of the Whole on the state of the Union was then read, as follows:

Page 2, line thirty-two, strike out "fifty" and insert "twenty-five," so that it will read:

Navy-yard at Philadelphia:

For repairs of all kinds, \$25,000.

Mr. RANDALL. I hope that amendment will not be agreed to. The Committee on Appropriations agreed to give \$50,000 for this purpose, and I am well informed from Philadelphia that that sum is required.

Mr. WASHBURN, of Illinois. I call the previous question on this bill and the pending amendments.

Mr. KELLEY. I would like to say that the amendment made by the Committee of the Whole is approved, so far as I know, by the entire community of Philadelphia. I have seen it applauded by all the leading journals of that city, and by all the best men there.

Mr. RANDALL. Yes, those on one side.

Mr. WASHBURN, of Illinois. I insist upon the previous question.

The previous question was seconded and the main question ordered.

The question recurred upon the amendment in regard to repairs of Philadelphia navy-yard.

Mr. RANDALL. Upon that question I call for the yeas and nays.

The yeas and nays were not ordered.

The amendment was agreed to.

The next amendment was to increase the appropriation for Naval Observatory from \$10,000 to \$13,500.

The amendment was agreed to.

The next amendment was to strike out the words "and so forth" wherever they occur on page 12 of the bill.

The amendment was agreed to.

Mr. MAYNARD. I ask consent to have stricken out of the bill the words "and for other purposes," at the end of the section.

The SPEAKER. That requires unanimous consent, as the previous question is now pending.

Mr. WASHBURN, of Illinois. I object.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DEATH OF HON. JAMES HINDS.

The SPEAKER. The delegation from the State of Arkansas have informed the Chair that they intend to announce on next Friday at two o'clock the death of their late colleague, Mr. JAMES HINDS.

STATIONERY FOR INTERIOR DEPARTMENT.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting information desired by the Committee on Printing in regard to stationery contracts; which was referred to the Committee on Printing.

SENECA AND SHAWNEE INDIANS, ETC.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Interior, submitting an estimate of the appropriation required in fulfilling treaty stipulations with the Seneca, Shawnee, and other Indians, under treaty of February 23, 1867; which was referred to the Committee on Appropriations, and ordered to be printed.

APPROPRIATIONS FOR INTERIOR DEPARTMENT.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Interior, relative to the condition of certain appropriations under the control of the Department; which was referred to the Committee on Appropriations.

MILITARY EXPENSES AT NEW YORK.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting a report of the Quartermaster General, relative to the manner of reducing the expenses of the War Department at and in the vicinity of New York; which was referred to the Committee on Military Affairs, and ordered to be printed.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HAMLIN, one of its Clerks, announced that the Senate had insisted on its amendments, disagreed to by the House, to the bill (H. R. No. 941) to amend certain acts in relation to the Navy and Marine corps, had agreed to the conference asked by the House on the disagreeing votes of the two Houses, and had appointed as conferees on the part of the Senate Mr. DRAKE, Mr. NYE, and Mr. HENDRICKS.

The message also announced that the Senate had passed without amendment the bill (H. R. No. 1598) to relieve from disabilities R. W. Best and Samuel F. Phillips, of North Carolina.

The message further announced that the Senate had passed, with amendments, in which the concurrence of the House was requested, a bill (H. R. No. 1558) to amend an act entitled "An act to prescribe the mode of obtaining evidence in case of contested elections," approved February 19, 1851.

ORDER OF BUSINESS.

Mr. WASHBURN, of Illinois. I desire to move that the rules be suspended, and that the House now resolve itself into the Committee of the Whole on the state of the Union, for the purpose of considering the legislative appropriation bill.

Mr. BUTLER, of Massachusetts. I ask the gentleman to yield to me for a few moments.

Mr. WASHBURN, of Illinois. I will withdraw my motion to suspend the rules, and yield to my colleague on the Committee on Appropriations, the gentleman from Massachusetts, [Mr. BUTLER.]

BONDS AS BANKING SECURITY.

Mr. BUTLER, of Massachusetts. I am instructed by the Committee on Appropriations to report to the House for consideration and adoption at this time the following resolution:

Resolved, That the Comptroller of the Currency be instructed to inform the House whether any and what banks have been allowed to exchange gold-bearing interest securities of the United States for the six per cent. currency bonds issued to the Pacific

railroad, and when and to what amount; and that such exchange shall cease till further action of the House, and also whether any and what banks have relinquished their charters as national banks, and are doing business under State charters, still retaining their national bank circulation; and what means, if any, have been taken to deprive them of such circulation, together with the amount of such circulation outstanding by each bank; and also whether any banks have been instructed that the twenty-ninth section of the banking act, limiting the amount of liabilities of any one person or association to one tenth of its capital, does not apply to indorsements on collateral securities, or to checks certified as good, where the money is not taken from the bank; and to furnish a copy of said instructions on either of said questions.

The SPEAKER. This not being an appropriation bill, is not a privileged report.

Mr. BUTLER, of Massachusetts. I ask unanimous consent to present it now.

Objection was made.

Mr. BUTLER, of Massachusetts. I move that the rules be suspended for the purpose of allowing me to present this resolution for consideration at this time. And I desire to say a few words to explain the necessity for this resolution.

Mr. HOLMAN. I object to debate.

Mr. DELANO. Has the gentleman from Massachusetts [Mr. BUTLER] the floor to move to suspend the rules?

The SPEAKER. He has; the Chair recognized him, the gentleman from Illinois [Mr. WASHBURN] having withdrawn his motion to suspend the rules for the purpose of going into the Committee of the Whole on the legislative appropriation bill.

Mr. DELANO. I am in possession of some information upon this subject which I think should be given to the House before they are called upon to vote on this resolution.

Mr. BUTLER, of Massachusetts. I desire to give that information to the House, if I can be permitted to do so.

Mr. HOLMAN. I withdraw my objection to debate.

Mr. DELANO. I object, unless this matter can be open to discussion generally.

The SPEAKER. The resolution will be open for consideration and discussion should the rules be suspended to allow this resolution to be introduced at this time.

The question was upon suspending the rules; and being taken, upon a division there were—ayes 60, noes 24; no quorum voting.

Tellers were ordered; and Mr. BUTLER, of Massachusetts, and Mr. Brooks, were appointed.

The House again divided; and the tellers reported that there were—ayes 95, noes 18.

So (two-thirds voting in the affirmative) the rules were suspended, and the resolution was introduced.

The question was upon agreeing to the resolution.

Mr. BUTLER, of Massachusetts. Mr. Speaker, I wish simply that the House may understand exactly what is being done in reference to the matters involved in the resolution. The resolution looks toward three things. In the first place, the Comptroller of the Currency allows banks that have gold-bearing bonds, six per cent. and five per cent. bonds, pledged as security for circulation, to exchange them and put in their place as securities the six per cent. currency bonds issued to the Pacific railroads, payable both interest and principal in currency. By law the Comptroller is permitted to issue currency within ten per cent. of par value, or within ten per cent. of the market value when below par. Therefore, for six per cent. five-twenty bonds he gives ninety per cent., the premium of five-twenty bonds being 108. For ten-forty bonds he gives eighty-five per cent., and the premium being five per cent. for the Pacific railroad bonds, which are about on a par with currency—one half per cent. above par—he gives eighty per cent. Now, I agree that these bonds will be very good thirty years hence if we get back to specie payments by that time; but they are wanted now as a security for the circulation; and while, with my views of the propriety of financial action as to a specie basis, it would not make so much difference,

yet with every gentleman who wants to see a gold basis for the circulation it does make a very great difference, because you have no foundation for the security of your circulation but currency—not gold bonds, either by construction or by the express terms of the law. This exchange, I am informed, has already gone on to the extent of more than fifteen million dollars, and is therefore getting to be a pretty serious matter.

Now, a few words as to the second proposition of the resolution. There are some banks which, having got out all their circulation, and that circulation being issued, never coming back for redemption, propose to relieve themselves from the restrictions of the national banking system by winding up as national banks and carrying on their banking business as State banks. If they wind up as national banks they can redeem their circulation in currency, in greenbacks, and release their bonds pledged for the redemption of the bills. If they can do this, it is easily seen that as soon as all the banking circulation may be redeemed in greenbacks we lose the extra ten per cent. on bonds with which to force these banks back to specie payments whenever the Government may resume such payments, and when the Government will be called upon to redeem this whole amount of \$650,000,000.

Mr. PRICE. Will the gentleman allow me to ask him a question?

Mr. BUTLER, of Massachusetts. Yes, sir.

Mr. PRICE. I desire to know if before a bank attempts to wind up it is not required to deposit dollar for dollar in greenbacks for what it has received?

Mr. BUTLER, of Massachusetts. In currency? Yes, sir.

Mr. PRICE. So that the moment they wind up they put that money into the Treasury of the United States.

Mr. BUTLER, of Massachusetts. That is exactly what I said. Then you have the whole banking currency of the country liable to be forced on the Treasury for redemption in coin whenever the country resumes specie payments, and there will be nothing but currency in the Treasury to redeem that circulation, and the banks will thus escape from all the consequences of a resumption. But that would be a matter of more consequence to gentlemen who think gold is very essential to currency than it is to me.

There is one other thing. I have seen a letter from the Comptroller of the Currency to a president of a bank, instructing him that the twenty-ninth section, which says no man shall own more than one tenth of the capital of a bank, or in other words, no one man shall be liable to a bank for more than one tenth of the capital—that that section does not apply to an indorsement or any collateral liabilities. The consequence is that a man by putting forward a straw promisor and becoming an indorser, by giving collateral security of stock or otherwise to such borrowers, may actually become liable to the bank for the whole capital. And one bank has actually been crushed by that operation. In other words, the present construction of the Comptroller of the Currency, as I understand it, will allow every bank to discount or loan its whole capital to any one man, provided he appears in the character of an indorser and not a promisor. I desire to get this matter of information before the House for its action. In that regard it is only a resolution of inquiry.

Mr. DELANO. I ask the gentleman to give me an opportunity to explain what the Comptroller has done in regard to the first proposition. I will not occupy five minutes.

Mr. BUTLER, of Massachusetts. Have I misstated it?

Mr. DELANO. You have not stated every part of it as he stated it to me.

Mr. WASHBURN, of Illinois. I ask if this whole matter cannot be discussed when the answer of the Comptroller comes in?

The SPEAKER. The gentleman from Massachusetts is entitled to the floor for an hour.

Mr. BUTLER, of Massachusetts. I would yield with pleasure, but I do not like to hold the floor and take up the time on the only day in the week when the rules can be suspended. I will give three minutes to my friend.

Mr. DELANO. In regard to the first branch of this resolution I wish to say a few words. The fifth section of the act authorizing the issue of bonds to the Pacific railroad declares "that for the purpose herein mentioned the Secretary of the Treasury shall" "issue to said company bonds of the United States of \$1,000 each, payable in thirty years after date, bearing six per cent. per annum interest," &c., interest payable in currency. These are registered bonds.

The fourth section of the act creating national banks passed two years afterward, June 8, 1864, provides "that the term 'United States bonds,' as used in this act, shall be construed to mean all registered bonds now issued or that may hereafter be issued on the faith of the United States by the Secretary of the Treasury in pursuance of law."

I do not wish now to reply to the interjective arguments of the gentleman from Massachusetts; but every lawyer who has examined this law knows that these are registered bonds and are legal as a banking basis. Now, what the Comptroller has done under the law, briefly stated, is this: there are now held as security for the notes of national banks the following bonds: of the five-twenty bonds and the bonds of 1881, \$238,620,000, which have been received at ninety per cent. Their market value is from 107 to 109, leaving a margin of about seventeen to eighteen per cent. There are of ten-forty bonds \$87,321,000, which have been taken at 85. Their market value is from 105 to 106, leaving a margin of from nineteen to twenty per cent. There are of the Pacific railroad bonds \$16,382,000, the market value of which is from 100 to 101. They have been taken, as the gentleman has said, at eighty cents. The best margin on any of these three classes of bonds is on the Pacific railroad bonds. There are but \$16,000,000 of them deposited with the Comptroller. They are clearly authorized by law, and this seems to me an unjust and needless attack upon the Comptroller of the Currency. I have no objection to a resolution calling simply for information, but I want these facts to go before the country with the attack that seems to be made on the Comptroller of the Currency.

Mr. BUTLER, of Massachusetts. In the first place, I have made no attack. I have only said that this thing is done. I do not think that bonds which are payable in currency and understood to be payable in currency, and which were not issued for this purpose, should be used as security, and thus antagonize United States bonds. I want those gentlemen, in other words, who say "let us have gold," to keep gold in the Treasury and not put in currency. Do not let the banks throw in bonds payable at a discount of thirty-five per. cent. currency in place of bonds payable in gold. I am not going to argue whether it is best for the United States or not. If it was best for the United States to have such bonds the bankers would not put them there. They know what they are about; they are quite up to their interests, and the difficulty is that we have no one at the Treasury to guard the interests of the people against the banks.

Mr. DELANO. Do I understand the gentleman to say that the five-twenties are payable in gold? [Laughter.]

Mr. BUTLER, of Massachusetts. I have said nothing upon that subject. I am talking of the ten-forties. Oh, it is very easy to laugh on this subject; but it is a time when in my judgment the Treasury is being robbed and the people are being robbed by these banks, and we have no one to guard the Treasury against the banks. The Treasurer and Comptroller are both acting as if the paid and hired servants of the banks, in my judgment, and are doing their business, because I cannot understand why this exchange of bonds was made unless

they are. I yield now to the gentleman from Wisconsin, [Mr. PAINE.]

Mr. PAINE. According to the statement which the gentleman from Massachusetts has made, the laws of the United States authorize the Comptroller to receive in exchange for other bonds of the United States these bonds issued to the Pacific railroad and allow currency thereon up to within ten per cent. of their market value; and further than that, the gentleman asserts that the value of these bonds is now almost one hundred and one per cent., and that they have been received in exchange for other bonds, allowing circulation of eighty cents on the dollar for them. As I understand the resolution before the House it is a House resolution. I have been to the Clerk's desk and read these words which attracted my attention when the resolution was read by the Clerk, namely, "and such exchange shall cease till further action of the House." Now, what have we before us? We have a law authorizing the Comptroller, according to the gentleman's own statement, to do this very thing.

Mr. BUTLER, of Massachusetts. I beg your pardon; I have not said so.

Mr. PAINE. I understood the gentleman to say so. But I will read the law for which I have just sent.

Mr. BUTLER, of Massachusetts. The gentleman from Ohio [Mr. DELANO] read the law.

Mr. PAINE. Then I will simply state the effect of the law, about which there can be no doubt. The Comptroller, if in his opinion it may be done without prejudice to the United States, is at liberty to receive these bonds as the basis of circulation from the national banks in exchange for other bonds of the United States. It seems that he has exercised his judgment in this matter, and now the gentleman from Massachusetts comes in here, and by his House resolution proposes to repeal that law. We cannot do it. It may be that the Comptroller of the Currency has made a mistake; it may be that he has judged erroneously in this matter. But if so, we must by an act of Congress or a joint resolution render it impossible for him to do what he has done.

But let us see whether he has been mistaken, even taking the gentleman's own statement as true. He says the bonds are worth to-day one hundred and one cents on the dollar, and that the Comptroller of the Currency allows circulation upon them not at the rate of ninety cents on the dollar as the law permits, but only at the rate of eighty cents on the dollar, whereas, according to his statement, he allows ninety cents of circulation for five-twenty bonds and eighty-five cents for seven-forties. Now, who shall say that in view of this margin which has been made by the Comptroller of the Currency as against these bonds his judgment has not been a wise one, or that it has been prejudicial to the interests of the country for him to take this course?

[Here the hammer fell.]

Mr. BUTLER, of Massachusetts. I by no means agree that the law is as has been stated by the gentleman from Ohio, [Mr. DELANO,] or by the gentleman from Wisconsin, [Mr. PAINE.] The law was passed allowing all registered bonds to be deposited as security for national bank circulation when there were no Pacific railroad bonds issued.

Mr. DELANO. The gentleman is mistaken.

Mr. BUTLER, of Massachusetts. I am not mistaken.

Mr. DELANO. The Pacific railroad bonds were provided for long before the law was passed.

Mr. BUTLER, of Massachusetts. I did not say anything about that. I said "when there were no Pacific railroad bonds issued;" and the gentleman knows that statement is correct. I am dealing with the question of time. Before a single Pacific railroad bond was issued this law was passed; and no man in the country then thought the currency bonds—unless the five-twenty bonds are to be regarded as payable in currency—no man thought the non-gold-bearing bonds were to be deposited as security

for currency, which we hoped would soon or in time come up to the gold standard.

Then there was an act passed allowing the exchange of bonds, which exchange was to be made when the Comptroller of the Currency should think it best to have such an exchange made. Then we could not hear, without a resolution asking him to report to us, what he has been doing. And we propose that he shall not continue to exercise his discretion in this matter until we have examined his report. And when the gentleman from Wisconsin, [Mr. PAINE] speaks of this being simply a House resolution, I want to know what he means. Cannot the House of Representatives control the discretion of one of the subordinate executive officers? I think that any House would say to any subordinate officer that if he undertook to act after it had requested him not to act he did it at his peril. That is ordinarily done at every session—I might say on every day of the session. We discussed a resolution but the other day directing the Postmaster General not to pay Wells, Fargo & Co. until an investigation of their contract could be had.

Mr. Speaker, when I see the advocates of banking on this floor coming forward so earnestly, with prepared arguments written out for them, coming here with a written argument—

Mr. DELANO. The gentleman makes a statement not warranted by the facts.

Mr. BUTLER, of Massachusetts. That argument was written by the Comptroller of the Currency.

Mr. DELANO. There was no argument written by anybody.

Mr. BUTLER, of Massachusetts. I take it back; there was no "argument," it was a written paper. It was not an argument at all. There was no argument in it. The gentleman is right, and I was wrong.

Mr. DELANO. I simply quoted the law.

Mr. BUTLER, of Massachusetts. The paper was written by the Comptroller. Am I not right in that? Well, these banking advocates come here with a prepared statement to meet a resolution of inquiry. That shows that the gentlemen understood how the bank interest is in this matter, in which the people are so much interested. I now call the previous question.

Mr. SCHENCK. As no argument is to be allowed, I ask that a portion of this resolution be again read.

Mr. BINGHAM. I hope the previous question will not be seconded.

Mr. JULIAN. Let the previous question be voted down.

Mr. PAINE. The motion to suspend the rules was carried because the gentleman from Massachusetts [Mr. BUTLER] promised to allow discussion. At least I so understood, and for that reason I did not vote against suspending the rules.

Mr. SCHENCK. Will the gentleman yield to me?

Mr. BUTLER, of Massachusetts. Certainly. I will withdraw the call for the previous question, and yield to the gentleman.

Mr. SCHENCK. I am not an advocate of the banks, nor have I prepared arguments upon this subject. But I undertake to say that this resolution is very defective in form and matter. It calls upon the Comptroller of the Currency to give certain information, and then goes on to say that certain things he has been doing shall cease. Now, whether he is to give information whether those things are going to cease, or whether that is intended as legislation by this House to compel him to cease, is very uncertain, because the expression is very ambiguous. If it be a direction to him to cease doing a certain thing, all I have to say is that if he is authorized to do it by law, with all our power we have none to compel him to cease doing it. That can only be done by law, either by an enactment in the form of a law, or the passage of a joint resolution by the two Houses, which has the force of law. If he has no power by law to do it, then that part of the resolution, does not mean

anything. I will ask the Clerk to read the first part of the resolution, so as to show how ambiguous it is. And that ambiguity arises from the fact that it is an interlineation after the resolution was originally drawn, and makes obscure what before was plain enough.

The Clerk read the resolution.

Mr. SCHENCK. The Comptroller is to inform this House so and so, "and such exchange shall cease." If he has the right to do it by law the House of Representatives have not the power to do it by law, but must call in the aid of the other branch of Congress. If he has not the power by law, then that part of the resolution has no effect whatever, and might as well not have been interlined in the resolution at all.

I hope the gentleman will allow this resolution to be referred to the Committee on Banking and Currency, or some other appropriate committee, for a report of this matter in a clearer form.

Mr. BUTLER, of Massachusetts. To send the resolution to the Committee on Banking and Currency I have already found by experience, Mr. Speaker, is to consign it to the sleep that knows no waking. That committee has so little to do with \$300,000,000 of currency in circulation and sixteen hundred banks that another committee is occupying its room. I have been here long enough to know that it is an every-day business in our legislation to give directions to subordinate departments of the Government. The Comptroller is not compelled by law to do this thing. If he were, he would be obliged to do it in spite of our resolution; but he is only authorized to do it; and we are trying to instruct his judgment. This House of Representatives having the whole revenues of this country in its hands has the ordinary control over the subordinate departments of the Government and can direct, for an example, that no more iron-clads shall be built by the Navy, and a thousand like things. This resolution is to meet the case where the law requires it to be done; but where the law only permits it to be done I do not see the objection.

Now, Mr. Speaker, so far as that portion is concerned which directs the Comptroller to cease this practice, I have no objection to its being taken out of the resolution. If it turns out he continues after this notice, I will take care that he shall be brought before the House to be dealt with in quite a different way. I will strike out so much as directs the practice shall cease, and then ask that the resolution shall be put on its passage. I demand the previous question.

The resolution was again read.

Mr. HOOPER, of Massachusetts. I suggest to my colleague that the resolution be addressed to the Secretary of the Treasury, and not to a subordinate officer of the Treasury Department.

And while I am up I will take this opportunity of saying that I am in favor of the resolution in all its branches, and particularly in the latter branch, in regard to the conversion of national banks into State banks. Two weeks ago I introduced a resolution calling on the Secretary of the Treasury for information in regard to a particular bank, which I understand originally was a State bank. It organized under the national banking law with a capital of \$350,000, deposited \$350,000 in bonds, and took out \$315,000 in circulation; then immediately converted itself back into a State bank and announced to the Comptroller that it had no longer any existence as a national bank, and refused to make any returns to him, and when called on to return the circulation replied it would do so as soon as it could.

Mr. PRICE. I wish to make a statement, not for my own satisfaction, but when a declaration goes out from the House of Representatives, a part of the law-making power of this land, that a national bank can organize with a capital of \$350,000, deposit that amount of bonds with the Comptroller, receiving therefor circulating notes, and the next day or the next

week may abandon its national bank charter and commence business as a State bank, I wish the country to know that before they can do that they must return every dollar of circulation they have received, or, if they fail to return the exact circulation they have received, they must return an equal amount of legal-tender notes for that circulation. I want that to go out in connection with the other facts stated, so that there may be no uneasiness in the mind of any man, whether in the mercantile community or otherwise. When a national bank abandons its charter it must return to the Treasury of the United States every dollar of circulation it received in the notes which it received or in legal-tender notes of an equal amount, and when that is known to the country then there will be no uneasiness or agitation in reference to this matter at all.

I regret, Mr. Speaker, that I have not an opportunity in reference to this resolution to say something in defense of the Comptroller of the Currency, if, indeed, he needs any. He is executing the law as it stands. I do not object to the resolution, but I do object to instructing him to do what the law compels him to do; and that no one knows better than my friend from Massachusetts.

Mr. BUTLER, of Massachusetts. We have already taken up too much time with this resolution. The law does not compel him to do it; but he is authorized to do it, and not compelled.

A single word as to the vexed question of the exchange of banks. While the law compels the money to be returned, they have a right to a year to return it; and they make this change in view of getting into liquidation so as to get out of the laws of the United States when specie payment is resumed. I demand the previous question.

Mr. BARNES. I ask the gentleman to yield to me for three minutes.

Mr. BUTLER, of Massachusetts. I decline to yield further.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. BUTLER, of Massachusetts, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

W. W. CORCORAN.

Mr. SCOFIELD. I ask unanimous consent to report, from the Committee on Appropriations, a joint resolution in relation to the lands and other property of W. W. Corcoran, of the District of Columbia, used by the United States Government during and since the war of the rebellion.

The joint resolution, which was read, instructs the Secretary of the Treasury to withhold any and all payments of money for the use of lands and buildings in the District supposed to belong to the said W. W. Corcoran and taken possession of by the War Department during and since the rebellion for national purposes until the further action of Congress.

Mr. WOOD. I object.

Mr. SCOFIELD. I move that the rules be suspended to allow me to report that joint resolution, and in order that it may be put on its passage at this time.

The motion was agreed to.

Mr. SCOFIELD, from the Committee on Appropriations, then reported a joint resolution (H. R. No. 413) in relation to the lands and other property of W. W. Corcoran, in the District of Columbia, used by the United States Government during the war of the rebellion; which was read a first and second time.

Mr. SCOFIELD demanded the previous question on the passage of the joint resolution.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCOFIELD moved to reconsider the

vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PUBLIC LANDS.

Mr. CHURCHILL, from the Committee on the Judiciary, reported back a letter from the Secretary of War, transmitting a list of public lands held, &c., under act of March 30, 1868, and moved that it be referred to the Committee on Revision of Laws of the United States.

The motion was agreed to.

CHARLES MAUS.

On motion of Mr. MILLER, the Committee on Invalid Pensions was discharged from the further consideration of the papers in the case of Charles Maus, of Lewisburg, Pennsylvania; and the same were referred to the Committee on Revolutionary Pensions and the War of 1812.

NEW YORK ELECTIONS.

Mr. BOUTWELL. I rise to submit a report from the Committee on Reconstruction.

Mr. LAWRENCE, of Ohio. I ask the gentleman to yield to me for the purpose of submitting a resolution.

Mr. BOUTWELL. I yield for that purpose.

Mr. LAWRENCE, of Ohio. I ask unanimous consent to submit the following resolution:

Resolved, That the Committee on Alleged Election Frauds in New York be, and hereby is, authorized to report at any time.

Mr. BROOKS. I object.

Mr. LAWRENCE, of Ohio. I hope the gentleman will not insist on his objection.

Mr. BROOKS. We will have inextricable confusion if every committee is allowed to report at any time.

Mr. LAWRENCE, of Ohio. I give notice that when I get the floor I shall move to suspend the rules for the purpose of introducing this resolution.

VIRGINIA AND TEXAS.

Mr. BOUTWELL, from the Committee on Reconstruction, reported back Senate joint resolution No. 173, respecting the provisional governments of Virginia and Texas, with an amendment.

The joint resolution provides that all persons now holding civil offices in the provisional governments of Virginia and Texas who cannot take and subscribe the oath prescribed by the act entitled "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862, shall on the passage of this resolution be removed therefrom; and it shall be the duty of the district commander to fill all vacancies so created by the appointment of persons who can take such oath.

The amendment was read as follows:

Add as follows:

Provided, That the provisions of this act shall not apply to persons who by reason of the removal of their disabilities, as provided in the fourteenth amendment of the Constitution, shall have qualified for any office in pursuance of the act entitled "An act prescribing an oath of office for persons from whom legal disabilities shall have been removed," approved July 11, 1868: *And provided further*, That this act shall not take effect until thirty days from and after its passage.

Mr. BOUTWELL demanded the previous question.

The previous question was seconded and the main question ordered.

The amendment was agreed to; and the joint resolution, as amended, was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. BOUTWELL moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SUFFRAGE.

Mr. BOUTWELL. I purpose on Saturday next, if the business of the House will permit, immediately after the reading of the Journal, to call up the motion to reconsider the vote by which the bill to amend the Constitution in relation to suffrage was recommitted to the Committee on the Judiciary, for the purpose

of beginning the debate and pressing the bill to a vote, if possible, as early as Tuesday next.

MR. WELLS'S REPORT.

Mr. SCHENCK, by unanimous consent, submitted the following resolution; which, under the law, was referred to the Committee on Printing:

Resolved, That in addition to the usual number of copies of the annual report of the Commissioner of Internal Revenue, together with the accompanying tables, there be printed three thousand copies for the use of the Commissioner and three thousand copies for the use of the House.

NEW YORK ELECTION—AGAIN.

Mr. LAWRENCE, of Ohio. I move to suspend the rules for the purpose of introducing the following resolution:

Resolved, That the Committee on Alleged Election Frauds in New York be, and hereby is, authorized to report at any time.

Mr. BROOKS. I withdraw my objection to the introduction of the resolution.

The resolution was received and adopted.

Mr. LAWRENCE, of Ohio, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois. Before moving to go into Committee of the Whole on the state of the Union I move to suspend all rules which require the executive, legislative, and judicial appropriation bill to be read through the first time.

Mr. BROOKS. Is not that an unusual proceeding?

Mr. WASHBURNE, of Illinois. No, sir.

Mr. BROOKS. There has been nothing like it in the history of the country.

Mr. WASHBURNE, of Illinois. It is generally done by unanimous consent.

Mr. BROOKS. There has been nothing like it in the history of the whole country. We have allowed the gentleman to make a Navy and Army bill at his pleasure, and now he wants to make one of the large general appropriation bills.

Mr. GARFIELD. That does not waive points of order.

The SPEAKER. It does not. They are reserved.

Mr. WASHBURNE, of Illinois. I made the motion for the purpose of accommodating a colleague of the gentleman from New York.

The House divided; and there were—ayes 75, noes 19; no quorum voting.

Mr. BROOKS. I will not call for the reading of the bill; but I want to avoid this precedent.

The SPEAKER ordered tellers; and appointed Mr. SCOFIELD, and Mr. TRIMBLE, of Kentucky.

The House again divided; and the tellers reported—ayes 86, noes 24.

So (two thirds voting in favor thereof) the motion was agreed to.

Mr. WASHBURNE, of Illinois. I now move that all general debate on the bill be closed at four o'clock this afternoon.

The motion was agreed to.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PERSONAL EXPLANATION.

Mr. ALLISON. I desire to make a word of explanation having reference to the Daily Globe report of some remarks made by me on Friday last on the subject of freight charges across the Mississippi river at Dubuque. I am made to say that—

"There is a graduated scale of tolls established for that bridge, the minimum being less than twenty cents per hundred, and the maximum only reaching seventy-seven cents per one hundred thousand. Now, it is well known to every man who has transported any products from the East to the West, or the West to the East, even to and from Dubuque only, that it has cost on the average ten dollars a ton."

The facts are that the minimum rate of charges across the river by the railroad bridge

alluded to are or may be much less than twenty cents per ton, and the maximum rate by contract cannot exceed seventy cents per ton, instead of seventy-seven cents per hundred, as stated in the *Globe*. The average cost of transportation for a series of years by other modes has amounted to about one dollar per ton and not ten dollars, as stated, costing more than one dollar per ton during the winter months, and less during the season of navigation. The statement as it appears in the *Globe* would justify the complaints said to have been made by a citizen of Iowa, while the facts do not justify any complaint. I find no fault with the reporters, as I think in my remarks I may have inadvertently used the word hundred instead of ton.

INDIAN APPROPRIATION BILL.

Mr. BUTLER, of Massachusetts. I am directed by the Committee on Appropriations to report a bill (H. R. No. 1738) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with the various Indian tribes for the year ending June 30, 1870, and to move its reference to the Committee of the Whole on the state of the Union, and that it be ordered to be printed.

Mr. MAYNARD. I desire to reserve all points of order on that bill.

Mr. BUTLER, of Massachusetts. I move to suspend the rules, so that it may be introduced free of all points of order.

Mr. MAYNARD. Is there not a motion pending to go into committee?

Mr. WASHBURN, of Illinois. I withdraw that motion, as I deem this Indian appropriation bill important.

The SPEAKER. The motion to suspend the rules is not in order now, because the bill is not in committee. The Committee on Appropriations is authorized to report for reference only. It must be referred, and the gentleman from Tennessee has a right to demand the reading of the entire bill.

The bill was received and read a first and second time, ordered to be printed, and referred to the Committee of the Whole on the state of the Union.

Mr. BUTLER, of Massachusetts. I now move that the bill be made a special order in the Committee of the Whole on the state of the Union for Monday next, after the morning hour.

Mr. BROOKS. I object. The object is to suspend the rules on that day in order to dispense with the reading of the bill.

Mr. BUTLER, of Massachusetts. I will not move to suspend the rules in order to dispense with the reading of the bill.

The SPEAKER. A majority of the House can make a general appropriation bill a special order.

Mr. BOUTWELL. The debate on the constitutional amendment will come up on Monday.

Mr. BUTLER, of Massachusetts. That is in the House, while this is in the Committee of the Whole.

Mr. BOUTWELL. I trust no order will be made by the House which will interfere with the debate on the constitutional amendment when once entered upon. It seems to me it is a matter of such moment that we should at least have one or two days for its consideration.

Mr. WASHBURN, of Illinois. The gentleman's bill is not in the Committee of the Whole on the state of the Union.

Mr. BOUTWELL. It is not.

Mr. WASHBURN, of Illinois. This, then, has nothing to do with that bill.

The SPEAKER. When Monday arrives a motion to suspend the rules is in order to go into committee, although there may be a bill before the House.

The motion was disagreed to.

PERSONAL EXPLANATION.

Mr. HUMPHREY. I ask unanimous consent to make a personal explanation. There was no objection.

Mr. HUMPHREY. Mr. Speaker, I am

reported in the *National Intelligencer*, and other papers, as saying in the debate on the Niagara ship-canal bill, that "I was sorry to say that one of the Secretaries of the General Government should so far pander to the interest of the schemers as to use the reports of Mr. Brega." I used no such language, or any language capable of such construction in that debate. I have always regarded the honorable Senator referred to by me in that debate as incapable of such conduct or motives, and I take this first opportunity to correct any unfavorable impression that may have been derived from that report.

Mr. BANKS. I ask that a letter be read in reference to this explanation.

Mr. WASHBURN, of Illinois. I object to the precedent of having letters read to the House from private individuals; it would occupy all our time. I suppose the letter offered by the gentleman from Massachusetts is the denial of Mr. Brega that he is the agent of the Canadian Government, and I have no objection to that fact going upon the record, which will answer every purpose.

Mr. BANKS. I ask that the letter be read; it will not take a moment.

Mr. PIKE. I object.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. WASHBURN, of Illinois, moved that the rules be suspended and the House resolve itself into Committee of the Whole on the state of the Union.

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union (Mr. SCHENCK in the chair) and proceeded to the consideration of House bill No. 1673, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1870.

The CHAIRMAN stated that the House had ordered the first reading of the bill to be dispensed with, and that the general debate should be closed at four o'clock.

Mr. WOOD. Mr. Speaker, occasionally since holding a seat here I have objected to propositions on the ground of their unconstitutionality without having the opportunity to state at the time to the House my reasons for this opinion. Though having a clear idea of the correctness of the position, the peculiar nature of our rules and the bad practice of conducting business have not allowed me the privilege of conveying it to others.

I propose now, sir, to occupy the time allotted to me in an effort to explain the principles which have governed my votes on such questions and which shall hereafter govern them. I am controlled in my conduct as a member of Congress by certain fixed and unalterable laws, believing that we are here simply as the agents of others; that the powers we possess are delegated, not original; delegated not only because we are the Representatives of our constituents, but, what is far more important, delegated because they were originally derived from a source which at the time expressly declared in terms that they were delegated and prescribed and restricted to certain limits within which they should be exercised for certain specific objects.

I intend no personal disrespect when I say that gentlemen appear to know little of this theory of the Government and overlook altogether the fundamental conditions upon which a Congress of the United States was allowed to have any existence whatever. It would be well if occasionally, at least, some time should be devoted to an examination of this subject, that the source, nature, and extent of the authority vested in us should be made the subject of dispassionate reasoning, careful scrutiny, and thoughtful consideration. In the limited time allowed me in this discussion it would be impossible for me to do this, admitting that I had the necessary abilities. It is a great theme; one that has employed the best intellects in the earlier and better days of the Republic. At that time it was deemed so important to public education that the student of

learning was taught it with the elements of grammar. Nor was there any question raised in those days as to the nature of the trust given to the Federal Government, the only difference of opinion being whether the Constitution should be liberally or literally construed. Whatever differences existed as to the Constitution were comprehended within these limits.

There were but two schools of political thinkers, namely, the strict constitutionists and the latitudinarians. The most daring of the latter never declared that that instrument took from the States or the people thereof the least control over their own domestic institutions or clothed the Federal Government with authority over the territory of the States or over the vested and private rights of the citizens acquired under the State laws. He would have been held up to public scorn or ridicule who would have in either of these regards sought to subvert the simple agency of the delegated and restricted power conferred upon Congress to a purpose altogether at war with the designs and interests of those who conferred those powers. It is not thus now! We have no discussions of nice distinctions of the origin and character and limitation of the grant. The late war, which for the times submerged every other public question, appears to have deluged such as these, and to have obliterated forever all such considerations, leaving the Federal Government omnipotent and all-powerful to do anything under the sun without check or qualification. Upon this hypothesis Congress is now acting. "Might makes right." Whatever men want to do this is the place where they apply for permission to do it. Propositions are being continually presented to each House for the accomplishment of every conceivable selfish object and for every possible purpose.

I am not at random in thus characterizing what is occurring. The facts fully justify the statement; the Journals of each House show the record, and these records contain the evidence of the prevailing spirit of the times. Attempts are being made to use the central authority resident here for objects outside of our powers and which are antagonistic to the public good, and which to grant would be a betrayal of the rights and interests of those we represent. Among such schemes I class the bills to incorporate the railroad companies with authority to run through the States; an act to establish the "National Life Insurance Company of the United States," with authority to locate itself in any State in the Union; the proposition introduced in the Senate on January 8 for the General Government to buy up all the cotton grown in the country; the law to establish the Freedmen's Bureau; the Bureau of Education; the appropriation of money for eleemosinary purposes; to dispense subsidies in land, bonds, or money to railroad companies; to appropriate \$5,000,000 in bonds to the Sutro tunnel scheme; to establish and control the telegraph system of the United States; and many other propositions of a like kind.

We have no power to legislate over these questions. It requires no lengthy argument to prove this. The instrument itself is so plain and emphatic with reference to the character of the authority given, as well as to that not given, that it is only necessary to state them to furnish all the evidence any honest mind can require.

The solemn interstate compact which preceded the organic law, and from which the Constitution may be said to have sprung, laid the foundation of the Federal Government. By the second article of the "Original Articles of Confederation" it was specially provided that—

"Each State retains its sovereignty, freedom, and independence; and every power, jurisdiction, and right which is not by this Confederation expressly delegated to the United States in Congress assembled."

The same spirit that caused this emphatic reservation to be incorporated in the original articles of the Union was carried into the convention which met subsequently at Philadelphia and made the present Constitution. The ninth

and tenth articles of the amendments proposed at New York in 1789, and adopted by the States, provides—

"ART. 9. The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people."

"ART. 10. The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people."

If the full intent and meaning not only of these provisions, and indeed the whole scope and intent of the Constitution, require explanations, they are happily to be found in the *Federalist*, page 323, Dawson's edition. In the paper No. 44, written by Madison, who had more to do with the preparation and adoption in the Convention of that instrument than any other man, is found this remarkable summary of the powers of the Federal and State Governments as intended by its framers:

"The powers delegated by the proposed Constitution to the Federal Government are few and defined. Those which are to remain in the State government are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce; with which last the power of taxation will for the most part be connected. The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State. The operations of the Federal Government will be more extensive and important in times of war and danger; those of the State governments in times of peace and security. As the former period will probably bear a small proportion to the latter, the State governments will here enjoy another advantage over the Federal Government. The more adequate, indeed, the Federal powers may be rendered to the national defense, the less frequent will be those scenes of danger which might favor their ascendancy over the governments of the particular States."

And this view of the relative powers of the two Governments is fully sustained by John Marshall, afterward the Chief Justice of the United States. In the debates in the Virginia convention, while considering the Constitution, he said, in reply to the opponents of its ratification, that—

"All the authority intended to be laid on the State governments (beside where an exclusive power is directly given to Congress) are contained in the tenth section of the first article."

And again, in the same debate, he said that a power resident in a State anterior to the adoption of the Constitution, and not taken away by the above-referred section, is necessarily continued in the State. (*Elliot's Debates*, vol. 3, pp. 389 and 390.)

It is unnecessary to add to these authorities. They are the highest and cannot be questioned, and cover the whole ground. The line is drawn sharp and positive. Our authority to do any thing within the States without their consent, except as provided for in the section referred to, is denied and has no valid existence whatever.

The bill proposing the incorporation of railroads to run from Washington to New York, and from Washington to Cincinnati, provides that they may pass through all the intervening States, and thus run through their territory without the consent of those States. No power is given Congress over any part of the territory of the States except, as is expressly declared, it shall be "purchased by the consent of the Legislature of the State" for public purposes. Even in this District, where we exercise "exclusive legislation," the consent of the States had to be first obtained; and if we cannot exercise this authority for public purposes except with the consent of the States it is indisputable that we cannot impart it to a railroad company or to any other private or public enterprise.

If it shall be said that these bills do not propose that the General Government shall build these roads; that it is designed only to authorize private capitalists to do so and all that is intended is a simple act of incorporation, I reply that we cannot delegate authority we do not possess. We cannot authorize others to do anything which we cannot ourselves do. I can conceive of cases in times of insurrection or rebellion that the Federal authority can be exercised over and within loyal State limits.

This was done during the late war, though with doubtful legal right.

But I cannot admit that when no such public exigency exists Congress can assume any such authority, and if it has not the power to do so directly for governmental purposes it cannot delegate such powers to others for private purposes. The argument recently advanced by a distinguished Senator in behalf of the constitutional power of Congress to make these grants is based partly upon the theory that the roads to be constructed are for public purposes, and he finds in the authority conferred upon Congress to regulate commerce between the several States ample power to incorporate these companies. Now, it is well known that the Government has no necessity for such roads. Private enterprise furnishes all the facilities required for these objects. Neither public wants nor the necessities of commerce require the establishment of other means of communication. The supposed precedents which it is assigned justify these propositions have no analogy. There is no case, either in the political or judicial annals, which covers the principles involved in this.

That part of the honorable Senator's argument referring to the provisions of the Constitution which gives to Congress the power to regulate commerce between the States is an unfortunate reference for the success of his proposition. It is difficult to see how this clause of the Constitution can be construed to continue to impart authority such as this. The fact that the Government is nearly a hundred years old without any attempt of this character having been made until now seems to be sufficient proof that no one thought it had authority. The best interpretation of the designs of the framers of the Constitution and of the proper definition of its several provisions may be found in the *Federalist*. They were all written by the great leaders of the Convention which adopted that instrument, being themselves the authors of the language which composed it. Certainly no other commentary is required. I quote again from this authority in paper 41, of Dawson's edition, written by Madison, page 292. This explanation of the character of the power of Congress to regulate commerce between the States, &c., is thus stated:

"A very material object of this power was the relief of the States which import and export through other States from the improper contributions levied upon them by the latter. Were these at liberty to regulate the trade between State and State, it must be foreseen that ways would be found out to load the articles of import and export, during the passage through their jurisdiction, with duties which would fall on the makers of the latter and the consumers of the former. We may be assured by past experience that such a practice would be introduced by future contrivances; and both by that and a common knowledge of human affairs, that it would nourish unceasing animosities, and not improbably terminate in serious interruptions of the public tranquillity."

Thus it appears that nothing more was designed than that inasmuch as the power to regulate the foreign commerce of the country was to be placed in the hands of the Federal Government so it became necessary the States should be deprived of the opportunity of injuring each other by laying taxes and duties upon either foreign or domestic goods in transit from one to the other. This power was taken from them and given to the central authority. The principle involved has also been settled by the Supreme Court. It was declared in the *Rock Island bridge case*, reported in 6 McLean. Justice McLean delivered the opinion, which has never been controverted or criticized. He said:

"Under the commercial power Congress may declare what shall constitute an obstruction or nuisance by a general regulation, and provide for its abatement by indictments or information through the Attorney General; but neither under this power nor under the power to establish post roads can Congress construct a bridge over navigable water. This belongs to the local or State authority within which the work is to be done. But this authority must be so exercised as not materially to conflict with the paramount power to regulate commerce. If Congress can construct a bridge over a navigable water under the power to regulate commerce or to establish post roads, on the same principle it may make turnpikes or railroads throughout the country. The

latter power has generally been considered as exhausted in the designation of roads on which the mails are to be transported; and the former by the regulation of commerce upon the high seas, and upon our rivers and lakes. If these limitations are to be departed from there can be no others except at the discretion of Congress."

These principles and others applicable were subsequently more fully stated in "*Veasie vs. Moore*," reported in 14 Howard. And as this opinion was not only rendered by a unanimous bench, but declares the extent of the powers of Congress under the clause to regulate commerce between the several States, I make the following extract from it:

"The phrase can never be applied to transactions wholly internal between citizens of the same community or to a polity and laws whose ends and purposes and operations are restricted to the territory and soil and jurisdiction of such community. Nor can it be properly concluded that because the products of domestic enterprise in agriculture or manufactures or in the arts may ultimately become the subjects of foreign commerce, the control of the means or the encouragements by which enterprise is fostered and protected is legitimately within the import of the phrase foreign commerce, or fairly implied in any investiture of the power to regulate such commerce. A pretension as far-reaching as this would extend to contracts between citizen and citizen of the same State, would control the pursuits of the planter, the grazier, the manufacturer, the mechanic, the immense operations of the collieries and mines and furnaces of the country; for there is not one of these avocations the results of which may not become the subjects of foreign commerce and be borne either by turnpikes, canals, or railroads from point to point within the several States toward an ultimate destination, like the one above mentioned. Such a pretension would effectually prevent or paralyze every effort at internal improvement by the several States; for it cannot be supposed the States would exhaust their capital and their credit in the construction of turnpikes, canals, and railroads, the remuneration derivable from which, and all control over which, might be immediately wrested from them, because such public works would be facilities for a commerce which, while availing itself of those facilities, was unquestionably internal, although indirectly or ultimately it might become foreign. The rule here given with respect to the regulation of foreign commerce equally excludes from the regulation of commerce between the States and the Indian tribes, the control over turnpikes, canals, railroads, or the clearing and deepening of watercourses exclusively within the States, or the management of the transportation upon and by means of such improvements. The design and object of that power, as evinced in the history of the Constitution, was to establish a perfect equality among the several States as to commercial rights, and to prevent unjust and invidious distinctions which local jealousies or local and partial interests might be disposed to introduce and maintain. These were the views pressed upon the public attention by the advocates for the adoption of the Constitution, and in accordance therewith have been the expositions of this instrument propounded by this court."

The argument often adduced in favor of a latitudinarian construction of the Constitution in cases of great necessity does not reach this case. The life of the nation is not imperiled by the manner in which the Baltimore and Ohio Railroad Company transacts its business or accommodates the traveling public, nor does the reasoning recently employed to sustain the legal-tender acts apply. In that case it has been said that Congress is clothed with the requisite power, as it is its duty, to do all things necessary to continue the Government in existence, and that the issue of what is termed legal-tenders was at the time absolutely necessary to this purpose. The defense enters a plea of higher necessity, virtually admitting that there was no legal justification, but that the public exigencies warranted a suspension, for that object, of the provisions of the Constitution. Indeed, this and many other legislative and executive doings of doubtful validity which the war produced was tolerated upon the ground that at that time they were absolutely necessary to prevent national death. But this is a time of profound peace, internal and external; we have neither foreign nor domestic war. The Government is on a peace basis, its late extended arms, which covered the whole land and absorbed nearly all the official authority of the nation, are withdrawn within the narrow limits in which the Constitution originally placed them.

Commerce is abundantly regulating itself; private capital and enterprise are reassuring their wonted channels, and that competition between man and man, which leaves to each the results of his own superior advantages, is,

as of old, reasserting its control over the great interests of the people, and the Government cannot and should not step in between them. Government should not intrude its authority over the contests of private or State corporations. If Congress can incorporate companies for such purposes and with such privileges, so can it others. If the excuses for these grants are tenable like reasons will be found in favor of creating other companies to reach other points. If this business is entered into of regulating railroad fare and the mode and manner of conducting them it will, of course, be extended to every other enterprise. The Government cannot stop by the establishment of the proposed lines. It must go on, because it cannot be contended that such privileges shall be conferred exclusively on these and none others. Nor does it follow that the connection at Washington secures this objection. The same principle will warrant the creation of any roads which may be connected with these proposed Washington roads. Thus in time the entire railway interests of the country would be placed in the hands of those who could procure the franchise at this capital. It would be only necessary to connect them with some road that did connect with the Washington road. The immense investments already made in such property would become depreciated, for existing lines could not compete with the overshadowing advantages thus conferred. Members of Congress would be continually solicited to bestow further privileges, and it is not too much to say that stupendous combinations would be made here which would "bull and bear" the value of shares for the benefit of those who could influence legislation.

Under the principle thus sought to be established every other department of private enterprise can be invaded. The Federal Government can authorize the construction of mills, and indeed the prosecution of every manner of commerce, trade, and manufacture under its protection. This great power when once invoked cannot be stopped. The keen witted speculator and the energetic adventurer would find means to seize it and use it for their own purposes. As against such a gigantic patron private enterprise would be obliged to succumb. We have already proof of this in the effect upon the business of life insurance, by the creation of the mammoth corporation of this kind which Congress authorized at its last session. I declared at the time of its passage in this House that the grant conferred upon the few persons named as incorporators was worth \$5,000,000; my voice was not heeded, and under the whip and spur of the previous question it was forced through without debate or discussion. This company presents itself to the people of the United States as a national institution, indorsed and sustained by the authority of the General Government. This gives it a character for solvency possessed by none other; people praise it and patronize it to the exclusion of others equally respectable and trustworthy. There can be no successful competition with it; in time it will absorb nearly the whole of that business.

Nor is this the only objection to this proposition. Not only will it open the door to every kind of similar legislation, but it will also enlarge the sphere of existing abuses. As wicked as has been the practice recently in the adoption of measures favoring the corrupt interests of the country, what has occurred will be nothing as compared with those that will follow. The recent practice of the Government in donating immense tracts of land and in dispensing moneyed favor to railroad and other speculators is a shameful abuse. To such an extent has this already been carried that it has attracted the attention and consideration of the people throughout the nation. The enormity of these swindles, under the plea of public good, is startling. To enumerate them would be almost impossible. I cannot, however, allow the opportunity to pass without referring to a few. The original Pacific railroad grant itself may be said to be the great father of these infamous

schemes of the railroad class. However meritorious and desirable the erection of such a road may be, no honest man can justify the abuses which have been practiced by those who have charge of its construction, and more especially the precedent established in the subsidy system. This giant work has been built altogether by Government favor, and yet its franchises, its property, and its profits are exclusively in the hands of individuals. The Government itself does not own one foot of it, nor can it, as such, derive the least advantage from its existence. The work is so stupendous that it requires no stretch of imagination to see that when completed it will control the many great States through which it will pass, as well as those at either terminus. Already, though not yet finished, its power is felt in this House, being represented here by members elected for no other purpose than to promote and protect its interests. The press of the country has been made stipendiary upon its favor, and even the Executive Departments are not freed from its influence. We have invoked a demon whom we cannot suppress if we would, and done it, too, under the pretext of public good. From this bad beginning has flown other and kindred evils. Minor franchises and favors have been dispensed to other companies tributary to or in some pretended way connected with the mother road. The Sioux City branch is one of them. Though in no way a Pacific road, it has participated directly in the bounties granted to that road. It is a private enterprise, and yet it has already received from the Secretary of Treasury, by the way of subsidy, bonds at the rate of \$16,000 per mile, and land from the Secretary of the Interior at the rate of twelve thousand eight hundred acres per mile; and by legislation already completed this branch, in violation of law, is regularly receiving its proportion of such subsidy, and claims the whole, namely, \$1,600,000 and one million two hundred and eighty thousand acres of land.

The favors extended to the Burlington and Missouri river extension are also of the same character. In the amended Pacific railroad act of 1864 an amendment was adopted authorizing this company to extend its line from a point on the Missouri river, near Nebraska City, westward to a point near Fort Kearny, or any point east of the hundredth meridian. The distance was about one hundred and fifty miles, and the land grant twelve thousand eight hundred acres per mile. The then Secretary of the Interior, under suspicious circumstances, withdrew from sale not only all the land south of this road to the Nebraska line, but went over into Kansas and withdrew an immense tract there also. Between the Secretary and a United States Senator and their friends a territory large enough for a respectably sized State came near passing into the hands of a few speculators. The Legislature of Kansas spoiled this transaction by exposing it in time to prevent it. There was a similar attempted fraud in another direction. A company, acting indirectly and clandestinely under the provisions of the amended act of the Pacific charter, proceeded to build a road from Sacramento, via Stockton, to San José, a point not on the Pacific coast. The line was one hundred and twenty miles long, and it received a subsidy of \$1,920,000 and a large grant of land beside. The Leavenworth, Lawrence, and Galveston road, a speculation got up expressly as a swindle, was projected merely for the purpose of getting possession of the richest lands in the West. The portion of this road which lies in Kansas is one hundred and fifty miles long, and cost about twenty thousand dollars per mile to build, making a total cost of about three million dollars. It has already received five hundred thousand acres of land from the Government, worth five dollars per acre, one hundred and twenty-five thousand acres from the State of Kansas, worth three dollars per acre, and bonds to the amount of \$900,000, comprehending a large sum over and above its cost. This company is now before the Senate modestly urging there the ratification of a treaty known as the

Osage treaty, which enables this company to buy eight million acres of land at nineteen cents per acre, the payment having fifteen years to run. The value of these lands is about twelve million dollars.

The Cherokee neutral land job looms up as another similar "big thing" of almost equal magnitude, the details of which would occupy too much time to relate. Congress up to March last has granted in all to various southern and western States over fifty-seven million acres of land for railroad purposes. It has given beside seventeen million acres to canals and similar improvements. The Pacific railroad and its branches have received one hundred and twenty-four million acres, and if to this is added the even-numbered "sections" along those routes which the Secretary decided to be closed for settlement, it will appear that nearly one third of the entire public domain has been made over to the control of railroad companies. The Commissioner of the General Land Office, in referring to this subject, says:

"The quantity of land conveyed by these grants is of empire extent, exceeding in the aggregate by more than five million acres the entire surface of the six New England States added to the areas of New York, New Jersey, Pennsylvania, Ohio, Delaware, Maryland, and Virginia. And that the grants to Pacific roads alone are within a fourth of being twice the area of England, Ireland, Scotland, Wales, Guernsey, Jersey, the Isle of Man, and the isles of the British seas, and less than a tenth of being equal to the French empire proper."

So much for what has been done. Hundreds of similar schemes are pending in both Houses of Congress, awaiting favorable opportunities and the arrangement of suitable combinations to carry them through.

Such are the effects already produced by our lax discharge of duty. If Congress had adhered closely to its constitutional legislative functions no such array of shameful frauds upon the public interests as these could have been perpetrated. It is the assumption of doubtful powers that has opened the doors to such abuses. What was at first excused upon the ground of higher necessity, and submitted to only because of this seeming justification, has become incorporated into our practice and accepted as sufficiently warranted under the Constitution. That instrument is being constantly violated in our proceedings. The precedents recently established are accepted as sufficient authority, and thus at sea, "without chart or rudder," we are in danger of shipwreck and destruction. Though the fundamental law may, as it no doubt does, require amendment and modification in many ways to render it more directly applicable to the present extent of empire and the new order of things and the varied and diversified interests, yet so long as it is the law it must be adhered to in our proceedings. Better "bear those ills we have, than fly to others that we know not of." Better labor under the difficulties of an insufficient organization until properly reformed than to do that which will open the door to anarchy, national bankruptcy, and general demoralization.

It is a popular error to suppose that because great changes have recently come over the institutions and sectional relations of State communities the Constitution has been changed also; that what has been commonly known as State rights is now an exploded doctrine, and that the war settled all this against the States and in favor of the central power. Doubtless this may be true so far as men's wishes are concerned, but "the wish is only father to the thought" as yet; something further has to be done. The organic law can be altered only in the way provided by the law itself. Whether right or wrong, wise or unwise, applicable or inapplicable, it is the law, and must remain so until amended in the constitutional mode. Violence and the disruption of State communities cannot change the nature of the Federal Government, nor can the conduct of those intrusted with the administration of public affairs annul, increase, or decrease any of its powers. These are delegated and declared. They are few in number and limited in character. Neither armed resistance nor legislative

encroachments can make it more or less than what they are, precisely as they are declared in the articles of compact. Once break down these barriers and the floodgates of centralization and despotism will assuredly be lifted and our liberties will perish forever. The decentralization of official rule is indispensable to the preservation of popular rights. Concentrated power is always unmindful of the privileges of the people. To secure fair and equal justice to all men it is necessary to disseminate the benefits of government, so that all, irrespective of class, section, caste, or station, shall alike participate in its favors and bear a proper share of its burdens.

The framers of our political organization had these sound and patriotic objects in view when the Union was constructed. The speeches and writings of the fathers of the Republic, who obtained our liberties and then, as by inspiration, brought out of chaos the solid form of this blessed instrument by which we exist, breathes this spirit and none other. There was no difference as to the nature and character of the Government it was intended to erect nor the least divergence in opinion as to the work itself when completed. Let us adhere to it! It is the safest as well as the only course consistent with our oaths of office. To violate its sacred provisions is to commit moral and legal perjury. We cannot do this; we are entrusted with high duties. The destinies of this great people are in our hands. The representatives of no Government in the world were ever clothed with such responsibilities. The recent internal conflict which so severely tested our national solidity has already disappeared, and its effects are gradually disappearing also. The people will do the rest; let us leave them alone. If we cannot legislate for their good do not do them harm. Their wonderful energy and intelligence will soon restore peace and prosperity if no obstacles are thrown in their way by unwise legislation here. They want to be let alone. Do not interfere by granting special privileges to the favored few. Even if the power exists to do wrong do not do it. If "that is the best Government which governs least" so will the people consider that the best Congress which throws the fewest difficulties in the way of the full development of private enterprise, leaving all men to struggle with each other in the pursuits of life according to their individual advantages, without Government aid or hindrance.

And now, in conclusion, let me turn my voice from this House and from Congress to the people and address to this fountain of all authority a few warning words. Look well, O king, to those who rule you! Be not deceived or led astray by the late false cry of executive tyranny or treachery. Your danger lies not in the President or in the courts, not in the "one man power," not in his followers, but in your own selected agents to be found here in this capital, the accredited law-makers of the land. It is legislative encroachments upon your liberties and property that you have the most cause to fear, and in which lies your greatest danger.

Nor was this evil entirely unanticipated by the great fathers of the Republic. With more than human prescience they saw it afar off and provided for it, as they thought, so far as possible in the Constitution itself. The great Madison made this remarkable reference to the danger of legislative tyranny which he thought was to be feared more than any other despotism under our form of Government. He said, in speaking on this subject:

"In a Government where numerous and extensive prerogatives are placed in the hands of an hereditary monarch the executive department is very justly regarded as the source of danger and watched with all the jealousy which a zeal for liberty ought to inspire. In a democracy, where a multitude of people exercise in person the legislative functions and are continually exposed by their incapacity for regular deliberation and concerted measures to the ambitious intrigues of their executive magistrates, tyranny may well be apprehended on some favorable emergency to start up in the same quarter. But in a representative republic, where the Executive magistracy is carefully limited both in the extent and

the duration of its powers, and where the legislative power is exercised by an assembly which is inspired by the supposed influence over the people with an intrepid confidence in its own strength; which is sufficiently numerous to feel all the passions which actuate a multitude, yet not so numerous as to be incapable of pursuing the objects of its passions by means which reason prescribes, it is against the enterprising ambition of this department that the people ought to indulge all their jealousy and exhaust all their precautions."

The Clerk proceeded to read the bill by paragraphs for amendment.

Mr. McKEE. I move on page 4, line sixty-eight, to strike out the words, "for miscellaneous items, \$15,000;" and I do it for the purpose of getting an explanation from the chairman of the Committee on Appropriations. We have in this bill every possible item of appropriation, and then, in addition, \$15,000 for miscellaneous items. I desire to know what these miscellaneous items are. The chairman of the Committee on Appropriations has expressed himself in favor of economy, and he certainly should let us know for what purpose we are voting this money.

Mr. WASHBURN, of Illinois. This appropriation of \$15,000 is much less than usual; and I will tell the gentleman that it is for a variety of purposes, for the payment of burial expenses, and for contested elections, and many other necessary expenses. We have cut those appropriations down to the lowest point possible.

Mr. McKEE. It may be that this item is in accordance with the precedents of former appropriation bills. But as to the expenses of contested elections, we always make an appropriation out of the contingent fund by a specific resolution. With regard to the Senate, I think there has been no contested election there for five years, and probably there will be none for the next ten years. I think that the appropriation as stated in the bill should be stricken out. I move, therefore, to amend by striking out "for miscellaneous items, \$15,000."

Mr. WASHBURN, of Illinois. This item ought not to be stricken out. The Senate necessarily has these miscellaneous expenses, as we have. No one wants to give that body any more than it is entitled to.

The amendment was not agreed to.

Mr. PAINE. I take occasion to call the attention of the gentleman from Illinois [Mr. WASHBURN] to the phraseology of the fifty-eighth line: "For stationery for committees, &c., \$5,000." I suggest that the "&c." should be struck out.

Mr. WASHBURN, of Illinois. The gentleman's suggestion is very proper. I hope the modification will be made by unanimous consent.

The CHAIRMAN. If there be no objection "&c." will be struck out.

There was no objection.

The Clerk read as follows:

For packing-boxes for the Senate and House of Representatives, \$3,000: *Provided*, That each Senator, Member, and Delegate shall be entitled to receive only the value of ten dollars in packing-boxes each year.

Mr. McKEE. I move to amend by striking out the paragraph just read. I think no good reason, if any reason at all, can be urged for allowing Senators or Representatives ten dollars, or any other sum, for packing-boxes. Almost every gentleman who travels around this country furnishes his own packing-boxes, and there is no reason why a member of Congress should be allowed packing-boxes at the public expense. All our public documents, and everything of that kind, go off under our franks, and what these packing boxes are for is a matter which a great many members, including myself, have not found out.

Mr. WASHBURN, of Illinois. From time immemorial Congress has made an appropriation, and a pretty large one—much too large—for these packing-boxes. The Committee on Appropriations instituted some inquiry into this subject pending the preparation of this bill, and found that heretofore members have in many instances drawn for one session some twenty or thirty dollars' worth of packing-

boxes each, which, to a considerable extent, were not for the personal use of the members. The committee came to the determination that ten dollars' worth of packing-boxes for each year would be amply sufficient for each member. This would allow about three packing-boxes to every member. The gentleman from Kentucky [Mr. McKEE] must understand what these packing-boxes are for. They are to enable members to carry home congressional books for the use of their constituents.

Mr. McKEE. My understanding is that books published by authority of Congress are sent to our constituents through the mails.

Mr. MUNGEN. Will the gentleman from Kentucky allow me to ask him a question?

Mr. McKEE. Yes, sir.

Mr. MUNGEN. I wish simply to know if the gentleman from Kentucky would require that our documents and books which naturally accumulate here should be sent home in carpet-bags. [Laughter.]

Mr. McKEE. That is not a question that is legitimate to the discussion. I suppose, however, that carpet-bags would be equally as legitimate and proper as pine boxes. The only interest I have in this matter is in reducing the expenses to the very lowest possible limit. I certainly can see no reason why we should appropriate \$3,000, or any other sum, for packing-boxes for members. So far as I am concerned I certainly do not want any. I have not had ten dollars' worth nor five dollars' worth of packing-boxes since I became a member of the House, and I hope I never shall want any.

The question being taken on the amendment, it was disagreed to.

Mr. RANDALL. I ask whether this proviso allows a member to commute for ten dollars if he does not take his boxes?

Mr. WASHBURN, of Illinois. Yes, sir.

Mr. RANDALL. Then I move to strike it out.

Mr. WASHBURN, of Illinois. It is too late; the House has just refused to strike it out.

Mr. RANDALL. I now propose to strike out simply the proviso. It is a mean way of increasing our pay. I have no objection to the boxes whatever.

The CHAIRMAN. The vote of the committee was upon striking out the paragraph. The gentleman from Pennsylvania moves now to strike out simply the proviso. That is in order.

Mr. RANDALL. I wish to leave it so that members must take their boxes or get no benefit from this appropriation.

Mr. MAYNARD. I hope this amendment will not be passed. There is a bit of history in connection with this outlay in the House. When I first came here, in the Thirty-Fifth Congress, I met a young gentleman from the Cincinnati district who has since become very eminent. One of the first efforts he made in the House, as I recollect, was to strike out the appropriation for packing-boxes, and the brilliancy of his oratory and the potency of his logic were such that the House struck it out.

Mr. RANDALL. If the gentleman will excuse me, I have made no motion to strike out the appropriation. I know the boxes are very useful, but I do not want any privilege extended to members to take ten dollars surreptitiously, as I consider it.

Mr. MAYNARD. I understand my friend's proposition. I was about to observe that at the very next session, when the deficiency bill was reported, it was found that the item for boxes was contained in that bill. So that all the effect and value of the effort of that gentleman was entirely lost. It had the effect of bringing the gentleman before the House and before the country, and he came afterward to be a very prominent member and a luminary of his party; but so far as any advantage to the public Treasury was concerned it was entirely inoperative and ineffectual. I hope, therefore, the gentleman will not press this matter further.

Mr. WASHBURN, of Illinois. I desire to

state that this proviso is only a limitation of the sum that we are in the habit of appropriating. Members will be entitled to some boxes, but not so many as heretofore. The committee have made an appropriation which is to cover boxes in both Houses of Congress. They have put a limitation to the appropriation, and have provided that each member shall receive only ten dollars' worth.

Mr. RANDALL. I will modify my amendment by leaving the proviso as it stands and adding these words to it: "and there shall be no commutation in money in lieu thereof."

Mr. HIGBY. I would inquire of the gentleman from Illinois how many boxes he proposes to allow to each member for the ten dollars.

Mr. WASHBURN, of Illinois. Each member shall not be entitled to more than ten dollars' worth; he may get two or three boxes, according to the price.

Mr. RANDALL. I do not understand the gentleman to object to my amendment.

Mr. WASHBURN, of Illinois. I do not object to it.

Mr. POLAND. I have no sort of objection to the amendment proposed by the gentleman from Pennsylvania, for I do not think it changes the sense at all. The proviso reads, as it now stands:

Provided, That each Senator, Member, and Delegate shall be entitled to receive only the value of ten dollars in packing-boxes each year.

I understand the chairman of the Committee on Appropriations to concede to the gentleman from Pennsylvania that if any member chooses not to take the boxes he would be entitled to take ten dollars. I think it is clearly an incorrect explanation of the bill as it now stands. I do not object to the amendment, but I deem it entirely unnecessary. It will not change the sense of the bill as it now stands.

Mr. RANDALL. My amendment is based on the construction which the chairman of the Committee on Appropriations puts on this clause, and which is likely to be the construction put upon it by the officer who pays the money.

The question was put on Mr. RANDALL'S amendment; and it was disagreed to—ayes eighteen, noes not counted.

Mr. WASHBURN, of Illinois. I desire to move an amendment to the paragraph in relation to the House of Representatives. I move in line ninety to strike out the words "two assistant clerks" and insert "one assistant clerk" in lieu thereof.

Mr. ARNELL. I would ask the chairman of the Committee on Appropriations if there is any increase of salaries to any of these officers?

Mr. WASHBURN, of Illinois. There is not any so far as I am advised, and I think I am pretty well advised on that subject.

Mr. BLAINE. Before the question is put I desire to ask the chairman of the Committee on Appropriations whether it was intended to make this bill conform in the number of officers to the estimates?

Mr. WASHBURN, of Illinois. This will make it conform to the estimates. There was a mistake in drawing the bill.

The amendment was agreed to.

Mr. BLAINE. I desire to offer an amendment to make the bill conform to the estimates precisely as the gentleman from Illinois has corrected it by his amendment. The very next item reads: "twelve assistant clerks, (including the Librarian,) at \$2,160 each." Now, the estimate is for "twelve assistant clerks, Librarian, and Assistant Librarian, at \$2,160 each." The bill, therefore, provides for two officers less for the Forty-First Congress than there are for the Congress of to-day. I move to strike out the words "including the Librarian" and to insert the words "the Librarian and Assistant Librarian;" so as to make it conform to the estimates and read, "twelve clerks, the Librarian, and the Assistant Librarian, at \$2,160 each." That will make

it conform exactly to the estimates, to the existing organization of the House, and to the law.

The CHAIRMAN. Does the gentleman observe that that will give the Assistant Librarian the same salary as the Librarian?

Mr. BLAINE. It was made so last session.

Mr. WASHBURN, of Illinois. The bill, as I understand it, and as the committee understood it, conforms to the existing law. The estimates are not the law, and this is making an additional office.

Mr. BLAINE. I beg pardon; the gentleman just now quoted the estimates as the basis on which he made a correction in the bill—the same estimates on which I propose to make this correction. I want the bill to correspond exactly to the estimates, to the present organization of the House, and to the law itself, which is the presumed basis of all estimates. I hope, therefore, that my friend from Illinois will allow this amendment to be passed.

Mr. WASHBURN, of Illinois. I am afraid the gentleman's "friend from Illinois" will not allow it.

Mr. BLAINE. Well, I hope the committee will adopt it.

Mr. WASHBURN, of Illinois. I am sorry my friend from Maine was not with the Committee on Appropriations when they passed upon this bill. If he had been there he would not have deemed it necessary to make the objection he is now making. If he will look at the law of last year he will find that the present bill conforms to it precisely. It reads, "twelve assistant clerks (including the Librarian) at \$2,160 each." There is not any Assistant Librarian at all.

Mr. BLAINE. A joint resolution passed both branches of Congress, and upon that resolution this estimate was made up by the Clerk of the House and sent to the Treasury Department, and it comes as regularly authenticated an estimate as any other.

Mr. WASHBURN, of Illinois. Perhaps I can now understand my friend from Maine. Does he refer to the Librarian here, on this floor?

Mr. BLAINE. Yes, sir.

Mr. WASHBURN, of Illinois. Well, then, my friend is not quite as familiar with the subject as I supposed he was. He got through the resolution he speaks of, but it expires with this Congress, and hence we had no right to put the appropriation in this bill.

Mr. BLAINE. It is the same kind of a law as those by which the salaries of the Door-keeper and other officers of the House have been regulated. It is precisely according to precedents and the estimates, which are made up with great care, and which the gentleman always rests on when they favor his side of the case—exactly conform to it. It is only because he has made one amendment to correct the bill according to the estimates that I desire to make another amendment in order that the bill may conform to the estimates in that respect.

Mr. MAYNARD. I desire to see if I understand this matter. This paragraph provides for "twelve assistant clerks." I do not understand that the gentleman from Maine [Mr. BLAINE] proposes to increase that number of clerks.

Mr. BLAINE. I do not. In the House, under the present organization, there are twelve assistant clerks, and a Librarian and Assistant Librarian.

Mr. MAYNARD. I do not understand the estimates to read that way.

Mr. BLAINE. The estimates say, "twelve assistant clerks."

Mr. MAYNARD. "Including the Librarian."

Mr. BLAINE. No, sir; that is in the bill, not in the estimates. The estimates read, "For twelve assistant clerks, Librarian and Assistant Librarian," which make fourteen officers, just as the House is organized to-day.

Mr. MAYNARD. As this bill is drawn, there are to be only twelve assistant clerks, one of whom is to be the Librarian.

Mr. BLAINE. Which is two less than the House now has.

Mr. WASHBURN, of Illinois. I think I can make the committee understand this matter. After they understand it, if they desire to increase the force of the House, they can do it. My friend from Maine [Mr. BLAINE] at the last session of Congress got through a joint resolution, as follows:

"Resolved, &c., That for the present Congress, commencing therewith, the Clerk is directed to pay from the contingent fund of the House to the Assistant Librarian, in charge of the Hall library, the difference between his present pay and the pay of the file, printing, and engrossing clerks."

Just notice how it reads, "For the present Congress," and for that only. Now, while that joint resolution creates that office for the present Congress, my friend from Maine [Mr. BLAINE] seeks to put this officer in the general appropriation bill, and make him a permanent officer.

Mr. BLAINE. I would inquire of the gentleman from Illinois [Mr. WASHBURN] if he ever knew the pay of an officer of this House to be regulated in any other way than the way in which the salary of this particular officer was fixed? I know there has been an attempt made to have a joint committee of the two Houses to take into consideration the subject of the number and pay of the officers of the two Houses. But nothing has been done in that way yet. All the officers of the House, ever since its organization, have received their pay in just this way. I would ask how could the House provide for the pay of its officers except in this way, from Congress to Congress?

Mr. WASHBURN, of Illinois. The point is simply this: my friend from Maine got this resolution passed to pay his friend, the Assistant Librarian over there—a most excellent young man, and whom I should be glad to see flourish in all conditions of life—to pay him during this Congress. After he has got that through Congress, he now comes forward and proposes to make the office permanent by having it put in the general appropriation bill. Now, there is no law that authorizes us to put it in this bill. If it is put in there it will be without any law, and it will be making law.

Mr. MAYNARD. Will the gentleman allow me to ask him a question for information?

Mr. WASHBURN, of Illinois. Yes, sir.

Mr. MAYNARD. The person whom I regard as the most valuable in the House Library is a colored man.

Mr. WASHBURN, of Illinois. It has nothing to do with him.

Mr. MAYNARD. In what capacity is he provided for?

Mr. BLAINE. He is to be paid as a messenger, further down in the list.

Mr. MAYNARD. If that be so, I humbly conceive that we have no use for a Librarian and Assistant Librarian in addition to this messenger.

The CHAIRMAN. Debate upon the pending amendment has closed.

The question was then taken upon the amendment of Mr. BLAINE; and upon a division there were—ayes seventy-eight.

Mr. WASHBURN, of Illinois. I will not call for a count of the noes, as I do not want to break up the committee, but will ask for a vote in the House. I want to see if the House will go on and increase the number of its clerks in this way.

Mr. PIKE. It is a very worthy object in this case.

Mr. WASHBURN, of Illinois. It is to keep in a man from Maine; that is what it is. The amendment was declared to be adopted.

Mr. MAYNARD. I move to further amend this paragraph by striking out the words "clerk to Committee of Claims, \$2,160." The clerk to the Committee of Claims has come to be a salaried officer, by having been originally incorporated in an appropriation bill, according to my recollection, something like what we have just done by amending this bill in regard to the Assistant Librarian. In that point of view I think we are entirely at liberty now to appro-

prate or not for the coming year as we please. The Committee of Claims at the time this clerk was first paid a salary was a much more important committee than it is at this day. The establishment of the Court of Claims has withdrawn from the committee a large portion of the business that it formally transacted. The amount of business now done by this committee is no more than that done by the Committee on Military Affairs, the Committee on Naval Affairs, the Committee on Invalid Pensions, and various other committees of the House. If we strike out this appropriation in the bill we leave the clerk of the Committee of Claims to placed on precisely the same footing as his brother clerks of the various other committees; and that is the position which, in my judgment, he ought to occupy.

Mr. BINGHAM. Do I understand that the amendment is to reduce the pay of the clerk of the Committee of Claims?

Mr. MAYNARD. My motion is to strike out this clause entirely, leaving the clerk of the Committee of Claims on precisely the same footing as the clerks of the various other committees—the Committee on Military Affairs, the Committee on Naval Affairs, the Committee for the District of Columbia, &c.

Mr. WASHBURN, of Illinois. The difficulty is that the gentleman proposes to strike out the salary, but not to abolish the office. The office is created by law.

Mr. MAYNARD. I stated in the first part of my remarks, which I presume the gentleman did not hear, that the only authority of law for the existence of this office is simply that an appropriation was once made for it, and has been continued for several years. When we stop the appropriation we discontinue the office at the same time.

Mr. BINGHAM. I desire to say, in reference to this subject, that I think Congress acted wisely in providing salaries for certain clerkships connected with this House. As members perhaps well know, I have had a connection with the Committee of Claims that has sat during the present Congress. The present clerk of the committee I found occupying the position; he had served before in the same capacity; but I desire to say that the position requires an amount of attention and knowledge not ordinarily demanded of clerks in the service of this House. I regard it as a piece of very poor economy to cut down the salary now allowed to the clerk of the Committee of Claims. My experience upon that committee—and I hope I may never serve upon it again, although I feel very much obliged to the House for appointing me to the position and feel very well pleased with my associations—enables me to say that a great deal of attention and experience is required on the part of the clerk to keep the records, &c.; of the committee. Give to that committee an unskilled clerk, one not familiar with its duties, and a very undue proportion of the time of the members of the committee will be required for the performance of the service which is now ordinarily performed by the clerk. The making up of an intelligent report which will challenge the investigation of the House and of every department of this Government is a task that cannot be performed at all by a person unaccustomed to such duty or not well qualified for it by previous education. I hope the amendment will not be adopted.

Mr. MAYNARD. Will my friend from Ohio [Mr. BINGHAM] allow me to ask—for I had the honor of serving upon this committee till I begged off it; I served on it during two Congresses—whether in his opinion the clerk of this committee has any more arduous and responsible duties than the clerk of the Post Office Committee, for example, or of the Committee on Military Affairs, or the Committee on Foreign Affairs, or the Committee on Naval Affairs, or the Committee on Invalid Pensions, or, indeed, half a dozen others of the more prominent committees of the House?

Mr. BINGHAM. I think the clerk of the Committee of Claims has a great deal more

service to perform than the clerk of the Committee on Military Affairs. I had the honor at one time to serve upon the latter committee, and I know something of its duties. As for the Post Office Committee, I know nothing about it. But the House is aware that an infinite number of claims come before the Committee of Claims, involving questions of law and of fact, thus imposing a large amount of duty upon the clerk of the committee. Indeed, unless he is in the first place a very competent man, and in the next place a very faithful man, the duties of the committee can scarcely be performed at all.

The amendment was not agreed to.

Mr. WASHBURN, of Illinois. I move in the ninety-sixth line to strike out "one messenger in the House Library, \$1,095." That is in this bill by mistake. There is no law or occasion for it.

Mr. MAYNARD. I ask the gentleman from Illinois whether this is not included under the resolution referred to by the gentleman from Maine?

Mr. WASHBURN, of Illinois. There is no office authorized by law which this appropriation covers.

Mr. SPALDING. I hope the gentleman from Illinois will withdraw his motion.

Mr. WASHBURN, of Illinois. I cannot withdraw it. It is an office which we do not need, and there is no reason for making the appropriation.

Mr. SPALDING. I say that he is the most faithful man we have about the House.

Mr. WASHBURN, of Illinois. I do not deny that; but the man we have there is paid, and paid well.

Mr. MAYNARD. He is of more assistance than anybody connected with the Library, and I trust that the House will retain him. I thought he was one of the officers contemplated by the gentleman from Maine, but he comes in, it seems, in the humble character of messenger. I hope he will not be cut off.

Mr. WASHBURN, of Illinois. I can explain this matter. We have a messenger now paid under existing laws in the House Library. He is a colored man. He is a good man, and I hope he will remain where he is. I do not see, however, the necessity for this special officer. I do not know that he will get as much as by being a messenger attached to the document library. He is assigned to that library as messenger, and draws his pay accordingly.

Mr. FARNSWORTH. How does he get his pay if he does not get it under just such an appropriation as this?

Mr. WASHBURN, of Illinois. Under the general appropriation made for clerks and messengers.

Mr. SPALDING. I should like to inquire whether this is in addition to the pay of that messenger to whom he alludes?

Mr. WASHBURN, of Illinois. I cannot tell what it is intended for. Instead of having this messenger detailed for duty at the House Library, it seems to be for an additional messenger.

Mr. BLAINE. Is he upon the Doorkeeper's roll?

Mr. WASHBURN, of Illinois. He is upon the Clerk's roll or some other roll, and is paid, and paid well.

Mr. MAYNARD. What does this item in the estimate signify? I find, "for one messenger in the House Library, \$1,095."

Mr. WASHBURN, of Illinois. I understand that well. It is not founded upon law. It crept into the estimates for the purpose of getting us to adopt it.

Mr. MAYNARD. Things do not creep in of themselves.

Mr. SPALDING. Who put this in, if my friend did not?

Mr. WASHBURN, of Illinois. It got into the bill by mistake.

Mr. SPALDING. I oppose this amendment unless I am acting under mistake. If this alludes to the colored messenger in the House

Library, I will say that we have no more useful man connected with that Library. I should like to see him paid, and I will vote against striking this out until I understand there is something wrong about it. I think this man merits it.

Mr. SCOTFIELD. I move to amend the amendment by striking out "ninety-five." The chairman of the Committee on Appropriations and the members of the Committee of the Whole seem to agree in this, that the particular messenger now employed to take charge of the House Library shall remain. The question about which there is difference is, whether he shall be added to the number of messengers employed by the Clerk of the House or shall remain there as heretofore, as one of the messengers employed by the Clerk and detailed for that service. If the amendment of the gentleman from Illinois fails, then we add another messenger to the number now employed; but if that amendment succeeds, then this gentleman will remain in his place as heretofore and receive the same pay. He will remain where he now is, and we will have the same number of messengers employed by the Clerk as heretofore. I do not see, therefore, why the amendment should not be adopted.

Mr. BLAINE. Where will you find provision for his pay if not in this appropriation?

Mr. SCOTFIELD. The gentleman comes from New England and answers one question by asking another. He wants to know where is the appropriation for these messengers.

Mr. BLAINE. You will find no other specification including this man.

Mr. WASHBURN, of Illinois. My friend has not looked at this bill, I apprehend.

Mr. SCOTFIELD. The gentleman will find an answer to the question propounded to me in the beginning of the paragraph in the words, "for compensation of the officers, clerks, messengers, and others receiving an annual salary in the service of the House of Representatives."

The CHAIRMAN. The gentleman from Pennsylvania will find in line one hundred and twenty-one a provision for eleven messengers, &c. The part he has referred to is only introductory to the paragraph.

Mr. ALLISON. I would like to know how many messengers we have attached to the Clerk's office. I find "for three messengers at \$1,440," and "one messenger in the House Library, \$1,095."

Mr. WASHBURN, of Illinois. If the committee will allow this item to be stricken out I will obtain all the facts in regard to the matter and submit them before we pass from the consideration of the bill.

Mr. ALLISON. I suggest that it would be better to have the item left in than stricken out.

Mr. WASHBURN, of Illinois. I understand that very well. If it is left in now it stays in; but if it is stricken out the House can keep it out or insert it.

The CHAIRMAN. The question is not now on striking out, but on varying the amount of compensation.

Mr. ALLISON. I oppose the amendment for the purpose of saying that unless this appropriation is passed the Clerk will have no appropriation out of which to pay this man.

Mr. WASHBURN, of Illinois. How is he paid now?

Mr. ALLISON. He is paid, I suppose, under a similar appropriation. I do not know how he is paid now. I only know the Clerk has no other means of paying this messenger.

Mr. MAYNARD. If the gentleman from Illinois is right, that he is now paid under that general allowance—"eleven messengers, five at \$1,800, and six at \$1,440 each; twelve messengers during the session, at the rate of \$1,440 each per annum"—if he comes under that category, then I am content that this other item shall be stricken out, for instead of paying \$1,095 it will pay him either \$1,800 or \$1,440.

Mr. RAUM. I had a conversation with Mr. McPherson, the Clerk, and he told me that

some eighteen months ago a resolution was passed under which this paragraph is retained, and that unless it is retained this messenger will not be paid at all. He is not a detailed messenger.

Mr. SCOFIELD. I withdraw the amendment to the amendment.

The question being taken on the amendment to strike out the clause, it was disagreed to.

Mr. JULIAN. I move to amend by inserting in line one hundred and seven, after the word "dollars," the words "clerks to Committee on the Public Lands, \$2,160." I apprehend that the appropriation for the clerk to the Committee on the Public Lands was omitted by inadvertence. The House will remember that he is one of the four permanent clerks of the committees of the House who receive an annual salary by resolution of the House. The ordinary appropriation for his salary should therefore be included in this bill.

I wish to state further that every gentleman in the House knows something about the amount of business which is sent to that committee, and the amount of labor that devolves upon it. That labor is constantly increasing. In addition to the ordinary duties of clerk he is charged with the preservation of the land maps of the House, and the duties of draughtsman are imposed upon him. Under a special resolution of the House, passed some years ago, it is made his duty to keep up a map showing the progress of the survey sale of the public lands of the United States. And I think nobody will dispute it when I say, that with the single exception of the clerk of the Committee of Ways and Means, his labors are quite equal to those devolved upon any of the other clerks having a fixed annual salary. It therefore would be both invidious and unreasonable not to continue the appropriation we have been making for the past seven or eight years. The House just now voted down a proposition to strike out the appropriation for clerk of the Committee of Claims. For very good reasons given by the chairman of that committee the House, by a large vote, declined to do it. Now, there is not a solitary reason for keeping up a permanent clerk of the Committee of Claims with a fixed salary which does not apply in all its force to the clerk of the Committee on the Public Lands. I hope, therefore, this appropriation will be inserted, and that the chairman of the Committee on Appropriations will not oppose it.

Mr. WASHBURNE, of Illinois. I do not know that it will be possible to resist the creation of new offices about the Capitol. I know we have gone on creating new offices and enlarging the Capitol police until we have made the Capitol police force cost between sixty and seventy thousand dollars a year. Two hundred dollars a day of the people's money is now being paid to guard this building.

With regard to the amendment which the gentleman from Indiana has proposed, we went through with this whole question at the last session of Congress, and this clerk was voted out in the first instance, but afterward a substitute for the whole section was offered which included this clerk and some other clerks, and the whole went through. I undertake to say that as a separate measure it could not have gone through, and my recollection is that it was voted down once in Committee of the Whole. Now, what are the facts in this case? In the first place, I contend that the clerk of the Committee on the Public Lands has no more to do than the clerks of half a dozen other committees who are paid only a *per diem* allowance. He does not remain here during the vacation, and he has no more to do than the clerks of the Committee on Commerce, the Committee on Naval Affairs, the Committee on Military Affairs, and of some of the other committees. A few years ago, when these maps went from the land office to the Committee on the Public Lands, a resolution—not a joint resolution, as my friend perhaps understands—not a law, but a simple resolution of the House, made this clerk a permanent clerk, and the salary was

appropriated for two or three sessions; but it was found that there was no necessity for continuing the appropriation, and, as I said before, according to my recollection the Committee of the Whole at the last session voted it down. And when we came to consider the appropriation bill for this session we found that there was no law authorizing the appointment of this clerk and no law requiring us to make an appropriation for a permanent clerk to this committee, and hence we did not put it into the bill. If we are going to stop anywhere let us stop here; if our pretenses of reform amount to anything let us commence here at home, and when we find a useless office let us cut it off.

The question was put on Mr. JULIAN's amendment; and there were—ayes 10, noes 52; no quorum voting.

Mr. FARNSWORTH. I move that the committee rise.

Mr. WASHBURNE, of Illinois. The committee is dividing.

The CHAIRMAN. The motion to rise is not in order, as the committee is dividing.

Tellers were ordered; and Messrs. JULIAN, and WASHBURNE, of Illinois, were appointed.

The committee divided; and the tellers reported—ayes 10, noes 48; no quorum voting.

Mr. FARNSWORTH. I move that the committee do now rise.

The CHAIRMAN. The Chair cannot entertain that motion with this question pending. If it be the unanimous consent of the committee, however, that when the House next goes into Committee of the Whole on the state of the Union the vote may be taken on this amendment, the Chair will entertain the motion. The Chair hears no objection.

Mr. JULIAN. I will withdraw the amendment and offer it again when the House is fuller.

Mr. WASHBURNE, of Illinois. I object to that. The committee is dividing, and if we rise now the first thing to be done when we get into committee again will be to renew the count.

The CHAIRMAN. That is what the Chair supposes.

The question was taken on Mr. FARNSWORTH's motion; and it was agreed to.

The committee accordingly rose; and Mr. WILSON, of Iowa, having taken the chair as Speaker *pro tempore*, Mr. SCHENCK reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the special order, being the bill (H. R. No. 1673) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1870, and had come to no conclusion thereon.

WELLS, FARGO AND COMPANY.

Mr. FARNSWORTH. I ask unanimous consent of the House to make a personal explanation of perhaps from three to five minutes.

Mr. INGERSOLL. I will not object, if it is to be understood that no more business will be done to-day.

No objection was made.

Mr. FARNSWORTH. It will be recollected by the House that considerable has been said with reference to Wells, Fargo & Co., and a proposed investigation into their contract for carrying the overland mails. I ask the Clerk to read some extracts from the correspondence and editorials of the Chicago Tribune, which I have marked and send to him.

The Clerk read as follows:

[Special dispatch to the Chicago Tribune.]

"'Old Economy' on Randall's Trail.—Mr. WASHBURNE, of Illinois, to-day made a statement that the Postmaster General had appeared before the Committee on Appropriations, after the resolution regarding Wells, Fargo & Co. had been introduced, and stated that he should not make any further payment on their contract. To-day Randall wrote to the committee that he had changed his mind, and should at once pay some two hundred thousand dollars. Mr. WASHBURNE asked the House to pass a resolution stopping payment. Mr. FARNSWORTH, of Illinois, objected to its consideration, as he always does when the Post Office is attacked, and the resolution was forced over; which will probably enable

the contractors to get their money. The whole affair has a very ugly look."

Editorials.

"We do not know what occasion Mr. FARNSWORTH has to stand between Postmaster General Randall and an investigation of the Wells, Fargo & Co. mail contract. If the contract is a fair and honest one it can easily be proved such, and all parties concerned in making it ought to be anxious to have an opportunity to exhibit the truth to the country. At the present time the public have an extremely unfavorable opinion of it, and this unfavorable opinion will extend to all persons who oppose an investigation into its true character."

"If the Wells, Fargo & Co. mail contract is a fraud, and if Hon. JOHN F. FARNSWORTH is a party to it, or is the hired agent of those perpetrating it, he is taking exactly the proper course to convince the people of his district of such a state of things—voting in the same day first against the investigation of a questionable contract, and second, against a bill which is intended to enable the incoming President to get rid of the scoundrels now in office. We barely suggest that Mr. FARNSWORTH's constituents could have dispensed with one of those votes, or would have preferred that they had been spread over a greater period of time."

Mr. FARNSWORTH. I now ask the Clerk to read an extract from the Washington correspondence of the Chicago Evening Post.

The Clerk read as follows:

The House Refuses to Order an Investigation of the Overland Mail Contract.

[Special Dispatch to the Evening Post.]

"WASHINGTON, January 11.—An effort was made by E. B. WASHBURNE and Mr. ELA in the House this afternoon to suspend the rules, and get a resolution before the House to investigate the contract made by the Post Office Department with Wells, Fargo & Co. and all charges against the Post Office Department. Mr. Randall's defenders appeared in the persons of General FARNSWORTH, of Illinois, and Mr. POMEROY, of New York, who, with the aid of a very few Republicans and the entire Democratic vote, succeeded in defeating the motion to suspend the rules, a two-thirds vote being necessary. The Post Office ring are greatly rejoiced over the action of the House, as it effectually shields the Post Office officials from exposure of complicity with known frauds."

A large majority of Republican members voted for this investigation, but General FARNSWORTH, aided by a few Republicans, succeeded in preventing a suspension of the rules, thus virtually countervailing the swindling operations which exist in Randall's Department."

Mr. FARNSWORTH. I am pretty well satisfied that the two dispatches which the Clerk has just read were written by the same party or prompted by the same brain. I desire to ask my colleague from the Galena district [Mr. WASHBURNE] whether he wrote or dictated either of those dispatches?

Mr. WASHBURNE, of Illinois. My colleague ought to know me better than to ask me such a question.

Mr. FARNSWORTH. Will my colleague answer the question? That will be sufficient.

Mr. WASHBURNE, of Illinois. I am not in the habit of writing or dictating dispatches about my colleagues. If I have any public matters to settle with my colleagues I settle them here on the floor of this House. I have had no written communication or conversation in regard to my colleague [Mr. FARNSWORTH] outside of the Hall of the House of Representatives, excepting some casual conversation. I have made no reflection upon him of any kind or character. I differ with him in regard to this swindle.

Mr. FARNSWORTH. It has been intimated to me that my colleague had something to do with these dispatches. I am glad to hear him say that such was not the case.

I now state, not for the information of the House, for they know the fact, but for the information of the papers in Chicago, which have been assailing me in this matter, and I shall publish with my remarks extracts from the Daily Globe, showing the proceedings in this House in relation to this subject; I now state that on the first occasion that my colleague proposed a resolution asking the Postmaster General to suspend payments to Wells, Fargo and Co., he did not ask for any investigation at all of the subject. I did not say one word upon the matter. Objection to its being considered by the House at that time was made by another gentleman; I did not open my mouth upon the subject.

Two days afterward my colleague again asked

consent of the House to present the same resolution, which he said he was authorized by the Committee on Appropriations to report for action at that time. It was precisely the same resolution which he had asked leave to introduce on the first day of the session after the holiday recess. Upon that occasion, after my colleague had made a speech of five minutes, I asked permission of the House myself to speak for five minutes. But I did not object to the House considering his resolution. I discussed the merits of the resolution, and upon its merits I declared myself opposed to it. But it was another member—I forget whether it was a member from Kentucky, [Mr. McKEE,] or a member from California, [Mr. JOHNSON,] who made objection to the consideration of the resolution at that time. And it was upon that, that this lying dispatch was sent to the Chicago paper, saying that I objected to the consideration of the resolution, and therefore it was forced over. I characterize it as a "lying dispatch," because it is a lying dispatch, no matter who wrote it or who prompted it. Considerable debate took place upon that occasion, upon the subject of this overland mail contract, and the manner in which the mails were being carried under it. As I said before, the consideration of the resolution of my colleague was not objected to by myself, but it was objected to by another member.

On Monday last, a week ago to-day, as will be recollected, the gentleman from New Hampshire [Mr. ELA] introduced a resolution. What was his resolution? It not only proposed an investigation, but there was incorporated in it what my colleague had tried to get through the House before—a provision directing the Postmaster General to suspend payment upon the contract. On that occasion I declared myself against that part of the resolution directing a suspension of payment on the contract, but in favor of the proposition for an investigation.

It will be recollected, too, that notwithstanding these newspapers constantly say that it is my colleague who has asked for an investigation, they scarcely pay the gentleman from New Hampshire the compliment of mentioning his name in regard to the matter; it will be observed that in all these proceedings in the House, my colleague has never asked for an investigation of this subject—never. He has never once moved for the appointment of a committee. On the other hand, these proceedings, taken from the Daily Globe, show that on seven different occasions I have myself asked for an investigation of this subject; and on three of those occasions it was my colleague who objected. Once when I asked him to yield the floor to me that I might introduce a resolution for the appointment of a committee to investigate these charges in regard to the contract of Wells, Fargo & Co., he said: "No, I will not yield to my colleague; if I yield to anybody, I will yield to the gentleman from New Hampshire." Very courteous as well as very just! On another occasion, it will be remembered, my colleague had the floor and was "farming" it out to various gentlemen, while I was constantly struggling to get the eye of the Speaker that I might obtain the floor for the purpose of offering this resolution for the appointment of an investigating committee. My colleague constantly refusing to yield me the floor for that purpose, I at last interposed an objection to his "farming out" the floor to other gentlemen, and the Speaker was compelled to say to him that he must either surrender the floor unconditionally or go on with his business. When he undertook to make a bargain and make the Speaker a party to that bargain, to surrender the floor to somebody else and not to me, the Speaker said to him that the self-respect of the Chair required that he should not be a party to any such bargain, and that if my colleague did not go on with his own business the Speaker would recognize me as entitled to the floor. As soon as my colleague discovered the purpose for which I wanted the floor, which was to offer a resolution for this investigation, he took up

the thread of his business and went on with it, refusing to yield to me or anybody else. Yet I am lashed by reporters under the eye of my colleague and by his organ in the city of Chicago, and am charged with objecting to the proposition to investigate fraudulent contracts.

Mr. HIGBY. The gentleman from Illinois [Mr. FARNSWORTH] will allow me to ask whether he knows the reporter who has been engaged in this business?

Mr. FARNSWORTH. I do not.

Mr. HIGBY. I wish the gentleman could find him out.

Mr. FARNSWORTH. At last, sir, in order to get an investigation of this whole subject, I was compelled, as my State would not be called for resolutions during the morning hour, to go to a gentleman from Indiana [Mr. COBURN] and get him to offer a resolution which I had myself drawn, directing the Committee on Public Expenditures to make this investigation, and authorizing them to report at any time. The gentleman, at my request, kindly consented to introduce the resolution which I had prepared.

It was for the purpose of setting myself right, not before the House, (for gentlemen of the House have been present and have observed the proceedings as they have transpired,) but before my constituents, that I obtained the floor at the present time. In corroboration of what I have stated I submit the following extracts from the Globe:

[From Globe January 6—Proceedings January 5.]

"Wells, Fargo, and Company.

"Mr. WASHBURN, of Illinois. I am directed by the Committee on Appropriations to offer the following preamble and resolution for consideration at this time:

"Whereas the House of Representatives on the 16th December, 1868, referred to the Committee on Appropriations the letter from the Postmaster General in answer to the resolution of the House of the 7th of December, relative to the contract for carrying the overland mail; and whereas it appears by a communication from D. B. Ball, special agent of the Post Office Department, to Hon. George McClellan, Second Assistant Postmaster General, that Wells, Fargo & Co., the contractors for the transportation of said mail, have not provided adequate facilities for such transportation, and that express matter has been carried to the exclusion of the mail, which has been left upon the route 'day after day and week after week, both day and night, entirely unprotected;' and that 'on the 15th day of November some six thousand pounds of mail matter lay piled up in an open stock yard at the head of Bohocanon;' and whereas it is reported by the said agent that 'there are strong indications that the agents of Wells, Fargo & Co. or their employees had a hand in riding the letter mail;' Therefore,

"Be it resolved, That the Postmaster General be directed to make no payment to said Wells, Fargo & Co. until a full investigation can be made by the House in regard to the character of the contract made by said Wells, Fargo & Co. with the Post Office Department, and the truth of the charges of the said special agent of the Post Office Department touching the delinquency of said firm in carrying the mail.

"Mr. JOHNSON. I object to the introduction of the preamble and resolution at this time.

"Mr. WASHBURN, of Illinois. I hope the gentleman will not object to the passage of this resolution at this time. The state of facts set out in the preamble shows that this money should not be paid.

"Mr. JOHNSON. I have no objection to a resolution of inquiry. But I think we should have more information before we pass such a resolution as this.

"Mr. WASHBURN, of Illinois. I then give notice that on Monday next I will move to suspend the rules in order to ascertain whether the House will pass the resolution at that time."

"Wells, Fargo and Company—Again.

"Mr. FARNSWORTH. In view of the charges made in the resolution reported from the Committee on Appropriations with reference to Wells, Fargo & Co. and their mail contract, I desire to ask the permission of the House that a resolution may be adopted for the appointment of a special committee to investigate those charges. I do not desire, however, to be a member of the committee, if it should be appointed.

"Mr. WASHBURN, of Illinois. The gentleman from New Hampshire, [Mr. ELA,] who has examined this subject, holds in his hand a resolution calling for the appointment of a committee to investigate this whole matter. The Committee on Appropriations, who have the question before them, desire the appointment of a special committee. I hope that the gentleman from New Hampshire will be permitted to offer his resolution, and that it will be adopted by the House.

"Mr. ELA. I ask unanimous consent to offer the following preamble and resolution:

"Whereas the Postmaster General, in a communication to the House, December 16, asks 'to have a committee appointed to investigate this whole matter,' (of the Wells, Fargo & Co. contract,) and to examine into the great expense of this transporta-

tion through an uninhabited wilderness during the fall and winter seasons, so that in case an application is made for relief Congress can act understandingly on the subject; and whereas the regular correspondent of the Boston Traveler of December 16, 1868, makes the following charges:

"Among the post routes established during the reign of our Alexander was one two years ago in the Territory of Arizona. At least it is supposed the route was established, from the reason that a contract was awarded to one Mr. Paston, a brother of the Delegate from that Territory, to carry the mails over said route for the handsome sum of \$90,000 per year.

"Everything was going on smoothly, and not a murmur of discontent was heard about this contract, for no one knew of it at the time it was made except the parties directly interested. Now for the sequel. The bill for the first year's service came in, and was promptly paid by the Department. The affair now is no longer a secret; but Governor McCormick, of Arizona, learns in an indirect manner that \$90,000 a year is being expended to carry the mails over a route in the Territory of which he is Governor. He examines into the matter, and in a letter to the Post Office Department, signed in his capacity of Governor, and with seal attached, he reports that 'not a single letter or an ounce of mail matter has ever been carried over the route,' pronounces it a swindle from beginning to end, and protests against the payment of any more money. The contractor becomes alarmed, and hastens at once to Washington to fix up matters. The second year's bill is presented for payment; but the pay clerk, with Governor McCormick's letter before him, refuses to pay it. An intimate personal friend of Randall's appears on the scene; has several interviews with him. On the day following one of these interviews the pay clerk has a note laid before him. It reads: 'Pay this bill. A. W. R., Postmaster General.' The bill is paid, and the contractor leaves in high glee.

"But this is not all. The Postmaster General within a year has made a contract with a line of Baltimore steamers running to Havana and touching at Key West, to carry the mails, two trips a month, for \$1,000 a trip, when the regular ocean postage by all other lines is only seven cents a letter. The line running from New York was found amply sufficient for the public needs at the regular price. Now for the result:

"During the month of October, 1868, the steamer Maryland made two trips. All told she carried both to and from Havana, including newspapers, mails which, estimated at rate paid for 'sea service' would amount to \$169 04; but instead of this amount she received the sum of \$2,000.

"The steamer Cuba also made two trips, carrying mails which would have entitled her to \$73 48, but instead of this a check is sent by the Post Office Department for \$2,000.

"Again I say, let a committee be appointed which will investigate the inner workings of Mr. Randall's Department and not seek to cover up, and evidence will be found which will startle the whole country. Give me such a committee and the evidence will be forthcoming."

"Mr. FARNSWORTH. I must object to that preamble which embraces simply extracts from newspaper reports.

"Mr. WASHBURN, of Illinois. Let the resolution be adopted, then, without the preamble.

"Mr. FARNSWORTH. I am willing that a resolution should be adopted for the appointment of a special committee to investigate these charges.

"Mr. ELA. I ask consent, then, to submit the following resolution:

"Resolved, That a special committee of five be appointed to investigate the matters and charges called for and above set forth, and also the manner in which the mail service has been performed; and whether any mail service has been increased which was not warranted; and if so, to what extent and at what cost; and whether any money has been paid to contractors without certificate of service performed; and if so to whom, and by whose order and to what extent; with power to send for persons and papers, and to employ a clerk and stenographer, and report at any time.

"Mr. McKEE. I object.

"Mr. WASHBURN, of Illinois. I hope, then, the gentleman from New Hampshire [Mr. ELA] will on Monday move to suspend the rules, that his resolution may be offered and adopted."

[From Globe of January 8—Proceedings January 7.]

"Mr. FARNSWORTH. I suppose it is known to all the members of this House that contracts are made by the Postmaster General with parties for the conveyance of the mails in pursuance of law, and that the law authorizes the Postmaster General when the mails are not carried in accordance with the contract to fine the parties or to withhold such proportion of the contract price as it may seem to him proper to do. But a contract, while it is in existence between the contractor and the Post Office Department of the Government, has the force of law, and the Postmaster General cannot violate that contract by refusing to pay unless he has some authority to do so, and a more resolution of the House of Representatives is not sufficient authority to the Postmaster General to refuse to perform his duty. Certainly a resolution of the House of Representatives instructing the Postmaster General so to do, when that resolution is based upon newspaper paragraphs or upon the outside statements of individuals, is not sufficient.

"It will probably be recollected by members of the House who were here at the last session of Congress that Congress amended the law with reference to the transmission of the newspaper and document mails across the continent, opening the mails for the trans-

mission by land of all the newspapers and heavy documents. This, of course, added very largely to the weight of the mails. I stated at that time what the bids were for the conveyance of these mails, and how that some of the parties had bid with reference to carrying the letter mails as the law then stood, and other parties had bid with reference to carrying the entire mails if we should amend the law and open the mails for the transportation of all the papers. It turned out as I stated to the House. In consequence of the passage of that law parties who had bid for carrying the letter-mails only refused to carry the mails, and did not execute a contract. The Postmaster General fell back upon Wells, Fargo & Co., and made a contract with them. The manner of doing so and the reasons for making the contract he has reported to the House by special communication as well as in his annual report. The whole amount for the conveyance of the mails in pursuance of that contract will probably not exceed \$600,000 at the time the railroad is completed across the continent. One quarter or less than a quarter is now due."

"Mr. FARNSWORTH. I desire to say a word in reply to what my colleague has said. I do not object to an investigation. I did not object the other day. I desire that an investigation shall be made. I am no champion of the Postmaster General or of Wells, Fargo & Co., but I do not believe in the right of the House of Representatives to interfere with the performance of a mail contract, and upon the mere statements of some outside parties, the *ex parte* statements of outsiders or a mere letter of a post office agent, without explanation, to postpone indefinitely the payment of the contract price for carrying the mails in accordance with a contract which has been properly made."

"Mr. FARNSWORTH. The House must understand—if members from the eastern part of the country do not understand from conversation with members from the Pacific slope and Delegates from the Territories, they will understand in a very short time—something about the expense of equipping and running stages in that country. They will readily perceive the importance, the absolute necessity, of paying the contractors for conveying the mails as the money becomes due, in order to secure the proper transmission of the mails. The failure of the Department for one quarter to pay what is due to a contractor for carrying the mails in that country will pretty certainly insure the dropping of the mails and the cessation of the running of the stages. It is, I understand, in view of this fact, that the Postmaster General has revoked, as he has stated in his communication to my colleague, the order refusing to pay the contractor for carrying the mails. And I confess, sir, that I approve the conduct of the Postmaster General in this particular. I think he has done perfectly right. In taking this action he, of course, knows better than I do whether there has been any fraud in making this contract. He has taken this action in full view of the fact that an investigation of the matter will probably be ordered by this House. The whole thing will be investigated; and if he is paying out money from the Treasury in pursuance of a contract which is fraudulent, and which shall hereafter be so proved, he, of course, takes the risk upon his shoulders. But if he is conscious that he has committed no fraud, and that these parties are in good faith performing their contract, I certainly approve and justify his course in paying them the contract price for carrying this mail, notwithstanding my colleague may have interposed a request that the contractors should not be paid. If I were a contractor for the Government, and were performing my duties I should think it exceedingly hard that the Department should refuse to pay me for doing what I had agreed to do upon the mere request of a member of Congress, basing his request upon the flying newspaper reports that he might have cut from some of the public journals."

"Mr. FARNSWORTH. Mr. Speaker, so far as regards the information obtained from Mr. Ball, the special agent of the Post Office Department, I have read that. It was sent to this House by the Postmaster General with his own communication. Mr. Ball, it is true, speaks of several occasions some time ago—not many occasions—when he saw, as he says, large piles of mail matter—six thousand pounds, perhaps—piled up in an open yard. How is that explained? Why, sir, if my colleague had taken the pains that I have taken to investigate this matter; if he had examined other reports and other papers on file (for this report of Mr. Ball came from the Post Office Department) he would have found how the matter happened. Frequently, on account of storms, the Pacific railroad trains do not come in on time; they are a day or two behind hand. In the mean time no mail is brought in, and the stages have gone out empty. But the train comes in with all the accumulated mail matter, amounting, perhaps, to five or six tons, and it is dumped down. As fast as the railroad is extended an additional twenty-five or fifty miles a new depot is established, which is, of course, a very temporary affair, without proper buildings for the storage of the mails. The stages cannot carry off six tons of mail matter in one day—this heavy paper mail. What do they do? They are obliged to draw it off as they can; to take what they can on the stages to-day, then take what they can to-morrow, and the balance of it the day after, until it is all cleared up. That is the way it is done."

"Mr. WASHBURN, of Illinois. I ask that the resolution be now voted upon."

"The SPEAKER. It requires unanimous consent for the resolution to be received and acted upon at this time."

"Mr. JOHNSON. I object."

[From Globe January 12—Proceedings January 11.]

"Consular, &c., Appropriation Bill."

"The SPEAKER. The morning hour has now expired, and the House resumes the consideration of the amendments reported from the Committee of the Whole to the consular and diplomatic appropriation bill, upon which the gentleman from Illinois [Mr. WASHBURN] is entitled to the floor."

"Mr. FARNSWORTH. Will my colleague yield to me to offer a resolution?"

"Mr. WASHBURN, of Illinois. After the consular bill shall have been disposed of I propose to go into Committee of the Whole on the naval appropriation bill. Before doing so, however, I will yield to gentlemen to get in some business they desire to introduce."

"Mr. FARNSWORTH. I want to introduce a resolution for a committee of investigation on some post office matters that have already been referred to in debate here."

"Mr. WASHBURN, of Illinois. If I yield at all for such a purpose it will be to the gentleman from New Hampshire, [Mr. ELA.]"

"Mr. SCHENCK. I call for the regular order."

"Order of Business."

"Mr. WASHBURN, of Illinois. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, and take up the naval appropriation bill; and pending that motion I yield, according to promise, to the gentleman from New Hampshire, [Mr. ELA.]"

"Mr. POMEROY. I object."

"Mr. WASHBURN, of Illinois. Then I withdraw the motion."

"Wells, Fargo & Company."

"Mr. ELA. I move to suspend the rules for the purpose of offering the following resolutions:

"Resolved, That a special committee of five be appointed to investigate all matters connected with the contracts of Wells, Fargo & Co. for carrying the overland mails, and also the manner in which the mail service has been performed, and whether any mail service has been increased which was not warranted, and if so to what extent; and whether any money has been paid to contractors without certificate of service performed, and if so to whom and by whose order and to what extent; with power to send for persons and papers, and to employ a clerk and stenographer, and report at any time."

"And be it further resolved, That the proper officers of the Treasury Department be requested to make no payment to said Wells, Fargo & Co. on their said contract till the matters connected therewith shall be fully investigated."

"Mr. POMEROY. Allow me one moment. To part of the resolution there is no objection; that is, so far as the investigation is concerned. But as regards stopping the payment of moneys under the Government contract, it would be very extraordinary, it seems to me, to order it to be done without any discussion of the merits of the question."

"Mr. WASHBURN, of Illinois. There is no contract which has been performed."

"Mr. POMEROY. There has been a contract performed, and more service performed than the moneys due to-day will cover. The company is at a loss to-day for the Government moneys due under the contract, as can be shown to the satisfaction of this House in a debate on the subject. So far as the investigation of the contract is concerned, I wish to have it done; but I do not want, under cover of that proposition, to deprive the company of moneys legally earned and at a loss to them in doing this very service. If the resolution may be divided I have no objection to interpose."

"The SPEAKER. It cannot be divided under the motion to suspend the rules."

"Mr. WASHBURN, of Illinois. I hope the House will adopt the resolution and suspend the payment. It will take only thirty days, anyhow."

"Mr. FARNSWORTH. I desire myself to have the contract investigated, though I see there has been some innuendoes sent out that I oppose the investigation. I tried to get the floor this morning for the purpose of offering a resolution for the appointment of a special committee, intending to say that I did not wish to be appointed on that committee."

"Mr. SCOTFIELD. Is this debatable?"

"The SPEAKER. Only by unanimous consent."

"Mr. SCOTFIELD. I object."

"The SPEAKER. Does the gentleman from New Hampshire move to suspend the rules simply to introduce the resolution, or for the purpose of agreeing to it as well?"

"Mr. ELA. For the purpose of agreeing to it."

"Mr. FARNSWORTH. I desire to ask if any member or Delegate interested in this mail service desires this to be done? So far as I know there is none."

"Mr. WASHBURN, of Illinois. I demand the yeas and nays on suspending the rules."

"The yeas and nays were ordered."

"Mr. ELA. I will modify the resolution by striking out the last clause, 'till the matters connected herewith shall be fully investigated,' and substituting therefor the words 'during the next thirty days.'"

"The question was taken; and there were—yeas 88, nays 55, not voting 78; as follows:

"YEAS—Messrs. Allison, Anderson, Arnell, Delos R. Ashley, Baker, Baldwin, Beaman, Beatty, Benjamin, Bingham, Blair, Boles, Boutwell, Bowen, Boyden, Buckland, Burr, Roderick R. Butler, Callis, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Corley, Cornell, Cullom, Dawes, Delano, Dixon, Dockery, Ela, Fields, French, Getz, Goss, Gravelly, Halsey, Hawkins, Heaton, Chester D. Hubbard, Hulburd, Hunter, Alexander H. Jones, Judd, Julian, Kelley, Kelsoy, Kitchen, Loughbridge, McCarthy, Miller, Moore, Moorhead, Mullins, Newcomb, Paine,

Perham, Pierce, Pike, Plants, Polsley, Price, Prince, Sawyer, Seefeld, Shanks, Shellabarger, Spalding, Stover, Sypher, Taft, Thomas, Titt, John Trumble, Trowbridge, Upson, Burt Van Horn, Van Trump, Vidal, Ward, Elihu B. Washburne, Henry D. Washburn, Welker, Whittemore, William Williams, Windom, and Woodward—88."

"NAYS—Messrs. Axtell, Banks, Barnum, Beck, Cary, Chapin, Clift, Eldridge, Eliot, Farnsworth, Ferriss, Fox, Glossbrenner, Golladay, Griswold, Grover, Haight, Harding, Higby, Hotchkiss, Humphrey, Ingersoll, Johnson, Thomas L. Jones, Ketcham, Knott, Lincoln, Mallory, Marvin, Maynard, McCullough, McKee, Mercer, Morrell, Mungen, Niblack, Nicholson, Norris, O'Neill, Peters, Poland, Pomeroy, Robertson, Robinson, Roots, Stewart, Stokes, Taber, Lawrence S. Trimble, Twichell, Van Aernam, Van Auker, Stephen F. Wilson, Woodbridge, and Young—55."

"NOT VOTING—Messrs. Adams, Ames, Archer, James M. Ashley, Bailey, Barnes, Benton, Blackburn, Blaine, Boyer, Bromwell, Brooks, Broomall, Buckley, Benjamin F. Butler, Cake, Coburn, Covode, Deweese, Dickey, Dodge, Donnelly, Driggs, Eckley, Edwards, Eggleston, Ferry, Garfield, Gove, Hamilton, Haughey, Hull, Holman, Hooper, Hopkins, Asahel W. Hubbard, Richard D. Hubbard, Jenckes, Kellogg, Kerr, Koontz, Laffin, Lash, George V. Lawrence, William Lawrence, Loan, Logan, Lynch, Marshall, McCormick, Morrissey, Myers, Newsham, Nunn, Orth, Pettis, Phelps, Pike, Pruyn, Randall, Raum, Ross, Schenck, Selye, Sitgreaves, Smith, Starkweather, Stevens, Stone, Taylor, Robert T. Van Horn, Van Wyck, Cadwalader C. Washburn, William B. Washburn, Thomas Williams, James F. Wilson, John T. Wilson, and Wood—78."

"So (two thirds not voting in favor thereof) the rules were not suspended."

"Mr. BOUTWELL obtained the floor."

"Mr. FARNSWORTH. I ask the gentleman from Massachusetts to give way to me to offer a resolution for the appointment of a committee to investigate this matter, without the other part of the resolution."

"Mr. WASHBURN, of Illinois. What will be the use of investigating when the money is taken?"

"Mr. FARNSWORTH. It is not investigation the gentleman wants; that is the trouble. It is investigation we want. We want facts. My colleague does not."

"Mr. WASHBURN, of Illinois. I understand what kind of an investigation my colleague wants."

"Mr. FARNSWORTH. I want facts, not hearsay; I want affidavits, not innuendoes."

"Mr. BOUTWELL declined to yield the floor."

"Mr. PIKE. I understand that the gentleman from Illinois [Mr. FARNSWORTH] is willing that his colleague shall yield to me."

"Mr. FARNSWORTH. I am willing to give way as soon as I can offer a resolution."

"Mr. MOOREHEAD. I wish to inquire what bill comes up if we go into Committee of the Whole? I understand it is the tariff bill."

"The SPEAKER. The naval appropriation bill has priority as a special order."

"Mr. WASHBURN, of Illinois. Mr. Speaker, I do not know that I am called upon to make any extended reply—"

The SPEAKER *pro tempore*, (Mr. WILSON, of Iowa.) Is there any objection to allowing the gentleman from Illinois [Mr. WASHBURN] to reply to his colleague?

There was no objection.

Mr. WASHBURN, of Illinois. Mr. Speaker, I do not intend to take any part in any quarrels going on between my colleague [Mr. FARNSWORTH] and the newspaper editors and reporters. I presume that he can take care of himself, and that the editors and reporters can take care of themselves. I do not propose to interfere in the matter."

In reference to this investigation I have done simply my duty. My colleague and myself, however, do not exactly agree in regard to this matter of objection. I understood him very distinctly to object to this investigation as proposed in the resolution of the gentleman from New Hampshire, [Mr. ELA.] My colleague has undertaken to hold me responsible for the fact that an investigation was not ordered before to-day."

What are the facts? After this matter was referred to the Committee on Appropriations, and after the committee had examined the subject and had come to the conclusion that they could not make the necessary examination, I, in conversation with the gentleman from New Hampshire, suggested that I would yield to him when I obtained the floor in order that he might offer his preamble and resolution. The preamble and resolution were offered, and I understood my colleague to object to them; and when I asked my colleague in reference to it, and as to why he objected to the resolution, he said that was on account of the preamble. I then told him that I would let the preamble go, as the resolution was what

we wanted. To that he replied that the resolution without the preamble was of no account. That is the way in which I understood my colleague.

Mr. FARNSWORTH. My colleague is mistaken, and the Globe shows that he is mistaken. He introduced a resolution, soon after we met, instructing the Postmaster General to make no further payments on this contract to Wells, Fargo & Co. When he made that proposition I said nothing at all, although I stood in the aisle close to where he was. The objection came from some other gentleman. The Globe will show that after that, and as soon as I could get the floor, I stated to the House that inasmuch as these charges had been made against the Postmaster General in reference to this matter it was the duty of the House at once to institute an investigation. I had no resolution, and the gentleman from New Hampshire said that he had one. He offered a long preamble to his resolution, and I said that I could not agree to the preamble because I did not know the facts were as they were there stated. I agreed to the resolution, but objection was made by some other gentleman.

Mr. WASHBURN, of Illinois. Did I not understand the gentleman to say that the preamble being stricken out there was no use in adopting the resolution?

Mr. FARNSWORTH. No, sir.

Mr. WASHBURN, of Illinois. I so understood him. The gentleman alludes to my preventing him from offering his resolution and allowing the gentleman from New Hampshire [Mr. ELA] to submit a resolution on the same subject. After having a conversation with the gentleman from New Hampshire I was in favor of his introducing a resolution providing for this investigation. I thought there was a peculiar propriety in his offering the resolution for this investigation, while there was an impropriety in my colleague doing so.

Mr. FARNSWORTH. I expressly stated to the House that I did not wish to be put upon the committee of investigation, and my colleague knows it. It so appears in the Globe.

Mr. WASHBURN, of Illinois. Why, then, does my colleague arraign me for preventing him from getting on the committee, when he says that he would not have gone on the committee in any event?

Mr. FARNSWORTH. I arraign him because he objected to my offering resolutions for this investigation, and then assuming that he tried to investigate and I opposed.

Mr. WASHBURN, of Illinois. For the reasons I have stated.

Mr. FARNSWORTH. My colleagues innuendo that he did not want me to offer a resolution providing for this investigation is answered by the fact that I stated to the House several times that I did not wish to be on the committee. I did it in the hope that my colleague would not object to the resolution. He would not allow me to do it unless he could select the chairman of the committee. He knows very well that it is a constant practice for special committees to be appointed on motion of a gentleman who himself declines serving upon it, and that this leaves the Speaker free to constitute the committee as he chooses.

And then, on motion of Mr. KELSEY, (at five minutes to five o'clock p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The memorial and resolutions of the board of supervisors of Dubuque county, Iowa, in relation to the free navigation of the St. Lawrence, and for other purposes.

Also, the remonstrance of Hon. C. M. Clay, United States minister to Russia, protesting against appropriation for J. Curtin, secretary of said legation.

By Mr. AXTELL: The petition of A. S.

Rozenbaum & Co. and others, importers and dealers in tobacco in San Francisco, praying relief from double duties;

Also, the petition of H. Voorman and others, distillers in San Francisco, as to excise tax on distilled spirits.

By Mr. CLIFT: Resolutions passed by a meeting of colored citizens of Savannah, Georgia, complaining of outrages, asking congressional legislation for Georgia, and sustaining Governor Bullock.

By Mr. CHILCOTT: A petition of citizens of Denver City, Colorado, asking for the passage of the civil service bill of Hon. T. A. JENCKES; also, a bill transferring all Indian affairs to the War Department; also, a bill to reduce taxation, &c.

By Mr. GOLLADAY: A petition of sundry citizens of Christian county, Kentucky, in favor of the Northern Pacific railroad.

By Mr. JULIAN: A petition of 60 citizens of New York, praying that in any future amendment of the Constitution of the United States on the subject of suffrage no distinction shall be made as between men and women.

Also, a petition of 21 citizens of the same State, praying for the same.

Also, a memorial of citizens of Santa Clara county, California, touching further legislation on the public lands in township seven south, range one west.

By Mr. KELLEY: The petition of the Philadelphia Female Anti-Slavery Society, praying Congress to propose such an amendment to the Constitution of the United States as shall secure the right of suffrage to the colored people of the nation.

By Mr. KERR: The application of Abraham Lusher, for an additional post route in Indiana.

By Mr. MAYNARD: The petition of Mary J. Pearson, of Monroe county, Tennessee, widow of Captain Pearson, company D, third regiment Tennessee infantry, praying for a pension.

By Mr. MOORE: Sundry petitions from masters and owners of vessels of Fall river, Massachusetts, and Gardiner, Maine, praying the intervention of Congress to protect all engaged in navigation from illegal exactions by State and municipal corporations.

By Mr. PETTIS: The petition of John P. Reed, for relief.

Also, the petition of C. M. Allen, for relief. Also, the petition of A. B. Gildersleeve, for relief.

By Mr. PETERS: The petition of Thomas Pool, for a pension.

By Mr. POLAND: The petition of Professor K. M. Hesser, in favor of raising the salary of the President to \$1,000,000, and the Vice President to \$500,000.

By Mr. SCHENCK: The petition of Thomas Worthington, of Warren county, Ohio, praying Congress for additional compensation under contract with the Government of the United States for supplying water to troops at Camp Dennison, Ohio.

By Mr. SHELLABARGER: A petition of citizens of Ohio for an amendment of the naturalization laws.

By Mr. TIFT: A petition of several merchants of Augusta, Georgia, praying the repeal of so much of sections seventy-eight and ninety-four of an act entitled "An act imposing taxes on distilled spirits and tobacco, and for other purposes," approved July 23, 1868, as subject the articles therein mentioned after certain dates to a second payment of taxes.

By Mr. WELKER: The petition of Barbara Schlaick, widow of John Schlaick, company G, forty-sixth New York volunteers, for a pension.

Also, the petition of Allen E. Rector, company H, twenty-eighth Pennsylvania volunteers, for a pension.

By Mr. WHITEMORE: The petition of Mrs. Mary Morgan and others, of Georgetown, South Carolina, praying remuneration for rice taken possession of by United States soldiers in February, 1865.

IN SENATE.

TUESDAY, January 19, 1869.

Prayer by Rev. E. H. GRAY, D. D.

On motion by Mr. FERRY, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of the Interior, communicating information in relation to the destitute condition of the Kansas Indians and the diversion of the school fund from the purpose of education to the purchase of supplies to them; which was referred to the Committee on Indian Affairs.

AMNESTY PROCLAMATION.

The PRESIDENT *pro tempore* also laid before the Senate a message from the President of the United States; which was read, as follows:

To the Senate of the United States:

The resolution adopted on the 5th instant, requesting the President "to transmit to the Senate a copy of any proclamation of amnesty made by him since the last adjournment of Congress, and also to communicate to the Senate by what authority of law the same was made," has been received.

I accordingly transmit herewith a copy of a proclamation dated the 25th day of December last. The authority of law by which it was made is set forth in the proclamation itself, which expressly affirms that it was issued "by virtue of the power and authority in me vested by the Constitution, and in the name of the sovereign people of the United States," and proclaims and declares "unconditionally, and without reservation, to all and to every person who directly or indirectly participated in the late insurrection or rebellion, a full pardon and amnesty for the offense of treason against the United States, or of adhering to their enemies during the late civil war, with restoration of all rights, privileges, and immunities under the Constitution, and the laws which have been made in pursuance thereof."

The Federal Constitution is understood to be, and is regarded by the Executive, as the supreme law of the land. The second section of article second of that instrument provides that the President "shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment." The proclamation of the 25th ultimo is in strict accordance with the judicial expositions of the authority thus conferred upon the Executive, and, as will be seen by reference to the accompanying papers, is in conformity with the precedent established by Washington in 1795, and followed by Presidents Adams in 1800, Madison in 1815, and Lincoln in 1863, and by the present Executive in 1863, 1867, and 1868.

ANDREW JOHNSON.

WASHINGTON, D. C., January 18, 1869.

Mr. FERRY. It will be unnecessary, I presume, to read the accompanying papers; and after submitting a few remarks upon this message I shall move its reference to the Judiciary Committee, with the accompanying papers, and that it be printed.

I regret, sir, that in answer to the resolution of inquiry which I introduced some days since the President has seen fit to make no definite reply. The resolution, as will be seen by the paper which has just been read, requested the President to transmit to the Senate a copy of any proclamation of amnesty, and to communicate to the Senate by what authority of law the same was made. He was asked by what authority of law he had attempted to proclaim amnesty in the proclamation referred to. He has informed us by what authority of law he undertook to declare a pardon, but has given us no information as to the authority of law upon which his proclamation of amnesty rests. The difference between pardon and amnesty is well known and familiar, and is, perhaps, as succinctly expressed in the law dictionary of Mr. Bouvier, under the title "amnesty," as anywhere else. It is as follows:

"Amnesty. An act of oblivion of past offenses, granted by the Government to those who have been guilty of any neglect or crime, usually upon condition that they return to their duty within a certain period."

"3. Amnesty and pardon are very different. The former is an act of the sovereign power, the object of which is to efface and to cause to be forgotten a crime or misdemeanor; the latter is an act of the same authority, which exempts the individual on whom it is bestowed from the punishment the law inflicts for the crime he has committed. (7 *Pel.*, 150.) Amnesty is the oblivion and forgetfulness of the offense; pardon is forgiveness. A pardon is given to one who is certainly guilty or has been convicted; amnesty, to those who may have been so.

"4. Their effects are also different. That of pardon, is the remission of the whole or a part of the punishment awarded by the law; the conviction remaining unaffected when only a partial pardon is granted; an amnesty, on the contrary, has the effect of destroying the criminal act, so that it is as if it had not been committed, as far as the public interests are concerned.

"5. Their application also differs. Pardon is always given to individuals, and properly only after judgment or conviction; amnesty may be granted either before judgment or afterward, and it is in general given to whole classes of criminals or supposed criminals, for the purpose of restoring tranquillity in the State."

Now, sir, as I said in introducing the resolution of inquiry, it was not that I wished to learn upon what authority the Executive had undertaken to grant a pardon; I desired to know his authority of law for an amnesty; and in the few remarks which I propose to submit I shall show what the effect upon those embraced within the proclamation of amnesty, in the true legal sense of that word, must be if the President possesses the power assumed by him.

We have as to pardon both judicial expositions and executive precedents in this country. The judicial expositions are found mainly in three leading cases decided by the Supreme Court of the United States—the case of the United States *vs.* Wilson, 7 Peters; *ex parte* Wells, 18 Howard, and *ex parte* Garland, 4 Wallace. By these it substantially decided that whatever is included in the legal signification of "pardon" by English law is granted to the President, including, therefore, the power to the President to pardon before as well as after conviction, and to grant absolute, limited, or conditional pardons. But in all these cases decided by the Supreme Court of the United States the recipient of the executive clemency was designated by name, and all these decisions extend only to cases of that kind, to wit, where the recipient was designated in the instrument of pardon by name; so that we have no judicial decisions as to the capacity of the President to issue even a general pardon without designation, that is, of the recipient of the executive clemency by name, and in order to ascertain the existing law as to the executive power in this respect, we are necessarily turned to the executive precedents, which the President has properly cited in the message to the Senate and the accompanying papers.

There were three executive precedents, before the late war, of general pardon without designating by name the recipients, and they are referred to by the President, namely, the proclamation of President Washington in 1796, of President Adams in 1800, and of President Madison in 1815; but not one of these was a proclamation of amnesty. They were proclamations expressly of pardon, and expressly operating only to remit the punishment which the law would inflict upon the crime which the recipients of the pardon had committed. But the acquiescence of all departments of the Government and the people in the exercise of executive clemency by the mode of general pardon without designating the recipients, as employed by these three early Presidents, would seem to my mind to have settled the law of the country at the present time in favor of the power of the Executive to grant a general pardon in the true and proper sense of the word "pardon," to wit, the remission of the penalty which the existing law would otherwise inflict upon the crime of which the recipient has been guilty.

Mr. EDMUNDS. Against the decision of the Supreme Court, who hold that it must have certain requisites that a general pardon has not?

Mr. FERRY. I was about to remark there is at once arising upon a general pardon a difficulty as to the mode in which the recipient shall receive the benefit of that pardon; for supposing the recipient to be indicted notwithstanding the pardon, there is no mode in which he can take advantage of it in the court in which he may be indicted, for the court is not bound to take judicial notice of a general pardon. The accused must plead the pardon

which he claims exonerates him from liability to punishment; and in pleading it the Supreme Court have decided that he must plead it, and in fact it must be endowed with the ordinary requisites of other deeds, an instrument delivered, accepted, and pleaded.

Mr. EDMUNDS. And naming him.

Mr. FERRY. And naming him. Of course, therefore, a general pardon cannot be taken advantage of by the accused upon an indictment brought against him after the pardon had been issued by the ordinary mode, in accordance with the decision in 7 Peters, and therefore when the President has proclaimed a general pardon, as I think in President Madison's proclamation, he at the same time directs the executive functionaries, to wit, the Attorney General and the district attorneys in the different districts, to cause all pending indictments and prosecutions to be *nolled* or discontinued—the course which the President has also pursued in regard to the present proclamation, having instructed his Attorney General to order a *nolle prosequi* in all cases of pending indictments and prosecutions. The mode in which the benefit reaches the recipient differs from the mode in which the benefit of a special pardon reaches him. As to the power to grant such general pardon, although as an original question I should certainly believe no such executive power did exist in this Government, yet I must look at the law as it is, and that power would seem to me to have been settled by the exercise of the power by Washington, Adams, and Madison, by the acquiescence of the other departments of the Government in that exercise, and by the acquiescence of the people for half a century.

But, sir, while arriving at these conclusions with respect to the exercise of the power of pardon, in the proper legal signification of the term, we have as yet no light whatever upon the authority of the President to proclaim a general amnesty. In order to exhibit precedents showing the Executive to be clothed with that power the President, in the communication before us, has referred to the various proclamations of President Lincoln and to his own proclamations since his own accession to the executive office. But, sir, I affirm without fear of successful contradiction that in the history of this Government there is not a single precedent until the 4th of July, 1868, where the President of the United States has undertaken to grant amnesty without the prior sanction of an act of Congress. In every instance of the proclamations of President Lincoln, referred to in the papers now before us, those proclamations were issued while a law stood upon your statute-books expressly authorizing the President to make them. Upon the repeal of that law the power, so far as amnesty was concerned, exercised by the President, fell with the law, and Andrew Johnson alone among the Presidents of the United States has ever attempted to issue a proclamation of amnesty without previous sanction of Congress, and he not until the 4th of July, 1868. So that absolutely no light is thrown upon the inquiry, which is the gist of the resolution which I offered to the Senate a few days ago, by the message and the accompanying documents which are now before us.

The existing state of the law with regard to the power of amnesty in this Government is this: the Constitution is utterly silent upon the subject. The judicial decisions of the highest tribunal of the nation are utterly silent upon the subject. There is not an executive precedent in favor of the power of amnesty until the 4th of July, 1868, when President Johnson assumed the exercise of that power. Now, sir, let me refer again to what this power of amnesty is, what the President has attempted to do, in order to see whether this extraordinary assumption ought to be sustained by the coordinate departments of the Government. Mark the language of the proclamation of the President in reference to the amnesty, in which he declares:

"Amnesty for the offense of treason against the

United States, or of adhering to their enemies during the late civil war, with restoration of all rights, privileges, and immunities under the Constitution and the laws which have been made in pursuance thereof."

Now, what is amnesty? Amnesty is an annihilation of the act done; pardon is remission of the punishment which the law had previously prescribed for the act done. Invest the President of the United States with the power of pardon in the very broadest terms, for the purpose of the argument, and you advance not one jot or tittle on the road toward giving him the power of amnesty, which he now proposes to exercise. If it be true that the President of the United States to-day can grant amnesty in these terms, annihilating the fact of rebellion, of treason, of adhering to the enemies of the Republic, he can restore and has restored every rebel throughout this nation to the exercise of every privilege, every franchise which he ever possessed precisely as if no rebellion had ever existed at all. That is amnesty; that is what the President has expressly attempted to exercise by this proclamation, without authority given in the Constitution, without the sanction of a judicial decision, without a precedent in the history of the executive department of this Government.

Now, sir, as I said when I introduced the resolution, I am myself, as is well known, in favor of the removal of all political disabilities remaining upon our statute-book. But, at the same time, it will not do to permit even that which is right and just to be accomplished by unlawful methods. Every assumption of power becomes a precedent, and every assumption of unlawful power is a dangerous precedent. I move that the message and accompanying documents be printed, and referred to the Committee on the Judiciary.

The motion was agreed to.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a memorial of persons confined in jail in Savannah, Georgia, praying that they may be released from confinement; which was referred to the Committee on the Judiciary.

Mr. MORGAN presented a memorial of saw manufacturers of Rochester, New York, and also a memorial of citizens of Rochester, New York, remonstrating against any further increase of the duty on imported steel; which was referred to the Committee on Finance.

Mr. HOWE presented the memorial of the Board of Supervisors of Polk county, Wisconsin, remonstrating against any further extension of the time for the completion of the railroad from the Saint Croix river to Bayfield, in Wisconsin; which was referred to the Committee on Public Lands.

Mr. VAN WINKLE presented a petition of citizens of Kansas, settlers on the Cherokee neutral lands, praying the ratification of the sale of the residue of the Cherokee neutral lands to James F. Joy, in June, 1868, by the Secretary of the Interior; which was referred to the Committee on Public Lands.

He also presented the petition of Benjamin Blackford, of Virginia, praying to be relieved from political disabilities; which was referred to the Committee on the Judiciary.

Mr. DAVIS presented the petition of Joseph Wilson, praying compensation for certain mules and horses captured by the rebels in consequence of the refusal of the pickets to permit him to pass within the Union lines for the purpose of delivering the same under his contract with the Government at the city of Washington in July, 1864; which was referred to the Committee on Claims.

Mr. CORBETT. I desire to offer a memorial from prominent citizens of Washington Territory, in which they set forth that they protest against submitting the question of the claims of Great Britain to the Haro archipelago and the channel between San Juan Island and Vancouver's Island to the arbitration of any foreign Power. They set forth that having already conceded from the line of 64° 40'

to that of 49°, for the sake of peace, neither the honor nor the interests of the United States will admit of further surrender of right. I will add that these views coincide with my own; and the information that I have on the subject, after careful examination, satisfies me that our Government only deviated from the line of the forty-ninth parallel, that we might have no division of the island of Vancouver. The British Government claim the island of San Juan, but in my opinion they have no right to such island. The deepest channel running between San Juan Island and the island of Vancouver is the line. These memorialists, who are prominent citizens knowing all the circumstances of the case, petition in very earnest terms that this question be not submitted for arbitration. I move that the memorial be printed, and referred to the Committee on Foreign Relations.

The motion was agreed to.

Mr. TRUMBULL presented a memorial of the mayor and common council of Chicago, Illinois, praying the passage of a bill to enable the city of Chicago to enlarge its harbor; which was referred to the Committee on Commerce.

Mr. POMEROY. I have received and been requested to present a petition from citizens of the State of Maryland, earnestly and respectfully requesting that in any change or amendment of the Constitution of the United States that may be proposed we shall extend equal suffrage to all citizens, both male and female. This petition is numerously signed by citizens of the State of Maryland, and done up by the ladies in a neat and tasteful manner, and I respectfully call the attention of the committee to it.

The PRESIDENT *pro tempore*. It will be referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES.

Mr. SUMNER, from the Committee on Foreign Relations, to whom were referred the following petition, memorials, resolutions, and messages, asked to be discharged from their further consideration; which was agreed to:

A petition of William Cornell Jewitt, praying an appropriation of \$7,200,000 for the purchase of Alaska;

A memorial of William Cornell Jewitt, in relation to the proposed vote of censure against Hon. Reverdy Johnson, minister to England;

Resolutions by Mr. CAMERON, to inquire into the facts in respect to the designs of foreign Powers in imposing their systems of monarchical government and institutions upon the people of this continent;

A message from the President of the United States, of May 25, 1868, communicating a report from the Secretary of State in relation to recent events in the empire of Japan;

A message from the President of the United States, communicating, in compliance with a resolution of the Senate of January 13, 1868, further information in relation to the appointment of Hon. Anson Burlingame to a mission by the emperor of China;

A message from the President of the United States, communicating, in compliance with a resolution of the Senate, correspondence in relation to a claim to the guano on Alto Vela, an island in the vicinity of San Domingo;

A message from the President of the United States relating to the act of Congress prohibiting persons in the diplomatic service from wearing uniform or official costumes; and

A message of the President of the United States of July 10, 1868, communicating further information in relation to events in the empire of Japan.

Mr. SUMNER. The same committee, to whom was referred a message of the President of the United States, of July 20, 1868, communicating correspondence between the Secretary of State and the minister resident in Japan, showing the importance of an amendment to the law of the United States prohibiting the coolie trade, ask to be discharged from its further consideration. In making this report I desire to state that at the last session of

Congress the committee directed me to report a bill in pursuance of this recommendation, which has passed the Senate, and, I believe, is now pending in the other House, making our laws against the coolie trade applicable to Japan.

The report was agreed to.

Mr. CHANDLER. The Committee on Commerce, to whom was referred the bill (H. R. No. 1046) making appropriations for the repair, preservation, and completion of certain public works, and for other purposes, have directed me to report it back with certain amendments and to recommend its passage. I will here state that most of the amendments are deductions made of the amounts taken from the \$1,500,000 appropriated at the discretion of the Secretary of War in the prosecution of works during the first part of the present fiscal year.

Mr. MORRILL, of Vermont. The Committee on Finance, to whom was referred the bill (S. No. 667) to enable the Holley, Wayne, and Monroe Railway Company in the State of Michigan to have the subscription to its capital stock stamped, and the stamps already affixed and to be affixed to be duly canceled, have directed me to report it back with amendments; and if there is no objection, as it is merely to allow the company, which has failed to put stamps on the certificates of its capital stock at the proper time, to do so, I ask for its present consideration.

The PRESIDENT *pro tempore*. Does any Senator object to the present consideration of the bill?

Mr. HOWARD. I object.

Mr. MORRILL, of Vermont. Very well. I leave it to the Senator. I asked for it on his account.

Mr. WARNER, from the Committee on Finance, to whom was referred the bill (S. No. 771) authorizing payment to be made for certain services rendered to the United States in the late insurrectionary States, reported it without amendment.

BILLS INTRODUCED.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 800) to enable the city of Chicago to enlarge its harbor; which was read twice by its title, and referred to the Committee on Commerce.

Mr. ABBOTT asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 801) to amend an act entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific ocean," approved July 27, 1866, and to facilitate the early construction of the Atlantic and Pacific railroad, the Union Pacific railway, eastern division, the Southern Continental railroad, and the Southern Pacific railroad; which was read twice by its title, referred to the Committee on the Pacific Railroad, and ordered to be printed.

Mr. CONKLING asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 802) amendatory of an act to protect the rights of actual settlers upon the public lands of the United States, approved July 27, 1868, and for other purposes; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. MORTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 803) for the relief of the president and directors of the Terre Haute and Richmond Railroad Company; which was read twice by its title, referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

Mr. COLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 804) relating to the securities of national banks; which was read twice by its title, and ordered to be printed and lie on the table.

Mr. McDONALD asked, and by unanimous consent obtained, leave to introduce a bill (S.

No. 805) to perfect and complete railroad and telegraph communication with the Pacific ocean; which was read twice by its title, referred to the Committee on the Pacific Railroad, and ordered to be printed.

Mr. CORBETT asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 806) to establish certain mail routes in Oregon and Washington Territory; which was read twice by its title, referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 807) to provide for a line of United States mail steamships for the conveyance of mails and emigrant passengers between New York and Europe; which was read twice by its title, referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

Mr. CONNESS. I wish to say, in this connection, that I do not know anything about the contents of the bill; but it embraces several respectable names, and at their instance I present it.

Mr. THAYER asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 199) proposing an amendment to the Constitution of the United States; which was read twice by its title.

Mr. THAYER. As the amendment proposed is short, I ask that it be read.

The Chief Clerk read as follows:

No male citizen of the United States twenty-one years of age and upward, not insane or an idiot, shall be deprived of the right to vote at any election held by the people for national, State, and municipal officers, or for Representatives in Congress, unless guilty of crime, of which he has been duly convicted by law.

Mr. THAYER. A proposition has been reported from the Committee on the Judiciary proposing an amendment to the Constitution of the United States in relation to suffrage. I therefore move that this resolution lie on the table and be printed, to be considered when the other shall come up for consideration.

The motion was agreed to.

FISHERIES.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President be requested, if not incompatible with the public interest, to communicate to the Senate any correspondence or documents on file in the Department of State not heretofore published, relating to the resources and extent of the fishing grounds of the North Pacific ocean opened to the United States by the treaty of Alaska, showing the markets which are or may be made available for the produce of the fisheries, and relating also to the fisheries of the principal commercial nations, their markets, and their capacity.

DYER COURT OF INQUIRY.

Mr. HOWARD. I move to take up the resolution which I offered on Friday last, relating to the court of inquiry now in session in this city.

The motion was agreed to; and the joint resolution (S. R. No. 198) in relation to certain testimony to be used before the court of inquiry now in session in the case of General Dyer, chief of ordnance, was read the second time, and considered as in Committee of the Whole. It proposes to direct the Secretary of War to permit Messrs. Arrick and Kennon, the attorneys for the accusers before the court of inquiry convened in Washington city under special order No. 217, dated "Headquarters of the Army, Adjutant General's Office, September 10, 1868," to make in presence of General Dyer, at present chief of ordnance, if he shall desire, such personal examination of the records of the Bureau of Ordnance of the War Department as they may deem necessary to the full and thorough investigation contemplated by such order; and after such examination, and upon the request of the attorneys named, or either of them, he is directed to produce before the court, for the perusal and inspection of its members, all of such parts thereof as the attorneys may deem material to the inquiry.

Mr. GRIMES. I move to strike out the

names of the attorneys and to insert "the Judge Advocate General," who is the representative of the Government on all courts of inquiry, and who, I understand, is present at the court of inquiry named as its representative.

Mr. HOWARD. I hope that amendment will not be adopted. In order to show the reason for the resolution being framed in the form which it now bears, I will trouble the Senate one moment by reading an indorsement on the communication which I hold in my hand. The counsel for the accusers in the case mentioned in the resolution made application to the Secretary of War for the privilege of inspecting personally the records in the office of the Ordnance Bureau of the War Department. On this communication was the following indorsement by the Judge Advocate General:

BUREAU OF MILITARY JUSTICE,
December 29, 1868.

Respectfully submitted for the consideration of the Secretary of War, with an expression of opinion that the distinct averments made by the writers on their professional honor are quite sufficient to justify the granting of this request for a personal examination, of the records referred to.

J. HOLT,
Judge Advocate General.

Then the Secretary of War indorsed on the same paper:

WAR DEPARTMENT, December 29, 1868.

Respectfully returned to the Judge Advocate General, who is the official prosecutor in this case, and whose duty it is to procure from the records of the War Department and its bureaus all evidence which ought to be brought before the court. For this purpose he may in person or by either of his authorized assistants, search the records, and may employ to aid him such experts as may be necessary; but permission to search the records of the War Department cannot be given by the Secretary of War to persons not subject to his authority.

J. M. SCHOFIELD,
Secretary of War.

It seems that the counsel for the accusers in that case find it impossible to get access to the original records in the office of the Ordnance Bureau of the War Department. They allege that they have good ground to believe, and do believe, that those records have been mutilated and altered by some person, and that these mutilations and alterations are very material in the prosecution of the inquiry now pending before the court of inquiry. I take it that there can be no objection to permitting the counsel to inspect the original documents in that office in the presence of General Dyer, who is the party charged before the court of inquiry.

Mr. GRIMES. I conceive that there may be very great objections to establishing a precedent such as the passage of this resolution would establish, that wherever there shall be any private prosecutors against any officer of the Government or any persons who feel interested in making a personal examination of the records of any of the Departments of this Government they shall be permitted to do so by an act of Congress. I call the attention of Senators to the indorsement of the Secretary of War read by the Senator from Michigan. He there declares that the Judge Advocate General, the chief of the Bureau of Military Justice, has the power to examine these records himself or through anybody else that he may choose to designate for that purpose. He is associated with these men, who are the complainants in this case, who represent what are called the prosecutors; for this, it seems, is not a prosecution of the Government, but a prosecution of private individuals against an officer of the Government, and it is in that capacity that these persons appear before us to-day with their petition. General Holt has the power, under that instruction and order of the Secretary of War, to authorize Messrs. Arrick and Kennon to go into the Department and examine thoroughly the records. Wherefore, then, the necessity for coming to Congress to get Congress to pass a solemn act to authorize Arrick and Kennon to go and overhaul and rummage the records of the Department? Are not the Committee on Ordnance, who represent this case, willing to trust General Holt, who is the official representative of the Government, who sits

there in the court and watches its proceedings, who has expressed his desire that these men should be permitted to investigate and examine the records, and who has the power to grant them that privilege according to the order of the Secretary of War indorsed upon the back of their application, if he chooses to do so? I do not object to this order being made so far as this individual case is concerned; but I do object to the establishment of a precedent by which any party who wants to go and rummage the records of any of the Departments of this Government shall come in here and in the morning hour rush through a resolution authorizing him or his attorney to overhaul and overturn all the records of any of the Departments of the Government.

Mr. HOWARD. The Senator from Iowa does the joint Committee on Ordnance great injustice when he speaks of them as being the representatives of this case, or as having anything to do with it.

Mr. GRIMES. I did not speak of them in that capacity; I spoke of the attorneys, of Arrick and Kennon, whose petition the gentleman held in his hand, as being the representatives of the case, and as being private prosecutors according to the admission of the Senator himself.

Mr. HOWARD. I understood the honorable Senator very distinctly, as I thought, to say that the committee were the representatives of this case. He certainly made a reference to the joint Committee on Ordnance for some purpose, and I understood him to say, very clearly, that they were the representatives of this case either before the court of inquiry or somewhere else. In that the honorable Senator is entirely mistaken.

Mr. GRIMES. I am not responsible for the Senator's understanding of what I said. I am only responsible for what I did say. I did not say any such thing. I said that this proposition came from the Committee on Ordnance.

Mr. HOWARD. The Senator is equally mistaken there. This proposition does not come from the Committee on Ordnance at all. The committee have nothing to do with it. I offer the resolution here upon my own responsibility, in order to promote justice and to enable facts to be presented before that court of inquiry which some person is anxious, as it seems to me, to suppress. It is very true that the Judge Advocate General has authority to allow an inspection of these records, if he chooses to do so; but he does not permit it for some reason or other, and the counsel for the accusers allege that an inspection of these records is absolutely essential to the administration of justice and to the ascertainment of the whole truth in the case. To ascertain that truth is undoubtedly the object for which the court of inquiry was organized. I do not see any objection to the passage of such a resolution as this by Congress. Without such a resolution, it may turn out to be utterly impossible to arrive at the truth, and the whole truth, in regard to the charges made in respect to General Dyer, chief of ordnance. I trust that the truth will not be suppressed by defeating this resolution.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Iowa.

Mr. GRIMES. I call for the yeas and nays. The yeas and nays were ordered.

Mr. GRIMES. I simply desire to say that this is a proposition to authorize private persons, who are denominated by the Senator from Michigan as the representatives of private prosecutors, to go into the Ordnance Bureau of this Government and overhaul the records there. I have proposed to amend the resolution so as to give authority to the Judge Advocate General, who is the official representative of the Government, and who is acting with these representatives of private parties, to do that.

Mr. HOWARD. And it is fairly to be inferred from the indorsement of the Judge Ad-

vocate General that he is unwilling to allow an inspection of the original records. If he has the power he has refused to exercise it. He indorses upon the request made to him the following words, which I read before:

"Respectfully submitted to the consideration of the Secretary of War, with an expression of opinion that the distinct averments made by the writers on their professional honor are quite sufficient to justify the granting of this request for the personal examination of the records referred to."

That is what General Holt says.

Mr. EDMUNDS. Now read what the Secretary of War says, and we shall understand the whole case.

Mr. HOWARD. I read it before, but I will read it again:

December 29, 1868.

Respectfully returned to the Judge Advocate General, who is the official prosecutor in this case, and whose duty it is to procure from the records of the War Department and its bureaus all evidence which ought to be brought before the court. For this purpose he may in person or by either of his authorized assistants search the records, and may employ to aid him such experts as may be necessary; but permission to search the records of the Department cannot be given by the Secretary of War to any person not subject to his authority.

J. M. SCHOFIELD,
Secretary of War.

I know nothing in the nature of a public record, whether it be in a Department, in a court of justice, or elsewhere, that is so sacred that parties interested in the record are to be excluded from an actual inspection of the paper itself in order to ascertain whether the record has been preserved, as is required by law, or whether it has been mutilated and diminished for some sinister purpose. The counsel in this matter allege that they have reason to believe, and do believe, that there has been such a mutilation of the records in the ordnance office; and they therefore ask permission, in the presence of the chief of ordnance himself, if he chooses to be present, to make an actual inspection of the ordnance records, to ascertain to their own satisfaction whether there has been a mutilation or not; and I think it becomes the honor and the dignity of the Government itself to see to it that its records have not been mutilated or injured.

Mr. GRIMES. Mr. President, I think the Senator from Michigan is hardly justified, judging from this indorsement of the Judge Advocate General, in saying that he manifestly is unwilling that the records of the Ordnance Bureau should be investigated by these parties. On the contrary, he expresses a willingness that it should be done, and recommends that the Secretary of War shall grant such permission.

Mr. HOWARD. But the Secretary says he has no power to grant it.

Mr. GRIMES. Very well. What I was speaking to just at this moment was that the Senator from Michigan seemed to convey the idea that if this matter was left to the Judge Advocate General, he would not grant these parties the permission to examine the records. To that I say he has already committed himself by the indorsement which he made upon their application, that they ought to be permitted to examine the records.

Mr. HOWARD. No; there is a mistake about that. He is silent on that subject.

Mr. GRIMES. Here it is:

Respectfully submitted for the consideration of the Secretary of War, with an expression of opinion that the distinct averments made by the writers on their professional honor are quite sufficient to justify the granting of such a request for the personal examination of the records.

J. HOLT.

He says that the specific averments alleged in their application are sufficient to justify an order authorizing them to make this examination. The Secretary of War says in response to that: "I do not think it proper to allow those private persons to go in there and overhaul the records and examine all the transactions of this Government in connection not only with this particular thing now under investigation, but everything else during the last fifty years; but I will authorize the Judge

Advocate General to make that examination either through himself or through anybody that he may appoint." Have they applied to the Judge Advocate General? Have they been refused by the Judge Advocate General?

Mr. HOWARD. I suppose they have.

Mr. GRIMES. I suppose they have not. There is no evidence of it. So far from it, we have reason to suppose they have never made any such application, and have never been refused, because the Judge Advocate General is upon the record indorsing the application and saying that they ought to be permitted to make the investigation. But, instead of applying to the Judge Advocate General, who is associated with them as one of the attorneys in the case, they run off to Congress and ask us to interfere in this special case and give them authority to overhaul those records.

Mr. EDMUNDS. And entirely independent of him.

Mr. GRIMES. And, as is remarked by my friend, entirely independent of him, without any reference to the Judge Advocate General or anybody else.

Mr. HOWARD. The resolution expressly says that it may be done in the presence of the chief of ordnance if he chooses to be present. In point of fact I have been informed by the counsel that they have been refused absolutely access to these records. They cannot get at them.

Mr. GRIMES. By whom have they been refused?

Mr. HOWARD. By the Judge Advocate General.

Mr. GRIMES. Now, Mr. President, I want to have this resolution lie over until to-morrow until that matter can be investigated. I cannot believe that a man of honor like Judge Holt, who has made such an indorsement as that on that paper, could within a few hours after having made it turn around and deny to those persons the privilege of doing the very thing he put himself on record as being in favor of their having the power to do. If he has, it ought to be known to the Senate, that we may know what confidence in future to place upon the representations of a man in as conspicuous a place as General Holt is. As my friend from Vermont [Mr. EDMUNDS] suggests, we ought to know, if he has done it, the reasons why he has done it. Those reasons may be of great consequence; they may affect the public interest; and we ought not to be called upon to pass upon a question of this kind, involving, it may be, the safety of the public records, upon the mere declaration that a public officer has ignored what he has already authorized to be done and expressed himself in favor of being done.

Mr. HOWARD. The Senator is mistaken in the inference he draws from the indorsement made by Judge Holt upon the application which was made to him for this privilege to inspect the records. He does not give the permission, but he refers the paper containing the request to the Secretary of War, who returns it to him with an indorsement saying substantially that he has nothing to do with it and has no power over it, referring the whole thing back to Judge Holt. There the thing stands, as a matter of fact. Now, as I said before, I am informed that the Judge Advocate General refused to give to the counsel access to those records for the purpose of inspecting them. There is no danger whatever of the records being lost. It is only the privilege granted to every private party who has an interest in a subject-matter of inspecting the public records; and it seems to me it is little better than mere pretense to refuse it on this occasion.

The PRESIDENT *pro tempore*. The morning hour having expired, the unfinished business of yesterday is before the Senate, being the bill commonly called the copper bill.

MESSAGE FROM THE HOUSE.

A message from the House of Representa-

tives, by Mr. McPHERSON, its Clerk, announced that the House had passed the joint resolution (S. R. No. 173) respecting the provisional governments of Virginia and Texas, with an amendment; in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bill and joint resolution; in which it requested the concurrence of the Senate:

A bill (H. R. No. 1599) making appropriations for the naval service for the year ending June 30, 1870; and

A joint resolution (H. R. No. 413) in relation to lands and other property of W. W. Corcoran in the District of Columbia, used by the United States Government during and since the war of the rebellion.

VIRGINIA AND TEXAS.

The Senate proceeded to consider the amendment of the House of Representatives to the joint resolution (S. R. No. 173) respecting the provisional governments of Virginia and Texas, which was to add the following proviso:

Provided, That the provisions of this act shall not apply to persons who by reason of the removal of their disabilities, as provided in the fourteenth amendment of the Constitution, shall have qualified for any office in pursuance of the act entitled "An act prescribing an oath of office for persons from whom legal disabilities shall have been removed," approved July 11, 1868: *And provided further*, That this joint resolution shall not take effect until thirty days from and after its passage.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment of the House of Representatives.

Mr. POMEROY. I should like to have that amendment explained. I presume it is all right, but I do not understand it. I should like to have the Senator who has it in charge state what it is.

The PRESIDENT *pro tempore*. The bill and amendment will lie on the table.

HOUSE BILLS REFERRED.

The bill (H. R. No. 1599) making appropriations for the naval service for the year ending June 30, 1870, was read twice by its title, and referred to the Committee on Appropriations.

The joint resolution (H. R. No. 413) in relation to lands and other property of W. W. Corcoran in the District of Columbia, used by the United States Government during and since the war of the rebellion, was read twice by its title, and referred to the Committee on the District of Columbia.

DUTIES ON IMPORTED COPPER.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 1460) regulating the duties on imported copper and copper ores.

Mr. CHANDLER. Mr. President, there is a misapprehension on the part of many Senators as to the amendment which was offered and adopted yesterday. One of the Senators from Massachusetts informed me that had he been aware of the adoption of that amendment he would have sustained the bill yesterday. I will read that amendment as it was adopted by the Senate:

"On copper in rolled plates, called brasier's copper, sheets, rods, pipes, and copper bottoms, eyelets, and all manufactures of copper or of which copper shall be a component of chief value, not otherwise herein provided for, forty-five per cent. *ad valorem*."

It was understood by the friends of the bill that the adoption of that amendment would remove the objections from that quarter to the bill; and I was rather surprised that it was not understood universally by the body. That amendment was adopted, and is now a part of the bill before the Senate.

The Senator from Connecticut, [Mr. FERRY,] in my judgment, led the Senate into a mistake in his remarks yesterday. He said:

"Well now, sir, I have just this to say about my State of Connecticut in this connection: we ask no favors of the Senator from Michigan; we have not been accustomed in that little Commonwealth to look up to the Government of the United States to help us in developing our resources and building up

our enterprises. Sir, by the energy, the industry, the capital of Connecticut, invested and developed through the indomitable perseverance of its people since the very foundation of this Government, its rocky hills have been made to blossom as the rose; its every valley has been made to resound with the hum of machinery.

"Sir, you may strike off from your statute book every farthing of protection which you give to our interests, and Connecticut will go on as she has gone on in the past. You may take away from us your tariffs; you cannot take away from us the indomitable energy of our people."

Mr. President, I would not detract one iota from the indomitable energy of the people of Connecticut; but I believe the Senator from Connecticut to be under a very grave misapprehension as to the effect of removing all protection from that people. While I admit their indomitable energy, I will say that there is not a people in these United States who have shown so indomitable an energy in seeking for the protection of every article that is produced by them as the people of Connecticut. There is not an article produced there, from a wooden button to a brass clock or from carpetings to jew's-harps, that is not heavily protected by this Government; and yesterday, when I called up this bill asking for a small protection upon this great copper interest, the very first movement was to look out for every single production of Connecticut by increasing the duty on the manufactures of copper ten per cent., and we accepted it, with the understanding that with that increase it would be satisfactory. Sir, she was early in the field.

Mr. FERRY. May I ask the Senator a question?

Mr. CHANDLER. Certainly.

Mr. FERRY. With whom did the Senator have any such understanding?

Mr. CHANDLER. Not with the Senator from Connecticut.

Mr. FERRY. The implication of the remark would lead to such a conclusion.

Mr. CHANDLER. It was not with the Senator from Connecticut. Now, sir, I do not wish any misapprehension on this subject. I have no remarks to make as to the energy and success of Connecticut. I rejoice in it. I have a right to speak on this question of the tariff, for I have been a tariff man all my life. There never has been a tariff brought here since I have been a member of the body—twelve years—that I have not voted for; and in every instance I think I have voted for the highest tariff proposed. I have no recollection of ever having deviated from that course. I believe in protecting American manufactures and American productions. I believe in protecting the labor of the nation, and I have voted in consonance with that belief.

But, sir, let us look a little at the products of Connecticut and the protection afforded them. Connecticut is largely interested, as we all know, in manufactures. The manufacture of sewing-silk is protected by forty per cent.; of velvets, sixty per cent.; of ribbons, sixty per cent.; dress and plain goods, sixty per cent.; pongees and vestings, sixty per cent.; shawls—and they are a very large article in the produce of Connecticut—sixty per cent.; hosiery, sixty per cent.; laces, braids, fringes, galloons, &c., sixty per cent. These are the products of Connecticut that the Senator is willing shall be deprived of their protection. I can tell the Senator that if you deprive these articles of that protection every single factory in Connecticut producing them would stop within a week; ay, sir, they would stop within a day. And so you may go through with the entire list of articles produced in that State. Silks, and manufactures of silk, ready-made clothing, a large product there, are protected by sixty per cent. Silk manufactures, wholly of silk and not otherwise specified, fifty per cent.; silk mixed goods, fifty per cent. Even roofing slate—and is there a rarer material than roofing slate?—has a protection of thirty-five per cent. And now when we ask for twelve and a half per cent. upon copper that you have to go two thousand feet into the bowels not of the earth but of the rocks to raise, the Sen-

ator objects to affording us that little protection. Slate and slate-pencils, a large manufacture of Connecticut, are protected by forty per cent.; common castile, and all like soaps, thirty per cent.

So you may go through with the list. As I said before, there is not a button or a jews-harp, not a clock or an article that is produced in Connecticut that is not, on an average, in my judgment—I have not looked it over accurately—protected by forty or fifty per cent. *ad valorem*.

Then you may take other articles. Take back-saws not over ten inches in length, on which the duty is seventy-five cents per dozen and thirty per cent. *ad valorem*; over ten inches in length, one dollar per dozen and thirty per cent. *ad valorem*; files, rasps, and floats not over ten inches in length, ten cents per pound and thirty per cent. *ad valorem*. So you may go through with every article produced in Connecticut, and you will find the protection about in that ratio. And yet the Senator says he can run his factories if you abolish all duties; he asks no odds. I presume it is because the Senator knew nothing at all about the tariff or its application to the manufactures of Connecticut. While this enormous protection is granted to everything that Connecticut produces, when we come in and ask for a protection amounting to twelve and a half per cent., or thereabouts, upon a product in which \$50,000,000 is invested, he is unwilling to grant it.

Mr. President, there is not a single article produced in the United States that I am aware of on which the protection is so small as that which we ask for this copper interest. This copper interest is not confined to the State of Michigan. Tennessee, Vermont, West Virginia, California, and other States are interested as well as Michigan; and let me say that the California mines, the richest mines in the United States, are stopped to-day, are not raising a single pound, because you do not grant them this little protection. They could mine copper enough there, for aught I know, to supply the world, but they cannot raise it in competition with the Brazilian ores.

The Senator from Maryland [Mr. WHYTE] was likewise mistaken in his figures, and very greatly mistaken. He says that the whole product of the Lake Superior mines is nine million pounds a year. Sir, the product of the Lake Superior mines has amounted to more than seventeen million pounds a year for the past four years. Then, again, he says that the consumption is about twenty-five thousand tons. The consumption of copper amounts to only about twelve thousand five hundred tons, or twenty-five million pounds a year. That is the whole consumption.

Mr. WHYTE. The Senator will permit me to correct him. I said twenty-five million pounds.

Mr. CHANDLER. Then I misunderstood the Senator. I stand corrected. Michigan alone furnishes seventeen million pounds of that twenty-five million pounds, and has done so for the last four years on an average. Other parts of the United States have supplied so as to make up over twenty out of the twenty-five millions. So the product, instead of being one third of the consumption of the United States, is four fifths of the consumption to-day, and with this little protection we can supply the whole consumption within one year. Why, sir, the amount of copper produced last year would amount to \$5,000,000 in gold. That would have gone out of the United States in gold for the purchase of that copper but for the product of these mines. Are you prepared to say that these mines shall be shut up and your gold go abroad for the purchase of copper, when the earth is filled with the mineral that you require?

But, sir, the Senator was mistaken in another respect. The Senator is not conversant with the facts, I presume, and has been deceived by those who were either interested or intentionally deceived him. I wish to call his attention, and the attention of the Senate, to a

few statements of facts made by him, that they may be corrected. The Senator says:

"A quintal is one hundred and one and forty-four hundredths pounds.

Ore usually costs in South America three dollars per quintal, which is, per ton of 2,240 pounds.....\$66 54
Export duty about.....1 00
Commissions for buying and shipping, five per cent.....3 34
Cost of sampling, assaying, &c.....1 00
Freight, £3 5s. sterling.....15 73

Total.....\$87 61

"One ton of eighteen per cent. ore is four hundred and three pounds copper, making copper in ore cost twenty-one and three quarter cents per pound in gold, not including any duties or exchange."

Now, Mr. President, I hold in my hand a price current, printed in Valparaiso, Chili, on the 9th day of December, 1868, wherein these ores are named, and I presume this is as late advice as the Senator has from Valparaiso. If he has any later, I shall be very happy to stand corrected. This was the public advertisement of the prices on that day, in the most influential paper in Valparaiso:

"Fourteen thousand quintals of ore, yielding twelve and one third per cent., at 35 10-100 cents per quintal; fourteen thousand quintals, yielding twenty-five per cent., \$2 81 25-100 cents, free on board."

That is under three dollars a hundred for ore yielding twenty-five, not eighteen, per cent. The Senator has been mistaken in his figures. They do not import ores yielding eighteen per cent. They import ores yielding twenty-five per cent., and rarely do they go below that, and never if they can help it. Now, sir, ores yielding twenty-five per cent. were sold on the 9th of December last at \$2 81½ free on board. Then I find quotations of six thousand quintals at \$2 75, and again at \$2 81½ free on board. So you see, Mr. President, that instead of being three dollars per quintal, as he states, for ores yielding eighteen per cent., it is \$2 81½ per quintal for ores yielding twenty-five per cent., or nearly one third more. So it makes a very material difference in the cost of the article. I have here the estimate, reckoning twenty-five per cent. ores, mark you, at three dollars per quintal, which is eighteen and three quarter cents more than the price current of those ores was on the 9th day of December. The estimate is eighteen and three quarter cents above the cost:

"The published statement of Mr. Martin that 'copper ore costs in South America (Chili) ordinarily three dollars per quintal,' is not true of eighteen per cent. ores, and his figures in this connection are a gross perversion of facts.

"The following figures show the approximate cost of copper in Chili ores landed in the United States, duty paid.

"It may be remarked that three dollars per unit is above the average price paid in 1868 for eighteen per cent. ores in Chili on shipboard, and that freights have varied from twelve to fifteen dollars to the United States.

"At Valparaiso, October 3, 1868, copper ores of twenty-five per cent. purity were costing \$2 75 per unit, delivered on board ship at the ports of Chili.

"But suppose we take a higher price, say three dollars per unit, the cost of copper in the ores, delivered at New York or Baltimore, would be as follows:

Twenty-five per cent. ores at three dollars per "unit" of one per cent. per ton of ore.....\$75 00 gold
Freight to United States at fifteen dollars per ton of ore.....15 00 gold
Duty five per cent. on seventy-five dollars.....3 75 gold

Cost in United States per ton of twenty-two hundred and forty pounds, duty paid.....\$93 75 gold

"A ton of twenty-five per cent. ores would yield in fine copper five hundred and sixty-two pounds, which would cost, landed in New York or Baltimore, as above, \$93 75, or sixteen and three quarter cents per pound gold."

Sixteen and three quarter cents a pound, instead of, as the Senator's informant stated, twenty-one and three quarter cents, and this duty paid. It makes a great difference whether these ores yield twenty-five per cent. or eighteen per cent., and it is some difference whether

*The difference in exchange at Valparaiso in favor of shippers, usually from seven to nine per cent., would cover the cost of commission, insurance, and petty charges.

they cost two dollars and seventy-five cents or three dollars a unit.

Eighteen per cent. ores at three dollars per unit would cost per ton on board ship.....\$54 00
Freight to United States.....15 00
Duty, five per cent.....2 70

Cost per ton landed in the United States, duty paid.....\$71 70

"Eighteen per cent. ores would yield four hundred and three pounds of fine copper per ton of ore; costing in New York or Baltimore in the ore \$71 70, or seventeen and seven tenths cents per pound gold.

"But the Atlantic coast smelters would, of course, import ores of twenty-five per cent., and thus save in freight.

"Mr. Martin's published assertion that the copper in Chilean ores costs twenty-one and three quarter cents per pound gold, not including duty, (and not counting the cost of smelting), is an amazing untruth."

Mr. Martin, it seems, is the man who furnished these figures. Now, Mr. President, I have no doubt that whoever furnished them has deceived my friend from Maryland, and that he has stated them without any knowledge as to the actual facts. I hold in my hand the Valparaiso West Coast Mail of December 9, 1868, which shows the exact cost of these ores free on board at that date. The figures that I have now presented here may be relied upon; and I trust, with this explanation, that this bill will be allowed to pass without further amendment, and as it is.

Mr. SHERMAN. I simply wish to correct a statement that I made to the Senate yesterday, on the authority of a distinguished member of the House of Representatives, in which I think we were both in error. I stated that the gold price of copper was twenty-five cents a pound. I am now satisfied that that must be erroneous. I was partially misled into making the statement by the statement of Henry Martin, president of the Baltimore Copper Company, who says that the net cost of a ton of fine copper, not the fluxed ore, is, when landed in the United States, twenty-two and a half cents per pound in gold. Making a proper allowance for fluxing it, I suppose the statement made to me by a member of the House of twenty-five cents was not unreasonable; but I am satisfied now from examining the prices current shown to me by the Senator from Connecticut and the Senator from Vermont that probably the currency price of copper is about twenty-five cents a pound, so that the rate of duty on copper ore, according to the terms of this bill, will be something in the neighborhood of from fifteen or sixteen to seventeen per cent., counting the gold price of copper at about eighteen or nineteen cents a pound, which I think is about the price of copper delivered here. It may be quoted a little less in foreign markets by the foreign valuation.

I desired to make this statement merely because on questions of precise facts I prefer to be accurate rather than loose. I made the statement I did yesterday on the authority of a member of the House and a member of the committee who reported this bill.

Mr. MORRILL, of Vermont. The Senator from Ohio desires to be strictly accurate. The foreign valuation is the valuation on which an *ad valorem* would be levied if we had an *ad valorem* duty. This being a specific duty it amounts to a larger sum than even that now named by the Senator. As the foreign cost of copper is not quite sixteen cents, varying from fifteen to sixteen cents, a duty of five cents a pound on copper would be something like thirty or thirty-three per cent., and on the ores the duty here proposed would amount to something like twenty or twenty-one per cent.

Mr. SHERMAN. I stated the cost here in gold.

Mr. CHANDLER. The rate of duty fixed by this bill does not amount to over fifteen or fifteen and a half per cent. on the ores.

Mr. MORRILL, of Vermont. It amounts

*The difference in exchange at Valparaiso in favor of shippers, usually from seven to nine per cent., would cover the cost of commission, insurance, and petty charges.

to precisely three cents a pound on all the copper contained in the ore.

Mr. CHANDLER. It is very easy to figure. Ores are worth to-day twenty-four cents, and a duty of three cents in currency would be twelve and a half per cent. Any man can figure that out without any difficulty. Then there is to be added simply the premium or difference between gold and currency.

Mr. MORRILL, of Vermont. But the Senator makes a mistake. Our duties are not levied on the currency value nor on the home value; they are levied on the gold value abroad.

Mr. SUMNER. Mr. President, I gave notice yesterday that I had one or two amendments to move to this bill; and to the one with which I begin I think there can be no objection by the Senators from Michigan. I propose to introduce, after the word "enumerated" in the fourteenth line, the words "including sulphate of copper or blue vitriol," the object being to give that article, blue vitriol, the same protection with copper. On that I shall content myself with reading a precise statement which I have received from a business firm.

Mr. CHANDLER. Allow me to ask the Senator whether he can tell what proportion of copper is contained in blue vitriol?

Mr. SUMNER. I think there is something about that in what I am going to read now.

Mr. CHANDLER. My impression is that there is a very large proportion of copper in it, and therefore it is included in the amendment already adopted.

Mr. SUMNER. I took notice of that amendment, and I think it does not cover it.

Mr. CHANDLER. If the chief component part is copper, as I am informed, it is covered; but I shall not object to the amendment.

Mr. SUMNER. I did not suppose the Senator would object to it. With his permission I will read the statement to which I have referred, so that it may be of record. These writers say:

"The copper interest no doubt needs protection; but it would be ruinous for us if the bill as passed the House should become a law unless a corresponding increase was made to the duty on blue vitriol, every additional cent a pound on copper being equal to one quarter of a cent on blue vitriol, and unless this is done, by assisting the copper interest in the way proposed, you would close every blue vitriol establishment in the country. You will readily see the great importance of this question, and we beg that you will immediately take such steps as will prevent the bill from passing the Senate unless an amendment of the above import accompanies it."

Mr. CHANDLER. There is no objection to this amendment.

Mr. SUMNER. I understand there is no objection to it.

The amendment was agreed to.

Mr. SUMNER. I have another amendment, which I propose to come in as a proviso at the end of the bill:

Provided, That all sheet copper or yellow metal imported in any American ship or vessel, to be used and actually used for her own sheathing, may be imported duty free.

Mr. CHANDLER. I object to that.

Mr. SUMNER. Let my friend from Michigan hear the explanation. I know he is full of justice, and I think I shall have the support of my excellent friend if he will only listen to a statement of one minute.

He is aware that the commerce of our country has suffered much during these latter years; and I know that, as the head of the Committee on Commerce, he certainly will not be against anything for its relief. What I propose is very small; but it is in the nature of relief, and in this way: the excellent ships of our country that are built in Maine and Massachusetts and generally on our coast go abroad on their first voyage without being sheathed, and they get their copper and are sheathed in a foreign port. Why is that? It is for economy, because under existing tariffs if they were sheathed at home they would be obliged to pay the duty on the copper used in the sheathing. It is to save that additional expense that they go abroad unsheathed and get their sheathing in foreign yards. Now, I simply propose that

these ships shall have the privilege of bringing their sheathing-copper home and employing it in our own yards. The Government will lose nothing by this proposition, because these very vessels, if you do not allow them to bring their sheathing-copper home, will find it abroad and have it put on there. Why shall they not be allowed to bring it home with them and have it put on in our own ship-yards, and thus give employment to our own mechanics and give to the owners of the ships the satisfaction of completing the vessels in our own yards?

I can see no objection in principle to this proposition; and further, I do not see how in any way the revenue can be affected, because, as I have already said, these very ships will be sheathed while they are abroad if you do not allow them to bring the copper home. Now, I hope I have convinced my friend.

Mr. CHANDLER. Mr. President, I do not wish to go into a discussion of this question. It has been thoroughly discussed and tried, I believe, at every session of the last four or five years—the question of giving a drawback.

Mr. SUMNER. Oh, no.

Mr. CHANDLER. Certainly; it was tried by the Senator from Maine [Mr. FESSENDEN] last winter and winter before last. It is the same old question. I do not wish to go into an argument on it. It will take a great deal of time if we open up that question. Our lake vessels have not the facilities for going abroad, and by this proposition you would discriminate in favor of ocean vessels against lake and river vessels. It is opening up the whole subject of a drawback on everything that goes into the manufacture of ships, which would lead to a long discussion; and I hope the Senate will vote down the amendment promptly.

Mr. SUMNER. Mr. President, it opens no question of drawback. It opens the simple question that I have proposed. It cannot be extended to any other case. Of course it cannot be extended to the navigation of the lakes; they are not in the predicament which will allow it; and the practical question is whether when ships that sail from our coast are in the predicament to allow this favor they shall not have it. Already that commerce has suffered inconceivably. Our ships are almost driven from the sea. Ship-owners wish for assistance of some kind. Now, I propose one way of giving them very slight assistance, but still something that may be so called. I hope there will be no objection to it. I ask for the yeas and nays on the amendment. I should like to see how the Senate stands on the question of aiding in some way our shipping.

The yeas and nays were ordered.

Mr. GRIMES. I desire to say that by any vote I shall give on this subject I do not propose to commit myself in regard to any theory relative to drawbacks on articles used in the manufacture of ships or to protection for shipping.

Mr. SHERMAN. I think it would be a great deal better to postpone the passage of this bill than to complicate it by throwing off duties on manufactured articles. Copper is a manufactured article now, subject to a duty of forty-five per cent. There will be disputes as to this copper when it is brought in. There will be questions of fact as to whether the copper was used upon the vessel. Various questions of that kind will arise. I think it will be better at once, rather than load down this bill with amendments which would raise the question of drawbacks on manufactured copper, to let the bill go over. I never felt any great solicitude about this bill, and I only agreed to report it because it will give a small relief—not so much as the Senator from Michigan seems to think—to an interest now very severely depressed; and unless the Senate is willing to take it as a simple proposition by itself for that sole purpose I do not think it will be wise to pass it. If it is to be loaded down with amendments providing for a system of drawbacks, providing for increased duties on manufactured articles, you will complicate the subject so much that I shall feel it much better not to pass the bill

until we make a general revision of the tariff. I shall therefore vote against this amendment or any other amendment that will sacrifice revenue.

Mr. SUMNER. I will meet the Senator on his last two points. And first, as to loading down the bill, I do not propose to load down the bill. There is no load in my proposition. It is light, because it is just. Then, in the second place, the Senator insists that this proposition should go into some more general bill. Why so? It is a proposition which has in it so much of essential justice that the Senate cannot err in adopting it on any bill.

The Senator also says that he is unwilling that the revenue should suffer; but by this amendment of mine the revenue cannot suffer. If the Senator had listened to the proposition I think he would have seen that he is mistaken. The revenue cannot suffer at all by this proposition, and our commerce will be helped. Now, the practical question for the Senate is, whether upon a case where the revenue will not suffer a dollar you will refuse a proposed relief to the commerce of the country.

The question being taken by yeas and nays, resulted—yeas 14, nays 32; as follows:

YEAS—Messrs. Anthony, Davis, Dixon, Edmunds, Ferry, Fessenden, McCreery, McDonald, Morrill of Vermont, Patterson of New Hampshire, Spencer, Sumner, Warner, and Wilson—14.

NAYS—Messrs. Abbott, Cameron, Chandler, Cole, Conkling, Doolittle, Fowler, Frelinghuysen, Grimes, Harris, Henderson, Howard, Howe, Kellogg, Morgan, Morton, Nye, Patterson of Tennessee, Pomeroy, Rice, Robertson, Sawyer, Sherman, Stewart, Thayer, Trumbull, Van Winkle, Vickers, Wade, Whyte, Wiley, and Williams—32.

ABSENT—Messrs. Bayard, Buckalew, Cattell, Conness, Corbett, Cragin, Drake, Hurlan, Hendricks, Morrill of Maine, Norton, Osborn, Pool, Ramsey, Ross, Saulsbury, Sprague, Tipton, Welch, and Yates—20.

So the amendment was rejected.

Mr. SUMNER. I have still another amendment. I have made an effort in behalf of commerce; I now make an effort in behalf of another article which at this moment has not adequate protection under the existing tariff. I offer the following amendment, to come in at the end of the bill:

On hair-cloth of the description known as hair-seating, forty-five cents per square yard.

On hair-cloth known as crinoline cloth or padding or similar goods however designated, forty-five per cent. *ad valorem*.

On this proposition I have to say that it is identical with one which has already passed the Senate during the second session of the Thirty-Ninth Congress, which has already passed the House of Representatives in another bill which has been recommended by the Ways and Means Committee at the last session of Congress, both in the general bill and in what is known as the MOORHEAD tariff, and is also approved by Commissioner Wells in his report; and I am not aware that anybody has ever presented any objection to the proposition.

Mr. FRELINGHUYSEN. Is it not covered by the amendment of the Senator from Rhode Island?

Mr. SUMNER. No; I beg pardon, it is not. This is hair-cloth.

Mr. CHANDLER. It has nothing to do with this bill.

Mr. SUMNER. The Senator from Michigan says it has nothing to do with this bill. I beg the Senator's pardon; it has something to do with the manufactures of the country and with the public interests, and therefore it is germane to this bill. The specific duty which is proposed in the amendment I have moved is equal to about forty-five per cent. *ad valorem*.

Now, I do not wish to go into any minute discussion on this question. I shall content myself by reminding the Senate that this article is one which has only comparatively recently taken a considerable place in commerce. Down to a late period hair-cloth was made by hand-looms moved by the cheap labor of the old world. Latterly in our own country it is made by machinery. There are certain persons who have invested a great deal in this machinery who have produced excellent work. It is used extensively, as we all know, throughout the

country, and is also exported. The existing tariff on this fabric is about thirty per cent. It is the tariff that was originally imposed some eighty years ago, and it was then in harmony with the tariff on other textile fabrics; but while the tariff on other textile fabrics has risen in a constantly ascending ratio this has stood still. It is still only thirty per cent. I am told that the average on textile fabrics is sixty-two and a half per cent., while on this there is a tariff of only thirty per cent. Those who are engaged in this business, and most meritorious persons they are, have had to struggle under a duty of only thirty per cent., while there was this large duty on other textile fabrics. They naturally appeal to Congress for relief at this moment when, under the lead of my friend from Michigan, it is beginning to revise the tariff system and to apply a remedy in a specific case; and why should they not have it? The case, to be sure, does not commend itself so grandly as that represented by my friend from Michigan; it does not concern so many millions; it has not so large a name; it is not a great mineral interest, but it is an honest, true, substantial manufacturing interest.

My friend, I know, is against no such interest as that, and I ask that he shall receive and welcome on his bill and be hospitable to this proposition, which has in it simply elements of justice. I will read to you a portion of a statement which has been made by gentlemen interested in this fabric. They say:

"Our machinery is admirably adapted to its purpose, but almost worthless for any other use; we must make hair-cloth on it or stop it entirely, in the latter emergency reducing its value to about that of old iron.

"The rate we now ask is a minimum rate, but we think it will enable us to run our mill until such time as there shall be a general tariff revision, when we shall claim to be made equal to kindred interests, whatever may be the rate. In our present distress we prefer to make our demand so moderate that no question can be raised.

"We really ought to have a higher rate than the average of textile fabrics, inasmuch as our labor account is a heavy percentage of entire cost, the best looms under the best management producing only some five yards per day.

"Our enterprise is not an experiment; it is in full operation, producing the best goods of their class in the world; it is in every respect creditable to American industry, and is worthy of attention by Government such as is given to similar interests. We ask no more, and think we ought not to be asked to expect less."

I do not know that I can add anything to this simple statement of the case. I see no objection to the amendment on a bill like the present. If the Senate is undertaking to legislate on this subject; if it thinks it proper now in a bill to provide for a specific interest in order to meet the exigency of the time, then I submit that I have made out a case, and a good case, for a similar provision.

Mr. CHANDLER. Mr. President, I am informed by the chairman of the Committee of Ways and Means that if any amendments go on to this bill not germane to copper they will defeat the bill in the other House. No amendments have gone on except those connected with the copper interest, and I hope this amendment will be voted down, as it will defeat the bill. It will do no good to the hair-cloth interest, but will ruin the copper interest. I hope, therefore, the amendment will be voted down.

Mr. SUMNER. I hope not.

Mr. ANTHONY. I do not see how it is going to ruin the copper interest to put a fair protection on another interest, or how it is going to hurt this bill to put on it a proposition that has received the assent of both Houses of Congress, that has received the assent of the Committee of Ways and Means and the Finance Committee, and that is recommended by the Special Commissioner of the Revenue. It seems to me it will strengthen the bill. This is a new branch of manufacture, and a very interesting branch of manufacture, developing a new industry in the country, and giving employment not only directly but indirectly to a large amount of capital and a large number of men. There are more than half a million dollars invested in this manufacture now in my own State. It

cannot go on under the present system. Not only is the duty too low, but the manufacture is peculiarly subject to fraudulent undervaluation in the foreign article. The hair-cloth that is imported into this country does not pay the duty, as is made very apparent by a table now before me drawn from official sources which I will not trouble the Senate with.

I think that the Senator from Michigan being sure of his bill, having the Senate with him, might oblige his friends who are equally interested in other branches of industry, and allow this proposition, which has already received the assent of Congress to go upon this bill. It will not hurt his bill; it will be of very great benefit to us. If there is any tariff proposition that has received the assent of both Houses of Congress why not put it on this bill? If another proposition comes before us with the weight of this, a proposition that has already been agreed to, let it go on this bill. It will not hurt this bill, and it is merely carrying out the will of Congress as heretofore expressed; and it is very well understood now that there can be no general revision of the tariff at this session. Here you are taking a particular interest and separating it from all others. I do not think it is hard to put a particular interest through in that way, but I think it is hard to refuse to receive, as my friend from Massachusetts said, with some degree of hospitality, other propositions that are equally important and equally necessary to the industry of the country.

Mr. VICKERS. The amendment offered by the Senator from Massachusetts is an evidence, it seems to me, of the impropriety of selecting a single article upon which the duty shall be raised, leaving out other articles of an important nature. In the adjustment of the tariff it seems to me there should be a general adjustment, because the different sections and the different articles raised in different sections all have some relation to each other, as well as to the capital and to the labor employed. If this article of hair-cloth is to be introduced into this bill there are other interests that might also be introduced. The Senator from Massachusetts has not exactly told us of the character of the hair that is to enter into this composition, whether it be straight hair or curly hair. [Laughter.] If it be the latter I shall be opposed certainly to his amendment. [Laughter.]

But we are now, sir, in the anomalous condition of absolutely asking Congress to protect ourselves against ourselves; to protect us against the labor of our own people. I have always understood that the object of a tariff was to protect the industry and the interests of our own people against foreign labor and foreign capital; but this bill is to protect a particular section of our country and a particular interest against other interests of our country, and against the labor and capital of our own country. This is to me an anomaly in legislation. These mines upon Lake Superior have grown up since 1845, and they have grown up under the legislation of Congress. Capital was invested in these mines, labor was employed, and if it was not found as profitable as anticipated capital would seek other investments and more profit could be realized. Now, sir, what is the condition of the interests advocated so eloquently by my colleague and others in this Chamber? Not, as represented by the Senator from Michigan, [Mr. HOWARD,] simply an issue between the smelting company of the city of Baltimore and the great works upon Lake Superior; but, as was properly said by the Senator from Connecticut, [Mr. FERRY:]

"We have before us, adverse to this bill, the petition of the Baltimore Copper Company, with a capital of \$1,000,000; we have a petition of ship-builders of the United States; we have a petition of ship-owners of the United States; we have a petition of three California mining companies; we have the petition of Moore & Co., of the Keystone copper mine; another of the copper mines of Nevada; another of the Mineral Hill mine of Maryland; the Cornwell ore bank of Pennsylvania; of the Bear Hill mine of Maryland; and of the Waterbury Copper and Brass Company of Connecticut."

These are the diversified interests which are

to be affected by the operation of this bill, and not as the Senator from Michigan said yesterday simply a smelting company in the city of Baltimore, against which he made a fling of a want of patriotism; but if I understand the political complexion of those who are engaged in that company they would measure up to the highest standard, perhaps, of patriotism and loyalty to be erected by the Senator from Michigan. But, sir, questions of that sort I do not conceive should enter into the discussion of a great measure which involves the financial condition and industry of the country.

The operation of this bill would be to injure the finances of the country. The revenues would certainly be diminished. If I understand the object of this bill, it is a prohibitory bill; in its effect it is prohibitory, and I should like to know where we get the power of passing a prohibitory law in reference to the introduction of foreign fabrics. Why, sir, the Constitution gives to Congress the power to collect duties and imposts and excises; but it is for two purposes: to pay the debts, and to provide for the general welfare of the country. These are the purposes for which the power is given to Congress. The power to regulate commerce certainly does not imply the power to destroy the very object for which commerce is to be carried on.

I say, then, this bill will materially reduce the revenues to be derived from imports. Why, sir, looking at the report of the Secretary of the Treasury, we find that during the past year the duties on imports have decreased \$12,000,000 and the tax upon incomes has brought \$28,000,000 less this year than it did in the preceding year.

Mr. CHANDLER. Will the Senator allow me to ask him how much duty has been paid on the importation of copper ores?

Mr. VICKERS. Well, sir, I will answer the Senator by asking him a question. I asked the Senator yesterday to inform me how much duty was paid upon copper ores, and he said he could not do it.

Mr. CHANDLER. I told the Senator that the whole amount was under fifty thousand dollars, and I believe it is under thirty thousand dollars; but I am not quite sure. I have not the exact figures; but \$50,000 will cover the whole amount.

Mr. VICKERS. I was anxious to obtain the precise amount of duties derived from the importation of copper ore, but I was unable to do so. It was estimated, in a printed circular which I had upon my desk, at \$50,000. The Senator from Michigan thought it was less, but was unable to give me the particular information desired. But, sir, be it \$50,000 or \$30,000 this bill will diminish the revenue to that amount. Then we have, as I stated, a diminution of the revenue on the single item of income to the extent of \$28,000,000, and upon import duties of \$12,000,000, making in these two items \$40,000,000. Your national debt increased last month \$1,500,000, and the preceding month \$30,000,000. Now, sir, with an increase of the national debt, and a diminution of the revenue derived from imports, I ask how the national debt is to be paid and the honor of the country preserved?

If it be our sincere wish and desire to provide for the payment of this debt we should husband our resources, institute a system of retrenchment and economy, vote no money for new works of any description and economize in those which have been commenced, and endeavor, if possible, to reduce the expenses of the collection of the revenue and the number of persons employed in that collection. If we do this, if we economize and retrench and curtail, and by our legislation improve the amount of duties derived upon imports, we may possibly see the end of the payment of the national debt; but while the debt is increasing on the one hand and we are diminishing the revenues upon the other I cannot see that we shall extend any hope to the people that this debt will be paid.

Why, sir, we here seem to lose sight of this

enormous debt. It is appalling in its contemplation. When we approach it and look at it in all its parts and dimensions it is appalling to the human mind. The people are now taxed to the utmost of their ability to pay. They are heavily taxed. The taxes are becoming oppressive, and there is a discontent growing up in the public mind in reference to this taxation. Let us, then, hold out to the people some hope that the taxes shall be diminished, or at all events not increased, and that there is some period in the future, perhaps not far distant, when they shall be to a certain extent relieved of taxation and hope to see this debt paid.

But, sir, there is another reason why we should not interfere with the tariff as it now stands. Stability in legislation on such subjects is one of the most important elements in political economy. If we are fluctuating every year in our legislation in matters of revenue, and especially in our tariff, capital will not be invested, labor will not be employed. We should be firm and stable in our legislation on such subjects, and not be changing it from year to year, selecting now and then a single article for protection and encouragement.

The copper mines in Michigan have grown up within a comparatively recent period, and, if I understood the Senator from Connecticut correctly yesterday, the receipts from those mines during the past year were greater than they had been in any previous year. And, sir, we are now called upon to do—what? We are called upon to tax the labor and the capital and the interests of one section of our country to benefit another section, and to remunerate the labor of that other section. It is not a tariff against foreign labor and foreign capital, but it is against our own capital and our own labor. If this bill passes we prejudice to a very material extent the capital and the labor of our own country, particularly of the section upon the Atlantic sea-board and some of the interior portions of the country; and we do this not against foreign labor, but we do it against ore extracted from the mines of foreign countries, and we do this when our own labor is to manufacture that ore and make fine copper out of it. I read, sir, from a communication of Dr. Piggot, a distinguished chemist, who says:

"It is difficult to define exactly the relative expenses of the two processes. To attempt to smelt copper from sulphurets alone would ruin any one who undertakes it at our present prices of labor and coal. He would be compelled to subject his ore to ten or twelve operations before he could get pig-copper from it." "The smelting of sulphurets ores by themselves would probably ruin either the miners or the smelters."

That is the opinion of a distinguished chemist. But now it is proposed that you shall tax the very ore that contains the principle by which you are to cheapen the production of copper here and make it profitable to our own people. He further says that the carbonate ores are not produced in this country. If they are not produced in this country, and they can only be had by importation, is it right to tax that article which we can only get from abroad, when it enters so largely into the manufacture of copper in this section of the country?

I understand that the tariff bill of 1866 proposed to impose a duty of six cents per pound upon imported wool. Imported wool enters into the manufacture of woolen goods in this country, and the duty was a small one; but upon imported woolen goods manufactured abroad by foreign capital and labor the duty was twenty-five cents per pound and forty per cent. *ad valorem*. Now, here we are to have this duty on ore raised from three quarters of a cent to three cents per pound. The duty by this bill is four times as large as it is by the existing law. If the Senator would make it one half, reducing it to a cent and a half per pound, and see what effect that would have upon the mines of his own section of the country, and by the next session of Congress we should ascertain what effect it had upon commerce and upon the imported ores, it seems to me we should legislate with more information and with better practical results.

The PRESIDENT *pro tempore*. The ques-

tion is on the amendment of the Senator from Massachusetts.

Mr. MORRILL, of Vermont. I desire to say a word or two in relation to this proposed duty upon hair-cloth. In relation to this article I have no question but that it needs some additional protection more than it now has, but mainly for the reason of the difference in the valuations of the parties abroad who sell it to our merchants, the price varying upon an article twenty-seven inches wide from different manufacturers thus: one sells at sixty-eight cents a yard, another at seventy-five cents, another at fifty cents, another at sixty-seven and a half cents, another at fifty-six cents, another at fifty-four cents, and another at sixty cents. An *ad valorem* duty upon such a basis as that, of course, is no protection whatever. But I think in relation to this article as I do in relation to copper ores, that the amount asked is too much. Forty cents a yard would give a little addition in the amount and would prevent this fraud of undervaluation. If the Senator from Massachusetts will propose forty cents per square yard I shall be quite ready to vote for his proposition; and forty cents per square yard is enough, and for the reason that the parties who manufacture this article have their raw material either in a cleansed or uncleansed state free of duty; but the manufacturers of silks and of the other textile fabrics of which the Senator spoke, which have large amounts of duty placed upon them, pay a large percentage upon the raw material. Singles, tram, organzine—any silk in that advanced state—has a very considerable duty on it; and then when you come to place it in the form of velvets or dress silks or ribbons, of course it should have an increased rate. That is the reason why these articles have so high a rate of duty, and it is not mainly for protection either; it is mainly for purposes of revenue that these high duties are placed upon silks.

Mr. SUMNER. Do I understand the Senator to make a suggestion?

Mr. MORRILL, of Vermont. I suggest that the Senator should lower the rate of duty he proposes upon hair-cloth to forty cents per square yard, which will be a slight increase and will be a fixed fact against an undervaluation, which is the principal evil under which these manufacturers labor.

Mr. SUMNER. May I ask my friend if he has looked into this precise case, so that he can say that forty cents is sufficient?

Mr. MORRILL, of Vermont. I have.

Mr. SUMNER. My own impression, from the papers I have examined, is that more than that is needed.

Mr. MORRILL, of Vermont. Why, sir, one of the best manufacturers in New England at the time of the establishment of the tariff of 1861 told me that if they could have their raw materials free all the duty they would ask was fifteen per cent. Here is a duty of thirty per cent. already upon this article. Now we propose to put a specific duty that shall raise the rate.

Mr. ANTHONY. What per cent. will it make it?

Mr. MORRILL, of Vermont. Forty cents per square yard will make it at least equal to forty per cent. on any honest valuation. It is enough.

Mr. SUMNER. I modify my amendment in conformity with the recommendation of the Senator from Vermont. I do it with hesitation; I fear he is mistaken, but I will defer to him and say forty cents instead of forty-five cents.

The PRESIDENT *pro tempore*. The amendment will be read as modified.

The amendment, as modified, was read as follows:

On hair-cloth of the description known as hair-seating, forty cents per square yard.

On hair-cloth known as crinoline cloth, or padding, or similar goods, however designated, forty-five per cent. *ad valorem*.

Mr. CHANDLER. I hope the amendment will not prevail. It will kill the bill.

Mr. ANTHONY. How can the Senator

from Michigan say that it is going to defeat the bill to put upon it an amendment that the Senate have already agreed to, that the House have already agreed to, and that every organ of the Senate and of the House and of the Government that we listen to on matters of finance recommend?

Mr. FESSENDEN. Why not put on a whole tariff bill?

Mr. ANTHONY. If there is a whole tariff bill that both Houses have agreed to why not put it on? To put on a whole tariff bill that has not been considered by either House of Congress, and that would give rise to fresh discussion, would be manifestly improper. But I say that if you can take out of the MOORHEAD tariff bill, or any other tariff bill, any proposition that has recently received the assent of both Houses of Congress, it is proper to put it on this bill or any other bill. I appeal to the justice of the Senate, now that we are legislating for one interest, not to neglect this interest, which has equal claims upon us, and which has already been adjudicated upon by us.

Mr. SUMNER. The Senator from Michigan makes no objection to this proposition on its merits; but he says that if we put it on this bill it will kill the bill. He is mistaken; it will make the bill stronger, if the bill needed any additional strength. It will go back to the House of Representatives with an additional support, because it will contain a proposition which has already twice over received the votes of the House and also once before received the votes of the Senate. What can be the objection? Let the Senator from Michigan make an objection on the merits; he has not ventured upon it, but he ejaculates, in an oracular style, "It will kill the bill." Now, I say it will not kill the bill. I take issue with my friend on that proposition.

Then, again, on the merits, as the Senator from Rhode Island has so closely put it, why should we not take on this bill any proposition that has already received the support of both Houses? We do not wish to take on this bill a debatable proposition, a proposition that will kill the bill possibly when it goes back to the other House; but why should you not take a proposition that has already had the sanction of both Houses and which cannot hurt the bill? I ask for the yeas and nays on the amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 17, nays 30; as follows:

YEAS—Messrs. Abbott, Anthony, Cragin, Dixon, Edmunds, Ferry, Morrill of Vermont, Patterson of New Hampshire, Pomeroy, Pool, Sawyer, Sumner, Vickers, Warner, Whyte, Williams, and Wilson—17.

NAYS—Messrs. Cameron, Chandler, Cole, Conkling, Corbett, Davis, Doolittle, Drake, Fessenden, Fowler, Frelinghuysen, Grimes, Harlan, Harris, Henderson, Howard, McCreery, Morgan, Nye, Osborn, Patterson of Tennessee, Rice, Robertson, Ross, Stewart, Thayer, Trumbull, Van Winkle, Wade, and Wiley—30.

ABSENT—Messrs. Bayard, Buckalew, Cattell, Conness, Hendricks, Howe, Kellogg, McDonald, Morrill of Maine, Morton, Norton, Ramsey, Saulsbury, Sherman, Spencer, Sprague, Tipton, Welch, and Yates—19.

So the amendment was rejected.

Mr. FERRY. Mr. President, in addressing the Senate yesterday I confined my remarks, as I stated at the time, to the proposition of the Senator from Vermont, being an amendment relating to so much of this bill as levies a duty upon copper in the ore. I indicated at that time that I should take an opportunity before the conclusion of the debate to submit some general remarks upon the bill itself. I am aware that the Senate, perhaps, is already weary with this protracted discussion; but I feel that the bill as it now stands is so unjust in itself and so dangerous as a precedent that I cannot remain silent until the vote is taken.

In the first place, this bill is objectionable as being special legislation. It is admitted on all hands, by the chairman of the Committee on Finance, who reported the bill, that it must require extraordinary circumstances to justify the taking out of one single special interest from the general range of interests in the country to legislate for that alone without reference to the bearing of such legislation upon other

and coördinate interests. Of all legislation in which Congress engages there is none to which this objection more forcibly applies than legislation upon our tariff system. Interwoven as the interests of the country which are affected by such legislation are in all their details, and exceedingly difficult as it is to understand without great labor and study the effect of legislation upon one branch of business on other branches, it is, if in any instance, absolutely essential to safe legislation that the laws which we enact upon the subject of our tariff should be enacted upon a general revision of the whole system and after a careful elaboration.

In this case we are proceeding, according to the precedent set in the case of the wool tariff two years ago, to select a special interest, only one among hundreds of interests which are said to be equally depressed with this; and the reason given for bestowing special favor upon this interest at the present time is that it is so depressed as to be in danger of absolute ruin unless the Legislature of the nation shall interfere in its behalf.

Well, sir, in this debate reference has been had to prior discussions of what is, I admit, this very measure. It is said that the bill passed the House of Representatives two years ago and was there fully discussed; that it came into the Senate and was there fully discussed; and it is true. And two years ago when this bill was before the House of Representatives the same argument was made, the same appeal to the sympathies of the Legislature, because the interest of the Lake Superior copper mines was in 1867 so greatly depressed that without legislation their utter ruin must inevitably ensue. The legislation was not obtained; and what was the result? The production of the Lake Superior copper-mining interest has increased every hour from that day to this, and the records which I read here yesterday demonstrate it. The pretense that was set up here two years ago, identical with that which is set up here now for special legislation, that ruin impended over this great interest, has been falsified by the events of the last two years. And so when at a later period the measure was pressed upon the attention of the Senate the same arguments were used; the bill failed to receive the sanction of Congress; and month after month during the year 1868, so far as the official reports have reached us up to July, the production from these mines has steadily increased. These facts in the past lead me to suspect that there is something unreliable, at least, in this claim of impending destruction to the copper interest.

Now, sir, there is an immense pressure upon us from some source for the passage of a measure of this kind. Is there no way in which we can explain that pressure other than the danger really apprehended by the true mining interests? Sir, I referred yesterday to the fact that the copper regions of Lake Superior are owned by a great number of corporations whose capital stock has not been paid in; and I insisted that the want of working capital growing out of the neglect of the shareholders to pay up the capital which they had pledged themselves to pay was the real difficulty with that mining interest, and not the want of legislation. I have obtained the last number of the Wall Street Journal, containing the names of all these copper-mining companies, the number of shares, the nominal amount of their capital stock, and the amount actually paid in. I find of them twenty-seven with nominal shares of twenty thousand each at twenty-five dollars per share on which less than two dollars per share has been actually paid in; and I find fifty-six of them of twenty thousand shares each at a par value of twenty-five dollars, of which less than five dollars has been actually paid in. Sir, they have sunk themselves in the mire of mining-stock speculations, and instead of putting their own shareholders to the wheel for their extrication they call upon the Hercules of Government to help them. That is the truth about it.

But, sir, perhaps it is immaterial to this argument out of what speculation or otherwise the pressure upon us here arises. I want to call the attention of the Senate to the bill itself as it originally stood in the first place before the amendment of the Senator from Rhode Island was put upon it. The bill came in here with a report from the Committee on Finance, and was urged also by the Senator from Michigan, informing us that the *ad valorem* rates of this bill upon copper in the ore were between eleven and twelve per cent., and that the *ad valorem* upon pig-copper was from fifteen to sixteen per cent. Now, sir, I hold in my hand the American Mining Journal, containing the last London metal circular, and from that the last quotations of the dutiable valuation of copper can be ascertained by any one. The last quotation of copper in the ore is fourteen shillings one and a half pence per unit, which produces the result of an *ad valorem* duty by this bill of between twenty and twenty-one per cent., and it is impossible, if any gentleman will take the actual quotations, to avoid this result. Taking the same London quotations, the latest quotations, I find that the *ad valorem* duties on pig-copper laid by this bill are a little over thirty-one per cent.

Astonished at a result like this, after the statement which had been made to us by the chairman of the Committee on Finance yesterday, I showed him this morning the authority, and the result at which I had arrived. Hence the chairman of the Committee on Finance has to-day risen in his place and informed the Senate that the estimates upon which that committee finally agreed to report this bill are all wrong. The Committee on Finance, to whom every one of us must look for correct information in regard to measures of this kind when they are brought before us, have themselves been led by a false light, have come into the Senate, and yesterday the amendment of the Senator from Vermont was rejected upon the statement proceeding from the Finance Committee, while to-day we know out of their own lips that the *ad valorem* duties proposed even by the amendment of the Senator from Vermont would be greater than those stated to us yesterday, as in this bill, by the Senator from Michigan and the chairman of the Finance Committee.

Nor is that all, sir. We were also informed that this bill had been before the House of Representatives and before the Senate, and that the duties imposed by it are substantially the same as those imposed by the bill which formerly received the sanction of the Senate. I have taken the trouble to compare the details of that bill with the provisions of this bill, and I affirm, and it is incapable of successful contradiction, that the duties levied by this bill are double the duties levied by the bill which formerly received the sanction of the Senate. The present tariff levies a duty of five per cent. on ores; that bill as it passed the Senate, January 31, 1867, levied a duty of ten per cent., and the present bill levies a duty of between twenty and twenty-one per cent. The same proportion will be found to be carried out on regulus of copper, old copper, and copper in pigs.

Now, sir, with this exceeding uncertainty necessarily resting on the mind of the Senate in regard to the details of the bill, is it right and proper that we should proceed to pass it now and in hot haste without some further examination by the committee?

But, sir, that is not all. The Senator from Rhode Island has offered to this bill a sweeping amendment, which the Senator from Michigan has accepted in order to secure the passage of his bill. That amendment as now incorporated into the bill is as follows:

On copper in rolled plates called brazier's copper, sheets, rods, pipes, and copper bottoms, eyelets, and all manufactures of copper or of which copper shall be a component part of chief value, not herein otherwise provided for, forty-five per cent. *ad valorem*.

What man in the Senate knows the effect of that amendment? Suppose that at the moment the Senator from Rhode Island, yesterday in-

troduced that amendment, instead of introducing it thus he had risen in his seat and offered a bill for a public act in the very language of that amendment, and then insisted that we should pass that bill without even letting it go to a committee, is there a Senator who would have assented to such legislation as that? And yet we have now a bill doubling, and more than doubling the expense of all the great copper-consumed articles in this country, with a sweeping section embracing all possible manufactures of copper, the former of which the Finance Committee has been induced to report under utterly mistaken impressions as its chairman admits, and the second of which has not received a single inquiry from a committee. Can we tell what will be the effect of such legislation as this? Is it safe? Is it wise? I am sorry that the chairman of the Committee on Finance is not here, for I would appeal to him, and I appeal to such members of the committee as are here to let this bill go back to the committee, that they may inform us correctly what are the rates of duty which are imposed by the original bill, and what is to be the effect upon the great interests of the country of the sweeping amendment which has been offered by the Senator from Rhode Island and accepted by the Senator from Michigan. The chairman of the Committee on Finance occupies too responsible a position before this country; representing a majority of this body especially, does he occupy too responsible a position before the country to permit such legislation as this upon information laid before the committee when the bill was under their consideration, which he now admits to be false; and we as a Senate ought not to permit such legislation, guided by false lights or groping in the dark, or sweeping, as the amendment of the Senator from Rhode Island does, over the whole range of one great interest in this country, without an inquiry from a committee what effect it is to have.

Now, sir, I do not wish to go any further at length into this discussion; but I do think if Senators will guide themselves by the ordinary rules of a wise legislation the motion which I am about to make will—it certainly ought to—prevail. I move that the bill and amendments be recommitted to the Committee on Finance.

Mr. CHANDLER. The Senator from Connecticut is mistaken as to the bill we passed in 1867. It was *verbatim* the same as this.

Mr. FERRY. No, sir.

Mr. CHANDLER. It was three cents per pound on the copper in the ore, four cents on regulus, and five cents on bar copper.

Mr. FERRY. I know it was four cents on the regulus and five cents on bar copper.

Mr. CHANDLER. And three cents on copper in the ore, the same as this bill now stands; and it was agreed to after thorough discussion.

One word as to the continuation of mining operations in the Lake Superior region. They have carried on their operations in the hope of relief from Congress. When that bill, to which the Senator alludes, passed the Senate, but failed between the two Houses, the mining interest believed that at the next session they would receive that relief. During the war they sent abroad for miners at a cost of over one hundred thousand dollars, and every man went into the Army and not into the mines. They cannot afford to dismiss their miners so long as they run without a loss. The whole capital invested there in the past year has not paid one and one third per cent.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Connecticut, [Mr. FERRY,] to recommit the bill to the Committee on Finance.

Mr. FERRY. I ask for the yeas and nays on that motion.

The yeas and nays were ordered; and being taken, resulted—yeas 15, nays 32; as follows:

YEAS—Messrs. Anthony, Cragin, Davis, Dixon, Ferry, Fessenden, Grimes, Henderson, McCreery, Norton, Sumner, Van Winkle, Vickers, Whyte, and Wilson—15.

NAYS—Messrs. Abbott, Cameron, Chandler, Conkling, Conness, Corbett, Doolittle, Drake, Fowler, Frelinghuysen, Harlan, Harris, Howard, Howe, Kellogg,

Morgan, Morrill of Vermont, Morton, Nye, Osborn, Patterson of Tennessee, Pomeroy, Pool, Rice, Robertson, Ross, Sawyer, Thayer, Trumbull, Wade, Wiley, and Williams—32.

ABSENT—Messrs. Bayard, Buckalew, Cattell, Cole, Edmunds, Hendricks, McDonald, Morrill of Maine, Patterson of New Hampshire, Ramsey, Saulsbury, Sherman, Spencer, Sprague, Stewart, Tipton, Warner, Welch, and Yates—19.

So the motion was not agreed to.

Mr. COLE. Mr. President, there have been laid on our tables and presented to me personally several protests and petitions bearing on this question; some in favor of the passage of the bill, and others protesting against its passage. This fact affords perhaps sufficient excuse for my giving very briefly some reasons for the vote which I shall cast when the bill is put upon its final passage.

I do not suppose that the passage of the bill will afford any very great relief to the copper interest. Indeed, I believe that the vast increase of the product of copper throughout the world in the last few years will, after all, override a tariff of this nature, so that there will be importations of this article at lower rates than they can be afforded from the American mines. But, sir, it is a well-known fact that the large interest engaged in this enterprise of mining for copper is, and has been for a year or two past, perhaps longer, very much interfered with by the importation of metal from foreign countries. The facts which have been stated in reference to the mines near Lake Superior are equally applicable to the mines that exist in the State which I have the honor in part to represent. The copper mines of California, of Nevada, of Colorado, and Arizona are believed to be, and in fact have been proven to be, very extensive, very rich; but these mines, so far as they exist in the State of California, are at present of very little use; very little, if any, copper is longer produced from them, owing to the low price the article bears in the market. One of the largest mines, the Union mine at Copperopolis, which formerly produced such a vast amount of this ore, I am informed, has been in a measure or temporarily abandoned, and work upon it has been suspended. Perhaps if our mines were more conveniently located in reference to facilities for reaching the market they would be worked still; but most of the mines upon the Pacific coast are so far from the market, and so far from the means of the conveyance of the metals to market, that the working of them had to be abandoned. I believe this bill will afford some relief. I hope it will afford more relief than I expect it will. I shall therefore support it.

Mr. WILSON. Mr. President, few persons in the country are satisfied with the existing tariff. Two years ago we undertook to make a new tariff, but through want of industry or incapacity we failed to do it. Then the wool and woolen interests were taken out of the general tariff bill, and under a great pressure a measure was forced through Congress in their behalf. It was then supposed that the wool interest was to receive great benefits from that measure, and that the woolen manufacturing interest was to derive some benefit from it. Nearly two years have passed, and I understand that the knife is being put to hundreds of thousands of sheep in the country, and that no very great benefit has been derived from that measure.

And now, instead of taking up this whole subject and adjusting the tariff according to the new condition of the whole country, and taking care of all the varied interests of the country, we single out one interest and force it through. I have no doubt the copper mining interest is very much depressed; but there is a great deal of speculative interest about it. There are a great many people who own stock in these mining companies, and they expect it to rise on the passage of this bill. It was brought here without that portion of it that had been put into the bill in the House of Representatives; I mean so much of the measure as concerns the various manufactures of copper. We have, however, incorporated that provision into the bill.

I do not believe that this mode of legislation is satisfactory to anybody in the country, to the men who call themselves protectionists or to the men who call themselves free-traders; and I am very sure that it is not for the interests or to the honor of the country to construct a tariff in this way. It shows on our part either a want of comprehension of the whole condition of the country or that we are willing to take care of certain interests and neglect other interests. I think the tendency of such legislation is to make enemies to the revenue system.

I voted for some amendments to this bill in order to get the measure in as good a condition as possible; but such is the impatient haste with which the measure is sought to be crowded through that we are reproached even for attempting to better it. I voted to recommit it for the same purpose, in the hope that if we were to take up a portion of the tariff measure we would make that portion as perfect as possible. We failed to recommit it, and now we come directly to the vote upon the measure. This mode of legislation, I think, will create hostility in many directions toward Congress and to the protective policy. Congress should have addressed itself before this time to the work of making a tariff according to the needs of the finances, according to the condition of the currency and the business interests of the people. We are now to vote upon the bill. I shall vote for it, but I do so with a great deal of reluctance.

Mr. CORBETT. As my friend from Massachusetts [Mr. WILSON] has broached the subject of a protective tariff, I desire to say that being a friend to protection, for the purpose of protecting our own country against the importation of foreign goods to an excess over and above our ability to pay for them, I think it is necessary that we should give our attention to such a bill at the earliest possible moment. I have been in favor of protecting all classes of the industry of this country. I believe that the interest represented by the Senator from Michigan is one of the most important, and I believe that it is necessary to pass the bill before us. But I must say that I regret that we have not a tariff bill reported here upon which we could act, and which we could examine and adjust to the necessities of the country, and thus prevent an excess of importations. We are evidently importing a very large amount of goods over and above what the productions of our country enable us to pay in exchange.

We are now exporting bonds and gold from the country to an alarming extent to make up the deficiency. During the past year we exported some \$30,000,000 of gold over and above our productions of gold from the mines and our importations of gold from foreign countries. How are we going to stop this excess of importation unless we pass a bill that will adjust the tariff in such a manner as to prevent it? Suppose we do not import as large an amount of goods; suppose our income from importations is not so large, we certainly shall not send as much gold out of the country. It seems to me that this is one of the most important measures for our Finance Committee to bring to the attention of the Senate at this session. The bill that we have now before us, which has been reported by the Finance Committee, is a very important one undoubtedly, but there is lying back of it one still more important, and that is a bill to guard and protect our interests as to the excessive importations.

It is true we are now raising a large amount of cotton in the southern States which we are exporting to help to pay the exchange. I was in hopes that the large amount of cotton exported might prevent the exportation of gold, but it appears only to have stimulated importations of goods to an excessive extent. In my opinion, the only manner in which we can prevent this is to add an additional duty to all goods that are imported where they will bear it, for the protection, first, of our manufactures, and then for revenue.

I am in favor of the bill of the Senator from Michigan, and shall vote for it as a separate measure. I voted against the amendments that have been offered because they were partial; they only affected certain interests. The copper interest, as I understand, is suffering to a very great extent for the want of this protection. I am in favor of giving them that aid and that protection at this time, and I am also prepared at the earliest moment to give my support to a measure that will guard and protect our country from the excessive importations of foreign goods and the excessive exportation of gold from the country.

Mr. WHYTE. I desire now to renew the proposition which I offered yesterday and temporarily withdrew.

The Chief Clerk read the amendment, which was to insert at the end of the bill the following proviso:

*Provided, however, That if any person, corporation, company, or partnership engaged in the business of smelting copper ores shall import any foreign carbonate copper ores into the United States, and shall, on making such importation, file with the collector of the port into which such foreign copper ores were imported a bond with security, to be approved by the collector of said port into which said ores are imported, to use two tons of copper ore mined in the United States to one ton of said imported ores in the smelting of copper, such person, corporation, company, or partnership shall be entitled to a drawback upon the foreign copper ores so imported to the extent of the duty paid thereon: *Provided, The said person, corporation, company, or partnership shall furnish evidence under regulations to be established by the Secretary of the Treasury that he, it, or they have or has used the said copper ores so imported, and also copper ores mined in the United States in its, his, or their business in the proportion of two tons of copper ore mined in the United States to one ton of imported copper ore.**

Mr. VICKERS. I move to amend the amendment by inserting after the word "thereon" and before the word "provided" where it last occurs in the amendment the words "less the amount of five per cent. *ad valorem*;" so that that portion of the amendment will read:

Such person, corporation, company, or partnership shall be entitled to a drawback upon the foreign copper ores so imported to the extent of the duty paid thereon, less the amount of five per cent. *ad valorem*.

Mr. WHYTE. I accept the amendment.

The PRESIDENT *pro tempore*. The amendment to the amendment is accepted. The question now is on the amendment, as amended.

The amendment, as amended, was rejected.

Mr. WHYTE. I move to amend the bill by adding to it the following proviso:

And provided also, That the increased duty imposed by this act shall not apply to any of the articles therein enumerated which shall have been in course of transit to the United States before the passage of this act.

Mr. VICKERS. I move to amend that by inserting after "transit" the words "or bona fide contracted for."

Mr. MORRILL, of Vermont. I suppose it has always been the practice to fix some future time for the going into operation of a tariff bill where it related to distant and foreign commerce. It is perfectly apparent that many of the vessels that are engaged in this business may be now on the way; may be loading; orders may have been given. It is manifestly proper that anything that is already on ship-board should be provided for in the bill. Otherwise parties may be taken at very great disadvantage.

Mr. CHANDLER. I hope the amendment will not be made.

Mr. SHERMAN. There is a great diversity in the recent practice of the Government in regard to fixing the time for the taking effect of tariff acts. In the last two or three tariffs no time was fixed, as the Senate will remember. This question has been a very troublesome one always in the Committee on Finance. In some cases we have had a period of sixty days. In the last two tariffs the bill took effect from its passage. Sometimes cases of great hardship have occurred, and under the last tariff act there was a question whether or not the law took effect on the 2d of March or the 4th of March, which created a good deal of confusion. I think the later practice has been to let the act take effect on the day of its pas-

sage, and all vessels that arrive after that time pay the duty, and all fortunate enough to get in before that day are exempt. You have got to fix some time. Any time that you fix will operate injuriously to somebody. If you put off the tariff for sixty days it will induce speculation and increase importation in order to evade the new duty. On the whole, therefore, I think it better that the tariff should take effect on the day of its passage. Everybody is then treated alike.

Mr. WHYTE. I desire to correct the Senator from Ohio. The very last tariff act of 1861 did not take effect from and after its passage.

Mr. SHERMAN. I was speaking of the last tariff act which, I think, was passed the session before last.

Mr. WHYTE. The act of 1861 is the act which fixes the rate of duty on copper.

Mr. GRIMES. I should like the Senator from Ohio to state whether the last act was not the wool act?

Mr. SHERMAN. Yes, sir; and that took effect on the date of its passage.

Mr. GRIMES. Was there not a subsequent law introduced in regard to it?

Mr. SHERMAN. There was a bill introduced, but no action was ever had upon it. A great many hard cases occurred under that law where the importation was not completed. In fact, before the taking effect of the act cases of reclamation were made.

Mr. WHYTE. The tariff act relating to ores of copper and so on, was passed in March, 1861, and it did not take effect until a future day.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Maryland.

Mr. FRELINGHUYSEN. I should like to have it reported again.

The Chief Clerk read the amendment, as follows:

And provided also, That the increased duty imposed by this act shall not apply to any of the articles therein enumerated which shall have been in course of transit to the United States before the passage of this act.

Mr. SUMNER. Let us have the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. MORRILL, of Vermont. I suggest to the Senator from Maryland to insert the words "and actually on shipboard," in his amendment.

Mr. WHYTE. I have no objection to that. It is to cover just such a case.

Mr. SHERMAN. Let me state to the Senate some facts on this question. This bill must go back to the House, as it has been amended. It is difficult to tell exactly when it will take effect. Probably it will pass some time before the 4th of March. I am not aware whether the telegraph has extended to Chili or whether telegrams can be sent there; but at any rate persons who are fortunate enough to hurry forward and get this ore on shipboard by the 4th of March next or whenever this law takes effect will have the advantage of evading a duty of some ten or twenty per cent. It seems to me that the better way is to let all take their chances and fix the time for the taking effect of the act either on the passage of the bill or the 1st day of April or on some other fixed day, so that all parties may act in view of it. I do not think it is a correct rule to allow exceptions for cargoes on shipboard. There have been many such exceptions in tariff bills, but, according to my observation, they have not always worked well. In many cases they have led to excessive importations in order to evade the duty. Therefore if a future day is to be fixed it would be a great deal better to fix the 1st of April next, or some specific day.

Mr. CHANDLER. Mr. President, there are millions of tons of these ores on store at all times in the immense warehouses of London. The telegraph is in communication with Cuba and London, and before the middle of next week all the ores that are mined to-day in the great marts of the world could be placed

on shipboard. I hope that the bill will take effect from and after its passage, for if you leave this opportunity to telegraph over the world you will have all the copper ores of the world afloat before this bill takes effect.

Mr. FRELINGHUYSEN. I suggest to the Senator from Maryland to modify his amendment so as to provide that all copper ore on shipboard on the 19th of January be exempt. I look upon copper that is on shipboard now coming to this country the same as if it had landed here.

Mr. WHYTE. As every proposition I make in the Senate is made in good faith and with no tricks about it, I accept the modification suggested by the Senator from New Jersey.

Mr. HOWARD. I hope the amendment will not pass in any form, for I cannot see why we should invite importers to bring in large quantities of this article to glut the American market, thus injuring the interest which we are endeavoring to protect. I cannot see why the article on shipboard and bound to the United States, if you please, ought to be exempted from the additional duty, while the same article ready to be shipped in a foreign port and actually shipped the day after is to be subjected to the additional duty. It seems to me to be unequal and unjust. We are seeking revenue primarily by the imposition of this impost, and incidentally protection to our own domestic product. Why should we make fish of one and flesh of another?

Mr. WHYTE. I will state to the Senator from Michigan that that is just what we complain of, that he is making fish of one and flesh of another.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Maryland, on which the yeas and nays have been ordered.

Mr. ANTHONY. How does the amendment stand now?

Mr. EDMUNDS. Let it be read once more as it stands.

The Chief Clerk read as follows:

Provided, That the increased duty imposed by this act shall not apply to any of the articles therein enumerated which shall have been in course of transit to the United States and actually on shipboard on the 19th of January, 1869.

The question being taken by yeas and nays, resulted—yeas 26, nays 24; as follows:

YEAS—Messrs. Anthony, Conkling, Davis, Dixon, Edmunds, Ferry, Fessenden, Fowler, Frelinghuysen, Grimes, Henderson, Howe, McCreery, Morgan, Morrill of Vermont, Morton, Norton, Patterson of New Hampshire, Sumner, Van Winkle, Vickers, Warner, Whyte, Wiley, Williams, and Wilson—26.

NAYS—Messrs. Abbott, Cameron, Chandler, Cole, Conness, Drake, Harlan, Harris, Howard, Kellogg, McDonald, Nye, Osborn, Patterson of Tennessee, Pomeroy, Rice, Robertson, Ross, Sawyer, Sherman, Stewart, Thayer, Trumbull, and Wade—24.

ABSENT—Messrs. Bayard, Buckalew, Cattell, Corbett, Cragin, Doelittle, Hendricks, Morrill of Maine, Pool, Ramsey, Shulsbury, Spencer, Sprague, Tipton, Welch, and Yates—16.

So the amendment was agreed to.

Mr. MORRILL, of Vermont. Mr. President, intending to vote for this bill, I yet desire to say a word or two to justify my efforts to improve it. Here is a bill that at one blow strikes out of existence all the commerce that we have in copper ores, employing a very considerable number of vessels. We raise the duty at least three hundred per cent. If the Senator from Ohio was right yesterday in his estimate of the proper amount of protection upon ores, when he is corrected to-day he ought to go for the amendment that I proposed yesterday; for yesterday we took the vote upon his statement that the value of copper was twenty-four or twenty-five cents per pound in gold, when to-day it is conceded on all hands that that is only the value of it in currency, which makes at least one third difference, and that is all the difference that I proposed in my amendment.

Mr. GRIMES. Will the Senator allow me to ask him a question?

Mr. MORRILL, of Vermont. Yes, sir.

Mr. GRIMES. I have a good deal of curiosity to hear the Senator from Vermont explain the reason why he is for this bill if the passage

of it is going to destroy all the commerce that we have with the countries that produce this ore.

Mr. MORRILL, of Vermont. For the reason that I understand that the people who are engaged in the business of mining at Lake Superior are starving for bread.

Mr. GRIMES. Is that the reason why the Senator proposes to tax every article of domestic and household economy that is made of copper forty-five per cent.

Mr. MORRILL, of Vermont. I do not propose to go into the general discussion. I desire only to occupy three or four minutes in order to justify the efforts which I have made to improve this bill.

Again, I am not at all certain that the benefits of this bill are going to accrue entirely to the State of Michigan. I know, indeed, that three fourths of all the stock of these mining companies is owned in the city of Boston and its vicinity. It is to benefit speculators in fancy stocks, as well as the hard-working men of Lake Superior, and to a much larger extent.

Then, again, this bill raises the duty upon every spike and bolt that is put into our ships two and a half cents. The present duty is two and a half cents per pound, and now we raise the duty to five cents a pound, thus adding to the burdens on our commerce. Under such circumstances, I did suppose that the Senate of the United States would listen to some moderation, but I see they will not, and therefore I propose to vote for the bill in its raw and ragged shape, with the intention, whenever I have the opportunity, to vote to improve it.

Mr. SHERMAN. Mr. President, I shall vote for this bill simply to carry out the deliberate purpose of both committees two years ago. The Senator from Vermont was then chairman of the Committee of Ways and Means of the House of Representatives. He sent us a bill which imposed upon copper ore substantially the duty imposed by this bill. It was fully considered in the Senate and we somewhat reduced it. But the House Committee of Ways and Means sent us the old tariff bill, as it was called, with these rates of duty prescribed:

"On copper ore, fifteen per cent. *ad valorem*; on regulus of copper, twenty per cent. *ad valorem*; on copper in pigs, ingots, or bars, five cents per pound."

That was the recommendation made two years ago. We have substantially carried this out in specific duties. The duty of three cents a pound on copper ore is just about equivalent to fifteen per cent. According to the statement of Mr. Martin the gold value of the copper in the ore when it arrives here, before it is smelted, is twenty-two and a half cents per pound; and according to any statement I can find it cannot be less than twenty cents a pound in gold; so that even at twenty cents a pound in gold the rate of three cents a pound is equivalent to fifteen per cent. The bill of two years ago prescribed on regulus of copper twenty per cent., a higher rate of duty than is proposed by this bill. It seems to me, therefore, that Senators are making a great deal more out of this increase than one would think for. The Senator from Vermont says this is an increase of three hundred per cent. So it is. Why? Because there was no duty on copper ore before except five per cent. Now, when you increase it to ten per cent., the lowest rate of duty that is prescribed by our tariff, it is an increase of one hundred per cent. It sounds very largely stated in that way, but if you take the case of copper in bars, manufactured copper, it is about forty-five per cent. You might increase that fifteen per cent. and it would only be an increase of some forty per cent. on the old rate, and it would sound very differently. The way in which my friend states the operations of this bill makes it appear a great deal larger than it is.

Mr. MORRILL, of Vermont. The Senator from Ohio undoubtedly intends to be accurate, and this matter admits of mathematical demonstration. When he says that the duty imposed here is but ten per cent. I cannot think he understands it.

Mr. SHERMAN. I did not say that; I said about fifteen per cent.

Mr. MORRILL, of Vermont. If the foreign copper ore is worth sixteen cents a pound, and if the duty is to be three cents on each pound of copper found in the ore, it manifestly cannot be less than eighteen per cent.; and if it is but fifteen cents a pound, it is still more than that. The duty which I proposed was at least twelve per cent.

Mr. SHERMAN. We have prices-current here to show that manufactured copper is worth sixteen or seventeen cents a pound in England; but here is the duty on copper ore, and the only evidence we have of the value of copper in the ore is the statement of Mr. Martin, who is opposed to this bill, and he fixes it at twenty-two and a half cents a pound. Now, there is a distinction between copper in the ore here in gold and the manufactured copper in England. The rate on manufactured copper is undoubtedly higher than fifteen per cent.; but on the ore it is about fifteen or sixteen per cent., and not so high as that, if we can rely upon the estimate of Mr. Martin. Before I made any statement on this subject I went to the honorable Senator from Maryland, [Mr. WYTT,] who, as he tells us, was long engaged in the copper business, and I asked him the value of the copper in the ore that was brought here, and he told me, if I remember aright, that it was twenty-three cents a pound.

Mr. GRIMES. Mr. President, I am very glad to know at last upon what theory this bill proceeds. We learn from the Senator from Vermont, a member of the Committee on Finance, from whom it emanated, or who have reported it back to the Senate, that it is a charitable measure; that it originated in a pure spirit of humanity. It seems that there is a class of people somewhere in the State of Michigan who are in a starving condition, and because they are in a starving condition the Senator has been willing to acknowledge here that he is content to destroy all the commerce of this country that is used in connection with this copper interest to increase the value of every spike and nail, and the sheathing and yellow metal with which vessels are covered, to the extent of a very large per cent. I do not know exactly what per cent. I suggest to the Committee on Finance whether it would not be a cheaper measure to organize a branch of the Freedmen's Bureau and send that up into Michigan.

Mr. DAVIS. If the honorable Senator will permit me, I will say that we will consent that the branch of the Freedmen's Bureau that is in the State of Kentucky shall be sent to Michigan. [Laughter.]

Mr. GRIMES. It is immaterial whence it is taken; but if that is the spirit in which this bill originated and by which it is being carried through, it seems to me it would be infinitely better to organize a branch of the Freedmen's Bureau to take charge of those famishing and suffering people in Michigan than to increase, as this bill proposes to do, the duty on every article of household economy that is made of copper to the extent of forty-five per cent.

With the approbation, I believe, of the Committee on Finance, the Senator from Rhode Island, [Mr. ANTHONY,] looking after the interests of his region of country, has succeeded in incorporating into the bill the following provision:

On copper in rolled plates, called brazier's copper, sheets, rods, pipes, and copper bottoms, eyelets, and all manufactures of copper, or of which copper shall be a component part of chief value, not herein otherwise provided for, forty-five per cent. *ad valorem*.

Mr. ANTHONY. The duty is now thirty-five per cent., so that is an increase of only ten per cent.

Mr. GRIMES. That is all!

Mr. ANTHONY. The Senator said forty-five per cent. It is only an increase of ten per cent.

Mr. GRIMES. But this ten per cent. comes off every laboring man, artisan, and mechanic in the country. It comes off every man who is compelled to buy a cooking-stove. Instead of

taking money out of the wealth of the country for the purpose of feeding these famishing people up in Michigan you make every man in my State and in Illinois and Massachusetts and Rhode Island poorer to just the extent that the Senator has succeeded in inducing this body to increase the per cent., that is, from thirty-five to forty-five per cent.

The Senator from Vermont has dropped another idea here in connection with the passage of this bill. I do not know how far that may influence any of the outside movements that have been used to secure its passage; but I believe he has intimated that there is a very considerable influence emanating from the Copper Stock Exchange in the city of Boston. I think I have heard such an intimation before. Of course that does not influence anybody here; but it does, I have no doubt, exhibit itself through the press, and in some indirect way it may, perhaps, influence the minds of members of Congress.

There is another question I should like to have solved by the Senator from Michigan or some of the gentlemen connected with the Committee on Finance. I should like to know how much copper there is on hand. They protected us in my country two years ago by passing a wool bill, putting a high duty on wool, by which they succeeded in lowering the value of wool in my State from forty-five or fifty-five cents down to no market at all; but there were parties who were protected, and those were the people who had large quantities of wool on hand.

Mr. ANTHONY. How did they do that?

Mr. GRIMES. By prohibiting the importation of wool.

Mr. EDMUNDS. How did that cause the price of your wool to fall?

Mr. GRIMES. Because such articles as the Senator wears cannot be manufactured without being mixed with foreign wool. I did not think, until I learned the contrary, that there was a man of good sense in the world who did not suppose that if you put a tariff on the production of potatoes the result would be in two years, or one year, that you would have five bushels of potatoes where you had one before.

Mr. EDMUNDS. Is not that good for the people?

Mr. GRIMES. The effect of it would be this: you would bring down the price of potatoes from fifty to ten cents a bushel. The immediate effect of the tariff on wool was precisely the same. Everybody in the whole western country attempted to increase the production of wool, and doubled his flocks or increased his flocks to the largest extent possible. But, while they were doing that, you put a high duty on the imported wool which was necessary to be used in order to manufacture the very articles that each one of you wears here to-day, and the result was there was not any market for our wool. But there were parties who were benefited by that law, and those were the parties who had up to that time, in anticipation of the passage of that law, imported large quantities of foreign wool, which they were able to sell, realizing the advance which we put upon the tariff.

Mr. ANTHONY. Our wool did not rise a cent.

Mr. GRIMES. It did not rise after the passage of the law, but it rose before the passage of the law, and the Senator knows it if he has examined the subject. It rose in anticipation of the law, just as copper has risen to-day in anticipation of the passage of this bill. The Senator from Connecticut [Mr. FERRY] will tell you, I presume, that the manufacturers in his State who use copper in their manufactures have refused to buy copper because it has gone up, and to some considerable extent have diminished their production of manufactured copper articles because copper has gone up to so high a pitch in anticipation of the passage of this bill. It was just so with wool before we passed the wool tariff.

Now, sir, I do not know anything about the quantity of copper on hand; but I am told there

is a vast quantity of it on hand—copper ore, copper manufactured articles, copper bottoms, brazier's articles, and so on; and the passage of this bill will put immense sums into the pockets of the men owning it; and that is the advantage of passing tariff bills in this way. Whenever you confine yourselves to one particular article, as for instance, wool to-day, and the next year copper, and the next year iron, and so on, with these articles that are in such a terribly depressed condition that they must have relief, a man can embark all his capital in one particular article; but when there is a general tariff bill, embracing all the articles that are ordinarily incorporated into a tariff bill, he does not have, perhaps, quite as certain a prospect of making money as he has when he embarks his money in the importation of one particular article. Of course, the large importers of copper have not been importing anybody about Congress to pass any such bill as this; but I am only attempting to show you who is going to be benefited by it and where the relief is going. It is going to exactly the same parties that it went to when you passed your wool bill.

Mr. President, I need not indicate, I think, that I shall vote against this bill and against all other tariff bills that are not levied strictly for revenue purposes.

Mr. MORRILL, of Vermont. I do not desire now to go into a discussion of the tariff on wool, but at the proper time I think I shall be able to show my friend from Iowa that the wool tariff did benefit the wool-grower, and that the purchaser of woollens has not been injured, for to-day I believe the fact to be that woollens are as low as they were prior to the passage of that tariff, and perhaps lower.

Mr. GRIMES. How is it as to wool?

Mr. MORRILL, of Vermont. I say that at the proper time I shall be prepared to discuss that subject from top to bottom.

Mr. DAVIS. Mr. President, it has always seemed to me that in protecting articles of American industry everything to be protected belonged to the same family. I object, as the Senator from Iowa does, to this separate apportionment of members of the same family. When there are bounties and premiums to be distributed by authority of Congress to this tariff family, it seems to me that the correct principle is to consider the claims of every member of the family at the same time, and to make a just and equal apportionment among them all, and not to isolate the case of wool or copper or anything else. It seems to me that a proper system and a proper comprehension of the amount of protection that all the articles embraced in the tariff act should receive could be best considered altogether; and that is one reason why I object to the consideration and passage of the present bill.

But, sir, there are other objections. I understand that copper ore was protected three fourths of one cent. a pound a few years since, when the duty was first laid. What is the proposition now? It is to make a single jump of three hundred per cent. It seems to me that the extent of the increase that is proposed on copper ore is without precedent in the history of our legislation. Under what state of facts is it proposed to make such an enormous increase upon the protection of copper ore? The honorable Senator from Maryland who first addressed the Senate on this subject showed that the increase of the production of copper ore had been steady up to the present year. If from less than fifty per cent. of its present amount of product it has doubled itself in a few years certainly this industry cannot need a great deal of protection. Now, I understand that gentlemen concede that if there was a proper amount of protection upon other articles that are protected, and which articles are consumed by the miners of copper ore, the copper ore would have a sufficient protection.

Now, Mr. President, I think if the mass of the American people agree on any one proposition, it is that they are already taxed too high, not only upon this article, but upon all

articles. They wish relief in the form of a reduction generally of taxes, not only internal taxes, but the taxes upon foreign imports. As a general rule, they are greatly too high and are burdensome to the people of the United States, and they want relief from this burden in the form of a reduction of taxes, both internal and the taxes upon imported goods. The objection is not that there is enough of protection upon copper ore, but the objection is that it is not proportionate to the excessive protection with which many other articles are made burdensome to the people. Then, let gentlemen adopt the plain, common sense, and just principle, not of increasing the duty upon an article of industry that is already taxed too high, but of establishing the equilibrium that ought to prevail between it and other articles by reducing the taxes on other articles that are so much in excess of what in justice and sound policy they should be.

Sir, I cannot understand why the article of copper ore needs an additional protection at this time of three hundred per cent. when its production has increased steadily—not uniformly, but steadily—from the time it was first protected. It could not have increased at all if there is any justice in its present demand for three hundred per cent. upon the amount of protection it has had heretofore. I, therefore, shall vote against this bill. I vote against it also upon the general principle that I want no increase of taxation in any form or upon any article. I want the oppressed people of the United States, who are now groaning under an unexampled weight of taxation, to be relieved in every possible shape on every article and at every possible time from this oppressive taxation. I shall therefore vote in accordance with what I believe to be the just and politic principle of a general and universal reduction of taxation, both internal and external, by refusing to vote for this bill.

Mr. WHYTE. I desire merely to ask the Senate to do what it has done heretofore; that is, to fix some period of time when this act shall take effect. There are certain amendments already added to the bill which will carry it back to the House of Representatives; it may be delayed there; and therefore there is an uncertainty as to the time when the act will take effect. In order merely to do what has been done before, as I called the attention of the Senate to the act of 1861, which provided "that from and after the 1st day of April, A. D. 1861," the act should go into effect and the duties under it be imposed, I now propose to strike out the words "passage of this act" in the third line of the bill, and to insert "1st day of April, A. D. 1869."

Mr. CHANDLER. An amendment already adopted fixes the date on the 19th of this month. I submit that the present amendment is not now in order, the time having already been fixed.

Mr. EDMUNDS. That is a different proposition.

Mr. WHYTE. I do not understand the adoption of the previous proposition made by me to affect this at all. That has reference simply to goods which are on ship-board, but this amendment states the time when the act itself shall go into operation.

Mr. CHANDLER. I hope the amendment will not be made.

Mr. WHYTE called for the yeas and nays, and they were ordered; and being taken, resulted—ayes 10, nays 32; as follows:

YEAS—Messrs. Davis, Dixon, Ferry, McCreery, Sumner, Trumbull, Van Winkle, Vickers, Whyte, and Wilson—10.

NAYS—Messrs. Abbott, Anthony, Cameron, Chandler, Cole, Corbett, Drake, Edmunds, Fessenden, Fowler, Frelinghuysen, Harlan, Harris, Howard, McDonald, Morgan, Morrill of Vermont, Nye, Osborn, Patterson of Tennessee, Pomeroy, Pool, Rice, Robertson, Ross, Sawyer, Sherman, Stewart, Thayer, Warner, Wiley, and Williams—31.

ABSENT—Messrs. Bayard, Buckalew, Cattell, Conkling, Connors, Cragin, Doolittle, Grimes, Henderson, Hendricks, Howe, Kellogg, Morrill of Maine, Morton, Norton, Patterson of New Hampshire, Ramsey, Sausbury, Sprague, Tipton, Wade, Welch and Yates—24.

So the amendment was rejected.

The bill was reported to the Senate as amended; and the amendments made as in Committee of the Whole were concurred in. The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time.

Mr. GRIMES. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. NORTON. Mr. President, as it is supposed that the State of Minnesota to some extent is interested in the subject of this bill, and as I shall vote against it, I deem it due to myself to state the reasons why I shall do so.

It would be to me personally a sufficient objection that this subject is brought here alone, disconnected with all other subjects which may be properly and which ought to be within the provisions of a general tariff bill. I have given some attention to this matter, and examined with some care the representations that have been made by parties who have claimed to be interested in the bill; and I find that substantially the representation made by Mr. A. H. Sibley, who speaks or presumes to speak for a large interest, is that because the price of copper in the market in New York is too low or so low that the mines of Lake Superior cannot profitably be worked, therefore a tariff should be imposed upon imported coppers, which will increase the price so that they can profitably work their mines. From the discussion of this question, too, I have learned that that is really the substantial argument made in favor of the passage of this bill. It is that because the price of copper is low Congress should interfere and raise it, and that they should do this chiefly in the interest of the Lake Superior mines, which it seems, from the representation made, produce three fourths of the copper consumed in the United States. We are told that the estimated consumption of refined copper in the United States is twelve thousand tons per annum. During the year 1867 there were produced—

From Lake Superior about.....	9,000 tons.
From Tennessee about.....	1,000 tons.
From California, Vermont, and other points about.....	2,500 tons.

In view of the magnitude of the Lake Superior interest, as it is represented here, even with the duty now imposed it seems to me that it would be a very easy matter for that interest to control the whole copper interest of the country. This premium or this gratuity to that copper interest is to be made, as has been said by the Senator from Vermont, at the sacrifice of all the commerce in copper ores to the injury of the ship-building interest, which consumes so much of copper, and to the detriment to the consumers and of the labor of the country, as was said by the Senator from Iowa, by the increase of price in the articles they consume.

I cannot see, Mr. President, that the interests of the country require any such bill. I should vote against it if I were permitted to vote, but I have paired with the Senator from Indiana, [Mr. MORTON,] who would vote for the bill if present, and I should vote against it.

The yeas and nays being taken, resulted—yeas 38, nays 11; as follows:

YEAS—Messrs. Abbott, Anthony, Cameron, Chandler, Cole, Conkling, Connors, Corbett, Cragin, Doolittle, Drake, Fowler, Frelinghuysen, Harlan, Harris, Henderson, Howard, Howe, McDonald, Morgan, Morrill of Vermont, Nye, Osborn, Patterson of Tennessee, Pomeroy, Pool, Rice, Robertson, Ross, Sawyer, Sherman, Spencer, Stewart, Thayer, Warner, Wiley, Williams, and Wilson—38.

NAYS—Messrs. Davis, Dixon, Ferry, Fessenden, Grimes, McCreery, Sumner, Trumbull, Van Winkle, Vickers, and Whyte—11.

ABSENT—Messrs. Bayard, Buckalew, Cattell, Edmunds, Hendricks, Kellogg, Morrill of Maine, Morton, Norton, Patterson of New Hampshire, Ramsey, Sausbury, Sprague, Tipton, Wade, Welch, and Yates—17.

So the bill was passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the resolution of the Senate to continue the joint Committee to

Revise and Fix the Pay of the Officers of the two Houses of Congress, appointed at the first session of the Fortieth Congress, and had appointed Mr. F. E. WOODBRIDGE of Vermont, Mr. E. R. ECKLEY of Ohio, and Mr. H. McCULLOUGH of Maryland, the committee on its part.

The message also announced that the House had agreed to the amendment of the Senate to the bill (H. R. No. 1261) amendatory of an act entitled "An act relating to *habeas corpus* and regulating judicial proceedings in certain cases."

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills; and they were signed by the President *pro tempore*:

A bill (H. R. No. 1261) amendatory of an act entitled "An act relating to *habeas corpus* and regulating judicial proceedings in certain cases;" and

A bill (H. R. No. 1598) to relieve from disability R. W. Best and Samuel F. Phillips, of North Carolina.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a report from the Secretary of War communicating, in compliance with a resolution of the Senate of December 14, 1868, further information in relation to the late Indian battle on the Washita river; which was referred to the Committee on Military Affairs, and ordered to be printed.

He also laid before the Senate a letter from the Secretary of the Interior, communicating an estimate of appropriations required for fulfilling treaty stipulations with the northern Cheyennes and northern Arapahoe Indians under the treaty of May 18, 1868, for the fiscal year ending June 30, 1867; which was referred to the Committee on Indian Affairs, and ordered to be printed.

ORDER OF BUSINESS.

Mr. HOWARD. I move to take up for the purpose of bringing it up for discussion to-morrow Senate bill No. 256, relating to the Central Branch Union Pacific railroad.

Mr. EDMUNDS. I hope that will not be done. I had the impression that most gentlemen understood that the resolution on the subject of the duty of the nation to pay its debt in coin would be taken up in order that the Senator from Kentucky [Mr. DAVIS] and myself might say what we desired to say upon it, and that then, if it was the pleasure of the Senate, it should be postponed or proceeded with. I hope the Senator from Michigan will permit that to be taken up.

Mr. HOWARD. I should be very glad to accommodate my friend from Vermont and also my friend from Kentucky, but really this is a bill which was discussed at considerable length in the Senate at the last session, and it is one which ought to be acted upon, in my judgment; and I hope the Senate will consent to take it up now so that it may be left as the unfinished business for to-morrow.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The order of business is entirely under the control of the Senate.

Mr. EDMUNDS. I wish to move an amendment.

Mr. NYE. I ask gentlemen to give way that I may make a motion for an executive session.

Mr. EDMUNDS. I believe I have the floor. I move to amend the motion of the Senator from Michigan, as he will not withdraw it, by substituting for the name of the bill that he proposes to take up the words "Senate joint resolution No. 66," so that it will be a proposition to proceed to the consideration of that instead of the other.

Mr. STEWART. If that is in order—
The PRESIDING OFFICER. It is informal, but I do not know any rule against it.

Mr. EDMUNDS. It has been frequently done.

Mr. STEWART. I move to amend the amendment by inserting Senate resolution No.

8, the constitutional amendment extending suffrage.

Mr. SHERMAN. I do not think that is in order. There is no good sense in it.

Mr. HOWARD. It appears to me the amendment is out of order.

The PRESIDING OFFICER. The general rule of the Senate is that the first motion made is first put off. The Senator from Vermont insists that he can amend it. If so, that is still amendable.

Mr. EDMUNDS. There is no question about it. I do not care in what form the Senate come at it. If it is the pleasure of the Senate to declare that it will not consider or hear anything upon the subject of this great question that has agitated the two parties of the country and agitates the country now, and which, some people suppose, has something to do with the public credit, then I shall have nothing to say. But I have found it impossible to get the floor in season, because I am somewhat dwarfish in stature, and did not catch the eye of the Chair to make a motion of that kind in the ordinary way. I feel justified, therefore, in order to have the Senate decide in some form, whether they are willing to hear or act on this question, in proposing this amendment, which, according to parliamentary law, is strictly in order, as I believe, and I have known it to be done in this body. That is all I have to say now, sir.

Mr. HOWARD. Mr. President, the amendment of the Senator from Vermont seems to me a novelty; but I will not take a point of order on his motion. All I have to say is, that here is a bill which has been discussed at considerable length at the preceding session of Congress and left unfinished, and it ought to be taken up and acted upon finally. It will not probably lead to much debate, as the discussion has already been quite thorough, whereas the subject-matter of the honorable Senator's resolution from Vermont is in its nature a mere abstraction, and if the discussion shall once commence upon it there is no possibility of telling where it will end, or when it will end. I think we had better go to some practical business in the first place, dispose of something that is of practical importance. I do not say that his measure is not of practical importance; but I say we had better go on and finish some of the matters which we have discussed already before we take up new matter.

Mr. EDMUNDS. Certainly I must confess that the central branch proposition is one of practical importance to the Treasury, while I believe most people imagine that the proposition to which I have had the honor to call the attention of the Senate is also of practical importance. That is not an abstraction unless the promises of the Government are abstractions, because it proposes to pledge our faith to a certain construction of the statute, and most lawyers and most statesmen have supposed that when a great and civilized nation pledged its faith to anything it stood by it; but if we have reached that high state of civilization which authorizes Senators to say that the pledges of the public faith are mere abstractions, as I confess some people are beginning to believe they are, let us say so.

Mr. HOWARD. The Senator will excuse me for interrupting him, but I did not say that the obligation of the public faith was an abstraction.

Mr. EDMUNDS. The honorable Senator said that the resolution to which I referred was a mere abstraction. That resolution declares in unmistakable language that the faith of the United States is solemnly pledged to pay a particular debt in a particular way. Now, I shall be glad to have the honorable Senator distinguish, if he can, between the construction that I have put upon his words and the truth.

The question, therefore, is, Mr. President, whether the Senate are willing to give the preference to a railroad bill, a grant of money and land, which it is true has been discussed here, but not discussed since a very large addition has been made by the representatives of States

coming into this body, and which, therefore, necessarily requires—unless it has been prearranged—that there should be discussion in order to develop to the judgments of Senators who have not heard the previous discussion or of those who may have forgotten it whether they ought to go for this railroad grant or against it.

Now, I do not propose to enter into the question whether this grant ought to be made or not; but I do say that a bill fastening the payment of so large an amount upon the public Treasury ought not to pass, as my friend would say, unless it was prearranged; that it ought not to be refused until every Senator who has not been made familiar with the law and with our duty, with the public faith upon which the Senator from Michigan relies in relation to this matter, shall become acquainted with it. Therefore, Mr. President, I trust the Senate, waiving this technical question as my friend does, will decide whether they are willing to hear anything said upon this question of the public faith and the public debt or are willing to act upon it, or whether they will set it aside for the consideration of this local question, which will take just as much time as the other will.

Mr. GRIMES. I move that the Senate do now adjourn.

Mr. CONNESS. I ask the Senator's consent to withdraw that motion that one may be made for an executive session. There is upon the desk a great amount of executive business which the committees want. There are a number of postmasters' nominations which the Post Office Committee want for consideration. It will take but a short time; and I hope the Senator will withdraw his motion for that purpose.

Mr. GRIMES. I withdraw my motion.

EXECUTIVE SESSION.

Mr. CONNESS. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, January 19, 1869.

The House met at twelve o'clock m. Prayer by Rev. J. C. HOLBROOK, D. D., of Homer, New York.

The Journal of yesterday was read and approved.

TROOPS IN UNRECONSTRUCTED STATES.

Mr. PAINE. Mr. Speaker, on the 6th of this month the House, on my motion, adopted a resolution calling upon the Secretary of War for information as to the number of enlisted men now on duty in Texas, Mississippi, and Virginia who were citizens or residents of the late rebel States during the rebellion, and the number who were soldiers of the late rebel army. I have received from the War Department a communication, which I think it my duty to lay before the House in order to make a motion.

The Clerk read the communication, as follows:

WAR DEPARTMENT,
ADJUTANT GENERAL'S OFFICE,
WASHINGTON, January 16, 1869.

SIR: Referring to a resolution of the House of Representatives, dated January 6, 1869, calling for information relative to the number of enlisted men of the Army now on duty in Texas, Mississippi, and Virginia, who were citizens or residents of the late rebel States during the rebellion, and the number who were soldiers of the late rebel army, I am directed by the Secretary of War to inform you that the information called for in the resolution cannot be obtained from any of the official records, and the only way to get it is from the individual statement of each soldier, which will consume much time and require that each commander of a post in the States named should be called upon to question the men under his command, and report the result.

The Secretary desires to know if, under the circumstances, you desire to have the resolution answered in terms.

I am, respectfully, your obedient servant.
E. D. TOWNSEND,
Assistant Adjutant General.

Hon. H. E. PAINE, M. C.

Mr. PAINE. Mr. Speaker, I very much regret that the information called for by that resolution cannot be obtained. From the communication just read it is manifest that the resolution could not be answered during the present Congress, so that the inquiry would be fruitless. I therefore ask unanimous consent of the House to relieve the War Department of this duty by rescinding the resolution.

No objection being made, the resolution was rescinded.

REVENUE COMMISSIONER REPORT.

Mr. ELA. The Committee on Printing have directed me to report the following resolution.

Mr. SCHENCK. I call for the regular order.

The SPEAKER. The Committee on Printing is authorized to report at any time.

Mr. MULLINS. There are other committees that desire to report whenever they can be called. I insist upon the regular order.

The SPEAKER. The Chair repeats that the Committee on Printing is authorized to report at any time.

Mr. ROBINSON. I wish to ask a parliamentary question. I wish to know if it would be a privileged question to offer a resolution granting the use of this Hall to George Francis Train, who has made application to the Speaker for that privilege? I would like to offer the resolution now.

The SPEAKER. It would not. The House has resolved that the Hall shall not be granted except for specific purposes in which the House itself participates.

The Clerk read the resolution reported by the Committee on Printing, as follows:

Resolved, That twenty thousand copies of the report of the Special Commissioner of the Revenue, with the appendices complete, be printed for the use of the House, and one thousand bound copies of the same for the use of the Treasury Department.

Mr. KELLEY. I ask to be allowed to say a word on that resolution.

Mr. WASHBURN, of Illinois. I ask the gentleman how long he intends to discuss the resolution?

Mr. KELLEY. Half an hour.

Mr. ELA. I will first call the previous question, and then yield to the gentleman.

The previous question was seconded and the main question ordered.

Mr. ELA. I now yield thirty minutes to the gentleman from Pennsylvania.

Mr. KELLEY. Mr. Speaker, I hope the resolution reported by the committee will not be adopted. I do not think the report ought to receive such an indorsement. I do not see how Congress can consistently cast it broadcast over the country. It is a report full of figures, which are so ingeniously selected and marshaled that one might suppose it had been prepared specially to show the pestilent character of that most false and dangerous of all the aphorisms embodied in the English language, namely, that "figures cannot lie." They are so culled and marshaled in this report as to lead to conclusions false, delusive, and damaging to our country, and especially unjust to that Congress which has carried the country through the great struggle from which she has just emerged. I do not mean to say that the figures embodied in it are in themselves false; upon that point I do not speak now; but I do mean to say that they are so detached from their correlatives as to lead to conclusions utterly at variance with notorious facts which are familiar to every gentleman on this floor.

The gentleman who is announced several times in the report as collecting the statistics and making the calculations has, so far as I know, done his duty fairly; but the commissioner who selected the material for this report, and prepared and marshaled it, has not done so with a view to letting Congress and the country establish conclusions from an impartial array of facts, but to sustain a foregone conclusion and advocate a favorite theory of his own, which is, in my judgment, at variance with the true interests of the country.

Let me, Mr. Speaker, demonstrate the truth

of my assertions, and before doing so let me say that if the conclusions of this report are true—and I ask gentlemen from the southern States to give me their ear on this point—if the conclusions of the Commissioner as set forth in this report are true, good conscience requires the American Congress to notify the laboring people of the world that they cannot improve their condition by coming to this country. If this report be true in its deductions it is a fraud upon individual immigrants and a wrong upon humanity to invite working people to leave their homes in other lands and come to dwell among us.

The thesis of the report is that we have since 1860 so legislated that while wealth is accumulating more rapidly than it ever accumulated in any other land or age the poor are steadily growing poorer and the rich richer; that the yawning gulf between poverty and wealth is ever widening in this country, and that the laboring man and his family cannot live as well upon their earnings as they could in 1860.

The report—and it is voluminous—devotes five or six pages only to the progress of wealth and productive power in this country, but they suffice to show that it is with constantly increasing velocity and momentum. If it be true in that respect, and the laboring people are really becoming poorer daily, we are on the eve of an aristocracy more potent than any that has preceded it, and of a social condition such as the world has never seen. I propose to inquire whether this startling proposition be true. The Commissioner, assuming that his array of facts have established it, says on page 21:

"It has been well said that there can be no true theoretic conclusion which will not be proved by the facts whenever the theory can be applied. We have given the theory of the effects of inconvertible paper money, and we find that the facts prove it. The rich become richer and the poor poorer."

Not satisfied with this, he says:

"The aggregate wealth of the country is increasing, probably, as rapidly as at any former period; yet it does not follow that there is the same increase in general prosperity. The laborer, especially he who has a large family to support, is not as prosperous as he was in 1860. His wages have not increased in proportion to the increase in the cost of his living. There is, therefore, an inequality in the distribution of our annual product, which we must, in no small degree, refer to artificial causes. This inequality exists even among the working classes themselves. The single man or woman, working for his or her support alone, is in the receipt of a rate of wages from which savings may be made equal or greater than ever before, especially in the manufacturing towns, where the price of board is, to a certain extent, regulated artificially by the employer."

And again, I ask gentlemen to listen to the Commissioner's statement of the condition to which their legislation has reduced our countrymen:

"Unmarried operatives, therefore, gain; while those who are obliged to support their own families in hired tenements lose. Hence, deposits in savings-banks increase, while marriage is discouraged; and the forced employment of young children is made almost a necessity in order that the family may live."

If this be the condition of our country, do we not, as I have said, perpetrate a fraud when we ask the laboring immigrant to come and dwell among us? In order to illustrate this point, I, too, have looked up some facts. I have not had official station and clerks and agents to enable me to collect them; but as a citizen with my eyes open I have seen enough to enable me to detect the deception perpetrated in this report, although the figures by which they are perpetrated may perhaps be true in themselves. Pages are filled with tabular statements of the wages of laboring people in 1860 and the cost of living at that time, as compared with the wages and prices in 1867-68. Sir, 1860-61, and from 1857 to the autumn of the latter year, was one of the darkest periods ever seen by the laboring people of America. Not one out of five of the skilled workmen of the country was steadily employed. In Philadelphia, when they wanted to build a street railroad they advertised for two hundred and fifty hands at sixty cents a day, and more than five thousand offered, a majority of whom were skilled artisans who

could find no other employment. In the neighborhood of one of the establishments, the statistics of which go into this report, a rolling-mill, the number of unemployed men was so great that the county authorities, to save its skilled workmen from open pauperism, determined to build a turnpike, and experienced hands from rolling-mills were employed at breaking stone and road-making at fifty cents a day rather than become paupers. For the comparatively few who had employment the wages are, I assume, honestly given in the report; but of the many who were picking up a precarious living by getting an occasional day's work at half wages or quarter wages no account is taken; and thus facts that may be true in themselves, by being separated from those which would have explained and interpreted them are made to libel our country and the Congress that carried it through the war. Let me in this connection bring the attention of gentlemen to some facts.

Look at the palatial buildings erected in this city during the last year and the comfortable dwellings for mechanics and laborers. How many of them there are you have all seen. They are built by squares and blocks. I have endeavored to ascertain how many were built in 1860, and can hear of but four dwelling-houses built in Washington in that year. In 1861, so far as I have been able to learn, but one dwelling house and one public school-house, the contract price for which was \$3,500, were erected. Leaving Washington, I go to my own city, and by turning to the report of the building inspectors find that in 1860 twenty-four hundred and seventy-two houses were built. The decline had commenced, and in 1861 but sixteen hundred and seventy-three were built. In 1860 we enlarged five hundred and eighty-eight buildings; in 1861 but two hundred and four were enlarged. But in 1868, when the Commissioner tells us labor was not as prosperous as in 1860, we erected forty-seven hundred and ninety-six buildings and enlarged twelve hundred and fifteen. In 1868 there was an active demand for labor, and labor was high. It could determine its own wages. In 1860 labor was begging employment and wages were low. As a general thing mechanics had to accept whatever wages were offered, though in a few instances favored establishments were able to run continuously and pay fair wages. These exceptional cases have furnished the Commissioner data for what he announces as a general law.

The low rate of wages that ruled in 1860 would have led a proficient in political economy to look for the facts I am now about to lay before you. It is a law of social science that when employment is scarce labor must accept low wages and losses time; but when employment is quick and active labor regulates its own wages and is constantly employed. The tables presented by the Commissioner ignores this law, and is consequently a fraud upon Congress and a slander upon our country, the working people of which were never so prosperous as now.

Let me also exhibit some comparisons between 1860 and 1868, which bear upon the question at issue. In that blessed year, 1860, which the Commissioner eulogizes, the sheriff of Philadelphia received seventeen hundred and forty writs for the sale of real estate, while in 1868, the year of congressional wrong and pecuniary depression, the sheriff of that city received but seven hundred and six writs for the sale of real estate, a falling off of largely more than fifty per cent., though in the interval there has been an increase of forty per cent. in the population and more than that in the wealth of the city.

I turn now to savings-banks. The Commissioner refers to them, and should have known that their records would be to his statistics what the governor is to the steam-engine; they would have pointed him to the fallacy or confirmed the correctness of his conclusions. Saving institutions are not favorites in Philadelphia. Our workmen prefer to take up land

on ground rents and build their little homes. To ascertain the savings of the working people of Philadelphia we must obtain the figures from building associations, which I have not had time to do. We have, however, one saving institution that has stood for nearly half a century and is a representative institution. It had in 1860 twenty-one thousand two hundred and sixty-five depositors. When the year 1861 closed it had but twelve thousand six hundred and sixty-two depositors. The year 1860 found it with \$4,083,450 of deposits, and the year 1861 left it with but \$2,251,646. This is the depository of the laboring people of Philadelphia, while they gather their first \$300 toward building their homes, and its records prove that nearly nine thousand of them were stripped of their accumulated savings by the lack of employment in the year which the Commissioner of Revenue tells us was so favorable to them and their class, and two millions of their hoarded dollars were withdrawn from deposit and expended for the necessities of life in two years of that happy condition, to which he would restore the country. But in 1868, for which he says we have legislated so crudely and unwisely, the number of depositors had grown to be twenty-four thousand eight hundred and eighty-eight, and the deposits had swollen to the sum of \$5,008,379.

But let me pass beyond the capital of our country and my own city, and ask how it has been and is with the people of other parts of the country? I find by official reports that in Maine there were in 1860 on deposit in the savings banks the sum of \$1,466,457, but that in 1867, when Congress had ruined the working classes, the less than one million and a half dollars to their credit had swollen to \$5,598,600, in that sparsely populated seaboard State.

If we go to New Hampshire, we find that the savings deposits there in 1860 were \$4,600,000, while in 1866 they were \$7,857,601. And I am assured they have increased steadily in both the succeeding years, although I have not been able to get the precise figures.

In Massachusetts in 1860 there were two hundred and thirty thousand depositors, with the sum of \$45,054,236 on deposit. But the effect of the exemplary year of the Commissioner was such as to reduce the number of depositors five thousand and ten, and the deposits \$268,797, as they stood at the close of the bank year of 1861.

In every State the record shows that there was either a positive reduction of the number of depositors and amount of deposits in those two years, or that the increase of the volume of deposits was arrested by the pressure upon the laboring classes in the happy years between 1857 and 1860, for the return of which the Commissioner sighs so piteously.

But to return to the statistics of Massachusetts. Although in 1861 a drain had been made upon the \$45,000,000 on deposit in 1860, in 1866 the deposits in the savings banks of that little State reached the enormous sum of \$67,732,264. And since 1866, in two years of congressional wrong upon the laboring classes, they have swollen from \$67,732,264 to \$94,833,336 54. In spite of the wrongs inflicted upon them by our legislation the laboring people of Massachusetts have in those two years deposited more money in the savings banks, have added to their deposits more money than they had accumulated in nine years preceding and including 1860. In those two years, in which, according to the report of the Commissioner, their wages were so low that they could not marry for fear of the expense of supporting families, they have added to their accumulated deposits an amount equivalent to nearly sixty per cent. of the entire amount of deposits in the savings banks of the State in 1860.

I have made this examination as broad as I could make it in the limited time that has elapsed since I received a copy of the Commissioner's report. Had not the report of the Committee on Printing come in at this time I

should have been more elaborately prepared and exhibited fuller figures. I will give you such as I have collected, and believe that they will, imperfect as they are, prove a sufficient offset to the fallacies of the Commissioner.

In Rhode Island in 1860 the deposits in savings banks were \$7,765,771; in 1866 they were \$17,761,713, an increase of one hundred and fifty per cent. in spite of greenbacks and a protective tariff. In Connecticut, from 1860 to 1866 they rose from eighteen to thirty-one millions. And so it is all over the country. If the Commissioner of Revenue is to be believed the unmarried men who, by reason of the unwise legislation of Congress, dare not marry, have annually added hundreds per cent. more to the savings-banks deposits than all the laborers of the country could when they were wisely cared for by free trade legislators! I do not believe it; and if there be any great-hearted girl and her lover on the other side of the Atlantic who want to come to a country in which they may prosper, I tell them that the warning of the Special Commissioner of Revenue is false and fraudulent; and that they may come to the United States with the certainty of finding a country in which the morals of the working people are good, because their condition is prosperous enough to guaranty to each sober and industrious family a home.

Sir, let me tell you more than this: while these deposits have been accumulating thousands and tens of thousands of our laboring people have been making provision for the future by insuring their lives. In Massachusetts alone, the amount of life insurance on January 1, 1868, on maintained policies was \$1,284,680,478. When people in addition to laying up money at interest are insuring their lives, they are living well; but when, as in 1860, past accumulations in savings banks are running down, and they are wasting their time in enforced idleness, they cannot live well and contribute freely to the support of the Government. Accept the recommendations of the Commissioner and you will paralyze industry, reduce wages, throw the producing classes upon their deposits for support and deprive them of the power to keep up the insurance on their lives. Such facts as I have presented are sufficient to refute a thousand fine-spun theories. It may with the ingenuity that fashioned this report be said that the policies to which I have referred are on the lives of wealthy people. But such is not the case; two hundred and sixty-five out of each thousand of them are for \$1,000 or less; five hundred and forty out of each thousand are for \$2,000 or less; seven hundred out of each thousand for \$3,000 or less. Only three hundred out of each thousand are for amounts over \$3,000. These policies are the precautions taken by well-paid industry to provide for widowhood and orphanage after the head of the family shall have paid mortality's last debt.

I am admonished by gentlemen near me that my time is nearly out. I may, therefore, have to return to this report. I ask gentlemen from West Virginia, Kansas, Michigan, New York, and Alabama to look at its statements relating to salt. It dwells upon the Island of Carmen, in Lower California; it tells how cheaply salt could be furnished from that island were it not for the duties imposed by the tariff; but it does not breathe a word of Vermilion bay or Avery's Island or Petit Anse, the world-famed salt island in Louisiana, where all you have to do is to use the crowbar, the pick-ax, and rollers to produce and prepare salt finer and purer than that of Carmen's island or than the world elsewhere yields—a deposit of salt that was deemed sufficient to justify Jefferson in the acquisition of Louisiana even if it had been the only advantage; a deposit of salt that has never been resorted to except by the confederacy, (and it drew its whole supply of salt from it.) because the southern leaders, holding to the revenue-tariff doctrines of the Special Commissioner of Revenue, preferred having their ships and their workshops on the other side of the Atlantic—preferred prevent-

ing the development of the mineral resources of the South especially, and of the whole country. The island near the head of the Atchafalaya, in Vermilion bay, but ninety miles from New Orleans, is within our own limits; and I apprehend the Commissioner is not ignorant of the fact that northern enterprise and capital have purchased it, and under the protection given by our tariff to such a preliminary outlay of money, are about employing freedmen to prepare a cheap way to market by water carriage, by which they hope to afford a cheap and full supply of that superior salt to the markets of the Atlantic slope of the continent.

The Commissioner also dwells at length upon the subject of pig-iron, and tells us that a profit almost equal to that on general merchandise has for a short time been made on the manufacture of pig-iron. But, he does not tell us how completely the want of that iron has enslaved us to England, or how the report of these profits is stimulating the erection of furnaces not only in Pennsylvania and Ohio, but in Indiana, Illinois, Missouri, West Virginia, Virginia, North Carolina, Tennessee, Georgia, Alabama, Oregon, and other States. I may ask the gentleman to yield me two or three minutes more, that I may complete this statement. The rapidity with which furnaces are being built in new fields gives us the promise of a supply of native pig-iron. Nothing will do more than that to promote a return to specie payments. I hold in my hand a circular which reads thus: "Fifty-eight, Old Broad street, London, November 30, 1868, from S. W. Hopkins & Co., exporters of railway iron. Monthly Report of Exports of Rails from Great Britain, extracted from the Government Returns." By this report it appears that in the ten months ending October 31, 1868, Great Britain exported five hundred and nine thousand nine hundred and sixty-eight tons of rails. Gentlemen probably think that England's colonial dependencies took most of this iron; that British India, British North America, and Australia took it. No, gentlemen; we are her chief commercial dependency. She is our mistress, and we maintain her throne and aristocracy. No; the British dependencies took but eighty-four thousand tons, and her American dependency, the United States, took two hundred and twenty-eight thousand tons. Of the five hundred and nine thousand nine hundred and sixty-eight tons of rails we took twenty-one thousand tons more than British India, Russia, British North America, Sweden, Prussia, France, Spain and Canaries, Cuba, Brazil, Chili, and Australia.

[Here the hammer fell.]

Mr. KELLEY. I ask the gentleman to yield for five minutes longer.

Mr. ELA. I cannot yield any further.

Mr. KELLEY. Very well; I will then have to recur to the subject hereafter, for I mean to show up the fallacies of this report more fully than I have been able to do in half an hour.

Mr. ELA. I yield fifteen minutes to the gentleman from Ohio.

Mr. GARFIELD. I confess my great surprise at the opposition of the gentleman from Pennsylvania [Mr. KELLEY] to the printing of this report of the Special Commissioner of the Revenue. I think, if the gentleman is really in earnest about it, he has made a most damaging admission. We have an officer appointed to examine and report to us facts and recommendations in regard to our financial condition. His annual report is before us, and the gentleman does not wish it printed. He admits, in the first place, that the facts stated are generally correct; that the statistics collected and arranged in tables are true and correctly stated; but declares that the marshaling of the facts is dangerous; that they are put together in such a way and such an inference is drawn from them that the report is dangerous to Congress and to the enlightened people of the country. The gentleman asks this House to make a humiliating confession, in which I, for one, am not ready to join. If any theories or opinions of mine can be damaged by facts so

much the worse for my theories. It seems to me that the gentleman gives away his case, abandons his ground of attack, when he starts out by admitting the general correctness of the figures.

What, then, is the fault he finds with the Commissioner? If the things stated are facts what is the matter? Why, the gentleman's grievance is contained in a single paragraph of the report on page 15. As the result of the tables collected from a very wide range of observation, the Commissioner concludes that the cost of living, the food, clothing, shelter, light and fuel of families in this country was about seventy eight per cent. higher in 1868 than it was in 1860-61, the year before the war; while the average wages of the unskilled laborer is but fifty per cent. higher, and of the skilled laborer but sixty per cent. higher than in 1860-61. Those are the two deductions drawn by the Special Commissioner from the great mass of facts and figures brought under his observation, and from these it appears to the Commissioner that the laboring man can lay up less of his earnings at the end of the year than he could in 1860. The Commissioner had also shown that the wealth in the hands of the capitalists of the country is rapidly increasing. This did not provoke an attack from the gentleman. He either does not deny it or is glad to have it proved; but he is unwilling to have it shown that labor is not reaping its full share of the increasing wealth. Has the gentleman impeached the correctness of the Commissioner's facts? Not at all. He even admits them. It must be then that he refuses to print this report because its facts and deductions do not square with his theories and notions. I call the gentleman's attention to the tables. Here are twenty five pages of the appendix to the report, just from the press, wholly devoted to the very subject of the gentleman's complaint. Appendix D is a series of tables exhibiting the comparative cost of provisions, clothing, rent, and all that make up the cost of living in the years 1860 and 1868. These prices were taken from the cities and rural districts of every State, beginning with Maine and reaching to Ohio. I wish the tables included the West also. Now it becomes gentlemen who discredit the report of the Commissioner to answer the facts set forth in these tables. Appendix E shows the average wages of labor, and these tables are made up from an equally wide range of observation. The various classes of trades and labor are exhibited in the different States named, and if the statements are incorrect let them be met and exploded. I do not quarrel with these facts. I only regret that the tables do not include statistics from Ohio and the States further west.

Mr. DAWES. Does the gentleman mean to say that the Commissioner is at fault in omitting the western States?

Mr. GARFIELD. I do not. I only say I regret that these States were not included. Now, sir, this result reached by the Commissioner is no new thing. In 1866 the Commissioner reported that from 1860 to 1866 wages had risen sixty per cent. and the cost of living ninety per cent. Why was not that fact challenged at that time? The statement has been long enough before the country to have been refuted long ago if it is not true.

Let me ask attention for a moment to some facts I have lately obtained. Hearing that this attack was to be made I have asked information from two sources, in order to test the correctness of the Commissioner's position. In the first place, we have in the Army a very good mode of testing the cost of living by the price of rations. The fullest competition is allowed to bidders, and the price of the ration is the result of this competition for supplying the Army. I have examined the records of the commissary department, and find that the price of rations during the war confirms in a remarkable manner the conclusions of the Commissioner in regard to the cost of living. In the next place, I hold in my hand a table that shows what we have been paying to labor-

ers employed on our public works; and the price, which is adjusted to the general market, proves fully the report of the Commissioner on that subject. In 1861, here in Washington, we paid unskilled laborers \$1 25 per day; we now pay them \$1 75—an increase of about fifty per cent. For skilled labor the increase ranged from fifty-five to seventy-five per cent.

The following is an official statement of daily wages paid in this city:

	1861.	1868.	Increase per cent.
Carpenters.....	\$2 00	\$3 50	75
Laborers.....	1 25	1 75	40
Stone masons.....	2 50	4 00	60
Brick masons.....	2 50	4 00	60
Machinists.....	2 00	3 00	50
Plumbers.....	2 25	3 50	55
Blacksmiths.....	2 00	3 00	50

We are building custom-houses and post offices and improving our rivers and harbors all over the United States, and our own official records, which were not carried into the Commissioner's table, so far as I have been able to examine them, all verify the statistics of the Commissioner. I hold in my hand also one of the leading papers published in New York only a few days ago, in which the editor says:

"There are few men in this tax-ridden country who are more familiar with the cause or who more clearly see the unfortunate tendency of the unnatural style of living which prevails at the present day than Mr. David Wells, the Special Commissioner at Washington, from whose report we have previously taken much that was interesting and instructive. In his opinion these are unhealthy times for individuals, and many of us can heartily indorse that opinion. We are, to be sure, getting on an average better pay than in other days, but how about our expenses? Look at houses, coal, flour, butter, milk, eggs, wood, cloth, and leather: they are no better than they were ten years ago nor less plentiful, but their cost is vastly greater; so much greater, in fact, that rents are positively extortionate, and the absolute necessities of life beyond the reach of thousands in this very city."

This is the opinion of a journalist who is speaking of affairs in his own city and speaks of his own knowledge.

But the gentleman from Philadelphia has given us a new and remarkable revelation about the year 1860. It is the first time I have ever heard it said by a responsible gentleman that the year 1860 was a disastrous one for the American people.

The gentleman stated—I wrote down his words—that 1860–61 was the darkest period ever seen in this country; and he went on to exhibit how hard it was for laboring men to find employment. Now, Mr. Speaker, I differ widely from the honorable gentleman. I remember very well that the distinguished chairman of the Committee of Ways and Means [Mr. MORRELL] some three years ago referred to the year 1860 as the most prosperous year which this Republic ever saw; and he gave his reasons for the statement. It was a year of plenty, of great increase. I remember, moreover, that it was a year of light taxes. There was but one great people on the face of the globe so lightly taxed as the American people in 1860. Now we are the most heavily taxed people except one, perhaps, on the face of the globe; and the weight of nearly all our taxes falls at last on the laboring man. This is an element which the gentleman seems to have omitted from his calculation altogether.

The gentleman says that at the present time laborers are doing better than in 1860. I ask him how many strikes there were among laborers in 1860–61? Were there any at all? And how many were there in 1868? Will the gentleman deny that strikes exhibit the unsettled and unsatisfactory condition of labor in its relations to capital? In our mines, in our mills and furnaces, in our manufacturing establishments, are not the laborers every day joining in strikes for higher wages, and saying that they need them on account of the high price of provisions or that the capitalists get too large a share of the profits? I want to say, in this connection, that I believe the condition of the laboring man in the West is better than in the East. The element of transportation does not enter so largely into his cost of living. I confess that I was somewhat surprised at these

statistics of the Commissioner, for if I had been asked I should have said that the laboring men of my district were doing nearly as well and perhaps in some cases better than they were doing in 1860; but still I cannot impeach the array of facts he has exhibited. They refer to the eastern portion of the country, however, and the local conditions may be different there.

But let me advert for a moment to another point in the statement of the gentleman. He speaks with great triumph of the amount that is deposited in savings banks by laboring men now as compared with 1860. Why, Mr. Speaker, it seems to me that the facts lead to exactly the opposite conclusion from that which the gentleman draws. What does it mean? It means that in this country, and especially in the East, in the unsettled state of our commerce and of our currency men dare not invest their little earnings in business, and they, therefore, put them into savings banks, where they are lightly taxed, to await solid values and steady times. In the West it is not generally so. A man can buy land and improve it, and thus can work for himself and have his profits as well as his keep while he is laboring. I think that will explain the reason why savings banks are more patronized in the East than in the West.

The gentleman has referred to railroad iron and the vast amount recently brought into this country. Sir, that is the most natural thing in the world. During the war the building of railroads was almost wholly suspended. The work has revived and greatly increased since the war, and in 1868 the new roads were ready for their iron. Hence the unusual demand and the large importation of the rails to which the gentleman refers. The gentleman must remember that railroad iron has the least protection of any form of iron. It bears a tariff duty of but seventy per cent., while the next higher grade of iron bears a tariff duty of one hundred and twenty-five per cent.

Another fact: while speaking of rolling-mills in this country I would ask the gentleman from Pennsylvania [Mr. KELLEY] and my friend from the Johnstown district [Mr. MORRELL] if they know of any railroad-iron mill in this country that has not all the business it can do? Does he know such a mill in this country that this day has not more orders than it can fill? I say this to show that even the heavy importation of English rails have not broken down our manufacturers.

Mr. COVODE. Will the gentleman yield to me for a moment?

Mr. GARFIELD. I must decline to yield.

Mr. COVODE. The gentleman asked a question of "the gentleman from the Johnstown district," and I desire to answer it.

Mr. GARFIELD. One word more. This is not the first time we have heard a clamor against the Commissioner of the Revenue. I must advert for a moment to something that occurred about two years ago. At that time the Commissioner recommended a reduction of the tax on whisky, and gave it as his opinion that thereby the amount of revenue from that source would be increased. In certain quarters a great clamor was raised against him, and I remember very well that a circular was laid before the members of this House charging the Commissioner with being in the interest of the whisky men. Now, what was the fact? After wasting the revenues of this country in a fruitless and vain attempt to collect the tax of two dollars per gallon the tax was reduced. And with what result? Everything promises that the revenue from the tax on whisky will this year reach \$40,000,000, while it never before has reached the sum of \$30,000,000 a year, even with the tax at two dollars.

I have in my hand a record of the collections in the Chicago district in a few months of this year, showing that during the corresponding months in 1867 and in 1868 the amount of revenue from the present rate of tax upon whisky is greater than when the rate of tax was higher. It shows the amounts of tax paid on whisky

under the sixty-five-cent tax and under the two-dollar tax for the same months of 1867 and 1868:

	1867.	1868.
July.....	\$4,934	\$165,552
August.....	6,821	214,726
September.....	11,654	84,772
October.....	54,825	219,916
November.....	33,291	304,405
December.....	87,755	326,369
Total.....	\$200,279	\$1,303,140

The tax in 1867 was three times as large per gallon as in 1868, and yet look at the respective receipts from each rate. On a sixty-five-cent tax the receipts are nearly seven times as great as on the two-dollar tax!

An officer who has served the country so ably and faithfully deserves well of Congress and the country. I trust the motion to print will prevail.

[Here the hammer fell.]

Mr. ELA. I now yield five minutes of my time to the gentleman from Rhode Island, [Mr. JENCKES.]

Mr. JENCKES. I hope the resolution from the Committee on Printing will be adopted. The report of the Special Commissioner of the Revenue, it seems to me, contains something more important than the estimates of the cost of pig-iron, or a discussion of the question of reducing the salt duties, or even the estimates of the cost of living in 1860 and 1868. This Commissioner was appointed for a special purpose, and has explained the whole subject of our finances and the financial condition of the country. He has added to the testimony already laid before this House by the Committee on Retrenchment, the Secretary of the Treasury, the Commissioner of Customs, and the Commissioner of Internal Revenue.

The Special Commissioner says that a large portion of the money to which this Government is entitled as the proceeds of internal revenue and of the customs is not received because of the positive dishonesty and gross inefficiency of great numbers of subordinate officials intrusted with this branch of the public service. And he goes on to give an estimate of the amount so lost to the Government. He says that from the internal revenue alone, assuming as a basis the revenue of last year—\$175,000,000—the sum of \$75,000,000, as a minimum under existing laws, could be added to this branch of the revenue alone. And he further adds:

"But allowing for all these contingencies it seems possible for the Treasury to have at its command at the close of the next fiscal year an available surplus of from one hundred million to one hundred and twenty-five million dollars, and with such elements of strength there is not a single fiscal problem of our immediate future which will not be greatly aided in its solution. The Commissioner furthermore maintains that the realization of such a surplus involves nothing impractical, and nothing which partakes of the nature of an experiment."

Now, Mr. Speaker, I wish the House and the country to understand just the cause and the measure of this deficiency. It results from the gross dishonesty or total inefficiency of the subordinate officers in the revenue department alone; and the amount of the deficiency thus created is sufficient to pay every dollar of the national debt within the time that it becomes due, assuming the whole at \$2,500,000,000. We have here the means pointed out to us of putting into the Treasury from one hundred to one and twenty-five million dollars in each year, without altering or amending the law upon our statute-book, without entertaining or passing any of the schemes of finance which are now pending in both branches of Congress. The evil is before us, and the remedy is plain and clear. The Commissioner adds:

"It requires, however, that there should be unity of purpose on the part of the Executive, of Congress, and of the people, and a full realization of the fact that the work to be accomplished is of such paramount importance that nothing else should be allowed to interfere with it. It requires that the agents who are to be intrusted with the collection and disbursement of the revenue shall be appointed on some other grounds than the devotion to party service, the length and number of their campaign speeches, or the amount of money contributed to aid in elections."

I am thankful to the Commissioner for furnishing this evidence. As I have said, it is but confirmatory of such as is already before the House and the country; but coming as it does from the office especially charged with inquiring into this business, and whose duty it is to report the facts to Congress and the country, it is entitled to great weight, and shows that the measure now pending before this Congress is of paramount importance, as the Commissioner says, in this regard.

[Here the hammer fell.]

Mr. ELA: I now yield five minutes to the gentleman from Massachusetts, [Mr. BUTLER.]

Mr. BUTLER, of Massachusetts: I had not intended, Mr. Speaker, to take part in this debate further than to say a word or two as to the printing of this report. While there are some of the conclusions of the Commissioner to which I do not agree, yet the fairness, the correctness, and the reliability of his statistics are, I think, such as to command attention; and they should be sent to the country and given especially to this House. Many different deductions will be made from those statistics; but the value of the report is not in the deductions, but in the figures; and I hope that this document will be printed; that there will be no hesitation upon the question.

Saying this much, I should have stopped were it not for the remarks of the gentleman from Rhode Island, [Mr. JENCKES.] While I accord to him the utmost good faith in the advocacy of what is known as the civil service bill, yet I cannot believe that measure to be a panacea for all evils to the extent claimed. What does it provide? That the clerical force of the various Departments of the Government shall be subjected to an examination in Greek, Latin, algebra, &c., before a commission, because the bill does not propose to touch anybody, as it cannot under the Constitution, whose appointment is within the confirmation of the Senate. Now, I have not heard that the clerical business of this Government is corruptly or improperly done. I do not think the responsibility for the deficiencies in the collection of the revenue rests with the clerks, nor with the tide-waiters, nor with the watchmen, nor with any of the men in subordinate positions who are to be subjected to the examination provided for in the bill. I think the trouble is with the higher officials, who are not touched by the bill of the gentleman from Rhode Island. Not to use words of characterization, my own experience in the Army has taught me that mere examination in the school branches or an examination given by a commission is not the test of merit for officers in the Army. The officers sent by examining boards into the field were not one half so good as the men who were selected from the ranks, whom we had seen under fire, and whose qualifications we knew; officers that failed before an examining board were worthy of a brigadier general's stars, and officers who had successfully passed an examining board proved unfit for even a lieutenant's commission; although he came to us indorsed by the boards for the commission of a colonel.

Sir, what is this bill, when we come to bring it down to its exact action? It is to settle a rule in this country for the first time by which all subordinate officers shall be life officers. And in the selection of such officers we are to settle qualifications in a manner by which the deserving volunteer soldiers who have been fighting for their country for four years are to be passed by because, losing the time which they otherwise would have improved at school, they cannot pass examination, but must give place to the boy who stayed at home and went to school or college while they were fighting. Never will I vote to let that thing be done.

[Here the hammer fell.]

Mr. ELA. I yield three minutes to the gentleman from Pennsylvania.

Mr. MOORHEAD. I will ask how many copies the resolution proposes to print?

The SPEAKER. The Clerk will read the resolution.

The resolution was read.

Mr. MOORHEAD. I see it proposes to print twenty thousand. I would inquire what is the usual number?

Mr. ELA. This is the usual number.

Mr. MOORHEAD. If this is the usual number I shall not oppose it, but I certainly would oppose the printing of an additional number. I think the report should be treated fairly. I think there are some statistics in this report which are valuable, and I have some interest in its being printed to a limited extent. That interest arises from a remark I made last summer in discussing the tariff bill, about the Special Commissioner. It was drawn out by a remark made by the gentleman from Iowa, [Mr. ALLISON,] and is as follows:

"But before leaving this point, as my sensitive friend, the gentleman from Iowa, [Mr. ALLISON,] seemed a little anxious about the Special Commissioner of Internal Revenue, to whom I unfortunately referred in this connection, I deem it proper to say to the House and to the country that if it is necessary or important that this Government should keep an officer in its service at a large salary for the purpose of guarding the interests of the foreign manufacturer, the foreign importer, the foreign agent in New York, then the Secretary of the Treasury has been signally fortunate in the selection he has made, and Mr. Wells is the proper man for the place."

Now, sir, the interest I have in printing this report is in the fact that the report proves what I said. It is a free-trade document, and I have no doubt the Free Trade League will publish it and scatter it broadcast.

Mr. ELA. I simply want to say that the resolution is to print the usual number of copies. There has been a great demand for this report. It certainly contains most valuable information, and if some of its tables should be so arranged as to support one view of the question I think members of the House can so arrange them as to suit their own views if they can be sustained by facts, which I think nobody disputes, upon which the whole matter is based. I only want to say a word in reply to the gentleman from Pennsylvania, [Mr. KELLEY,] in regard to savings-banks, as that may be deceptive as well as other things. I know the vast increase of deposits in the savings-banks in New Hampshire grows as much out of the fact that they pay less than half as much taxes as other property, as from the fact of the additional prosperity of the people.

[Here the hammer fell.]

The question being taken on the resolution, it was agreed to.

Mr. ELA moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REVENUE-CUTTERS.

Mr. MULLINS. I call for the regular order.

Mr. ELIOT, of Massachusetts. I ask unanimous consent for a change of reference. I move that the Committee on Commerce be discharged from the consideration of a matter referred to it in regard to authorizing the construction of four steam revenue-cutters, and that the same be referred to the Committee on Appropriations.

Mr. WASHBURNE, of Illinois. I will ask the gentleman to state what was the judgment of the Committee on Commerce on the subject.

Mr. ELIOT, of Massachusetts. The judgment of the committee was, after careful examination, that it was important that the Treasury Department should have charge of collecting the revenue and preventing frauds on the waters in the southern States and in the northwestern territory; that it was absolutely necessary that some means should be provided by which the Treasury Department could carry on the administration of the revenue laws. They have, in point of fact, no means within their control to enable them to do that which the law requires at their hands.

The SPEAKER. The regular order is insisted on by several gentlemen. The Chair supposed it was simply a change of reference, the gentleman desired.

Mr. ELIOT, of Massachusetts. That is all. I think I have answered my friend.

The motion of Mr. ELIOT, of Massachusetts, was agreed to.

ALEXANDER DUNBAR.

Mr. WOOD, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be directed to inform this House by what authority Mr. Alexander Dunbar, a citizen of Canada, is employed to instruct the horse-doctors of the United States Army in his so-called secret for the treatment of horses' feet, and to travel over the country delivering lectures on the same, what amount is paid him per month for his services, and if it be true that, in addition to his monthly salary, he is to get \$20,000; also, the number of officers of the United States Army, farriers, and other attendants detailed to his service; what the nature of their duties is and the amount paid them per month; also, the number of buildings that have been rented for the use of Mr. Dunbar, and at what cost.

Mr. WOOD moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ELECTIONS IN THE TERRITORIES.

The SPEAKER. The morning hour has commenced, and the House resumes the consideration of the bill pending at the expiration of the morning hour of Thursday last, (H. R. No. 1624,) to preserve the purity of elections in the several organized Territories of the United States, on which the gentleman from Ohio [Mr. ASHLEY] is entitled to the floor for one hour. The pending question is on the amendment of the gentleman from Tennessee, [Mr. MULLINS.]

Mr. PHELPS. I appeal to the courtesy of the gentleman from Ohio to allow me to propose an amendment to the bill.

Mr. ASHLEY, of Ohio. I will hear the amendment read.

Mr. PHELPS. I move to insert after section sixteen, on page 12, what I send to the Clerk's desk.

The Clerk read as follows:

And be it further enacted, That the Legislatures of the Territories hereinbefore named shall at their first session after the passage of this act provide by law for a reapportionment of the members of the several Legislatures as nearly equal as may be among council and legislative districts entitled each to elect three members of council and three representatives, and that the outlying districts, if any, to which it may be necessary that a less number than three shall be apportioned, shall be located in the least populous portions of said Territories, and that at the next legislative elections thereafter in said Territories every qualified voter shall be entitled to three votes for members of council and three votes for member of the house of representatives, with the privilege of cumulating said votes upon any one or two of the candidates for either houses respectively, it being the intent and meaning of this act to secure an equitable and just representation to minorities in said Territories in all cases where minority parties exceed in number two fifths of the electoral body.

Mr. PHELPS. I should like to have a few moments to explain the amendment.

Mr. ASHLEY, of Ohio. How many minutes does the gentleman desire?

Mr. PHELPS. Five minutes.

Mr. ASHLEY, of Ohio. I will yield him five minutes.

Mr. PHELPS. Mr. Speaker, the amendment which has just been read by the Clerk is submitted in good faith, with no motive of hostility to the bill, but, on the contrary, with entire approbation of its features and of its policy. And, sir, I hail with satisfaction this first movement in the history of congressional legislation to recognize and to protect by congressional sanction the organization of parties in the Territories of the United States, believing it to be a wholesome example which, if carried out, as it doubtless will be carried out under the machinery of this bill, in good faith and with practical adaptation to the wants of the community, will eventually lead to its adoption in the States of the Union and by congressional legislation, as far as applies to members of Congress. I, however, do not think that the bill goes far enough. I do not believe it to be enough simply to provide for political equilibrium among the boards of canvassers and the boards of election. In my

judgment Congress ought to take this opportunity to give its sanction to the principle of the representation of minorities so far as that principle can be properly applied to the organized Territories of the Union.

It is with that view and object that this amendment is now submitted. Its effect is simply this: that the several territorial Legislatures shall redivide their territories into districts, entitled each to elect three members, giving to each qualified elector the right to cumulate his three votes on one or two of the candidates, omitting the third, in that way securing to the minority the opportunity everywhere in the Territories, and in each district, to elect one out of the three representatives provided they be strong enough in numbers to exceed two fifths of the entire electoral body.

Believing that the agitation of this question in England and in this country for the last fifteen or twenty years has not escaped the notice of any member of the House, and that each gentleman has made up his mind as to the policy of securing the right of representation to minorities, it is not my purpose to encroach upon the time of the chairman of the committee by any extended argument in its favor. I simply submit the amendment at this time with a view of getting a test vote, and taking the sense of the House on the question whether it is not time to recognize and enforce it in its application to the Territories. It goes no further at present than simply to apply the principle to the elections of members to territorial Legislatures, leaving it for the future to determine whether it should be applied in a more general way to the elections of all officers.

Mr. ASHLEY, of Ohio. I am willing that the proposition of the gentleman from Maryland [Mr. PHELPS] should be voted upon, and therefore I will permit it to be offered. I will now ask the previous question on the bill and pending amendments, after which I will yield the floor to gentlemen who desire to submit some remarks upon this subject, reserving to myself some time to close the debate.

Mr. BURLEIGH. Will the gentleman yield to me for a question?

Mr. ASHLEY, of Ohio. Certainly.

Mr. BURLEIGH. I would like to ask the honorable chairman of the Committee on the Territories, [Mr. ASHLEY, of Ohio,] in the first place, what the object of this bill is?

Mr. ASHLEY, of Ohio. Of this bill?

Mr. BURLEIGH. Yes, sir.

Mr. ASHLEY, of Ohio. The object of this bill is to supply the place of a registry law, and to secure beyond peradventure the rights of the minority in every Territory of the United States.

Mr. BURLEIGH. One more question. Who is calling for it? Who is asking for it? Who is demanding either the bill itself or the amendment of the gentleman from Maryland, [Mr. PHELPS?]

Mr. ASHLEY, of Ohio. Petition after petition has been presented to Congress during the past six years for a registry law in the Territories. From personal observation I knew how difficult it was to prepare a registry law that would be enforced with justice in the sparsely populated Territories, especially in the mining Territories. And upon the instruction of the committee, of which I am chairman, I have prepared this bill with a great deal of care, so that there should be absolute security to every party in any county and in any voting precinct of a Territory; that there should be no fraud either in the acceptance of the ballot or in the return of the election officers.

Mr. BURLEIGH. One more question, if the gentleman will permit me. The chairman of the Committee on the Territories states that every Territory in the Union has memorialized or petitioned or asked for a general registry law to be passed for their protection. I would ask him when the Territory of Dakota, through its Legislature or people, ever asked for any thing of the kind.

Mr. ASHLEY, of Ohio. I do not know that the Legislature of the Territory of Dakota have asked it, but citizens of the Territory have asked it.

Mr. BURLEIGH. We had a registry law of our own there for a time, but it was so obnoxious that our people repealed it. And we do not now ask to have anything of the kind forced upon us. Congress gave one Legislature authority to pass all necessary laws concerning elections; and we do not want to be tampered with in this style year after year, as we have been. We want to be left to carry on our own government in our own way, subject to the laws of Congress.

Mr. ASHLEY, of Ohio. Well, Mr. Speaker, the House, on considering the bill, can dispose of it as they see fit. I now insist upon my demand for the previous question.

The previous question was seconded and the main question ordered.

Mr. ASHLEY, of Ohio. Mr. Speaker, if any gentleman desires to take the floor upon this bill I will yield to him before I make the remarks which I propose to make on the amendment and the bill.

Mr. CHILCOTT. I ask the gentleman to yield to me.

Mr. ASHLEY, of Ohio. I yield to the gentleman for a few minutes.

Mr. CHILCOTT. Mr. Speaker, I am not aware that the people of Colorado have petitioned the chairman of the Committee on the Territories to propose any change in our election laws. Under the organic act of our Territory the Legislature of Colorado has made such rules and regulations for the conducting of elections as the people desired; and unless the citizens of the Territory have sent to the gentleman from Ohio some application which they have not sent to me there is no necessity and no demand for a change in our system of conducting elections. This bill proposes to place the whole control of our elections into the hands of the Governor of the Territory. Should the people of the Territories see proper to apply to Congress for the passage of registry laws they unquestionably would do so through their respective Delegates. My constituents have made no application for any such change. I hope that the members on this floor will at least allow to the Delegates of the respective Territories the privilege of making application on behalf of their people whenever the latter desire changes in the laws by which they are governed. No such application has been made in this case, and no such change as that proposed in this bill is necessary or is desired by the people. Should this new system of regulating elections be adopted three or four years must elapse before the people can become accustomed to it. I hope, therefore, that the bill will not be passed.

A MEMBER. Does any Territory ask for such a bill?

Mr. CHILCOTT. Not a single Territory.

Mr. ASHLEY, of Ohio. I now yield to the gentleman from Arizona, [Mr. BASHFORD.]

Mr. BASHFORD. Mr. Speaker, this is a bill having reference to the Territories alone; and it is, therefore, I think, one which the Delegates of those Territories have a right to criticize, and, if possible, defeat, if in their judgment it ought to be defeated. The bill is plausible on its face, but it will not bear examination. It proposes, in the first place, to give to the Governor of each Territory the appointment of three county canvassers in every county in the Territory, and these are to appoint three canvassers for each election precinct. The Governor of the Territory would thus be enabled to control, if he should see fit, the choice of all the election officers throughout the Territory. Although the bill provides that two of every three of these election officers shall be appointed from the dominant party, and one from the minority party, the Governor may, nevertheless, appoint men who are in his interest and are his friends; and with the unlimited veto power now possessed by all, or nearly all, of the territorial Governors, and

with the official influence of the position, the Governor could, if he saw fit, control, and if he were a bad man doubtless would control, the elections in the whole Territory.

This will be still more manifest from an examination of the other provisions of the bill. It is provided in one section that unless all the provisions of the bill should be carried out the vote of the election precincts in which there shall be any departure from them shall be thrown out. Here is a long, abstruse bill, containing conditions which never could be entirely complied with, and under which no election could be held in any of the States, and yet any departure from the mode of proceedings thus prescribed is to be considered as vitiating the election in every precinct in which such a departure may take place. The election laws of the States do not provide that a failure to comply with all the provisions of those laws shall vitiate the election. If the election is conducted fairly, and the will of the voters is clearly ascertained, the election is not in any State declared void, though there may have been some variation from the precise method of proceedings prescribed by law. But this bill provides that if the election is not conducted in precise accordance with these voluminous provisions, which cannot be understood or carried out without great difficulty, the election is to be declared void. A notice is then to be served upon the precinct or town canvassers that the election is contested, and if the canvassers do not appear to show that the election was a fair one the return is to be thrown out. In a sparsely settled country like the Territories, with no opportunities for travel except by private conveyance, and where one county sometimes embraces hundreds of miles, the election officers would never take the trouble to follow up the proceedings, and thus the entire return would frequently be thrown out.

But it is said that two of these county canvassers are to be appointed from the dominant party and one or two from the minority party. Now, sir, it so happens that in the Territory of Arizona there is no party whatever. There has never been a political organization in that Territory, except in one county. How can this plan, therefore, be carried out in the Territory which I represent? The intent and spirit of the bill has reference to the parties organized in the Territories. Now, it seems to me, after you have given us the organic law of the Territories, which is our constitution, it is quite as well to let us alone to govern ourselves.

[Here the hammer fell.]

Mr. CAVANAUGH. I ask the gentleman from Ohio to yield to me five or ten minutes.

Mr. ASHLEY, of Ohio. I yield five minutes.

Mr. CAVANAUGH. Mr. Speaker, I have examined this bill with a great deal of care. At the first reading I was disposed to support it; but, sir, now, here, in the name of the people of my Territory of both parties, I desire to enter my protest against its passage. I do it for the reason that under the organic act of the Territory our Legislative Assembly has for four years past governed the Territory by just and wise laws. The machinery of the territorial government is now in perfect running order, and we do not wish, so long as we come within the requirements of our organic act, that Congress should select our Territories for the purpose of experimental legislation.

I say, furthermore, that if Congress will let these Territories alone and not meddle with their legislation it would be better, not only for the people of the Territories themselves, but for Congress itself. If the Committee on the Territories or on the Judiciary had introduced a bill of another character, much more needed in the Territories than a bill of this kind—I now speak of a bill allowing the people of the Territories to elect their own Governors and judges—that would relieve them of a load that now presses upon their shoulders, as I know from a residence of five years in Colorado, and of some time in Minnesota prior to its admission as a State, besides

the time I have resided in the Territory of Montana, which I have the honor to represent. Whenever Congress has taken its hand off from the people of the Territories, and left them to act under the organic law and discharge all the functions that devolve upon them, there has been no trouble. I trust, therefore, that all this tinkering with the Territories on the part of Congress will cease from this time.

Why, sir, let me ask the gentleman from Ohio, how are you going to carry out this plan? Take the county of Deer Lodge. It is some two or two hundred and fifty miles in length by one hundred in breadth. There are seventy-five or eighty mining camps in that county alone. In that Territory, consisting of one hundred and forty-three thousand square miles, every county has its little mining camps and a town. Some of the counties have large and thriving towns and cities, but how in those extreme marginal localities can the provisions of this bill be carried into effect?

Again, our people are much more competent, in my judgment, to govern themselves than are gentlemen on this floor, who know but little about the Territories. You are here attempting to legislate for people who have taken their lives in their hands—the young blood of New England and the middle States, the energetic, intelligent men of the eastern-west, to coin a word, who have gone into the Territories and laid broad and deep the foundations of great States, planting there the principles that have been inculcated in their minds in their native States. They go out the *avant-couriers* of civilization to pluck these barren wastes and make them magnificent, powerful, and sovereign States in this grand national Union of ours. We who have lived on the frontiers for fifteen years or more pretend at least to know more about the wants of the people there than any member from New England or Ohio or New York, no matter how intelligent he may be, or how well fitted to discharge the duties that may devolve upon him in regard to the interests of his constituency. [Here the hammer fell.]

Mr. ASHLEY, of Ohio. There is nothing mysterious or hard to understand in this bill. The principle of it could with all propriety be enacted into law in any country where it is desired to preserve the purity of the ballot. The purpose I had in view, and the purpose of the committee whom I represent, was to secure beyond peradventure a fair and honest election in every Territory of the United States. The objection urged by the gentleman from Arizona [Mr. BASFORD] shows that he has not read the bill with care. He supposes that the Governor is empowered to appoint three commissioners in each county, two of whom shall be members of the dominant party, whereas the Governor is required to appoint four, two of the dominant party and two of the minority party or parties, if there are any minority parties, and if not, then from any citizens of whatever party; and the bill requires an affirmative vote of three members of the board to make an order, and three members of the board to constitute a quorum. This board is charged with the appointment of election boards in every township and voting precinct. There again, however, the diverse political sentiment of the locality is to be represented; the dominant party at the last election, if there are organized parties in the Territory, are to have two members of the board, and the party having the next largest vote at the last election is to have one member of the board. So that the minority have absolute security that the majority shall not improperly admit or exclude voters from the ballot-box, nor can they make up, when they count the ballots, a statement which does not have the sanction of the minority of the board.

Mr. WELKER. Will my colleague allow me to ask him a question?

Mr. ASHLEY, of Ohio. Yes, sir.

Mr. WELKER. I find on pages 2 and 3 of the bill a provision that if it turns out at any

election, or at the first election, that neither candidate was elected to the office of Delegate to Congress by a majority of the votes, thereupon the Governor of the Territory shall issue a proclamation to that effect, and another election shall be held at which the electors shall be compelled to vote for the gentlemen who were candidates at the first election. I want to know what is the necessity of requiring the electors at the second election to vote for the same candidates that ran at the first election?

Mr. ASHLEY, of Ohio. Mr. Speaker, the gentleman might as well ask why the men who made the Constitution of the United States thought it necessary to provide that when an election for President comes into the House of Representatives they shall select one of the three highest candidates. But that bill is not before the House at all.

Mr. WELKER. Allow me one word.

Mr. ASHLEY, of Ohio. The bill to which my colleague refers is not before the House at all. This is a bill to preserve the purity of elections in the Territories, and the bill to which the gentleman refers is a bill to provide for the election of Delegates from the several Territories of the United States.

Mr. WELKER. That was the bill I read from.

Mr. ASHLEY, of Ohio. Yes; but it is not before the House. I thought, however, that I would answer the gentleman.

Mr. WELKER. I want to say that members all around me have no other bill, and I supposed we were voting upon that proposition.

Mr. ASHLEY, of Ohio. Well, sir, the gentleman from Ohio, [Mr. WELKER,] with his usual alertness, ought to have known that the bill was printed on the 11th of this month, and placed on his file. Now, sir, the people of Washington Territory, of Idaho Territory, and especially of Montana Territory, have for the last five years imperturbed the committee of which I am a member for a registry law. Of course I can understand that the dominant party in any Territory would cry out against congressional interference. I can understand that some particular clique that may have succeeded in obtaining control of the power in a Territory would oppose this legislation. But what I want, and what the honest people of the country want, is absolute security against either the governing officials of a Territory or organized cliques or the despotism of party majorities.

Mr. CAVANAUGH. Will the gentleman allow me to ask him a question?

Mr. ASHLEY, of Ohio. Certainly.

Mr. CAVANAUGH. I would ask the gentleman what Territory, either through its Legislature or through any public assembly of its citizens, has ever asked Congress to pass any such law as this?

Mr. ASHLEY, of Ohio. The territorial Legislature of Montana never has and never will.

Mr. CAVANAUGH. That is not answering my question.

Mr. ASHLEY, of Ohio. Nor has the territorial Legislature of Idaho ever asked for it. But the citizens resident in the Territories of Washington, Idaho, and Montana, who are in the minority, and who under the present manner of conducting elections there will probably remain in the minority, have asked for it.

Mr. CAVANAUGH. Will the gentleman answer my question or will I be compelled to answer it for him? I will take the four Republican Territories of Dakota, Washington, New Mexico, and Colorado. Has any petition to this House of Representatives asking for any such legislation as this ever come from those four Republican Territories?

Mr. ASHLEY, of Ohio. Yes, sir.

Mr. CAVANAUGH. Pardon me; a moment longer.

Mr. ASHLEY, of Ohio. Do not make the question too long.

Mr. CAVANAUGH. First, pardon me if I take a moment longer on this, for I like to

hit things right on the head. When the gentleman insinuates that the people of Montana or Idaho are not just as loyal to the Constitution and the Union, just as true in support of the laws of the country and the institutions under which we live, as are any people, he asserts that which will not bear investigation. There is not a man in Montana but what is as loyal as the gentleman from Ohio [Mr. ASHLEY] dare be. Thousands of men living there have given proof of their royalty by meeting the leaden hail of the rebels upon many a bloody field of battle.

Mr. ASHLEY, of Ohio. I think I can answer the question of the gentleman.

Mr. CAVANAUGH. As the gentleman did not answer it, I thought I would answer it for him.

Mr. ASHLEY, of Ohio. I have not intimated, nor do I think that any gentleman on this floor would say that I have intimated, that any man in Montana or Idaho was disloyal. No such words escaped my lips, nor did any such thought occur to me. I said that the dominant party there, like the dominant party in any State undoubtedly, would probably control matters, and hence the minority have petitioned this House for a registry law; and the Delegate from Washington Territory, [Mr. FLANDERS,] ever since he has been on this floor, has insisted upon the Committee on the Territories reporting a registry law for his Territory. Having traveled over a considerable portion of these Territories in 1865, and having passed five months and a half in the great Territories of the West, and having seen the citizens there in their homes, I think I understand something of their wants as well as gentlemen who are sent here to represent them. There is nothing so different in the wants of the people of the Territories from what there is in the wants of the people of the States. No gentleman can read this bill and not say that it secures beyond all peradventure a fair and honest election, and that is all that we want.

Mr. BURLEIGH. Will the gentleman permit me to ask him a question?

Mr. ASHLEY, of Ohio. Very well.

Mr. BURLEIGH. The gentleman says that a few years ago he traveled through those Territories. I want to know how many men he saw out there and how many elections he attended there? I have lived in those Territories since 1861, and I have never seen any of those frauds. Perhaps the gentleman has seen them; if so, I want to know when and where.

Mr. ASHLEY, of Ohio. Well, sir, I was not there at any election; and it is not necessary for a man to be present at an election to know how frauds are committed and how they can be committed. My colleague, [Mr. LAWRENCE,] who has been over to the Democratic city of New York investigating the election frauds there, can tell the gentleman something about them, although he was not on the ground when they were committed.

Mr. BURLEIGH. Let the bill, then, apply to New York, and not to the Territories.

Mr. ASHLEY, of Ohio. The people of the Territories are no better and no worse than the people of the great cities or the people of the States; and a law which will secure justice to the minority in a Territory will secure it in a State.

Now, sir, I want to say a word upon the proposition submitted by the gentleman from Maryland, [Mr. PHELPS.] I am in favor of the principle embodied in his amendment. I believe that the next great step which the people of this country will make will be in the direction indicated in that amendment—will be toward the recognition of the rights of minorities to representation. Indeed, one of the objects which I had in view in the preparation of this bill was to inaugurate in the Territories of the United States a system which, after due consideration by the statesmen of the country, should be applied in the States in the election of Representatives to Congress and in elections generally. I do not say, however, that I can vote for the amendment in its present

shape. I believe—and this belief is the result of reflection upon the subject—that with the views at present entertained by our people on the question of the rights of minorities to representation, it will be better, in the first instance, to have a mixed system. The great mass of our citizens fear that the complete adoption of the abstract principle which the amendment embodies will sacrifice those local interests of which at this time each constituency has a representative in its special candidate, that candidate being compelled to reside in the district. Hence, I have prepared a proposition, although I have not attached it to this bill, providing that when the number of members and senators in the territorial Legislature shall be increased in consequence of the growth of population, the additional senators and members shall be elected by general ticket and by a vote of the whole Territory; and that if, for instance, four persons are to be elected, every citizen may, if he chooses, record his vote four times for a single candidate.

Mr. CHANLER. I would like to ask the gentleman a question in regard to this matter.

Mr. ASHLEY, of Ohio. I will yield to the gentleman in a few minutes.

Mr. Speaker, I believe in the principle which I have just illustrated. By the method I have stated the minority could have a representation, and it would afford a security which, under our present system, cannot be had, for at present it frequently happens that the majority in legislative assemblies represent a minority of the people. Indeed, since I have been a member of Congress it has sometimes happened that a majority here represented a minority of the people. This could not happen under a just system of apportionment. Local interests would be secured by the election of Representatives for the respective districts, and additional members would be chosen by the vote of the electors of the State at large. If there were ten members to be chosen at large any citizen, instead of voting for ten different candidates, might cast ten votes for one candidate. Thus if the minority concentrated their vote they would be insured a voice in the Legislative Assembly, though they might number but a few thousand men. Favoring the general principle embodied in the amendment of the gentleman from Maryland, I have allowed him to submit the proposition in order that he and I might express our respective views, and that the House, if it should so desire, might ingraft the amendment upon the bill. I am very certain, however, that the operation of the gentleman's amendment would not in the Territories be exactly what he desires, but that a mixed system would be better for a section of country so sparsely populated.

I will now yield to my friend from New York, [Mr. CHANLER.]

Mr. CHANLER. My object in seeking the attention of the chairman of the Committee on the Territories at this time was rather to give to gentlemen who have been investigating the election frauds in New York an opportunity to state the pivot on which those frauds revolve. I wish to say that the present system of frauds was inaugurated by the registration law passed, I believe, in 1858, by a Republican Legislature, that law giving to the canvassers vast power of corruption, which power has been abused. They have the control of the voting, and the individual rights of the citizen are utterly lost by the system of registration which gives to the canvassers who make out the returns the power over the whole vote. That is the experience, I believe, of the committee sent by this House to investigate the frauds in New York. I think it is a practical question, having a direct bearing on the institution of a similar system in the Territories, and in that view, in good faith, I ask the gentleman from Ohio to allow me to ask his colleague [Mr. LAWRENCE] to state what his experience has been on that subject in the recent investigation in New York.

Mr. ASHLEY, of Ohio. I cannot do that

just now. I will say to the gentleman that I have no doubt that under this law there are ample opportunities for fraud, but I can tell him that if this principle were adopted, with two men representing the party in the majority in each ward and two representing the party in the minority upon the board of canvassers and of judges of election, an affirmative vote of three being required in each case, either to admit or exclude a voter, either to record his name or to reject it, and to make up a poll-list and transmit it to the authorities; if that were the case, there would be no opportunity for repeating, no opportunity for frauds such as, in my judgment, now occur.

Mr. CHANLER. All I can say to the gentleman, then, is that exactly that line of argument was used in the New York State Legislature for the purpose of establishing the present system. It was intended to reform, but it has failed completely to effect the object. The gentleman is now seeking to establish a similar system with further checks in the Territories. But I believe it will be futile, because his remedy does not reach the disease. I have asked him to listen to those whose experience in that matter might help him, but he refuses to do it. I think he makes a mistake if he wishes to secure votes for the passage of his measure.

Mr. ASHLEY, of Ohio. Mr. Speaker, the bill does not provide for any registration. The board itself is a registration law. When a voter comes from his gulch or his diggings, ten or twenty miles distant it may be, and presents himself to the board, they will make up their judgment; if he is an elector they will receive his ballot; if not, they will reject it. The very fact that the board is composed of an equal number of men of opposite politics, and that it requires the affirmative vote of one of the opposite party to admit or reject a vote, is a check against fraudulent voting, is a check against raids into counties and towns, and gives all the security which I have been able to devise in framing this law. But the gentleman will note that it is provided in the seventeenth section that the Legislatures of the Territories are authorized and empowered to enforce the provisions of this act by additional and appropriate legislation. And now, sir, I ask for a vote on the amendment of the gentleman from Maryland.

Mr. ROSS. I suggest to the gentleman that his system is very similar to that practiced in New York he had better have the bill referred to the select Committee on the New York Election Frauds, for the purpose of being examined by them.

Mr. ASHLEY, of Ohio. I cannot yield for any such purpose.

Mr. PHELPS. Will the gentleman yield to me one moment?

Mr. ASHLEY, of Ohio. Yes, sir.

Mr. PHELPS. I only want to say, in addition to the few remarks I have already made, that the principle embodied in my amendment is nothing new. It has already been introduced by act of the British Parliament in the reform bill passed in August, 1867, under which the recent elections for members of Parliament have been held. The difference, however, in the machinery between the provisions embodied in the English bill and those incorporated in the pending amendment is this: that in the former case the representation of a local minority is secured by limiting the franchise; in the present case by extending the franchise. I beg to call attention to the following section of the English law:

"At a contested election of any county or borough represented by three members, no person shall vote for more than two candidates."

That is the whole of it. Under that section thus limited in districts where three members are to be elected, the right of each voter to vote for two candidates out of the three secures in that way to the minority the right of electing one of the candidates. The system provided in this amendment is equivalent to the English system; but instead of curtailing and abridg-

ing the vote it increases it by giving the voter the right to vote as many ballots as there are candidates.

The question was taken on Mr. MULLINS's amendment; and it was agreed to.

The question then recurred on Mr. PHELPS's amendment.

The amendment was again read.

Mr. PHELPS demanded the yeas and nays. The yeas and nays were ordered.

Mr. WASHBURN, of Illinois. The only way to get rid of this matter is to move that the bill and amendments be laid upon the table, and I make that motion.

The House divided; and there were—ayes 50, noes 70.

Mr. ASHLEY, of Ohio, demanded tellers.

Tellers were ordered; and Mr. ASHLEY, of Ohio, and Mr. HOLMAN, were appointed.

The House again divided; and the tellers reported—ayes 56, noes 73.

So the motion to lay on the table was disagreed to.

The question was taken on Mr. PHELPS's amendment; and it was decided in the negative—yeas 49, nays 116, not voting 57; as follows:

YEAS—Messrs. Anderson, Archer, Axtell, Baker, Barnes, Barnum, Beck, Benjamin, Boyden, Boyer, Roderick R. Butler, Chanler, Cook, Dewesse, Getz, Glossbrenner, Golladay, Gove, Grover, Hawkins, Heaton, Holman, Hotchkiss, Humphrey, Jenckes, Alexander H. Jones, Thomas L. Jones, Kerr, Knott, Lash, George V. Lawrence, Mallory, Marshall, McCormick, McCullough, Mungen, Newsham, Nicholson, Phelps, Ross, Spalding, Stone, Taber, Taffe, Van Trump, Elihu B. Washburne, Stephen F. Wilson, Woodward, and Young—49.

NAYS—Messrs. Allison, James M. Ashley, Bailey, Baldwin, Banks, Beaman, Beatty, Benton, Blaine, Blair, Boutwell, Bowen, Broomall, Buckland, Buckley, Callis, Cary, Reader W. Clark, Sidney Clarke, Clift, Cobb, Coburn, Corley, Cornell, Covode, Cullom, Dawes, Dickey, Dodge, Eggleston, Ela, Thomas D. Eliot, James T. Elliott, Farnsworth, Ferriss, Fields, French, Goss, Gravelly, Harding, Haughey, Higby, Hill, Hopkins, Hunter, Ingersoll, Johnson, Judd, Julian, Kellogg, Kelsey, Kitchen, Kootz, William Lawrence, Lincoln, Loughridge, Marvin, Maynard, McCarthy, McKee, Mercer, Miller, Moore, Moorhead, Mullins, Myers, Newcomb, Niblack, Norris, O'Neill, Orth, Paine, Perham, Pettis, Pierce, Pike, Pile, Plants, Poland, Polisy, Price, Prince, Randall, Raum, Robinson, Roots, Sawyer, Schenck, Seefeld, Shanks, Shellabarger, Sturgeaves, Smith, Starkweather, Stevens, Stokes, Stover, Thomas, Tift, John Trimble, Lawrence S. Trimble, Upson, Van Aernam, Van Aukon, Burt Van Horn, Vidal, Ward, Henry D. Washburn, William B. Washburn, Welker, Whittemore, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, and Windom—116.

NOT VOTING—Messrs. Adams, Ames, Arnell, Delos R. Ashley, Bingham, Blackburn, Boles, Brownell, Brooks, Burr, Benjamin F. Butler, Calk, Churchill, Delano, Dixon, Dockery, Donnelly, Driggs, Eckley, Edwards, Eldridge, Ferry, Fox, Garfield, Griswold, Haight, Halsey, Hamilton, Hooper, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Kelley, Ketchum, Ladin, Loan, Logan, Lynch, Morrell, Morrissey, Nunn, Peters, Pomeroy, Prunty, Robertson, Solye, Stewart, Sypher, Taylor, Trowbridge, Twichell, Robert T. Van Horn, Van Wyck, Cadwalader C. Washburn, Wood, and Woodbridge—57.

So the amendment was rejected.

The substitute was adopted.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. ASHLEY, of Ohio, demanded the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. CAVANAUGH demanded the yeas and nays, and tellers on the yeas and nays.

Tellers were not ordered; and the yeas and nays were not ordered.

The House divided; and there were—ayes 61, noes 56.

So the bill was passed.

Mr. ASHLEY, of Ohio, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILL SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill (H. R. No. 1698) to relieve from disabilities

R. W. Best and Samuel F. Phillips, of North Carolina; when the Speaker signed the same.

KANSAS INDIANS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting a communication from the Commissioner of Indian Affairs relative to the destitute condition of the Kansas Indians and the diversion of the school fund from educational purposes to the purchase of supplies; which was referred to the Committee on Appropriations.

HOUSE EMPLOYÉS.

The SPEAKER also laid before the House the annual report of the Clerk of the House of the list of employés, and stating that they have all been usefully employed, in compliance with the act of May 26, 1842; which was laid on the table, and ordered to be printed.

CONTINGENT EXPENSES OF HOUSE.

The SPEAKER also laid before the House the report of the Clerk of the House of Representatives upon the contingent expenses of the House; which was laid on the table, and ordered to be printed.

INSPECTOR GENERAL.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting a report of the inspector general for an appropriation for one fourth-class clerk in the pending appropriation bill; which was referred to the Committee on Appropriations.

ORDNANCE BUREAU.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting a report of the chief of ordnance on the insufficiency of the clerical force in that bureau, as provided for in the pending appropriation bill; which was referred to the Committee on Appropriations.

BATTALION OF ENGINEERS.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting a report of the chief of engineers, recommending certain legislation to increase the efficiency of the battalion of engineers; which was referred to the Committee on Military Affairs.

NEW WAR DEPARTMENT BUILDING.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting a report of a board of officers on a new building for the War Department; which was referred to the Committee on Military Affairs.

CHEYENNE AND ARAPAHOE INDIANS.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Interior, transmitting a communication from the Commissioner of Indian Affairs, with an estimate of appropriations required to carry out a treaty with the Cheyenne and Arapahoe Indians; which was referred to the Committee on Appropriations, and ordered to be printed.

TONNAGE DUTIES IN WEST INDIES.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of State, transmitting correspondence on the subject of tonnage duties on vessels and merchandise in the Spanish West India Islands; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

ENROLLED BILL SIGNED.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (H. R. No. 1261) amendatory of an act entitled "An act relating to *habeas corpus*, and regulating judicial proceedings in certain cases;" when the Speaker signed the same.

RESUMPTION OF SPECIE PAYMENTS.

The SPEAKER stated that the next business in order was the consideration of the special

order, being House bill No. 240; to provide for the resumption of specie payments, on which the gentleman from Maine [Mr. LYNCH] was entitled to the floor.

Mr. ASHLEY, of Ohio. I wish to call up a motion to reconsider the vote on House bill No. 1041, granting the right of way to the Walla-Walla and Columbia River Railroad Company, and for other purposes; and I ask the gentleman to yield to me for that purpose. The bill not being engrossed, it went upon the table.

Mr. LYNCH. I yield for that purpose.

Mr. HOLMAN. Is that the regular order of business?

The SPEAKER. The motion to reconsider is privileged when no other business is pending.

SPEAKER'S TABLE.

Mr. SCHENCK. I move that the House proceed to the business upon the Speaker's table.

Mr. ASHLEY, of Ohio. I wish to have the bill to which I have referred passed and sent to the Senate. It was only laid over for engrossment.

The SPEAKER. The gentleman from Ohio has the right to take any gentleman off the floor for the purpose of moving to go to the business upon the Speaker's table.

The motion was agreed to; and the House accordingly proceeded to the consideration of the business on the Speaker's table.

PAY OF OFFICERS.

The SPEAKER stated the first business upon the Speaker's table to be the following concurrent resolution from the Senate:

IN THE SENATE OF THE UNITED STATES,
December 15, 1868.

Resolved, That the joint committee appointed at the first session of the present Congress, and continued at the last session, to revise and fix the pay of the officers of the two Houses, be, and they are hereby, reappointed.

Ordered, That Mr. FESSENDEN, Mr. SHERMAN, and Mr. BUCKALEW be the committee on the part of the Senate.

Attest: GEORGE C. GORHAM,
Secretary.

The resolution was concurred in.

The SPEAKER announced that he had appointed as the committee on the part of the House Mr. WOODBRIDGE, Mr. ECKLEY, and Mr. McCULLOUGH.

SUITS IN THE REBEL STATES.

The next business upon the Speaker's table was the amendment of the Senate to House bill No. 1261, amendatory of an act entitled "An act relating to *habeas corpus*, and regulating judicial proceedings in certain cases."

The Senate amendment was read, as follows:

Strike out all after the enacting clause and insert the following:

That the provisions of an act entitled "An act relating to *habeas corpus*, and regulating judicial proceedings in certain cases," approved March 3, 1863, so far as the same relate to the removal of causes from the State to the Federal courts, be, and the same is hereby, declared to extend to any suit or action at law or prosecution, civil or criminal, which has been or shall be commenced in any State court against the owner or owners of any ship or vessel, or of any railway, or of any line of transportation, firm, or corporation engaged in business as common carriers of goods, wares, or merchandise, for any loss or damage which may have happened to any goods, wares, or merchandise whatever, which shall have been delivered to any such owner or owners of any ship or vessel, or any railway, or of any line of transportation, firm, or corporation engaged in business as common carriers, where such loss or damage shall have been occasioned by the acts of those engaged in hostility to the Government of the United States during the late rebellion, or where such loss or damage shall have been occasioned by any of the forces of the United States, or by any officer in command of such forces: *Provided*, That this act shall not be construed to affect any contract of insurance for war risks which may have been made with reference to any goods, wares, or merchandise which shall have been so destroyed.

Mr. THOMAS. I move concurrence with the Senate in the amendment which has just been read. I suppose, Mr. Speaker, that it will be within the recollection of the House that we passed, by a very large majority, a bill of this character which was much more comprehensive than the proposition of the Senate.

The Senate propose to strike out the whole of the House bill, and to substitute a bill which will have the effect of transferring suits from the State courts to the courts of the United States in cases where goods in charge of a common carrier have been destroyed by the troops of the United States or by troops engaged recently in the rebellion against the Government. It will also be within the recollection of the House that I had read at the Clerk's desk, when this subject was up formerly, more than one letter coming from well-informed and highly intelligent gentlemen of the South to the effect that fair trials could not be had in the State courts where these cases were pending; that jurors, in defiance of the instructions of the judges, in more than one case found damages against these common carriers for the loss of goods which had been destroyed by the common enemy of the country or by the United States forces. The law was clear as laid down in these cases. I do not suppose there is a gentleman who will dispute that declaration on my part, but the prejudice was so great on the part of local claimants against those who were non-residents of the community that there was an entire failure of justice. The amendment of the Senate proposes to transfer the trial of these causes before jurors summoned by an officer of the United States, in whose fidelity we can all have confidence. I do not expect there can be much objection to the proposition from the Senate, and I ask for a vote.

Mr. NIBLACK. I understand the difficulty to be in finding jurors. I ask the gentleman whether the same objection would not apply to the same class of men summoned in the United States courts?

Mr. THOMAS. I supposed the gentleman would see the full force of the remarks I made. When the marshal of the United States, an officer of the whole people of the United States, is to summon jurors to try these cases, we take it for granted that he will select that class who will do justice to all parties, whether resident or non-resident. This is to transfer the selecting power from the local sheriff to an officer of the Government of the United States.

Mr. NIBLACK. I think this but obviates part of the objection, if it is to be referred to the mass of the people.

Mr. THOMAS. I object more particularly to the jurors being selected by the local sheriff, who is himself dependent upon the class from whom the jurors are taken for his position. But sir, this bill is justified upon higher ground. Non-residents under the Constitution of the United States have a right to a trial in courts of the United States in cases where they are concerned.

I will yield to the gentleman from Pennsylvania, who moved this bill originally and had it referred to the Committee on the Judiciary.

Mr. WOODWARD. I rose to ask the gentleman a question, and not to engage in this discussion at all. I wish to know whether the bill from the Senate includes the substance of the provisions of the bill passed by the House?

Mr. THOMAS. I have explained that already, but I see that I will have to occupy more time than I intended. There were three bills before the Judiciary Committee of the House; one offered by myself, one by the gentleman from Pennsylvania, and one by the gentleman from Illinois, the chairman of the Committee on Roads and Canals. Each one of those bills had its origin in special complaints of the unjust action of jurors in the South; and the Judiciary Committee reported a bill covering the whole ground of those three propositions. The Senate have thought proper to strike out the House bill, to strike out the provisions introduced by myself and the gentleman from Illinois, and to present in lieu of them the bill presented by the gentleman from Pennsylvania. Such I understand to be the state of the case.

Mr. WOODWARD. Mr. Speaker, I wish merely to say that I offered the bill to which

the gentleman from Maryland has alluded at the instance of the business agent of the largest express company in this country, who represented to me that they labor under the greatest possible embarrassment for the reason that they cannot get justice done them in the local courts, arising out of the fact that the parties in interest belong to that class from which the jurors are selected. The remedy here provided is to give the marshal of the United States the selection of jurors, and to enlarge the circle from which they are drawn by the whole State or the whole judicial district. That is the philosophy of the amendment. It affords these carrying companies a better opportunity to get justice than they now have under local organizations.

Mr. NIBLACK. The objection I have to this sort of legislation is that it is a practical denial of justice to poor claimants. There is a large class of cases which, under existing laws can now be transferred to the United States courts. When these cases are taken from the State courts to the Federal courts a large majority of the plaintiffs, so far as my observation has gone, are unable to follow their cases to the Federal courts, and it amounts to their being compelled practically to abandon their suits. In most cases where Federal courts are held they are remote from the residences of those who are parties in these suits. It is so in my State, where we have but one district, and where the court is held at the capital. Therefore to compel these parties to follow their cases from the State courts to the Federal courts is, in effect, a practical denial of justice.

Mr. WOODWARD. There is a real evil here which ought to be remedied. These express companies have had their property destroyed, sometimes by rebels and sometimes by our own Army, and where they are sued for the recovery of this property they ought certainly to have the opportunity of having a fair trial. It is proposed to secure this result by enlarging the circle of those from whom the jurors are to be drawn, and by having the jurors drawn by a marshal of the United States instead of by a local sheriff.

Mr. BECK. I now ask the gentleman from Maryland to yield to me.

Mr. THOMAS. How long does the gentleman desire?

Mr. BECK. Five or ten minutes.

Mr. THOMAS. I yield to the gentleman from Kentucky for that length of time.

Mr. BECK. Mr. Speaker, I objected to the consideration of this bill when it was first offered by the gentleman from Maryland [Mr. THOMAS] because I thought then and think now that it is an unnecessary and improper interference with the jurisdiction of the courts of the several States, and, whether designedly or not, the tendency of all this class of legislation is to undermine the proper respect and influence which is not only due to but ought to be encouraged toward the State courts. The judicial power of the United States is by the Constitution limited to a very few classes of cases, a controversy between the citizen of a State and a corporation created by the Legislature of that State not being one of them. This power was so limited because the framers of that instrument intended that the courts of the States should be the dispensers of justice in all cases between their own citizens and the corporations of their own creation. The fact that this and kindred powers were reserved to the States was urged by Mr. Hamilton and the other advocates of a strong Federal Government as the surest bulwark against Federal encroachment on the rights and powers of the States. In the sixteenth number of the Federalist Mr. Hamilton says:

"There is one transcendent advantage belonging to the province of State governments which alone suffices to place the matter in a clear and satisfactory light. I mean the ordinary administration of criminal and civil justice. This, of all others, is the most powerful, most universal, and most attractive source of popular obedience and attachment. It is this which, being the immediate and visible guardian of life and property, having its benefits and its terrors in constant activity before the public eye, regulating

all those personal interests and familiar concerns to which the sensibility of individuals is more immediately awake, contributes more than any other circumstance to impress upon the minds of the people affection, esteem, and reverence toward the Government. This great current of society, which will diffuse itself almost wholly through the channels of the particular governments, independent of all other causes of influence, would insure them so decided an empire over their respective citizens as to render them at all times a complete counterpoise and not unfrequent dangerous rivals to the power of the Union."

I know, Mr. Speaker, that it has become fashionable here to scoff and deride all attempts to maintain or uphold State rights or State authority, and we are constantly legislating as though it was not only our right but our duty to break down not only the political but the judicial power of the States, reducing them to the same relation toward the Federal Government that the several counties in the States bear to the States themselves. This bill is of that class. The bill introduced in the Senate the other day to establish and maintain, against the will of the States, railroad corporations starting at Washington and ramifying the country in all directions is another, and perhaps the most dangerous yet suggested. The Niagara canal—which I favored till I found it was to be opened and maintained through the State of New York against the will and in spite of the protest of the State—is another; all palpably designed to convert this Union of States, this Republic of coequal sovereignties, into a great, consolidated, centralized despotism, for it can be nothing else when the local power and authority of the several States are overthrown, as we are now endeavoring to do.

And, sir, I confess the strangest thing to me in all this strange transformation of the Government is, that the statesmen of New England should assist in bringing it about; for it seems to me that it must be obvious to the most common comprehension—to any school-boy who can look ten years ahead with the map of the country before him—that population, commerce, and all the great channels of Asiatic trade are marching, moving, and opening up to the westward with a rapidity that astonishes while it convinces the most casual observer that the seat and center of empire will be in the valley of the Mississippi before those of us now in the prime of life are old men. What will protect and preserve the six New England States in their now almost omnipotent position but their rights as States under the Constitution? New York has to-day over a million more population than all six of them. Why should the three and a half millions of New England have twelve Senators in these Halls when the four and a half millions of New York have only two? Is that equality, is that impartial and equal representation? It will be asked, and will New England, when the question is pressed, shield herself under the now contemned claim of State rights and constitutional guarantees? I would say of course not, if I did not know that it makes a great difference whose ox is gored. But it is urged this is no new experiment, no dangerous precedent—it is a mere extension of the principles of former laws on this subject. I do not mean either to discuss or complain of the former legislation in this class of cases; it was, to say the least of it, of doubtful constitutionality. The disturbed condition of the country, the danger of the persecution of individuals while the passions of men were excited by the events of the war, might be pleaded in extenuation, if not in justification, of what would otherwise be unwise legislation; but to take advantage of it now and seek to extend it to mere local corporations—soulless things, the creatures and machinery of the States themselves, whose directors usually change once a year, so as to enable them when sued for negligence or willful misconduct in their own State courts to transfer all proceedings to the Federal courts, situated perhaps hundreds of miles from the venue of the offense charged, is a simple denial of justice except to those who are rich enough to enter into a contest and measure purses with, perhaps, a mam-

moth corporation. I know and every man in this House knows that the weak, poor, and ignorant are but too often denied justice by their inability to pursue their rights through all the vexations and delays of ordinary legal proceeding against a rich and powerful adversary, even under the most favorable circumstances, and it is unjust legislation that fosters and encourages expensive and protracted litigation, as this bill evidently proposes. This is an age of corporations and monopolies. They are even now controlling courts, Legislatures and Congresses, and their power and influence is increasing every day. I need not instance the influence of such corporations as the New York and Pennsylvania Central roads, the Union Pacific, and others, on the politics as well as the legislation of the country. It is enough to say that they are able to protect themselves in any court, and that we ought not further to deprive the poor and the humble from asserting just claims against them by increasing the delay and cost of litigation.

Mr. THOMAS. I have formed opinions upon the topics which the gentleman from Kentucky seems disposed to bring up for review before the House. I do not think the present the proper occasion for the enunciation of those opinions. I shall, therefore, forbear to make the slightest response whatever. The gentleman from Pennsylvania [Mr. WOODWARD] desires to say a few words in relation to this bill, and I yield the floor to him for five minutes. I will then call the previous question.

Mr. WOODWARD. Mr. Speaker, if this question was to be decided upon the principles alluded to by the gentleman from Kentucky [Mr. BECK] I sympathize so strongly with him in those political doctrines that I would vote against the bill as heartily as he would; but, sir, I think he has mistaken the occasion to which to apply the principles he has indicated. These transportation companies are made up of citizens of all the States; in point of fact, they carry goods all over the United States, and are common carriers for the whole country. Those composing them reside in different States. Now, under the Constitution of the United States, wherever litigation arises between citizens of different States the Federal courts have jurisdiction. This bill is in exact accordance with the theory of the Constitution, in so far as the common carriers and the parties suing them are citizens of different States, as practically in almost all instances they are. There is, then, no violation of State rights in passing this bill, nor is there any slight upon the State courts.

The complaint is not that the State courts do not administer the law; the difficulty is that jurors in State courts do not administer the facts, and this is a proposition to select jurors upon a somewhat more conservative and safe principle than that which prevails in the States, and that is the whole of the bill. There may be good reasons why it should not pass. I do not know how it would be with Indiana. The gentleman from Indiana [Mr. NIBLACK] said, if I understood him correctly, that the State of Indiana is one district, and the Federal courts remote from most suitors. The State of Pennsylvania is divided into two districts, and the Federal courts are accessible to all our people. They ought to be so everywhere. I do not think we should deny justice to men who have lost goods by compelling them to go to the Federal courts. We have compelled citizens to go to the Federal courts to redress their personal wrongs. We have a large number of statutes on our statute-book which authorize the removal of cases from the State to the Federal courts, and no great inconvenience has resulted from such legislation. I do not think the reasons for those statutes are stronger or better than the reasons for passing this bill. I do not think the removal of this class of cases from the State to the Federal courts is any more inconsistent with sound principles and the Constitution than the removal of those other cases. I am sure, from the testimony that I have had, that public

convenience and public justice would be greatly promoted by the passage of the bill which the Senate has sent to us; and as at present informed, and without controverting for a moment the principles advanced by the gentleman from Kentucky, I shall vote for the bill.

Mr. THOMAS. I will change my purpose and reiterate what I have said, as gentlemen intimate to me that a portion of the House have not heard how very limited and peculiar the provisions of this bill are. The bill is by no means comprehensive. It merely transfers from the State courts to the Federal courts a class of cases growing out of the late war and occurring during the war. As was remarked by the gentleman from Pennsylvania, [Mr. WOODWARD,] the stock in these railroad companies engaged as common carriers in the South is owned by citizens all over the Union, principally in the northern and western States, and when the cases come up for trial the local juries in the South are aware of this fact and they lean, perhaps unconsciously to themselves, to the side of their neighbors, and in defiance of well-established principles of law hold these companies responsible for losses which have occurred by the robbing of the express companies by the officers and soldiers of the Army of the United States or by reason of the seizure of articles *in transitu* by the armed enemies of the Government. Now, I put it to the fairness of the House if it is right to leave our citizens, non-residents of the South, at the mercy of local jurors? I ask the House if it is fair and right that stockholders who have expended large amounts of money for the convenience of the public in the South, by the organization of express companies and railroad companies, shall be held to trial in all cases before local and prejudiced juries? We do not propose to transfer these cases to a foreign jurisdiction. We propose simply to transfer them to a jurisdiction in which we ought all to have confidence. We propose to transfer them to the courts of the United States, where all will meet on common ground, and where, as has been justly remarked by the gentleman from Pennsylvania, [Mr. WOODWARD,] the juries are drawn from a larger area and are not supposed to be influenced by those local prejudices and predilections to which I have referred. Under the circumstances, this bill having been fairly presented to the House by gentlemen on both sides, I think I am justified in now calling the previous question.

The previous question was seconded and the main question ordered.

The question was upon concurring in the amendment of the Senate; and being taken, it was concurred in, upon a division—ayes 108, noes 22.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the amendment of the Senate was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CONTESTED ELECTIONS.

The next business on the Speaker's table were the amendments of the Senate to House bill No. 1558, to amend an act entitled "An act to prescribe the mode of obtaining evidences in cases of contested elections," approved February 19, 1851.

The amendments of the Senate were to strike out "register in bankruptcy" and to insert in lieu thereof "notary public" in line one; also in line two, to strike out "any" and to insert in lieu thereof the word "a."

Mr. DAWES. I move that the amendments of the Senate be non-concurred in, and that a committee of conference be asked on the disagreeing votes of the two Houses.

The motion was agreed to.

Mr. DAWES moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER subsequently appointed Mr. DAWES, Mr. McKEE, and Mr. CHANLER the conferees on the part of the House.

DENVER PACIFIC RAILWAY.

The next business on the Speaker's table was Senate bill No. 570, for a grant of land granting the right of way over the public lands to the Denver Pacific Railway and Telegraph Company, and for other purposes; which was taken up, and read a first and second time.

The question was upon ordering the bill to be read the third time.

Mr. PRICE. The Committee on the Pacific Railroad have had this bill informally under consideration, and have instructed me to have the bill put upon its passage and to offer the amendment which I send to the Clerk's desk.

The amendment was read, as follows:

Add to the bill the following:

SEC. —. *And be it further enacted*, That no subsidy in bonds shall be issued under this act for a greater length of road than fifty-four miles from the present completed terminus of the road. And nothing herein contained shall be so construed as to authorize the said Eastern Division Company to operate or fix the rates of tariff for the said Denver Pacific Railway and Telegraph Company.

Mr. MAYNARD. I would inquire of the Chair if this bill can properly be considered after the resolution passed yesterday on motion of the gentleman from Indiana, [Mr. HORTON?] Does not that resolution preclude the consideration of this bill?

The SPEAKER. That is argument to be addressed to the consideration of the House.

Mr. WASHBURN, of Illinois. With the consent of the gentleman from Iowa, [Mr. PRICE,] I would like to have some understanding in regard to this bill. There are several gentlemen who desire to speak upon it, and I am of that number. I have given this matter a little attention, and would like to know how long the debate upon it will be permitted to run. I understand the gentleman does not propose to call the previous question now, but will allow the bill to be debated at some length. During the debate I desire to have some time—a half or three quarters of an hour, or perhaps an hour.

Mr. PRICE. If the House is perfectly willing that this debate shall run on for, say, four hours, I shall have no objection. This being the first bill under consideration involving the question of subsidies to railways, either of land or bonds, we may as well have the contest on this bill as upon any other. I presume there will be no objection on the part of the House to let this discussion run for hours, a great many hours probably, until this subject has been fully and fairly discussed by every gentleman on this floor who wishes to be heard upon it. If it be in order to have such an understanding at this time, this is probably the best time to come to an understanding. I will then ask that four hours be given for the discussion of this bill, at such time as may best suit the convenience of the House.

The SPEAKER. Should this bill be now debated until the adjournment of to-day, and the House adjourn upon it, it will come up to-morrow as unfinished business immediately after the reading of the Journal, and there will be no morning hour.

Mr. FARNSWORTH. I hope no arrangement will be made by which the morning hour will be interfered with.

Mr. WILSON, of Iowa. Let there be unanimous consent, that if the bill goes over, it shall come up again after the morning hour.

The SPEAKER. The gentleman from Iowa asks unanimous consent, that if the House should adjourn upon the pending bill it shall not come up to-morrow till after the morning hour.

Mr. LYNCH. I object.

Mr. WASHBURN, of Illinois. I hope my friend from Maine [Mr. LYNCH] will withdraw his objection. His bill is in such a position that we can certainly reach it.

Mr. BARNES. If the gentleman from Maine withdraws his objection I shall be compelled to renew it.

Mr. WASHBURN, of Illinois. I suppose, Mr. Speaker, it will be in the power of the House to-morrow to postpone this bill till after the morning hour.

The SPEAKER. The Chair has ruled heretofore that the gentleman who may be in the possession of the floor when the House meets may, if he chooses, yield for a motion to postpone the pending bill till after the morning hour.

Mr. WASHBURN, of Illinois. If I should have the floor I will yield for such a motion.

Mr. BUTLER, of Massachusetts. So will I. Several MEMBERS. So will I. [Laughter.]

Mr. LYNCH. I withdraw my objection.

Mr. WELKER. I renew the objection.

Mr. BARNES. I am unwilling that any bill should have preference over that of the gentleman from Maine, [Mr. LYNCH.]

The SPEAKER. If the House should adjourn upon the bill now pending, it will remain the unfinished business, and will in the morning have priority of all other business, including the business of the morning hour.

Mr. BARNES. Upon the suggestion of gentlemen around me, I withdraw my objection.

Mr. WELKER. I will withdraw my objection also if the gentleman from Iowa [Mr. PRICE] will allow me to offer an amendment, that it may be considered and discussed along with the bill.

Mr. PRICE. I have no objection in the world.

The SPEAKER. The Chair understands that it is ordered by unanimous consent that if this bill be pending at the adjournment it shall not come up to-morrow till after the morning hour.

Mr. WELKER. I offer the following amendment, and ask that it be printed with the bill:

Strike out in section two, line six, after the word "miles" the words, "which point shall be held and construed under existing laws to be at or near Cheyenne Wells in Colorado, and not further west than the meridian of said Wells."

The SPEAKER. This not being an amendment to the pending amendment, it is not in order under the rules; but if there is no objection it will be entertained, and will be ordered to be printed.

There was no objection.

Mr. RANDALL. I desire to know whether it is in order for me to make a motion that this bill be printed by to-morrow morning. It is a very important bill.

The SPEAKER. If there be no objection the bill with the amendments which may be pending at the adjournment will be ordered to be printed.

There was no objection.

Mr. PRICE. I yield to the gentleman from Ohio, [Mr. LAWRENCE,] that he may offer an amendment.

Mr. LAWRENCE, of Ohio. I move to amend by adding the following as a new section:

And be it further enacted, That all lands which may be granted or conveyed under or by virtue of this act or the acts relating to said railroad company, shall be sold only to actual settlers in quantities not exceeding one quarter section to any one person, and at a price not exceeding \$2 50 an acre; and the Secretary of the Interior shall have power to prescribe rules and regulations for carrying this section into effect.

The SPEAKER. This amendment, if there be no objection, will be regarded as pending as an amendment to the amendment, and will be ordered to be printed.

There was no objection.

Mr. WASHBURN, of Illinois. I propose that, by unanimous consent, all gentlemen who desire to offer amendments may send them to the Clerk's desk and have them printed.

Mr. WILSON, of Iowa. I object.

Mr. PRICE. I yield to the gentleman from Indiana, [Mr. JULIAN,] that he may offer an amendment.

Mr. JULIAN. I move to amend by adding to the first section the following:

Provided, That the lands granted and hereby applied to the Union Pacific railway, eastern division, and to the Denver Pacific railway from Cheyenne to the point of intersection with the Union Pacific railway shall be sold to actual settlers only, in quantities not greater than one hundred and sixty acres to one purchaser, and for a price not exceeding \$2 50 per acre.

The SPEAKER. Is there objection to allowing this amendment to be offered?

Mr. BOYDEN. I object.

Mr. LOGAN. I have two amendments which I desire to offer to this bill, and which I ask, by unanimous consent, may be considered as pending. I ask the Clerk to read them.

The Clerk read as follows:

Insert in line six, after the word "Cheyenne," section one, the following:

That all lands heretofore granted to aid in the construction of said road, along that portion now unfinished, shall be subject to entry at the Government Land Office at \$2 50 per acre, the money to be deposited in the Treasury of the United States as a sinking fund for the redemption or purchase of the bonds of said company, so far as the same will pay for or purchase said bonds.

The second amendment is to add as follows:

That instead of an issue of the bonds of the United States the United States shall guaranty the interest on the bond of the said railroad company to the amount of — dollars per mile, and that in the event of said company failing to pay said interest at any time when due, the Government of the United States shall have the right to take possession of the said road, and shall use the same or dispose of it for the protection of the Government and those holding bonds of the same.

There was no objection; and it was ordered accordingly.

Mr. PRICE. I now yield to the gentleman from Ohio.

Mr. DELANO. I ask unanimous consent of the House to be permitted to offer an amendment to the last section of this bill in the nature of a proviso so that it may be pending with the other amendments which have been offered.

The Clerk read the proviso, as follows:

Provided, That no subsidy in bonds under this act shall be issued to the Union Pacific Railroad Company, eastern division, until said company shall furnish evidence to the President of the United States which satisfies him that said company will, within — years from the passage of this act, complete their road by way of Denver, forming a connection with the Union Pacific railroad near Cheyenne by the shortest and most practicable route from the point to which said road is already finished.

There was no objection; and it was ordered accordingly.

Mr. SCOTFIELD. I should like to know whether the bill is anywhere in sight after all those amendments.

The SPEAKER. The Chair supposes it is at the Clerk's desk, and therefore in sight.

Mr. PRICE. Mr. Speaker, as I have already stated, I have reported this bill from the committee with certain amendments, and I shall ask for the action of the House upon it at the earliest practicable moment. I do not propose myself to consume more than a few moments in its discussion. Now, two years ago, when this Union Pacific railroad, eastern division, asked to diverge from the line it was required to follow by the original charter, I attempted in this House to interpose objection; but the previous question was called and seconded, and I was unable to say one word in opposition to it. The House, to my utter astonishment, suspended the rules by a two-thirds vote, and allowed this road to go where it goes to-day. I am opposed to this bill to-day, and hope that it will not pass; but I am instructed by the committee to which it was referred to report it back to this House, and to move that it be put on its passage. Still, while I report it to the House, and move it be put on its passage, I want it to be distinctly understood that I am opposed to it. I must say, however, in justice to the bill, that there is at least one good feature in it. The men of Denver who are building a connection with the Union Pacific railroad, and doing it with their own money, ask for the grant of lands to the Union Pacific railroad, eastern division, for that purpose, but they do not ask for any subsidy. The item of subsidy in the bill was placed there in the Senate, as I am informed, and not at the suggestion of those interested in the Denver road. It comes in as a sort of "double-ender." A friend near me suggests that we ought to take off one end. If we strike off the subsidy this bill will then secure the construction of one hundred and ten miles of road without a subsidy; but as this bill does grant a subsidy, it is in that respect exceedingly objectionable, and I am, therefore, of the opinion that it ought not to pass.

In compliance with my promise I now yield

to the gentleman from Pennsylvania, one of my colleagues on the committee.

Mr. COVODE. As the gentleman from Illinois wishes to be heard, I propose to yield to him for that purpose; but before doing so there is a question which I would like to have settled as to who shall control this bill hereafter, whether it shall be its friends or its enemies. The chairman of the committee who has reported the bill has given us full notice that he intends to vote against it. I want to know whether he yields the floor to me unconditionally or whether he still expects to control the bill and to try to defeat it? Is he to carry out the instructions of the committee and endeavor to have the bill passed, or is he to hold on to its control for the purpose of defeating it? That is a question which ought to be settled at once.

The SPEAKER. The Chair will answer the gentleman. By the parliamentary rule a bill should be taken charge of by one of its friends. The Chair was informed that the Committee on the Pacific Railroad had instructed its chairman to take charge of this, and therefore he recognized the gentleman from Iowa, [Mr. PRICE.] The Chair will add that the bill not having been reported from a committee, when the hour of the gentleman from Iowa expires he surrenders the floor and is not entitled to an additional hour to close debate. The debate, therefore, will go on in alternation as long as the House sees fit to extend it; that is, one speech for and one against the bill alternately. Any gentleman in favor of the bill obtaining the floor can demand the previous question, and any gentleman opposed to it can move to lay it on the table while speaking during his hour.

Mr. PRICE. It is proper and just to myself that I should say that I was aware, as I presume every gentleman on the floor is aware, that a bill is expected to be reported by its friends, and taken charge of and advocated by them. Now, my colleagues on the committee will bear me testimony that I told them they had better place the bill in charge of some other member of the committee, but at two several times on different days the committee said they preferred I should take charge of it, just as I have done, and make my statement just as I have done. There is no member of the committee who will not corroborate my statement.

Mr. COVODE. The gentleman from Iowa [Mr. PRICE] having surrendered the floor, I now take it, and yield to the gentleman from Illinois, [Mr. WASHBURN.]

Mr. VAN TRUMP. Before the gentleman from Illinois commences, I would like to know how the matter stands. Has the House fixed four hours for debate on this bill?

The SPEAKER. It has not.

Mr. VAN TRUMP. Will not the chairman of the committee be entitled to one hour?

The SPEAKER. He will not; he has surrendered the floor entirely.

Mr. VAN TRUMP. Surrendered it to gentlemen outside of the committee?

The SPEAKER. The gentleman from Illinois has the floor.

Mr. VAN TRUMP. As a member of the committee I wish to be heard.

Mr. COVODE. I think the time mentioned was four hours.

The SPEAKER. No time was fixed by the House. This bill is entitled to precedence to the exclusion of all other business, except the morning hour, until disposed of.

Mr. WASHBURN, of Illinois. I would be very thankful, Mr. Speaker, if I could obtain the attention of members of the House to a few remarks which I wish to submit upon this subject. I know I trespass too often and too long upon its attention, but I do it reluctantly, and I never address the House unless I feel impelled to do it under a sense of public duty.

The consideration of the bill before the House, Mr. Speaker, opens up the whole discussion of the question of land grants and subsidies to build railroads. In the observations I pro-

pose to submit it will be impossible for me to analyze the legislation of Congress upon this subject for the past fifteen or eighteen years. I must therefore content myself by simply calling the attention of the House to the fact that nearly one third of the entire public domain has been made over to the control of railroad corporations. The number of acres granted for railroad purposes is estimated at one hundred and eighty-five millions. At the minimum price for the public land, \$1 25 an acre, this amounts to more than two hundred and thirty-one million dollars. But this is by no means the real value of the lands granted away. While a very considerable portion of this land may not be really worth the minimum price of the Government, taking it altogether it is worth a great deal more. A great deal of it is worth \$2 50 an acre. A less quantity, though a very large quantity, is worth five dollars an acre. Tens of millions are worth ten dollars an acre, and millions are worth from ten to twenty dollars an acre. It is therefore not an overestimate to say that the value of public land voted away by Congress in the last eighteen years has not been less than \$500,000,000. And as to the quantity of lands conveyed by these grants I ask the attention of the House to one of the reports of the Commissioner of the General Land Office. He says it "is of empire extent, exceeding in the aggregate by more than five million acres the entire areas of the six New England States added to the surface of New York, New Jersey, Pennsylvania, Ohio, Delaware, Maryland, and Virginia." He says the grants to the Pacific railway lines alone "are within about a fourth of being twice the united area of England, Scotland, Wales, Ireland, Guernsey, Jersey, the Isle of Man, and the islands of the British seas, and within less than a tenth of being equal to the French empire proper."

This extraordinary statement must startle the American people, if it do not arouse their intensest indignation. And this is in addition to the untold millions of subsidies, to which I shall hereafter refer. When it is contemplated that this empire of the public land goes into the hands of gigantic corporations controlled by men thousands of miles away, who have neither interest nor sympathy with the people in the States and Territories where the land lies, and when you contemplate the vast power of these non-resident landholders, the overshadowing land monopoly created, the evils and oppressions always connected therewith, we must all be filled with amazement at the reckless and shameless legislation of Congress on this subject. I do not myself claim full exemption from blame in this regard, for I voted for some of the earlier bills. But when I saw the use that was being made of these grants, the brazen greed of speculators who obtained possession of them to use for their own interests, regardless of the public interests; when I looked beyond the present and saw looming up in the future the evils, the abuses, the corruptions, and the oppressions which would come out of these grants, my views in regard to the whole policy of land grants were very materially modified. And only a small band of members of this House resisted the passage of the act of July, 1864, amending the original Pacific railroad law—an act which swept away all the rights the Government had reserved to itself in the original bill, which subordinated its prior lien on the road to a railroad company; an act which I have heretofore denounced in this House, and one which will stand out in history as being more infamous than any act ever passed by any legislative body in the annals of the world. I say this deliberately. For under and by virtue of the provisions of that act the report of Jesse L. Williams, esq., the Government director of the Union Pacific Railroad Company, shows the following state of facts: that the entire length of the road will be eleven hundred and ten miles, and that the Government subsidy in bonds for that distance at par amounts to \$29,504,000, an average per mile of \$26,580. The company's first mortgage bonds are estimated at ninety-

two per cent., and would yield \$27,148,680. The fund realized by the company from these two sources amounts to \$56,647,680, being an average per mile of \$51,034, exceeding by \$16,056 68 the actual cost of constructing and fully equipping the road, and yielding a profit of more than \$17,500,000. And thus it will be seen that this Union Pacific Railroad Company will have, in addition to its vast empire of public land, a railroad eleven hundred and ten miles long, fully equipped, free of cost, and a surplus of \$17,750,000 put into the pockets of its directors. With the amount of the people's land voted to this company, with the amount of the people's money voted to this company sufficient to build the road, with the amount of \$17,750,000 in addition, generously voted into the already well-gorged pockets of its directors, the rates of fare and freight charged to the people over this road, built by their money, and \$17,750,000 thrown in, are oppressive and extortionate. A joint resolution passed this House at the last session, after a severe contest, limiting these rates of fare and freight, but that resolution now, I believe, "sleeps the sleep that knows no waking" in the Senate; and it further may be said that this company has not made a road, as required by law, "equal in all respects to a fully completed first-class railroad;" but, on the other hand, the commissioners appointed by the Interior Department last September to examine into the location, construction, and equipment of the road have reported that it will take \$6,489,550 to make it a first-class road.

As to subsidies in bonds which Congress has granted to railroads, the report of the Secretary of the Interior, made on the 30th of November, 1868, shows that bonds to the amount of \$44,337,000 had been issued to various railroad companies:

Union Pacific, 820 miles.....	\$20,238,000
Central Pacific of California, 380 miles.....	14,764,000
Union Pacific, eastern division, 393 3/4-1000 miles.....	6,303,000
Sioux City and Pacific, 691 miles.....	1,112,000
Western Pacific, 20 miles.....	320,000
Atchison and Pike's Peak, { 100.....	640,000
Central Branch, Union Pacific, { miles.....	960,000
1,798 1/2 miles, nearly.....	\$44,337,000

What additional amount is yet to be issued I have no means at hand to determine.

With these remarks on the general subject I now proceed to consider the bill before us. It is a bill with an innocent and harmless title, "for a grant of land, granting the right of way over the public lands to the Denver Pacific Railway and Telegraph Company, and for other purposes." In looking at the face of the bill with this title we are confused and bewildered as to what it really means; and it is only by traveling somewhat out of the record we arrive at its true scope and purpose. The Denver Pacific Railway and Telegraph Company, which is a company incorporated by the territorial Legislature of Colorado, is authorized to connect its road with the Union Pacific railroad at Cheyenne, and the Union Pacific railway, eastern division, at Denver," &c. And here is where the gazelle comes in: "and shall have a uniform gauge, rate of freight and fare, and charge for hauling of cars, and the privileges and immunities, except subsidy in bonds, and be subject to the obligations of the Union Pacific Railroad Company and its branches, and to aid in its construction shall have like grants of land, right of way, with like conditions, limitations, and privileges." Here is the absolute grant of land, right of way, &c., and who can tell the length of the road and the amount of land that the grant will cover? From the wording of this bill no man except an expert can tell. I had the bill submitted to the Commissioner of the General Land Office, and he reported that, "assuming the length of road at one hundred and ten miles, it is estimated that the grant will cover not less than one million acres." This estimate excludes lands disposed of and allows for fractional townships." There is therefore a mil-

lion acres of land granted away by the first section of the bill.

And we now come to the second section, which is disingenuous, dishonest, and intended to deceive. It provides, "that the Union Pacific Railroad Company, eastern division, may mortgage that part of its road between the point where its subsidy in bonds shall terminate and Denver City, together with its rolling-stock, to an amount not exceeding \$32,000 per mile." We may try to understand that. We understand where that "point" is where the subsidy in bonds terminates; and then the bill goes on to declare, not where the point now is, but where it "shall be held and construed under existing laws to be," to wit, "at or near Cheyenne Wells, in Colorado, and not further west than the meridian of said Wells." Now, what is intended to be accomplished, and what will be accomplished by this indirect and extraordinary wording of this section? By fixing the "point" where the subsidy in bonds shall terminate, at a point not further west than the meridian of Cheyenne Wells, gives an additional subsidy; and how many miles, and how much subsidy per mile, \$16,000 or \$32,000, who can tell? Even at the lowest rate, \$16,000 per mile, and the distance at fifty-two miles, it will be \$832,000, and if it should be construed that they will be entitled to \$32,000 per mile it will amount to \$1,664,000. This is assuming that it is to go in a direct line to Cheyenne Wells. But it will be seen that it is not confined to such direct line, for the section provides that the point shall not be "further west than the meridian of said Wells." This language makes the bill dishonest, for the road may diverge from a straight line, and go North or South, and increase the distance very much without going beyond that meridian, and thus enable the company to get a subsidy for a much greater distance than the straight line would give. If it were a perfectly honest and fair transaction why was it not stated specifically in the bill for how many miles the subsidy should be given and the rate per mile? What is the object of all this indirectness and circumlocution if not intended to deceive Congress?

But laying aside this whole question of the policy of granting lands and subsidies to railroads, let us consider what claim the company now before us seeking legislation has upon Congress. It is the Pacific Railroad Company, eastern division, which is the successor of the Leavenworth, Pawnee, and Western Railroad Company, which was chartered by the Border-Ruffian Legislature of Kansas Territory in 1855. Among leading corporators are William H. Russell, of the Floyd-Thompson trust fund defalcation notoriety of \$870,000, and Judge Lecompt, of the infamous "Lecompton constitution" notoriety. The company had the power to receive and hold donations of bonds or lands to be given them by any State or the United States. Knowing the immense value of the trust lands of the Delaware tribe of Indians, through which the railroad was to pass, the company procured the making and ratification of an extraordinary treaty in 1860, by which it was provided that the said company should have the exclusive authority to purchase such of their lands as were not reserved and set apart for special objects at a valuation not below the sum of \$1 25 per acre. This land was mostly rich timber bottoms, and worth from ten to fifty dollars per acre. Being thus chartered, and having obtained the extraordinary privilege of purchasing the land under the treaty, when in 1862 Congress acted upon the subject of a Pacific railroad this Leavenworth and Pawnee company had influence enough to thrust the following section in the bill to aid the construction of a railroad, approved July 1, 1862. The ninth section of that law provided:

"That the Leavenworth, Pawnee and Western Railroad Company of Kansas are hereby authorized to construct a railroad and telegraph line from the Missouri river, at the mouth of the Kansas river, on the south side thereof, so as to connect with the Pacific railroad of Missouri, to the aforesaid point, on

the one hundredth meridian of longitude west from Greenwich, as herein provided, upon the same terms and conditions in all respects as are provided in this act for the construction of the railroad and telegraph line first mentioned, and to meet and connect with the same at the meridian of longitude aforesaid."

Thus it will be observed what was done by one short section of the law for a private railroad corporation, chartered by a border-ruffian Legislature. Granting to the said border-ruffian company the same privileges, lands, and bonds for a certain distance as were granted to the company chartered by Congress, reserving no rights to the United States, not even the privilege of appointing commissioners or directors to look after the interests of the United States, and no such right was had until the passage of the law July 8, 1864. Having become tired of the old border-ruffian name of the corporation—the Leavenworth, Pawnee, and Western Railroad Company—in 1864 Congress changed the name to "Union Pacific Railroad Company, eastern division." I have no time to go into the extraordinary and disreputable operations of this border-ruffian railroad; the litigation, the wranglings and fights of different rings and companies who were all endeavoring to enrich themselves out of these stupendous grants of the people's lands and money to this railroad corporation; the use of the United States troops to drive off one set of claimants for the benefit of another, and the killing of Hallet, the man at whose instance the troops had been called out. Indeed the question is now pending in the courts, as I understand, as to which is the real company entitled to the congressional subsidy. And it may be well to inquire before we act whether the company that is now lobbying the bill through is not in reality a bogus concern. This House has official knowledge of this dispute through a memorial of a citizen of the United States duly sworn to, and which has been considered by the Committee on the Judiciary of the House. As the committee have determined that the quarrel does not affect the interests of the United States, the whole matter is left to be adjudicated by the courts. It may be added, however, that this memorial charges that the company which this bill is to benefit is a spurious organization, representing possession only, and that forcibly and unlawfully obtained, while the other company represents the real stockholding interest.

But setting aside all question in dispute between the two companies, let us see in what condition the company is which now claims the additional subsidy, and with what face it can come in and demand anything further from Congress. What is the claim of justice or right in the premises? what has this railroad company, which now comes here and asks us for this additional subsidy, already received from the Government? It is a startling exhibit, and I demand that it shall be well considered before this bill passes. In the first place it subordinated the Government mortgage for \$6,303,000 to its own mortgage, and in the second place it has received as an actual subsidy in United States bonds the same amount of \$6,303,000. Now, how much subsidy has it received in land? It has received in land subsidy twenty miles on each side of the road, alternate sections, making seven million six hundred and eighty thousand acres. Here are the number of acres of land. Now, as to its quality and value I propose to let the company speak through its own advertisement, a copy of which I hold in my hand, and which I beg leave to have read at the Clerk's table, and to which I wish to call particular attention of members of the House:

"The Union Pacific Railway Company, eastern division, are now offering for sale two million acres of land in the most fertile and productive portion of the State of Kansas, comprising some two hundred and fifty thousand acres situated in the valley of the Kaw or Kansas river, known as the Delaware Indian reserve, together with some three hundred thousand acres of congressional lands. The above lands lie east of Fort Riley. The company have also more than a million and a half acres of land for sale west of Fort Riley, in the rich valleys of the Smoky Hill, the Solomon, and Saline rivers. These lands are unsurpassed for fertility. The soil is black loam from two to three feet in depth, and are all conven-

ient to railroad communication, lying for twenty miles on each side of the great highway of travel to the Pacific ocean. In the list of grain and stock-growing States Kansas stands preëminently first. The mildness and evenness of its climate renders stock-raising both easy and remunerative. Cattle graze for eight months of the year, and the extensive prairies afford an unlimited supply of winter provender without the labor of cultivation. Corn-planting may be commenced during the months of April, May, and June. Winter wheat, owing to the absence of frosts, matures in June, and the average yield is thirty bushels per acre. Corn yields from fifty to one hundred bushels per acre, dependent on the manner in which it is worked. Small fruits are grown to great advantage. Peaches, pears, apples, plums, and grapes very rarely fail to produce abundantly. The culture of the grape is easy, and winemaking will in the future be one of the most lucrative pursuits. There is an abundance of pure water for farm and other purposes. The eastern part of the State is particularly well watered, with constant streams. Springs are numerous, and where they are wanting good water can be obtained by digging from fifteen to thirty feet. The valley of the Saline river is rich in salt springs, and several companies are already manufacturing salt for eastern markets.

Timber.—There is an abundant supply of timber in the eastern part of the State, consisting of oak, walnut, hackberry, elm, and hickory, and groves of cottonwood and some hard wood are found along all the streams west of Fort Riley. All native timber grows readily on the prairie wherever the annual fires are prevented. Hedges of Osage orange are easily and successfully cultivated.

Building Materials.—The finest quality of limestone for building purposes is found throughout the State of Kansas, and crops out in the bluffs along the valleys of all the rivers. Sandstone is also found in many places. Timber is supplied by numerous saw-mills in successful operation along the line of the road.

Coal.—A stratum of coal underlies the entire eastern portion of the State, cropping out along the various streams in seams of from eighteen to twenty inches. A vein some six feet thick has been reached by borings at Fort Leavenworth. Veins of greater thickness occur near Fort Scott, and in the Sac and Fox lands. New deposits are constantly being discovered.

This is the description and value of the land which Congress has granted away to this company, given by the company. The character of the climate, its adaptation to grazing, the adaptation of the soil for winter wheat, where the average yield is thirty bushels per acre, and the average yield of corn is from fifty to one hundred bushels per acre, and where the small fruits are grown to advantage, and where the culture of the grape is easy, and where the making of wine, in contempt of the Maine law, is in the future to be "one of the most lucrative pursuits;" and then there is the "abundance of pure water," to say nothing of the rich salt springs, where salt is already being "manufactured for the eastern markets;" and then there is the timber and the building materials and the coal, with the declaration touching the climate of Kansas as being remarkably healthful; where there are no prevailing diseases, and consumption is almost unknown; and where the common schools are endowed with large tracts of land, and the educational facilities are good. The price fixed by the company for these lands is from one to five dollars per acre. Under this statement what should these lands be fairly and justly estimated at? It certainly cannot be deemed extravagant to average them at three dollars per acre, which is the average of the price fixed by the company. At that price, therefore, the value of the land granted to the company would be \$23,240,000.

Recapitulation.

United States bonds subsidy.....	\$6,303,000
Land subsidy, worth.....	23,240,000
Privilege of subordinating first mortgage bonds.....	6,303,000
Total aid.....	\$35,846,000

This amount of \$35,846,000 is what this company has received for building a railroad four hundred miles in length, which is represented as being one of the easiest and cheapest ever constructed in America, and which is equal to \$89,615 per mile. Putting the cost of the road at the highest possible estimate, \$30,000 per mile, it would leave a net profit to the company of \$59,615 per mile, which for four hundred miles would give to the company \$23,846,000; or, in other words, the company will have its road built by the Government, and the land subsidy, worth between

twenty-three and twenty-four million dollars, thrown in.

And now for the further inquiry, what kind of a road did Congress require should be built in return for this magnificent grant? It was to be a road "equal in all respects to a fully completed first-class railroad." Has such a road been built, and if not, has the Government been honest enough and vigilant enough to keep back a sufficient amount of the subsidy to make such a road as the law requires? We have some official information on this subject in a report made in December last to the Secretary of the Interior by General Warren, of the United States Army, and Mr. Blickensderfer, special commissioners appointed by the Secretary of the Interior to examine this road. I have the report of these commissioners in my hand. These commissioners seem to have performed their duties faithfully and fearlessly, and their report is a very interesting one. After some general observations on the location of the road, the commissioners proceed to say:

"In the details of the location there is too much curvature; the grade is generally laid too near the ground, and follows too closely the undulations of the natural surface. A little cutting at the high points and filling at the low ones, slight changes in the location and a little more work, would have easily kept down the grades along the Kaw river to thirty feet per mile, which grade should not have been exceeded on this part of the road. Cheapness of first construction seems to have been the ruling idea, although it seems as if in some places a better road could have been secured without increased expense. What is best to be done to the road depends very much, west of Salina, upon what is to be the future western terminus and destination. If the road is to be extended to form a line reaching to the settlements at the base of the mountains or to be part of a through line to the Pacific, much of its location requires a thorough overhauling, and parts of it probably must be abandoned. To reduce the grades west of Salina to thirty feet per mile in the present location would require a very considerable outlay; but in case the road should ever have a first-class business this reduction is so desirable that it might be well worth examining whether to obtain it the location should not be changed so as to keep in the valley of the Smoky Hill, even at the disadvantage of increasing the distance, or in some other way avoiding the objection to the present line. Had the route been designed originally to reach the valley of the Arkansas, the course of the lower portion of the bend in the Smoky Hill fork appears favorable for so doing, and the attainment of low grades might have not been at any material sacrifice of distance. To determine intelligently all the questions involved in the location west of Salina, on the supposition that the road is to be extended, requires extended surveys and much information not within our reach, and we have, therefore, confined ourselves to a consideration of the road located as it is in making our estimates for completing it. If, however, the western terminus of the road is to remain where it is it might be questionable propriety to expend much upon it, unless it be to reduce the higher grades to sixty feet per mile, and thus make that the ruling grade on this part of the line, and, by slight changes in the location at some points, to reduce the curvature.

"East of Salina, however, no question of western terminus will in any wise affect the location, and changes with a view of improving the grades and alignment may be made with entire confidence that whatever be the ultimate termination of the road the full commercial value of the outlay will be realized. Some very objectionable grades, as high as seventy-two feet per mile, and some unnecessary curves occur on this part of the line, and changes should be made so as to diminish the curvature and secure the easy ruling grade of thirty feet per mile. The line can be shortened two and a half miles opposite Lawrence, and three-fourths of a mile opposite Topeka, by continuing the road direct along the bottom lands and cutting off the detours made to reach the stations opposite these places.

"**Road-bed.**—The road-bed was designed to be thirteen feet wide on embankments and fifteen feet wide in the cuts, but it often falls short of these dimensions. The embankments are generally too narrow, and will require widening before ballast can be properly supplied, and having mostly been built without leaving any berm this widening will require more labor than would otherwise have been necessary, as the existing ditches will have to be filled up and new ones made. The banks should be increased in width to a minimum of fourteen feet on top, and the cuts to sixteen feet at the bottom. There are on the whole line about seventy-five miles of cuts of different depths.

"**Track-laying and ballast.**—The track has been laid on the bare road-bed, without having the latter previously prepared by a covering of ballast to receive it. The fastenings are the old style wrought-iron chair, now almost universally discarded for either the fish-joint or for an improved chair of greater strength and bearing surface. On curves the rails were not bent to conform with the curve. With these exceptions the track appears to have been well laid, but from want of ballasting material its surface has not been well maintained. With a few slight exceptions there is no ballast on the road, and from

the nature of the material constituting the road-bed full ballast will be required on the whole line, and the material for it is exceedingly scarce, and must in most cases be transported a considerable distance. This will make it expensive to ballast this line, more so than roads in general."

The commissioners then proceed to an estimate of the probable expenditure which will be required to render the four hundred and five miles already built "equal to a fully completed first-class railroad." It is made on the supposition that the road is to be extended and opened for through traffic to the Pacific coast, and exhibits the expenditures required for labor on the four hundred and five miles they examined and for the equipment required to work this part of the line. I omit the details, but give the total amount which the said commissioners find is necessary to make the road "equal to a fully completed first-class railroad," and that amount is \$3,652,500, and, as I understand it, there has been no subsidy reserved and the Government has now no means whatever to compel the said company to conform to the requirements of the law touching the construction of its road. And yet we have it proposed here by the provisions of this bill to give a subsidy of nearly one million dollars, if not more than one million six hundred thousand dollars, in addition to the enormous subsidies already granted by Congress and to which I have so fully referred. Can it be possible that anything more is wanted than the facts which have been shown to secure the unanimous rejection of this bill?

I have not gone into the scandals connected with the management of this road; I have not brought to the attention of the House its extortions upon the public through its oppressive rates of fare and freight, its contempt of the rights of the people of Kansas, and the mixing up of its directors with contracts for building the road. I will read to the House a statement which I hold in my hand, made by two well-known and responsible citizens of Lawrence, Kansas, who sign their names to the statement:

"An examination of the contract for the building of the Northern Pacific railway of Kansas shows that the interests of the company have been disregarded. The contractors are required to build a road that will be accepted by the United States commissioners. This road is constructed along the bank of the Kansas river. There is scarcely any excavation or embankment, and but little bridging. The contractors were allowed to select the route subject to the approval of the company's engineer, who was himself interested in the contract. The result is that a circuitous route has been selected, and obstacles have been avoided rather than surmounted.

"The cash cost to the contractors of the two hundred miles next west of Lawrence has been \$18,000 per mile, for which the contractors have received as follows, per mile:

First mortgage bonds (gold interest).....	\$16,000
Government bonds.....	10,000
Land bonds or income.....	10,000
Stock of the company.....	8,000

"If one asks, why did the directors of the company make such a contract? the answer is this: All the directors have a share in the contract. Three of them belong to the firm of contractors by name, while the others had sufficient sense of shame to be represented by an *alias*. One of the two 'managing directors' of the corporation is the largest owner in the firm of contractors.

"Of course the interests of the Government have suffered. The contractors have amused fortunes at the expense of the corporation and of the corporation creditors. The road is now bankrupt. Its first mortgage bonds were offered to us last September at eighty-one cents. They have since been bought at seventy cents. The road has been operated in such a way by the contractors or directors that its income has not been sufficient to pay the interest on its first mortgage bonds. These contractors or directors have advanced the money necessary to meet the accruing interest in order to prevent an exposure of their management until they shall have obtained the new subsidies. When these subsidies shall have been secured the first mortgage bondholders will take the road, and the Government security will be gone.

"Every dollar loaned by the United States is in reality given—for the security is worthless—and given to these contractors. Shall the Government loan millions to a company that has no property, no credit, and whose first mortgage is at a discount of one fourth?"

"H. M. SIMPSON,
"S. H. SIMPSON,
"Lawrence, Kansas."

I will detain the House no longer. I should not have taken up as much time as I have upon this bill had it not been for the fact that it is the pioneer bill of the session, and that the House is to determine by its vote on the bill

what is to be its policy on the subject of other land grants and subsidies to railroads. If we pass this bill with all its enormities we ignore the demands of the country upon us and give an emphatic sanction to other projects which are lying in wait, involving some two hundred million dollars, to aid in the construction of some ten thousand miles of railroad. Lest this might be considered an exaggerated statement, I beg leave to refer to a resolution of what has been called the "Middle-Men's National Convention," which was recently held in Cincinnati:

"Resolved, That this national convention earnestly urges upon Congress the patriotic duty of granting immediate and adequate aid to perfect our system of Pacific railroads. First, by the extension of the southwestern line of the Kansas branch of the Pacific railroad from its present terminus, on the great plains, nearly seven hundred miles from St. Louis, to a point in New Mexico, on or near the thirty-fifth parallel; the construction of the Atlantic and Pacific railroad from Fort Smith westward through the Indian territory and northern Texas to the said point in New Mexico, at the base of the Rocky mountains; the construction of a line by the Southern Pacific railway of Texas, from Marshall, Texas, by way of the Red river, to a proper point on the Canadian river, to connect with the above road; the construction of a trunk line of railroad through New Mexico, Arizona and southern California, in the general route of the thirty-fifth parallel, to the Pacific; that these roads are demanded in view of the climate, the fertility, and mineral wealth of the country traversed, the protection of settlements in the new Territories, and in view of the commercial necessity of those parts of the United States, the South thereby being put into the best communication with our mineral territories and the Pacific ocean by the proposed extension of their railroad system westward from Memphis, Arkansas, Mississippi, and Louisiana, and the middle and western States being afforded a short connection, through a mild climate, with the Pacific and the mines of southern Colorado, New Mexico, Arizona, the northern waters of old Mexico and southern California, by the extension of the lines from Kansas, the construction from Lake Superior to Puget's sound of the Northern Pacific railroad, already chartered by the Government, which will give a short line of connection between the East and the northern Pacific coast. These lines, in connection with the Union Pacific and Central Pacific railroads, will form a complete system of Pacific railroads, all entitled to national aid."

In quoting this resolution I "hold the mirror up to nature" that we may be instructed in our "patriotic duty" of taking advantage of our position as Representatives of the people to vote away their patrimony for the benefit of monster corporations. And I beg leave to advert to an incident in the convention of those patriotic gentlemen in Cincinnati who were graciously pleased to instruct Congress touching its duties. The Associated Press told us that the Western Union Telegraph Company had placed their lines at the disposal of the members of the convention to telegraph to their families during its session. And when a resolution favoring the principle of uniting the telegraph with the postal system, and looking to the greatest reform of the century, and one in which the masses of the people were intensely interested, and which would reduce to them the price of telegraphing at least seventy-five per cent. and still give a revenue to the Government, was introduced, that resolution was voted down by the convention. Two hundred millions for the benefit of corporations, speculators, lobbyists, and adventurers, and a pestiferous monopoly to be perpetuated which is robbing the public of \$10,000,000 a year. Was there ever a more cruel sarcasm?

Mr. COVODE obtained the floor, but yielded it to

Mr. CULLOM, who moved that the House adjourn.

The motion was agreed to; and thereupon (at four o'clock and fifty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. ALLISON: A memorial on the improvement of the navigation of Wisconsin and Fox rivers, submitted by the canal convention held at Prairie Du Chien, in the State of Wisconsin, November 10, 1868, and the proceedings of the convention.

By Mr. ARNELL: The petition of J. M. Hickey, of Columbia, Tennessee, for relief from political disabilities.

By Mr. BURLIGH: A memorial of the Legislative Assembly of Dakota Territory, praying for grant of land to the Minnesota and Missouri River Railroad Company to aid in the construction of a railroad from the State of Minnesota to the Missouri river at Yankton.

Also, a memorial from the Legislative Assembly of the same Territory, praying for the extension of the Sioux City and Pacific railroad to Yankton, Dakota Territory.

By Mr. CABY: The petition of Samuel Cray, for relief for services as wagon-master during the late war.

By Mr. CLEVER: A memorial of the Legislative Assembly of the Territory of New Mexico, asking for Government aid in the construction of the Union Pacific railroad, eastern division.

By Mr. GARFIELD: A petition of citizens of Jefferson, Ohio, for the extension of the piers at Ashtabula harbor.

Also, a petition of citizens of Ashtabula county, Ohio, for a change in the naturalization laws.

By Mr. GRAVELY: The petition of James F. Johnson, of Bedford county, Virginia, for relief from disabilities.

By Mr. JUDD: The memorial of Mrs. Laura Marshall, asking compensation for the services of her grandfather, Thomas Hoyt, in the war of the Revolution.

By Mr. HUMPHREY: The petition of George Parr and others, manufacturers of Buffalo, New York, for a reduction of the duties on foreign steel.

By Mr. JONES, of Kentucky: Memorial and petition of the copper distillers in the sixth district of Kentucky, for the repeal or modification of certain sections of the internal revenue law.

By Mr. MOORE: The petition of masters and owners of Bridgeton, New Jersey, praying for the intervention of Congress to protect all engaged in navigation from illegal exactions by States and municipal corporations.

Also, a petition of senators and members of Assembly of the New Jersey Legislature, representing that by reason of the encroachment of the sea the valuable harbor at Absecon inlet is in great danger of being destroyed, together with valuable property, including the light-house and other Government property.

By Mr. NIBLACK: The petition of Jane Willis, mother of Maxwell Willis, late a private of company F, eleventh regiment of Indiana cavalry volunteers, praying for a pension.

By Mr. O'NEILL: A memorial of Clarissa Huhn, of Philadelphia, Pennsylvania, for a pension.

By Mr. PAINE: The petition of J. I. Case and others, of Racine, Wisconsin, for certain legislation therein indicated.

By Mr. PHELPS: The petition of Charles D. De Ford & Co. and others, tobacco manufacturers of Baltimore, for such modifications of the tax law as will protect manufactured tobacco from double taxation.

Also, the petition of Gail & Ax and others, to the same effect.

Also, the petition of C. L. Keyworth and others, to the same effect.

Also, the petition of J. Rudolph and others, to the same effect.

By Mr. ROSS: The petition of F. H. Hill, of Virginia, asking a removal of disabilities.

By Mr. SAWYER: The petition of Elijah Durfee, asking for pension for services in the war of 1812.

By Mr. TAFTE: The petition of Smith, Sheldon & Forbes, asking indemnity for property seized and appropriated by the military authorities of Arizona.

By Mr. VAN WYCK: The petition of citizens of Schoharie county, New York, asking that the pension laws be so amended that all pensions shall be allowed from the date the right accrued when application shall be made

for the same within seven years from the time said right accrued.

By Mr. WHITTEMORE: The petition of J. E. Hagood, of Pickens Court House, South Carolina, praying for remuneration for services as assistant assessor of internal revenue, of twenty-fourth division, third district of South Carolina.

Also, the petition of Mrs. Nancy Weeks, of Georgia, widow of Francis Weeks, ensign in the revolutionary war, for arrears of pension.

By Mr. WOOD: The remonstrance of merchants and others of Albany, New York, against additional duty on steel.

IN SENATE.

WEDNESDAY, January 20, 1869.

Prayer by Rev. W. C. VAN METER, superintendent of the Howard Mission and Home for Little Wanderers, New York.

The Journal of yesterday was partly read; and, on the motion of Mr. CONKLING, its further reading was dispensed with.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented the memorial of the Williston and Arms Manufacturing Company, of Northampton, Massachusetts, praying a specific duty on all tapes, webbings, and bindings made of cotton or linen; which was referred to the Committee on Finance.

He also presented the memorial of the Chamber of Commerce of Milwaukee, Wisconsin, against any extension of the section of the bankrupt law known as the fifty per cent. provision; which was referred to the Committee on the Judiciary.

He also presented resolutions of the constitutional convention of Texas, in favor of making a treaty with the Indians on the southwestern frontiers of that State; which was referred to the Committee on Indian Affairs.

Mr. CONKLING presented a petition of merchants and dealers in distilled spirits in the city of New York, praying certain amendments or modifications of the present internal revenue act relating to distilled spirits; which was referred to the Committee on Finance.

He also presented a petition of merchants of New York, praying for a reduction of the tax on sales of liquors, and for making all taxes on sales of merchandise uniform; which was referred to the Committee on Finance.

Mr. POMEROY presented a petition of citizens of Iowa, praying that the right of suffrage may be granted to women in the District of Columbia; which was referred to the Committee on the District of Columbia.

He also presented a petition of citizens of Ohio, praying that in any change or amendment of the Constitution which Congress may propose to extend or regulate suffrage there shall be no distinction between men and women; which was referred to the Committee on the Judiciary.

He also presented a petition of citizens of Doniphan county, Kansas, praying that in any change or amendment of the Constitution which Congress may propose to extend or regulate suffrage there shall be no distinction between men and women; which was referred to the Committee on the Judiciary.

He also presented a petition of citizens of Pennsylvania, praying that in any change or amendment of the Constitution which Congress may propose to extend or regulate suffrage there shall be no distinction between men and women; which was referred to the Committee on the Judiciary.

He also presented a petition of citizens of Rochester, New York, praying that wherever Congress have the right to prescribe the qualifications of electors, especially in the District of Columbia, they will extend to women the right of suffrage equally with men; which was referred to the Committee on the District of Columbia.

He also presented petitions of citizens of Maine, New Jersey, and Massachusetts, pray-

ing that in any change or amendment of the Constitution which Congress may propose to extend or regulate suffrage there shall be no distinction between men and women; which were referred to the Committee on the Judiciary.

Mr. SAWYER presented the petition of Cecil C. Neil, surveyor of the port of Charleston, South Carolina, praying that he may be allowed a stated salary instead of fees; which was referred to the Committee on Commerce.

Mr. ANTHONY presented resolutions of the Providence Board of Trade, in favor of the bill introduced in the House of Representatives by Mr. JENCKES providing for competitive examinations and for appointments to office of only those found qualified for the duties thereof; which was referred to the joint select Committee on Retrenchment.

He also presented a petition of citizens of Kansas, praying that women be granted the right of suffrage; which was referred to the Committee on the Judiciary.

Mr. MORGAN presented a memorial of sugar refiners of Philadelphia, with reasons for a new classification of sugars for tariff purposes; which was referred to the Committee on Finance.

He also presented a petition of sugar refiners of Philadelphia asking for a new classification of sugars for tariff purposes; which was referred to the Committee on Finance.

He also presented memorials of citizens of New York, Maine, and Massachusetts, remonstrating against any further increase of the duty on imported steel; which were referred to the Committee on Finance.

Mr. MORGAN. I also present the petition of L. G. Tillaston & Co., in which they state that they are manufacturers and deal extensively in telegraphic materials, having one branch of their business in the city of New York and another in the city of Chicago, and are largely interested in the prosperity and success of American manufacturers and mechanics engaged in preparing these materials for the market. They remonstrate against the passage of the bill now pending to give the privilege to import these telegraphic materials free of duty. They ask that that portion of the bill may be stricken out. I move that the petition be referred to the Committee on Commerce.

The motion was agreed to.

Mr. HOWE presented resolutions of the Chamber of Commerce of Milwaukee, Wisconsin, against the further extension of the section of the bankrupt law known as the fifty per cent. provision; which were referred to the Committee on Finance.

He also presented resolutions of the Chamber of Commerce, of Milwaukee, Wisconsin, asking the appointment of commissioners to locate a canal around the Falls of Niagara; which were referred to the Committee on Commerce.

He also presented a petition of Fisk Mills, asking the examination and adoption of his group of statutory representing the "Emancipation of Slavery," for the pediment of the south wing of the Capitol; which was referred to the Committee on Public Buildings and Grounds.

Mr. SUMNER presented a remonstrance of citizens of Boston against the Senate resolution directing the Postmaster General to contract with the Commercial Navigation Company for the conveyance of all the United States mails to Europe, and authorizing the company to sub-let the service; which was referred to the Committee on Post Offices and Post Roads.

REPORTS OF COMMITTEES.

Mr. VICKERS, from the Committee on the District of Columbia, reported a bill (S. No. 808) to arch Tiber creek north of Pennsylvania avenue; which was read, and passed to a second reading.

Mr. HARLAN, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 746) relating to judicial pro-

ceedings in the District of Columbia, reported it with amendments.

Mr. HOWE, from the Committee on Claims, to whom was referred the petition of Charles Hunter, a captain in the United States Navy, praying pay from the 22d of June, 1863, to 21st of June, 1866, being the time intervening between his dismissal from the service by a court-martial and his being restored to command by act of Congress, asked to be discharged from its further consideration, and that it be referred to the Committee on Naval Affairs; which was agreed to.

BILLS INTRODUCED.

Mr. THAYER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 809) granting land to aid in the construction of a railroad from Sioux City, Iowa, to Columbus, Nebraska; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 810) to regulate elections in Washington and Idaho Territories; which was read twice by its title, referred to the Committee on Territories, and ordered to be printed.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 811) to provide for the reduction of the military forces, and for other purposes; which was read twice by its title, referred to the Committee on Military Affairs, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 812) to reorganize the grades of general officers of the Army; which was read twice by its title, referred to the Committee on Military Affairs, and ordered to be printed.

Mr. ROBERTSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 813) to extend the jurisdiction of the Court of Claims; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. THAYER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 814) to incorporate the Cosmopolitan Fire and Marine Insurance Company of Washington, District of Columbia; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

PRINTING OF AN AMENDMENT.

Mr. FERRY. I ask leave to present an amendment which I propose to offer to the bill (S. No. 677) to punish the crime of holding office in violation of the fourteenth article of the Constitution, which I move be printed and referred to the Committee on the Judiciary.

The motion was agreed to.

COMMITTEE SERVICE.

Mr. PATTERSON, of Tennessee. I ask to be excused from further service as a member of the Committee on the District of Columbia. The motion was agreed to.

CENTRAL BRANCH PACIFIC RAILROAD.

Mr. POMEROY. If the morning business is over, I move to proceed to the consideration of Senate bill No. 256, the bill which we undertook to take up last night, but the Senate adjourned while the question was pending about taking it up.

Mr. EDMUNDS. Let us have the title of the bill read.

The CHIEF CLERK. It is a bill (S. No. 256) relating to the Central Branch Union Pacific Railroad Company.

Mr. EDMUNDS. Mr. President—

Mr. SHERMAN. Do you wish to speak on that question?

Mr. EDMUNDS. Yes, sir; I want to test the question as to whether this bill shall be taken up, or the resolution I referred to last night; and I renew the motion that I made last night to amend this motion by substituting "Senate joint resolution No. 66" for the title of the bill named, in order that the Senate may

determine whether they will proceed with the bill referred to by the Senator from Kansas or the joint resolution referred to by me as the only method I have to get the sense of the Senate as to whether they are willing to consider that resolution or not.

Mr. SHERMAN. The question of the order of business has now become a question of primary importance. We have about thirty-five working days of this session left, during which we must go through the ceremonies of counting the votes given in the presidential election. No very important bill of a general character has been acted upon at this session. All the appropriation bills are yet to be disposed of. A constitutional amendment has been submitted to us which, I believe it will be the sense of the Senate, must be disposed of. There are at least two bills from the Committee on Finance to which we think we can reasonably ask the attention of the Senate on account of their importance. There is also a bill from the select committee in regard to railroads on which there ought to be a vote. Now, it does seem to me that for the Senate of the United States to take up this bill which was discussed at the last session at such great length without any conclusion, and to spend a portion of the time of this session on such a measure to promote private interests, not for any grave consideration of public policy or affecting the general interests of the country, is to waste our time, especially in the face of the resolution now made public by the House of Representatives, that no subsidies will be granted by the House. It seems to me that under these circumstances to take up this bill, even if Senators should be in favor of it, would be to waste important time.

I have already given notice, and I intend to present the question to the Senate, that on next Monday I shall move to take up the bill reported by the Committee on Finance in regard to the public debt and the currency; and in the mean time there are quite a number of bills that I know ought to be pressed. The question of the constitutional amendment, it seems to me, ought to be considered and urged at this session. If we intend to pass it it ought to be passed as soon as possible; and I think it is due to the country and due to the Senate that we should for once in the history of the Senate have a vote on the question of whether we shall allow any more railroad facilities to and from the city of Washington. I have been watching from day to day for some time past for any moment of time when it would be in order to move to take up that bill with a view of getting the vote of the Senate on that important question. I do not think it is exactly right that that question, which excites so much interest here in the city of Washington, and so much interest in different parts of the country, should never have reached a vote in the Senate.

I make these general observations to explain the reasons why I shall not vote to take up the bill now referred to, which is a mere bill granting a subsidy to a railroad in the State of Kansas; nor shall I vote to take up at present the resolution proposed by the Senator from Vermont, because it does not present a question of practical legislation which is immediately of pressing importance. "Sufficient unto the day is the evil thereof." Certainly this private bill ought not to be taken up now.

Mr. POMEROY. The Senator is very kind; he will vote for his own bill, but he will not vote for anybody else's!

The PRESIDENT *pro tempore*. The Chair will state the question. The first motion made was that of the Senator from Kansas, to take up Senate bill No. 256. The Senator from Vermont moves to amend that motion by substituting for the bill proposed to be taken up another bill.

Mr. POMEROY. I do not think that can be done. As a question of order I think the Senator from Vermont will not press that.

Mr. HOWARD. I make the point of order on the motion of the Senator from Vermont

to amend the motion of the Senator from Kansas. It cannot be in order. The two subjects, it seems to me, are not germane.

The PRESIDENT *pro tempore*. It is the opinion of the Chair that a motion to take up a bill is not amendable by moving to take up another bill. The two propositions seem to me to be entirely independent of each other, and really the subject of two independent motions. The case is like that of a motion to refer a bill to a committee. You cannot amend that motion by moving to refer to another committee, but you may make another motion for reference, and then the rule is that the motion first made should be first put. It strikes me that this is in the same nature. The matter is entirely under the control of the Senate. If they refuse to take up this bill they can then pass upon the next named, and so on.

Mr. EDMUNDS. For the purpose of submitting my views upon this subject, and having it settled—I do not care which way it is settled—I appeal from the decision of the Chair.

The PRESIDENT *pro tempore*. The decision of the Chair being appealed from, the question is, Shall the decision of the Chair stand as the judgment of the Senate?

Mr. EDMUNDS. I wish to repeat what I said a moment ago, that it is entirely immaterial to me personally which way the Senate decide this question, except that it is desirable that we should decide it in conformity to the principles of parliamentary law. We have no rule which declares that amendments to propositions in this body shall be germane, as they have in the House of Representatives. We have never had such a rule. We are, therefore, remitted to the general principles of parliamentary law in order to understand this question, and upon that subject I read from Jefferson's Manual for the information of the Senate:

"If an amendment be proposed inconsistent with one already agreed to it is a fit ground for its rejection by the House, but not within the competence of the Speaker to suppress as if it were against order; for were he permitted to draw questions of consistency within the vortex of order, he might usurp a negative on important modifications, and suppress instead of subserving the legislative will."

"Amendments may be made so as totally to alter the nature of the proposition; and it is a way of getting rid of a proposition, by making it bear a sense different from what it was intended by the movers, so that they vote against it themselves."

It is plain, therefore, upon parliamentary precedent and parliamentary rule, that the amendment which I have submitted is perfectly in order, because not only upon the authority that I have read, but upon the nature and principle of the thing, every proposition *prima facie* is the subject of amendment, because it is a proposal for the action of the legislative will; and if it is the will of the Legislature to change that proposition into something else before they finally determine it they have the right to do it. The only reason why a motion simply to adjourn is not amendable is the fact that the rules declare that when a motion to adjourn is made no other motion shall be received. When you turn to the express rules of this body—I think I went a little too far in saying a moment ago, if I did, that the express rules were silent on the subject—you find the question of amendment one of the propositions that it is in order to submit:

"When a question is under debate no motion shall be received, but"—

Then it enumerates a list of motions that may be made when a proposition is under debate, and one of those is a motion to amend. Now, the Senator from Kansas submits a question. That question is under debate. It is a question that the rules of the Senate permit to be debated. Therefore the proposition of the Senator from Kansas is within the express letter of the rule, as one of those questions under debate which is susceptible of amendment and change, and it is not a question of order for the Chair to determine what class of amendments shall be received. It is a question, as Jefferson's Manual declares with the

utmost propriety, of expediency for the good sense of the body. Therefore, Mr. President, I sincerely believe—and I remember one or two instances when it has been done here, but I do not say it was done on a contest as to whether it was in order or not—I sincerely believe that the motion I have made is strictly within parliamentary law.

Mr. POMEROY. I think the error of the Senator from Vermont lies in this: the principles that he has laid down apply to business before the Senate. This is a question of proceeding to business; and you cannot substitute, for a motion to take up a question or to proceed to business, a motion to proceed to other business. If the amendment of the Senator from Vermont is in order then the Senator from Ohio [Mr. SHERMAN] can amend the amendment, because under our rules we can amend every amendment, if the amendment is in order, and the first vote might be this morning on the question moved by the Senator from Ohio, to proceed with his railroad bill. Yesterday, when this question was up, the Senator from Vermont moved to amend it, and the Senator from Nevada [Mr. STEWART] moved to amend the amendment. Then the question would not have been on the motion of the Senator from Vermont, but on the amendment moved by the Senator from Nevada.

Let me state the case a little further. If the Chair had entertained the motion of the Senator from Nevada, or should now entertain a motion from the Senator from Ohio to amend the amendment, and that should carry, and then the Senate should adjourn, the next morning the question in order would be the unfinished business; and the unfinished business would be a motion and not business, which is inconsistent with our precedents and our rules. The fact is that this Senate is a law unto itself, and there never has been to my knowledge, during the years I have been here, an instance where, on a motion to take up and proceed to business, you could substitute another by way of amendment. I have never known that done. Some Senators have been here longer than I have, and they can state their experience.

Mr. CONKLING. I inquire of the Senator, if the Senate should adjourn on a simple motion to take up a bill would not the unfinished business, on his argument, be a motion and not business, just the same?

Mr. POMEROY. No, sir; if that was so, the motion would have been in order this morning without my moving it, because we adjourned yesterday on the motion to take up the bill.

Mr. CONKLING. Why would it not be unfinished business? Because it would fall? Is that the reason?

Mr. POMEROY. If it falls it is not unfinished business.

Mr. CONKLING. Exactly; and that is the reason.

Mr. POMEROY. If it did not fall it would still be the unfinished business.

Mr. CONKLING. The reason why the motion would not be unfinished business is, that it falls; and why does not the amendment fall with it?

Mr. POMEROY. The reason why it falls is, that it is not business in which the Senate are engaged; it is only a question to proceed to business; and a practical question to proceed to business is not amendable, and if it is not acted upon it falls when the Senate adjourns.

Mr. TRUMBULL. This is not a new question. I recollect its having been raised in the Senate before, and my recollection of it is that it has uniformly been decided as the Chair has now decided it, and for the reason that you cannot pile one motion upon another. There is no business before the Senate. A Senator rises and moves to proceed to particular business. The question must be taken upon that before another Senator can move to substitute a motion that you proceed to other business. The first question decides it. If the Senate refuses to sustain the motion of the Senator from Kansas, then the other motion can be

made by the Senator from Vermont; but the Senator from Kansas is entitled to have a vote upon his motion; and these motions, it has been decided always by the practice of the Senate, are not amendable. I do not know about the rules, for really our rules are pretty much the custom of the Senate. The President is aware that we very seldom enforce the rules of this body, such as we have. The principles of courtesy and propriety have usually governed the members of the body, so that there has been no occasion to enforce any of the strict rules which have been adopted and might be enforced in this body. But in regard to this question of precedence in business we have often had controversies, and I think it has uniformly been decided that a motion of this kind was not amendable. I know there have been some such decisions, and I think it is the proper decision.

Mr. SUMNER. It seems to me that the analysis made by the Senator from Kansas is very clear and satisfactory. Indeed, I have never known the case so well stated before. He has brought to it his experience in this body and his peculiar study of the rules, having had occasion to apply them so long in the chair. I cannot add anything to what he has said in the way of reason; but I may contribute my testimony as to the usage of the Senate, and I would say that from the first time I came into this Chamber I have never known such a motion as that of the Senator from Vermont to prevail. I have known it to be made more than once and brought under consideration, but it always fell. I may say, therefore, that the unbroken usage of the Senate is precisely as has been stated and explained so well by the Senator from Kansas.

Mr. EDMUNDS. What do you mean by saying that it always fell? That it was disagreed to?

Mr. SUMNER. Either withdrawn or overruled.

Mr. EDMUNDS. What do you mean by "overruled?"

Mr. SUMNER. Overruled by the Chair; withdrawn or overruled. It never prevailed.

Mr. EDMUNDS. Mr. President, this perhaps is as important business as we could be engaged in this morning, and we may as well consider it a little further. The substance of the proposition of the Senator from Kansas and the Senator from Illinois and the Senator from Massachusetts, two of whose opinions I cannot help thinking are a little colored, unconsciously to themselves, by the deep interest they take in the patriotic duty of giving money to this railroad company, is that a motion to do something cannot be amended because it is a motion. I challenge Senators to produce any parliamentary law or any parliamentary practice which holds any such doctrine, except it be a motion to adjourn, as I have said, when by the express letter of the Senate's rule it is declared that no other motion shall be received to amend or to do anything else.

Now the rules require that when any Senator submits a proposition of any kind any other Senator or the Chair may require that that proposition shall be put in writing. Suppose I had risen when the Senator from Kansas made his motion and said that I desired it to be put in writing, and it had been, and had been read from the Clerk's desk: "Resolved, that the Senate now proceed to the consideration of Senate bill of such a number," will Senators rise in their places and say that it is not in order for another Senator to rise and move to strike out certain words in that resolution and insert others? It would be a very extraordinary proposition if it were so—one that was never heard of, I think, in any parliamentary body before; and the whole error in which the honorable Senator from Kansas has fallen, if he has fallen into one, in his own mind is that he supposes because a motion of this kind, being the proposition before the Senate at an adjournment, falls with the adjournment, therefore it is a proposition that cannot be amended. I fail to see the logic

of that. If the proposition falls all amendments fall with it, of course. If the proposition stands or is revived, then the amendments stand or are revived with it. But, as I have said, it is of no consequence practically as to this particular question which way the point shall be decided, except that it be decided rightly according to law, and be entered in the Journal as an ultimate decision which shall settle the practice, not only for this question, but for all subsequent questions of the kind. Whichever the Senate choose to do I shall be entirely satisfied with, because I shall suppose that their wisdom will have determined it for good.

Mr. WILLIAMS. I will say a word on the question before the Senate. Assuming that there is no rule by which this question can be determined, that it is altogether to be regarded as a matter of practice, then I am clear in the opinion that the proposition made by the Senator from Vermont ought to be rejected. I think it ought to be rejected for the reason that if an amendment such as he has proposed can be entertained it will lead to a great consumption of time, and invariably one proposition will be antagonized with another and the merits of the respective propositions will more or less be discussed upon a mere question to proceed to the consideration of business. I think the better practice would be to allow a proposition to stand or fall on its own merits. If the Senate is disposed to take up a bill, when a motion is made to proceed to its consideration let the Senate determine whether it will or will not adopt the motion; but to allow another proposition to be made as a substitute, and then to allow another to be made, and so pile up one proposition upon another, it seems to me would lead to inextricable confusion and to great consumption of time. In nine cases out of ten, when a proposition like that made by the Senator from Kansas is before the Senate it can be disposed of, and perhaps disposed of upon its merits, before the question can be settled as to whether that or another proposition antagonized against it shall be taken up and considered; and for that reason I shall vote to sustain the decision of the Chair, because I want to see that practice established, if it is not already the settled usage of the Senate.

Mr. FRELINGHUYSEN. Mr. President, I think the Chair ought to be sustained in this ruling, for a reason which, I think, has not been stated exactly. The question of every motion to proceed to business is priority, precedence; but if the rule is adopted that such a motion can be amended, then the Senator who keeps his seat instead of the one who gets the floor is most likely to get the precedence, the one who is most sedentary, he who offers the second amendment, will really have the priority, which certainly cannot be the course of business. There is some advantage in having the floor; it has always been considered so; and that advantage is to have the priority of motion.

The PRESIDENT *pro tempore*. The question is, Shall the decision of the Chair stand as the judgment of the Senate?

The question being put, was decided in the affirmative.

The PRESIDENT *pro tempore*. The question now is on taking up the bill mentioned by the Senator from Kansas.

Mr. EDMUNDS. Mr. President, is that question open to discussion?

The PRESIDENT *pro tempore*. It is.

Mr. EDMUNDS. I should like to say, in three minutes or less, what perhaps it is not necessary to remind the Senate of, that the reason why I am opposed to taking up this proposition is that I think we ought in preference to proceed to the consideration of the subject to which I have referred. It is a subject that has been here as long as the Central Branch subject has been. It is one that the people of the country have taken quite as much interest in. It is one that I believe they take an interest in still; one that ought to be acted

upon; one that we cannot escape action upon in some form, in my judgment, before we attempt to improve in any large degree the public credit; and therefore I have called the attention of the Senate to this subject in order that I may understand from their action whether they are disposed to consider it or not. If the motion of the Senator from Kansas is not adopted, if I can get the floor I shall move to proceed to the consideration of the resolution to which I have referred.

Mr. FERRY. Mr. President, the resolution of the Senator from Vermont being antagonized to the motion made by the Senator from Kansas, I feel bound by considerations of public duty to vote against taking up the bill proposed by the Senator from Kansas at this time, in order that the grave public necessities which demand the consideration of the Senate upon the resolution of the Senator from Vermont may be properly attended to by this body.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Kansas.

Mr. HOWARD called for the yeas and nays; and they were ordered.

Mr. SUMNER. As the question has to be decided by yeas and nays, I desire to say briefly that I am very much in favor of the proposition of the Senator from Vermont. I long for an opportunity to vote for it. I am also in favor of the proposition which was alluded to a moment ago by the Senator from Ohio; but I do not know why, because I am in favor of these propositions, I should vote to displace practically an important measure of equity, much debated in this Chamber, on which most of the Senators, if not all, have already arrived at an opinion; indeed, most have already expressed themselves upon it. I do not see why I should vote practically to displace that when the Senator from Kansas has a motion pending before us to proceed to its consideration. I cannot vote against proceeding with its consideration, much as I desire to proceed to the consideration of the other measure.

Mr. ANTHONY. I think that Senators do not remember the precise circumstances under which the Senator from Vermont, for himself and for the Senator from Kentucky, appeals to the Senate. Some time ago, when we had under consideration a bill to which the Senator from Kentucky desired to offer an amendment, because he wished to express his views on that point, the Senator from Vermont appealed to him to postpone his amendment, and stated that he might move it on the resolution which the Senator from Vermont now desires to take up; and there was a general understanding all over the Senate that if the Senator from Kentucky would yield and allow us to go on with the business we were then anxious to dispose of he should have an opportunity to express himself on that question. It is to give him and to give the Senator from Vermont an opportunity to make their remarks that the Senator from Vermont now appeals to the Senate. I think that the courtesies and the customs of the Senate point directly to the resolution of the Senator from Vermont, and that he and the Senator from Kentucky ought to be allowed to express their views upon it.

Mr. DOOLITTLE. A remark fell from the honorable Senator from Connecticut which arrested my attention when he said that this motion is antagonized against some other motion. I do not understand that at all; and the very reason of the rule which has been so well explained by the honorable Senator from Illinois and the honorable Senator from Oregon is that when a motion is made to take up business it is to come up on its own merits, not antagonized with or against any other measure; and that is the reason why you cannot move to amend a motion to take up a bill by proposing to take up some other business and thus produce an antagonism, for to antagonize two measures one against another would prevent a vote on the merits of one.

A remark which fell from the honorable Senator from Rhode Island also arrested my attention somewhat. When he spoke of allowing the Senator from Kentucky to speak upon the important matter to which he referred the question arose in my mind which Senator from Kentucky. If he refers to my honorable friend who now sits in his seat on the left [Mr. DAVIS] I think that Senator from Kentucky is so used to the discussion of parliamentary questions that it is not a matter of importance to him whether he shall obtain the floor to-day or to-morrow or the next day to speak, for he is always at home on the floor whenever he undertakes to speak. Had it been the other Senator from Kentucky, [Mr. McCREERY,] who took his seat in the body but a short time ago, if he had, as a special favor, requested the floor for this occasion, I might, perhaps, as a matter of courtesy to a new Senator coming into the Senate, feel somewhat constrained by the remark of my honorable friend from Rhode Island. But I think on the whole we had better just vote on this question, Will the Senate take up this bill or not? If we desire to do it let us do it; if not, take up something else and proceed with business.

Mr. EDMUNDS. I wish to correct a misapprehension that possibly the Senate may have received from what my friend from Rhode Island said. I do not ask the Senate to take up the resolution to which I have referred as a matter of mere courtesy to me, or to refuse to take up the Central Branch bill for that reason. I do not expect to make a dissertation upon the subject of the resolution which has agitated the public. It is not my object. I shall expect, if the Senate is inclined to take it up and consider it at all, to submit a few observations, which, so far as I am capable, will be in the nature of argument rather than in the nature of a set speech. What my friend from Rhode Island has said as to the Senator from Kentucky is correct; that did happen which he has stated.

Now, I wish to say one word in reply to the Senator from Massachusetts. He says that to vote against taking up this railroad proposition is displacing a proposition that is already up, in order to consider another measure that the Senator professes, sincerely I have no doubt, to be in favor of. Have we, then, by the construction of the rules reached the point that the business of the Senate is to be regulated by the accidental circumstance of who catches the eye of the Chair first, and that a motion to take up a bill is as good as a vote to take it up? That is the effect of his proposition. He says it is displacing the business proposed by the Senator from Kansas for us to refuse to take it up as if he had acquired any right to have it taken up or to have it acted upon because he was more fortunate than myself in catching the eye of the Chair. I think that is a proposition which we cannot agree to.

Mr. DAVIS. I am very much obliged to the kindness of honorable Senators for the desire expressed by them that the courtesies of the Senate should be extended to me. I, however, will say that I will not regard it as at all discourteous in the Senate toward me if they take up any business whatever. I am willing to accommodate myself to the disposition and pleasure of the Senate in relation to the public business before the body.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Kansas.

The question being taken by yeas and nays, resulted—yeas 22, nays 22; as follows:

YEAS—Messrs. Chandler, Cole, Cragin, Doolittle, Drake, Harlan, Howard, Nye, Patterson of Tennessee, Pomeroy, Pool, Rice, Robertson, Ross, Sawyer, Sumner, Thayer, Trumbull, Van Winkle, Wade, Willey, and Wilson—22.

NAYS—Messrs. Abbott, Anthony, Cattell, Conkling, Davis, Dixon, Edmunds, Ferry, Frelinghuysen, Howe, Kellogg, McDonald, Morgan, Morrill of Vermont, Morton, Norton, Sherman, Stewart, Vickers, Warner, Whyte, and Williams—22.

ABSENT—Messrs. Bayard, Buckalew, Cameron,

Gonness, Corbett, Fessenden, Fowler, Grimes, Harris, Henderson, Hendricks, McCreery, Morrill of Maine, Osborn, Patterson of New Hampshire, Ramsey, Saulsbury, Spencer, Sprague, Tipton, Welch, and Yates—22.

So the motion of Mr. POMEROY was not agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 1558) to amend an act entitled "An act to prescribe the mode of obtaining evidence in cases of contested elections," approved February 19, 1851, asked a conference on the disagreeing votes of the two Houses thereon, and has appointed Mr. H. L. DAWES of Massachusetts, Mr. SAMUEL McKEE of Kentucky, and Mr. J. W. CHANLER of New York, managers at the same on its part.

The message also announced that the House had passed a bill (H. R. No. 1624) to preserve the purity of elections in the several Territories of the United States; in which it requested the concurrence of the Senate.

EVIDENCE IN CONTESTED ELECTIONS.

The Senate proceeded to consider its amendments to the bill (H. R. No. 1558) to amend an act entitled "An act to prescribe the mode of obtaining evidence in cases of contested elections," approved February 19, 1851, disagreed to by the House of Representatives, and

On motion by Mr. CONKLING, it was

Resolved, That the Senate insist on its amendments to the said bill disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. CONKLING, Mr. FRELINGHUYSEN, and Mr. VICKERS.

HOUSE BILL REFERRED.

The bill (H. R. No. 1624) to preserve the purity of elections in the several Territories of the United States was read twice by its title, and referred to the Committee on the Judiciary.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of the Interior, in relation to the outstanding indebtedness that has been accruing for several years on account of Indian service in California; which was referred to the Committee on Indian Affairs, and ordered to be printed.

He also laid before the Senate a letter from the Secretary of the Interior, communicating an estimate of an appropriation required to pay the expenses of a special agent to take the census of the North Carolina Cherokees, in accordance with the act of July 27, 1868; which was referred to the Committee on Indian Affairs, and ordered to be printed.

He also laid before the Senate a message from the President of the United States, communicating, in compliance with a resolution of the Senate of December 19, 1868, information in reference to the alleged payment of rent for the use of the building known as Libby prison in Richmond, Virginia; which was referred to the Committee on Military Affairs, and ordered to be printed.

He also laid before the Senate a letter from the Secretary of War, recommending a repeal of so much of the sixty-first article of war as provides that officers having brevets may take place in courts-martial and on detachments when composed of different corps, according to the rank given them in brevets; which was referred to the Committee on Military Affairs.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 1549) to restrict and regulate the franking privilege; in which it requested the concurrence of the Senate.

CHARTERING OF RAILROAD COMPANIES.

Mr. SHERMAN. I now move that the Senate proceed to the consideration of the railroad bill, the bill (S. No. 554) to promote commerce among the States, and to cheapen the transportation of the mails and of military and naval stores.

Mr. EDMUNDS. With a view to understand what the Senate desire to do, not that I am unwilling to consider the Senator's bill, which is a new one and has been reported only a little while, I oppose this motion, and venture to express the hope that the Senate will not take up this bill. If they fail to take it up I shall then, if I can get the floor, move to proceed to the consideration of Senate joint resolution No. 66.

Mr. WILLIAMS. I am very willing to give the Senator from Vermont an opportunity to address the Senate upon his proposition; but notice has been given that next week these financial questions will be taken up for consideration, and the honorable Senator then will have an ample opportunity to discuss the merits of his proposition. He can do it upon the bill of the Committee on Finance, or he can do it in the shape of an amendment; and every other gentleman who desires to make a speech upon the finances of the country can then, with great propriety, discuss that question. It seems to me that as we are to take up the whole subject at that time, we had better now proceed with some other business, and let the consideration of all these financial matters go over until next Monday, when probably the bill reported from the Finance Committee will be taken up for consideration by the Senate; and for that reason, without wishing to be understood as expressing any opinion upon the merits of the Senator's proposition, I shall vote against taking up his resolution at this time, and I shall vote in favor of the motion of the Senator from Ohio.

Mr. EDMUNDS. I understand, from his speech, that my friend from Oregon is opposed to the consideration of the question which I have brought to the notice of the Senate as to what public honor and public faith require us to say to our creditors. There would be some force in what he says as to the propriety of considering the measure now, or acting upon it, if we felt sure that the funding bill—if it can be called such—reported from the Committee on Finance, would pass this body and would pass the other House. But from our experience with funding bills reported here we have no such assurance; and therefore if the proposition which I have submitted, and which I supposed had been settled; so far as the will of the people was concerned, in the last election, is one that ought to be adopted; one that public faith and public policy require to be adopted as the very foundation upon which prosperity is to go on—if the funding bill to which it should be added as an amendment should fail, where should we be left? We should be left just where we are now, with the question open for agitation at the next election two years hence, with all the evils which flow from uncertainty as to what the public faith is pledged to do.

But, sir, I do not wish to enter into the merits of the question, and, of course, I ought not to do so in this discussion. I only allude to it so far as to show that if the Senate is disposed to say that the public debt shall be paid in coin, if we are to say it with any certainty of its becoming the action of Congress, we must do it in a separate proposition.

To be sure, if worse comes to worse, it might be offered as an amendment to some other bill; but gentlemen then would say, the Senator himself I have no doubt would say, that that would embarrass the bill; that it was not necessarily connected with the bill; and Senators would be urged to vote against the proposition upon the specious ground that although it might be right in itself it ought not to be entangled with other subjects. I should expect to hear that from the Senator from Ohio, the chairman of the committee. The view might or might not

be sound. All I wish to do now is to get the opinion of the Senate whether they are willing to consider a proposition that has been before this body for a twelvemonth, and the substance of which, although considerably short of the point to which it ought to have come, has been reported favorably by the Committee on Finance. That is what I wish to know; and I repeat again, in reply to the Senator from Oregon, that I do not ask the Senate to take up this matter to accommodate me. I ask them to take it up as a duty to their States and to the people, as a matter of preservation to the public faith, as a wise step of public policy which shall precede any new appeal to the creditors of the United States to lend to us again. That is the ground on which I ask action.

Mr. FESSENDEN. Mr. President, I am of opinion that the bill named yesterday by the honorable Senator from Michigan [Mr. HOWARD] ought to be taken up and considered, because it has been very much debated in this body, and I think it is but just to the persons interested that we should settle the question one way or the other. I did not vote, however, to take it up; I did not vote at all, and for the reason that it happened to be antagonized with the resolution of the honorable Senator from Vermont, and I was unwilling to give any vote that by implication might lead to the idea that I was opposed to considering that resolution, which I deem to be of the greatest importance. Had that bill been antagonistic with almost any other question before the Senate I should have voted to take it up for the purpose of having it considered out of a sense of justice to those interested.

Sir, we had an address this morning from the honorable chairman of the Committee on Finance, telling us what we had to do at this session, how much was left undone, and how little time we had in which to perfect bills that must be passed before the adjournment of Congress. I concur with the views that he expressed in reference to that matter. I think we ought, as far and as fast as possible, to take up and consider these bills which are essential to carrying on the Government during the next year. But what is the commentary that my honorable friend from Ohio makes upon that statement? It is a motion to take up a wholly new bill, a child of his own, which has at least been brought before the Senate through the agency of a special committee appointed for that purpose, which has never been considered in this body, which involves at least one very important and intricate question of law, and must necessarily lead to prolonged debate in this body and prolonged debate in the other House if it is to pass at all under any circumstances. It is a bill that evidently antagonizes so many people and so many interests that it must of course take up a good deal of time, and then fail of becoming a law at this Congress; for I take it a bill of that kind, new as it is, involving a new principle and antagonizing so many great interests of this country cannot pass except after a prolonged discussion, after much heat and much debate. Under such circumstances to move to take up that bill is, in my mind, exceedingly at war with that which we were told by the honorable Senator himself this morning in reference to the business of this body and the short time left for us to do it.

Under these circumstances, therefore, I cannot vote to take up that bill, and I deem it important, exceedingly important, that the resolution, or the substance of the resolution, submitted by the honorable Senator from Vermont a year ago should be considered by this body. It becomes important because it has been submitted to the body. The question is before the country, and the question is one in which the country is deeply interested; and if we refuse to consider it an inference will be drawn which must necessarily, in my judgment, work great injury in the public mind with reference to the intentions of Congress in relation to our public debt. I believe, then,

that the sooner we proceed to act upon it the better. I know that there may be some difference of opinion about it; but it is better that the question should be settled once for all than that it may be known what is our opinion upon that subject.

I have no hesitation in saying that I am in favor of that resolution. I always have been in favor of the resolution. I yield to none of those side schemes which have been brought before Congress in relation to that matter. Let us take up the question and let us know at once and for all time, or at least so far as this Congress is concerned, many of those composing which are members of the next succeeding Congress, what we think and what we design to do, what our opinion is on the subject.

The Committee on Finance have brought in a bill here. I have read it with very much interest and pleasure. As a beginning, it is exceedingly well. It has made a selection from many bills, and made a most judicious selection for the most part. I do not consider that if it becomes a law it will be a panacea for all our currency or financial ills. There are some things in it that I should not agree to. There are some amendments proposed to it and which have been printed that I should have very great doubt about, one especially coming from my honorable friend from New Jersey, [Mr. CATTELL;] but still there is much good in it, and I am willing to aid the honorable Senator from Ohio to take up that bill at the earliest possible day and consider it, because it is a measure that addresses itself to the interests of the country at the present time. But, sir, to take up a bill proposing to build a railroad from here to New York, and from here to Cincinnati, and in other directions, by the General Government, or by a charter given by the General Government, interfering with so many vested interests in this country, seems to me to be wasting time. It may be all right; I do not mean to say a word against it; I do not know but that I shall vote for it when the time comes; but this is no time to consider it; for judging from my own experience in such matters, it is absolutely impossible that it can pass the two branches of Congress and become a law at the present session. I hope, therefore, that we shall not take up that bill, but will take up the resolution of the Senator from Vermont.

Mr. SHERMAN. I regret very much that any particular measure is antagonized to this bill, especially after what has been very properly said by the Senator from Illinois and the Senator from New Jersey, that a motion to take up a question ought to be decided on the merits of the bill itself rather than upon the order of business.

Now, let me say with regard to this railroad bill that there is nothing in it that has not passed the House of Representatives at least three times. I am mistaken; there are some amendments made by the committee, but rather of a restrictive character than otherwise. The bill as it now stands upon your table has received the sanction of the House of Representatives at two or three different times. It was reported at the last session by a unanimous vote of the committee of the House. It has been sent to the Senate in one form or another at least three times, and the Senate have never yet approached a vote on the question so important to the local interests of this city and to the people of the United States. I will say to the Senator from Maine that I could have undoubtedly obtained the vote of the Senate at an earlier period of the session on this particular bill but for the absence of his colleague, which I regretted very much. At his request I did not call it up. It seems to me that to postpone it any longer would be simply to defeat the bill. The bill contains no new principle. I know it is an important measure; but if it is passed in the Senate I have no doubt whatever of its passage in the House of Representatives, because the same bill has passed there repeatedly. There is scarcely a doubt but that the bill as it passes here, substantially, will pass the House; so

that its passage depends upon the Senate, or upon its being taken up now. We shall be crowded at a later period of the session with public measures.

Now, let me say a word as to the importance of this bill. Surely no man wishes to submit to the legal restriction which compels us to come to this city only by one way; and the more Senators think about the restrictions by which this District is curbed and restricted the more impatient they will become. If there is to be no relief by Congress and we must submit to this, we generally endure what cannot be avoided. But it seems to me that the case is so pressing, so manifest, that Senators will not waste much time in providing the remedy. Instead of voting for the bill lying on the table I would a great deal rather vote for two or three general declaratory resolutions, or a bill in the nature of a general railroad law, authorizing anybody to build a railroad to Washington who desires to do it and will risk the necessary capital. Now, there is a struggle here between bills that propose to take from the Treasury of the United States sums of money in the way of subsidies and public lands and the like to aid in the construction of railroads. Why? Because railroads develop the country. And yet we refuse to consider the proposition to allow people, without cost to the Government, to build railroads from the capital of our country. That is the position in which we are placed.

I trust the Senate will take this bill up and give it such consideration as it deems necessary, and make such amendments as Senators shall agree upon. This is not the child of my fancy, as my friend from Maine seems to say. It is true I introduced the bill; but I claim nothing as original in it. I took the House bill, with some slight modifications, to make it, as I thought, more acceptable to the Senate and more acceptable to my own views, and introduced it. It was not by my desire that a special committee was organized; but it was upon the suggestion of the Senator from Michigan, [Mr. CHANDLER;] who said the Committee on Commerce had already considered the subject, and would rather not consider it again on account of their division upon it. Therefore a special committee was organized, and the bill was referred to that committee. We, however, did not press it at the last session, because it was introduced at the close of the session, but we carefully considered the bill. The committee went over its details carefully and made some modifications in it, and reported it back to the Senate. There is nothing new in it; nothing difficult, except the question whether or not the Congress of the United States can authorize the construction of railroads to and from the city of Washington. I trust, therefore, it will be taken up and not be antagonized with any other measure.

One word in regard to the measure proposed to be taken up by the Senator from Vermont. I do not think it is wise at this session of Congress to pass that resolution, or any resolution on that subject. The Committee on Finance instructed me to report a resolution in regard to what we considered our primary duty, to prepare for the resumption of specie payments. I did not propose to call up that resolution simply because if adopted it would have settled nothing definitely; and if the resolution of the Senator from Vermont should be adopted it will settle nothing definitely. I therefore say it is not wise to take up that question. But even that question ought not to embarrass this. If Senators will vote against taking up this proposition because there is some other resolution on the Calendar that they would rather have considered, the result will be that no business will ever be done. When a proposition is made to take up a bill which meets the sense of the majority of the Senate, in my judgment it ought to be taken up, unless there is a present overriding bill of great importance pressing; and I do not think that is the case with the bill of the Senator from Kansas or the resolution of the Senator from Vermont.

Mr. DOOLITTLE. Mr. President, I think

since the close of the war and the settlement of the questions necessarily involved in it no measure of such great importance has ever been proposed in this body as the bill of the honorable Senator from Ohio. It involves graver questions, going to the foundations of this Government, than any other—the rights of the States over their own railroad improvements; the powers of this Government over the improvements through the States; whether this Government shall have the power to break down the railroad companies which are organized under the authority of the States; whether if we incorporate companies to build railroads through the States we shall allow them to be taxed by the States. If they are to be taxed, the States can tax them out of existence; and if we are to deny to the States the power to tax them we can break down every railroad company now existing within the States under State authority. I shall not go into a discussion of the merits of these questions, but simply state them. I think the bill involves the question whether we are not about to wipe out of existence the States of this Union, and whether we are not about to establish in this Government absolute and despotic power.

These questions are involved, and this bill certainly cannot come up before the Senate and be brought to a determination without a long and protracted discussion of these great questions. For myself, sir, I view the proposition with alarm, and am not willing to vote even to take it up for consideration, much less shall I be prepared to vote for the principles which are involved in the bill. I grant that under the Constitution of the United States Congress has the power to regulate commerce; but that is to regulate commerce upon the railroads and upon the lines that are already created, not that we have the power to go into the States, opening new railroads and new communications against and without the consent of the States themselves.

But, sir, I shall not go into a discussion of the merits of the bill on the motion to take it up. I simply call attention to these questions to show that it is impossible that the bill can be brought before the Senate without giving rise to a long and protracted discussion, and there is no probability that the Senate will arrive at any determination upon it during the present Congress.

In relation to the other measure which the honorable Senator from Vermont is pressing before the Senate, I do not regard measures as being antagonized against each other on a motion simply to take up; but I do not think it is proper to decide the question whether you shall take up a measure or not by the fact whether a man feels more interest in one measure than in another; for if he allows himself to be governed entirely by that consideration he can never be called upon to vote upon the merits of the proposition. But, sir, that is immaterial. It is a question for the Senate to determine. I am decidedly opposed to the taking up of the bill mentioned by the Senator from Ohio.

Mr. POMEROY. I do not like to throw anything in the way of proceeding to a direct vote on this proposition; but if I am to vote against this motion with a view to take up the measure moved by the Senator from Vermont, I should feel embarrassed in proceeding to the consideration of that measure. It seems to be an effort to commit this Government; for what is implied by the very fact that we are called upon to have a new law upon the subject, is that the existing law is not clear and safe. I admired what the Senator from Iowa [Mr. GRIMES] said the other day when he declared that he could not vote on a certain proposition because he had a few shares of stock worth fifteen cents on the dollar. Now, what will a Senator do who happens to have a United States bond or a multitude of them? If this is an effort to increase their value, if it is an effort and a determination to put it beyond question that every one of those bonds is to be paid in gold, principal and interest, then I

think the Senator who happens to have one of them cannot vote or take any part in it; because if there is any doubt about that subject—I do not say there is—I am satisfied myself a Senator has no right to relieve that doubt in his own behalf. Not only that, the Senator from Ohio proposes now to fund the five-twenties by long bonds, and reduce the interest. Suppose you commit the Government to the payment in gold of the principal and interest.

Mr. MORTON. That is not a part of the bill.

Mr. POMEROY. It is a part of the Senator from Vermont's bill to settle the question so that there shall be no doubt that these bonds are to be paid in gold, principal and interest. Do you suppose a man who has got a six per cent. bond, when you have reenacted over again that it is to be paid in gold, is going to exchange it for a four per cent. one? I do not know much about finance, but I know the difference between four and six per cent.

Mr. EDMUNDS. Will my friend from Kansas permit me to ask a question?

Mr. POMEROY. I will in a moment. I shall be through in a moment.

Mr. EDMUNDS. It related to his going on. I wished to ask him if he considered it in order to discuss the merits of a proposition not yet taken up.

Mr. POMEROY. I am only replying to what the Senator from Vermont said, and the proposition, the merits of which I am discussing, nobody proposes to take up at this time. All I desire to say in closing is, that I do not see how we are called upon now, not having passed any bill to fund our debt at low rates of interest, to commit this Government again, as if there was a doubt about the present law to pay six per cent. unqualifiedly in gold. It is as bad as a measure of finance as would have been a defeat during the rebellion on the battle-field. It will put every bond we have got in such a condition that there will be no question about it, and if there is no question about it you cannot fund them. Keep the question whether they are to be paid in currency or gold open and you can perhaps fund them. But settle that question and I would not give a cent for a funding bill.

Mr. FRELINGHUYSEN. Mr. President, I shall feel it my duty to vote against any measure which is in fact antagonized against the resolution of the Senator from Vermont. I remember a year ago, when listening to his very able speech on the subject of this resolution, remarking to a Senator who sits by me that it was a very good speech, but saying at the same time I thought it was a very unnecessary speech, for I did not suppose there was anybody in the Senate who would not vote at once for that resolution. Since that time the substance of that resolution has been discussed before the American people and has been voted upon, and it is now presented to the Senate and we are to determine whether we will consider it or not. We all want to return to specie payments. How are we to do it? By bringing our bonds and our securities up to par. How is that to be done? By making the world believe that we, in good faith, intend to pay them, and that we have the ability to pay them. This resolution does address itself to the point of good faith, and is a most important declaration for this Government to make. These other questions can be considered at another time. One great importance of this measure is that the Senate should act promptly and should give precedence to this resolution above all other business, showing the world what their purpose is.

The PRESIDENT *pro tempore*. The question is on taking up the bill for consideration.

Mr. SHERMAN. I ask that the title of the bill be read, so that Senators may understand it.

The Chief Clerk read the title, as follows:

A bill (S. No. 554) to promote commerce among the States, and to cheapen transportation of the mails and of military and naval stores.

Mr. VAN WINKLE. I call for the yeas and nays on the motion.

The yeas and nays were ordered; and being taken, resulted—yeas 26, nays 25; as follows:

YEAS—Messrs. Abbott, Cameron, Chandler, Cole, Davis, Drake, Harlan, Howard, Howe, McDonald, Morton, Nye, Osborn, Pool, Rice, Robertson, Ross, Sawyer, Sherman, Stewart, Sumner, Wade, Warner, Wiley, Williams, and Wilson—26.

NAYS—Messrs. Anthony, Cattell, Conkling, Conness, Corbett, Cragin, Dixon, Doolittle, Edwards, Ferry, Fessenden, Fowler, Frelinghuysen, Grimes, Henderson, McCreery, Morgan, Morrill of Maine, Morrill of Vermont, Norton, Pomeroy, Thayer, Trumbull, Van Winkle, and Vickers—25.

ABSENT—Messrs. Bayard, Buckalew, Harris, Hendricks, Kellogg, Patterson of New Hampshire, Patterson of Tennessee, Ramsey, Saulsbury, Spencer, Sprague, Tipton, Welch, Whyte, and Yates—15.

So the motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill.

Mr. WHYTE. Mr. President, while my personal inclination would impel me to silence, yet a sense of public duty demands that I should discuss, though I trust with laudable brevity, the provisions of the bill now before the Senate. It strikes me as one of the most alarming encroachments of Federal power in these days of rapid consolidation.

The Senator from Ohio, [Mr. SHERMAN,] who opened the debate upon the bill, will pardon me if I follow somewhat the line of his argument, transposing the points however so as to examine:

1. The power of Congress to grant such charters.
2. If it has the power, the objections to its exercise.

At the outset may I be permitted to call the attention of the Senate to the extraordinary framework of the bill itself.

Its first section creates a corporation to be known as the "New York and Washington Railway Company," with the usual corporate powers.

Its second section is a letter of attorney from the United States to the said corporation to survey and locate, equip and manage a railway from Washington to New York, over the States of Maryland, Pennsylvania, Delaware, and New Jersey to the Hudson, and in the city of New York to erect a pier and its appurtenances, all of which acts are to be done by the company in the name and behalf of the United States, the constituent of the company.

The third section fixes the capital stock at \$10,000,000, designates the mode of taking subscriptions, and authorizes the organization of the company whenever \$3,000,000 have been subscribed.

The fourth section prescribes the mode of electing the officers of the company and for forfeiture of stock where installments of the amount subscribed shall not be paid in accordance with the calls of the directors.

The fifth section prevents a consolidation of the proposed road with any now constructed unless by special permission of Congress.

The sixth section regulates the gauge of the road, its construction and outfit, its schedule of time, and the tariff of prices and other matters of minor detail.

The seventh section relates to the crossing of the Susquehanna above tide-water.

The eighth section authorizes it to acquire by lease or purchase such property as may be necessary to accomplish the object of the bill. Its officers and agents are authorized to "enter upon, take possession of, and use all such real estate and property as may be necessary for the construction, maintenance, and operation of said railway and the accommodations requisite and appertaining thereto."

In case of disagreement as to price of such real estate or property the corporation or the owners of the real estate or property so taken must apply by petition to the justice or justices of the supreme court having jurisdiction in the State or locality in which the said real estate or other property may be situated. This justice, or these justices, are authorized to direct the manner of ascertaining the value of the real estate or property and the damages of the owner. The justice is directed to appoint commissioners, freeholders in the State or dis-

trict, who shall, under his direction, view the premises or property, "take such testimony as they may deem proper," make appraisal, and determine the damages; which they shall report under oath to the justice. This justice has the power to increase or diminish the damages. When he makes his order or decree thereupon the corporation is forthwith declared to be rightfully possessed "in behalf of the United States" of the real estate or property so passed upon, upon the deposit, to the credit of its owner, of the sum so awarded, in such "incorporated moneyed institution as the said justice shall direct." In case the owner of such real estate or other property shall be a married woman, infant, idiot, insane person, or non-resident, the justice is to appoint some competent disinterested person to appear for them.

I trust the Senator from Kansas next me [Mr. POMEROY] will not tamely submit to this slur upon his female suffrage friends, by classing them with idiots and insane persons. This power of condemnation of real estate and property is not to extend to the taking possession of the property of any railway company chartered by any State, except for the purpose of crossing the line of such road.

The ninth section, to which I ask the attention of the Senate and to which I shall presently advert, provides that any person willfully injuring the property of the company shall be guilty of a misdemeanor, and on conviction "by any court of competent jurisdiction" shall be liable to certain penalties.

The tenth section authorizes roads now constructed under State laws to make connections with the new road, and in the event of such connection compels them to sell through tickets, check through baggage, and give through receipts upon the terms therein set forth. The bill further provides that if any suit at law or in equity, or criminal prosecution, shall be commenced in any State court against the new corporation, or against any person authorized or employed by them for any act done, or omitted to be done, in reference to the construction and use of the railway authorized by the bill, and in which the validity of any franchise conferred by this act is denied, the defendant may remove the said suit into the circuit court of the United States; and it is made the duty of the State court to proceed no further in the cause or prosecution.

The circuit court of the United States, on the other hand, to which said cause shall be removed, is authorized to proceed with it, whatever may be the amount in dispute, the damage claimed, or whatever may be the citizenship of the party or parties, and from the final judgment a writ of error shall lie to the Supreme Court of the United States—another new feature in legislation in regard to the jurisdiction of the United States courts.

The twelfth section declares the road and its bridges, ferries, &c., a national highway and post road, prohibits any tax or transit duty by any State, and requires the tax which may be levied on its property to be the same *pro rata* as that levied on other roads in the same State.

The thirteenth section provides for reports to the Secretary of the Interior.

The fourteenth section provides for its completion and equipment in two years after the election of the first board of directors.

The fifteenth section makes it a public act, and reserves the right to Congress to repeal or alter the provisions of the law.

The sixteenth section incorporates a similar company, to build a road and telegraph from Washington to Pittsburg, with the title of "The Washington and Northwestern Railroad and Telegraph Company."

The seventeenth section incorporates a like company, to build a road and telegraph from Washington to Cincinnati, under the name of "The Washington and Cincinnati Railroad and Telegraph Company."

The first named corporation is to have a capital stock of \$10,000,000, but the two last named seem to have no capital stock at all, at least I

find in the bill no apt words to express it. This bill seems to be an omnium-gatherum of all the "air-lines" and "elbow" roads which have been of late years proposed in Congress.

To my mind the passage of such a bill is wholly unwarranted by any clause in the Constitution.

The question here is not as to the power of Congress to make appropriations in favor of internal improvements sanctioned by or constructed under State authority, but whether Congress has the power to construct railroads, canals, or other like works without the consent of the States through which they pass, thus invading the jurisdiction of those States over their own soil. Can such a power be found in the Constitution? If it be there in express words, of course the matter is decided, and no argument ought to be made upon this floor. Is such a power expressed in plain words on the face of that instrument? I maintain that it is not. If not, why was it not so expressed? Because the Convention which framed the Constitution did not intend to give any such power to Congress. So far from it, such power was absolutely refused. In the debates to be found in the Madison Papers, (vol. 3, p. 1576,) we find an account of the efforts then made to incorporate such a power in that instrument:

"Dr. FRANKLIN moved to add after the words 'post roads,' article one, section eight, a power 'to provide for cutting canals where deemed necessary.'

"Mr. WILSON seconded the motion.

"Mr. SHERMAN objected. The expense in such cases will fall on the United States and the benefit accrue to the places where the canals may be cut.

"Mr. WILSON. Instead of being an expense to the United States, they may be made a source of revenue.

"Mr. MADISON suggested an enlargement of the motion into a power to grant charters of incorporation where the interests of the United States might require and the legislative provisions of individual States may be incompetent. His primary object was, however, to secure an easy communication between the States, which the free intercourse now to be opened seemed to call for. The political obstacles being removed, a removal of the natural ones, as far as possible, ought to follow.

"Mr. RANDOLPH seconded the proposition.

"Mr. KING thought the power unnecessary.

"Mr. WILSON. It is necessary to prevent a State from obstructing the general welfare.

"Mr. KING. The States will be prejudiced and divided into parties by it. In Philadelphia and New York it will be referred to the establishment of a bank, which has been a subject of contention in those cities. In other places it will be referred to mercantile monopolies.

"Mr. WILSON mentioned the importance of facilitating by canals the communication with the western settlements.

"The motion being so modified as to admit a distinct question, specified and limited to the case of canals, Pennsylvania, Virginia, and Georgia voted for the proposition; New Hampshire, Massachusetts, Connecticut, New Jersey, Delaware, Maryland, North Carolina, and South Carolina voted 'no.'

"The other part fell, of course, as including the power rejected."

The proposition made by Mr. Madison to give to Congress the power to grant charters of incorporation for the very purposes proposed by this bill failed in the Convention which framed the Constitution, and therefore it was not inserted as a grant from the States to the Federal Government.

Upon this point I will not stop here to refer to the subsequently expressed opinions of Madison or Monroe, but I stand upon the opinion of one whose views I have been ever taught to respect and whose judgment is clear enough light for my guidance. General Jackson, in his Maysville road veto of May 27, 1830, speaking of this power of Congress to invade the sovereignty of the States—and I confine my remarks to that particular branch of this question—said:

"Although frequently and erroneously attempted, the power to this extent has never been exercised by the Government in a single instance. It does not, in my opinion, possess it; and no bill, therefore, which admits it can receive my official sanction."

And, following the clear light of this exposition of the Constitution, President Polk, in his message of December 15, 1847, said:

"This power to make a road or canal, or to dig up the bottom of a river or harbor, implies a right in the soil of the State and a jurisdiction over it for which it would be impossible to find any warrant.

The States were particularly jealous of conceding to the General Government any right of jurisdiction over their soil, and in the Constitution restricted the

exclusive legislation of Congress to such places as might be purchased with the consent of the States in which the same shall be for the erection of forts, magazines, dock-yards, and other needful buildings."

"That the United States should be prohibited from purchasing lands within the States without their consent, even for the most essential purposes of national defense, while left at liberty to purchase or seize them for roads, canals, and other improvements of immeasurably less importance, is not to be conceived."

And yet, by the eighth section of this bill, a corporation is authorized to do so in the name of the United States.

But we are not left to the executive department for the interpretation of the powers of Congress, for in the case of the United States vs. Cornell, (2 Mason, 60,) Mr. Justice Story said:

"The purchase of lands by the United States for public purposes within the territorial limits of a State does not of itself oust the jurisdiction or sovereignty of such State over the lands so purchased. It remains until the State has relinquished its authority over the land, either expressly or by necessary implication."

I might amplify the argument by the citation of analogous cases, such as *Smith vs. Maryland*, 18 Howard, 21; *Pollard's Lessee vs. Kagan*, 3 Howard, 212; *Martin vs. Waddell*, 16 Peters, 367; but I will not tax the patience of the Senate by a cumulation of authorities. Suffice it to say that no case can be found decided by a respectable court which is in antagonism to the principle which I have thus broadly laid down.

Now, then, let me turn the attention of the Senate from the principle which I have enunciated to the bill itself. As an illustration, may I ask the attention of Senators to the ninth section, by which certain offenses are declared to be misdemeanors, and the offender is to be tried, and if convicted by a court of competent jurisdiction shall be punished by fine, &c. If such an offense was committed in Maryland will the Senator who prepared the bill—the distinguished Senator from Ohio, I think, disclaimed its paternity—state what court could try such an offender? Could a State court or a court of the United States? I pause for a reply.

The title to the property over which the railway is laid, after it shall have been purchased or condemned, is declared by the eighth section to belong to the corporation chartered by the act, and, as much as the real estate of any other corporation, it remains in the State of Maryland and subject to its jurisdiction. Can this be doubted, or will it be contended that a corporation within the State of Maryland is greater than the State itself? If, then, the jurisdiction over the soil is in the State of Maryland must not the punishment for the offense be prescribed by the laws of Maryland? Had a murder or any other crime been committed within the walls of a banking house of the old United States Bank in Maryland will any lawyer say that any other authority than the State could punish the offender? Can a court of the United States try a man for an offense committed within the body of a county, except in places where the jurisdiction is ceded by the State? Can a State court try a party for an offense made so by special statute of the United States? It were idle to pursue the inquiry further. No lawyer can successfully maintain such a proposition.

I hardly think, therefore, it can be seriously contended that any power in Congress to build roads is to be found expressed in any of the grants of the Constitution; and if there is no such power in the creator, surely none can be claimed for the creature. The power, therefore, not being expressed, but in fact denied by the framers of the Constitution, the advocates of this bill claim that it is incident to an expressed power. Such a proposition is not new. As early as the time of Mr. Monroe the same claim was set up. In his veto of the bill to extend the Cumberland road, just before retiring from the Presidency, he said:

"That the power over the subject of roads and canals was claimed to be incidental, and derived: first, from the right to establish post offices and post roads; second, from the right to declare war; third, to regulate commerce; fourth, to pay the debts and

provide for the common defense and welfare; fifth, from the power to make all laws necessary and proper for carrying into execution all the powers vested by the Constitution in the Government of the United States or in any department or officer thereof; sixth and lastly, from the power to dispose of and make all needful rules and regulations respecting the territory and other property of the United States. According to my judgment it cannot be derived from either of these powers, nor from all of them united, and in consequence it does not exist."

This bill, as its title declares, is to "promote commerce" among the States; and the authority of Congress to pass such a measure is asserted to be incidental to the power "to regulate commerce."

"A power to be incidental must be exercised for ends which make it a principal or substantive power, independent of the principal power to which it is an incident."

It is not enough that it is regarded by Congress as convenient, or that its exercise would advance the public weal. It must be necessary and proper to the execution of the principal expressed power to which it is an incident, and without which such principal power cannot be carried into effect. "To regulate commerce among the States" gives no warrant to take from a State its right of eminent domain over the soil within its territorial jurisdiction. "To regulate commerce" is not to carry it on. In *Gibbons vs. Ogden*, (9 Wheaton, 196,) the Supreme Court said "to regulate is to prescribe the rule by which commerce is to be governed." It never meant to make bridges, construct roads, canals, or streets, but it could prescribe the rule by which commerce was to be conducted over them "among the States." The distinction is too clear to need further argument. In the Wheeling bridge case, to which my friend, the Senator from Ohio, casually referred, in which the majority of the court only decided that the power to regulate commerce included the power to determine what shall and what shall not be deemed an obstruction of navigation, Mr. Justice McLean, in his opinion, dissenting from some of the rulings of the court, said:

"If under the commercial power Congress may make bridges over navigable waters it would be difficult to find any limitation of such a power. Turnpike roads, railroads, and canals might on the same principle be built by Congress. And if this be a constitutional power it cannot be restricted or interfered with by any State regulation.

"So extravagant and absorbing a Federal power as this has rarely, if ever, been claimed by any one. It would in a great degree supersede the State governments by the tremendous authority and patronage it would exercise. But if the power be found in the Constitution no principle is perceived by which it can be practically restricted.

"This dilemma leads us to the conclusion that it is not a constitutional power."

But again let me call the attention of the Senate to a like authority on this point. Mr. Justice McLean, in the sixth volume of McLean's Reports, page 524, in the Rock Island bridge case, says:

"Under the commercial power Congress may declare what shall constitute an obstruction or nuisance by a general regulation, and provide for its abatement by indictment or information through the Attorney General; but neither under this power to establish post roads can Congress construct a bridge over navigable water. This belongs to the local or State authority within which the work is to be done. But this authority must be so exercised as not materially to conflict with the paramount power to regulate commerce. If Congress can construct a bridge over a navigable water, under the power to regulate commerce, or to establish post roads, on the same principle it may make turnpike or railroads throughout the country. The latter power has generally been considered as exhausted in the designation of roads on which the mails are to be transported, and the former by the regulation of commerce upon the high seas and upon our rivers and lakes. If these limitations are to be departed from there can be no others except the discretion of Congress."

He should have said "the want of discretion" in Congress.

Congress has power to regulate all bridges over navigable streams, remove offending bridges, and punish those who shall erect them thereafter; and should a State, or a corporation created by the State, obstruct the passage of citizens of one State over the soil of another State, or the transportation of his goods, in like manner Congress might have power, by general regulation, to prevent such obstruction.

"Whatever subjects of this power [to regulate com-

mere] are in their nature national, or admit of one uniform system or plan of regulation, may justly be said to be of such a nature as to require exclusive power by Congress."—12 *Howard*, p. 239.

Whatever doubts I may have entertained anterior to the decision of the Supreme Court of the United States in the case of *Crandall vs. The State of Nevada*, reported in 6 *Wallace*, entertaining the highest respect for the legal tribunals of the country, and considering that that is this power to determine all constitutional questions, I should bow, even if I held contrary opinions, with the utmost respect to it.

I say, further, if two great railways, meeting each other at the lines of the respective States by which they are chartered, and which connect, should be established as post roads, and refuse to make reasonable and proper connections, and thus furnish an obstruction to commerce among the States, I am not prepared to say that there is not a power lodged in Congress to remedy such an evil. But that would be a power incidental to the principal power to regulate commerce, and is like the power to regulate the transportation of goods over bridges, which are connecting parts of turnpikes, streets, and railways, and are means of commercial intercourse, as well as navigable rivers, and as such under the control of Congress. I turn from these authorities and these executive expositions of this power in Congress to find some case, or some dictum even, from those high judicial officers who have thrown light upon the jurisprudence of our country, laying down a doctrine in opposition to this, but I look in vain. Not a single case can be found maintaining the power of Congress to construct a railroad in a State without its concurrence, either expressed or implied. If the Senator from Ohio could have laid his hand upon one he would not have allowed the opportunity to have passed. Without the multiplication of words, for I do not wish to trespass unnecessarily upon the time of the Senate, I affirm that no such power exists in Congress under the Constitution.

But, passing to the next proposition which I proposed in the argument I have tried to make, should such power exist in Congress as claimed in this bill I should protest against its passage upon the ground of its injurious effect upon the country. Every man knows the corrupting influences which surround legislative bodies in the interest of corporations and charter seekers, the former striving for ampler powers and privileges and greater immunities from their common law liabilities, and the latter seeking to obtain charters, to be bought up by rival and existing companies. Once establish Congress as a corporation manufacturer and you will transfer to the Rotunda of the Capitol the lobbies of thirty-four States, (I believe that is the number now;) no, thirty-three and a half, for only half of Georgia is in. The third house will outnumber both Houses of Congress put together. Thousands of miles of railways, intersecting the country at all points, and woven over it like a spider's web, costing millions of money, have been built by private enterprise under State charters and fostered by State legislation. The vast capital so expended has, in a great measure, come from foreign lands, and after lying idle for years is now beginning to yield revenues to the holders of these investments. Let it be understood that after a private company, incorporated by a State, has raised capital from Europe and opened up new territory, and brought to the farmer a market for his grain, and is about to realize the profit of its enterprise, Congress shall intervene and grant charters for parallel roads, without responsibility to the States, and you paralyze the whole railroad energy of this country. No more foreign capital will seek investment in railroad securities here. Under the present system, wherever railroads have been needed, charters for them have always been granted by the States, as far as my experience goes, with a single exception. I concur with the Senator from Ohio in his advocacy of competing lines. Competition in railways, as in everything else, ought to be encouraged. Wherever capital

and enterprise are willing to open the country every legislative facility ought to be granted. No monopolies ought to be permitted, whether in railways or copper mines or any other branch of industry. They are odious to republicans, and are calculated to build up the meanest of all aristocracies—the aristocracy of money.

But, Mr. President, I contend that there is no necessity for any such new roads as proposed by this bill. The State of Maryland has been foremost in the promotion of works of improvement. It brought its treasury to the verge of bankruptcy in advancing and pushing forward such works, and without selfishness or disposition to deprive the adjacent States and territory of their benefit. Of all, the people of Washington have the least cause to complain. The Chesapeake and Ohio canal, on which Maryland has sunk in principal and interest more than fifteen millions of money, bears upon its waters from the coal and mineral regions of that State their richest treasures into the distant cities. It has expended more than twenty million dollars on which it does not receive one per cent. interest.

It has been charged by the Senator from Ohio with fostering the Baltimore and Ohio Railroad Company to the exclusion of all rival interests. It is denounced as guarding a monopoly, and refusing to open its territory to rival competition. The accusation is unjust, and made, I am sure, from want of information, and not intentionally. Maryland has been generous to such improvements on all sides. She has spent at least \$3,000,000 of her money on the Northern Central railway, and upon the Tide-Water canal at least half as much. She has granted railway charters without number, both on the eastern and western shores. She has done it, on the one hand, while she saw the southern travel by way of Norfolk and Annapolis diverted from her great city; and, on the other, through Hagerstown to the Northwest. The branch road to Washington enables western travelers to pass to the capital without even seeing Baltimore.

At the session of her Legislature last winter, out of four hundred and seventy laws passed nearly fifty were acts of incorporation for new railways, amendments to old charters, or appropriations in aid of railroad construction. The same Legislature appropriated \$500,000 for the building of railroads in Prince George's, St. Mary's, and Charles counties, adjoining this District. It provided for a commission, now at work, to survey a route for a railroad from some point in Prince George's county to the waters of the Chesapeake, at Point Lookout. At the previous session its Legislature refused to make any change in the charter of the Baltimore and Potomac railroad, to which I shall refer directly, which should prevent a direct connection over its line between Baltimore and Washington. That she may have erred in some of her legislation I do not pretend to deny; but her good far outweighs her evil.

The capitation tax on the Washington branch of the Baltimore and Ohio railroad is, in my judgment, whether constitutional or not, unfounded in justice or in policy. It exacts as well from her own citizens as from strangers an unnecessary and burdensome toll. Its fruits are but a gain to the coffers of the State of some seventy-five to ninety thousand dollars per annum on an average, and it is no compensation for the grievance it inflicts upon citizens of other States in transit over her territory. It ought to be, and I trust it will be, repealed by the Legislature at its next session, for I do not think it has now the popular sanction; and this is manifest by the grant of the charters of the Metropolitan road and the Baltimore and Potomac road without the imposition of any such tax.

Another cause of complaint stated by the Senator who reported this bill is the failure in close connections between the Baltimore and Ohio railroad and the road running northward to Harrisburg. It is a serious inconvenience, and ought to have a remedy, and if any consti-

tutional mode can be suggested for the benefit of the traveler I shall be most ready to support it. I am no apologist for the Baltimore and Ohio Railroad Company, nor of any other corporation. I am for holding them to the strictest accountability and keeping them to letter of their charters; but I have an innate sense of justice, and believe in the maxim, "*Audi alteram partem*," and before I condemn I like to hear both sides. The Baltimore and Ohio Railroad Company deny that the fault of this non-checking of baggage and of quick transit through Baltimore city can be laid at its door. I find that the president of that company, nearly two years ago, addressed to my predecessor in the Senate the following letter:

BALTIMORE AND OHIO RAILROAD,
PRESIDENT'S OFFICE,
BALTIMORE, March 29, 1867.

MY DEAR SIR: I am obliged for your esteemed favor of 27th instant.

Baggage is checked at our Washington station for Philadelphia, New York, &c., and for all points in the West by our main stem.

The complaints to which you refer are doubtless in reference to travel via Harrisburg and the Pennsylvania road, as by all other lines the arrangements are as perfect as practicable.

You are aware that the Pennsylvania company is not merely a rival but a hostile interest. The Baltimore and Ohio Company can furnish no through checks for baggage by the Northern Central road, which is controlled by the Pennsylvania road, except arrangements be made with the officers of the latter company. This company has for years been entirely willing to make the requisite arrangements to check baggage through from Washington to all points desired by the Northern Central and Pennsylvania roads, making but one proviso, which is usual under similar circumstances, namely, that if tickets are sold and baggage is checked at our Washington station the Pennsylvania road shall cease to maintain separate and antagonistic offices in Washington. This reasonable and proper arrangement has not been accepted, although I have repeatedly called the attention of the leading directors of the Northern Central road to its necessity and propriety.

I fully accord that the public should be accommodated upon this subject, and I am equally satisfied that the Northern Central Company would cordially cooperate, if not adversely controlled by the Pennsylvania company. It would, of course, be useless to cause this company to maintain additional rival offices to meet the needless expensiveness of the present system in Washington, if tickets for all points, by either road, at the option of the passenger, could be obtained at our Washington station.

As the fault of the failure to effect the proper arrangements lies entirely with the Pennsylvania road, I will be obliged if you will make the requisite explanations to such parties as are interested.

I am, with very great regard, very truly, yours,
J. W. GARRETT, *President*.

To Hon. REVERDY JOHNSON.

The Senate can judge whether this company is justly subject to animadversion or not. That the Washington branch should earn \$30,000 per mile during 1865, at the close of the war, when large armies and supplies were to be moved, seemed to the Senator from Ohio to be enormous; but when I look at the report of the Pennsylvania Railroad Company, which I hold in my hand, I find its revenue for the same period was equal to \$48,768 62 per mile; and I believe that for the same period almost all the important lines of the country exceeded the sum, which has been pronounced extravagant. I think if the report of 1866 had been examined the Washington branch would have showed earnings equal to only \$15,000 per mile. At all events, I know that the stockholders have not received on an average from this road since its origin more than nine per cent. in annual dividends.

But I will not detain the Senate by these minor points of the discussion.

If greater facilities are needed for travel northward and northwesterly from this city Maryland has already provided the means for its accomplishment. As far back as 1826 Maryland chartered a company to build the Metropolitan branch road, which but for the war would have long since been completed. It has been delayed since its close by litigations arising out of the condemnation of the land, but it is now in progress and under assurance of its speedy completion. By it the distance from the Point of Rocks will be reduced some fifty miles, and in connection with the Pittsburg and Connellsville road, now being rapidly constructed, the distance to Pittsburg will be less.

ened by seventy-four miles and to Cincinnati by one hundred and twenty-eight miles, as compared with the shortest lines to Washington by the Northern Central road.

Again, in speaking of the Baltimore and Ohio Railroad Company the Senator from Ohio says:

"Its rivals are not allowed by the State of Maryland to compete here. Washington is excluded from the benefit of this healthy competition."
* * "It is a monopoly in that it prevents all rival lines, and indeed every means of railroad transit from the residence of three fourths of the people of the United States to Washington, except over their road. Capitalists and rival interests would have built other railroads to Washington long since, and the only obstruction is this railroad, which has thus far defeated all competition and has monopolized on its own terms the railroad transit to Washington."

Now, the honorable Senator entirely ignores the Baltimore and Potomac Railroad Company, of which I have spoken.

Mr. SHERMAN. Will my friend allow me to interrupt him?

Mr. WHYTE. With great pleasure.

Mr. SHERMAN. My friend must be aware that the Baltimore and Potomac Company was not believed to have the power to come to Washington; and it was by the energy and persistence and continued labor of my colleague, [Mr. WADE,] for days and days here in the Senate, that authority was finally given to make a connection with that road in order to get to Baltimore; and that was opposed with great violence, to my surprise, by the Baltimore and Ohio Railroad Company. My colleague availed himself of an old charter of Maryland for a road from Baltimore down to Point Lookout or some other place in the lower part of Maryland to authorize a connection with that road, and also availed himself of an authority in that charter to run a branch twenty miles to get this competition of which the Senator speaks.

Mr. WHYTE. I grant it and I accept it. I am speaking of to-day; I am answering a proposition of to-day, not of the past; and I honor the distinguished President of this body that he saw there was the proper mode of making a rival line to the Baltimore and Ohio Railroad line. It showed his wisdom, and I would have voted with him and supported him if I had had the honor to hold a seat on this floor at that time. I am speaking of to-day, not of yesterday. I say you ignore the fact that you have given power to this Baltimore and Potomac road to enter the District of Columbia, and Maryland has given it power to move from the District of Columbia across its own territory to Baltimore, and to connect with the Northern Central railway or any other railroad, thus making a rival road to the Baltimore and Ohio road. I am defending my State from the imputation that she has guarded and protected a monopoly. I do not belong to the fossils of the past; I am speaking of the men of to-day. I reiterate that when my distinguished friend from Ohio spoke in the Senate Chamber, a few days ago, he entirely ignored the Baltimore and Potomac road, a rival interest incorporated by the State of Maryland, without the imposition of any capitation tax, ably presided over by the newly-elected Governor of the State, and whose road is now being rapidly constructed. That road is guided and governed by the men of 1869 and not of 1832. It is no myth, but a living thing. Its advantages have been well known, and the subscription books to its capital stock have been long wide open for the rich capitalists of Washington to embark their fortunes in this much-needed and long-sighed-for artery to the heart of the nation. To show how they have responded to the munificent offer of that company I beg the patience of the Senate while I read a letter from its worthy president:

FAIR VIEW, COLLINGTON POST OFFICE,
PRINCE GEORGE COUNTY, MARYLAND,
December 31, 1868.

MY DEAR SIR: I desire to repeat to you in writing what I said orally a few days ago in Baltimore, that the "Baltimore and Potomac railroad," of which I am the president, will, I think, beyond doubt be

completed from Baltimore to Washington by January, 1870.

Nearly every mile of this part of the road is being now rapidly graded, some of the sections have been completed, and the grading of those not yet under way will be immediately commenced.

Our contracts have just been made for cross-ties. We are about to commence the bridging, which for the present will be only of a temporary character, to enable us to get our trains immediately to running, and thus enable us also to transport by rail the heavy material for constructing the bridges of a permanent nature.

The road will be, as you are aware, in all respects a first quality one, with its northern and western connections made by steam, and without change of cars at Baltimore. The route will be rather around than through Baltimore to our depot on the northern side of that city. The time between the cities of Baltimore and Washington will not be over one hour, and every facility and comfort will be offered both to through and local travel.

It may not be generally known to members of Congress that this new road is exempt from the "capitation tax" which is imposed upon the present Baltimore and Washington road, and that the connection which the SHERMAN bill proposes to make with the Pennsylvania Central is already made with it by the Baltimore and Potomac through the Northern Central.

The writer refers to this bill by its popular name as "the SHERMAN bill."

The Baltimore and Potomac road completed, as it surely will be in a year, we have two first class and competing roads between Washington and Baltimore, each one connecting with rival roads in the latter city to the West, and also giving the same choice of routes to New York and Philadelphia via Harrisburg which the SHERMAN bill proposes.

What, then, can possibly be the necessity or the motive for the incorporation of this National Road North? If it is to allow the investment of Washington capital it has an opportunity already offered it in the Baltimore and Potomac, in which, notwithstanding Washington is so greatly interested, yet not one dollar has been invested by her citizens, or one share of the stock owned by them.

Recognizing that the facilities or accommodations of trade and travel do not require a third road from Washington and Baltimore, (the granting of the charter for which might have only the effect to embarrass the new road, which is being built against the opposition of already powerful interests)—

Governor Bowie has reference to the Baltimore and Ohio Railroad Company, with which his road is in antagonism—

I have written you thus fully in the confident belief that you will be able to successfully impress those views upon Congress.

Only by reading the views themselves, as presented by the Governor to Congress:

You are at liberty to make any use you think proper of this letter, even to publishing it if necessary. I am, with high regard, your friend, truly and respectfully,
ODEN BOWIE.

HON. WILLIAM PINKNEY WHYTE,
United States Senate.

I have here a map of this road, showing its courses, and giving, with the other roads, a view of the routes, which will all be shortly opened northward from Washington; and if Senators will examine it I do not think any candid mind will favor the exercise of at least doubtful constitutional powers in the granting of the charters proposed by this bill.

It is said that necessity knows no law; but in this case there is neither law nor necessity for the passage of this bill.

I am sure the honorable Senator from Ohio will confess that these two enterprises now undertaken and being rapidly carried through—the Metropolitan branch road and the Baltimore and Potomac road—will be sufficient for the wants of the District, and ought to be satisfactory to all parties concerned.

In May, 1866, as I see by the Congressional Globe of that date, page 2375, that Senator then said:

"If the State of Maryland will go one step further, and authorize the construction of a railroad from Washington directly toward New York, and also authorize the construction of a railroad from Harper's Ferry or from Martinsburg across the State of Maryland in that region of country, I think it will do all that any State could reasonably demand of it."

"Mr. CRESWELL. To what point does the gentleman desire a road?"

"Mr. SHERMAN. From here to the Point of Rocks."

These reasonable expectations are being now fulfilled. Then why shall you invade the soil of Maryland, and grant charters to corporations to break down the interests of her citizens and of men in England who are largely interested, having given their money to make the pioneer road across the Alleghanies. The Metropoli-

tan road is making its way to the Point of Rocks, and the Baltimore and Potomac road will be finished by January 1, 1870, with its connections, either around the western side of Baltimore city with the track of the Northern Central railroad, or, crossing the river at Locust Point, will pass to the east of Baltimore, and make its junction with the Baltimore, Wilmington, and Philadelphia railroad.

Here, then, will be "the consummation devoutly to be wished;" and I appeal to Senators if any more can be reasonably demanded? Without wearying or fatiguing the Senate by a further discussion, I appeal to Senators, to their candor and to their justice—Maryland having broken all the bonds of the past, if there were bonds in the past; Maryland having opened wide its doors for capital and for enterprise to build these roads—whether now the power of Congress shall be extended over that State to destroy all the capital and all the interests created there of which I have spoken, and to build up a monopoly in railroads between this capital and the city of New York and the other points named in the bill?

Mr. POMEROY. We have been unable for some time past to do any business in executive session, because our executive sessions have been at such a late period in the day. I now move that the Senate proceed to the consideration of executive business.

Mr. SUMNER. I hope we shall go on with this bill.

Mr. SHERMAN. Let us go on with this bill. Nothing in executive session is more pressing.

The PRESIDENT *pro tempore*. The motion is not debatable.

COMMITTEE ON RETRENCHMENT.

Mr. EDMUNDS. With the permission of the Chair and of the Senator from Kansas and of the Senate, I wish to ask leave, in behalf of the Committee on Retrenchment, to sit during the sessions of the Senate. Some work in the way of detail that we are obliged to do in order to complete our Treasury investigations requires more attention than can be given in the morning, and I should like the privilege of continuing our sessions during the sittings of the Senate.

The PRESIDENT *pro tempore*. If there be no objection the motion of the Senator from Vermont will be entertained. The question is on granting to the Committee on Retrenchment leave to sit during the sessions of the Senate.

The motion was agreed to.

EXECUTIVE SESSION.

Mr. HOWARD. If it be in order I move to take up a bill.

The PRESIDENT *pro tempore*. There is a motion pending that the Senate proceed to the consideration of executive business.

Mr. POMEROY called for the yeas and nays; and they were ordered.

Mr. SUMNER. I hope the Senate will go on with the discussion of the railroad bill.

Mr. EDMUNDS. Debate is not in order.

Mr. CAMERON. I trust we shall go into executive session.

The PRESIDENT *pro tempore*. The question is not debatable.

The question being taken by yeas and nays, resulted—yeas 29, nays 18; as follows:

YEAS—Messrs. Bayard, Buckalew, Cameron, Cat-tell, Corbett, Davis, Dixon, Doolittle, Fowler, Gimms, Henderson, Howe, McCreery, McDonald, Morrill of Maine, Morton, Norton, Nye, Osborn, Patterson of Tennessee, Pomeroy, Rice, Ross, Sawyer, Spencer, Van Winkle, Vickers, Whyte, and Willey—29.
NAYS—Messrs. Abbott, Chandler, Conkling, Drake, Ferry, Harris, Howard, Morgan, Morrill of Vermont, Patterson of New Hampshire, Pool, Robertson, Sherman, Stewart, Sumner, Wade, Warner, and Williams—18.

ABSENT—Messrs. Anthony, Cole, Conness, Cragin, Edmunds, Fessenden, Frelinghuysen, Harlan, Hendricks, Kellogg, Ramsey, Saulsbury, Sprague, Thayer, Tipton, Trumbull, Welch, Wilson, and Yates—19.

So the motion was agreed to.

After some time spent in executive session the doors were reopened; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, January 20, 1869.

The House met at twelve o'clock m. Prayer by Rev. CHARLES E. LORD, D. D., of Chester, Vermont.

The Journal of yesterday was read and approved.

SWAMP LANDS.

Mr. CULLOM, by unanimous consent, introduced a bill (H. R. No. 1739) for the relief of States entitled to swamp-land indemnity; which was read a first and second time, and referred to the Committee on the Public Lands.

HARBOR OF CHICAGO.

Mr. JUDD, by unanimous consent, introduced a bill (H. R. No. 1740) to enable the city of Chicago to enlarge its harbor; which was read a first and second time, and referred to the Committee on Commerce.

Mr. WASHBURN, of Illinois, moved to reconsider the votes by which the bills were severally referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MARINE HOSPITAL AT CHICAGO.

Mr. WASHBURN, of Illinois, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be directed to communicate to the House all the facts, estimates, contracts, correspondence, and official papers connected with the building of the marine hospital at Chicago, Illinois, and to state whether the estimates for the building of such hospital exceed the amount provided specifically by law, and if so, by what authority the building of said hospital has been undertaken at the cost of a larger sum.

EMILY B. BIDWELL AND SARAH HACKLEMAN.

Mr. HOLMAN, by unanimous consent, introduced a bill (H. R. No. 1741) granting an increase of pension to Emily B. Bidwell, widow of Brigadier General Daniel D. Bidwell, and Sarah Hackleman, widow of Brigadier General Pleasant A. Hackleman; which was read a first and second time, and referred to the Committee on Invalid Pensions.

Mr. HOLMAN. It will be remembered by the House that a bill has already passed granting a pension to these ladies, but owing to a defect it cannot be executed.

Mr. BENJAMIN. I will say to the gentleman that this matter is all provided for by a bill which will come before the House, and there is no use taking up the time of the House about it now.

Mr. HOLMAN. Perhaps the gentleman can manage my bill better than I can. But I have felt a great deal of interest in this matter, and all I desire to ask is that the House under the circumstances will allow the committee to report this bill at any time. It is only to correct a mistake.

There was no objection; and the committee was authorized to report at any time.

UNITED AID ASSOCIATION.

Mr. JULIAN, by unanimous consent, introduced a bill (H. R. No. 1742) to incorporate the United Aid Association; which was read a first and second time, and referred to the Committee for the District of Columbia.

MAIL ROUTES IN MISSOURI.

Mr. STOVER, by unanimous consent, introduced a bill (H. R. No. 1743) creating a mail route between Harrisonville, Missouri, and Blooming Grove, Kansas, and Versailles and Tuckerville, State of Missouri; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

Mr. WASHBURN, of Illinois, moved to reconsider the votes by which the bills were severally referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PUBLIC CREDIT.

Mr. SCHENCK, by unanimous consent, introduced a bill (H. R. No. 1744) to strengthen the public credit, and relating to contracts for the payment of coin; which was read a first and second time, referred to the Committee on

Ways and Means, ordered to be printed, and also ordered to be printed in the Globe.

The following is the bill:

A bill to strengthen the public credit, and relating to contracts for the payment of coin.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to remove any doubt as to the purpose of the Government to discharge all just obligations to the public creditors, and to settle conflicting questions and interpretations of the laws by virtue of which such obligations have been contracted, it is hereby provided and declared that the faith of the United States is solemnly pledged to the payment in coin, or its equivalent, of all the interest-bearing obligations of the United States, except in cases where the law authorizing the issue of any such obligation has expressly provided that the same may be paid in lawful money, or other currency than gold and silver: *Provided, however*, That before any of said interest-bearing obligations, not already due, shall mature or be paid before maturity the obligations not bearing interest, known as United States notes, shall be made convertible into coin at the option of the holder.

Sec. 2. And be it further enacted, That any contract hereafter made specifically payable in coin, and the consideration of which may be a loan of coin, or a sale of property, or the rendering of labor or service of any kind, the price of which as carried into the contract may have been adjusted on the basis of the coin value thereof at the time of such sale or of the rendering of such service or labor, shall be legal and valid, and may be enforced according to its terms; and on the trial of a suit brought for the enforcement of any such contract, proof of the real consideration may be given.

FRANKING PRIVILEGE.

Mr. FARNSWORTH. I call up the motion to reconsider the vote by which the bill (H. R. No. 1549) to restrict and regulate the franking privilege, with the substitute therefor reported by the Committee on the Post Office and Post Roads, was recommended to that committee.

The question was on the motion to reconsider.

The bill was read. The first section provides that members of Congress shall only be entitled to the franking privilege during the actual sessions of the Congress of which they are members. The second section provides that from and after the 4th of July next no letter or other matter shall be transmitted through the mails free of postage unless the same shall be duly franked by some person having the franking privilege by writing his name in his own proper handwriting upon such letter or mailable matter.

The substitute reported by the Committee on the Post Office and Post Roads was then read, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall not be lawful for any officer of the Government, member of Congress, or other person entitled by law to the franking privilege, to exercise said privilege otherwise than by his or her written autograph signature upon the matter franked; and all letters or other mail matter not thus franked by the written signature of a person entitled by law to exercise said privilege shall be charged with the rates of postage which are now or may be hereafter established by law.

Sec. 2. And be it further enacted, That from and after the 1st day of April next no officer of the Government, member of Congress, or other person entitled by law to the franking privilege shall, by reason of such privilege, be entitled to receive through the mails any mail matter free of postage; but all mail matter directed to any such officer, member of Congress, or other person, shall (unless duly franked or otherwise declared by law free matter) be charged postage as in other cases.

Mr. FARNSWORTH. This bill is printed, printer's number 605, and members will find it upon their files. The bill reported from the Committee on the Post Office and Post Roads, by way of substitute for the one originally introduced, is in two sections. The first section of the substitute abolishes the use of *fac simile* stamps, and provides that the franking privilege shall be exercised only by the person entitled to that right, and by his written autograph signature upon the matter franked. It abolishes the use of those *fac simile* stamps about which we have heard so much and the abuse of which has become so prevalent.

The second section of the substitute provides that mail matter sent to persons who are entitled to the franking privilege, from and after the first day of April next, shall be charged with postage as mail matter is charged in other cases. In other words, it provides that the franking privilege shall not carry with it the

right of persons to receive mail matter free, but that the postage upon it shall be prepaid, as in other cases, by the persons who send the mail matter. The way in which this matter grew up of attaching to the franking privilege the right to receive matter free as well as to send it free was this: in old times, when the postage was paid upon matter at the time and place of its delivery, it was found to be exceedingly troublesome and onerous to require members of Congress to pay postage upon all the letters and other mailable matter received by them from their constituents, which they would have been obliged to do unless they had given to them the right to receive as well as to send mail matter free of postage. But now that postage is required to be prepaid it seemed to the Committee on the Post Office and Post Roads that there was no good reason why people who write letters to members of Congress and other persons entitled to the franking privilege should not be required to prepay the postage on the letters they send as well as other persons who send letters through the mails.

The truth of the matter is, that probably one half or two thirds of the letters sent to members of Congress are now prepaid. Those people who really are the least able to pay postage are the very persons who do prepay the postage on their letters, because they are not quite certain about their right to send letters to members of Congress without the prepayment of postage. I have myself, since I have been a member of Congress, frequently received letters from postmasters of small post offices, inquiring whether individuals had the right to send letters to members of Congress without the prepayment of postage. The fact is not generally known throughout the country, and those people who are really the least able to prepay postage do prepay it now. Members of Congress know very well how the mails are now flooded with all sorts of documents which are sent to members of Congress, especially during sessions. They are now dumped down in the post office by the car load; all kinds of circulars, pamphlets, and documents, advocating jobs and schemes of all conceivable kinds. They are sent through the post office free of postage under the franking privilege which is given to members of Congress.

Mr. BENJAMIN. Will the gentleman yield to me for a moment?

Mr. FARNSWORTH. Certainly.

Mr. BENJAMIN. I would inquire of the gentleman from Illinois [Mr. FARNSWORTH] if it is proposed by this bill to cause persons sending papers to the Departments—for instance, applications for pensions, bounties, and all that sort of thing—to prepay the postage on those papers? I would inquire if that is the intent of the second section of the substitute? It seems to me that such a provision as that would be too onerous, for it is frequently the case that the postage upon such matter is very considerable; and there is no class of persons less able to prepay postage than the soldiers and widows of soldiers who have occasion to make that kind of communication to the Departments of the Government.

Mr. FARNSWORTH. There did not appear to the committee any good reason for making the distinction suggested by the gentleman from Missouri, [Mr. BENJAMIN.] So far as regards correspondence in relation to bounties and the like, the necessity for that is now pretty much past. It is difficult to provide by law what shall constitute free mail matter. If we were to say that all matter marked "official business" shall be free, then everybody might mark their mail matter "official." If you say that every letter that is sent to the Postmaster General shall be free of postage, then whatever is sent to him by anybody, however able to pay the postage upon it, will be free of postage. Every head of a Department, every official under the Government who is entitled to the franking privilege, gets all his letters free; and the mails are thus loaded down with matter which ought not to pass through the mails

free. I will state to my friend from Missouri [Mr. BENJAMIN] that as to papers on official business addressed to the heads of the Departments, most of that very matter is now prepaid; and as I have already remarked, with regard to letters addressed to members of Congress, this is especially the case as to correspondence coming from the poorer classes of people. Those least able to pay do pay their postage when they write to the Department, as well as when they write to members of Congress. As a general thing only those best able to pay postage know what the law is in regard to this matter, and send their communications through the mail without paying the postage.

Now, Mr. Speaker, I presume every member of the House has noticed in the public press criticisms upon the use of the *fac simile* stamps. I believe that these stamps have all grown into use within the last six or eight years, and they have been so common that at this time I presume almost every member of Congress uses them, as do the different Departments and officers of the Government. Every one can readily understand how easy it is to forge these *fac similes*. Any man, for instance, after getting my autograph upon a piece of paper, can go to an engraver and get him to engrave a *fac simile* stamp. He may take that stamp to New York or Boston or New Orleans and engage in sending off circulars and other mail matter through the mails under this forged stamp. Thus members are subjected to unjust criticism and censure, as has been shown this very session in the case of the gentleman from Maine, [Mr. LYNCH.] Other cases have come to the knowledge of the Department and of members of Congress where these *fac similes* have actually been forged, and in some cases they have been stolen from members and used in this indiscriminate way. In fact, in Washington the abuse has grown to be so great that scarcely anybody in this city pays any postage at all, except it may be strangers visiting here casually. Almost everybody in the Departments and almost all the citizens of Washington manage in some way or other, by the use of these *fac simile* stamps, which are obtained either from members of Congress or from officers of the different Departments, to frank all the letters which they send from this city.

Mr. Speaker, unless some gentleman desires to discuss this subject I will call the previous question.

The SPEAKER. If there be no objection the motion to reconsider will be regarded as agreed to, and the motion to recommit as withdrawn, so that the substitute will be pending before the House.

Mr. MILLER. Will the gentleman from Illinois [Mr. FARNSWORTH] allow me to offer an amendment?

Mr. FARNSWORTH. I will hear the amendment.

Mr. MILLER. It is, to add at the end of the second section "except correspondence with the Commissioner of Pensions in relation to pensions." I hope the gentleman will allow this amendment to be offered.

Mr. FARNSWORTH. I am not authorized to accept the amendment.

The SPEAKER. It cannot be accepted. Does the gentleman allow it to be offered?

Mr. FARNSWORTH. I will allow the amendment to be offered that it may be voted upon by the House.

Mr. WASHBURNE, of Illinois. I ask my colleague [Mr. FARNSWORTH] to allow me to offer a substitute for the substitute. It is to insert in lieu thereof "that all laws and parts of laws conferring the franking privilege on any person or persons whatever are hereby repealed." I trust my colleague will permit us to test the sense of the House upon this proposition.

Mr. FARNSWORTH. Mr. Speaker, I am entirely satisfied that that proposition cannot become the law; that if it should be adopted by the House it cannot pass in the Senate. I desire that the abuses of the franking privilege shall be prevented as far as possible; but while I am

willing myself that the franking privilege should be abolished entirely, my impression is that this substitute of my colleague cannot be passed through both Houses of Congress, and that its adoption by the House at this time would only be mischievous. Hence, though I agree with my colleague on this subject, I must decline to allow his amendment to be offered.

Mr. ROBINSON. Will the gentleman yield to me?

Mr. FARNSWORTH. I will.

Mr. ROBINSON. I desire to say a word on this subject. The whole of this outcry against the franking privilege arises in the most foolish way imaginable. That privilege is correct and proper; the outcry arises out of the abuse of the law, and instead of trying to correct the abuses practiced under it, it is now proposed to abolish the law, which is very proper.

This bill proposes to abolish the *fac simile* privilege. Will the gentleman from Illinois, or any other member of the House, tell me when that privilege was given? Every man who has used one of these *fac similes* is as guilty—not intentionally—as any other person who is defrauding the Government. There never was any permission to use it. This whole abuse has crept in from the fact that the law is not executed. We might as well say, because some franks are forged by the pen the writing of the name should cease. There are thousands of franks sent out every day from this city written by the pen of other persons, and they do not take the trouble even to imitate the signature. In my own case, looking at the law, I saw that I had no authority to use a *fac simile*, and although I had a good deal of franking to do I never got a *fac simile* stamp. I repeat, then, that there is no necessity for enacting a law abolishing the *fac simile*, for the right to use it never existed. In regard to imitations with the pen, I myself have had my signature abused in New York by a firm who sent around circulars under what purported to be my frank in writing. I went to the district attorney and gave the name of the parties, and asked him to prosecute. I heard nothing more about it after that.

Now, sir, this is not the only privilege that is abused. I am in favor of reducing the expenses of the Government. I do not yield, I might almost say, even to my distinguished friend from Illinois, [Mr. WASHBURNE,] who carries his ideas of retrenchment almost to the verge of paralyzing the operations of the Government, so strenuous are his efforts in that direction. But I will go as far as he can reasonably ask in retrenchment. This proposition, however, is only a clipping of very small feathers from the overshadowing wings of extravagance. Some time ago, during the recess of Congress, I went down into the lower regions of this Capitol to see what was going on there. I found there some twenty persons or more employed in doing up documents, using great quantities of Government paper and twine. That paper and twine cost more than the amount of postage involved in the frank. The documents were going off by the hundred thousand. The employes were working night and day sending off political documents for partisan purposes. I saw there a great quantity of documents. A gentleman nominated yesterday as Senator of the United States had made a little speech out West. That speech was brought on here and sent out by the hundred thousand. I had some curiosity to see whether we had any chance on our side in that distribution of campaign documents; so I took up some of them and ascertained that they were all partisan documents which were being sent off in Government envelopes. Sir, it will require a supplementary appropriation bill to pay the expenses of that operation. I must say that the part of the House to which I belong had not availed itself of its proportion in that transaction. Out of the twenty or thirty different kinds of documents being sent out the only Democratic one I saw was a little speech of my friend from Pennsylvania, [Mr. BOYER.] His seemed to be the only document which the party had

taken the privilege of circulating at that time. I presume out of the twenty boys who were folding the documents nineteen were folding Republican documents and only one Democratic.

Now, sir, as long as I have a place here I shall go for every wholesome measure of reform and retrenchment, but I tell you you are beginning blindfold in the matter. Therefore, if I were entitled to the floor to make the motion, I would move to recommit the bill for the purpose of perfecting it by stopping the use of Government envelopes and scattering political documents, one of the abuses which are bleeding the country to a frightful extent.

The SPEAKER. Does the gentleman from Illinois yield to the gentleman from New York to make the motion which he has indicated?

Mr. ROBINSON. I will not ask the floor to make the motion, but I think the bill ought to be recommitted.

Mr. FARNSWORTH. I yield now to the gentleman from Pennsylvania, [Mr. BROOMALL.]

Mr. BROOMALL. I entirely disagree with the gentleman from New York [Mr. ROBINSON] about the right to use a *fac simile* stamp for the purpose of franking letters and documents. I believe there is no law prescribing the manner in which a member of Congress or any other individual with the franking privilege shall put his name upon a letter or document. It may be done with a stamp as well as with a pen. That which the person entitled to the franking privilege recognizes as his frank is his frank, whether it is put there with a pen or with a stamp. I am satisfied that that is the state of the law. Several years ago I was under the necessity, as I then believed, of getting a stamp for the purpose of franking documents, as I was in the habit of franking a great many. The abuses to which the system of franking by a stamp is liable induced me some months ago to abandon it and destroy or lock up my stamp, and I notified the Post Office Department that I was using it no longer. From that time up to the present I have been trying to get out of existence the stamped franks which had been in some way abstracted from me, and which are still occasionally found in the mails. I have, however, I think, after about two months' effort, succeeded in stopping them. Having thus abandoned the practice myself on account of the abuses to which it is liable, and not because I believed it wrong or unlawful, I am entirely in favor of this bill, and shall vote for it.

Mr. ROBINSON. Will the gentleman allow me to ask him whether he stopped the use of his frank stamp before or since the election?

Mr. BROOMALL. That is a very pertinent question. During the campaign these abuses came to my knowledge. Some of the gentleman's political friends used to play an ingenious trick upon me; they used to open my documents under my stamped frank, take out the matter which I had inserted, and put in their own and send the letters on their way to my correspondents; and in many instances the spurious Seymour dollar, about which so much was said during the late campaign, floated over the country in different parts, and especially in my district, under my frank, having been put there in place of documents which had been taken out. The envelopes showed that they had been opened. I saw enough of these abuses of my frank to induce me to discontinue the use of it immediately upon the close of the campaign. I therefore answer the gentleman's question that it was at the close of the campaign that I abandoned its use.

One word more. The gentleman has said something about the documents sent from this building throughout the country during the late campaign at the public expense, and he has told us that some of those documents were sent by his own political friends. I can tell him, for I happen to know something about it, that his political friends, as well as mine, had their headquarters here, and I rather think his party got more than their share in the way of distributing documents through the mails

and having them folded here at the public expense. It is an evil which the doing away with of stamped franks will do much to cure, both in the gentleman's party and in mine, because members of Congress will not take the trouble to write their actual names upon matter of this kind to a sufficient extent to make it a very great grievance. I am, therefore, entirely in favor of this bill, and hope it will pass.

Mr. FARNSWORTH. For the purpose of making the second section of the substitute a little plainer, I will move to add the words, "except public documents printed by order of Congress." That will enable members of Congress, after they have gone to their homes on the adjournment of a session, to receive documents without the payment of postage or leaving their franks here to be put upon them.

The SPEAKER. If there is no objection, the amendment will be regarded as incorporated in the section. The Chair hears no objection.

Mr. FARNSWORTH. I now yield to my colleague on the committee, [Mr. FERRY,] the gentleman from Michigan.

Mr. FERRY. I desire to move to strike out the second section of the pending substitute. I am in favor of the first section, but am opposed to the second section, because it is a discrimination against the constituencies of members of Congress. I would be in favor of abolishing the franking privilege entirely rather than make this distinction against constituents which the section proposes. I would not free members of Congress from the payment of postage upon all mail matter received by them; but I am opposed to compelling constituents to pay postage upon the matter they send to their members, and at the same time giving members of Congress the privilege of sending free of postage as much similar mail matter as they please.

There is no justice whatever in exempting members of Congress from the payment of postage upon their correspondence to their constituents, and requiring the same constituency to prepay upon their mail matter to their Representatives. The relation is an official one, involving much correspondence and the transmission of much valuable public matter in the shape of documents and other public proceedings and records. So long as the franking privilege exists let it bear equally upon people and Representatives. The relation is mutual. The benefits growing out of the privilege in great measure inure to the people who are the recipients of these valuable public documents, and so far is beneficial and just. Whenever you legislate, however, to grant privileges on correspondence emanating from members, and refuse the same right to constituents, you institute inequality of legislation and discriminate against the people, who should be benefited, if either, and not, as proposed, be burdened. I will readily vote to abolish the franking privilege entire, but cannot support a proposition to legislate money out of the pockets of the people into those of members of Congress.

Mr. FARNSWORTH. I allow the motion of my colleague [Mr. FERRY] to be voted upon. I now yield to the gentleman from Ohio [Mr. LAWRENCE] for five minutes.

Mr. LAWRENCE, of Ohio. I do not propose to discuss at any length the substitute offered for the original bill, for it would be impossible to do so in the brief time allotted to me. It is perfectly manifest, however, that something must be done in relation to the franking privilege, because the revenues of the Post Office Department have so fallen off as to make it absolutely necessary, if the Department is to be self-supporting, and also because of the gross abuses that have grown up under the franking privilege in almost every department of the Government. The Postmaster General has recommended the entire abolition of the franking privilege. His predecessor made the same recommendation to Congress.

If the House shall decline to make any change in the substitute reported by the gentleman from Illinois [Mr. FARNSWORTH] I will still

support it. But it seems to me that the substitute should be so amended as to accomplish a wider purpose, by taking away the entire congressional franking privilege. If this privilege has been misapplied by members of Congress it has, perhaps, to a still greater extent been abused by those having no right to it. Franks have been forged, or used without authority, to no inconsiderable extent. But I rest my objection to the franking privilege on the broad ground of its inexpediency, the inequality in the favors it bestows, and the general injustice of taxing the entire public for the benefit of the few who share its benefits. The mail service taxes the public, while those who send or receive free letters receive benefits without any equivalent compensation. I propose to amend the substitute offered by the gentleman from Illinois, [Mr. FARNSWORTH,] by inserting as a substitute what I send to the Clerk to be read.

The Clerk read as follows:

That after the 4th day of March, 1869, no Senator or Representative in Congress shall be entitled to receive or transmit by mail any letter or mail matter free of postage.

The SPEAKER. There is an amendment pending, and also an amendment to the amendment. No further amendment can be received at this time without unanimous consent.

Mr. FARNSWORTH. I cannot consent to have that amendment offered.

Mr. LAWRENCE, of Ohio. Very well; I will consider it a part of my remarks. If it could be agreed to by the House I proposed to follow it up by an additional provision, which I send to the Clerk to be read.

The Clerk read as follows:

And after July 4, 1869, no officer of the Government entitled to the franking privilege shall be entitled to receive through the mails any letter or mail matter free of postage, except the Commissioner of Pensions, the Paymaster General, and the Second Auditor of the Treasury Department.

Mr. LAWRENCE, of Ohio. It will be seen that the second section of the pending substitute prohibits any officer of the Government from receiving any mail matter free of postage. The effect of such a provision, if it shall become a law, will be to prevent a person entitled to a pension from writing to the Commissioner of Pensions without prepayment of postage. A soldier having a claim upon the Government for a bounty cannot write to the Paymaster General or to the Second Auditor of the Treasury Department without prepayment of postage. The abuse of the franking privilege does not grow out of letters sent to the Departments in these classes of cases so much as out of the fact that letters are sent from the Departments, or from members of Congress, or under their frank, which are not proper to be so sent, or in cases where, by every principle of justice, the postage should be paid. I submit to the House that it would be well to retain the franking privilege so far as to enable soldiers and pensioners to write to the Commissioner of Pensions or the Paymaster General or to the Second Auditor of the Treasury Department about their claims until the bounty claims shall all be fully paid, and for pensioners as long as the Government shall continue to grant pensions.

[Here the hammer fell.]

Mr. FARNSWORTH. I now yield to the gentleman from Wisconsin, [Mr. PAINE.]

Mr. PAINE. I ask the attention of the House for one moment to the effect which has been produced by the last amendment moved by the gentleman from Illinois [Mr. FARNSWORTH] to the second section of the substitute. I was quite well satisfied with the second section of the substitute; but the words incorporated into it, "except public documents printed by order of Congress," I think have entirely destroyed the effect of it for good. That section—and I call attention to the last clause of it—is as follows:

Sec. 2. And be it further enacted, That from and after the 1st day of April next no officer of the Government, member of Congress, or other person entitled by law to the franking privilege shall, by reason of such privilege, be entitled to receive through the mails any mail matter free of postage; but all mail matter directed to any such officer, member of Con-

gress, or other person shall (unless duly franked or otherwise declared by law free matter) be charged postage as in other cases.

That is to say, all public documents printed by order of Congress and sent to any person shall go free through the mails.

Mr. FARNSWORTH. The gentleman mistakes the phraseology of the section as it now stands. The words "except public documents printed by order of Congress" come in after the word "postage" in the fifth line.

Mr. PAINE. I read the amendment at the Clerk's desk. I presume the phraseology has been corrected since.

Mr. FARNSWORTH. I corrected it at the Clerk's desk.

Mr. PAINE. Then I withdraw what I have said.

Mr. FARNSWORTH. I ask the Clerk to read the section as it will read in the amended form.

The Clerk read as follows:

Sec. 2. And be it further enacted, That from and after the 1st day of April next no officer of the Government, member of Congress, or other person entitled by law to the franking privilege, shall, by reason of such privilege, be entitled to receive through the mails any mail matter free of postage except public documents printed by order of Congress; but all other mail matter directed to any such officer, member of Congress, or other person shall (unless duly franked or otherwise declared by law free matter) be charged postage as in other cases.

Mr. PAINE. Now, Mr. Speaker, that stands just about as it did before, because the gentleman has inserted the word "other." As the section now stands all public documents are to go free.

Mr. FARNSWORTH. Public documents are to be sent free to those who are entitled to the franking privilege—members of Congress, officers of the Government, &c.

Mr. PAINE. If the gentleman understands it so, that is well enough; but that is not the necessary meaning of the language.

Mr. FARNSWORTH. That is the way it reads, as I understand it. I will read the section with my amendment:

That from and after the 1st day of April next no officer of the Government, member of Congress, or other person entitled by law to the franking privilege, shall, by reason of such privilege, be entitled to receive through the mails any mail matter free of postage, except public documents printed by order of Congress—

That enables members of Congress to receive free of postage documents printed here after the members have gone home, without leaving their franks to be put on the documents—

but all other mail matter directed to any such officer, member of Congress, or other person, shall (unless duly franked or otherwise declared by law free matter) be charged postage as in other cases.

The meaning seems to me entirely plain.

Mr. PAINE. Let me ask the gentleman one question. If all matter except public documents printed by order of Congress is to be charged postage, are we not to infer that public documents when sent through the mails, whether to members of Congress or others, are, under the provisions of this section, to be free from postage? Is not that a fair inference?

Mr. FARNSWORTH. Public documents printed by order of Congress may be sent to members of Congress and officers of the Government free of postage.

Mr. PAINE. And all other documents must pay postage?

Mr. FARNSWORTH. Everything else sent to persons entitled to the franking privilege must pay postage, unless it is franked, as when one member sends mail matter to another member or to the head of a Department.

Mr. PAINE. The difficulty with me is that, as I understand the section, all mail matter except these public documents pays postage; and these documents, whether sent by public officers or private individuals, pass through the mails free, and may be sent back and forth a thousand times without paying any postage.

Mr. BOYER. If the gentleman from Wisconsin [Mr. PAINE] will allow me, I desire to ask him whether that ought not to be so; whether the public documents printed by order of Congress are not intended for the benefit

of the people at large, and whether the people ought not to have these documents distributed to them free of postage as heretofore?

Mr. PAINE. I am quite willing to admit that these documents should be sent from Washington to private individuals free of postage; but I am quite unwilling to admit that the private citizens of the United States should be able to send these documents to and fro through the United States mails at pleasure, without paying any postage.

Mr. BOYER. I apprehend it very seldom happens that these documents are sent to and fro by private individuals, but that as a general thing they are sent by members of Congress to their constituents, who retain them.

Mr. PAINE. It does not happen now, because it cannot be done under the present law. What would happen if we gave facilities for it we can hardly predict.

Mr. FARNSWORTH. I yield to the gentleman from New Hampshire.

Mr. BENTON. Mr. Speaker, I know that it is a very favorite idea of many people to take away the franking privilege. I think I know some individuals who entertain the idea that they will secure special favor with the people by showing themselves in favor of a restriction or a repeal of the law which confers upon members of Congress and certain officers of the Government the privilege of sending their correspondence and documents through the mail free of postage, and receiving letters and documents free.

Now, Mr. Speaker, what is the object of the franking privilege? It is to enable officers of the Government to transact their business, and perform the duties they owe to their constituents without charge from their own pockets for postage. Now the correspondence of a member of Congress on his own account is but little, and I ask would it be policy for this Government to pass an act calculated to interfere with the freedom of communication between a Representative and his constituents? I regard all this talk about the abolition of the franking privilege as buncombe. I know the privilege has been abused; so has many another act of Congress. It has been suggested that an exception should be made of pension papers. Probably some of the grossest frauds committed on the Government have been committed in the procurement of pensions by persons who were not entitled to them under the law. Now, if the bill could be perfected so as to guard against all frauds on the law, I for one would be very glad to see the law improved. For instance, if every member of Congress could have an allowance under the law of a certain amount of postage stamps for the purpose of circulating documents and carry on his correspondence, it seems to me that would put a final stop to the frauds complained of. It might limit the correspondence of some, and some might not be disposed to use all the law allowed them. But I think any act calculated to restrict or abridge the free intercourse between constituent and Representative, or between the people and the proper officials of the Government, would be detrimental to the service and to the interest of the people of the country. I think the bill as now amended will put a stop to some of the abuses that have been committed under the law as it has been construed; therefore I am in favor of the bill with the amendments reported by the committee.

Mr. FARNSWORTH. I yield to the gentleman from New York.

Mr. BARNES. Mr. Speaker, my brief experience with reference to the franking privilege has made me believe that members of Congress are not benefited by its extension or continuation as it now exists. Difficulties arise with reference to it which cannot be guarded against by special legislation; and I believe that the expenditures for this purpose should be sustained by legislation in the shape of increased compensation to members as the only way in which the abuse can be corrected. So long as Congress publishes documents which it becomes the privilege and the duty of members of the

two Houses to circulate they should be circulated at the public expense rather than at the expense of the members themselves. In that relation I consider the bill now before the House as defective. I think that all the ends would be met, so far as the demands of the people and the wishes of members of Congress are concerned, by abolishing the law as it now stands and substituting therefor an act providing that all documents printed at the expense of the Government for distribution shall come franked from the Departments, and shall be distributed under that frank as members may elect. I know with reference to myself that within the last three months my frank has been distributed under a forged *fac simile* to the extent, I believe, of one hundred thousand copies from the city where I reside, and for that abuse of my privilege forced upon me I am now receiving the censure, and I may say the just censure, of the press of the country. I make no complaint, for I have always regarded the franking privilege as one which would necessarily be subject to abuse, subjecting members of Congress to this kind of criticism. Therefore, while I wish to vote for the bill now before the House, as a restrictive measure I think it is defective in the respects I have pointed out.

Mr. FARNSWORTH. I yield to the gentleman from Tennessee.

Mr. MAYNARD. Mr. Speaker, I am compelled by a sense of duty to oppose both the sections of this amendment; and in the outset I will remark that I never have allowed any person to affix my stamp to a document with a pen, nor have I made use of these stamps. But I have known, during my service in this House, of members whose physical infirmities were such that they could not possibly have affixed their autograph signatures to one tenth part of the matter which a member of Congress has to send out.

It is the second section, however, to which I wish principally to direct attention. It seems to me that this is reform in the wrong direction. Men speak here of the "franking privilege;" it should rather be called the "franking duty." It is given to us by the law not for our benefit, not for our use, but for the benefit of our constituents, to enable them to correspond with their Representatives at the capital with more freedom and at less expense; and if any part is to be abridged let it be that part which relates to the representative, and require him to prepay the documents and communications which he sends to his constituents, and not require the constituent to prepay that which he sends to him. I am opposed to this whole proposition; and I trust the amendment of the gentleman from Michigan [Mr. FERRY] will prevail, and that the second section will be stricken out.

Now, I am as willing as any member of the House to see abuses of the franking privilege rebuked and punished, whether it be that members use it improperly and in violation of law themselves or whether the indorsement upon the document, which is intended merely to show that it is entitled to the privilege, is forged or otherwise misapplied; but I think it wrong to require that every Senator and member of Congress, no matter what physical infirmities he may labor under, shall write his own name on all the documents he sends out. I have in my mind a gentleman, who is soon to take his seat at the other end of the Capitol as Senator from my own State, whose physical infirmity is such that it would be utterly impossible for him, without the aid of an amanuensis, to use the franking privilege to frank the letters and documents which he would send out. As to the second proposition, to require our constituents when they write to us to prepay their correspondence, I am opposed to it. I do think it is a restriction of the privilege that the spirit of the law did not intend. So far as the members themselves are concerned, I but speak, I dare say, the sentiment of nine tenths of the gentlemen of the House when I say it would be an infinite relief to a member of Congress if

the franking privilege were taken away. It would reduce the amount of his correspondence and the amount of documentary matter that he would be called upon to send away. It would save him an immense amount of time and a great deal of money. But, as I have said, the franking privilege, or, I should rather say, the franking obligation or duty, is given to members of Congress not for themselves, but for the benefit of the people, to enable their constituents to correspond with them more freely. I trust my friend, the chairman of the Committee on the Post Office and Post Roads, will not deem it necessary to press either of these two propositions earnestly upon the House.

Mr. FARNSWORTH. I yield now to the chairman of the Committee on Printing.

Mr. LAFLIN. So far as this bill in its intention and in its principle strikes at the franking privilege I am decidedly in its favor. There are two objections which I have to this bill. The first is, that it gives to members of Congress and officers of the Government a right and a privilege which it denies to the people. The second is, that it gives to members of Congress a right and privilege which, far more than the franking of their correspondence, leads to an extravagant expenditure on the part of the Government. I refer to the expenditure which is created by the franking privilege in the printing department.

Now, I ask every member of Congress if the franking privilege should be abolished would our people and the members of Congress themselves see, as they do now, such a pressing necessity for the publication of such immense numbers of volumes as are now issued by the Government Printing Office? When we call to mind that we are now expending from one to two million dollars annually in the publication of documents, ought we not to stop and consider if there are not some ways and some means whereby that immense expenditure can be reduced? Now, I know of no way so potent, of no plan which will be so successful, nothing tending to economy in that direction equal to the total abolition of the franking privilege. And instead of this useless effort at economy, as proposed in this bill, I trust the chairman of the Committee on the Post Office and Post Roads [Mr. FARNSWORTH] will see fit to introduce a bill, or to offer an amendment to this bill, to abolish the franking privilege entirely, and to substitute therefor, if the public necessity shall demand it, a certain amount of money to each member of Congress to pay the postage upon their mail matter.

[Here the hammer fell.]

Mr. FARNSWORTH. How much time have I left?

The SPEAKER. The gentleman has four minutes of his hour left.

Mr. FARNSWORTH. I yield three minutes of my time to the gentleman from Massachusetts, [Mr. BALDWIN,] reserving to myself only time enough to call the previous question before my hour expires.

Mr. BALDWIN. I shall vote for the bill reported by the chairman of the Committee on the Post Office and Post Roads, [Mr. FARNSWORTH,] although, at the same time, I would prefer to vote for a bill of a somewhat different character. In my view, the franked mail matter of members of Congress should go free only when deposited here in the post office of the House or Senate, or in the post office at the place of the member's residence. I agree with what has been said by the gentleman from Tennessee, [Mr. MAYNARD,] that the right of franking exercised by members of Congress is rather a duty than a privilege; it is a burden, rather than a pleasant thing to be prized. In my opinion, there is scarcely a gentleman on this floor who would not rejoice to be entirely relieved from the duty of franking matter from Washington through the mails, for it is a very onerous duty forced upon gentlemen here from the peculiarity of their position as Representatives, rather than a benefit or a pleasure to be sought and talked of as a

privilege. And I also agree with what has been said by the chairman of the Committee on Printing, that we ought in some way to abolish the whole, or nearly the whole, document business. We ought to get rid of it, for a great portion of it is utterly useless, and I would be in favor of utterly abolishing the whole matter of publishing documents by order of Congress by the hundred thousand to be distributed by members of Congress. As to the franking privilege, I think it is necessary to members of Congress while they are subjected to the necessity of so great an amount of correspondence relating wholly to public business. I am certainly in favor of the first section of the substitute now before the House. I have never found it proper for myself to do otherwise than with my own hand to write every frank I have attached to the mail matter sent by myself. I shall vote for both sections.

[Here the hammer fell.]

Mr. FARNSWORTH. I now call the previous question upon the bill and pending amendments.

Mr. SCOFIELD. If we vote down the previous question, can we afterward amend this bill so as to give some vitality to it?

The SPEAKER. By voting down the previous question, and then voting down the amendments which are now pending to the bill, other amendments can then be offered.

Mr. SCOFIELD. I believe all the good amendments have been left out, and those which would make the matter worse are left in.

The SPEAKER. That is not a parliamentary question which the Chair can answer.

Mr. WOOD. I desire to say that I shall call for a division of the question upon the second section of the substitute.

The SPEAKER. Resolutions can be divided, but bills must be voted upon as a whole.

Mr. FARNSWORTH. There is a motion pending to strike out the second section, which will answer the purpose of the gentleman from New York, [Mr. WOOD.]

The question recurred upon the demand for the previous question; and being taken, it was seconded, upon a division—ayes eighty-one, noes not counted.

The main question was then ordered.

The first question was upon the motion of Mr. MILLER, to amend the second section of the substitute by adding to it the words, "except correspondence with the Commissioner of Pensions in relation to pensions."

The amendment was not agreed to.

The next question was upon the motion of Mr. FERRY, to strike out the second section of the substitute, which had been amended to read as follows:

SEC. 2. And be it further enacted, That from and after the 1st day of April next no officer of the Government, member of Congress, or other person entitled by law to the franking privilege shall, by reason of such privilege, be entitled to receive through the mails any mail matter free of postage, except public documents printed by order of Congress; but all mail matter directed to any such officer, member of Congress, or other person shall (unless duly franked or otherwise declared by law free matter) be charged postage as in other cases.

The question was taken; and upon a division there were—ayes 89, noes 38.

Before the result of the vote was announced, Mr. SPALDING called for the yeas and nays.

The yeas and nays were ordered.

Mr. JOHNSON. I move that the bill be laid on the table.

The motion to lay on the table was not agreed to.

The question recurred upon the motion of Mr. FERRY, to strike out the second section of the substitute, upon which the yeas and nays had been ordered.

The question was taken; and it was decided in the affirmative—yeas 123, nays 56, not voting 43; as follows:

YEAS—Messrs. Allison, Archer, Delos B. Ashley, James M. Ashley, Axtell, Bailey, Banks, Barnum, Beatty, Beck, Benjamin, Blaine, Blair, Biles, Boutwell, Boyden, Boyer, Brownell, Buckland, Buckley, Burr, Roderick E. Butler, Callis, Cargis, Chanler, Churchill, Cobb, Coburn, Corley, Cornell, Cullom,

Dawes, Delano, Dockery, Dodge, Thomas D. Eliot, James T. Elliott, Ferriss, Ferry, Fields, French, Garfield, Getz, Glossbrenner, Golladay, Goss, Gore, Griswold, Grover, Hawkins, Higby, Holman, Hooper, Hopkins, Humphrey, Hunter, Ingersoll, Jenckes, Alexander H. Jones, Thomas L. Jones, Julian, Kelley, Kelsey, Kerr, Ketcham, Kitchen, Knott, Koonitz, Lincoln, Logan, Longbridge, Lynch, Mallory, Marshall, Maynard, McCarthy, McCormick, McCullough, Mercer, Mullins, Mungen, Myers, Newsham, Nicholson, Norris, O'Neill, Orth, Paine, Perham, Peters, Pike, Price, Prince, Randall, Baum, Robertson, Boots, Ross, Sawyer, Schenck, Shaunts, Sitgreaves, Smith, Stevens, Stewart, Stokes, Taffe, Thomas, Twichell, Van Aernam, Van Aiken, Burt Van Horn, Robert T. Van Horn, Henry D. Washburn, Welker, Whittemore, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, Wood, Woodward, and Young—123.

NAYS—Messrs. Arnell, Baker, Baldwin, Barnes, Beaman, Benton, Broomall, Reader W. Clarke, Cook, Dewese, Driggs, Ela, Farnsworth, Harding, Haughey, Heaton, Hotchkiss, Johnson, Judd, Laffin, Lash, George V. Lawrence, William Lawrence, Marvin, McKee, Miller, Moore, Moorhead, Morrell, Newcomb, Niblack, Pettis, Phelps, Pierce, Pile, Plants, Poland, Polsley, Robinson, Scofield, Sheilabarger, Spalding, Starkweather, Stover, Taber, Taylor, Tift, John Trimble, Trowbridge, Upson, Van Trump, Van Wyck, Ward, Elihu B. Washburne, William B. Washburn, and Thomas Williams—56.

NOT VOTING—Messrs. Adams, Ames, Anderson, Bingham, Blackburn, Bowen, Brooks, Benjamin F. Butler, Calk, Sidney Clarke, Clift, Covode, Dickey, Dixon, Donnelly, Bekley, Edwards, Eggleston, Eldridge, Fox, Gravelly, Haight, Halsey, Hamilton, Hill, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hubburd, Kellogg, Loan, Morrissey, Nunn, Pomeroy, Pruyn, Selye, Stone, Sypher, Lawrence S. Trimble, Vidal, Cadwalader G. Washburn, William Williams, and Woodbridge—43.

So the amendment was adopted.

The SPEAKER. If there be no objection, the substitute, as amended, will be agreed to, in lieu of the original bill.

There was no objection.

The bill, as amended, was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time.

The question being on the passage of the bill,

Mr. FARNSWORTH called the previous question.

The previous question was seconded and the main question ordered.

Mr. INGERSOLL. I call for the reading of the bill as amended.

The bill, as amended, was read. It provides that it shall not be lawful for any officer of the Government, member of Congress, or other person entitled by law to the franking privilege, to exercise that privilege otherwise than by his or her written autograph signature upon the matter franked; and all letters or other mail matter not thus franked by the written signature of a person entitled by law to exercise said privilege are to be charged with the rates of postage which are now, or may be hereafter, established by law.

The bill was passed.

Mr. FARNSWORTH moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REMOVAL OF POLITICAL DISABILITIES.

Mr. FARNSWORTH, from the Committee on Reconstruction, reported a bill (H. R. No. 1746) for the removal of certain disabilities from persons therein named; which was read a first and second time.

The bill, which was read, provides that, with the concurrence of two thirds of each House, all legal and political disabilities imposed by the United States upon the following named citizens of the several States mentioned, in consequence of participation in the rebellion, be removed:

Of Virginia.—Albemarle county: John E. Early, Ira Garrett, William Wertenbaker, John Wood, Jr., Andrew J. Brown, William T. Early, D. W. Burnley, Ezra M. Wolfe, Thomas W. Wood, J. H. Rives, John H. Bibb.

Bedford county: S. B. Wright, Charles A. Bower, L. A. Sale.

Buckingham county: William A. Moss, J. Hill, Alexander Moseley, E. K. Irving.

Campbell county: John W. Burton, R. S. Burton, C. D. Flynn.

Caroline county: Myer Augle, Jr. Charlotte county: F. M. Read. Chesterfield county: Francois C. Moss. Clarke county: Lewis F. Glass.

Dinwiddie county: Robert Bolling, Thomas H. Boisseau, J. H. Smith.

Fauquier county: Robert B. Bolling.

Floyd county: B. P. Elliott, A. J. Kerby, F. A. Winston.

Fluvanna county: Thomas H. Tutwiller.

Franklin county: William E. Andrews.

Goochland county: R. G. Banks.

Halifax county: B. F. Garrett, W. L. Owen.

Hanover county: William C. Wickham, John Page.

Henrico county: Thomas M. Kimbrough.

Henry county: George D. Gravelly, C. Y. Thomas, John F. Pedigo, John T. Hawlett.

Montgomery county: James C. Taylor.

Northampton county: William G. Riley.

Orange county: Lewis B. Williams.

Rappahannock county: F. H. Bruce.

Rockbridge county: James G. Parton.

Rockingham county: John T. Harris.

Pittsylvania county: J. W. McKinsey, William Rison, John Pairo.

Petersburg: D. W. Lassiter, E. O. Hinton, James M. B. Stewart, John R. Hinton.

Prince Edward county: E. S. Hines, B. S. Hooper, H. R. Hooper, John V. Miller, Robert D. Miller, Frank D. Redd.

Rappahannock county: B. I. Holland, Willis Browning.

Richmond county: Albert P. Bennett, Richard F. Walker.

Richmond county: W. W. Raine.

Roanoke county: Ferdinand Voitz.

Rockbridge county: George E. Baker.

Russell county: A. C. Ferguson, Thomas H. Garrett, William Johnson, Samuel H. Nash, Thomas J. Riley, B. D. Seacott, William J. Dickinson, Thomas C. M. Alderson, James H. Dickinson, Thomas T. Dickinson, Jacob C. Gent.

Shenandoah county: Franklin H. Wisler, Jesse C. McKay.

Smyth county: Thomas H. Thrumman, W. P. Francis, J. M. Pruner, E. S. Watson, James B. Lowden.

Spotsylvania county: James B. Sener.

Wise county: Robert P. Dickinson.

Washington county: D. C. Dunn.

North Carolina—Onslow county: Jasper Etheridge.

Alabama—Lauderdale county: D. L. Dalton.

Lee county: Joseph W. Phillips.

Lowndes county: Robert D. Sims, Michael Burke, Frank E. Lawrin.

Marion county: George McDuffie.

Randolph county: W. A. J. Swan, George Forrister, Z. M. Hutchins.

Georgia—Twiggs county: E. S. Griffin.

Louisiana—Caldwell parish: Wade H. Hough.

Claiborne parish: James H. Maxwell, John L. Lewis.

New Orleans: J. E. Trudeau.

Mississippi—Claiborne county: Joshua S. Morris.

Mr. FARNSWORTH. I hold in my hand vouchers for all these names. They are not so very numerous. The Clerk has read the name of each State and county, which has taken some time. Nearly every one of those men from Virginia is vouched for and recommended by the State Republican committee of that State, which my Republican friends ought to regard as a pretty good backer; and as for my Democratic friends, they never doubt the loyalty of any man who is vouched for by Republicans, I am sure. There are a few names of persons that have been recommended by members of Congress. The committee, I believe, have been exceedingly circumspect in regard to this list of names. There is a large number that we have not acted upon; and the names that we have reported we were unanimously agreed upon as of persons about whom there can be no sort of doubt.

Mr. MULLINS. I wish to ask whether any of these men have petitioned for themselves, or are they here by the petition of others?

Mr. FARNSWORTH. Every one of them has petitioned for himself.

Mr. MULLINS. One further question. Are they all now in office or all desiring office?

[Laughter.]

Mr. FARNSWORTH. I have no doubt they all desire office, for that is a desire that is very prevalent at this time. But that they are all in office I very much doubt. I think very few of them hold office.

Mr. MULLINS. Only one more question. I see Shenandoah county in the list. Mosby figured largely in that region. Is he brought in here? [Laughter.]

Mr. FARNSWORTH. No, sir; his name is not in. We will be very happy to consider a bill for his relief when my friend shall offer it.

Mr. MULLINS. Well, sir, Gabriel will snap his resurrection gun before I offer it. [Laughter.]

Mr. FARNSWORTH. I yield to the gentleman from Kentucky.

Mr. BECK. I merely desire to say on behalf of the minority of the committee that there is not a man recommended here who is not as thoroughly a Republican as any gentleman on this floor.

A MEMBER. Mr. MULLINS included?

Mr. BECK. Yes, sir; that gentleman included. [Laughter.] The reason the minority were willing this list should be reported now was because we were assured that another bill would be reported, in which a large number of persons of both political parties would be recommended for the removal of disabilities.

Mr. JONES, of Kentucky. I would like to ask the gentleman from Illinois if it is absolutely necessary for a man to petition Congress on his own behalf in order to get his case considered by the committee?

Mr. FARNSWORTH. No, sir; I do not understand it is absolutely necessary he should do so himself. We regard it, however, as better evidence of a man's loyalty and disposition to accept the situation if he comes and asks for relief than if he stands upon his dignity.

Mr. JONES, of Kentucky. I understood it was necessary he should petition on his own behalf.

Mr. FARNSWORTH. We have no rule.

Mr. JONES, of Kentucky. There is one other question I would like to ask. If Colonel Mosby was to petition the Congress of the United States for a removal of his disabilities, confessing his fault and professing himself a loyal citizen, would not gentlemen of the Republican party in this House be in favor of a removal of his disabilities?

Mr. MULLINS. I would have to see the blood run from his knees all the way from here to Mecca in penitent confession before I would do it. [Laughter.]

Mr. WARD. Will the gentleman from Illinois yield to me for a question?

Mr. FARNSWORTH. I yield for that purpose.

Mr. WARD. I desire to inquire of the gentleman from Illinois whether there is any particular reason why the gentlemen whose names are reported in this bill as fit subjects for amnesty should receive this favor any more than the large mass of the men who were engaged in the rebellion? The gentleman has stated that they are vouched for by somebody, but he has not given us any reason why these gentlemen should receive this benefit.

Now, I think we should either do one of two things; we should either relieve all who were engaged in the rebellion of the disabilities imposed by the Constitution, or else we should be careful in our selection; we should know why it is that we extend this amnesty; we should have some report from the committee that would be satisfactory to the House of the reasons why this amnesty should be extended. I am unwilling to give this favor to any men who were engaged in the rebellion unless some specific reason is given why they should be made exceptions from the large mass of those engaged in the rebellion. If this thing is to be repeated daily of the committee reporting a number of names and the gentleman having charge of the subject moving the previous question, the House knowing nothing about the cases, we might as well make a clear sweep of it and extend amnesty to every one, including Jeff. Davis, Raphael Semmes, and John C. Breckinridge.

Mr. FARNSWORTH. The gentleman from New York on every occasion, I believe, when a bill has been reported to relieve anybody of disabilities has made the same criticism as he has just made. I will read for his information and the information of the House the voucher in one of these cases, and if the House desires to hear them I have similar vouchers with a report in each case, which I now hold in my hand.

Mr. WARD. I simply ask the gentleman to state any reason, if he has got any, why these men should be relieved. He has given no reason as yet.

Mr. FARNSWORTH. I do not yield to the

gentleman. This bundle of papers, furnishing a report in each case, may be printed in the Globe if gentlemen desire it; but I will read to the House now a specimen of the cases which I have reported. Here is the case of Ira Garrett:

CHARLOTTESVILLE, Va., December 10, 1868.
To the Honorable the Senate and House of Representatives of the United States:

GENTLEMEN: The undersigned respectfully prays your honorable bodies to relieve him of the disabilities imposed upon him by the fourteenth article of the Constitution of the United States, and the "reconstruction acts;" and as in duty bound he will ever pray, &c.

IRA GARRETT.

Judge Alexander Rives has my petition to Congress for a removal of my disabilities.

IRA GARRETT.

Remarks.

The following is an accurate statement of the offices held before the war, the acts committed in support of the rebellion, and the present political status of the above named:

Mr. Ira Garrett is seventy-six years of age—was elected clerk of the county court in 1831, and clerk of circuit court, of Albemarle, in 1852, and has continued to act in each court to the present time.

He gave no support to the rebellion other than sympathy, which was carried out by feeding the hungry soldiers, and attending to the wants of the sick.

He accepts the political situation of the country. He is now a Republican, and indorsed the reconstruction policy of Congress.

C. L. THOMPSON,
Member of Convention, Chairman Republican Committee, Albemarle County, Va.

JAMES T. L. TAYLOR,
Member Constitutional Convention.

Judge Alexander Rives has my petition to Congress to relieve me of my disabilities.

IRA GARRETT.

Now, that is a specimen of the whole. All the cases that I have reported are vouched for in a similar manner. The gentleman from New York can examine them if he wishes, or they can be printed if the House desires it. I move the previous question.

Mr. McKEE. Will the gentleman allow me to ask him a question?

Mr. FARNSWORTH. No, sir; I must insist on the previous question.

The previous question was seconded and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. FARNSWORTH moved the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. SHANKS demanded the yeas and nays on the passage of the bill.

Mr. WARD called for tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The question was put; and on a division there were—yeas 97, noes 30.

So (two thirds voting in favor thereof) the bill was passed.

Mr. FARNSWORTH moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HAMLIN, one of its Clerks, informed the House that the Senate had passed House bill No. 1460, regulating the duties on imported copper and copper ores, with an amendment, in which the concurrence of the House was requested.

The message further informed the House that the Senate had insisted upon its amendments to House bill No. 1558, to amend an act entitled "An act to prescribe the mode of obtaining evidence in cases of contested elections," approved February 19, 1851, had agreed to the committee of conference asked by the House, and had appointed Mr. CONKLING, Mr. FRELINGHUYSEN, and Mr. VICKERS, the conferees upon the part of the Senate.

GOLD CONTRACTS.

Mr. JULIAN. I ask unanimous consent to

introduce for consideration at this time the following resolution:

Resolved, That the Committee on Banking and Currency be instructed to inquire into the expediency of providing by law that existing contracts, and those which may hereafter be made, may be adjusted and paid in gold on the basis of the relative value of gold and United States notes.

No objection was made; and the resolution was received.

The question was upon agreeing to the resolution.

Mr. SCHENCK. I move that this resolution be referred to the Committee of Ways and Means.

Mr. JULIAN. I would prefer to have this subject go to the Committee on Banking and Currency.

Mr. SCHENCK. The Committee of Ways and Means have this subject before them now.

Mr. JULIAN. Very well; I will not object to its being referred to the Committee of Ways and Means.

The motion of Mr. SCHENCK was agreed to.

Mr. CHANLER moved to reconsider the vote by which the resolution was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

The SPEAKER. The morning hour has now commenced. The first business during the morning hour is the call of committees for reports, commencing with the Committee on Revolutionary Pensions and of the War of 1812.

ISAAC PHILIPS, DECEASED.

Mr. MILLER, from the Committee on Revolutionary Pensions and of the War of 1812, reported a bill (H. R. No. 1745) for the relief of the estate of Isaac Philips, deceased, who was a private in the revolutionary war; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill, which was read, directs that there shall be paid out of the pension fund, or out of any money in the Treasury not otherwise appropriated, to Sally Philips, daughter-in-law of Isaac Philips, deceased, the sum of \$500 in full of all claims for pension due from the United States to said Philips, Sally Philips having nursed and taken care of him in his declining years.

Mr. MILLER. It is, perhaps, proper that I should make a brief statement of the facts in this case. Isaac Philips was a private in the revolutionary war. By virtue of an act passed in 1832 he was placed on the pension-roll with a pension at the rate of twenty dollars per annum, which, by an act of March 8, 1857, was changed to a pension at the rate of eight dollars per month, from the 4th of March, 1831, and a certificate issued for the pension due under the provisions of this act amounting to \$1,976. A man by the name of Abial Sawyer had been acting for the old man, and claimed a power of attorney to collect his pension, but it only related to the first pension granted, to wit, twenty dollars per annum. Afterward a man of the name of Lawrence Bess, together with said Abial Sawyer, went to a justice of the peace in Tioga county, Pennsylvania, of the name of Henry Lord, and got out a blank power of attorney to have old Mr. Philips to empower him to draw the \$1,976 pension, and stated that it was mere matter of form, and that it was not necessary to send for old Isaac Philips; that Sawyer would place the old man's mark to it, and under some pretense get two witnesses to witness the paper, and the justice to certify it in same manner as if the old revolutionary soldier had been before him. At that time the old man resided some two and a half miles from the justice's office, and was both deaf and blind. Sawyer and Lawrence then got a certificate of the clerk of the court of Potter county that Henry Lord, before whom the paper purported to be executed, was an acting justice of the peace. They then went to Philadelphia and drew from S. S. Anderson, agent of the United States for pay-

ing pensions there, the \$1,976. The United States agent first took his affidavit that he had no interest directly or indirectly in the amount of back pension, and then paid the money to him in good faith.

Immediately afterward these men, Sawyer and Bess, went to the old man, Isaac Philips, and offered to compromise with him by giving him \$222 of the \$1,976 which they had drawn. Sawyer introduced Bess to the old man as a clerk in the Pension Office at Washington, and they told him that if he did not take the amount they offered him he would not get anything. The old man refused to take the amount they offered, but stated he was willing to pay what was right. Bess then left seventy-five dollars with the justice of the peace, which the old man afterward reluctantly took; and that was all that he received so far as the evidence adduced before the committee shows.

This old man went to live with his son, who was very poor and also old. Afterward, not being able to get the money Bess had received belonging to the old man for his pension, a prosecution was instituted in the district court of the United States for the western district of Pennsylvania at Williamsport against Lawrence Bess and Abial Sawyer for forgery, and on the 20th of June, 1860, the grand jury found a true bill for forging the power of attorney. In 1861 old Mr. Philips died, and afterward, on the 22d of September, 1863, said indictment came on to be tried, and the only defense seemed to be insisted on was the act of limitation of 80th April, 1790, which limits the prosecution to two years after committing the offense; and on that ground the court (Judges Grier and McCandless) directed an acquittal; and in that way, and that way only, they escaped punishment. Justice Grier stated that the court had no doubt, under the evidence, of their guilt, but felt bound, under the act limiting the time such offense must be prosecuted, to direct an acquittal. Old Mr. Philips went to reside with his son; and after the death of the son the old man continued to live with his daughter-in-law, who took care and attended him faithfully up to the time of his death, he being upward of ninety years old when he died.

Taking into consideration all the facts and circumstances of the case, and that the old man and his wife are both dead, and in fact nearly all his relatives are also dead, the committee have decided to recommend the payment of \$500 to his daughter-in-law, Sally Philips, who is now old and very poor, for taking care of the old gentleman in his declining years and last sickness. Were he now living, there is no doubt he would justly be entitled to the whole amount of the money.

Mr. CULLOM. If I understand the gentleman's statement, the object of this bill is to pay some woman for taking care of a man who had a pension during his lifetime.

Mr. MILLER. No, sir; the object is to pay a relative of this old man that which would be justly coming to him if he were alive.

Mr. CULLOM. Pay it to whom?

Mr. MILLER. The proposition is to pay to his daughter-in-law, who took care of him, \$500 of the pension money to which the old gentleman, if living, would be justly entitled. He had received in his lifetime the certificate for \$1,976, which was paid on a forged power of attorney to Lawrence Ress. We do not propose to allow this lady an annuity; but simply to pay her \$500 of the pension money justly belonging to her old father-in-law.

Mr. CULLOM. The old gentleman is dead.

Mr. MILLER. He is now dead.

Mr. CULLOM. Then this money is to go to the woman that took care of him during his lifetime.

Mr. MILLER. Yes, sir.

Mr. CULLOM. That is what I said. It is a pension paid not to the party himself, but to somebody else.

Mr. MILLER. No, sir; the pension goes just where it belongs. The pension accrued to the old man during his lifetime, and it was a pension money to which he was entitled.

Mr. UPSON. Has the Government once paid the amount due on this certificate?

Mr. MILLER. No, sir; it was paid on a forged power of attorney to that scamp, Lawrence Ress.

Mr. UPSON. Is this lady in indigent circumstances?

Mr. MILLER. Yes, sir; she is very poor, and, as I have already said, nursed and took care of him till his death.

Mr. UPSON. Was the power of attorney forged by the attorney of the revolutionary soldier?

Mr. MILLER. Yes, sir; by a man that claimed to be acting as his attorney, under a power which had been forged. I will add, Mr. Speaker, that I have drawn up a lengthy report of eighteen pages containing all the facts connected with the case, and if any gentleman desires to read it he can do so, as it is now on file. I now demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LOIS CLARK.

Mr. MILLER, from the Committee on Revolutionary Claims and of the War of 1812, reported back a bill (S. No. 569) granting relief to Lois Clark.

The bill, which was read, directs the Secretary of the Interior to pay to Lois Clark, of Milton, Vermont, the sum of \$750, being the amount due to her father, Abraham Lawrence, a soldier of the Revolution, as pension from March 4, 1831, to the day of his death, June 13, 1837.

Mr. HOLMAN. I raise the point of order that this bill contains an appropriation, and must receive its first consideration in the Committee of the Whole.

The SPEAKER. The Chair sustains the point of order. If it is insisted upon the bill must go to the Committee of the Whole.

Mr. HOLMAN. I will reserve the point of order till I hear some explanation of the bill.

Mr. MILLER. I will state the facts of this case as I understand them. Lois Clark, now claiming the amount named in the bill, is the only surviving child of a revolutionary soldier who resided in the State of Vermont. He was entitled under an act of Congress to a pension. While he was—

Mr. BENJAMIN. I insist upon the point of order.

The SPEAKER. The point of order being insisted upon, the bill must receive its first consideration in the Committee of the Whole, to which it is now referred. The report accompanying the bill will be ordered to be printed.

ADVERSE REPORT.

Mr. MILLER, from the same committee, reported adversely on the bill (H. R. No. 195) to provide pensions for certain officers and soldiers of the United States who served in the war of 1812, in the Mexican war, and in the Indian wars, up to and including the Black Hawk war, and for other purposes; and the same was laid on the table.

CHARLES MOSS.

Mr. MILLER, from the same committee, reported back the bill (H. R. No. 1695) granting a pension to Charles Moss, of Lewisburg, Pennsylvania, with a recommendation that it do pass.

The bill directs the Secretary of the Interior to place on the pension-roll the name of the applicant, a soldier of the war of 1812, who served with the first regiment of Pennsylvania militia, and pay him a pension of eight dollars per month during his natural life, commencing the 1st day of January, 1868.

Mr. WELKER. I would like the gentleman to state some reasons for granting this pension.

Mr. MILLER. This man was a soldier in the war of 1812. He is very old and crippled, and very poor, not able to make a living. He has been in that condition for several years. He presented his application for a pension once before. The Committee on Invalid Pensions reported a bill in his favor, and it passed the House, but failed in the Senate for want of time. It is a very meritorious case. The man resides in the town in which I do, and I know all about his condition. He did service for the country, as appears from the evidence before the committee, and it is as meritorious a claim as could be brought before Congress. I move the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ADVERSE REPORTS.

Mr. MILLER, from the same committee, reported adversely on the following cases; and the same were laid on the table:

A bill (H. R. No. 216) allowing pensions to soldiers and widows of soldiers of the war of 1812;

Petition of John Grubb and others, of Virginia, soldiers of the war of 1812, praying for the passage of a pension law for the benefit of the soldiers of the war of 1812; and

Petition of citizens of Lehigh county, Pennsylvania, for a general pension law for the benefit of surviving soldiers and widows of soldiers of the war of 1812.

AMOS ARMSTRONG.

Mr. MILLER, from the same committee, reported back the bill (H. R. No. 721) to increase the pension of Amos Armstrong, who was wounded in the battle of Queenstown during the war of 1812, with a recommendation that it pass.

The bill increases the pension to fifteen dollars per month during the residue of the life of the applicant.

Mr. MILLER. I move the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ISAIAH DEWLING.

Mr. ARCHER, by unanimous consent, presented the memorial of Dr. Isaiah Dewling, of the United States Navy; which was referred to the Committee on Naval Affairs.

DANIEL HAUSER.

Mr. MULLINS, from the Committee on Revolutionary Pensions and of the War of 1812, reported a bill granting a pension to Daniel Hauser, a citizen of North Carolina and a soldier of the war of 1812; which was read a first and second time.

It directs the Secretary of the Interior to place the name of the applicant on the pension-roll, and that he be paid a pension of eight dollars per month from the 1st of January, 1869, during the remainder of his life, to be paid out of any money in the Treasury not otherwise appropriated.

Mr. BENJAMIN. I raise the question of order upon that bill. It contains an appropriation, and must have its first consideration in Committee of the Whole.

The SPEAKER. It is an appropriation bill.

Mr. MULLINS. I will move to amend it.
The SPEAKER. It cannot be considered in the House.

Mr. MULLINS. Well, I cannot see the necessity of the case which requires the gentleman to take that position.

The SPEAKER. The gentleman from Missouri makes the point of order.

Mr. MULLINS. I hope the gentleman will withdraw it.

Mr. BENJAMIN. No, sir, I cannot. I think it better that we should consider these bills in Committee of the Whole House.

The SPEAKER. The Chair will state to the gentleman from Tennessee that it is unusual to make the appropriation out of the Treasury. These pensions are paid out of the general amount appropriated for pensions.

Mr. MULLINS. I ask leave to withdraw the bill.

There was no objection; and the bill was withdrawn.

ADVERSE REPORT.

Mr. MULLINS, from the same committee, reported adversely on the petition of Allen McClure and James Whaley, soldiers of the war of 1812, for relief; and the same was laid on the table.

GEORGE GIVENS.

Mr. MULLINS, from the same committee, reported a bill (H. R. No. 1746) entitled "An act granting a pension to George Givens, a soldier of the war of 1812;" which was read a first and second time.

The bill directs the Secretary of the Interior to place the name of George Givens, a citizen of Pittsburg, Alleghany county, Pennsylvania, a soldier of the war of 1812, upon the pension-roll, and allow him a pension of eight dollars per month from the 1st of December, 1868, until his death.

Mr. PRICE. Is there a report in this case?
Mr. MULLINS. There is a written report, and I ask the Clerk to read it.

The Clerk read the report. It sets forth that George Givens, a native of Tennessee, now a citizen of Pittsburg, Pennsylvania, enlisted in the twenty-fourth United States infantry, commanded by Lieutenant Colonel Gaines, served for eighteen months, and was honorably discharged on the 4th of February, 1816, and that he is now very old and infirm and unable to procure a living by manual labor.

Mr. BENJAMIN. I would ask the gentleman from Tennessee what reason there is for granting a pension in this case that does not apply to all the soldiers of the war of 1812? I do not see, from the report, that this party contracted any disease in the service that disabled him, or that he was wounded.

Mr. MULLINS. I will answer the gentleman. The petitioner in this case has arrived at a very mature age. He is now, as the petition states, old and declining. He took up arms in defense of his country when you were a boy; and now I ask you will you repudiate your debt to this old grandsire for saving your country and driving out the Indians and the British to give you the liberty and sunshine that you and I both enjoy? Why, the gentleman is joking, I am satisfied! [Laughter.] It is a meritorious case, and I ask the previous question.

Mr. UPSON. The name of this man's company and regiment ought to be inserted in the bill to identify him.

Mr. MULLINS. The name of the company and regiment are there in the report.

Mr. UPSON. It ought to be in the bill.

Mr. MULLINS. Well, put it in.

The SPEAKER. If there is no objection it will be inserted in the bill. The Chair hears no objection.

Mr. MULLINS. I now insist on the previous question.

The previous question was seconded and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MULLINS moved to reconsider the vote

by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE PRESIDENT.

A message from the President of the United States was communicated to the House by Colonel WILLIAM G. MOORE, his Secretary, informing the House that the President had approved and signed the following bills and joint resolution:

A bill (H. R. No. 967) to provide for the removal of the remains of W. T. Coggeshall, late minister of the United States at Ecuador, to the United States;

A bill (H. R. No. 1537) to repeal certain provisions of section six of an act entitled "An act making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes," approved March 2, 1867;

A bill (H. R. No. 1673) to relieve William H. Bagley, of Wake county, North Carolina; and

A joint resolution (H. R. No. 388) explanatory of an act to create an additional land office in the State of Minnesota, approved July 25, 1868.

DANIEL HAUSER.

Mr. MULLINS. I am instructed by the Committee on Revolutionary Pensions and of the War of 1812 to report a bill granting a pension to Daniel Hauser, a citizen of North Carolina, and a soldier of the war of 1812.

The bill, which was read, directs the Secretary of the Interior to place on the pension-roll the name of Daniel Hauser, a citizen of North Carolina and a soldier of the war of 1812, and to pay him a pension at the rate of eight dollars per month from the 1st day of January, 1869, during the remainder of his natural life.

Mr. BENJAMIN. Is not this the bill that was referred to the Committee of the Whole a few minutes ago?

The SPEAKER. By unanimous consent of the House the gentleman from Tennessee [Mr. MULLINS] was granted leave to withdraw the bill to which the gentleman from Missouri [Mr. BENJAMIN] referred.

Mr. BENJAMIN. I did not consent to the withdrawal.

The SPEAKER. Leave was asked for that purpose, and no objection was made. The bill has been changed to obviate the objection made to it by the gentleman.

Mr. BENJAMIN. I raise the same point of order, that this is still an appropriation bill, and must receive its first consideration in the Committee of the Whole.

The SPEAKER. The Chair overrules the point of order, upon the ground that this is not an appropriation bill, as it requires the pension to be paid out of the pension fund, which is appropriated in the annual pension appropriation bill.

The bill (H. R. No. 174) granting a pension to Daniel Hauser, a citizen of North Carolina and a soldier of 1812, was then read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

Mr. HOLMAN. I notice that the regiment and company are not named in this bill.

Mr. MULLINS. That is not necessary, as the regiment and company are set out in the report.

Mr. HOLMAN. I move to amend the bill, by inserting in it the regiment and company to which this man belonged.

Mr. MULLINS. I have no objection to that.

The amendment of Mr. HOLMAN was then agreed to.

Mr. MAYNARD. I would inquire if there was satisfactory evidence before the committee that this person whom we propose to pension was loyal to the Government?

Mr. MULLINS. That is the evidence. I

have been to the Department and hunted up the name of every solitary man upon whom I have had to report.

Mr. MAYNARD. Is my colleague satisfied that the fact is so?

Mr. MULLINS. I am entirely satisfied.

Mr. MAYNARD. What is the evidence that he did not join the rebellion?

Mr. MULLINS. The evidence was that, in the first place, he was too old, and that he had served his country in a former war, and was too honest to go back on his country.

Mr. MAYNARD. That may be good evidence to my colleague.

Mr. MULLINS. That is the fact as it appears upon the record. I have information here that this man was indicted for treason to the confederacy.

Mr. UPSON. If we are to give pensions to all the soldiers of 1812 we should do it by general law, or have some special reason assigned why this man should be selected for a pension. I move that this bill be recommitted to the committee.

Mr. MULLINS. I do not yield for any such purpose. There is no better man here, in my judgment, than this man Hauser. His loyalty is attested to by a witness who knew him. The men of the company to which he belonged are all dead. The papers are all in the Department, and I have examined them. I cannot see that to recommit this bill will do anything more than to delay action upon it. Here are men intimately acquainted with Mr. Hauser, who know that he was indicted by the southern confederacy for being loyal to the General Government.

Mr. UPSON. There are a good many surviving soldiers of the war of 1812 who would like to receive pensions. If we are to grant a pension in a case which has no peculiar circumstances to recommend it I do not see why we should not grant pensions to all these men.

Mr. MULLINS. I will state the circumstances of this case. This man, after being enlisted and while on his march to Norfolk, Virginia, was very suddenly attacked with rheumatism, and after being detained for several days was hauled in a baggage wagon a considerable part of the way to Norfolk, and finally completed on horseback his journey to the point of destination. He served until the close of the war—a period of eighteen months or two years—being more or less afflicted the whole time with rheumatism. When peace was declared he was still in the service, though lying prostrate; and he received an honorable discharge. He and the colonel in whose regiment he served had both to be hauled away from the point where they were discharged. Now I ask, in God's name, why should you not in such a case as this allow to a worn-out patriot a sufficient sum at least to bury him? I demand the previous question.

The previous question was seconded, and the main question ordered; which was upon the motion of Mr. UPSON, that the bill be recommitted.

On the question there were—ayes 30, noes 44; no quorum voting.

Mr. MULLINS. I ask unanimous consent to withdraw this bill for the present.

There was no objection.

WILLIAM ADAMS.

Mr. MULLINS, from the Committee on Revolutionary Pensions and of the War of 1812, reported a bill (H. R. No. 1748) granting a pension to William Adams, a soldier of the war of 1812; which was read a first and second time.

The bill directs the Secretary of the Interior to place upon the pension-roll the name of William Adams, a citizen of the town of Franklinville, New York, who served as a soldier of the war of 1812, the pension to be at the rate of eight dollars per month from January 1, 1869, until his death, and to be paid out of the pension fund.

Mr. BENJAMIN. I call for the reading of the report in this case.

Mr. MULLINS. There is no written report.

I will state the circumstances of the case. During the war of 1812 William Adams served three months in the thirty-ninth New York infantry, and was honorably discharged. He is now very old and infirm, being subject to epileptic fits. He is eighty-five years of age, and his wife is seventy. They are both helpless.

Mr. UPSON. This bill does not specify the company and regiment in which this man served. I move that the bill be recommitted to the Committee on Revolutionary Pensions and of the War of 1812.

Mr. MULLINS. Mr. Speaker, I cannot see why it is that these attacks are made upon these very meritorious bills providing for men who fought for the country when she needed their assistance and when her friends were not so numerous as they are now, though she has enemies enough at the present time. Such treatment as these bills are receiving to-day is very poor encouragement to the men who have bled for this Government, who have sustained it by their chivalric arms, and never bowed to the dictates of kings and despots. In the dark hours of peril, in the time that tried the hearts of men, the gallant soldiers for whom these bills would make provision in their declining days came to the rescue of the Government; yet now, when their limbs are palsied with age, when they are tottering on the verge of the grave, it would seem that members here are willing that they should starve at our very gates and not be allowed a morsel of bread. I doubt whether they would give a drop of water to cool their parched tongues. The couch of death is ready for these brave and loyal men, and all we ask is that enough shall be voted to them for the purpose of burying them in gentility.

Mr. MAYNARD. Let me ask the gentleman a question.

Mr. MULLINS. Certainly.

Mr. MAYNARD. What are the peculiar circumstances in this man's case which distinguish it from the great mass of cases of soldiers of the war of 1812?

Mr. MULLINS. I will leave the answer to my friend from New York; not that I am not able to answer, but because he was the gentleman who presented the bill.

Mr. VAN AERNAM. I am well acquainted with the old man, who served in the war of 1812, and know that for the last fifteen years he has been subject to epileptic fits, repeated every ten days or thereabouts. He is an object of charity. His wife is over seventy years old, and he himself is eighty-five. I know that it is a meritorious case, and I hope there will be no objection to the passage of the bill.

Mr. UPSON. Show wherein it is an exception to the general rule of those who served in the war of 1812. Do the records of the Pension Office show that this man performed any service?

Mr. VAN AERNAM. He served in the war for three months. He then went home from the field sick. He has received since then a land warrant of one hundred and sixty acres; but, of course, he is not entitled to a pension under the pension laws of the United States, and the committee therefore report, on account of the sickness with which he is afflicted, a special bill for his relief.

Mr. UPSON. Is there any paper from the Pension Office in relation to this case?

Mr. VAN AERNAM. There is nothing in the Pension Office, so far as I know, as he never applied to the Pension Office for a pension.

The SPEAKER. A communication from the Pension Office was sent by the gentleman from Tennessee to the Clerk's desk with the other papers accompanying this bill.

Mr. MULLINS. I have investigated the record of this brave old soldier of the war of 1812, as I investigate all such cases which may be referred to me, and I have reported in every ease all the facts for the intelligent action of the House. I have given the regiments and the companies in which these men served. Of course, there is nothing in the Pension Office about this man. If he could have got a pension under the general laws he would not, of

course, have come here. It is because he cannot get a pension under the general laws that we propose to pass this special act.

Mr. UPSON. Most of the men who were soldiers in the war of 1812 are now very old.

Mr. MULLINS. That is the point I make.

Mr. UPSON. I want the gentleman to point out wherein this case is an exception to all others. If they are all alike we ought to pass a general law providing for all cases, and we ought not to pass special acts unless in exceptional cases. In what, I ask the gentleman, is this different from the generality?

Mr. MULLINS. Because the generality have not epileptic fits. [Laughter.] I do not know how quick members of the House may be struck with them; I cannot tell, but I know that I have the rheumatism, and I do not want to struggle with a man in the prime of life who is interposing to prevent us from passing a bill for the relief of an old man who fought for the country probably before the gentleman was born, certainly when he was a child. I demand the previous question.

The previous question was seconded and the main question ordered.

The House divided; and there were—ayes 28, noes 88.

So the House refused to recommit the bill.

Mr. UPSON. Is the number of this man's company and regiment in the bill? For the safety of the Government and for the man himself it ought to be in the bill.

Mr. MULLINS. It is in the report.

Mr. UPSON. It ought to appear in the bill, and I move that amendment.

Mr. MULLINS. I do not object to that amendment.

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MINERAL LANDS.

Mr. ASHLEY, of Ohio. I ask unanimous consent to present a substitute for the bill to aid in ascertaining the value of public lands and for the endowment of a national college of mines, in order that it may be ordered to be printed.

There was no objection; and it was ordered accordingly.

PUBLIC LANDS IN INDIANA.

Mr. NIBLACK, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Interior be directed to communicate to this House, as early as practicable, either during the present or the next Congress, a list of all lands in Knox county, Indiana which may be entered as public lands, or to which the title has not passed from the United States, with a particular description of each particular tract, as far as practicable, together with the aggregate amount of land estimated in acres.

DANIEL HAUSER.

Mr. MULLINS, from the Committee on Revolutionary Pensions and of the War of 1812, reported a bill (H. R. No. 1748) granting a pension to Daniel Hauser, a citizen of North Carolina and a soldier of the war of 1812; which was read a first and second time.

Mr. MULLINS. Mr. Speaker, I suppose there will be no objection to the passage of this bill. It is for the relief of a gentleman whose loyalty is beyond doubt. Notwithstanding he comes from a southern State, he is one of those who stood amid the fire and thunder of the rebellion led by Jeff. Davis, which broke harmless upon his head. He himself has stood with that little band of stalwart southern men who resisted the vile spirit of secession, and who were willing to give up their lives for the good of the country. He nourished, by every sacrifice, the tree of liberty planted by your fathers and mine. When you

were not dreamed of he went out with others to fight the enemies of the country. Men watered with their blood that tree, under whose spreading branches we all now take shelter. He fought for the rights which we now enjoy when the oldest of us were young men; and now that he is old and in want himself he comes here and asks that this Government shall give him a small pittance in order to smooth his pathway to the grave. He has always been loyal to the stars and stripes, and he presents a case which we cannot reject.

Mr. GARFIELD. I hope the gentleman will give us some statement of the character of this man's loyalty.

Mr. MULLINS. That is easily done. He was proscribed by the confederate government for being loyal to the Federal Government.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MULLINS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. MULLINS. How much time is there left of the morning hour?

The SPEAKER. Six minutes.

Mr. MULLINS. Mr. Speaker, under the general law providing for pensions it was impossible to embrace every one who fought in the war of 1812, and even some of those who fought in the war of the Revolution have not been included. There are exceptional cases which have great merit that have to be provided for by special acts; and if the gentlemen who oppose these bills could know the stories of sorrow and distress and suffering on the part of these brave old men who fought for us in the beginning of our career which are brought to the attention of the committee to which I belong, I am sure there is not a single man here who would make the least objection to the passage of bills for their relief.

The SPEAKER. There is no question before the House.

Mr. MULLINS. I ask unanimous consent to occupy the few minutes which are left of the morning hour.

Objection was made.

The SPEAKER. Reports are now in order from the Committee on Invalid Pensions.

Mr. PERHAM. How many minutes are left of the morning hour?

The SPEAKER. Five minutes.

Mr. PERHAM. The Committee on Invalid Pensions have a great deal of business to report, and, as I understand the rule, any part of an hour occupied by the committee will be counted as a full morning hour against it.

The SPEAKER. The committee are allowed two morning hours for reports, and this will be counted as one of them.

Mr. PERHAM. I ask unanimous consent that this shall not be counted against that committee.

Mr. McCARTHY. I object.

Mr. MULLINS. I ask unanimous consent to occupy the rest of the morning hour.

There was no objection.

Mr. MULLINS. Mr. Speaker, having been for a few weeks past acting chairman for the Committee on Revolutionary Pensions and of the War of 1812, I have endeavored to discharge the duty devolved upon me as an American citizen in granting relief to the survivors of those brave soldiers who have gone down in death in the glorious struggle for independence. I could not deny the small pittance asked for by those men who have upheld our rights when you, Mr. Speaker, and all the rest of us here were in our infancy. Whatever other gentlemen may choose to do I, for one, will reward the faithful services of these men to the United States, and will do everything in my power to smooth their pathway to the grave,

so that for their few remaining years they may be relieved from all sorrow and distress by the bounty of this Government. For one I cannot find it in my bosom to deny any man who comes seeking relief here as a loyal child of the Government, and who upon the battle-field has risked his life against the enemies of the country. My voice, on the contrary, shall always be heard pleading in their behalf. And, sir, I trust that the time will come when all those who have fought for the Union cause will receive either through themselves, or their posterity where they have been smitten with death, the rich reward which their glorious services merit. I will never deny relief to the widows and orphan children of those who have died that the Union might be saved. This I will do for loyal men; but, sir, before I will go out of my way to reward treason or red-handed traitors, I trust that my right arm may fall from my body and my tongue cleave to the roof of my mouth. While I will reward all those who are loyal I will not refuse altogether to grant some forgiveness to those men who show works meet for repentance. But, sir, I want it to be understood that I shall set my face like flint against those traitors who arraign themselves against this Government and in favor of secession, revolution, and disintegration, and who fought against the cause of human civilization and against the cause of God. We should reward the men who were true to the Government, and in every way foster the great cause for which they fought, for we do not know how soon the tocsin of war may again sound in our ears. If we refuse to loyal men, and stimulate and encourage treason and traitors, I say that I cannot but fear and tremble for the future of the Republic.

[Here the hammer fell.]

BRANCH MINTS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting a letter from the Director of the Mint, with drafts of bills relative to various branch mints, &c.; which were referred to the Committee on Coinage, Weights, and Measures.

REDUCTION OF CLERICAL FORCE.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury, in answer to a resolution of the House, stating what reduction can be made in the number of officers and employés, &c.; which was referred to the Committee on Appropriations.

TRANSIENT PAUPERS.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting a letter from the Surgeon General of the Army of the United States, relative to the amount necessary for the support of transient paupers in the District during the fiscal year of 1870; which was referred to the Committee on Appropriations.

NAVY DEPARTMENT CONTINGENT FUND.

The SPEAKER also laid before the House a communication from the Secretary of the Navy, transmitting, in compliance with law, a detailed statement of the expenditures of the contingent fund of the Navy Department, of its bureaus, and of the southwest executive building for the year 1868; which was referred to the Committee on Appropriations.

NORTH CAROLINA CHEROKEE INDIANS.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of Indian Affairs, with an estimate of the appropriation required to carry into effect the act of Congress of July 27, 1868, for taking a census of the North Carolina Cherokee Indians; which was referred to the Committee on Appropriations.

CALIFORNIA INDIAN CLAIMS.

The SPEAKER also laid before the House

a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of Indian Affairs, relative to the outstanding indebtedness on account of the Indian service in California; which was referred to the Committee on Appropriations.

SIXTY-FIRST ARTICLE OF WAR.

The SPEAKER also laid before the House a communication from the Secretary of War, recommending the passage of a law repealing the sixty-first Article of War, which recommendation is concurred in by the General of the Army; which was referred to the Committee on Military Affairs.

TEXAS INDIANS.

The SPEAKER also laid before the House resolutions of the Texas constitutional convention respecting the Indians on the frontier of that State; which were referred to the Committee on Indian Affairs.

WHISKY FRAUDS, ETC.

Mr. VAN WYCK. I ask unanimous consent to submit to the House a letter from Mr. Green Clay Smith, in reference to the testimony of Mr. Fitch, alluded to in the report submitted by me from the Committee on Retrenchment, in order that it may be printed in the Globe.

There was no objection; and it was ordered accordingly.

The letter is as follows:

WASHINGTON CITY, D. C., January 16, 1869.

DEAR SIR: My attention was recently called to the report you had the honor to submit to the House of Representatives December, 1868, in regard to "whisky frauds and administration of Internal Revenue Department," in which the following appears as being part of the testimony of Mr. Fitch and the conclusion thereon by the committee:

"Question. Did you have an interview with the President as to certain communications?"

"Answer. I did, and at the same interview the President sent for Mr. Binckley; that is where I met Mr. Binckley, and was introduced to him by the President. He says he was informed that the President would stand by us, and we would have his cordial and hearty support." As to the affidavit on which the President was to suspend Mr. Courtney and others, he said, "the original draft was made by me at the White House, at the urgent solicitation of certain parties who were there."

"Question. Who were those parties?"

"Answer. Mr. Yeaton, Captain Lewis, Green Clay Smith, Senator FOWLER, and a lady in Washington. These charges were predicated upon the impressions made on my mind by Mr. Binckley. The affidavit was founded simply on my belief, and not on positive knowledge, and the assurance that I received was that all this matter was to be kept private until the testimony could be brought out to sustain the charges. I had received such assurances from these parties that led me to believe they could be sustained."

"Question. You did not make that affidavit upon any knowledge or information of your own, but simply upon the impressions you received from the representations of others."

"Answer. Yes, sir; these impressions had been fastened upon my mind. Mrs. — said, 'You do this thing;' another said, 'you make these charges and they will be kept confidential by the President until such time as the facts can be maintained.' After returning to New York I made certain inquiries and became satisfied that the charges were unjust, and had determined upon returning to Washington to withdraw them."

"Question. State whether you had a conference with General Burbridge, and what was said between you and General Burbridge at that time."

"Answer. I talked very freely with General Burbridge about these matters from the outset."

"Question. So you mean to swear that you were employed as an agent, and that you were to be reimbursed for all your expenses and time in the investigation against Rollins and others?"

"Answer. Yes, sir; at Mr. Binckley's suggestion, who told me he would employ me as an assistant, so I could have some proper claims for reimbursement. When I first came here he referred to me as his assistant."

"What a terrible picture does this present of a base conspiracy, inviting the commission of crimes, even the blackest perjury, to destroy a faithful public officer—the reputation of an honest man! Can we wonder that the revenue and every other service of this Government is demoralized, when the President opens the door of the White House and himself becomes a party in such a conclave?"

In justice to those alluded to in the foregoing, I feel called upon to make the following statement of facts:

I met Mr. Fitch at the White House, I presume on the day he mentions. He came to me of his own accord, and read an affidavit in pencil, signed by himself, charging Mr. Courtney with certain misdemeanors and crimes in his office as United States attorney for a district in New York. When he was through with the reading I asked him if he was certain the charges could be sustained. He answered positively in the affirmative. I then said by all

means he ought to make the matter known, and lay it before the President.

I remember seeing Senator FOWLER, Captain Lewis, and Mr. Yeaton at the White House the day I read the affidavit, but I assert most positively none of them spoke to me alone, together, or in the presence of Mr. Fitch in regard to the matter, nor did I ever know they had seen the affidavit until I read his deposition or testimony. There was no conference whatever held there or elsewhere, to my knowledge, upon the subject. I never heard Mr. Fitch speak to a "lady in Washington," Senator FOWLER, Lewis, or Yeaton, in my life.

I do not know nor did I ever see Mr. Courtney, nor did I ever hear any one speak of his misconduct but Mr. Fitch. I would further state that when this interview took place between Fitch and myself no other person holding office under the Government was alluded to.

I desire further to remark that I do not know, nor do I remember of ever having seen Mr. Binckley, who was intrusted with the investigations of frauds in New York. I never have directly or indirectly been connected with these charges against Government officers, and am personally perfectly ignorant of what has transpired save what has appeared in your report and the newspapers of the day.

I will say here that I had my preference for Commissioner of Internal Revenue, and did recommend General S. G. Burbridge, of Kentucky, for that place. For this I have no apology to offer, as he was a fellow-officer with me in the service from our native State, and had always been my personal friend; and in presenting his name I did not deem it necessary to reproach any officer of the Government.

I must say, in conclusion, that the President of the United States, as far as my knowledge extends and as I firmly believe, was actuated in all that he did alone by a just sense of duty, and whatever he said or did made no charges or spoke unkindly or spoke disparagingly of any of the officers under him.

I submit this communication to you that I may be placed right before the country, and as a matter of justice to those mentioned in your report; and I do hope, as I was not called before the committee to testify in this case, you will have this read before the House.

I have the honor to be, most respectfully, your obedient servant,

GREEN CLAY SMITH.

Hon. CHARLES H. VAN WYCK, Chairman Committee on Retrenchment, House of Representatives.

ELIZA DODGE, ETC.

Mr. BENTON, by unanimous consent, introduced a bill (H. R. No. 1749) for the relief of Eliza Dodge, Mary Wheeler, Zilpah Stone, Harvey H. Chamberlain, Chauncey R. Berry, and Eliza J. Crawford; which was read a first and second time, and referred to the Committee on Invalid Pensions.

FINANCES.

Mr. SCHENCK. I introduced this morning, and had referred to the Committee of Ways and Means, a bill to strengthen the public credit and relating to contracts for payment of coin. I now move to reconsider the vote by which that bill was so referred. I do this with a view to bring a bill back into the House for action, for which I hope to have the authority of the Committee of Ways and Means. This I propose to do in a week or two when the business of the House will permit the consideration of the subject. I shall then submit some remarks myself in support of the bill, and allow some discussion of the subject, with a view to action by the House.

The motion to reconsider was entered.

UNITED STATES CENSUS.

Mr. GARFIELD, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That a select committee of seven be appointed to inquire and report to the House what legislation is necessary to provide for taking the ninth census, as provided by the Constitution; and said committee have leave to report at any time by bill or otherwise.

Mr. GARFIELD moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DENVER PACIFIC RAILWAY.

The House then resumed the consideration of the regular order of business, being Senate bill No. 570, for a grant of land, granting the right of way over the public lands to the Denver Pacific Railway and Telegraph Company, and for other purposes, on which Mr. COVODE was entitled to the floor.

Mr. LOGAN. Before the gentleman proceeds I ask unanimous consent to introduce a

substitute for this bill, and to have it pending and ordered to be printed.

There was no objection; and it was ordered accordingly.

The substitute is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Denver Pacific Railway and Telegraph Company, a company incorporated under the laws of the Territory of Colorado, is hereby authorized to connect its road and telegraph with the Union Pacific railroad and telegraph at or near Cheyenne. Said company shall have authority to issue coupon bonds to the extent of ——— dollars per mile of road to be built, said bonds to run forty years and to bear interest at the rate of six per cent. per annum, payable semi-annually on the first day of February and August of each year in lawful money, the interest and principal to be payable at the Treasury of the United States, or at the office of the Assistant Treasurer of the United States at the city of New York, at the option of the Secretary of the Treasury, under such rules and regulations as the Secretary of the Treasury may prescribe. And the President of the United States shall appoint three competent persons as commissioners to examine said railroad; and as sections of twenty miles of said road are built in a good and substantial manner said commissioners shall so report in writing to the President, who, being satisfied with such report, shall approve the same, and cause it to be filed with the Secretary of the Treasury; whereupon the United States shall guaranty the payment of the interest of the bonds authorized to be issued as aforesaid, to the extent of ——— dollars per mile of road built; and it is hereby made the duty of the Secretary of the Treasury to indorse and registers such bonds for the United States, guarantying the payment of the interest thereof in such form as he may deem proper. And the indorsement of such bonds by the Secretary of the Treasury, on behalf of the United States, shall *ipso facto* constitute a first mortgage on said railroad, its rolling-stock, and furniture in favor of the United States, to the extent of the interest on said bonds. And it is hereby made the duty of said railroad company to have on deposit with the Treasurer of the United States, at least ten days before any semi-annual installment of interest falls due, a sufficient amount of money to pay such installment of interest; and upon failure to do so the President may cause the Secretary of the Treasury, upon sixty days' notice to said company, to take possession of said railroad, stock, and fixtures for and on behalf of the United States. And, for the purpose of making provision for the payments of the interest of said bonds, the Secretary of the Treasury is hereby directed to retain—

First. All sums of money due said company on account of transporting troops, munitions of war, and military and Indian supplies.

Second. All moneys arising from the transportation of the mails by said company.

Third. All moneys arising from the transmission of telegraph messages by said company for the United States.

And the Secretary of the Treasury shall cause semi-annual statements of the interest account to be made with said company, and any surplus money remaining after the payment of any semi-annual installment of interest shall be paid to said company. And for the purpose of making provisions for the payment of the principal of said bonds, so indorsed by the United States, the lands of said company heretofore granted by the United States for the construction of said road, or so much as lie along or on either side of said road as herein mentioned to be hereafter built, (except so much as may be necessary to the operating of said road, which shall be set apart for that purpose by the three commissioners aforesaid,) shall be as fast as every twenty miles of said road are completed, put into market to actual settlers at \$2.50 per acre, under such rules and regulations as shall be prescribed by the Secretary of the Interior. And all moneys arising from the sale of said lands shall be paid into the Treasury of the United States; and the Secretary of the Treasury shall thereupon cause such money to be invested in said bonds, the same to be canceled and delivered to said company.

Mr. COVODE. Mr. Speaker, I purpose to occupy the floor with a few practical remarks, not to make any set speech, and then to yield to my colleague, [Mr. KELLEY.] I discover by the remarks of the chairman of the Committee on the Pacific Railroad, which he made yesterday, that he appears to cast a reflection upon the board of directors for changing their plan, and running to the southwest instead of making a connection with the Union Pacific railroad at the one hundredth parallel. I think it is only necessary for the House to understand the reason why this change was made to satisfy them that the board was wise in so doing. This Union Pacific railroad traverses the valley of the Platte and the valley of the Salt Lake, and it was to be expected that at some time the trade and travel of the country would be interrupted by snow. This Board, knowing that they were building a railroad not only for our own purposes, but one which would be the highway of nations, found it was possible to have the line so run that at all seasons of the year it would be free from interruption on

account of the snow. They diverged, therefore, to the southwest. They did this in view of extending the line to the Pacific ocean. They did it in view of affording to the southern States now returning to the Union an opportunity to make connection with that road. They did it in order to allow the northern cotton States to make a connection with their road from Memphis, while the southern cotton States could make their connection from Shreveport or elsewhere. This road, taking the course the eastern division has done, will give a great thoroughfare from the middle and southern States across the continent, and secure to the commerce and travel of the world a road upon which they may pass at all seasons of the year. That is why they did it.

It is to be a great thoroughfare between the eight hundred million people in Asia and the two hundred million in Europe in their harmonious intercourse across this continent. And in making this divergence to the south they afford an opportunity for a road to start from the southwest, near Albuquerque, into Mexico, which some day will be of the greatest importance to the American people; for such a road will enable us to carry our institutions, our schools, our churches, our religion, and all our other means of civilization down into the interior of Mexico, and to return with trains laden with silver from mines there which are not now worked because of the want of facilities for reaching the markets of the world.

Mr. Speaker, it will be recollected that during the last generation the civilization of Great Britain has been carried into the interior of Africa and into the interior of India at the point of the bayonet. The missionaries which they sent out had to follow the bayonet in those days; but they have a different plan now, and that is the plan indicated by the gentleman from Illinois [Mr. LOGAN] in the amendment which he has proposed. They now guaranty the bonds of railroad companies, and under that plan of guarantying the bonds of railroad companies they have secured the construction of four thousand miles of railway; and these railways, while they carry civilization into every region of that extensive country, at the same time afford facilities for the transportation of their spices, cotton, and other products to market. This policy of England has been adopted because she admits that railroads are the great civilizers of the world.

I wish to say a few words in regard to the Union Pacific railroad. I am a friend of that road. I give the greatest credit to the men who invested their money in that great enterprise. They deserve it at our hands, and they should receive our applause instead of being denounced, as they have been, as thieves and scoundrels. I say this as one who helped to organize the first movement toward building the Platte Valley railroad. I took a party out, partly at my own expense, from Pennsylvania, New York, Ohio, Indiana, and Wisconsin. Eleven years ago I procured legislation at Omaha, and went to the mouth of the Platte to organize the Platte Valley Pacific railroad. I was one of the projectors of that line. I am in favor of all these lines, for one single railroad track across this continent is nothing but a mockery. It will not accommodate the great traffic of the world to which I have referred. But my friend from Illinois, whom I have followed for ten years, like the shadow follows the substance, in every movement he has made to economize, yesterday took open ground against this railroad project, while he knows that the bill before the House makes no new grant of lands, but only transfers from one corporation to another a grant made by a previous Congress, and that to accomplish important results and great saving to the Government in transportation, and a saving of hundreds of miles of travel to reach Denver from St. Louis, or points south and east of it.

Why, it is known to this House that I have acted with the gentleman on all questions of economy; I followed him through the tellers.

I voted with him on all matters in which the credit of the country was concerned, and in which the question of economy was involved. But he is pushing the matter a little too far now, and I will show you why. The company has constructed a railroad ending nowhere, and now it wants fifty-four miles of subsidy to enable it to finish the road up to Cheyenne Wells. That is the proper point to diverge from to go to Denver; for with all the embarrassment the gentleman can throw around this bill, the only subsidy asked for in the bill is \$16,000 a mile for fifty-four miles. The route from there to Denver, and from Denver to Cheyenne, amounting in all to over three hundred miles, has no subsidy, so that it will be seen that in constructing this road to Cheyenne Wells you will secure to the Government three hundred miles more of road without subsidy, and reach the coal that is so much needed, not only to supply the road, but also the country to the Missouri river.

That is not all. The most important matter connected with the question at the present time is the Indian question. I desire to call the attention of the House to the fact that we have no difficulties with the Indians near the Missouri river. The trouble is away back on the frontier at the base of the Rocky mountains. Now, in what situation does the Government find itself to-day? If it wants to move troops from one line of road to the other they have got to be sent five or six hundred miles down to the Missouri river, and then up or down that river to the other road, and out it five or six hundred miles; whereas when this road is completed the troops can be moved from the north or south in a few hours, or days at furthest, by this line of road three hundred miles, saving much travel and time. It will enable us to keep down the depredations of the Indians with one half the number of troops by the great facility it will give them in moving from point to point. It is therefore the interest of the Government to grant this subsidy, and in advocating it I am but following the lead of military men who have indicated that it is important that the road should be constructed.

Another thing. I am familiar with the geology of that country, and I know there is no coal on the Union Pacific railroad from the valley of the Des Moines river, Iowa, to the Black Hills, a distance of seven hundred miles. There is no coal on the Kansas Pacific road until you reach Cheyenne Wells and make this connection at the base of the Rocky mountains, where both coal and timber are found.

Again, this connection will enable us to take our machinery and supplies into the gold mining country, and thus increase the product of our mines enormously. Look, sir, at our financial affairs to-day. We are talking about coming to specie payments. In my judgment it is idle talk; and I am tired of reading the views of people on this subject that are pouring in upon us every day. I assert—and let gentlemen mark it and see if I am not right—that we cannot resume specie payment inside of five years without bringing on a crisis in this country. We have got to prepare for it. The productions of the South must be increased. We must have more exports; we must import less. I say we cannot resume specie payments in less than five years with safety; but as a means of coming to it by helping to make the balance of trade in our favor, the best thing we can do is to extend the Pacific railroad rapidly into the mining country, so that our people can go in there and increase the production of the precious metals; go into the plains and gather up the golden sands that have been washed from the mountains; go with heavy machinery into the regions where millions of tons of gold-bearing quartz rock are ready to be mined and crushed. With the additional facilities of railroads the production of those mines can be increased from \$75,000,000 to two, three, or four hundred million dollars a year. So, then, instead of

this being a burden upon the Treasury, it is the safest way of reaching specie payment.

The distinguished Senator from Indiana, [Mr. MORRIS,] in his recent great speech, attempted to show that we had in this country four or five hundred million dollars of gold. I tell you, sir, it is a mistake. We have not much more than half that amount. We have it, it is true, in the mines, but not in circulation or in the banks or in the Treasury. But it is to enable us to have four or five hundred million dollars of gold in the country that I am in favor of opening the Pacific railroad. I want my friend from Illinois to say whether his hostility to protection and to the tariff has not something to do with his opposition to this bill? Is it because the iron to lay these roads is made in Pennsylvania? Is it because the chairs and spikes are made in Pennsylvania? Is it because the locomotives and cars to run upon the roads are built in Pennsylvania that we have encountered the hostility of my friend upon this measure? Mr. Speaker, I am for economy, but I want to get on the right track. I do not want five hundred miles of railroad built, and, for the sake of the \$800,000 needed to complete it and make this connection, to throw it all away and render it useless; but after this short and important link is made I then desire to put a stop to increasing our indebtedness by adopting some other policy than issuing bonds.

Before I close I wish to ask my friend from Illinois [Mr. WASHBURN] where his great State would have been to-day without the land grants and aid to railroads to open and develop it? Where would have been his great city of Chicago had it not been for the land grants given to make their canal? I will also ask my friend, [Mr. PRICE,] the chairman of the committee, what would have been the condition of his State, Iowa, without the aid furnished by the Government to checker her territory with railroads? Had I time, I would try to show my friend from Illinois that his figures yesterday with regard to the value of lands granted to railroads were wild in the extreme. The idea of estimating the lands at five dollars per acre, while many of us have seen lands on the Pacific railroad that no man would give one cent per acre for hundreds of square miles; and if others have great value, was it not the construction of the road that gave it to them and doubled the value of the alternate sections for the Government? I will now yield to my colleague, [Mr. KELLEY.]

Mr. KELLEY. Before proceeding to discuss the bill before the House I ask leave to do what I have never done in eight years of congressional life—take two or three minutes for a personal explanation.

Mr. RANDALL. I shall object, unless I can have an opportunity of replying.

Mr. KELLEY. I shall have no objection to my colleague having the length of time that I occupy to reply to me.

Mr. RANDALL. Then I make no objection.

Mr. COVODE. Before my colleague proceeds I wish to say that it is my intention to let debate upon this bill run for a reasonable length of time, so as to allow its friends and opponents to be heard, and then I shall demand the previous question.

PERSONAL EXPLANATION.

Mr. KELLEY. Mr. Speaker, near the close of the last session the House adopted a resolution instructing the Committee on Naval Affairs to inquire into the legality and regularity of the purchase of certain tools by Chief Engineer Zeller, of the Philadelphia navy-yard. The Naval Committee, under the instruction of that resolution, appointed a sub-committee of three of its members to proceed to Philadelphia and make the examination; which they did, collecting a large amount of testimony, and making a personal examination of the tools. The adjournment was too near to permit the preparation and presentation of a report, but when Congress reassembled the sub-committee was ready with its report, or

nearly so, and submitted it to the committee, together with the voluminous testimony. The Naval Committee instructed the chairman of the sub-committee, myself, to make the report to the House, and ask that it be recommended and printed, so that each member of the Naval Committee could examine it during the recess, that we might be prepared to act upon it at the close of the recess. Accordingly, I was recognized by the Speaker, and made the motion, when, to my surprise, my colleague from the first district [Mr. RANDALL] objected. That was on the Wednesday preceding the holidays. Waiting until the Friday before the recess, I renewed the request for leave to report under the instructions of the committee, and my colleague from the Berks district, [Mr. GETZ,] in behalf of an absent colleague—I suppose my colleague from the first district—objected. Thus, the report and evidence could not be printed. I find in a paper yesterday, the Evening Telegraph of Philadelphia, an elaborately prepared article, evidently written by somebody familiar with all the facts connected with the purchases in question, in which the passage occurs which I will ask to have read at the Clerk's desk. It charges the committee with falsely aspersing the character of the engineer corps of the Navy, but with withholding the evidence in the case from the public while acting thus unworthily.

I make this statement simply to call attention to the fact that the committee have been diligent in their efforts to get the whole matter before Congress, and to the further fact that the committee is now meeting from day to day listening to the arguments of two able counsel employed by Chief Engineer Zeller and Mr. John Roach, and that they cannot again offer the report until the engineer, who is in that article said to be injured by our withholding the evidence, and the contractor, from whom he bought the tools, withdraw their counsel, or they conclude their very protracted arguments. I now ask the Clerk to read the paragraph.

The Clerk read as follows:

"Without taking any sides in this quarrel, we merely desire to give a fair statement of the matter as it stands. If Chief Engineer Zeller is guilty of the charges brought against him he should be court-martialed and dismissed the service; if he is innocent, and is endeavoring to manage the affairs of his department in the navy-yard in the best interests of the Government, he is entitled to a complete and emphatic explanation."

"Having stirred up this matter, our Congressmen owe it to themselves and their constituents to make good their accusations to the letter. The case stands thus: Judge KELLEY has brought certain charges against the engineers of the yard, but he has as yet produced no evidence to support his statements. The engineers are supported by a large mass of sworn testimony from persons who are competent to judge in the matter. It now remains for the Committee on Naval Affairs to exhibit what evidence they have in their possession."

Mr. KELLEY. It will be perceived that the reason the whole matter is not before the country is that Mr. Zeller and Mr. Roach, of whom he bought the tools, are preventing it. That is all I desire to say; and now, in fulfillment of my agreement, I yield to my colleague, [Mr. RANDALL.]

Mr. RANDALL. I have for the first time heard this article read, and I have never seen it. I desire to reply simply to one point in my colleague's remarks, and that is to the point as to where my objection came in; and I will say to him and to the House that under similar circumstances I would do the same thing again. I will tell him why. The resolution to which he has referred was a resolution of inquiry got up by himself, as I believe, for no other purposes than those of a political character, to bear upon the recent election. Having utterly failed, as I believe, in his endeavors in that respect, he comes before this House and brings in what I am led to believe is a most unfair and unjust report—a report not in any manner approved by the committee. On the contrary, the committee are now considering the facts which he has represented, I think, in a partisan manner. I am told, and I really believe, that the investigation has been

unfair. I have been told by men who have been examined before that committee that they were not allowed to give full answers to the questions propounded to them, but were stopped in the middle of sentences and not allowed to go on.

That is the reason that I objected. I want both sides to be heard before any man's character is taken away to suit the whims and caprices of any one.

Mr. STEVENS. Will the gentleman allow me to interrupt him a moment?

Mr. RANDALL. Certainly.

Mr. STEVENS. I desire to say that the statements the gentleman has made—founded undoubtedly upon information he has received outside of this House—has no foundation in fact.

Mr. RANDALL. I can give the gentleman my authority.

Mr. STEVENS. No witness has been stopped in his answers before the committee.

Mr. RANDALL. I can produce, in print, the statement of a witness that he was not allowed to fully answer the questions put to him. That is the reason, and the only reason, why I objected. As that article says, if this man Zeller has been guilty of any misdemeanor let him be court-martialed and cashiered. But I have no idea that the character of a man who has served long years in the Navy shall be taken from him by any politician, be he a high one or a low one.

Mr. KELLEY. Very well; the country will now understand why the evidence is not before the House.

DENVER PACIFIC RAILWAY.

The House resumed the consideration of Senate bill No. 570, for a grant of land granting the right of way over the public lands to the Denver Pacific Railway and Telegraph Company, and for other purposes.

Mr. KELLEY. Mr. Speaker, I had not expected to take part to-day in the discussion of this bill, but will take the place, for a few minutes, of a gentleman who is indisposed but who expected to address the House at this time. I desire to correct some of the statements made yesterday by the gentleman from Illinois, [Mr. WASHBURN.] Though he does not definitely allege that this bill involves new land grants, yet that would be the impression made upon the mind of any one cursorily reading the report of his speech. Sir, this bill makes no new grant of land. Whether it will be passed or not, the Union Pacific Railway Company, eastern division, has a title to all the land referred to in this bill. But the bill authorizes the transfer by that company to the Denver Pacific Railway Company of the land along the line between Denver and the point of junction with the Union Pacific railway at Cheyenne. Therefore, all the arguments of the gentleman as to the amount of land granted and all his prayers to Congress to withhold further grants, are irrelevant to the question now before the House.

So, too, with regard to the details he gave us of the history of the early legislation relating to this road, and the contest with Mr. Larned, who claims to be its president. The litigation of Mr. Larned has been going on now for seven years, or rather his alleged claim has been proclaimed for that time. It has finally been brought before the Judiciary Committee of this House, and that committee, in a formal report, has told us that they have examined the matter, that there is nothing in it upon which Congress can act, and that it raises no question that cannot be decided in the courts. If the claim be not a mere black-mailing claim, as this company alleges it to be, I ask why, in the long series of years since it was first set up, has it never been carried into any civil court? I want to do what is right. I do not want either Congress or the people to be swindled, nor do I want Congress to be used as an instrument by which bad men may swindle the corporations created by Congress. Let Mr. Larned, if he has a legal claim, go to the

courts and vindicate it. They are open to him, and have jurisdiction over the case he sets up, as the Committee on the Judiciary has told us.

Again, as to the value of the lands granted to this company, you are told by the gentleman from Illinois [Mr. WASHBURN]—who hears me, though he is not upon the floor—that they amount in value to \$23,000,000; and he read you, from the advertisements of the company, a glowing description of them. Sir, had this grant been made through entirely new lands the company might possibly have received the number of acres which the gentleman indicates. But they were not new lands; along the eastern end of the line, where the lands were really valuable, some settlements have been made. There were Indian reservations there. There were two or three Kansas towns, and the settlements concentrated about them.

And thus bodies of the choice acres from the most valuable part of the land grant were taken from them. The lands so glowingly advertised were bought by this company under compulsion of an act of Congress. They were bought from the Delaware Indians, and the price paid for them was \$1 28 per acre; and that purchase was, as I have said, made under an act of Congress compelling the company to purchase them. The Pottawatomie reservation, embracing three hundred thousand acres more of the same lands, was offered to the company at the same price, and they declined it, having bought the Delaware lands simply because the law required them to make the purchase as part of the contract insisted upon by Congress.

The gentleman from Illinois, I know, did not mean to be unfair. No man honors more than I do his sturdy perseverance in guarding the Treasury; yet I cannot help seeing that in the vehemence of his nature he often takes partial and one-sided views; that having committed himself, not by public declaration but in his own convictions, to a given side of a question, he accepts as true any statement that seems to sustain his view. And so he would lead Congress and the country to believe that the entire body of land granted to this company was fairly described in that glowing advertisement. I turn to the testimony of one who is familiar with the land—one who has done as much to guard the Treasury of the country as the gentleman from Illinois, for his great deeds were largely instrumental in saving both the country and its Treasury. Let William T. Sherman say what is the value of a great part of these lands. I find, in a letter written by him on March 4, 1866, to General Grant, urging the completion of this road to Cheyenne Wells, this description of the lands:

"Without the aid of additional subsidy the road will, however, probably stop at Fort Wallace, which is in the midst of that wide tract of prairie devoid of wood, coal, and everything useful, except buffalo grass."

That is where it does stop; and, as if he feared he had not been sufficiently impressive on this point, he recurs to it, and says:

"Still, to them and to us the termination at Fort Wallace will be very awkward; because the point is simply nowhere, being a mere naked spot in a limitless wilderness."

Much of the land is not at the present time of any commercial value. The building of this road will give it value. The gentleman from Illinois says it is worth \$23,000,000. In this assertion, Mr. Speaker, he gives us the most powerful argument I have yet heard for granting the limited subsidy proposed. The Government holds alternate sections along the line of the whole route, and before the road was built to Fort Wallace the most eastern of them were of little, and the rest of no market value. But as they alternate section by section, those held by the Government must also have become worth \$23,000,000. Thus, by loaning its credit on a well secured mortgage to the amount of \$6,300,000, the Government has in three years and a half added to the commercial value of a comparatively trivial part of its public lands more than twenty-three million dollars. If the Government had to pay every bond it would still, by this showing, be

the gainer. But the bonds are adequately secured; and the company, by its earnings from Army transportation, has not only paid the interest on the bonds issued, but left in the hands of the Government the nucleus of a sinking fund for their absorption.

I argue this matter as a question of economy. I assume that U. S. Grant, William T. Sherman, Philip Sheridan, and Winfield S. Hancock know something about the land and the expenses of the Indian war, which seems to have become chronic. I take their letters as my guide. For waging the supplies of the Army and marching troops over the country penetrated by this road the cost would have been three or four times what the company has charged for carrying them with railroad expedition, and one dollar out of every two thus carried has been retained by the Government as a fund with which ultimately to extinguish the bonds, if these earnings shall amount, as they have hitherto done, to more than the interest upon them.

Sir, there are general considerations that influence me in taking my present position. Colorado and the whole Rocky mountain region of our country, that region which is cultivated by irrigation, can never be populously settled till we build railroads into it. In a new country, settlement is ever upon the water-courses. It was true, until railroads were built settlements followed natural highways—navigable water-courses.

A distinguished Senator from Nevada explained in my hearing that he was a member of the Naval Committee because he represented a State and a section of country that is without a navigable river, and in which a bateau would be of no use. The only way to induce population to go to that mountain country is to penetrate it with railroads. Give to Denver the opening door of the gold and silver-bearing region of our country, railroad connections with the northern and eastern States by the way of the Union Pacific railroad and with the central belt and southern States, by completing this road, and you give to emigrants the chance to pour into that region. The effect of railroads upon the prosperity of an interior State was strikingly illustrated by General Hiram Walbridge, in a recent address before the national convention of Boards of Trade, from which I make a brief extract, which will not be less pertinent because it relates to Illinois. General Walbridge said:

"The results achieved in a single State will be found, on examination, to be quite as striking as is the aggregate for the whole nation. There were in the State of Illinois in 1851 two hundred and fifty miles of railway, the cost of which was about seven million and a half dollars. The tonnage of these roads, only just opened, could not have exceeded one hundred thousand tons, having a value, say, of \$15,000,000. At the close of 1867 there were three thousand two hundred and fifty miles of railroad in operation in the State, having a tonnage traffic of at least five million tons, possessing a value of at least \$750,000,000. The cost of the roads equaled \$130,000,000. The value of the commerce transported over them in one year equaled very nearly six times their cost. In 1851 the number of pounds of merchandise transported by these roads equaled about two hundred pounds per head of population. In 1867 the tonnage transported exceeded four thousand pounds, or two tons per head. The value of the tonnage per head in 1851 was about fifteen dollars; in 1867 it was equal to \$330 per head. This unexampled increase was wholly due to the construction of railroads, as there has in the mean time been a very large increase in the tonnage on the water-courses of the State. It will be borne in mind that the tonnage of railroads of this State consists almost entirely of the products of agriculture, which will bear transportation for only a comparatively small distance over ordinary roads. These products are now forwarded, on an average, twelve hundred miles before reaching a market."

"The population of Illinois now makes one fifteenth of that of the whole country. It now defrays one fifteenth of the whole burdens of the General Government. Its proportion of the Federal taxes equals \$24,000,000 annually. Its ability to pay this vast sum is almost entirely due to the railroads that have been constructed within it during the past fifteen years. Toward their construction the Federal Government never contributed a penny. It did, however, in 1850 make a valuable land grant to the State in favor of the Illinois Central railroad, which secured the speedy construction of this great work and gave a wonderful impulse to the construction of other important lines. The additional price charged for reserved lands yielded to the national Treasury the same sum that would have been realized if the grant had not been made."

What has been done for Illinois with great advantage to the whole country can be done for its immense gold-bearing region, and with greater general benefit. By lending this company the comparatively small amount of credit needed we will give people and capital a chance to go there, and stimulate the creation of a system of local roads extending from Denver through the valleys which surround it. But without such aid this never will be done, or not for many years.

The gentleman from Illinois queried as to whether the subsidy proposed is \$16,000 a mile or \$32,000. The law fixes that. Sixteen thousand dollars a mile is all that can be given east of the Rocky mountains, and the point at which the Rocky mountains begin has already been adjudged. It is at Cheyenne, a point two hundred and seventy-five miles west of Cheyenne Wells; to which Sherman and Sheridan and Hancock and the quartermaster general desire us to enable the company to build this road. Therefore, the subsidy asked for is \$16,000 a mile, or \$800,000 in all; and I believe that had this bill been passed at the last session of Congress it would now be a matter of absolute economy to the Government. The expense of carrying all the freight that goes by line No. 2, except to two small forts, and all which goes by the northern route toward Denver would have been reduced two thirds if this road had been built as contemplated, as is shown by the letters of General Easton, quartermaster of the military division.

Now, sir, this \$800,000 of subsidy is to aid build more than fifty-four miles, on which the bonds are to be a lien. It is to give effective power to those who already have land grants for the purpose to build three hundred and thirty odd miles of road. By giving them this subsidy of \$800,000 you will make it clear to capitalists that any private capital they put into the road will become productive. You will make it apparent to the people of Denver that they are to have a through connection to the Atlantic by two main roads, and to the Pacific by one. You will make it clear to the capitalists of St. Louis that the branch which terminates, as Sherman shows you, in a limitless wilderness without wood or coal or water, is to be a through route connecting Denver and Cheyenne with St. Louis, Chicago, and San Francisco, and you will enable the company to obtain the capital with which to make a road all the way through and give value to their own lands and the alternate sections of the Government. But, sir, it involves even a higher economy than that.

Mr. PRICE. I ask the gentleman to yield to me for a moment.

Mr. KELLEY. I will yield for a question, but not for a speech.

Mr. PRICE. I wish to ask the gentleman from Pennsylvania [Mr. KELLEY] whether he does not know that in July, 1866, this Union Pacific, Eastern Division, Company came here and asked Congress to allow them to diverge from the line fixed by the act of Congress, and run up the Smoky Hill route, and agreeing, if allowed to do so, that no greater subsidy in bonds would be asked for than would be allowed them if they made the connection at the one hundredth meridian, as fixed by the original law; and that, if permitted to do so, they would make the connection with the Union Pacific railroad at a point not further than fifty miles west of the meridian of Denver? And whether a law was not passed at that time in exact accordance with that request, which law is in force at this day?

Mr. KELLEY. I do not propose to give up the whole of my time to the gentleman for the purpose of having the debate in the Senate read. I propose to go on and answer the question in my own way and to the best of my ability.

Mr. PRICE. It is the debate in the House.

Mr. KELLEY. As I understand this road was originally to run up the Republican fork, though it had the right to take its present route. It could not have the Smoky Hill route surveyed

because of an Indian war, and it was compelled to select its route, limited as it was by the theater of that war. The law required that the map should be filed by a certain day, and it filed one of a route on the Republican fork. But when the war ceased and it became possible to survey the Smoky Hill valley, it came to Congress and asked permission to change its route, because the Secretary of the Interior held that the filing of the map settled the route absolutely. The appeal to Congress was from a ruling that was purely technical and was believed to be subversive of the interests of the Government as well as of the country.

General Sheridan, in a letter to General Grant of May 2, 1868, says:

"I know that peculiarly it would be to the advantage of the Government to help this road; certainly as far as Fort Wallace, and also to Fort Lyon. But in addition, it almost substantially ends our Indian troubles by the moral effect which it exercises over the Indians, and the facility which it gives the military in controlling them."

And again:

"No one, unless he has personally visited this country, can well appreciate the great assistance which this railroad gives to economy, security, and effectiveness in the administration of military affairs in this department."

If these statements, and that of General Sherman to which I have referred, are correct, it is a matter of great economy, not only of money but of life, that the road should be on this route, but that it should, even though we have to help it by a loan of credit, go on to Cheyenne Wells, where there are wood and water and coal. A railroad to that point will economize the resources of the Government in every respect.

But, sir, the great matter of economy in this would be its effect upon the Indian war. General Sheridan tells us that the construction of this road would practically terminate it. Along the three hundred miles already built there has been no Indian war. Not a rail has been disturbed. No Indian war has disturbed the Union Pacific railroad; but within the fifty-four miles for which this subsidy is asked Indian hostilities prevail. Traveling from the present point of terminus, Fort Wallace to Denver, the whole line is marked with new-made graves of the victims of Indian butchery. Build this road and travel and trade will pass as safely from Fort Wallace to Denver as they now pass from the initial point of this road to its terminus in the "limitless wilderness."

How much are we spending every year among the Indian tribes near to the point to which we ask to carry this road? Far more than the entire subsidies asked. The granting of this subsidy will, by stopping Indian hostilities, save in one year more than the principal sum; while the saving in transportation, as is shown in the letters from the quartermaster, General Easton, will be more than the interest on the whole amount of bonds issued to this company. As a measure of humanity, as a measure of economy, as a means for developing the mineral regions of the country, I believe that the gentleman from Illinois [Mr. WASHBURNE] would better subserve his great purpose of protecting the Treasury and restoring the credit of the country by advocating than by opposing the bill.

[Here the hammer fell.]

Mr. VAN TRUMP addressed the House. Without completing his remarks he gave way to Mr. KERK, who moved that the House adjourn.

The motion was agreed to; and thereupon (at four o'clock and thirty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: A memorial of the Milwaukee Chamber of Commerce, praying that the fifty per cent. clause of the bankrupt law for the benefit of creditors shall not be further extended.

By Mr. HARDING: The petition of Otis Hull, a soldier of the ninety-ninth regiment of Illinois volunteers, for relief.

By Mr. LAWRENCE, of Pennsylvania: The petition and document of Ellen Keener, asking for \$100 bounty.

By Mr. MOORE: A petition of owners and masters of vessels of Alexandria, Coon river, Norfolk, and Richmond, Virginia, with accompanying papers, praying the intervention of Congress to protect all engaged in navigation from illegal exactions by State and municipal corporations.

Also, petitions from owners and masters of vessels of New London, Connecticut, and Port Republic, New Jersey, praying the intervention of Congress to protect all engaged in navigation from illegal exactions by State and municipal corporations.

By Mr. ORTH: A petition of citizens of Delphi, Indiana, on the subject of tax on manufactures.

By Mr. HOLBROOK: A memorial of the Legislative Assembly of the Territory of Idaho, asking an appropriation for the survey of the boundaries of the Fort Hall and Nez Perces Indian reservations in the Territory of Idaho.

By Mr. PRICE: The petition of C. F. Johnson, for protection by Government of loyal citizens in the State of Mississippi.

By Mr. SPALDING: The petition of J. Whitesey Walton and others, in relation to the northern Pacific railroad.

By Mr. STEWART: The petition of Wellington & Cox, P. W. Engs & Co., Park & Tilford, and others, merchants of New York city, for amendment of section fifty-six, act July 20, 1868.

Also, a petition of New York merchants for reduction of tax on sales of liquors, and making all taxes on sales of merchandise uniform.

By Mr. STEVENS: The petition of Richard M. Bouton and Harriet F. Fisher, for compensation for the exclusive use by the Government of the United States of their invention for making and charging percussion caps.

By Mr. WELKER: The petition of Caroline A. Trofford, for a pension.

Also, the petition of Edward Hayes, of company F, eighty-ninth Massachusetts volunteers, for pension.

Also, the petition of Fisk Mills, asking the examination and adoption of his group of statuary, representing the emancipation of slavery, for the pediment of the south wing of the Capitol.

IN SENATE.

THURSDAY, January 21, 1869.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of the Interior, transmitting a communication from the Commissioner of Indian Affairs, with an estimate of the funds that will be required to enable the Indian department to relieve the immediate and pressing wants of the Sisseton and Wahpeton Sioux Indians, on the reservations at Lake Traverse and Devil's Lake, Dakota Territory, and also the amount necessary for the next fiscal year to properly care for them and to enable them to commence farming operations at the earliest day practicable; which was referred to the Committee on Indian Affairs, and ordered to be printed.

He also laid before the Senate a letter from the Secretary of the Interior, transmitting a communication from the Commissioner of Indian Affairs, submitting an estimate of an appropriation required for supplying deficiencies in the appropriations made for the Sioux of Dakota, the Arickarees, Gros Ventres, Mandans, Crows, and Yanktons, for the fiscal year ending June 30, 1868, and for subsistence purchased for the Poncas; which was referred to the Committee on Indian Affairs, and ordered to be printed.

HOUSE BILL REFERRED.

The bill (H. R. No. 1549) to restrict and regulate the franking privilege was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a petition of citizens of New Jersey, praying that women be granted the right of suffrage; which was referred to the Committee on the Judiciary.

He also presented the petition of H. V. Boynton, asking for the extension of the eight-hour law to other than Government employes; which was ordered to lie on the table.

He also presented the petition of Robert D. Brown, praying for an increase of pension; which was referred to the Committee on Pensions.

Mr. WILSON presented the petition of N. P. Young, praying the removal of the political disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

Mr. VAN WINKLE presented the petition of Charles W. Statham, of Virginia, praying the removal of the political disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

Mr. POMEROY presented a petition of citizens of Ohio, praying that women be granted the right of suffrage; which was referred to the Committee on the Judiciary.

He also presented a petition of citizens of Connecticut, praying that women be granted the right of suffrage; which was referred to the Committee on the Judiciary.

Mr. SAWYER presented the petition of Meta Nimitz, praying the restoration of property sold for taxes; which was referred to the Committee on Private Land Claims.

Mr. STEWART. I move that the Senate proceed to the consideration of Senate joint resolution No. 8.

Mr. HOWARD. I hope the morning business will be gone through with first.

Mr. STEWART. I will give way to the morning business after the resolution is taken up.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider the motion at this time. Does any Senator object?

Several SENATORS. What is it?

Mr. STEWART. It is the constitutional amendment.

Mr. VICKERS. I have a number of reports to make.

The PRESIDENT *pro tempore*. When Senators rise to offer morning business the Chair must consider that they object to the consideration of other business. Reports of committees are in order.

REPORTS OF COMMITTEES.

Mr. HOWE, from the Committee on Claims, to whom was referred the petition of J. H. Merrill, a captain in what was known as the naval brigade, praying compensation for his services, reported adversely thereon, and moved that it be indefinitely postponed; which was agreed to.

He also, from the same committee, to whom was referred the petition of J. B. Braden, William S. Comb, and S. P. and P. F. Hodges, praying compensation for articles furnished by them upon a requisition of the military authorities in September, 1862, to put one of the grist mills at New Ulm, Minnesota, in running order, reported adversely thereon, and moved that it be indefinitely postponed; which was agreed to.

Mr. SHERMAN, from the Committee on Finance, to whom was referred the bill (S. No. 728) to amend an act entitled "An act to provide a national currency secured by pledge of United States bonds, and to provide for the circulation and redemption thereof," reported it with an amendment.

Mr. VICKERS, from the Committee on the District of Columbia, to whom was referred

the bill (S. No. 745) to repeal the usury laws of the District of Columbia, reported it with an amendment.

He also, from the same committee, to whom was referred the bill (S. No. 743) to provide a penalty for violating the laws of Congress or the ordinances of the cities of Washington and Georgetown, and of the levy court of the county of Washington, District of Columbia, reported it with an amendment.

BILLS INTRODUCED.

Mr. CHANDLER. I ask unanimous consent of the Senate to take up and pass Senate bill No. 781, simply authorizing the landing of a telegraphic wire on the shores of the United States. It will not take a moment.

Mr. NYE. I hope we shall be allowed to go through with the morning business. I desire to introduce a bill.

The PRESIDENT *pro tempore*. Objection being made, the motion cannot be entertained at this time.

Mr. NYE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 815) granting a pension to Julia Whistler; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 816) to regulate the exaction of tonnage tax upon Spanish vessels; which was read twice by its title, referred to the Committee on Commerce, and ordered to be printed.

Mr. HOWARD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 817) supplemental to an act entitled "An act to provide compensation for the services of George Morell in adjusting titles to land in Michigan; which was read twice by its title, referred to the Committee on Claims, and ordered to be printed.

Mr. MORRILL, of Maine, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 818) to regulate the payment of the tonnage tax; which was read twice by its title, referred to the Committee on Finance, and ordered to be printed.

Mr. POOL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 819) for the relief of William A. Moore, of North Carolina; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. HOWARD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 820) additional to an act granting lands to aid in the construction of a railroad and telegraph line from Lake Superior to Puget's sound, on the Pacific coast, by the northern route; which was read twice by its title, referred to the Committee on the Pacific Railroad, and ordered to be printed.

Mr. CONKLING asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 821) to prohibit secret sales or purchases of gold or bonds on account of the United States, and for other purposes; which was read twice by its title, referred to the Committee on Finance, and ordered to be printed.

Mr. ROSS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 822) authorizing the Secretary of War to pay certain certificates issued for fortification purposes in Lawrence, Kansas; which was read twice by its title, referred to the Committee on Military Affairs, and ordered to be printed.

INDIANS NORTH OF NEBRASKA.

Mr. POMEROY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested to furnish the Senate, if in his judgment the same be not incompatible with the public interest, with a copy of the report of Brevet Major General William S. Harney, (as commander of the Indian district north of the State of Nebraska,) concerning the character and conduct of the Sioux and other Indians congregated and settled under the stipulations of treaties made by the peace commission, and executed during the year 1868.

TRANSPORTATION OF PRISONERS.

Mr. SUMNER submitted the following reso-

lution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the District of Columbia be instructed to consider whether any further legislation is needed to regulate the transportation of prisoners convicted and sentenced in the District of Columbia when on their way to some distant prison where the sentence is to be performed.

ROBERT COLLEGE.

Mr. PATTERSON, of New Hampshire, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested to communicate to the Senate, if not incompatible with the public interest, any recent correspondence on file in the Department of State in relation to the establishment of the Robert College at Constantinople.

STATE PASSENGER TAXES.

Mr. MORTON. I move to take up, for the purpose of reference, Senate bill No. 798, to punish the collection of illegal taxes on passengers.

The motion was agreed to.

The PRESIDENT *pro tempore*. To what committee does the Senator move to refer the bill?

Mr. MORTON. To the Committee on the Judiciary; and on that motion I desire to be heard for a very short time. That the Senate may understand the character of the bill, I ask the Secretary to read it before I make the few remarks that I intend to submit this morning. The Chief Clerk read the bill, as follows:

A bill to punish the collection of illegal taxes on passengers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be unlawful for any officer or agent of any railroad or other corporation created by authority of any State to pay to the government of said State, or to any agent or officer thereof, any sum of money as a tax upon passengers or for the transportation of passengers into said State or out of it, or across its territory, and that any agent or officer of any corporation as aforesaid paying money as aforesaid to any State government, or to any officer or agent thereof, for the purposes aforesaid, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not exceeding \$5,000 nor less than \$1,000.

SEC. 2. *And be it further enacted*, That any person pretending to act by or under the authority of any State who shall collect or receive from any person or persons, or from any railroad or other corporations, any sum of money on behalf of such State as a tax, price, or condition, upon passengers coming into, going out of, or through such State, or for the transportation of passengers into, out of, or through such State, shall forfeit and pay to the United States the sum of \$2,000, to be collected by action of debt.

SEC. 3. *And be it further enacted*, That the circuit and district courts of the United States shall have jurisdiction for the trial and punishment of all misdemeanors and actions arising under the first and second sections of this act, and the Supreme Court shall have appellate jurisdiction in all cases arising under this act.

Mr. MORTON addressed the Senate. [See Appendix.]

The PRESIDENT *pro tempore*. The question is on referring the bill to the Committee on the Judiciary.

Mr. FRELINGHUYSEN. Mr. President—

Mr. SHERMAN. The morning hour has expired.

The PRESIDENT *pro tempore*. The morning hour has expired. The bill will be referred, however, if there is to be no debate upon it.

Mr. FRELINGHUYSEN. There is to be further debate if I can get the floor.

The PRESIDENT *pro tempore*. The unfinished business of yesterday is before the Senate.

Mr. FRELINGHUYSEN. I desire to have an opportunity of answering the argument which has been made by the Senator from Indiana before this bill is referred. The argument, as well as the bill introduced, is in aid of the railroad interests of New Jersey and antagonistic to the State of New Jersey. The railroads will be very much obliged to Congress for passing a law that their taxes shall not be collected, while they possess the franchises with which they are now invested. As this bill directly affects the treasury of the State that I in part represent, I desire the opportunity of being heard either now or on

some other occasion. I am ready to proceed now to discuss the question.

Several SENATORS. Go on.

Mr. CATTELL. I hope permission will be given to my colleague to proceed with his remarks at this time, and I therefore make that motion.

Mr. SHERMAN. I trust that we shall go on with the regular order of business. I have no objection to the Senator making his speech at any time; but the railroad bill is now the regular order, and I hope we shall go on with it.

Mr. SUMNER. I will ask the Senator from Ohio whether the railroad bill cannot be put aside informally without losing its place, so that the Senator from New Jersey can make his reply?

Mr. SHERMAN. It is not at all necessary to do that. The Senator from New Jersey can submit his remarks on the railroad bill.

Mr. FRELINGHUYSEN. No; I will make them on this bill.

Mr. CATTELL. I hope permission will be given to my colleague to proceed. The somewhat unusual course of making an argument upon the reference of a bill has been taken to-day, and as the State which I in part represent is directly interested, I trust that my colleague will have an opportunity to reply now.

Mr. SHERMAN. I certainly have no disposition to prevent his replying now, if it can be done by unanimous consent informally without displacing the unfinished business.

The PRESIDENT *pro tempore*. The unfinished business can be passed over informally by unanimous consent. Does any Senator object?

Mr. GRIMES. I object, because I think the bill now under consideration is of a great deal more public importance than the one which comes up as the unfinished business. Therefore I am ready to vote to continue the consideration of the bill now before us.

Mr. SHERMAN. I have no objection to the unfinished business being laid aside informally.

The PRESIDENT *pro tempore*. That is objected to, and it can only be done by a motion.

Mr. GRIMES. I move to lay aside the pending order and all prior orders with a view to continue the consideration of the bill introduced by the Senator from Indiana.

Mr. SHERMAN. Let us understand each other. The Senator from Iowa now states distinctly that he makes this motion in hostility to the pending bill for the charter of railroad companies. I have no objection to its being laid aside informally so as to enable the Senator from New Jersey to reply to the Senator from Indiana; but, as a matter of course, the postponement of the bill at this time for any purpose of that kind is its defeat. I trust, therefore, that it will not be postponed for any such purpose. If it is done it is a substantial defeat of the bill for this session. I ask for the yeas and nays on the motion.

The yeas and nays were ordered.

Mr. SUMNER. Before the vote is taken, I wish to appeal again to the Senator from Ohio to allow the unfinished business to be laid aside informally.

Mr. SHERMAN. I have not the slightest objection in the world to that. I have indicated my willingness to lay it aside informally, but the Senator from Iowa is not willing that it should be done.

The PRESIDENT *pro tempore*. That question has been settled.

Mr. GRIMES. I wish to say that the objection I have to allowing it to be laid aside informally is simply because it gives the Senator from Ohio entire control of the legislation and action of this body during the day. If we lay it aside informally to allow one Senator to speak, then it is at his option whether it shall be laid aside for another Senator. I object to that kind of proceeding. I want the Senator from New Jersey to have an opportunity to be heard, and then let everybody have a chance to bring up his business as well as the Senator

from Ohio, after the Senator from New Jersey shall have concluded.

Mr. SHERMAN. I want it distinctly understood that the Senator from Iowa objects now to hearing the Senator from New Jersey on this bill, a very ordinary courtesy which is commonly granted. I have no more power over the matter than anybody else; I do not exercise any power. I could object to the Senator from New Jersey going on, but I do not choose to do it. The Senator from Iowa does; and for the purpose of displacing this bill and preventing any vote being had at this session upon it, because that is the effect as a hostile movement to the bill that is pending and now the unfinished business, this motion is made which will certainly prevent the passage of the bill if it is agreed to.

Mr. CAMERON. I feel great anxiety for the passage of the bill introduced by the Senator from Ohio; but for that reason I prefer that we should proceed with the question now before the Senate. The decision upon the bill introduced by the Senator from Indiana will in a great measure affect the vote, in my estimation, upon the bill presented by the Senator from Ohio. It is a question belonging to it. If we do not act upon it now we shall have the question about the interference with States presented on every occasion with regard to the great question, which is the greatest before us, in my opinion, of extending railroads by this Government. I am satisfied that we shall gain time and do good to the passage of the bill introduced on the subject of railroads by now hearing the Senator from New Jersey, because he will discuss the whole question; and I take it unless we do so we shall have this whole question with regard to the rights of the States and of the General Government to interfere with passengers in the States brought before us. I shall vote to allow the Senator from New Jersey to be heard.

Mr. ANTHONY. I voted with the Senator from Ohio yesterday to take up this bill, and I desire to see it keep its place; but, at the same time, I wish to accommodate the Senator from New Jersey. There is no difficulty at all in reconciling this difference. Let the bill of the Senator from Ohio remain the order of the day as it is now, and let the Senator from New Jersey reply to the Senator from Indiana upon that bill. It is a cognate subject, and there is no sort of impropriety in the speech being made on that bill.

Mr. SHERMAN. I have not the slightest objection to that.

Mr. ANTHONY. Let the Senator from New Jersey have the floor and discuss the subject on that bill.

Mr. POMEROY. I desire that the Senator from New Jersey should have an opportunity to reply to the remarks of the Senator from Indiana; but I do not want anything done by common consent. I want a vote.

Mr. GRIMES. That is the point.

Mr. ANTHONY. If the Senator from New Jersey has the floor he has the right to reply without anybody's consent.

Mr. POMEROY. No, sir. It is now one o'clock, and the unfinished business comes up, superseding the bill on which he desires to speak.

The PRESIDENT *pro tempore*. The unfinished business is before the Senate, unless displaced by motion or by common consent.

Mr. SHERMAN. And the Senator from New Jersey has the floor.

Mr. ANTHONY. The Senator from New Jersey can make his reply to the speech of the Senator from Indiana with great propriety on the bill now before the Senate, and therefore I shall not vote to displace it.

Mr. FRELINGHUYSEN. I have only to say that the remarks I have to make would have been well nigh concluded had I been permitted to go on. I do not propose at all to discuss what is known as the air-line bill, but carefully to avoid the discussion of the question whether Congress has or has not the right to charter railroads in States, and also to avoid the other question, whether, if it has the right,

it is expedient to exercise it. Those questions I shall steer clear of, and confine myself, if possible, to defending the treasury of the State of New Jersey.

The PRESIDENT *pro tempore*. The question is on postponing the order of the day and all prior orders for the purpose of continuing the debate on the bill under consideration.

Mr. SUMNER. I desire to remark that I have great anxiety to listen to my friend from New Jersey. I feel that he has a right to be heard now, but I am unwilling to displace the regular order for that purpose. If it comes to a vote I shall vote for the regular order.

Mr. CONKLING. I should be glad if the Senator from New Jersey could have his convenience answered without the formality of a vote upon the question now pending, or upon any question. That seems, however, not to be possible. The bill, which is the unfinished business, presents questions which every member of the Senate can see are special in their relations to the Senators from New Jersey, and the honorable Senator, who very naturally wishes to reply to the animadversions of the Senator from Indiana, avows an indisposition to take part now in the discussion of the air-line railroad bill, as it is called. He has his reasons for that, and they are good, undoubtedly. Now, the question is whether he shall be prevented at this time from submitting the remarks he wishes to submit, or whether he shall be compelled to submit them by way of discussion of a bill the discussion of which he frankly avows his desire to avoid. Thus it seems to me that a very palpable question of courtesy is presented to the Senate, because it is practically whether this business shall be laid aside by a vote or whether the Senator from New Jersey shall be prevented altogether in his purpose. He chooses, for reasons of his own, not to debate the bill which is the unfinished business. Then I feel constrained, as a matter of courtesy, to vote that he have the only remaining opportunity, and I shall vote in that way.

Mr. SHERMAN. I intend, so far as I can, to prevent the bill providing for railroad facilities from Washington being defeated on a question of precedence. There is no man in this Senate who would do more on a question of courtesy for the Senator from New Jersey than I would. Now, the Senator from New Jersey can, without displacing this bill at all, go on and say all he desires to say on the bill of the Senator from Indiana, because it is germane to the identical question before the Senate. The question of the power of taxation by a State of a railroad is intimately connected with this very subject of debate. But if, under a desire to give to the Senator from New Jersey an opportunity to make his reply to the Senator from Indiana, an attempt is made to crowd off this bill and prevent the action of the Senate on a question of such vital importance, then it is no longer a question of courtesy.

Mr. STEWART. I suggest to the Senator from Ohio that the very question of taxation by the States is covered by his bill.

Mr. SHERMAN. Certainly; and the Senator from New Jersey can go on and discuss that question now without the slightest objection. He says he does not wish to discuss the power of Congress to charter railroads. Very well. But the question of taxation is in this bill also, because the bill contains a provision that the new company shall not be taxed by the State of New Jersey except upon property owned by it in that State, so that the very question of the mode and manner and power to tax by a State is in this bill. Therefore there is no reason for postponing it. The Senator from New Jersey may very properly decline to discuss portions of this bill, such as the question of the power of Congress to build a railroad; but under the bill now before the Senate he can discuss the question of taxation as far as he desires. If the Senator should be allowed to make his speech on the bill of the Senator from Indiana, and then a vote should be taken on the question of the reference of that bill, the

result would be that this railroad bill, which after great labor I have called before the attention of the Senate, will be displaced on a point of etiquette. Certainly, the Senator from New Jersey does not wish to place the friends of the bill in that position. If he wishes to make his remarks on this bill he can do so, and they will be perfectly germane to it. But if this is a hostile movement to the bill—and it is clearly so, I think—it seems to me the Senate ought to vote it down. No friend of the bill has objected to the Senator from New Jersey proceeding. The Senator from Iowa does it clearly as an antagonistic motion, availing himself of the additional strength he can get on a question of courtesy to defeat the bill. That is the purpose. We are all advised now, and can vote understandingly. Of course, he has a right to do it.

Mr. CATTELL. I apprehend it is a question of taste with my colleague whether he will prefer to speak on the question before the Senate with the bill before it, or to address the Senate on that subject with an entirely different bill before the body. I understand from him that he has no disposition to press himself upon the attention of the Senate at this time, and especially as it has been resisted by the friends of the other bill, and that therefore he is willing to ask the Senate to listen to him in the morning hour to-morrow, and if that shall be the pleasure of the Senate it will be agreeable to him.

Mr. SUMNER and others. Very well.

Mr. ANTHONY. I suggest to the Senator from Ohio to postpone his bill for half an hour.

Mr. SHERMAN. I have not the slightest objection to that, so that it is not postponed generally to lose its place. The Senator from Iowa made the motion.

Mr. FRELINGHUYSEN. I will ask the Senate to allow me to-morrow morning in the morning hour to make what few remarks I have to make.

The PRESIDENT *pro tempore*. Is the motion to postpone withdrawn?

Mr. GRIMES. If the Senator from New Jersey prefers to speak to-morrow I withdraw my motion. I wish to say, however, that the Senator from Ohio has no authority for declaring that the motion I made to postpone this bill was an antagonistic or hostile motion. I have given no expression on the floor of the Senate to any opinions I may entertain as to the passage of this bill or the propriety of it.

Mr. SHERMAN. If the Senator says it was not, I will withdraw that remark with great pleasure. I took it to be so.

Mr. GRIMES. When the proper time comes I shall express what views I have on the subject; but I prefer doing it myself, and not permitting the Senator from Ohio to become my mouthpiece.

The PRESIDENT *pro tempore*. The unfinished business of yesterday is the bill (S. No. 554) to promote commerce among the States and to cheapen the transportation of the mails and military and naval stores.

SUFFRAGE CONSTITUTIONAL AMENDMENT.

Mr. WILLIAMS. With the consent of the Senator who has charge of that bill, I wish to give notice that when the amendment to the Constitution reported by the Committee on the Judiciary comes up for consideration I shall propose, as a substitute for the new article they offer, the following:

Congress shall have power to abolish or modify any restrictions upon the right to vote or hold office prescribed by the constitution or laws of any State.

I move that this proposed amendment be printed.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 721) to increase the pension of Amos Armstrong, who was wounded in

the battle of Queenstown, during the war of 1812;

A bill (H. R. No. 1695) granting a pension to Charles Mans, of Lewisburg, Pennsylvania;

A bill (H. R. No. 1745) for the relief of the estate of Isaac Philips, deceased, who was a private in the revolutionary war;

A bill (H. R. No. 1747) granting a pension to George Givens, a soldier of the war of 1812;

A bill (H. R. No. 1748) granting a pension to William Adams, a soldier of the war of 1812;

A bill (H. R. No. 1749) granting a pension to Daniel Hauser, a citizen of North Carolina and a soldier of the war of 1812; and

A bill (H. R. No. 1746) for the removal of disabilities from the persons therein named.

INDIAN AFFAIRS.

The PRESIDENT *pro tempore* presented a resolution of the Legislature of Kansas, in favor of the transfer of the control and management of the Indians from the Department of the Interior to the War Department; which was referred to the Committee on Indian Affairs, and ordered to be printed.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of War, submitting a statement of the contracts and purchases of the ordnance department during the year 1868; which was referred to the Committee on Military Affairs, and ordered to be printed.

He also laid before the Senate a letter from the Commissioner of Patents, transmitting his annual report for the year ending December 31, 1868, upon the state and condition of the Patent Office; which was referred to the Committee on Patents.

He also laid before the Senate a resolution of the house of representatives of the Territory of New Mexico, in favor of an appropriation for increasing the salaries of the two translators in the employment of that Territory; which was referred to the Committee on Territories, and ordered to be printed.

He also laid before the Senate a letter from the Secretary of War, submitting a statement of the contracts made by the quartermaster's department during the last six months of the year 1868; which was ordered to lie on the table.

He also laid before the Senate a letter from the Secretary of the Treasury, submitting a draft of a resolution declaring the collection of a penalty of fifty per cent. of the direct tax in certain cases illegal; which was referred to the Committee on the Judiciary, and ordered to be printed.

HOUSE BILLS REFERRED.

The following bills received from the House of Representatives were severally read twice by their titles and referred to the Committee on Pensions:

A bill (H. R. No. 721) to increase the pension of Amos Armstrong, who was wounded in the battle of Queenstown during the war of 1812;

A bill (H. R. No. 1695) granting a pension to Charles Mans, of Lewisburg, Pennsylvania;

A bill (H. R. No. 1745) for the relief of the estate of Isaac Philips, deceased, who was a private in the revolutionary war;

A bill (H. R. No. 1747) granting a pension to George Givens, a soldier of the war of 1812;

A bill (H. R. No. 1748) granting a pension to William Adams, a soldier of the war of 1812; and

A bill (H. R. No. 1749) granting a pension to Daniel Hauser, a citizen of North Carolina and a soldier of the war of 1812.

The bill (H. R. No. 1746) for the removal of disabilities from the persons therein named was read twice by its title, and referred to the Committee on the Judiciary.

CHARTERING OF RAILROAD COMPANIES.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 554) to promote commerce among the States

and to cheapen the transportation of the mails and military and naval stores.

The PRESIDENT *pro tempore*. The select Committee on Railroads in the States reported some amendments to this bill which have not yet been read. They will now be read.

The Chief Clerk read the first amendment, which was in section one, line five, to insert the name of "John P. Kennedy;" in lines seven and eight the names of "A. T. Stewart," "Jesse Hoyt," and "Marshall O. Roberts;" in line ten the name of "John M. Forbes;" in line twelve to strike out "Shouler" and insert "Schouler;" and in lines thirteen and fourteen to insert the name of "William Dennison."

The amendment was agreed to.

The next amendment was in line twenty-one of section three to strike out the word "one" and insert "three," so as to read:

And whenever an amount of not less than \$3,000,000 shall have been subscribed in good faith to said capital stock.

The amendment was agreed to.

The next amendment was in section ten, line fourteen, to strike out the words "have the right to;" and after "freights," in line fifteen, to strike out "to the city of Washington;" so as to read:

Such connecting lines shall sell through tickets, check through baggage, and transport freights in such manner and upon such terms as are customary between connecting lines of railway.

The amendment was agreed to.

The next amendment was in section eleven, after the word "act," in line seven, to insert "and in which the validity of any franchise conferred by this act is denied;" so as to read:

That if any suit or proceeding, either in law or equity, or any criminal prosecution shall be commenced in any State court against the New York and Washington railway company, their successors or assigns, or any person authorized or employed by them, for any act done, or omitted to be done, in and about the construction of the railway hereby authorized under and by virtue of this act, and in which the validity of any franchise conferred by this act is denied, &c., the case may be removed to the United States Circuit Court.

The amendment was agreed to.

The next amendment was in section fourteen, line five, to strike out "three" and insert "two;" so as to read:

It shall be fully completed and equipped in two years from and after the election of the first board of directors.

The amendment was agreed to.

Mr. VICKERS. Mr. President, the Senator from Ohio who reported this measure and opened the discussion has seen fit to introduce subjects to influence the judgment by exciting the prejudices of Senators. I regret that he did not confine himself to the subject-matter of the bill and its legitimate relations. This bill is to incorporate three railroad companies to construct railroads through several States without their consent, and from the drift of the argument of the Senator from Ohio the constitutional power of Congress is large enough, or may be expanded, to embrace every need that may arise in our future history. The Constitution, which our fathers made with limited and defined powers, is now, according to the construction of the Senator, endowed with attributes and capacities commensurate with the wants and circumstances of the country at any period of her existence. That I may not do the Senator injustice, I quote from his speech:

"Yet that the general principles and powers they have ingrafted in the Constitution, like the teachings of the Bible, meet all changes, all time, all diversities of condition, wealth and population, and applied with a liberal and fair construction regulate agencies and things of which they had no conception, in harmony with their central idea of a local government for local purposes merely, affecting only the people of the State; a national government for general purposes, affecting the people of different States."

Surely such an accommodating Constitution can never require amendment, and the provision to amend was gratuitously inserted. But what would Alexander Hamilton think, if he could visit the country and in the Senate Chamber hear the annunciation of doctrines like those which have been uttered by the Senator

from Ohio, while, with the Federalist in his hand and looking at the forty-fifth number, he read that which he had written while on earth:

"The powers delegated by the proposed Constitution to the Federal Government are few and defined. Those which are to remain in the State governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce; with which last the power of taxation will, for the most part, be connected. The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberty, and properties of the people, and the internal order, improvement, and prosperity of the State. The operations of the Federal Government will be most extensive and important in times of war and danger; those of the State governments, in times of peace and security."

The subject under the deliberation of the Senate, and the powers claimed for the General Government by the bill, are of the most momentous consequences to the States and to the proper adjustment of rights between the two forms or systems of government. In a state of insurrection or war which may imperil the existence of the national Government, in some great and unexampled emergency, the temporary exercise of doubtful or unconstitutional power may be tolerated, because of the importance of the ends to be accomplished; but in a period of profound peace, after the din of battle and shock of arms, and when the Government is overcoming its diversion from the line of constitutional power—is adjusting itself to its normal and true condition, to its healthful action and proper sphere in the wonderful and grand system of complex governments under which we live—it is no time to be trying experiments, or to bring into collision the constitutional functions of the States and of the nation, and which must necessarily involve a conflict of jurisdiction and lead to litigation and discontent. As a mere question of expediency it would be judicious to defer action upon doubtful questions till matters of vastly more moment to the public shall be determined. The subjects of the finances and retrenchment, of specie payments, the partial relief of the people from enormous and oppressive taxation, and our Indian relations, are of vital interest to the country, and claim the primary attention of Congress. The session is to be limited, and after these measures shall be considered and the appropriation bills passed there will no time be left for our action upon questions of internal improvement.

It is now proposed to exert the alarming and dangerous power of making or authorizing to be made railroads through the States, to take their soil and construct works of this nature with all their appurtenances without their consent. It is claimed, according to the title of the bill, under the general authority to promote commerce among the States. A power to regulate does not imply a power to create. On the contrary, it refers to something that exists; a substantial, existing thing, having a tangible form; but which for the ends of good Government may need such restraint or control as shall best subserve the purposes and interests of the people. To regulate is to adjust by rule or method; to reduce to order, to dispose according to order. The thing to be regulated must have form, dimensions, substance, before the power to regulate can be exercised. The powers of the Federal Government are few, definite, and explicit; they are confined within narrow limits, and all other powers are denied by the Constitution except such as are incidental and absolutely essential to execute the specific powers.

The power to borrow money necessarily involves that of executing the necessary securities for its payment; the last is a consequence of the former. But the power to borrow does not imply that of creating a national bank as means of providing for its payment. The one is not the natural or necessary sequence of the other. To provide and maintain a navy would confer no such power. The power to raise and support armies is expressly given; then follows, as a consequence, the power to make rules and regulations for the Army. But

under the power to regulate commerce it is proposed to exercise a substantive and distinct power—to enter upon the territory of a State, to take its soil by the agency of corporations without its consent, and then to regulate, as a consequence, the trade and commerce thus created; to create under the power to regulate, and then to regulate the thing created under the general power to regulate commerce. By this means the incidental power is made of primary importance, of the same character as a specific grant, and possessing all the elements of an original, express power, with implied and ancillary powers.

In the case of *Gibbons against Ogden*, in 9 Wheaton's Reports, 196, referred to by my colleague, Judge Marshall, in delivering the opinion of the Supreme Court, said:

"It is the power to regulate, that is, to prescribe the rule by which commerce is to be governed."

Not the power to create commerce by building of ships, canals, and railroads, but to prescribe rules and regulations by which commerce is to be governed, just as rules and regulations are prescribed for the armies of the United States. Why, Congress cannot establish a ferry, whether it be between different parts of the same State or between different States. In the case of *Conway* and others against Taylor's executors, in 1 Black's Reports, the Supreme Court held that the power to establish and regulate ferries is not included in the power of the Federal Government to "regulate commerce with foreign nations and among the several States and with the Indian tribes;" also "that the authority to regulate ferries has never been claimed by the General Government, has always been exercised by the States, never by Congress, and is undoubtedly a part of the immense mass of undelegated powers reserved to the States respectively."

So jealous were the States of their rights that they insisted, as a measure of precaution, upon the adoption of the ninth and tenth articles of amendments to the Constitution; by the ninth, that the enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people, and by the tenth article that the powers not delegated to the United States by the Constitution nor prohibited by it to the States are reserved to the States respectively or to the people. The Constitution speaks of the enumeration of certain rights, of a definite and distinct enumeration, and then denies to the General Government any other power. Nothing can be clearer than that the intention of the organic law is to guard against constructive power, and to restrain the exercise of implied powers to the natural and necessary execution of the powers granted, and without which they could not be used. But the power to regulate commerce has no natural or legitimate connection with the construction of railroads and canals in and without the consent of the States. The power was exercised of regulating commerce before railroads were known; it was fully exercised upon then existing objects; and the power to construct railroads as instruments of commerce never entered into the conception of the framers of the Constitution. Mr. Madison, one of the wisest of the Convention, and whose interpretations of the Constitution have always commanded the highest respect, in a letter to Reynold Chapman in 1831, to be found in the fourth volume of Madison's Works, page 148, writes:

"It may be remarked that Mr. Hamilton, in his report on the bank, when enlarging the range of construction to the utmost of his ingenuity, admitted that canals were beyond the sphere of Federal legislation."

And on page 149 he adds:

"Perhaps I ought not to omit the remark that although I concur in the defect of powers in Congress on the subject of internal improvements, my abstract opinion has been that in the case of canals particularly the power would have been properly vested in Congress."

Even General Hamilton, in his most latitudinarian construction of the Constitution, did not think that the general power to regulate commerce was elastic enough to be made to

reach canals. In the Convention which framed the Constitution it was thought by some that canals would be greatly conducive to the extension of commerce; yet for fear that the insertion of the power might be the means of defeating the Constitution, it was purposely omitted.

The forty-second number of the *Federalist*, written by Mr. Madison, in speaking of the defect of power in the existing confederacy to regulate commerce between its several members, and of the proposed authority to do it in the Constitution, said:

"A very material object of this power was the relief of the States which import and export through other States from the improper contributions levied on them by the latter. Were these at liberty to regulate the trade between State and State, it must be foreseen that ways would be found out to load the articles of import and export, during the passage through their jurisdiction, with duties which would fall on the makers of the latter and the consumers of the former."

It will be seen that the commerce spoken of is that between the States, not in the States. Congress has not and never has claimed the power to interfere with commerce between different sections of the same State. This is virtually, if not expressly, conceded by the Senator from Ohio. It is only when trade is about passing from one State to another and through it that the power of Congress to regulate it is brought into action. It arises only and springs out of the extension of commerce from one to another State. From the quotation from the *Federalist* it will be discovered that the regulation of trade spoken of is to prevent improper contributions and exorbitant duties from being laid on goods carried from one to another State. As Congress was to be invested with the regulation of foreign commerce, and as the products of foreign countries would have to be exported from the cities on the sea-board to other States for consumption, it was proper that the power should be given to prevent imposition of high duties on goods sent to States and Territories remote from sea-ports and navigation. There was no other motive, no other reason, no other necessity for investing Congress with this power over commerce between the States; and we are not now, because of alleged inconveniences or advantages, to interpolate the Constitution or to stretch it to embrace powers which were never designed to be conferred.

But what is it to be regulated? Mr. Madison, in a letter to Professor Davis, and to be found in the works of the former, says:

"In citing the Constitution the word trade was put in the place of 'commerce,' the word 'foreign' made it synonymous with commerce. Trade and commerce are, in fact, used indiscriminately both in books and in conversation."

The regulation of trade is by duties and restraints, so as to encourage it between the States; not by building factories and engaging in manufacturing; not by constructing railroads and canals within the territory of States without their agency or consent, to take the lands of their people and pass them into the hands of strange corporations, which the Senator from Ohio admits act for their own interest. If railroads can be made through a State without its permission may not canals also be dug by the same authority? They are more appropriate instruments of commerce than railroads; they can transport articles of great bulk and value with more advantage. If there is not constitutional power to construct a canal, there can be none to make a railroad. Mr. Madison, the great expounder of the Constitution, in a letter to Edward Livingston in 1824, wrote:

"My impression with respect to the authority to make them (canals) may be the stronger perhaps (as I had occasion to remark as to the bank on its original discussion) from my recollection that the authority had been repeatedly proposed in the Convention and negatived, either as improper to be vested in Congress, or as a power not likely to be yielded by the States."

And in a letter to Martin Van Buren in 1826, upon the same subject, he writes:

"If it be thought best to make a constitutional grant of the entire power, either as proper in itself

or made so by the moral certainty that it will be constructively assumed with the sanction of the national will and operate as an injurious precedent, the amendment cannot say less than that 'Congress may make roads and canals with such jurisdiction as the cases may require.'"

It thus appears that not only Mr. Madison was decidedly of opinion that no such power existed as to make canals, but that the subject was introduced into the Convention and discussed but always rejected, principally because it was deemed a power of such vast magnitude that the States would not ratify the Constitution if it was incorporated in it.

The honorable Senator from Ohio stated that the power of regulating commerce between the States had been exercised in the *Wheeling bridge case*. The acts of the Virginia Legislature, which authorized the construction of that bridge, provided that if it obstructed the navigation of the Ohio river it should be deemed a nuisance; and in the compact between Virginia and Kentucky, which was sanctioned by Congress, it was expressly stated that the use and navigation of the river Ohio, so far as the territory of Virginia or Kentucky was concerned, should be free and common to the citizens of the United States. The bridge interfered with the free navigation of the river; and as steam vessels from Pennsylvania, in their intercourse with other States, were interrupted in their voyages by the bridge, the Supreme Court decided accordingly. But there is nothing in the case which recognizes any power in the General Government to construct works of internal improvement in the States. The case of the State of Maryland against McCulloch, to be found reported in 4 Wheaton, only decided that the Bank of the United States had a right to establish a branch in Maryland, and that the Legislature of the State had no right to tax the branch thus established. The bank was created as a fiscal agent of the Government, and as necessary to the collection and disbursement of its revenues; and if a State had the right to tax the agent of the Government it might tax it out of existence. There is nothing in the case alluded to which can give color to the claim, set up by the Senator from Ohio, on the part of the Federal Government to construct railroads through the States without their consent.

The Senator from Ohio speaks of the city of Washington as the capital of a great nation, and that free access to it and egress from it in all directions should be secured to its citizens and all who visit the seat of Government. I agree with him in the importance of adequate communication with this city, and that every facility should be afforded to all whom business or pleasure shall bring within its limits. These considerations are of high importance, and there can be no doubt that if they do not now exist to their full or desired extent, they will, in a reasonable time, and without making any strain upon or infraction of the Constitution by an invasion of the reserved rights of the States. Any alleged inconvenience or length of route or delay incident to all railroad traveling only touch the question of expediency, and not that of constitutional right. However desirable it may be to the citizens of Washington or to Congress or to visitors that other means of intercourse may be brought into existence the constitutional difficulty remains, and the implied constructive power of the Government can receive no legitimate aid from such considerations. Formerly the communication between Baltimore and Washington was by stage and wagon, a distance of forty miles. The statesman of a former age did not complain nor endeavor to extract an argument for political power from the inconvenience to which they were subjected. Maryland is of small territorial extent, with less perhaps at the time than half a million of population, an agricultural State; with limited means, but with a generous and enterprising spirit, she embarked nearly eight million dollars in the work which has secured to Washington a railroad and a canal which afforded all the facilities aided by enterprising companies which the people then

desired. It was uncertain at the time whether she would ever be reimbursed for the adventure which she made; railroads were not then the success which they have since become.

If, having run the hazard of loss, after conferring upon the District such a boon, shall she now be reproached because it yields to her a revenue in excess of what was anticipated? The Senator from Ohio has charged corporations generally with being influenced by selfish motives. What company, corporated or unincorporated, or what capitalists, whether engaged in mining, manufacturing, commercial, or in any other department of business, are not influenced by like considerations. The exclusive jurisdiction of Congress over the ten miles square cannot, as the Senator contends, enlarge the power given over commerce. The authority of Congress would be the same if no such District had been provided. The jurisdiction is confined to the limits of the District. In the forty-third number of the *Federalist* the principal reason assigned for the exclusive jurisdiction is that the proceedings of Congress might be interrupted with impunity and that body dependent on a State for protection. In Madison's works, in the third volume, in a letter to Judge Roane, he writes:

"The exclusive jurisdiction over the ten miles square is itself an anomaly in our representative system, and its object being manifest, and attested by the views taken of it at its date, there seems a peculiar impropriety in making it the fulcrum for a lever stretching into the most distant parts of the Union and overruling the municipal policy of the States."

The ken of this political philosopher seemed to penetrate the future, and with almost the spirit of prescience he could see the march of central power into the very heart of the States.

The charter granted by Congress to the corporation of Washington authorized the drawing of lotteries for effecting any important improvement in the city which the ordinary funds or revenue would not accomplish. The State of Virginia enacted a law prohibiting the drawing of lotteries and sale of lottery tickets in that State unless the lottery was authorized by that Commonwealth. The Cohens, in the city of Norfolk, sold tickets of the lottery authorized to be drawn by the corporation of Washington city. They were indicted and fined under the law of Virginia, and the case was taken up by them to the Supreme Court of the United States, which affirmed the judgment of the State court. This was a direct attempt, by means of this fulcrum and lever, to stretch its authority into the territory of a State. There is, therefore, nothing in the jurisdiction given over the District, nor in the simple fact that Congress sits in the city of Washington, that can give to the subject any greater importance than if Congress sat in the city of Philadelphia.

The portion of the eighth section of the Constitution which empowers Congress to make all laws which shall be necessary and proper for carrying into execution the express powers confers no authority which the Government would not have possessed without the insertion of those words, because when a power was expressly given to do a certain thing all the means necessary to its execution were implied and contained in the grant. In the thirty-third number of the *Federalist*, written by Alexander Hamilton, who always gave the largest and most liberal interpretation to the Constitution, it is said:

"What is a legislative power but a power of making laws? What are the means to execute a legislative power but laws? What is the power of laying and collecting taxes but a legislative power or a power of making laws to lay and collect taxes? What are the proper means of executing such a power but necessary and proper laws? The Declaration itself, though it may be chargeable with tautology or redundancy, is at least perfectly harmless."

It is thus seen that the insertion of the power to employ the necessary means is a mere redundancy, and does not in any sense enhance the powers of the Government, although Mr. Madison, in a letter to Mr. Jefferson, said:

"In truth, the great temptation of 'utility' brought home to local feelings is the most dangerous snare for constitutional orthodoxy."

And in a letter to Mr. Ritchie, in 1825, he said:

"It has been impossible not to observe the license of construction applied to the Constitution of the United States, and that the premises from which powers are inferred often cover more ground than inferences themselves."

And as an illustration of the extent of implied power as manifested by the bill before the Senate I may add that the inferred power is greater than the power granted.

The Senator from Ohio admits that in the act of Congress authorizing the construction of the Cumberland road the assent of the States through which it was to pass was provided for. I understood the Senator to say, although I do not read it in his published speech, that in the Cumberland road bill the consent of the States was asked because the Government desired the aid and coöperation of those States. I do not so read that bill; it passed Congress in 1806, and contained a provision that if the President received and accepted, and did not reject the report of the commissioners who were appointed to survey and make out the road, he was then "authorized and requested to pursue such measures as in his opinion shall be proper to obtain consent for making the road of the States through which the same has been laid; and which consent being obtained he is furthermore authorized to take prompt and effectual measures to cause said road to be made. There is no aid to be given by the States except their consent, and by the very terms of the act that consent is made indispensable; this is a virtual and unconditional surrender by Congress of the power now claimed.

I find on examination of the laws for the admission of Ohio into the Union, passed in 1802, that three propositions were submitted to the judgment of that State; a portion of the third is as follows:

"That one twentieth of the net proceeds of the land lying within the said State sold by Congress from and after the 30th day of June next, after deducting all expenses incident to the same, shall be applied to the laying out and making public roads leading from the navigable waters emptying into the Atlantic to the Ohio, to the said State and through the same; such roads to be laid out under the authority of Congress with the consent of the States through which the said road shall pass."

This is another and explicit precedent of the recognition by Congress of the assent of the States as a necessary preliminary to the exercise of the power to make roads by the General Government.

The power claimed to make or authorize to be made railroads and canals through States without their assent is one of immense magnitude, and strikes at the foundation of State sovereignty and vital constitutional rights. To concede such a power would be to surrender the last vestige of dignity and honor on the part of the States, and to constitute this Government at once a consolidated one with unlimited powers. It would break down all divisions of power, all barriers between the two systems, and annihilate all State power unless used in subserviency to the national will. The checks and balances of the Constitution—the beautiful symmetry and framework of the general and State constitutions, which have been the theme and admiration of statesmen and of patriots and of the whole American people from the year 1787, will be marred and broken in its essential attributes. General Jackson, in his veto message of the Maysville road bill, was influenced not as the Senator from Ohio has supposed, because the work commenced and ended in the same State. The message says:

"The constitutional power of the Federal Government to construct or promote works of internal improvement presents itself in two points of view: the first, as bearing upon the sovereignty of the States within whose limits their execution is contemplated, if jurisdiction of the territory which they may occupy be claimed as necessary to their preservation and use; the second, as assuming the simple right to appropriate money from the national Treasury in aid of such works when undertaken by State authority surrendering the claim of jurisdiction."

He denied the power in both aspects, and vetoed the bill. President Monroe, in his spe-

cial message upon the bill entitled "An Act for the preservation and repair of the Cumberland road," declared emphatically that Congress did not possess the power, and that the States individually could not grant it. But this message was quoted by my colleague [Mr. WAYNE] on yesterday, and I forbear, therefore, to comment upon it.

If any enlarged implied power was intended to be bestowed would it not naturally be looked for in the parts of the instrument which provide for laying and collecting duties and imposts, to regulate commerce, to maintain a navy, and grant letters of marque? Would it not be inferred that to execute these powers the Government would have the right to condemn land for the erection of light-houses to prevent shipwrecks and loss of life; that the war power, to raise and support armies, and to insure the common defense, would include the right to take land upon which to erect forts and fortifications, and without which bulwarks of protection could not be erected? But yet so jealous were the States of central power and of any appropriation of their soil or invasion of their territory, even for these mighty purposes so closely allied to the success and preservation of the General Government, so tenacious of its integrity and so determined to preserve inviolate their right of eminent domain, that in the eighth section of the first article of the Constitution, after enumerating the specific powers granted to the General Government, it is then declared as a power granted "to exercise exclusive legislation in all cases whatsoever over such District, not exceeding ten miles square, as may by cession of particular States and the acceptance of Congress become the seat of Government of the United States, and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same may be for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings." The right is to be acquired only by consent of the States.

Can there be a more striking example and illustration of the true intent and meaning of the framers of the Constitution in reference to the subject of implied power, of the spirit and the rule by which constructive power should be restrained and confined whenever the territory of a State is to be approached by the Federal Government? Is it not the key which unlocks and explains the true measure of the claim of implied powers? Can it be supposed that the sages who formed that organic law would have thus guarded with extreme vigilance and caution the rights of the States, and have left in the terms to regulate commerce an open door for the admission of vast, indefinite, and substantial powers, which would subject the territory of the States to the occupation, use, and appropriation at the will of the General Government? Would not such a presumption impute to those great and good men the wonderful work which their wisdom and statesmanship enabled them to consummate? I find, by reference to the statutes of Maryland, that the General Government did, in pursuance of this constitutional provision, apply to the Legislature of my State for permission to procure land for light-houses. In 1820 the land for such purposes, at North Point and Bodkin Island, were ceded, or cessions provided for; in 1824 Thomas's Point, and also part of Poole's Island, and in the same year Cedar Point and Point Lookout and Smith's Island.

Can it be possible for the mind to conceive that, to establish or erect works of vital importance to commerce, and such of a military character as should be essential to the defense of our rivers, harbors, cities, and coasts, the assent of the States should be absolutely indispensable, and that the States would surrender their soil to the Government of the United States at discretion to make railroads and canals; to make internal improvements at pleasure; to construct rival works, and destroy the value of such as were authorized by the

States, and of others in which she has millions invested?—the right to erect toll-gates on such roads; to fix the tolls irrespective of the wishes or interests of the people; to intersect and cross and injure works completed or in progress; to cut up and disfigure the physical features of the country without regard to State interests; to summon juries, condemn the lands, erect depots, buildings, and stations wherever and however it may choose, without even consulting the State or her functionaries; to incorporate companies, composed of strangers, to go upon your lands, make as many roads as they please, however destructive to the works of the State and of her people; in a word, to exercise plenary power over the territory of the States—can it be possible that the late war has so obliterated every line and removed every landmark of the States which have always been their pride and boast? Was it for this that the Constitution was framed? Was the power to make canals rejected because of the well-grounded apprehension that its insertion would defeat the instrument when submitted to the people; that now, in the eighty-second year of our national political existence, the power to make canals and railroads shall be exerted independently of the States? Would not such an exercise of power be an insult to the framers of the Constitution, to their memory, and to the memories of the men who voted for and adopted it?

The right of eminent domain or the power to take private property for public use is in virtue of the sovereignty of the Government; it is a part of the sovereignty. In the public territory of the United States this right resides in the Government; but when a new State is formed out of such territory and received into the Union that right, held temporarily by the United States, passes to the State thus admitted. This principle is explicitly declared in the case of *Pollard's Lessee vs. Hogan*, in 3 Howard's Reports, 212, by the Supreme Court of the United States, and that the right of eminent domain is a part of the sovereign power of a State.

It will not be denied that the States have a right to take private property for public use, making just compensation, and that the right exists because of their sovereignty. Sovereignty over the same subject-matter cannot exist in two Governments. It cannot exist in two or more Governments when its exercise may bring them into collision. The one or the other must be supreme. This right of eminent domain is essential to the proper existence and operations of the State governments; the objects of local governments, the improvements of the State, their progress and advancement are inseparably connected and bound up in this attribute of sovereignty. But the right of eminent domain is not necessary to the existence or administration of the General Government; it has no duties which call for its exercise except in times of invasion or of war. Its powers and functions were ordained and limited by the States. Mr. Madison, in the forty-fifth number of the *Federalist* said, as already quoted, that—

"The powers delegated by the proposed Constitution to the Federal Government are few and defined; those which remain in the State governments are numerous and indefinite."

The honorable Senator from Ohio, kindling with enthusiasm as he progresses to demolish all the barriers which protect the rights of the States, says:

"Now, therefore, is the proper time to assert the authority of Congress to regulate commerce among the States by authorizing new lines of transit; by encouraging competition, improvement, and enterprise; by making the construction of railroads as free as the construction of merchant vessels and blacksmith shops."

We know that every man in the community has a right to build a vessel and a blacksmith shop. He interferes not with the rights or interest of another; he takes no man's materials and condemns no man's property. And yet the Senator would permit all associations, companies, or individuals to go upon the territory of a State and convert its property to their

use, regardless of the wishes or interest or rights of the owners, that the right to build railroads should be as free as the air! Is this the doctrine of the statesmen who framed the Constitution? Are such views to be found in the *Federalist*, or in the writings of Hamilton, Jefferson, Madison, Monroe, or Jackson, or of record in the annals of congressional legislation?

Some of the reasons assigned by the honorable Senator [Mr. SHERMAN] for the exercise of this power are: that the profits of the Washington road are grossly out of proportion to the cost of the branch! Is not this a most extraordinary motive to influence the Congress of the United States to exert this high and doubtful power? The idea of making rival works to reduce the profits of a railroad company is a novel one. Corporations, the Senator says, are selfish; and yet he would create as many as there are ships and blacksmith shops, that they might all become selfish and make their own interest their chief object; not that the public convenience and interest are to be moving causes to the construction of new roads; for he says:

"It is therefore natural that dissatisfaction should occur with the present exclusive transit, even if it yielded only a fair profit on the capital employed, and furnished direct, convenient, and cheap communication."

Here is a distinct avowal that neither the directness of the route, its cheapness and convenience, can satisfy the community while other persons are prohibited from constructing roads whenever and wherever they may choose.

It would seem to me that the efforts of the Senator to show that the profits of the Washington branch were too great, that the route was not direct, convenient, or cheap, was a work of supererogation, and he might as well have relied on the avowal of dissatisfaction, because there was but one route. It has somewhere been said that "though one be as pure as ice and as chaste as snow he shall not escape censure."

It will be remembered that the Baltimore and Ohio railroad was built many years since, when railroads were experiments and capitalists hesitated to invest; that for many years it paid a comparatively small profit; that before its construction the stage and the wagon were used as agencies to transport passengers and merchandise from Baltimore to Washington and *vice versa*; that the present route from Washington to New York is the shortest that can be made unless you bridge the Chesapeake and Delaware; that the travel is made in about seven and a half hours, and an improvement by the company is now being considered which will lessen the time twenty minutes and prevent delay in Baltimore. It will also be remembered that the State of Maryland, with a population at that time of probably less than half a million, an agricultural people, and with limited resources, advanced her means and pledged her credit to aid in the construction of the road; that she stipulated for one fifth of the passage money. I have heard it stated that the State of New Jersey had created a monopoly, and Delaware had placed a capitation tax upon passengers, that Pennsylvania had required a remuneration of the Erie road in the form of a rent, and that in Illinois the Central railroad pays a per cent. of its gross earnings into the treasury.

Maryland also subscribed \$500,000 to the main stem and \$7,000,000 to the Chesapeake and Ohio canal, which had a terminus in the District of Columbia; that to pay the interest on the debt thus created, mostly to connect Baltimore and the Ohio with Washington and Georgetown, she had to resort to taxation of a character which was oppressive to her people. She thought not of repudiation, but under the lead of her then distinguished Governor levied stamp duties on all private securities, conveyances, &c., and taxes on legacies, collateral inheritances, on executors and administrators and trustees' commissions, and on the real and personal property of the State. She preserved her honor inviolate, and no stain

ever attached to her bright escutcheon. The Chesapeake and Ohio canal has been unproductive, and now there is due my State for interest upward of eleven million dollars. Will the Senator from Ohio inform us if the eight per cent. on her investment in the main stem is excessive, and whether the deficit on the canal investment should not be an offset to what he considers unreasonable receipts from the Washington branch road? If that requisition be unconstitutional, as the Senator alleges, it may soon be judicially so decided. She receives about five per cent. every six months on her subscription of stock. But for the enterprise and public spirit of Maryland and of the Baltimore and Ohio Railroad Company acting in conjunction it is possible that we might yet have the stage coach to ply between the cities of Baltimore and Washington, to convey honorable Senators and Representatives to and from the seat of Government, as was wont in the days of Clay, Webster, and others of great renown.

I am no friend of monopolies, nor am I here as the advocate of any railroad company; but when individuals and a State embark their means to a large amount in an enterprise or work which may prove a failure, which may never reimburse principal or interest, does it seem proper or just that after the hazard of loss and by good management they realize a profit that a rival company, availing themselves of the experience and success of the former, should step in and take from them their hard and merited earnings? If they abuse their privileges the law will reach and correct such abuses; but it is a question doubtful in morals whether, under such circumstances, many rival companies should be permitted to reap their advantages; at all events the question is one for the consideration of the power that created them. I know of no refusal on the part of the Legislature of Maryland to redress wrongs or to sustain the cause of right. She is not a State that loves monopolies, nor is she selfish or unjust, but has granted many railroad charters, and, I believe, has never refused when properly applied to. She receives nothing from the Chesapeake and Ohio canal, and allowing her interest on the \$7,000,000 of stock and the \$11,000,000 of interest due to her from the canal company, the annual loss to the State of interest is \$1,080,000, being more than the whole gross earnings of the railroad company on the Washington branch in a single year.

The Senator from Ohio says that Maryland obstructs free communication between the capital and the great body of the people. Did the honorable Senator weigh well the expressions which he used? Is he not aware that Maryland capital and enterprise made the only railroad to the city of Washington; that her people are now taxed to pay the interest on the debt incurred for that object? Is he not also aware that Maryland many years since chartered a company to construct a railroad from the Potomac to Baltimore, and subsequently authorized the company to carry a branch to the District of Columbia; that the want of capital alone prevented the commencement of that road for many years, but that it is now, under the control of the energetic Governor of Maryland as its president and the enterprising board associated with him, in a rapid progress of construction, and will soon be completed; that the Legislature of Maryland, when requested, enlarged the corporate powers of the Baltimore and Ohio railroad to enable it to make a road from Harper's Ferry to the District of Columbia, called the Metropolitan road, for the especial accommodation of western travel? This branch is to be made, not with the capital of the District, but from the earnings of the former company, which will lessen the dividends to the State of Maryland and to Baltimore on their stock. The Connelville road is being built by Baltimore capital and enterprise, making a shorter line with the Metropolitan than by any other route from Washington to the West and Northwest, and a road is also constructed from toward Philadelphia to the Susquehanna river,

and a Maryland charter authorizes its continuance to Baltimore; also, the Pennsylvania Northern and Central, within our State lines. The State of Maryland has not hesitated to give her consent, by chartering companies, to construct railroads and canals. She now has an unproductive capital of \$19,000,000 in such works. It is not possible that Baltimore can be jealous of Washington; there are always two sides to a question; but if there are any inequitable discriminations, they should be discontinued, and the capital of the nation enjoy as many advantages as may be extended to the most favored places. No doubt it will be done. I have heard that the instance of the freight from Baltimore being charged at a higher rate to Washington than to Alexandria was accounted for by the fact that the empty cars and the labor of lading and unlading were furnished by the Alexandria road. However, there can be no doubt that a just arrangement should be made to the mutual advantage and satisfaction of both cities.

The complaint that the Baltimore and Ohio Railroad Company declined to reduce the fare to the Government may be explained by the fact that from the location of the road it was particularly subject to the destructive raids and operations of the confederate forces, and in fact that it did suffer most serious and frequent losses by having its track torn up and destroyed, its bridges burned, and its cars demolished; and that with wonderful promptitude the company from time to time repaired the work with its own means and kept it for the important uses of the Government and a necessary line of communication between the seat of Government and the West.

In answer to certain inquiries made by me of a most intelligent officer of the company, I learned that portions of the track were destroyed every year during the war, the first occurring in May, 1861, and the road was not opened for use between Harper's Ferry and Cumberland, a distance of one hundred miles, till April, 1862. The track, buildings, bridges, engines, and cars destroyed are estimated at \$800,000. During the war about one hundred and twenty miles of the track were destroyed, between twenty and thirty bridges, including some of the most costly on the route, as Harper's Ferry bridge, which is about one thousand feet in length and has been permanently rebuilt; that the cost of repairing the road in all respects so as to cover every damage done to the property, permanent or movable, during the war, is estimated at \$3,500,000. In reply to my question of loss in freight and travel during the suspension of business during the war, occasioned by the insurgents, the estimate is given at \$10,000,000. During the period of the war the number of soldiers and persons connected directly and indirectly with the Army and transit each way are supposed to amount to a million and a half of men. No road, probably, suffered so severely, and none rendered more important services to the Government.

It was with a degree of surprise that I heard the honorable Senator [Mr. SHERMAN] assign as a reason for chartering a company to construct a road from Washington to New York via Baltimore that certain disorders had been committed in the latter city. No one can regret more than myself any violation of law or breach of the peace, and the citizens of Baltimore equally participate in that feeling. They are an intelligent, enterprising, generous people, of great public spirit and moral worth. Riots and violence have occurred in other cities and towns of the country; but such occasional ebullitions, however much they may be deprecated, do not seriously impair their character. The Senator does not propose to locate the contemplated road at any distance from Baltimore city, so that proximity will not exist, and consequently the new road will be as near the scene of disorder as the present one. I regret that the Senator introduced these topics into the discussion of a great constitutional question, because they neither help the argument nor enlighten the judgment.

Maryland as a State has ever been characterized for her toleration of opinion and for civil and religious freedom. Founded by a colony of Catholics, both that sect and the Protestants have been tolerant and liberal. She was among the first to remove disabilities from the Jews. Her participation in the revolutionary struggle forms a bright epoch in our country's history. The Maryland line was always looked to to cross bayonets with the enemy; it was in the hardest fought battles of that dark period; and the names of her Howards, Gists, Smallwoods, and others are inseparably connected with the valor and glory of the Revolution of 1776. In 1812, when war was renewed with our ancient enemy, but now I hope steadfast friend, the gallantry and patriotism of her people were constantly displayed. When the Government of the United States wanted money to conduct that war, at its very commencement the Legislature of Maryland by law authorized the banks of the State to loan to it one third of their capital; and after this city had been captured, and the Capitol building had been fired, when the pulse of the nation beat quick and its heart almost failed, all eyes were turned to Baltimore, which was to be assaulted by the conquering troops that had humbled our pride by the destruction of our Capitol. When the commercial metropolis of Maryland was invested by land and water by the formidable naval and military forces of Great Britain the heroism and firmness of Maryland soldiers saved the honor of the nation and infused new hopes and vigor into the hearts and hands of our countrymen. Men voluntarily left their homes and traveled a hundred miles to engage in the defense of Baltimore.

It was during the dark and gloomy days and nights of the bombardment of Fort McHenry that the patriotic Key, detained unwillingly on board an English ship, from the decks of which he could, through the smoke and flame of battle, descry the flag which bore the stripes and stars still waving at the staff, and which gave hope to his throbbing heart—it was then that fresh inspiration of patriotism was breathed in his bosom, and he sent forth from his ardent lips on the pure air of his native State the memorable and never-to-be-forgotten words and sentiments which have immortalized and consecrated the Star-Spangled Banner, the recollection of which did much to cheer and sustain our soldiers in the late civil war and to keep firm to their allegiance many who would have gone to the southern cause. During that lamentable conflict of arms Maryland sent fifty thousand men to the armies of the Union, paid \$5,000,000 as bounty to her soldiers, and lost \$30,000,000 in the emancipation of her slaves, which beggared many of her men, widows, and orphans. She sold her bank stocks to pay her troops, and her people are now laboring under taxation to pay the interest on her war debt.

Mr. SPENCER. I move to amend the bill before the Senate by adding to the first section the following proviso:

Provided, however, That the Baltimore and Potomac railroad may be adopted as a part of the road between Washington and Baltimore contemplated by this act, upon such terms and conditions as may be agreed upon between the New York and Washington Railway Company and the Baltimore and Potomac Railroad Company.

Mr. SHERMAN. If that amendment is to be adopted it ought to come in at the end of the second section.

Mr. SPENCER. Very well.

Mr. SHERMAN. I have no objection myself to the amendment authorizing the new corporation to contract with the Potomac company, which is a new company also authorized by Congress, to make that a part of the line. I do not see any special objection to it. Senators can judge of it as well as I can.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Alabama to the second section of the bill.

The amendment was agreed to.

Mr. SHERMAN. There is one amendment reported by the committee which the Secretary

tells me was overlooked and not read. I ask that that be acted upon now.

The Chief Clerk read the amendment, which was in section six, line four, after the word "length" to strike out the words "and the rails shall be of American iron or steel manufacture."

Mr. CAMERON. I ask for the yeas and nays on that amendment. We are able to make all the iron in this country that is required for all our railroads.

Mr. SHERMAN. It is hardly worth while to call the yeas and nays now.

Mr. CAMERON. I withdraw the call.

Mr. POMEROY. The amendment before the Senate I understand to be an amendment requiring this road to use American iron.

The PRESIDENT *pro tempore*. The amendment is to strike out the provision requiring it to be built of American iron.

Mr. POMEROY. I do not desire to take any part in the discussion of this bill, but I think that provision ought to be stricken out. We have adjusted the tariff upon railroad iron to our internal revenue, tax upon American manufactures of railroad iron, and they are now in the markets of the world, and in the markets of this country competing with each other, as they ought to be. Now, to put into a bill, as we have in several bills that have passed Congress, a requirement obliging the company to buy American iron is, in the first place, against the interest, as I think, of the revenue of the country; and secondly, it is against the enterprise which we are trying all over this country to encourage and foster. I think that our tariff on railroad iron now amounts to about eleven dollars per ton. It was eight dollars, but I think it was raised last year, and railroad iron imported into this country now pays a higher duty than ever before. If the companies who are to construct these roads can afford to pay that duty, and prefer the European iron with the duty, why not let them go into the open market and buy it? Why confine them to American iron and then allow the American manufacturers to charge them any price they have a mind to charge because they have got to pay it? It is against the genius of trade and commerce in this country. I understand the chairman of the committee to say that the committee recommend to strike it out.

Mr. SHERMAN. Yes, sir.

Mr. POMEROY. I thought it was moved by some one else. If the committee have moved to strike it out I will vote with the committee. If I do not vote with them on anything else I will vote with them on that.

The amendment was agreed to.

Mr. WILLIAMS. I move to amend section twelve of this bill so as to provide that a property tax may be levied on the property of the road at not a higher rate *pro rata* than is levied by the laws of the State upon the property of all other roads constructed in the State under the laws thereof.

Mr. SHERMAN. That is the provision now.

Mr. WILLIAMS. Not at all. The provision now is:

And no property tax shall be levied on the property of said road at a higher rate *pro rata* than is levied by the laws of said State upon the property of all other roads constructed in said State under the laws thereof.

Mr. SHERMAN. I have no objection if the Senator simply wishes to affirm that.

Mr. WILLIAMS. I wish to have the assent of Congress given to the levying of such a tax.

Mr. SHERMAN. It ought to be followed by a negative condition that no higher tax shall be levied.

Mr. WILLIAMS. That precedes this.

Mr. FESSENDEN. I should like to ask the Senator from Ohio whether the bill is so drawn as to prohibit the States from taxing the stock of the company?

Mr. SHERMAN. Not at all. A property tax may be levied on the property of this railroad precisely like the tax on other railroad property.

Mr. FESSENDEN. "The property of the railroad" would not cover the point. There will be stockholders in this company. Many of the stockholders may reside in a particular State. Why should they not pay a tax on their stock in this road precisely as stockholders in banks pay a tax upon their bank stock?

Mr. SHERMAN. This does not prevent it at all.

Mr. FESSENDEN. The power should be specifically given just as it is in the bank act.

Mr. SHERMAN. The Senator will see that it now reads:

And no property tax shall be levied on the property of said road at a higher rate *pro rata* than is levied by the laws of said State upon the property of all other roads constructed in said State under the laws thereof.

This does not affect at all the right of the State to tax the property of a citizen in the stock.

Mr. FESSENDEN. It should be specifically given.

Mr. SHERMAN. I think it is clear now; but if it is necessary we can put that in.

Mr. FESSENDEN. It gives rise to a question whether they are to pay any tax at all.

Mr. MORTON. I ask the Senator from Maine if the State is allowed to tax the property of the company, and then to tax the stock which represents the property also, whether that is not taxing twice?

Mr. FESSENDEN. I will answer that in this way: suppose a large stockholder in this company resides in the State of Maine, and the road itself does not touch the State of Maine at all, should he not be taxed for the stock which he holds? It is so with regard to a bank. You tax the property of the bank situated in a State in the ordinary way, and in addition to that the stockholders are specifically taxed in the places where they reside. So it is with regard to railroad corporations. In my State the property of the railroad is taxable, not the track, but all the station-houses, engines, and everything of that sort; and in addition to that, the individual stockholder may be taxed on his stock in the road. It should be so in this case, in my opinion.

Mr. MORTON. I am not doubting the propriety of the suggestion, but simply want to know if the stock represents the property, as it certainly does, and you first tax the property and then tax the stock that represents the property, whether that is not double taxation?

Mr. FESSENDEN. The mere property of the road is a very small portion of it; but the stock may be very valuable outside of all that. The railroads in all the States are taxed in the same way. But there should be a limitation undoubtedly. The section should be so drawn as to provide that the tax shall be at the same rate as the tax upon other property of a similar description in the State; and then that will be sufficient to guard against abuse.

The PRESIDENT *pro tempore*. Will the Senator from Oregon send his amendment to the desk?

Mr. SHERMAN. While the Senator is preparing that amendment I desire to submit an amendment. I am directed by the select committee to move to strike out the last two sections of the bill. Senators object to having different corporations included in this bill. The select committee therefore instruct me to move to strike out the last two sections, so as to confine the bill to the one road between Washington and New York.

The PRESIDENT *pro tempore*. The amendment of the Senator from Oregon is withdrawn for the present, and the question is on the amendment offered by the Senator from Ohio. The matter proposed to be stricken out will be read.

Mr. SHERMAN. It is hardly worth while to read those two long sections. The sixteenth and seventeenth sections of the bill provide, one for a railroad toward Cleveland, and the other for a railroad toward Cincinnati. The

committee propose to make the bill simply a charter for a road from Washington to New York, striking out the other two sections.

The PRESIDENT *pro tempore*. The question is on the amendment of the committee, striking out the sixteenth and seventeenth sections of the bill.

The amendment was agreed to.

Mr. CONKLING. I move to insert at the end of line six in the first section, after the word "Delaware," the following names: "Ward Hunt, George Opdyke, Thomas Buchanan, jr., C. P. Huntington," of New York.

The amendment was agreed to.

Mr. WILLIAMS. I propose to modify the amendment that I offered to the twelfth section by striking out in line seven of that section the words, "and no property tax shall be levied on the property of said road at a higher rate *pro rata* than is," and inserting "but other taxes may be levied upon said road in the same manner and to the same extent as taxes are;" so that the section will read:

Sec. 12. And be it further enacted, That the said line of railway, with the ferries, crossings, bridges, and roadway hereby authorized to be constructed, shall be deemed and considered a national public highway and post road, and no tax or transit duty shall be imposed by virtue of any State authority upon the traffic of said company, its freight or passengers; but other taxes may be levied upon said road in the same manner and to the same extent as taxes are levied by the laws of said State upon the property of all other roads constructed in said State under the laws thereof.

Mr. FESSENDEN. I suggest to the honorable Senator to insert after the words "property of said road" the words "and stock owned therein," or something of that sort, so as to cover the point I suggested.

Mr. SHERMAN. That is a tax upon the stockholder, and it seems to me it is not necessary; because, as a matter of course, they are taxed with other citizens.

Mr. FESSENDEN. The amendment of the Senator from Oregon is a tax upon the road itself. Now, I wish it to be expressed "upon said road and upon the stockholders therein."

Mr. SHERMAN. I have no objection to this road and its stockholders paying the same tax as any other road and its stockholders in the same State.

Mr. WILLIAMS. What I desire to accomplish is to put this road upon precisely the same footing as other railroads are put upon by the laws of any State through which it may pass, so that there may be no distinction in that respect between this road and any other road.

Mr. FESSENDEN. Then, insert after the word "road" the words "and its stockholders."

Mr. CONKLING. Before we vote upon this amendment I wish some Senator who has thought of it would enlighten us upon a question which goes beyond the form and, in a certain sense, beyond the substance of the amendment. This legislation is to be justified, if justified at all, I take it, largely upon the language of the Constitution empowering Congress to establish post offices and post roads. One of the sections of this bill does establish this as a post road. If I understand the effect of that, the road as soon as it shall exist will exist as one of the instrumentalities, in the language of a leading case, of the Government of the United States, or of the United States. Now, it has been very broadly and uniformly decided—and I think the distinction which has arisen in the national bank cases does not impart the force of the decision to which I now refer—that State taxation shall not and cannot visit the instrumentalities of the Government of the United States. Those decisions, as I understand, proceed upon the effect of the Constitution and not upon the absence merely of a congressional license to the States to tax. In other words, if I am right in supposing that a road like this would be, as the Mint, as the dockyard, as the post office, is exempt from State taxation, that exemption would arise from the vigor of the Constitution itself. Now, I should like to know what effect is to be produced by

licensing (if I may so say) the States to impose the taxes implied by either form of this amendment. I should like to know whether effect can be given to the taxing power of the States in this way, and if so how far, and to take hold of which class of the assets of the road, and to fall short of subjecting to State taxation which other class of assets or franchise or whatever may represent value.

Mr. FESSENDEN. Will the Senator allow me to ask him a question?

Mr. CONKLING. With great pleasure.

Mr. FESSENDEN. When we declare that any railroad constructed by State authority and owned as a State institution shall be a post road, as I believe is done by our laws, we make it an instrumentality of the Government just as much as this is. Does that declaration, that it is a post road, take it out of its liability to State taxation in the case of an existing road constructed under State authority?

Mr. CONKLING. No, sir; I answer as a matter of fact rather than of law. I should think not; but I assume for the purpose of the query which I propose that a distinction exists between that case and a case in which Congress directly exercises the power to create, and in which Congress alone does create a corporation, the power to bring which into existence is based for this purpose wholly upon the idea of establishing or creating a post road. Now a route exists over which stage-coaches or railway carriages travel, and for certain purposes which, one by one, have been found desirable, the Government adopts that in a certain sense as a post road, declares it a post road. That is the case which the Senator from Maine puts. I do not suppose that case would fairly give rise to such a question as I ask, but my supposition is that the case before us is an entirely different one from that. But if there be doubt about that, then I should like to be enlightened upon that as a part of the question which I propose, whether the legislation we are about to adopt, if this bill shall pass, does not constitute a case between which and such a one as the Senator proposes there is a distinction, and if the distinction exists, then by what reasoning it is that we by enactment are to clothe the States with the power to visit taxation upon a subject to which complete immunity is attached by the Constitution of the United States.

Mr. STEWART. Mr. President, it seems to me there is no doubt about the power of the United States to allow any of its instrumentalities to be taxed. No doubt the bonds of the Government could be taxed if Congress felt disposed to allow it, and authorized the States to tax them. It is not desirable for this Government to build railroads through the States and place them on a different footing from other railroads already constructed. In the first clause of this section there is a prohibition against the State levying certain kinds of taxation. We want to be free from the passenger tax which has been so much complained of, and which the Senator from Indiana has this morning given us a very able discourse in regard to. We do not wish that tax imposed; but further than that it is not desirable to place this road upon any different footing from other roads in the same State.

So much as to the policy. As to the power of Congress to authorize the States to tax it, there can be no doubt. Congress is to judge how it will use its powers. This has been done in regard to the national banks, and there is no question as to the power of Congress to limit the use of its instrumentalities in carrying on the Government in its own way and to allow the States to exercise functions that they otherwise would not have the power to exercise. Inasmuch as we desire to prohibit the passenger tax and put that prohibition in the first part of the section it is best for Congress to show a disposition not to interfere in regard to other taxes.

Mr. FESSENDEN. Mr. President, my reading on this subject is not very new, and I have not very great confidence in my recollection

about it; but the impression I have on my mind is that the question suggested by the honorable Senator from New York can hardly arise. The questions which have been raised in reference to that matter rather refer to a tax in the nature of a tax on the franchise, the exercise of the power, the thing itself; in other words, the power to do that which it is permitted to do under the charter or permission of the Government, and not to a tax upon any property that it may have or anything that it may use, and a tax upon which would be in the nature of a tax on property like all other property in the State itself. Therefore, I do not see how the question which the honorable Senator has suggested could arise at all. The power under the Constitution is one which is held for the purpose of protection; and if there is no necessity for that protection, if Congress so thinks, I should have no question that the power might be awarded. In other words, in granting a charter to a company for a purpose which may be considered useful to the Government, even an instrumentality to the Government, if it is not exclusively an instrumentality of the Government, there can be no difficulty whatever in saying that that power is granted under certain conditions and subject to certain limits and certain liabilities; and if the power granted is taken advantage of by the company, if they assent and all parties concerned assent that the thing may be done, I cannot see that there is any possibility of doubt in relation to the law on that point.

Mr. CONKLING. I should like to inquire of the honorable Senator from Maine whether he holds that some object which clearly would fall within the category to which I suppose this might belong—I will take for illustration the mint in a certain State—might be subjected, by license from Congress, to State taxation. I ask him whether in the case of a subject of taxation already belonging to the instrumentalities of the General Government it is optional with Congress to insist upon and preserve its immunity from State taxation, or to waive it, as Congress sees fit?

Mr. FESSENDEN. That raises an entirely different question. I have no doubt that Congress in such a case as that even, the case of the mint, might subject the property itself which was used in accomplishing the purpose of the Government, if it saw fit, to State taxation. I remember that many years ago, perhaps twenty or thirty years ago, the question was argued before the Supreme Court of the United States whether the custom-house and the land on which it stood in the city in which I reside were subject to State taxation. A tax was imposed upon that property. I remember it the more distinctly because at that time I was city solicitor and I had occasion to argue the question and present it to the district court below. I did not argue it in the Supreme Court. Upon that question, whether there was any right to tax that land and the building on it, the jurisdiction never having been conveyed, the property being situated in our city, the court was equally divided, and no judgment was rendered. The city, however, waived the right.

Now, in the case of the Mint, the power under which it is established is one exclusively delegated by the Constitution to Congress and is to be exercised by the Government itself. It has nothing to do with anything outside of it; it is exclusively an instrumentality of the General Government. Perhaps it would not be competent in that case for Congress to submit the power, the right, the exercise of the power, the exercise of the right to a State to tax the Mint if it was exercised or carried on within the limits of that State. That is one question; but I apprehend it is a very different question when we are granting privileges and reserving—for that is the amount of it—certain rights to the Government of the United States, as connected with the exercise of these privileges. We make a corporation; we give to that corporation certain powers of benefit to itself

and the right to exercise them. Now, because we do that, and the exercise of that power results in certain benefits to the United States, we having the right to use it to a certain extent for our benefit, to hold that we cannot make a bargain with the corporation and say in the charter that we grant that they shall be subject to certain liabilities to the States as well as to the United States would seem to me to be carrying the idea suggested by the honorable Senator from New York to an extreme. Therefore, as I said before, I think there is no similarity between the cases.

Mr. WHYTE. Mr. President, at this point it strikes me as very important to inquire to whom will the property really belong after its condemnation? Will it belong to the corporation created by this act of Congress absolutely in its own right, or will that corporation be a quasi trustee of the United States? It is a very important question, and I submit to the Senate that in passing a bill of this kind the language ought to be very seriously considered. If Senators will look on page 11 of the bill, at the sixty-seventh line of the eighth section, they will discover that after the condemnation of property by a justice of the Supreme Court and a decree in favor of the company, "the said corporation, its successors and assigns, shall be legally and equitably seized and possessed of such real estate and other property." If it stopped there there would be no question that the property became immediately vested in the corporation; but these words are used: "shall be legally and equitably seized and possessed of such real estate and other property for and in behalf of the United States."

Mr. SHERMAN. Read on. Read the next clause.

Mr. WHYTE. "And to the use and for the purpose hereinbefore described." Then why include the name "and in behalf of" the United States at all? Will it not hereafter raise some question in regard to the responsibility of the United States in connection with this railway? Is it not better to leave the property in the possession of the corporation, if Congress has power to grant an act of incorporation? Why should there be any doubtful clauses in the bill? The property condemned for the road is to be vested in the corporation in the name and "for and in behalf of" the United States, and a preceding clause provides that the corporation, when it is necessary, shall enter upon and take possession of real estate in the name of the United States.

Mr. SHERMAN. I do not see, myself, the slightest objection to striking out those words. I do not think they change the legal meaning of the language the Senator has read, and if the Senator moves to strike out those words I shall not make any objection. It cannot change the effect of the section. I may say that this section was copied substantially, and I think *verbatim*, from the Pacific railroad law of 1864, where provision was made for condemning land. If that confuses my friend from Maryland the words can be stricken out. There is, however, an amendment now pending.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Maine to the amendment of the Senator from Oregon.

Mr. WILLIAMS. I accept it.

The PRESIDENT *pro tempore*. Then the question is on the amendment of the Senator from Oregon, as modified.

Mr. HOWARD. I ask for the reading of the amendment.

The CHIEF CLERK. It is proposed in lines seven and eight of the twelfth section to strike out the words "and no property tax shall be levied on the property of said road at a higher rate *pro rata* than is levied;" and in lieu thereof to insert "but other taxes may be levied on said road and its stockholders in the same manner and to the same extent as taxes are levied."

Mr. HOWARD. I beg to inquire of the honorable Senator from Maine whether it is

the purpose to allow the stock of the company as such to be subjected to State taxation?

Mr. FESSENDEN. Precisely; that is the object; just as stock in the national banks is subjected to State taxation.

Mr. HOWARD. Well, sir, suppose Congress should impose an additional tax upon this stock, as they might do, I suppose, then it would be subjected to double taxation.

Mr. FESSENDEN. The same power that gives this authority can take it away again if it sees fit to do so in consequence of its desire to levy other taxes for the benefit of the United States.

Mr. HOWARD. I suppose there can be no doubt about that.

Mr. FESSENDEN. None at all. As the amendment stands now it puts this road precisely as the national banks stand; and that is that although the State cannot tax the franchise, cannot tax the exercise of the power, or anything of that sort, yet it may tax the individual who owns a certain number of shares precisely as it does other individuals holding property of that description. A state may tax the banking house, for instance, or the stations and depots and real property of the railroad corporation, just as other property is taxed. That is the object, and I think it is proper.

Mr. HOWARD. Mr. President, I prefer the clause to stand as it is, rather than to alter it. As it now stands it reads:

And no property tax shall be levied on the property of said road at a higher rate *pro rata* than is levied by the laws of said State upon the property of all other roads constructed in said State under the laws thereof.

Mr. FESSENDEN. The reason of the change is this: it is very doubtful whether that provision as it stands, being merely negative, would be sufficient to subject this property to State taxation. It is very clear to my mind that it ought to be taxed to a certain extent; and in order to accomplish it the specific power should be given, and hence the change that is proposed to be made. Otherwise you may allow this great corporation to enter the States and hold any amount of property free of tax. A man in Maine living off the road, hundreds of miles from the road, may hold stock in it and invest largely in it, and yet he may not be subject to be taxed by his State on that property.

Mr. HOWARD. I concur entirely with the honorable Senator from Maine as to the propriety of imposing State taxation upon the property of this corporation. I have no objection to that; but I think that the doubt which he speaks of does not in fact lurk in the clause to which he refers. It seems to me the implication is very plain that it will be the right of the State through which the road passes to tax the property of the corporation.

Mr. FESSENDEN. In this form it is put beyond all doubt.

Mr. HOWARD. It strikes me that the clause does not need any such amendment. It declares that no tax shall be levied on the property of said road at a higher rate than is levied by the laws of the State on the property of all other railroads in the State. The implication it seems to me is perfectly irresistible that it contemplates State taxation and no other taxation *ex vi termini*. I have no doubt myself that in incorporating this corporation we can impart to it such faculties and such liabilities as we see fit. We are creating an artificial being known as a corporation; and if we have a right to constitute it at all, we have a right to impart to it all the faculties, all the incidents, and all the liabilities that we may see fit. I have no doubt about that; but it seems to me that we should not go so far as the Senator has gone in the amendment he has offered. I think the clause is sufficiently plain already.

Mr. FESSENDEN. The amendment simply saves all question.

The PRESIDENT *pro tempore*. The question is on the amendment as modified.

Mr. WILLIAMS. I wish to insert the words "property of" before "said road," so that the language may correspond with that of the succeeding portion of the section.

The PRESIDENT *pro tempore*. That modification will be made.

Mr. FESSENDEN. Then there must be another change. It now reads "upon the property of said road and its stockholders." You do not mean the property of the stockholders except the stock?

Mr. WILLIAMS. The property of the road and its stockholders.

Mr. FESSENDEN. Say "upon the property of said road and upon its stockholders."

Mr. WILLIAMS. Very well.

Mr. EDMUNDS. Let us hear the section read as it will stand if amended.

The CHIEF CLERK. If amended as proposed, the twelfth section will read:

That the said line of railway, with the ferries, crossings, bridges, and roadway hereby authorized to be constructed, shall be deemed and considered a national highway and post road, and no tax or transit duty shall be imposed by virtue of any State authority upon the traffic of said company, its freight or passengers; but other taxes may be levied upon the property of said road and upon its stockholders in the same manner and to the same extent as taxes are levied by the laws of said State upon the property and upon the stockholders of all other roads constructed in said State under the laws thereof.

The amendment was agreed to.

Mr. DOOLITTLE. I move to amend the bill by inserting after the word "empowered," in line two of section eight, the words "with the consent of the Legislature of the State or States through which said railway may be located;" so as to make the section read:

That said corporation is hereby empowered, with the consent of the Legislature of the State or States through which said railway may be located, to purchase, lease, receive, and hold real estate, &c.

Mr. President, this raises a very important question, perhaps raises a question which opens up for discussion one of the main points in the bill, the power to create this corporation. I had intended to address the Senate on the subject of this bill, and especially upon this branch of the question; but I am not prepared to go on this evening and to complete what I desire to say on the subject without detaining the Senate longer, perhaps, than they would desire to wait to-day.

Mr. EDMUNDS. If the Senator will give way I will move an adjournment.

Mr. DOOLITTLE. I yield for that purpose.

Mr. EDMUNDS. I move that the Senate adjourn.

Mr. SHERMAN. We cannot get on if we are to adjourn at half past three o'clock daily. Perhaps some other Senator may desire to go on. It will not do to be adjourning at half past three o'clock at this period of the session.

Mr. EDMUNDS. It is getting toward four o'clock, and it is not often that such a privilege is asked.

Mr. WILSON. If Senators will allow me, I desire to take up a House bill which is on the table.

The PRESIDENT *pro tempore*. The motion to adjourn is pending.

Mr. DOOLITTLE. I have no objection to other business being done if this subject is to stand over until to-morrow and I can then have the floor.

Mr. SHERMAN. If the Senate is disposed to allow this bill to stand as the unfinished business I shall not interpose any objection.

Mr. DOOLITTLE. I understand that the honorable Senator from West Virginia [Mr. WILLEY] desires to offer an amendment and to address the Senate at this time. I will, therefore, withdraw my amendment, and give notice that I shall renew it to-morrow.

The PRESIDENT *pro tempore*. The amendment is withdrawn.

Mr. EDMUNDS. I withdraw the motion to adjourn.

Mr. MORTON. I desire to submit an amendment to which I think there will be no objection. After the word "Massachusetts,"

at the end of the twelfth line of the first section, I move to insert as coporators "E. B. Martindale and William H. Terrell, of Indiana."

The amendment was agreed to.

Mr. SHERMAN. In the fourth line of the first section I move to strike out the name of "J. Edgar Thompson" and insert "G. Dawson Coleman."

The amendment was agreed to.

Mr. NYE. In line nine of the first section I move to insert among the coporators from New York the name of "Hiram Walbridge."

The amendment was agreed to.

Mr. WILLEY. Mr. President, this bill involves a principle of the highest importance. The question of constitutional power to pass it demands the closest scrutiny and the most careful consideration. I confess that my mind is not free from doubt. I shall reserve a final decision on the question of power until it becomes indispensable to decide it. On the other hand, as it regards the advantage, and, indeed, necessity of convenient railroad connections with the capital of the nation, none can doubt. Until this day since the seat of Government was established here three fourths of the nation have been without railroad communication with its capital excepting by one route, possessing, until within a year, but a single track. It was but natural that the adjacent States, in building up their own cities and sections, should employ their capital and conform their legislation so as best to accomplish that purpose. It would have been expecting too much to suppose that they would seek to build up and improve a rival city outside of their jurisdiction and beyond the reach of their right of taxation. While, therefore, it is wonderful that the capital of the nation has remained so long without convenient railroad connections, it is not a matter of surprise, or, indeed, I think, of just complaint, that the States of Maryland and Virginia have not made them.

Under these circumstances it is possible that under the Constitution of this great country there is no rightful and legal power or authority of establishing and building or of authorizing the establishment and construction of the necessary and convenient means of access to its capital? May the citizens of the States respectively travel by rail to their capitals and the people of the nation be without the power to furnish the same facilities to reach the national capital? Have we no power to provide the means of military supplies and defense to the national capital furnished by railways, to say nothing of commercial and postal considerations? Perhaps it may be so. The arguments and authority of men learned in the law create some doubt in my mind. I defer a final decision on this point for the present. Perhaps I may have something to say in relation to this question during the further progress of the discussion.

I rise now to offer an amendment to the bill. If we are to enter upon the project of chartering companies to make railroads to and from this city, I think I can propose a route not included in the bill of equal necessity and importance with any of those which are proposed. I think I can show to the Senator from Ohio [Mr. SHERMAN] and to the Senate that it is possible, by making a road of less than one hundred miles in length, direct railway communication can be opened between this city and the valley of the Mississippi, in the direction of Cincinnati, St. Louis, and the Pacific coast, by a nearer and better route than any other now known.

Before offering the amendment, however, I beg leave to submit a few preliminary remarks, in order that the amendment when submitted may be understood and appreciated. I now merely state that I propose that a company shall be chartered to construct a railroad from Washington city to the Chesapeake and Ohio railroad, at or near Staunton, in Virginia.

Mr. President, the termini of the Chesapeake and Ohio railroad are Richmond, in

Virginia, and the mouth of the Big Sandy, on the Ohio river. The whole distance by this route between these points is four hundred and five miles. It has already been made, and is equipped and in operation from Richmond to Covington, a distance of two hundred and five miles; and some of the heaviest work on it, west of Covington, has been done, and measures have been adopted which will, in all probability, secure its completion to the Ohio river in the course of two or three years. This road passes up the valley of the James river, through Charlottesville, through the Shenandoah valley, by the way of Staunton in Virginia, and by the celebrated White Sulphur and other little less celebrated mineral springs, and by the salines in the Kanawha valley, in West Virginia. It contemplates making a branch from the mouth of Scary, on the Kanawha river, where it leaves the valley of the Kanawha river in its course toward its terminus at the mouth of the Big Sandy; it proposes, I say, to make a branch from this point down the Great Kanawha, to its mouth, at Point Pleasant, a distance of forty-five miles, and there, crossing the Ohio river, it will pass through the State of Ohio only twenty-eight miles to form a connection with the Marietta and Cincinnati railroad.

From Richmond, its eastern terminus, a railroad is already made and is now in successful operation to Norfolk, a distance of one hundred miles, making the distance from Norfolk to the Ohio at the mouth of the Big Sandy by this route five hundred and five miles, and several miles less to the mouth of the Great Kanawha. Prior to the rebellion there was also made and in operation from Richmond to a place called West Point, on York river, a railroad of only some forty miles in length, making the distance from the Ohio to the Chesapeake only about four hundred and thirty or four hundred and forty miles. Another line has been surveyed with a fair prospect of there being a road built on it from Richmond to Newport News, a distance of seventy-five miles, thus affording three outlets by rail from Richmond to the Chesapeake and the Atlantic ocean. At Norfolk the harbor is unsurpassed by any along this continent. Its depth of water is twenty-eight feet, one foot deeper than the harbor at New York. There are also excellent harbors at West Point and Newport News, the former twenty-one and the latter twenty-two feet in depth.

Now, I wish Senators would refer to the maps of the country. If they will do so they will perceive that this Chesapeake and Ohio road, with its connections, which I have just named, with the Chesapeake bay and the ocean, lies on an almost direct line from the mouth of the Chesapeake bay, the center of the Atlantic coast, toward Cincinnati, St. Louis, and the eastern termini of the Pacific railways. It lies along a parallel midway between the rigors of a northern climate, so embarrassing to railroad operations in the winter time, and the humid and heated atmosphere of the lower southern latitudes, so apt to spoil so many articles of trade and commerce during the course of transportation. This road can never be seriously affected by the one or the other of these besetments of cheap, safe, and comfortable travel and transportation. It must be apparent, too, from a mere inspection of the map, that when our system of Pacific railways is completed, and the commerce of the East is crossing our continent, as it will be in a few years on its passage to Europe, it must pass over this road and be deposited along the shores of Virginia to await the demands of the world's commercial marine. It must be no less apparent that a large proportion of the trade and travel of the great Mississippi valley, seeking an eastern outlet to the sea-ports of the Atlantic, will select this route. Various considerations justify such a conclusion. First, look at the distances between the great cities of the West and the Atlantic ocean by this route as compared with other routes. I have before me a

table of these distances furnished by a friend, which I suppose is substantially correct. I beg leave to read it in order to show how advantageous this route will be to St. Louis, Cincinnati, Chicago, Louisville, Lexington, and all the intermediate towns and sections of country that are seeking the shortest route to the sea:

Table of Distances.

Routes.	By Chesapeake and Ohio railroad by way of Big Sandy.	By Chesapeake and Ohio railroad by way of Point Pleasant.	By Baltimore and Ohio railroad by the way of Wheeling.	By Baltimore and Ohio railroad by way of Parkersburg.	Difference in favor of Chesapeake and Ohio railroad.	Difference in favor of Chesapeake and Ohio railroad by equated distances.
From Richmond to Big Sandy river.....	402					
From Richmond to Point Pleasant.....		398				
St. Louis to Richmond.....	885	895				
Chicago to Richmond.....		792				
Sandusky to Richmond.....		625				
Cincinnati to Richmond.....	545	555				
Lexington to Richmond.....	527					
Louisville to Richmond.....	621					
St. Louis to Washington.....	933			947	14	122
Chicago to Washington.....		840	881		41	149
Cincinnati to Washington.....	593			608	15	123
Lexington to Washington.....	575			709	134	242
Louisville to Washington.....	669			714	45	153
St. Louis to West Point.....	925			1,056	131	239
Chicago to West Point.....		832	989		157	265
Cincinnati to West Point.....	585			718	133	241
Lexington to West Point.....	567			817	250	358
Louisville to West Point.....	661			822	161	269
St. Louis to Norfolk.....	985			1,116	131	239
Chicago to Norfolk.....		892	1,049		157	265
Cincinnati to Norfolk.....	645			778	133	241
Lexington to Norfolk.....	627			877	250	358
Louisville to Norfolk.....	721			882	161	269
Chicago to New York (Allentown route).....						911 miles.
Chicago to Philadelphia (Pennsylvania Central).....						824 miles.
Chicago to Baltimore (Pennsylvania and Northern Central).....						802 miles.
Chicago to Richmond (Central and Ohio).....						792 miles.
Cincinnati to New York (Pennsylvania Central).....						750 miles.
Cincinnati to Philadelphia (Pennsylvania Central).....						669 miles.
Cincinnati to Baltimore (Baltimore and Ohio railroad).....						538 miles.
Cincinnati to Richmond (Central and Ohio railroad).....						545 miles.
Louisville to New York (shortest line).....						882 miles.
Louisville to Philadelphia (shortest line).....						775 miles.
Louisville to Baltimore (shortest line).....						694 miles.
Louisville to Richmond (Chesapeake and Ohio).....						621 miles.

Again, these striking advantages are greatly enhanced by the easy grades and curvatures on this road. Coming eastward there is, in all the five hundred and five miles from the Ohio to the sea, no grade exceeding twenty-nine and a half feet to the mile, and only ten miles reaching that grade. From the Ohio river to the base of the Alleghany mountains, a distance of two hundred miles, there is no grade exceeding twenty feet to the mile. The minimum radius of curvature on this road is one thousand feet, and of this only two and a half miles. Sixty per cent. of the road is straight. Compare these statements with the facts in relation to other roads. The maximum grade of the New York and Erie road is sixty feet, of the Pennsylvania Central fifty-three feet, of the Baltimore and Ohio road one hundred and sixteen feet to the mile; and the curvature of neither of these roads is so favorable, I believe, as that of the Chesapeake and Ohio road. These are important considerations, looking to speed, to safety, to economy, and to the wear and tear of machinery. It would seem as if Nature had been in a beneficent mood when she sunk down the grand range of the Alleghany mountains at the point where this road is located over them, and kindly bent the streams on either side to the same point, so as to afford a practicable and easy transit of the coming tide of commerce and communication between the mighty Valley of the Mississippi and the sea.

In considering the advantages which would result to this city and District from a connection with the Chesapeake and Ohio railroad at the point I have designated it will be interesting and useful to advert also to the character and productions of the immediate country through which it passes. In the first place, it would furnish the shortest, and indeed the only, practicable means of reaching the rich

nati, Chicago, Louisville, Lexington, and all the intermediate towns and sections of country that are seeking the shortest route to the sea:

and inexhaustible coal-fields of Virginia and West Virginia. These are the most extensive and valuable, perhaps, of any in the world, consisting of the ordinary bituminous, the cannel, and the splint varieties. These coal-fields embrace an area of some twenty-five thousand square miles, or about one tenth of all the known coal area of the world. In many sections there are successive strata, one above the other, cropping out in the same mountain side, aggregating, in some instances, forty or fifty feet of coal capable of being mined without shafting. So far as I have been informed they embrace all of cannel-coal and splint-coal of any considerable value and extent in the United States. This latter variety is entirely free from sulphur, and for smelting ores is in its raw and native condition, as taken from the mine, superior to coke, and almost, if not entirely, equal to charcoal. I have been informed that cannel-coal now commands in the New York market from twenty to twenty-three dollars per ton. I am assured by the officers of the Chesapeake and Ohio road that when their road is completed they will be able to deliver cannel-coal in New York for ten dollars per ton; of course, for considerably less in Washington city, if the connection which I propose were made.

Nor are the deposits of iron, especially in that part of West Virginia, through which the route of this road passes, less abundant and rich than her coal-fields. It also passes by virgin forests of most valuable timber of almost every variety and almost illimitable extent. It traverses the entire region of the justly celebrated Kanawha salines. And so it will be seen that the connection I propose with this road will open to this city, and the completion of the Chesapeake and Ohio railroad, certain to be accomplished in a few years, will open to the whole country these rich resources of coal,

iron, salt, and timber—commodities so essential to the comfort and prosperity of all. I beg leave in this connection to read an extract from a pamphlet which I have here. The statements which I read are, I am sure, entitled to full credit:

"The iron of Virginia and West Virginia is of the best kind. Its superiority is attributed to the copper which is found mixed in very large quantity in the ore, which renders it more ductile and increases its capacity for resistance and tension. The ores of Virginia and West Virginia are fully equal to the best Swedish and English. This fact has been proved by repeated experiments made by order of the Government of the United States. These beds of iron ore and veins of the richest coal are situated immediately on and along the line of this railroad route. Often the same mountain or hill contains the salts for fusion of the metal, as well as lime, argil, and wood for making charcoal. Thus all the material for the refinement of iron and its conversion into steel is found collected together in close proximity."

Now, let me invite the attention of Senators more particularly to the connections which this great route must in a few years necessarily make with the railroads of the West, Southwest, and Northwest. If you will cast your eye over the map of railroads west of the Ohio river you cannot fail to perceive that the termini of this Chesapeake and Ohio road, at the mouth of Big Sandy and the Great Kanawha, pointing directly toward Lexington and Louisville, in Kentucky, toward Cincinnati, and so toward St. Louis, indicate beyond controversy a speedy connection with all the great national thoroughfares concentrating at these points.

Now mark how little remains to be done to complete those connections! I have already stated that from one of the termini of this road, namely, that at the mouth of the great Kanawha, a route for a railroad has already been surveyed to the Marietta and Cincinnati railroad, a distance of only twenty-eight miles. The construction of this short link of twenty-eight miles will therefore perfect a continuous and almost direct road from the mouth of the Chesapeake bay to Cincinnati, to St. Louis, and, by the way of the Central Pacific, to San Francisco, forming connections thereby with all the intermediate systems of railways; or, as you must also perceive, by the other terminus at the mouth of the Big Sandy an easy and direct communication by rail may be made with Louisville. Already there is in process of construction, as I understand, a railroad from Lexington, Kentucky, to the terminus of the Chesapeake and Ohio road at the mouth of the Big Sandy; or there might be, and doubtless in a few years there will be, an intermediate connection made with the Ohio railways by the way of Ironton. Thus it will be seen that this great route to the sea, by supplying a few short and trivial links in the chain, will bind itself to the great system of western railways and afford the cheapest and shortest route to the ocean to nearly one half of the people and commerce of the Mississippi Valley. I need hardly remind the Senate how this road connects itself with that great national highway, the Ohio river.

A word or two now in reference to the amendment which I propose to offer. It asks that a company shall be chartered from the District of Columbia to the nearest practicable point of intersection with the Chesapeake and Ohio road which may be found east of Staunton, in Virginia. It is pretty satisfactorily ascertained that this connection can be made by the construction of not exceeding sixty or eighty miles of new road; thus shortening the present railway connections with Staunton by some thirty or forty miles. This being done, the capital of the nation will be placed in direct communication, by an almost straight line, with Cincinnati and Louisville, and so with St. Louis and the Pacific railways, and with all the principal cities of the West, Northwest, and Southwest. You see how easy it will be, in view of the facts I have mentioned, to consummate this great public convenience and benefit. Doubtless, in the course of two or three years, the travel and commerce of a large

proportion of the Mississippi Valley, on their direct way to the Atlantic sea-board, will have approached toward Washington as far as the town of Staunton, in Virginia. Shall we hesitate, if we have the constitutional power, to supply this last little link in the great chain of western and southwestern communication with the capital?

Mr. President, I offer the following amendment as an additional section to the bill:

And be it further enacted, That H. D. Cooke, Moses Kelly, Hallet Kilbourn, D. L. Eaton, C. H. Nichols, William Helmick, W. W. Moore, Wright Rives, John O. Evans, J. H. Crocker, Thomas McNamara, D. C. Forney, N. Acker, Esau Pickrell, J. L. Kidwell, A. H. Herr, and Joseph Libbey, of the District of Columbia, and Lewis McKenzie, J. C. Underwood, and Joseph Sear, of the State of Virginia, and all other persons who may become associated with them under this act, together with their successors, are hereby created and erected into a body corporate and politic, in deed and in law, by the name and title of the "National Railroad South," and are hereby authorized and empowered to survey, locate, lay out, construct, equip, operate, use, collect tolls upon, and enjoy a continuous line of railroad with one or more tracks, and a telegraph line, with the appurtenances, from the city of Washington, in the District of Columbia, to a point on the Chesapeake and Ohio railroad, in the State of Virginia, east of and as near to Staunton as shall be practicable; and by their said corporate name shall have perpetual succession, and shall be able to sue and be sued, to plead and be impleaded, to defend and be defended in all courts of law and equity within the United States, and may make and use a common seal, and may make and adopt by-laws for the regulation of its government. Said corporation shall have the power to execute mortgages and deeds of trust upon its property and franchises, real and personal; to borrow money and negotiate loans upon its bonds or other securities, and is hereby vested with all the powers necessary to carry into effect the purposes of this act. And the said "National Railroad South" shall, in the construction thereof, have all the powers and be subject to all the restrictions, provisions, and regulations herein prescribed as to the New York and Washington railroad so far as the same are applicable.

Mr. SHERMAN. The Senator from West Virginia was not in the Chamber a while ago when, by direction of the select committee, I moved to strike out two of the railroads contained in this bill with a view to confine it to the one railroad from Washington to New York. As a matter of course, the Senate having adopted that amendment, the same reason ought to induce the Senate to refuse to put this new railroad on this bill. I am in favor of the road now suggested, and I know a good deal about the Chesapeake and Ohio railroad and can indorse much that the Senator has said, but I hope it will not be put on this bill. The bill is now confined simply to one road in order that the question of the power of Congress may be decided, and that the road of most pressing importance may be left alone to stand upon its own merits. I trust, therefore, that the Senator will not press his amendment.

Mr. WILLEY. As I stated, I have some doubt about the power of Congress to charter these corporations, and I should like to see that matter fairly and fully tested; and in order that the sense of the Senate may be ascertained, not desiring at all to complicate the matter, if the Senator from Ohio desires it I will withdraw the amendment.

Mr. POMEROY. I have no desire to press this amendment, but I desire to say before the amendment is withdrawn that if the bill is to be confined to securing the building of a road we do not need, and cutting off all we do need, it shaves the bill of all that is valuable in it to me. We are very well accommodated between here and New York to-day, and it is the only route we are accommodated upon. Now the Senator from Ohio proposes to strip this bill of everything valuable in it and confine it to a road between Washington and New York, and then pass it in that shape. There were some features in the bill when it proposed to open new routes to Washington that I thought very desirable. I want several routes to Washington, and I thought the committee were going to give us a bill that would really benefit Washington, the capital of the nation. Now, by the direction of the committee, the Senator tells us, he has stricken out everything except the line from here to New York. You cannot very much improve on the line from here to

New York. We happen to be tolerably well accommodated between here and New York, and yet a new road between these two points is the only provision there is left in the bill.

Mr. President, in my opinion this amendment is of vastly more importance than the bill itself. The time is coming when the great valleys of the Mississippi and Missouri will want to get to Washington, if Washington is to remain anything more than a place merely for Congressmen to assemble in. I apprehend the time is coming when there will be some more importance to this city than the simple fact that it is the seat of Government for the national capital. I know of no reason why it may not be made a commercial business city that will invite the trade and commerce of the great valleys of the West. If we are going to legislate in this direction, exercising powers that have never before been exercised, why not do it on an enlarged and liberal scale? I do not want to die for what is not worth killing me for. I have some doubts about the exercise of this power, but if I have got to help to pass this bill and vote for it simply to facilitate communication between here and New York, and cut off communication from those sections of the country where we need something, it is not worth the paper on which it is written.

Sir, I am in favor of this amendment, and I am opposed to taking out of this bill every valuable thing in it merely to facilitate communication between here and New York, when I undertake to say you cannot get a shorter line than we have now got; you may improve the running of it. But I do not know any reason why we should carry on a war against men who are trying to accommodate us, and withdraw from this bill everything valuable in it to open communication to other sections of the country.

I was going to advocate and vote for the bill, but I repeat it is now stripped of every valuable feature except, as I said, to facilitate commerce between Washington and New York; and we have got too much commerce with New York now. We have got none with the West, the great heart of this country. There is no reason in the world why we should run over to New York any easier than we do now. We get to New York too often by far. New York is the last place we want to go to. This capital of the nation wants to be connected with the rest of the country and mankind, going as they are across this continent to the Pacific. We are building up empires in the West; and if we are only to have communication between New York and Washington our people will never hear of Washington.

I insist upon having a vote on the amendment of the Senator from West Virginia. I desire to vote upon it and to test the sense of the Senate upon it. We propose, if possible, not only to help this city of Washington, but to connect it with what is soon to be the great center of population on this continent—the valley of the Mississippi and Missouri and our possessions beyond. I have not listened to the clamor about removing the capital West; I do not believe a word in it; but I want the West connected with the capital, because this ought to be a city of towering magnificence; its shadow ought to extend over the land. Instead of opening communications where we have already got them, let us open some where we need them.

Mr. SHERMAN. I only desire to say a word in reply to the Senator from Kansas. He has a very good way of showing his friendship to this bill—by refusing to take it up! Now, let me say to the Senator from Kansas that if he is really desirous of passing bills to charter railroads to Washington he must take them one at a time.

Mr. POMEROY. Let us have one for a road that we need and not one that we do not need.

Mr. SHERMAN. I am in favor of all these bills; but Senators seriously object to the idea of putting three or four incorporations in one bill; and several Senators, who were perfectly willing to vote for either separately as a mat-

ter of the order of business utterly objected to voting for so many in one bill. We had enough of these combinations of various railroads in the Pacific railroad bill to satisfy me. I generally object to having more than one object in a bill. The Senator may be certain that if this bill is passed another bill will be passed for roads making connection northward, north-westward, and southwestward, so that all these various railroads may be accommodated. As a matter of course I am in favor of the proposition of the Senator from West Virginia; but I do not think it ought to be added to this bill. Let each of these bills stand on its own merits.

If the Senator says we have communication enough with New York, let him vote against the bill, as he would have done at any rate. I did not expect he would vote for it, as a matter of course. There is no railroad competition between Washington and New York. There is a vital necessity for competition. If the Senator does not wish another road to New York, as a matter of course he will vote against the bill. I will vote for the proposition of the Senator from West Virginia as a separate measure; I will vote for, and hope yet to see, a line constructed on the only natural route from Washington westward; that is, to the Point of Rocks, and thence by way of Cumberland to Pittsburg. One of the last sections in this bill provided for a line of railroad to reach the Chesapeake and Ohio Railroad, the very one now suggested by the honorable Senator from West Virginia. If the Senate should choose to put these bills together I am perfectly willing to vote for them all together, although I think, as a matter of legislative policy, it would be better to pass them one at a time.

Mr. FRELINGHUYSEN. I move that the Senate do now adjourn.

Mr. DOOLITTLE. I ask the honorable Senator to allow me to offer my amendment and let that be pending, and then I will renew the motion for an adjournment.

The PRESIDENT *pro tempore*. Is the motion withdrawn?

Mr. FRELINGHUYSEN. Yes, sir.

Mr. DOOLITTLE. I now renew the amendment that I offered.

Mr. POMEROY. I give notice to the Senator from Ohio that I shall renew the propositions for the construction of these other roads to-morrow and press them to a vote. I am in favor of every one of them.

The PRESIDENT *pro tempore*. The Chair will inquire of the Senator from West Virginia whether he has withdrawn his amendment?

Mr. WILLEY. I am informed by several Senators that although they are in favor of this proposition, yet if I insist upon attaching it to this bill they will be constrained by considerations satisfactory to themselves to vote against it. I therefore withdraw it.

Mr. DOOLITTLE. I now renew the amendment that I offered.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Wisconsin.

Mr. DOOLITTLE. I move that the Senate do now adjourn?

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, January 21, 1869.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

APPOINTMENT OF MIDSHIPMEN.

Mr. NORRIS, from the Committee on Reconstruction, reported a bill (H. R. No. 1751) in relation to the appointment of midshipmen from the lately reconstructed States; which was read a first and second time.

The bill was reported. It directs the Secretary of the Navy to make appointments of

midshipmen to the United States Naval Academy, on or before the 4th day of March next, from any State in which the election of members of the House of Representatives to the Forty-First Congress does not by law take place previous to the 1st day of July, 1869, upon the nomination of the members of the House of Representatives from such States in the present Congress; provided that no such appointment shall be made from any State not by law entitled to the appointment of midshipmen in the year 1869.

Mr. WILSON, of Iowa. I rise to a question of order. Has that subject ever been referred to the Committee on Reconstruction?

Mr. WASHBURN, of Illinois. It belongs to the Committee on Naval Affairs.

Mr. NORRIS. It has been referred to the Committee on Reconstruction, and is reported upon unanimously.

The SPEAKER. It was referred on Monday last.

Mr. WILSON, of Iowa. I move to refer it to the Committee on Naval Affairs.

Mr. WASHBURN, of Illinois. And demand the previous question on it.

The SPEAKER. The gentleman from Alabama [Mr. NORRIS] is entitled to the floor. Does he retain it?

Mr. NORRIS. I do. I yield to the gentleman from Maine.

Mr. BLAINE. I understand the case to be this: the Committee on Naval Affairs are agreed in favor of this bill, but they are not in a position where it can be reported during this session. These southern States are just as much entitled to members of the Naval Academy as any other States, but they will be deprived of the appointment for an entire year unless this bill is passed. I do not see why any gentleman should object to it.

Mr. WASHBURN, of Illinois. According to the gentleman's statement the Committee on Naval Affairs not being likely to be called, they undertake to get the bill in by a flank movement, getting it reported by a committee that has no jurisdiction of the matter.

Mr. BLAINE. The jurisdiction is just as the House confers it. If the matter was referred to the Committee on Reconstruction that committee has a right to report upon it.

Mr. NORRIS. I understand by the rules of the Department nominations have got to be made within six months. Now Alabama will have no representation on this floor because the election will not take place in that time.

Mr. PETERS. These gentlemen want the same privilege that is accorded to Representatives of the other States, and if they do not get it by this bill they will not get it at all. My friend from Alabama, [Mr. NORRIS,] who is interested for his constituents, has been before the Committee on Naval Affairs, and although they would be glad to report a bill of this character, they say there will be no opportunity to do so this session, and so, as the next best thing, he has gone to the Committee on Reconstruction, and they have unanimously allowed him to report the bill.

Mr. WILSON, of Iowa. If I can have the unanimous consent of the House I will modify my motion so as to authorize the Committee on Naval Affairs to report the bill back at any time; but the subject belongs to the Committee on Naval Affairs, and the Committee on Reconstruction have no more to do with it than they have with the moon.

The SPEAKER. The Chair would state that leave to report at any time would require the unanimous consent of the House or a suspension of the rules. The gentleman from Iowa asks unanimous consent that if the bill be referred to the Committee on Naval Affairs they shall have leave to report it back at any time. Is there objection?

Mr. CHANLER. I object.

Mr. PETERS. The State of Alabama has got to get her share of these appointments by this bill unless the objection is withdrawn, or not to get them at all.

Mr. WASHBURN, of Illinois. What harm will that do her?

Mr. PETERS. They want to have pupils at the Naval Academy as well as the rest of us.

Mr. SCOTFIELD. What is the state of the question now?

The SPEAKER. The question is on the motion to refer the bill to the Committee on Naval Affairs.

Mr. SCOTFIELD. If it is not referred, can the House act on the bill now?

The SPEAKER. It can.

Mr. SCOTFIELD. Now, if the gentleman from Alabama [Mr. NORRIS] will insist on a vote instead of permitting discussion, I have no doubt that in five minutes from this time the bill will be passed almost unanimously.

Mr. PETERS. Well, let us put it through.

Mr. NORRIS. I demand the previous question.

Mr. WASHBURN, of Illinois. I will not make any further opposition in this case; but I enter a permanent objection to any more such bills being referred to the Committee on Reconstruction.

The previous question was seconded and the main question ordered.

The question was put on the motion of Mr. WILSON, of Iowa; and it was disagreed to—ayes 36, noes 91.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. SCOTFIELD. I demand the previous question on the passage of the bill.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was passed.

Mr. NORRIS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

COMMITTEE ON THE NEXT CENSUS.

The SPEAKER announced the appointment, under the resolution of the House of yesterday, of the following select committee on the next census: JAMES A. GARFIELD of Ohio, NATHANIEL P. BANKS of Massachusetts, WILLIAM B. ALLISON of Iowa, ADDISON H. LAFLIN of New York, DAVID HEATON of North Carolina, SAMUEL B. AXTELL of California, and J. S. GOLLADAY of Kentucky.

CLAIM OF JOSEPH ANDERSON.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting, in compliance with the request of the Committee of Claims, information relative to the claim of Joseph Anderson, of Nashville, Tennessee, for lumber taken by the United States Army during the war; which was referred to the Committee of Claims.

CONTINGENT EXPENSES OF STATE DEPARTMENT.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of State, transmitting, in compliance with the acts of May 26, 1842, and —, 1836, a statement showing disbursements of contingent funds, balance unexpended, &c.; which was referred to the Committee on Expenditures in the State Department, and ordered to be printed.

INDIAN APPROPRIATIONS.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting a communication from the Commissioner of Indian Affairs, submitting estimates of appropriations required to supply deficiencies in the appropriations for the Sioux and other Indians of Dakota for the fiscal year ending June 30, 1868; also, a communication from the Secretary of the Interior, transmitting a communication from the Commissioner of Indian Affairs, submitting estimate of appropriations necessary to fulfill the treaty of February 19, 1867, with the Sisseton and Wahpeton bands of Sioux Indians; which were referred to the Committee on Appropriations.

REMOVAL OF POLITICAL DISABILITIES.

Mr. SHELLABARGER, by unanimous consent, introduced a bill (H. R. No. 1752) to regulate the manner of applying to Congress for the removal of the political disabilities imposed by the third section of the fourteenth amendment to the Constitution of the United States; which was read a first and second time, referred to the Committee on Reconstruction, and ordered to be printed.

ELECTION CONTEST—SWITZLER VS. ANDERSON.

Mr. COOK. I now will call up as a question of privilege the resolutions reported by the Committee of Elections in the contested election case of Switzler vs. Anderson.

The resolutions read as follows:

Resolved, That George W. Anderson is not entitled to a seat in this House as a Representative in the Fortieth Congress from the ninth congressional district of Missouri.

Resolved, That William F. Switzler is entitled to a seat in this House as a Representative from the ninth congressional district of Missouri.

The question was upon agreeing to the first resolution.

Mr. COOK. Mr. Speaker, this is the second report made by the Committee of Elections in this case. If I can have the attention of the House for a little while I presume I can present the points upon which this question turns, so that every gentleman may see what is the matter in dispute. On the 23d of March last the committee made a report in this case, after examining the testimony, in which they recommended the adoption of resolutions the same as those now reported. On the 16th day of July last, after the report had been considered in the House, the report of the committee was recommitted to the Committee of Elections, with instructions to examine the charges made by the gentleman from Missouri [Mr. BENJAMIN] against the contestant, with leave to send for persons and papers, and to report thereon to the House. That was so near the close of the session that it was impossible to make the examination and report thereon at the last session of Congress.

The charges made against the contestant, as the Committee of Elections understood, were charges of personal disloyalty, that he had rendered aid and comfort to the enemy, to those engaged in the rebellion against the United States. Although a full opportunity was given, by the adjournment of Congress, to each party to take testimony in relation to these charges, yet no testimony was taken by those maintaining the charge. At this session of Congress the matter came before the committee without any testimony having been taken in support of the charges against the contestant. The charges were based, to a certain extent, upon editorial articles in a newspaper of which the contestant was the acknowledged editor. The contestant furnished a copy of the files of his newspaper, and the committee have examined that file with care. The contestant has also taken a large amount of testimony for the purpose of rebutting the charges which were made against him in the speech made by the gentleman from Missouri, [Mr. BENJAMIN.] I shall not call attention to that testimony, because the conclusion to which the committee have arrived makes it wholly unnecessary.

Mr. BENJAMIN. Will the gentleman permit me to interrupt him for one moment at this point?

Mr. COOK. Certainly, for a question.

Mr. BENJAMIN. I desire to know from the gentleman making this report if the committee, according to the resolution of the House instructing them to do so, made any investigation of this matter? I understand from the remarks of the gentleman that he wishes to imply that the House imposed that duty upon the party making the charge. I did not so understand the resolution of the House. It was directory to the committee to make that investigation. I wish to know if the committee made any investigation of the matter?

Mr. COOK. I will answer that question. The committee, upon meeting after this matter

was referred to them, gave notice to the parties of the question which had been referred to them, and that the committee would consider any testimony upon the subject which might be brought before them. The committee did not personally proceed to Missouri to take testimony, nor did they subpoena witnesses of whom they had no knowledge and could have no knowledge.

Mr. BENJAMIN. One word more, if the gentleman pleases. I do not know if the gentleman himself was present at the meeting of the committee, but other members were there who will recollect full well that I did appear before that committee and gave them a list of witnesses whom I asked them to subpoena, who would substantiate whatever charges I made in connection with this matter. I want to know if those witnesses were subpoenaed and examined?

Mr. COOK. No witnesses were subpoenaed by the committee, and I never heard or learned that the names of any witnesses were furnished to the committee.

Mr. UPSON. A moment, if the gentleman pleases.

Mr. COOK. Certainly.

Mr. UPSON. My colleague on the committee [Mr. Cook] will probably recollect that the committee reported a resolution to this House allowing the parties time to take testimony in relation to the matters charged by the gentleman from Missouri, [Mr. BENJAMIN,] extending the time to allow them to take testimony in Missouri; and that time was made use of by one of the parties to take testimony; but the sitting member neglected to take any testimony, and only the testimony taken by the contestant has been brought before the committee for its action since the committee came together at this session. This, I think, is an answer to the inquiry of the gentleman from Missouri, [Mr. BENJAMIN.] The committee did allow an opportunity to the parties to present evidence for the purpose of settling this question of alleged disloyalty, if any evidence touching upon it could be given by parties in Missouri cognizant of the facts.

Mr. COOK. That, I believe, is the state of the facts. The matter escaped my recollection at the moment.

Now, the committee after examining the file of the newspaper edited by the contestant, have come to the conclusion that there is nothing in that paper to sustain the charge. There are some articles which the committee deem injudicious, some which they deem mischievous in their tendency; but nothing which will bring the contestant within the rule which was adopted by the committee and confirmed by the House in the case of the Kentucky elections, which rule was as follows:

"While the committee entertained no doubt that it is the right and duty of the House to turn back from its very threshold every one seeking to enter who has been engaged in armed hostility to the Government of the United States, or has given aid or comfort to its enemies during the late rebellion, yet we believe that in our Government the right to representation is so sacred that no man who has been duly elected by the legal voters of his district should be refused his seat upon the ground of his personal disloyalty, unless it is proven that he has been guilty of such open acts of disloyalty that he cannot honestly and truly take the oath prescribed by the act of July 2, 1862; and further, that the commission of such acts of disloyalty to the Government should not be suspected merely, but should be proven by clear and satisfactory testimony, and that while more want of active support of the Government or a passive sympathy with the rebellion are not sufficient to exclude a person regularly elected from taking his seat in the House, yet whenever it is shown by proof that the claimant has by act or speech given aid or countenance to the rebellion he should not be permitted to take the oath, and such acts of speech need not be such as to constitute treason technically, but must have been so overt, and public, and must have been done or said under such circumstances, as fairly to show that they were actually designed to and in their nature tended to forward the cause of the rebellion."

One of the articles in the newspaper, and one upon which much stress was laid in the speech of the gentleman from Missouri, [Mr. BENJAMIN,] containing the charges which we were directed to investigate, was the article in relation to the death of Colonel Ellsworth. It is proper for me to say that the contestant denies

all responsibility for and all knowledge of this article published in his newspaper, and that he states he disapproved the article when brought to his attention. There was no evidence showing any responsibility on the part of the contestant for that article, except the fact that it appeared as editorial in the newspaper of which he was the acknowledged editor; and it is fair to state that the general tenor and character of the articles in the same paper were very different.

I now pass to a discussion of the questions which were considered in the first report of the Committee of Elections upon this case; and although the testimony is voluminous, yet the questions are simple and easily understood. The ninth congressional district in Missouri comprises ten counties. At the election held on the 6th of November, 1866, for member of Congress, in all the counties of the district, except the county of Callaway, George W. Anderson received 4,876 votes, and William F. Switzler received 4,698, making a majority for Anderson of 178 votes. The county of Callaway gave Mr. Anderson 163 votes, and Mr. Switzler 1,463 votes. If the vote of this county had been added to the others Mr. Switzler would have been elected by a majority of 1,122 votes over Mr. Anderson. The case, therefore, turned wholly upon the question whether the vote of Callaway county should have been counted or not. The secretary of State of Missouri, whose duty it is by the law of Missouri to cast up the votes given for members of Congress, assumed the right to determine that there had been no legal registration of votes in the county of Callaway. The first question to which I ask the attention of the House is whether he had the right to do this. I will briefly refer to the law of Missouri in this connection.

Mr. STOVER. Will the gentleman read the law?

Mr. COOK. I have not the law before me; but it provides that the Governor of the State shall appoint a supervisor of registration in each county, who is also the president of the board of appeals and revision. The supervisor of registration in each county is to appoint an officer of registration in each election district; and it is the duty of these officers to make the actual registration in the manner provided by law. When this is done, the superintendent of registration and the several district officers of registration, constituting a board of registration, are required to meet on certain days prior to the election to hear appeals from the several district registers, and generally to revise the registration in the several election districts in the county and act upon objections to any who may have been registered as accepted voters, the superintendent acting as the president of the board. When this is done it becomes the duty of the superintendent to furnish a copy of the registration to the secretary of State, by whom it is to be preserved in his office. The only other duty of the secretary of State is to cast up the votes when returned to his office. The law nowhere confers upon him the right to pass upon the legality of the registration or the legal qualifications of the voters after the return is made to the secretary of State; nor does it confer upon him any judicial or discretionary power whatever in relation to either of those questions. His duties are purely ministerial.

The registration of the vote of Callaway county was returned to the office of the secretary of State, as provided by law, with the following certificate:

"I hereby certify that the above and foregoing list of registration is a correct copy, as furnished me by the officers of registration, for the various election districts in and for Callaway county, Missouri."

There was something more appended to this certificate, of which I shall speak presently.

Mr. GRAVELY. Will the gentleman allow me to ask him a question in regard to the law of the State of Missouri?

Mr. COOK. Certainly.

Mr. GRAVELY. I wish to inquire of the

gentleman whether the registration law of Missouri does not require the registering officer of each county to send to the secretary of State a copy of the registration of the county, with his certificate as to whether the registration is legal or illegal; whether the law does not further provide that after the election the clerk of the county shall certify the vote to the secretary of State; and whether the law does not further provide that the secretary of State, taking this certificate of the registering officer and the certificate of the clerk, shall cast up the votes of that county?

Mr. COOK. Mr. Speaker, I do not understand that the law of Missouri requires the superintendent of registration to certify whether the registration is legal or illegal. I understand that, on the contrary, the law requires the superintendent of registration, after the board of registration has met, to certify the registration as the registration of a certain district, and return it thus certified to the secretary of State, whose duty it is to file it in his office; and the only other duty of the secretary of State is to cast up the votes.

Mr. GRAVELY. I wish to ask another question. If the gentleman himself had been the secretary of State of Missouri and the superintendent of registration of Callaway county had sent him a list of names certifying that it was composed of children under the age of ten years, and that they voted for a certain man for Congress, would he have counted them or not?

Mr. COOK. I will answer that question no further than this: by the law of Missouri the secretary of State has no right to pass upon the legality of the registration, and no matter what I or anybody else would have done, I hold the law to be that his action in that regard was no more than the action of any other man in Missouri having no legal authority or jurisdiction of the matter.

Mr. BENJAMIN. I ask the gentleman if he is not aware that the law of the State of Missouri requires the superintendent of registration to append a certificate to the copy of the registration list, and if it does not also make that certificate evidence of the facts therein stated; and if in this case the superintendent of registration did not certify specifically that the registration of Callaway county was illegal in consequence of intimidation and other things that prevailed in that county at that time?

Mr. COOK. The law of Missouri did make it the duty of the superintendent to append a certificate of certain facts to the registration when he returned it. I understand that the law required him to identify the registration of that county, to certify that that was the registration of the county. He did assume to certify other facts, of which I shall speak presently.

Mr. BENJAMIN. I would like the gentleman to answer the other question as to the character of the certificate in that case.

Mr. COOK. I am going to speak of that in its order. I admit for myself that if a man was not legally registered in the county of Callaway he had no legal right to vote in the State of Missouri, and that the constitution and law of that State are both valid and binding. There was something more appended to this certificate of which I shall presently speak, but this was the fact, and the only fact, to which the superintendent of registration had the legal right to certify.

When the secretary of State assumed the right to determine that there had been no legal registration in Callaway county he assumed to decide a question he had no legal right to decide, and his decision concluded no one and determined nothing; the case stands precisely as it would stand if he had refused to cast up the vote of Callaway county, assigning no reason, and having no reason for such refusal. It seems clear, then, that the certificate of election should have been given to Mr. Switzler.

But it is said that this House should, without regard to the action of the secretary of State of Missouri, itself determine whether there was a proper registry of voters in Calla-

way county, and whether the persons voting for Mr. Switzler in that county had a right to vote under the law of Missouri. This I believe to be true, and also for myself believe that the constitution and law of the State of Missouri are such as that State had a right to make, and are valid and binding, and if I could see from the evidence in this case that there had been no legal registration in that county, or that persons had voted for Mr. Switzler who had no legal right to vote under the constitution and laws of Missouri in sufficient number to have given him the majority apparent from the returns, I should have no hesitation in voting against his right to a seat in this House. And I admit also that no man had a right to vote at that election in that district who was not legally registered as a voter; and this brings before us the only remaining question in the case, which is: Does the evidence disclose such a state of facts as will warrant this House in declaring that there was no legal registry of voters in Callaway county, or that persons who had no legal right to vote, equal in number to the majority received by Mr. Switzler, did actually vote for him at that election?

Before considering the evidence upon the point in regard to those disqualified under the law, there are three facts which I will state and which are undisputed, and which ought to be considered in determining the question:

First. The Governor who appointed the superintendent of registration for Callaway county and the superintendent appointed were the political friends of the sitting member; the whole machinery of registration was in their hands.

Second. There was no actual force or violence used in any registration district in that county in connection with the registration of the voters.

Third. Each person registered was required to take the following oath:

"I, A. B. do solemnly swear that I am well acquainted with the terms of the third section of the second article of the constitution of the State of Missouri, adopted in the year 1855, and have carefully considered the same; that I have never, directly or indirectly, done any of the acts in said section specified; that I have always been truly and loyally on the side of the United States against all enemies thereof, foreign and domestic; that I will ever bear true faith and allegiance to the United States, and will support the Constitution and laws thereof as the supreme law of the land, any law or ordinance of any State to the contrary notwithstanding; that I will to the best of my ability protect and defend the Union of the United States, and not allow the same to be broken up and dissolved or the Government thereof to be destroyed or overthrown under any circumstances if in my power to prevent it; that I will support the constitution of the State of Missouri, and that I make this oath without any mental reservation or evasion, and hold it to be binding on me."

The only legitimate proof that men were registered who were not legal voters would be proof showing in such case that they were so disqualified. Such proof is given in perhaps a dozen cases, certainly not more. The registration may be shown to be illegal in one of two ways: first, by showing that the registry lists have not been authenticated and returned according to law; and second, by showing that, although the lists were returned and were properly certified, yet that the officers certifying erred in judgment in determining who were entitled to be registered or were guilty of fraud in registering the voters or in making the returns. It was not claimed before the committee in this case that the evidence shows that the registry lists of Callaway county were not properly certified and duly returned to the secretary of State, and the only question left is, is it shown that persons were registered as voters who had no legal right to be so registered, or to vote under the laws of Missouri? It is claimed that there was such a state of feeling in that county at the time the registration was made that the officers were intimidated, and did not and could not obtain evidence to ascertain who were and who were not entitled to be registered, and were afraid to refuse to register those whom they knew to be loyal. The proof actually made upon this question is as follows: the superintendent of registration for Callaway county, in addition to the certifi-

cate required by law, appended to the registered list the following:

"And I hereby further certify that the registration law in its letter and spirit was not carried out in any one of the election districts of said county; that such a system of intimidation and threatening was carried on by the disloyal, and those opposed to the law, as to deter loyal men from undertaking the registration in most of the election districts, and was consequently intrusted to men who most shamefully disregarded the law."

In the few districts where men could be had who were willing to register according to the law there was such intimidation and threatening used as to deter those who were willing to make objections to those they knew not to be entitled to registration as qualified voters, and, as a consequence, the law could not and was not carried out, as the certificates hereto appended show.

Given under my hand this December 12, 1866.

WILLIAM H. THOMAS,
Supervisor of Registration
for Callaway county, Missouri.

This certificate was given in a matter about which the law did not require him to certify, and has precisely the same effect as evidence as the unsworn statement of any other man, and no more. No rule of evidence ever admitted before any tribunal could give any effect whatever to such a certificate. It was in the power of the superintendent of registration and the revising board to have withheld their certificates from the registry lists, and their duty to do so if they had legal evidence that the same were not legally prepared; but, having once appended the certificate which authenticated the list, they could not invalidate it by an authorized certificate. Before returning the list, Thomas made entries against the names of seven hundred and thirty persons registered as qualified voters. Thomas had no right to make such entries upon the list. They were not made in the performance of any duty imposed upon him by the laws of Missouri. Upon what evidence did he make these entries—upon his own knowledge or upon common fame? Certain it is that the law of Missouri did not give to Mr. Thomas the right to determine any such question by his certificate, or without giving to the parties interested the opportunity to be heard before their right to vote was thus summarily determined; and notwithstanding all that he knew or believed concerning these he allowed their names to remain upon the lists as qualified voters.

Mr. BENJAMIN. I ask the gentleman if he is not aware that the laws of Missouri require the Governor to make out the form of the registration list, and that in pursuance of that law he made the precise form that is used in this case with that column for remarks; and that the registration officer was required by law to make these remarks?

Mr. COOK. It is not my understanding of the law of Missouri that it confers any rights whatever upon the superintendent of registration to make any such entry against the name of any man.

Mr. UPSON. I would like to ask this question: if the names of every one of these persons whose vote is objected to in that registration list, being marked as disloyal or otherwise, were stricken out or not counted would it still affect the result? Would not Mr. Switzler be still elected?

Mr. COOK. Mr. Switzler would still be elected if the votes of every one of these men against whose names these entries were made by Mr. Thomas were stricken out; it would still leave Mr. Switzler several hundred majority.

Mr. MILLER. By what majority would it elect him?

Mr. COOK. There were 730 of these men, and Mr. Switzler's majority, counting the vote of Callaway county, was 1,120; so that he was elected by several hundred majority.

There is one other fact to which I wish to call the attention of the House, and that is that although these marks were made on the registration list by the superintendent of registration, yet the names of these men were by the superintendent and the other officers of the board allowed to remain upon the lists as properly qualified voters. Now, there is one point of view which is entirely conclusive upon this

question. When the supervisor of registration registered, against the name of C. O. Atkinson, "enrolled disloyal in 1862; required to take the oath of allegiance"—when he made that remark opposite to his name, if he had the right at that time to pass upon the question he ought to have refused to allow the name to remain as that of a qualified voter upon the registry list; or if he had no right to determine that question, then he had no right to make the entry upon the list. It seems to be certain if he had not any right to pass upon the question or to make the entry upon the list, then it is no evidence; if he had a right to pass upon the question, then it was to him insufficient evidence, from the fact that he allowed the name to remain upon the registry list as that of a legal voter.

Mr. GRAVELY. In regard to that point I would like to ask the gentleman a question.

Mr. COOK. I will yield for a question.

Mr. GRAVELY. I would ask whether the testimony does not show that the superintendent of registration swears himself that he was compelled to put that man's name there for fear of his life?

Mr. COOK. The superintendent of registration did not put the man's name there at all; it was put there by another officer. He does not swear to any such thing. He could not swear to it; for he did not register the man, and it was not lawful for him to register him. He was rejected by an assistant register whom he appointed for that purpose.

The testimony of Mr. Thomas will be found in Miscellaneous Document, No. 39, commencing on page 19. He swears as follows:

"I was appointed supervisor of Callaway county after the resignation of Judge Ansell.

"Question. Did you appoint the township registrars?

"Answer. I appointed two of them only.

"Question. By whom were the others appointed?

"Answer. By Thomas Ansell.

"Question. State what difficulties, if any, you had in the execution of the registry law?

"Answer. I had some difficulty in getting men to serve as registrars whom I thought would faithfully carry out the law, but after the work commenced I had no difficulty, as I had nothing to do with it.

"Question. Did you certify the lists of registration up to the secretary of State?

"Answer. I gave the certificates that were appended to the registration.

"Question. In certifying to the secretary of State copies of registration of the different townships in the county, under the head of remarks, in designating persons as disloyal, as under bonds for disloyalty, and for other disqualifications as voters, upon what evidence did you act?

"Answer. In cases of bonded persons I took it from a list furnished me from the adjutant general's office; those under the head of remarks who were designated as enrolling disloyal were taken from an enrollment made by Colonel Krekel in 1862; under the head of other remarks there were very few of them. The remarks made of this last class were made upon my own knowledge, or facts generally admitted."

In other words, common fame!

"Question. Were these lists of disloyal persons made by Colonel Krekel, or copies of them furnished to the registrars?

"Answer. Yes, sir.

"Question. Were persons upon these lists as disloyal registered as qualified voters?

"Answer. I answer, yes; in the county about five hundred.

"Question. Was there a proper enforcement of the registry law in Callaway county?

"Answer. It seems to me as though every man ought to know it was not.

"Question. State whether there was a system of intimidation in this county to deter officers of registration from properly enforcing the registry law?

"Answer. Before the commencement of the registration there was a great deal of talk against the registration law, and threats that it should not be carried out, which created what I call a system of intimidation that deterred many men from undertaking the registration who were disposed to faithfully carry out the law.

"Question. What advice was given to the people concerning the law by the Conservative press, speakers, and candidates for office?

"Answer. Their advice was somewhat various; some advised confederate soldiers to open polls of their own; others advised their friends to go and take the oath and demand their right to vote, and vote, conveying the idea to my mind that they must do so peaceably if they could and forcibly if they could not. A great many persons advised the taking of the oath and registering, holding it to be unconstitutional and of no force."

In his cross-examination he testifies as follows:

"Question. In your certificate to the secretary of State, December 12, 1866, you stated that there 'was

such threatening and intimidation used as to deter loyal men from making objections to the registration of the disloyal. State who it was that intimidated and threatened, and what they did and said?

Answer. It was the general talk throughout the county among the disloyal that they intended to have a "free election or a free fight," and they intended to register anyhow, or have a fuss over it. That kept men from going to the place of registration and laying in objections.

Question. Do you remember the name of a single citizen of Callaway county who threatened or deterred any one from going forward and making objections?

Answer. I often heard persons say that they would hate to undertake the registration of this county, and that the man who did it would find it a difficult job.

Question. Did you write this certificate which you signed and returned to the secretary of State with the enrollment of this county?

Answer. I did, sir.

Question. Was it not suggested, in whole or in part, by the secretary of State?

Answer. As well as I can recollect, I went to the secretary of State with the list of the registration, and while there I told him as near as I could the manner in which the registration had been done up in the county, when he replied to me that if this be the case and I could make a certificate to that effect he thought it probable the whole thing could be thrown out. This is about the substance of all I said to him on the subject. I left the registration with him, not knowing what he would do with it.

Question. What did you understand the secretary of State to mean by saying that it "might all be thrown out?"

Answer. I understood him to mean that he would consider the propriety of the step.

I have not time to read the testimony fully; but the testimony of Turner, Miller, Johnson, Cornell, McKinney, and others, reported between pages 12 and 21 of this report, is all the testimony taken to show that there could be no legal registration of voters in Callaway county. I want to call the attention of the House to the fact that of the men who made the actual registration, John Vinson, A. B. Maupin, Thomas J. Ferguson, L. B. Hunt, J. D. Snedcor, and George A. Moore, all certify that they made a registration without hearing or knowing of any threats or being in any way intimidated in the registration. They were the men who made the actual registration, the men appointed by the superintendent of registration of that county, and yet the registration of the precincts made by them was thrown out equally with the registration of precincts made by other officers, upon the ground that the officers making the registration were threatened and deterred by threats of violence from making a fair and just registration; and yet these men who made the registration testify that they knew of no threats and heard of none, and that they were not afraid and were not intimidated in any way.

The testimony of Mr. John Vinson, one of the registrars of Callaway county, is as follows:

Question. Were you in any wise interfered with in the discharge of your duties by threats or intimidation of any kind?

Answer. I was not.

Question. Have you any knowledge of any system of intimidation and threatening, by the disloyal or those opposed to the registry law, to deter you or other loyal men from undertaking the registration, or deter any citizen from making objections to the registration of persons who applied for registration and who had no right to register?

Answer. I have not.

Question. In the discharge of your duties as registrar did you carry out in letter and spirit, and require those who applied for registration to conform to, the registry law?

Answer. I did, to the best of my knowledge and ability. Whenever citizens applied for registration I asked the bystanders in an audible voice if any of them knew any objection to the person's registering; if so, to come forward and state it. This was my invariable practice, and also to ask those who applied for registration if they considered themselves qualified voters under the constitution and laws of the State; and no man registered without first taking and subscribing the oath of loyalty.

Thomas H. Beeding, one of the registrars of Callaway county, also testifies to the same facts. The testimony of A. B. Maupin, one of the registrars of Callaway county, is as follows:

Question. Were you in any manner threatened, intimidated, or otherwise interfered with in the discharge of your duties as registrar?

Answer. I was not.

Question. In your opinion would objectors to applicants for registration have been in any danger of violence and insult from persons opposed to the registry law, or others?

Answer. I do not know that they would. I heard nothing of the kind.

Question. Is the certificate of W. H. Thomas, supervisor of registration, as set out in the answer

of Mr. Anderson, contestee, [and which was read to the witness,] true or false, so far as your district is concerned?

Answer. I believe, so far as it relates to my district, it is false.

The testimony of Thomas J. Ferguson, one of the registrars of Callaway county, is as follows:

Question. As such officer were you in any manner threatened or intimidated or interfered with in the discharge of your duties?

Answer. No, sir.

Question. Did you, as registrar, carry out in letter and spirit the registration law, or allow any person to register who did not conform to said law?

Answer. I did carry out the law to the best of my ability, and did not allow any one to register who did not conform to it.

Question. Did you allow any person to register as a voter whom you did not regard as entitled to vote under the law?

Answer. I did not.

Perhaps the political sentiments of the men who give this testimony should be considered. Upon that point the testimony of Mr. Vinson is as follows:

Question. During the war were you not an outspoken friend of the Government of the United States and a Union man, and are yet?

Answer. I was, and am yet.

The testimony of Mr. Maupin upon that point is as follows:

Question. During the existence of the rebellion and up to this time were you a friend of the United States and advocate of the Government and a Union man, or not?

Answer. I was, and rejoiced at the overthrow of the rebellion.

The testimony of Mr. Ferguson is as follows:

Question. During the existence of the rebellion and up to this time were you a friend of the Government or not?

Answer. On account of my sentiments during the war I have been denounced as a black Republican; but I am a Union man, and always have been.

The testimony of L. B. Hunt, the registrar of district No. 7 of Callaway county, is as follows:

Question. In the discharge of your duties as registrar were you threatened, intimidated, or interfered with in any way whatever by citizens of your township or any other township?

Answer. I was not, sir.

Question. Did you, as registrar, comply with the laws and constitution of the State, and enforce the same in letter and spirit?

Answer. I did, according to my understanding of its requirements.

Question. Did you register any citizen whom you did not think was entitled to vote under the law?

Answer. I did not.

Question. Did every citizen who registered as a qualified voter take the oath of loyalty?

Answer. They did, sir.

John Yount, of Callaway county, and one of the registrars, gives the following testimony:

Question. Were you in any manner threatened, intimidated, or interfered with in any way?

Answer. No more than with lawsuits.

Question. Did many persons threaten you with lawsuits?

Answer. Not many. Some men took me aside and told me if I did not register without asking so many questions I would be sued. No man told me he would sue me but Robert C. Irvin; but he was afterwards registered, and no suit has been brought.

Question. Did you not, after the registration had progressed one or two days, make a voluntary affidavit that you were not disturbed?

Answer. I made a statement that I was not afraid of the people of New Bloomfield or of the township.

Question. Did you make a legal registration of your township as required by your oath of office?

Answer. As legal as I could.

John K. Boyd, one of the registrars of Callaway county, testifies that the registration was conducted quietly and peaceably, and that there was no disturbance of any kind.

George A. Moore was registrar of district No. 6, of Callaway county, and his testimony is as follows:

Question. Were you in any manner threatened, intimidated, or interfered with during the discharge of the duties of your office?

Answer. I was not.

Question. As such officer did you comply in letter and spirit with the registration law?

Answer. I did, to the best of my knowledge.

Question. Is the certificate of William H. Thomas, supervisor of registration, as set out in the answer of Mr. Anderson, contestee, [and which was read to the witness,] true or false, so far as your district is concerned?

Answer. It is false in mine.

Question. During the war were you a Union man?

Answer. I was.

There are a large number of other witnesses, who were not officers of registration, who give

similar testimony. I want, however, to refer the House to the testimony of one of the registrars setting forth a different state of facts, for the purpose of showing what were the kinds of threats which were made, if any were made. The testimony of James E. Turley is as follows:

Question. In your examination in chief you state that after you signed the certificate to your registration you heard things which if you had known before you would not have signed it. State what these things are, and by whom said.

Answer. I stated yesterday that I did not sign the certificate, as the book shows; it was an omission; I intended to sign it. I heard that I had registered men who had been in the rebel army.

Question. What things were these, and who told you?

Answer. The assistant provost marshal told me; his name was J. D. Golley. He told me that Charles Tarr was in the rebel army, and I had registered him and I expect he voted.

Question. What other things did you hear?

Answer. That is enough, sir.

Question. Did you hear anything else?

Answer. If I did I do not know whether it was true or false.

Question. Did you hear that you registered any other man besides Tarr who was in the rebel army?

Answer. No, sir.

Question. You say that there was intimidation against you by fear of being interrupted. What interruption did you fear?

Answer. I feared that on account of a meeting of confederate soldiers in Fulton on the third day of my registration, to decide whether they should vote independent of the registration or not—I thought I would be interrupted in the discharge of my duties. They went and did nothing, and my fears subsided.

The threats which are testified to by any of these officers are threats that suits would be brought against them, or something of that sort. If members will look over the notes I think they will find that no actual threats are proven to have been brought to the knowledge of the officers which should have deterred any man from making the registration.

Without further reviewing the evidence, for want of time, I deem these conclusions fair from the evidence:

First. That in more than half of the districts of the county no threats were made which came to the ears of the registrars, and no fears were entertained by them.

Second. That there is no testimony sufficient to warrant the belief that a registration of the voters of Callaway county under the law was impracticable in any district.

Third. That no legal evidence has been given showing that more than ten or a dozen men were improperly registered; for surely the opinions and surmises of men, not professing to be founded upon their personal knowledge of facts, but confessedly upon rumor and common fame, are not legal evidence; surely the registration of Callaway county cannot be rejected because H. S. Turner supposed there were not more than two hundred and eighty qualified voters in Callaway county entitled to be registered under the law. These opinions of men must necessarily differ as widely as their political views differ. The conclusions of the sworn officers who made the registration must stand until it is shown by the evidence of facts that men not entitled to vote were registered, and then the votes of the men thus shown to have been improperly registered should not be counted; but why should the districts registered by Vinson, Maupin, Ferguson, Hunt, Moore, and Snedcor be thrown out upon the ground that these men were prevented from making a legal registration by threats and intimidation, when they all testify that they heard no threats, felt no fears, and did make a legal and fair registration?

We have settled this question precisely in this Congress in the case of Birch vs. Van Horn. Mr. Birch complained that his political friends were not allowed to be registered or to vote. He produced the testimony of numerous witnesses that in their opinion some 2,500 legal voters had not been allowed to register or to vote. No counter testimony was given. The number of cases specified and made certain was small, and not sufficient to overcome the majority of Mr. Van Horn. The Committee of Elections unanimously reported that the testimony of the opinions and suppo-

sitions of men was not evidence; that the proof must be specific and show what men were thus improperly disfranchised, and the House sustained the action of the committee. The two cases are precisely analogous in principle, and if the same rule of evidence is applied in this case as in that it will certainly follow that the resolutions of the committee must be adopted. For myself, I am entirely unwilling to apply one rule of evidence in the case of a political friend, and a rule directly the reverse in the case of a political opponent.

Mr. STOVER. Mr. Speaker, I yield ten minutes of my hour to the gentleman from Maine, [Mr. PETERS.]

Mr. PETERS. Mr. Speaker, I have examined the testimony in this case on a previous occasion; and that examination led me to the conclusion, as a matter of law and fact, that Mr. Anderson is the gentleman entitled to the seat. Holding this opinion, I desire in a very few words to give to the House my reasons for entertaining it.

It seems to me, Mr. Speaker, that while the majority of the Committee of Elections, composed of eminent lawyers, have announced the principle that the requirement of the "iron-clad oath," which is a part of the constitutional law of Missouri, is to be respected, they have rather swerved from applying this principle to the testimony in the case. It is a question of fact, whether Callaway county was so far disloyal that its vote should be in part or in whole rejected in making the count. The gentleman from Illinois, [Mr. Cook,] who has just taken his seat, says that there must be distinct proof against the individuals who are to be disfranchised. That rule may have an application if the committee or the House decide to reject only a portion of that vote; but I affirm, upon the testimony in the case, that there is so much disloyalty and so much fraud disclosed by the evidence in print in this case, that the whole vote of Callaway county ought to be rejected. There can be no sifting of the votes cast. The fraud practiced in that election, as disclosed in the evidence, was so alarming and widespread that Callaway county, so far as that election is concerned, should be stricken from this record.

In the first place, let me say that at that election no man had a right to vote "who had ever by act or word manifested his adherence to the cause of the enemies of the Government, or his desire for their triumph over the arms of the United States, or his sympathy with those engaged in exciting or carrying on rebellion against the United States." Now, whatever may have been the fact in Missouri, a State marked by the red track of war, I can say to the House that even in the State of Maine, a portion of which I have the honor to represent, if that rule had been applied in any election during the war not one tenth of the Democratic voters of that State would have been permitted to exercise the elective franchise. And I believe the question with us here to-day is whether the House will stand by this law of Missouri, or whether, admitting that it is constitutional, we shall swerve from the duty which is imposed upon us.

The majority of the committee say that there is a *prima facie* case for the contestant. Supposing there is, any gentleman who will fairly and carefully examine the testimony must, I think, see that this *prima facie* case is thoroughly overturned. The committee say, further, that the registrars do not admit that they practiced wrong or committed errors. Why, sir, it would hardly be in human nature for them to do so. But even from those registrars themselves there is evidence, of an indirect character, showing that the registration was improperly made. Every one of the registrars, I believe, has testified that in his opinion there were not two hundred loyal citizens in Callaway county voting the Democratic ticket; at any rate, a portion of those officers have so testified. And further than this, if I have read the testimony aright, the contestant himself is proved to have said and written that there

were not two hundred loyal men in Callaway county. I cannot find anywhere in the whole record that he has denied that statement under oath, or that there is anything tending to contradict it; and if this statement of the party himself is true the vote of Callaway county should be entirely thrown out, and Mr. Anderson is entitled to the seat.

This position is sustained by a great deal of cogent testimony. In the first place, it appears by the evidence that men advised the voters to take the oath and register—although they could not do so legally—on the ground that the registration act was unconstitutional. I find from the testimony that only twenty men went from this county to the war. I find that no Union meetings were allowed to be held there; no Union sentiments were permitted to be spoken. I find that the militia could not be enrolled in that county, except by the aid of a guard of enrolling officers. I find that at this election men who had fought and bled in the rebel army were allowed to register and to vote. I find that one registrar resigned because he could not perform successfully his duties. I find that at one place twenty-five men who were not sworn at all voted. All these are *indicia*.

I have not time to go further. I take the contestant at his own word, and I find the record full of evidence to substantiate that word or that letter which he wrote saying that there were not two hundred loyal men in Callaway county. If there were not then that county, in which from 1,400 to 1,600 votes were cast, has filled the ballot-boxes with disloyal votes; and the election this year, which has been very carefully guarded, shows that fact.

These are the reasons which have led me to the conclusion, the earnest conviction, that Mr. Anderson is entitled to his seat. Thanking the gentleman for his courtesy, I will take no more of his time.

Mr. STOVER. Mr. Speaker, I rise conscious of the peculiar and embarrassing circumstances attending me while participating in this discussion. Had I consulted my own feelings and desires I should have remained in my seat a quiet and observant listener; but a sense of justice to my constituents, to that noble State which, in part, I have the honor to represent, and to the great cause of loyalty everywhere, as well as to the vindication of salutary and indispensable laws enacted for the preservation of the liberty and vitality of a State, these call upon me not to let pass unnoticed the attacks of the honorable gentlemen who differ with me upon this question, or to sit in silence so long as loyalty may need a champion; and it is this that causes me to overcome that delicacy which one must naturally feel where the parties to a contest are from his own State and where one is a political friend.

For the contestant, Mr. Switzler, I cherish none but the kindest feelings. Though differing in political sentiments, I freely accord to him the traits of a good citizen and an honorable man; and it makes the pain more poignant that against a contestant so esteemed justice demands that I should protest, with all the power that is in me, against his occupying the seat to which, in my opinion, the sitting member is legally elected.

What, then, sir, are the facts in this case? Acting upon the plain constitutional proposition that "each State shall have the power to prescribe the qualifications of its own voters," in April, 1865, the people of Missouri changed their constitution, to the third and sixth section of the second article of which I desire to call the attention of this House:

"SEC. 3. At any election held by the people under this constitution, or in pursuance of any law in this State, or under any ordinance or by law of any municipal corporation, no person shall be deemed a qualified voter who has ever been in armed hostility to the United States, or to the lawful authorities thereof, or to the government of this State, or has ever given aid, comfort, countenance, or support to persons engaged in any such hostility; or has ever in any manner adhered to the enemies, foreign or domestic, of the United States, either by contributing

to them, or by unlawfully sending within their lines money, goods, letters, or information; or has ever disloyally held communication with such enemies, or has ever advised or aided any person to enter the service of such enemies; or has ever by act or word manifested his adherence to the cause of such enemies, or his desire for their triumph over the arms of the United States, or his sympathy with those engaged in exciting or carrying on rebellion against the United States; or has ever, except under overpowering compulsion, submitted to the authority or been in the service of the so-called 'confederate States of America,' or has ever left this State and gone within the lines of the armies of the so-called 'confederate States of America,' with the purpose of adhering to said States or armies, or has ever been a member of, or connected with any order, society, or organization inimical to the Government of the United States, or to the government of this State; or has ever been engaged in guerrilla warfare against loyal inhabitants of the United States, or in that description of marauding commonly known as 'bushwhacking,' or has ever knowingly and willingly harbored, aided, or countenanced any person so engaged; or has ever come into or has left this State for the purpose of avoiding enrollment for or draft into the military service of the United States, or has ever with a view to avoid enrollment in the militia of this State or to escape performance of duty therein, or for any other purpose, enrolled himself, or authorized himself to be enrolled, by or before any officer as disloyal or as a southern sympathizer, or in any other terms indicating his disaffection to the Government of the United States in its contest with rebellion, or his sympathy with those engaged in such rebellion, or having ever voted at any election by the people in this State, or in any other of the United States, or in any of their Territories, or held office in this State, or in any other of the United States, or in any of their Territories, or under the United States, shall, thereafter have sought or received under claim of allegiance the protection of any foreign Government, through any consul or other officer thereof, in order to secure exemption from military duty in the militia of this State or in the Army of the United States; nor shall any such person be capable of holding in this State any office of honor, trust, or profit under its authority, or of being an officer, councilman, director, trustee, or other manager of any corporation, public or private, now existing or hereafter established by its authority, or of acting as a professor or teacher in any educational institution or in any common or other school, or of holding any real estate or other property in trust for the use of any church, religious society, or congregation. But the foregoing provision in relation to acts done against the United States shall not apply to any person not a citizen thereof, who shall have committed such acts while in the service of some foreign country at war with the United States, and who has since such acts been naturalized, or may hereafter be naturalized under the laws of the United States, and the oath of loyalty hereinafter prescribed, when taken by any such person, shall be considered as taken in such sense."

"SEC. 6. The oath to be taken as aforesaid shall be known as the oath of loyalty, and shall be in the following terms: I, A. B., do solemnly swear that I am well acquainted with the terms of the third section of the second article of the constitution of the State of Missouri, adopted in the year 1865, and have carefully considered the same; that I have never, directly or indirectly, done any of the acts in said section specified; that I have always been truly and loyally on the side of the United States against all enemies thereof, foreign and domestic; that I will ever bear true faith and allegiance to the United States, and will support the Constitution and laws thereof as the supreme law of the land, any law or ordinance of any State to the contrary notwithstanding; that I will, to the best of my ability, protect and defend the Union of the United States, and not allow the same to be broken up and dissolved, or the Government thereof to be destroyed or overthrown under any circumstances, if in my power to prevent it; that I will support the constitution of the State of Missouri, and that I make this oath without any mental reservation or evasion, and hold it to be binding on me."

In accordance with the provisions of this Constitution the Legislature on the following winter passed an act to provide for the registration of voters, approved December 16, 1865, (see sections eight and nine,) and afterward a supplemental act, approved March 12, 1866. (See section one.)

The validity of these constitutional provisions and laws, in my opinion, are beyond a doubt. Suffrage is not an inherent, or natural, but a politic right. It is a privilege granted by the superior power of a State to such of its citizens as may be deemed will judiciously exercise it. In times of peace and great material prosperity, and when no danger threatens the State, this immunity may be extended; but when hoary-headed treason rears its horrid front; when traitors, with fraternal blood yet dripping from their hands, would ruthlessly grasp the reins of government and hurl it with themselves into political ruin, then it is not only the prerogative but the duty of the State to make such salutary restraining laws as may insure its safety and prosperity.

Mr. Speaker, during the recent rebellion

Missouri occupied no neutral or doubtful position. In the very incipency of the contest desperate efforts were made to force this State from the Union. By the action of her disloyal Legislature a convention was called for the avowed object of passing an ordinance of secession. The rebel element was loud and violent in the expression of its treasonable doctrines, and for a time it was worth a man's life to combat them with argument or give utterance to loyal sentiment.

But the convention refusing to place our noble Commonwealth by the side of her "erring, wayward sisters," an effort was made to force her out of the Union by a grand *coup d'état*, which was only frustrated by the vigilance and the heroic daring of her loyal sons. To accomplish these nefarious designs her treasury was plundered, her school-fund, donated to her by the munificence of the General Government, and amounting to \$2,000,000, was stolen; some worthy citizens were killed, and many others carried off into a hopeless captivity. Her broad prairies now became the theater of contending forces. But worse than all, a system of partisan warfare was inaugurated; neighbor seemed to be arrayed against neighbor and brother against brother. There was no security for life or property; the husbandman was shot down at his plow, and his horses seized upon by his murderers. Where formerly cheerful industry greeted the morning sun with merry songs and wails and lamentations of widows and orphans were heard, and smoking embers and lifeless corpses pointed to where the spoiler had been. Lands were laid waste, homes were desolated, and a long line of solitary chimneys, as if standing sentinel over the ashes of former cheerful homesteads, marked the track of the destroyer.

When at length the Union party had secured firm hold on the reins of government the instinct of self-preservation as a Commonwealth, as well as their duty to the General Government, prompted them to enact such laws as would secure the State to loyal principles, and that her sacred temples might be dedicated to freedom forever. Judging all her citizens by their conduct in the great hour of need, they granted the privilege of suffrage to those worthy of using it, while it was withheld from those who had worshiped at the altar of treason, and hated liberty.

These are the reasons for the present laws regulating suffrage in the State of Missouri. To some they may appear stringent, but gentlemen must remember that they had their baptism in blood, and many of our citizens first read them by the lurid glare of their burning homes. If an apology were needed I would point in triumph to a great State redeemed, regenerated, and disenthralled from the bonds of slavery, consecrated forever to the Federal compact, an annual addition of one hundred thousand to her population, her waste places cultivated, and cities and towns springing up as if by magic. I would further point to the development of our almost inexhaustible mineral resources, the vast increase of our agricultural and manufacturing productions, our extensive inland commerce, and our liberal educational system, which is second to none of even our older States.

In the case before us I apprehend that the entire question is settled by the admission or the rejection of the vote of Callaway county. If that be so, it is necessary merely to ascertain whether there was such a violation of the registration laws of Missouri as prevents the number of legal votes from being ascertained. If that cannot be done, the entire vote should be rejected. No one questions the right of this House to go behind all legal forms and look into the ballot-box and purify it; or if this from any cause be impossible, if political pollution creates doubt and uncertainty, it may cast aside the vote as unworthy its attention. Whatever may be the laws of a State prescribing the qualifications of its electors, unless they are openly repugnant to the Constitution of the United States those laws, and not the prefer-

ences of this House, must be the rule to determine contested cases. This is no new doctrine, but has been recognized by every Congress since the formation of our Government; and I find this principle most fully elucidated in the celebrated Kentucky case, *Samuel E. Smith vs. John Young Brown*. In that very able report, presented by the eminent gentleman from Massachusetts, the present chairman of the Committee of Elections, we find the following legal propositions:

"As Congress, much less the House of Representatives, never conceded, never having the power to concede to a voter his right to the ballot, neither can it take it away, modify, or limit it."

"This House can only be the judge of the election returns and qualifications of its members; that is, can judge whether each member has been elected according to the laws of his State and possesses the qualifications fixed by the Constitution. Here its power begins and ends. It cannot touch a voter or prescribe how he shall vote, nor can it impose a penalty on him, much less disfranchise him or say what shall be the effect or the power of his ballot if it be cast in a particular way. The laws of the State determine this."

Again, on the same page I find the following strong language:

"The statute-books of the States are full of provisions touching elections, extending as well to the effect and power of each ballot as to the manner of depositing it, all of which are a rule for this House. Congress has not seen fit to enact any law concerning it, if it had the power."

The House, by a flattering majority, sustained that report as well as the action of the committee at the same session in the case of *Birch vs. VAN HORN*, which report was presented by the distinguished gentleman from Vermont, [Mr. POLAND,] who also presented the majority report in this case last session.

The doctrine I have laid down was not only recognized by the committee in that case, but seemed to have been the main rule governing its action. By the express terms of the constitution of Missouri we see that "no one shall be deemed a qualified voter who has ever, directly or indirectly, done any of the acts specified in the third section of the second article of the constitution," and the disqualifying causes are some eighty-two in number. I care not whether a man may have taken and subscribed the oath of loyalty; he even may have conformed with all the requirements of the registry law, yet if he is guilty of any of the acts specified in that instrument he is not a qualified voter; if he is not a qualified voter he is not a legal voter; and the plain proposition follows that being an illegal voter and he votes his vote cannot be anything else than illegal. It matters not how corrupt a registering officer may be or how far he may be intimidated from the performance of his duties; his functions are all ministerial, and are no panacea for political ills; his corruption or negligence cannot remove disabilities which the highest law in the State declares to operate as disqualifications. It is not charged by the contestant that any such votes were cast for the sitting member, while Mr. Anderson charges that in Callaway county a very large number were cast for the contestant.

In turning to the evidence as to the registration of Callaway county, I find that Isaac D. Snedecor was the registrar of Fulton township. Bear in mind that no one can be a qualified voter unless he take and subscribe the prescribed oath, unless he cannot write, which cases are also provided for. This portion of the law under no circumstance can be viewed as directory, but as mandatory. It is not sufficient for a man to say he can take, but he must take and subscribe the oath. A moment's reflection will clearly show the importance of this provision. It was intended to be a safeguard against perjury. Many will hesitate to subscribe their names to a known lie, thereby affixing the seals of their perjury upon their own foreheads, who would stop at no crime were it but an empty form of words.

With this idea in view, let us turn to the testimony of Snedecor, (Mis. Doc. No. 39, page 47,) and although his testimony occupies but seven lines, his character and efficiency as a registering officer may be plainly gathered from

it. He is the contestant's witness, and in answer to the question, "Please state in what manner, as registrar of Fulton township, you administered the oath to applicants for registration, and whether any person was registered by you who did not take the oath," he says:

"There was no person registered who did not take the oath. There were about twenty-five, not exceeding twenty-five, of the first who registered that I explained to them the oath, and asked them if they took the oath, and upon being answered that they did, I then had them to subscribe their names. All the rest of them I had to hold up their right hands while I read the oath to them, after which they subscribed to it."

Under the sanctity of an oath he says that no one was registered who did not take the oath, and yet in the same breath he says there were about twenty-five to whom he explained the oath and then they subscribed their names. There was none of the solemnity incident to such occasions; no raising of the right hand toward high Heaven, no "so help me God" to witness the sincerity of their declaration; but it was a farce, a mockery, a prostitution of the powers of a sworn official. The rest of them held up their right hands; these could not be spared the awful ordeal. Favored twenty-five! How fortunate that the pains of perjury were spared you by the learned exposition of Snedecor! How unfortunate for the present and future generations that we have not preserved on our records that grand Snedecorian "explanation" which could take the place of the solemnities of an oath!

Snedecor says they all subscribed the oath, and he registered none whom he knew to be disqualified. I do not know what construction he may have put upon the term "disqualified," but I do know that (Mis. Doc. No. 39, p. 59) in Fulton township he registered 451 whom he certifies to be qualified voters, nearly all of all whom voted, opposite whose names I find the following remarks in his certified list:

"James Blackamore, been in the rebel army; James A. Blackamore, rebel sympathizer, notoriously disloyal; Benton Blount, left the country, went to Illinois to avoid the draft, enrolled disloyal; Levi Blount, the same; Samuel Blount, enrolled disloyal under oath, commanded a squad of men, bushwhacked Colonel McNeil; Samuel Carrington, know him to be disloyal; M. V. Davis, crazy, noisy rebel; at the outbreak of the war, walked through the streets with his gun in hand shouting for Jeff. Davis, threatening to shoot all who differed in opinion with him; Jesse Garner, in rebel army, wounded at Wilson's creek, and the officer of registration knows it well."

I further find that in this notoriously disloyal township but thirteen names were put on the rejected list, only one of whom was rejected because he enrolled disloyal; the others were rejected because they refused to take certain portions of the oath of loyalty. If in this registration we have the fortunate twenty-five the Snedecorian antithesis is complete; for here we also find the unfortunate thirteen. No "explanations" of Snedecor could prevail; nothing could save them from the rejected list. Unfortunate thirteen! Fortunate twenty-five! Fortunate Fulton township! For so patriotic and loyal was it now that within its broad confines but one could be found who had enrolled disloyal—and most unfortunate one! He alone remained of all his many associates, the rebels of Fulton.

But although Snedecor's evidence is alone sufficient to condemn the registration, we have the evidence of another party who was witness to a portion of it. On page 20, Miscellaneous Document No. 39, W. H. Thomas, in answer to the question how Snedecor conducted the registration, says:

"I thought his whole movements were contrary to the law, in this that he subscribed the names of applicants instead of their subscribing their own names, as the law directs; and that he merely asked them if they could take the oath, instead of administering it."

It seems that Snedecor did not content himself with qualifying men by mere explanations; not only his heart and his head were brought into requisition, but his hand and his pen also render tribute. Accommodating Snedecor! In some instances he did not deem it necessary to explain. The simple question, "Can

you take the oath?" answered affirmatively is sufficient to warrant him to write down the name. But perhaps it was well Snedicator wrote the names, else those hands, stained by loyal blood not yet dry, might have soiled the pure sheets of his poll-book.

Thomas further swears that he furnished the registrar a list of the persons who had enrolled themselves disloyal, and that Snedicator registered about 200 such; and his answer to the next question places this whole matter beyond the shadow of a doubt, (on page 21:)

"Question. Did he enroll persons as qualified voters who were disqualified from other causes?"

"Answer. I think he did, a great many. I know of many persons who had advocated the southern cause, who had given aid and countenance to the rebellion, who were not enrolled as disloyal, whom he registered as qualified voters."

I call special attention to this part of the testimony, because in the majority report it is stated that this is "the only evidence introduced for the purpose of showing a disregard of the provisions of the law by any of the district registers." It is not the "only testimony," as I will show to this House. But the majority report further states "on the other side, Snedicator, the registrar of Fulton, testifies that he did not register any person whom he knew to be disqualified under the law," and the committee seem to place great confidence in Snedicator's testimony, while on the other hand the testimony of Thomas seems to be discredited. I will now positively demonstrate that Snedicator illegally registered a rebel; that he could not help knowing at the time that he was disqualified; in fact the applicant told him so when applying to be registered. I refer now to the testimony of Jesse Garner, on page 9 of Miscellaneous Documents, No. 39:

"Question. By whom were you registered?"

"Answer. By Mr. Snedicator."

"Question. Were you wounded in the battle of Wilson's creek?"

"Answer. Yes, sir, I was."

"Question. Did Mr. Snedicator, the registrar, see you after you returned?"

"Answer. Yes, sir; I expect he did."

"Question. Did he make any inquiry of you when you registered?"

"Answer. I told him I had been called out by Jackson, and that I fought at Wilson's creek."

"Question. Did you make any application to any court to relieve you of any disqualification?"

"Answer. I did not, sir."

And right here I ask the gentleman who joined in the statement that "there is some ground to doubt the truthfulness of Thomas" whether there is any doubt as to the willful misrepresentations of Snedicator, and why do they condemn Thomas and can find no word of censure for Snedicator?

So much for Fulton township; and the same seems to be true of the others. William B. Miller, Miscellaneous Document No. 39, page 11, testifies that he knew of persons registering in Nine-Mile Prairie who were disqualified. One of them, Franklin Bruce, had his arm taken off at Moore's Mill fight. Besides this, (page 12,) the names of Scholl, Hutz, and James Bayley are given as having been illegally registered. Here are four open, notorious rebels, and, as if this was not sufficient, the mark of the rebellion was put on one by the loss of his arm, testified to by one man alone. Who can tell how many more there were? And yet the registrar, on page 1, Miscellaneous Document, No. 12, testifies that he faithfully discharged his duty.

Marcus Bird, on page 16, Miscellaneous Document No. 39, testifies that he was one of the enrolling officers under the conscript act; that the disloyal sentiment was overwhelming, and that the number of loyal voters under the registry law would be about ten to the township. Yet in that township 77 were registered as qualified, and but 9 were rejected.

We now come to St. Hubert township, in which 142 were registered as qualified voters, and nowhere in the evidence can I find a single one rejected. Truly, here we might expect to find the loyal paradise of Callaway county, a place where all are qualified, were it not for the testimony of one Albert J. Herring, who on page 16, Miscellaneous Document No. 39, testifies

that in the fall of 1864 he joined the rebel army; he was registered by George A. Moore; the oath was read to him, and he was registered; the registrar wrote his name. On his cross-examination he says the reason he did not write his own name was because he could not write. But he could at least have made his mark in accordance with a provision in the law; but there is not a syllable of testimony to that effect. The testimony is, that he neither took the oath or subscribed his name.

Mr. Speaker, I do not desire to occupy the time of the House by more minutely entering into the particulars of this case on this point. The certified registration list is before us, with the remarks opposite their names.

Mr. UPSON. Will the gentleman state to the House when that indorsement was made, and by whom, on the registration list?

Mr. STOVER. With pleasure. I will answer the last question first. It was made by Mr. Thomas, and I do not know, neither can I find any evidence, when it was made; but I do know that it is there. Does any one contradict its truth? Over 2,000 votes were registered in 1866, while it is in evidence before the committee that in 1868 only 664 were registered. Callaway is one of the best agricultural counties in the State of Missouri, and its location and general features make it peculiarly attractive to immigrants. The influx of immigration for the last three years into the State of Missouri, coming from the East and the North and the South by thousands, and young men attaining their majority, have been rapidly increasing our voting population, and yet Callaway, with all her natural attractions, shows a decrease of nearly one thousand. To what does all this point? Why it teaches that, in 1866, 1,600 qualified voters were not there; that the contestant himself and the other witnesses were right when they estimated the number of loyal voters at 200. For my part, I am inclined to put the figures lower than that. Was not the secretary of State right when he considered the vote there not only so tainted but so entirely covered with fraud that he rejected the whole vote?

On page 8 of the majority report it is stated that the—

"Committee come to the conclusion that there was no just and reasonable ground to fear personal violence or injury in consequence of appearing to make and support objections to registration."

In my opinion the committee here transcend their powers. The question is not were there grounds for fear, but did that fear exist? It is not, was there cause for intimidation? but it is, were the people (and I mean the loyal people) so intimidated that a fair election was not held? To sit on an easy chair in a finely furnished committee-room, where peace and quiet and order reign, with the Capitol police to guard the door, thousands of troops to guard the city, surrounded by works of art and genius, while in the distance forts and battlements tower toward the skies, is a position of comparative security; and it takes strong words, ay, almost belligerent acts, to create fear or intimidation. But on the sparsely-populated western prairies, where the wild wolf is your nearest neighbor, where a man's wearing apparel is not complete unless he has a brace of revolvers strapped to his back, and where war is not a pleasing tradition to be told at the evening fireside, but where the empty chairs in the social circle, the absent loved ones, the habiliments of mourning in which those present are clad, betoken that war is a stern, terrible, direful reality; the threat "a free election or a free fight," means something. This may be idle talk to gentlemen from the northern and eastern States, but I am satisfied that those from the border States fully appreciate it.

What intimidation, then, do we find in Callaway county? In Cedar township John Yount says (Misc. Doc. No. 39, p. 17) "they threatened law-suits; they said around they would have a free election or a free fight." Some were afraid to act as witnesses, and they threatened to hang him because he was a friend of the Government. He was afraid to risk acting as a

witness. In Miscellaneous Document No. 12, page 8, we find his certificate:

"I hereby certify that I was appointed by Thomas Ansell as registrar of Cedar township, in Callaway county, Missouri; that I entered upon the discharge of my duties according to law, and rejected all persons whom I knew, from my own personal knowledge, to be disqualified. Many persons who were registered by me as qualified voters were reported to me by various witnesses as being guilty of many acts of disloyalty; but said witnesses informed me that if they were to come before me and testify to the facts they would be compelled to leave their homes, and rather than do so, even under compulsory process, they would get out of the way. Knowing this I thought it useless to attempt to forcibly bring them before me, knowing also that such a proceeding would endanger their lives. Many good Union men informed me that on account of the threats and intimidations against them they thought it unsafe to go to the place of registering and voting, and did not do so. From what I know and have seen, since the passage of the registry law I am fully convinced that there could not be a legal registration made in Callaway county under the circumstances as they existed at the time of the present registration."

Given under my hand this December 8, 1866.

JOHN YOUNT.

When the contestant showed him his former certificate and asked him which was true he said:

"I thought the first one was true when I made it, but from what I know now, and so far as I have any proofs, I am satisfied the first one is true yet with the exception of ten or fifteen names."

That is, he now knew the first one was false as regards ten or fifteen names, but nowhere does he say that his second certificate is not true, and the statement that various witnesses informed him that if they were to come before him and testify to the facts they would be compelled to leave their homes, and rather than do so they would get out of the way, and that he knew this would endanger their lives, stands uncontradicted and shows the state of feeling in that township.

Abram Snethen, page 18, Miscellaneous Document No. 39, in answer to the question "would it have been safe for a man to have objected to a man's registering," says:

"I thought not."

"Question. Do you know of any intimidation in your township against the execution of the registry law?"

"Answer. It was a common thing to make threats then."

"Question. Did such threats prevent men acting as witnesses before the registrar against disqualified persons?"

"Answer. I think they did."

"Question. State the character of those threats."

"Answer. If they could not vote they would prevent others from doing so."

This gentleman testifies to the state of feeling existing in Coto Sans des Sein township. Jonathan McKinney testifies to Aux Vasse township. He says:

"I could not speak my sentiments in every crowd, I was told if I did not keep quiet I would be hung."

And a little further on he says:

"There were but two or three Union men in my neighborhood."

James Turley, registrar of Bourbon township, says (page 10, Misc. Doc. No. 39) no objections were made to those offering to register, but he was told by some that objections would have been made if it would have been considered safe to do so. Here are the loyal citizens of an entire township laboring under such a restraint that although they see known rebels perjure and register themselves, yet the fear of violence bound their tongues and made them quiet spectators of this wrong. And yet the majority report says that "we do not believe there was ground for fear." But this same Turley, when he becomes the contestant's witness, (Misc. Doc. No. 12, p. 5,) says, "I am certain that the few loyal men of my district were afraid to make objections," "and I fully believe it would have been dangerous for them to have done so." These gentlemen in their cozy committee-room can see no cause for intimidation, but James Turley, who lived, not in this committee-room, but in Callaway county, surrounded by swarms of rebels, and who judged the temper and tone of those around him by his intimate knowledge of their character, says no objections were made because it would have been dangerous. But on this point the majority use

strong language. On page 8 of the report I find:

"The district registers above named and a considerable number of other witnesses testify that there was no danger of personal violence to be apprehended by any person who saw fit to appear and make objections."

Who are the district registers above named? Their names are found at the foot of page 7, (majority report,) and I ask this House to examine their testimony and see if they testify to any such thing. Turn to Miscellaneous Document No. 12, and on page 1 we find the deposition of John Vinson. He was asked by the contestant whether he had any knowledge of any system of intimidation and threatening, and his answer was, "I have not." Have not what? I have no knowledge of any such system. He testifies as to his knowledge of a system of intimidation and threatening. He does not state whether there were individual threats or intimidations, only that he does not know them to have been so combined as to form a system. But could not such a system have prevailed without Vinson knowing it? Are we to suppose that because Vinson does not know a certain thing to be so that it is not so, or that no one else knows it to be so? Has all knowledge, then, concentrated in one man, and that man John Vinson, of Callaway county, Missouri? Does the committee think that he knows everything and what he does not know is not worth knowing? But the majority say that he testifies there was no danger. He does not mention the word danger, nor can anything be found in his entire evidence that conveys that meaning.

Next on the list comes A. B. Maupin, whose deposition is on page 2, same document. He says he was not threatened with violence, and he does not know that objectors to applicants for registration would have been in danger of violence and insults. He does not say there was no danger, but he does not know that there was. His opinion was asked, but he testifies as to his knowledge. There is a vast difference between the existence of a thing and the knowledge of its existence. By the same system of reasoning, that there was no danger because Vinson and Maupin did not know it, we argue away the existence of this continent before the year 1492, and thus relieve antiquarians of immense labors in their researches to ascertain the primeval formation of the globe by the geological indications of the western hemisphere.

Thomas J. Ferguson, another of the registrars referred to by the majority, on page 8 testifies that he was not threatened, but was not asked whether any of the citizens were threatened, or whether it would have been safe for any one to make objections. The contestant evidently knew better than to ask such a question, for Abram Sneathen (p. 18, Mis. Doc. 39) and W. H. Thomas had testified on this subject, and when the contestant touched upon this point he "roared gently as a sucking dove."

The next in order are L. B. Hunt, whose testimony is on page 6; George A. Moore, page 9; and J. D. Snedcor, page 14, neither of whom were interrogated upon this point and neither of whom testified on it; and this ends the parade of district registers referred to. But these registrars testify they did not register falsely. Oh, no! I ask this House whether in a court of justice they ever heard that when perjury was charged upon a man he was asked "How is it?—is it true that you swore to a lie?" Of course he would answer, "Oh, no; I did not swear to a lie; it is a false charge!" But this is what has been done. The persons accused of perjury are brought to purge themselves from the charge. No one else is called upon to do it.

I do not charge the majority with willful misrepresentation; undoubtedly these deviations from the facts of the case occurred from oversight in the preparation of the report; but I do ask, does either courtesy or duty demand that we adhere to a majority report in which the errors are so glaring?

But, Mr. Speaker, this is not the only error.

On page 9 of the majority report this statement occurs:

"Some attempt was made to affect the case by proof that a convention of returned rebel soldiers was held at Fulton at the same time that the registration was being made at this place. But this seemed effectually disposed of when it appeared that this convention of rebel soldiers passed resolutions that they would not attempt to register or vote or have to do with the election."

I have carefully examined both books, and I say to this House that I can find no such evidence recorded. If I am wrong I ask to be corrected. And these are not the only instances; there are others, but I do not wish to occupy too much of the time of the House.

These, then, Mr. Speaker, are my reasons for favoring the minority report, namely, illegal votes, threats, and intimidation prevented a fair election in Callaway county. So strongly does that election savor of corruption that the entire vote should be thrown out. Rejecting the vote of Callaway county, we find a majority of the legal votes cast for George W. Anderson. And I appeal to members to lay aside that delicacy which often prompts us to favor the report of a majority simply because it is the report of the committee, and to give this subject that attention which its importance requires. I know some may regard the laws of Missouri as harsh and severe, while others consider them liberal enough considering the causes that brought them forth. It matters not in what light we view them, our duty is plain. They are the laws of a State, and the supreme law regulating this case. Though we may not sanction this law, yet as long as it remains on our statute-books we are governed by its provisions.

Far toward the setting sun, beyond the Mississippi, is a State large enough and in mineral resources rich enough to make a separate nationality—a State old in years but young in vigor. For over forty years held down by the incubus of slavery, she has sprung into a new life. Each State pays tribute to her rapidly increasing population, and if we have but the sympathy of those who should be our friends Missouri is sealed forever to the Union. Within her vast borders two classes of men are anxiously watching the result of this contest. On the one side are those who labored to destroy this Government, and who sought their rights in the last ditch. On the other are thousands of brave men who in their country's peril bared their bosoms to the storm and faced death that the nation might live. A decision for the contestant will mantle the cheek with shame of these, while the others exultingly will cry, "We have found the last ditch; it is in the House of Representatives of the Congress of the United States."

During the recent struggle between the President and Congress the loyal people of Missouri stood by Congress. Will Congress now stand by them? Think not, I entreat you, believe not, that the spirit of rebellion is dead. The rebellion itself is crushed, but its spirit yet lives. True, like the moldering ember, its heat may be but faint, but shall any act of this House fan it anew into flames? In the name of the loyal people of Missouri, in the name of her widows and orphans, by the sacred memory of the fallen heroes whose bones repose beneath her sod, I appeal to you, O legislators! let not your action this day blast our fair hopes and destroy our promise of the future. Gentlemen may vote as they please; no act of mine shall cause the soldiers of our Republic to mourn. I will put no premium upon treason nor barter the rights of the loyal.

Mr. McCORMICK. Mr. Speaker, I shall not occupy the time of the House but a very few minutes in the discussion of this subject. It occurs to me that a simple statement of the law and the facts connected with this case will be entirely sufficient to convince this House of the propriety of sustaining the report of the majority of the Committee of Elections. What are the circumstances of the case and the law that governs it? In the State of Missouri a Republican Legislature passed a law for the

purpose of preventing men who had either directly or indirectly participated in the rebellion from taking any part in the elections of the State. A Republican Governor, in conformity with the requirements of that law, appointed a superintendent of registration for each county. That superintendent, in conformity with the law, appointed sub-registrars for each township in the county. It may be proper to state that these men thus appointed were generally men politically in sympathy with the dominant party and with the Governor who appointed them.

These registration officers proceeded under the law to register the people of each county, excluding from participation in the elections every person who had either directly or indirectly participated in the rebellion or aided those who had been engaged in it. Having completed the registration they made a return of the qualified registered voters to the secretary of State. Another list was provided by these men and furnished to the clerk of the county, whose duty it was to furnish to the judges of election a certified copy of the qualified voters in each precinct. The election law of the State required of the judges of election that they should permit no person to vote whose name did not appear on the list of qualified voters as furnished to them by the clerk of their county, who obtained it from the registering officers. This is a simple statement of the law and of the requirements of the law. The registers, in conformity with this law, went forward and executed the registration in Callaway county and in each township thereof, and forwarded certified lists of the qualified voters to the secretary of State, which were furnished to the judges of election. The judges of election then, under this requirement, went forward and held the election, permitting no person to vote whose name did not appear upon these lists of qualified voters.

We have heard gentlemen speak here to-day about intimidation, but a majority of the registering officers, and the supervisor of registration himself, upon their oaths declare that they were not intimidated in the discharge of their duties. The law of the State provides that if there is any threatening or intimidation it shall be the duty of the supervisor of registration of the county to notify the sheriff of that fact, and it is made obligatory upon the sheriff to furnish a sufficient number of men to preserve order and enable the registering officers to register the voters in conformity with law, and reject every man who has ever directly or indirectly participated in the rebellion or aided those engaged in the rebellion.

The supervisor of registration made his return to the secretary of State in conformity with law; but after the election was held and it was ascertained that Mr. Switzler had been elected, he then for the first time discovered that his registration of Callaway county had been illegal; and he then, after the result of the election was known, made this certificate declaring that the registration of Callaway county was in violation of law; and he states that that certificate was made at the suggestion of the secretary of State.

Now, Mr. Speaker, the facts of that election are simply these; there was not a man who participated in the election in Callaway county, according to the evidence, who was not a registered and qualified voter. There was not a man who cast his vote for the contestant in this case who was not by the officers of the law, acting under oath and in conformity with law, registered as a qualified voter. As I have remarked, there was no question made as to the legality of the registration of Callaway county until after the result of the election was known, when the supervisor of registration for this county, in violation of law and in conjunction with the secretary of State, entered his protest against the legality of the registration in Callaway county.

Mr. UPSON. I would ask the gentleman if there were not county officers elected in that county, and also members of the Legislature

at the same election, and whether their election has ever been questioned by the Legislature of the State?

Mr. McCORMICK. There were both township and county officers elected at the same election who qualified under that election, the Governor of the State himself commissioning them, and no one questioned their right. They were elected under the same registration which was declared by Mr. Thomas, the supervisor of registration for the county, to be illegal.

Mr. UPSON. And members of the Legislature?

Mr. McCORMICK. A member of the Legislature for that county was also elected.

Mr. BENJAMIN. I would ask my colleague if he is not fully aware that the Legislature of the State of Missouri on two separate occasions have had the validity of this election in Callaway county under consideration, and in both instances sustained the secretary of State? Is not that the fact?

Mr. McCORMICK. Yes, that is the fact; but the officer whose duty it was to issue the certificate of election to the Representative from that county has in no case questioned his right to the certificate of election. The whole thing grows out of the simple fact that the secretary of State of Missouri has, for partisan purposes, undertaken to override the wishes and will of the majority of the qualified voters of Callaway county.

Now, we are told by gentlemen here that the contestant himself in 1862 or 1863 declared by letter that there were not two hundred loyal men in Callaway county. That letter has never been produced, and it never can be produced, because it never was written; but if he had written it, what was the condition of the county of Callaway in 1862, when the torrent of rebellion swept over more than one half of the territory of the State of Missouri? The loyal men of Callaway county were then in the field in defense of their country, and he might very well say in truth that the loyal men were not there, and that those who were disaffected to our Government, and were not sufficiently strong in their rebel proclivities to take up arms against the Government, were still there.

But we are told there is evidence here to-day that the reason why the registration of Callaway county in 1866 must have been illegal is that in 1868 not much more than half the number were registered. I admit that such is the case, but it can very easily be accounted for on another ground. It is that the very men who in 1866 attempted to override the wishes of the loyal voters of that county have undertaken to strike down and reduce the number of voters in such a way as to make their action in 1866 appear plausible. But suppose that the registration in 1866 had been no greater than it was in 1868, still the contestant would be elected by a majority of the qualified voters.

But the gentleman who has just taken his seat [Mr. STOVER] says that because there were some men registered in Callaway county who were not entitled to be registered the whole county should be thrown out. Sir, there is no justice in that sort of argument; there is no right in it. It may be, and it probably is, the case that in every county within the broad limits of the Republic of the United States there have been more or less men voting in it—boys under age or aliens—who are not entitled to vote. And if you are to invalidate the election in one county because certain persons voted who were not entitled to vote, then, in my judgment, you would by the same rule invalidate the election of every member upon this floor. Sir, no such argument is just, equitable, or reasonable, and I am very confident this House will not sustain it.

But there is another view of this question that comes home to this House. The Constitution of the United States secures to the Congress of the United States the sole right to be the judge of the election, qualifications, and returns of its own members. That constitutional right, secured to this body by the fathers

of this Republic for the highest and most important purposes, is a right underlying the proper organization of the legislative department of this Republic. It is a right secured by constitutional enactment to prevent the encroachments of the executive department upon the legislative department.

But in the State of Missouri we have an officer, the secretary of State, who has no judicial functions, who has no legislative functions, who is a mere scrivener for the Commonwealth of Missouri, who yet assumes to make and unmake Congressmen at his own good will and pleasure; who has arrogated to himself the right to thrust men upon this floor in violation of the rights of this House, and in violation of the wishes of the loyal men of the ninth congressional district of Missouri, who have rejected the sitting member by a majority of 1,160 votes.

Mr. Speaker, there is a great principle of right underlying this question, and I feel confident that this House will to-day not only sustain its own rights, but will rebuke this man who has attempted by his own authority to force men upon this floor. I believe this House will inflict a rebuke upon the secretary of the State of Missouri, as well as deal justly with those interested in this case.

I will not now consume any more of the time of this House, but will leave this subject to be discussed by others.

Mr. BENJAMIN. Mr. Speaker, on a former occasion I discussed this question at length, and whatever I may have to say upon the subject at this time will be to a considerable extent a reiteration and a repetition of the arguments which I submitted to this House on that occasion.

I will admit the intensity of my own feelings when I consider this subject. But at the same time I claim that I share the feelings of every loyal man and every loyal woman in the State of Missouri. So as this is a life or death struggle, the simple question is whether the loyal men of Missouri shall govern that State; that is the question. Disguise it as we may, look at it in whatever light we will, examine and apply the law as we may, we come back to this point at last: shall the loyal people of the State of Missouri from henceforth occupy the position that the loyal people of the State of Kentucky and the loyal people of the State of Maryland occupy, or shall those who saved the State in the hour of its trial be permitted to govern it from this time on?

We have, sir, by our laws—and this was brought about after a desperate struggle—succeeded in maintaining the ascendancy of the loyal people in our State. The House of Representatives of the Congress of the United States is to-day called upon to pass on the question, may we be permitted to do this in the future and in our own way? We knew there that when this contest should end in the field there would be another contest at the polls. We knew very well that these men returning from fighting in the rebel ranks would be able to vote us down, reënforced as they would be by a certain party in the State of Missouri that claimed to be loyal during the war. Knowing this we went to work, and by a constitution adopted by the people of that State, provided that those who had been disloyal during the rebellion should not be permitted to hold office or to vote in the elections that were to follow. We flattered ourselves that we had made that exclusion effectual. We believe to-day we have done so. We provided by a registry law, which was required by the constitution we had adopted, that certain acts should be done and that certain persons should be excluded from the elective franchise. In order to make those provisions effectual we had to intrust power somewhere, and we intrusted it to a board of registration in each county. We made further provision that the lists of that registration should be certified by the president of the board to the secretary of State.

We knew another thing: that in these intensely disloyal counties—of which this county

of Callaway was one, being perhaps the most bitterly disloyal county in the State, the Union men being borne down there by a majority of more than ten to one—we knew that in such localities it would be almost impossible to execute the law in its letter and its spirit. It was openly proclaimed by the opposition, "You cannot enforce your registration laws here; we will not permit them to be enforced here under any circumstances." Prominent individuals, among them men fresh from the ranks of the rebel army, went about the country haranguing the people and urging them to rise up in their might and put down the registration law in these counties, on the ground that it was revolutionary, unconstitutional, and void, (using almost the exact language that was used in the New York platform in regard to your reconstruction laws,) and should not be enforced in their midst.

Mr. McCORMICK. Will my colleague permit me to ask him a question?

Mr. BENJAMIN. Yes, sir.

Mr. McCORMICK. Has not the Supreme Court of the United States declared that the test oath required by the constitution of the State of Missouri is in conflict with the Constitution of the United States?

Mr. BENJAMIN. The Supreme Court of the United States has said that preachers are not bound to take that oath. We are not trying preachers here to-day. The validity of this registration law has been passed upon in numerous instances by the courts, which have uniformly pronounced it constitutional in all its aspects and in all its bearings.

But, Mr. Speaker, the gentleman from Illinois [Mr. COOK] has remarked in his speech that there was no intimidation, no disturbance, no violence in the county of Callaway during the time this registration was going on. I will admit that such was the fact; that all the intimidation preceded the registration; that all the violence preceded the attempt to register the voters in that county. The confederate soldiers there met and laid down their platform. A prominent ex-member of Congress proclaimed to the people there that they should make to the registering officers the demand, "My rights or your blood!" Leading papers of the State called upon the people to "rally in their own defense to shake off the shackles that bound them." This was all done prior to the attempt to register.

The loyal men there, as I have stated, were outnumbered ten to one; and when the day of registration came every individual who presented himself and asked to be registered was permitted to be registered without question. The superintendent of registration certifies under his own hand to that fact. Three of the registering officers of the county certify to the same fact. In consequence of this state of things, there were registered in that county as voters in 1866, not sixteen hundred persons, as stated by my colleague, [Mr. STOVER,] but about twenty-one hundred. In 1868, the year just passed, we had a new registration, and the Governor of the State provided for carrying out the registration laws in that county even if the whole military force of the State were necessary to do it. The county was registered anew. I do not recollect the exact number, but about 500 votes were polled. Apply the registration of 1868 to 1866 and it elects the sitting member. A question was asked by the gentleman from Michigan [Mr. UPSON] of his colleague on the committee whether, if we reject the seven hundred odd names on the list as disqualified under the law the contestant would not still be elected; and the response was that such is the fact. That is true. But those remarks are only placed opposite the names of those who were known to be disloyal, those of whom we had record evidence, and no attempt was made to inquire into the loyalty of the balance. But more than one third of all were notoriously disloyal, had placed themselves on the record as disloyal, and were excluded by the constitution and laws of Missouri.

Mr. Speaker, there is a point that was raised by the question of the gentleman from Michigan [Mr. UPSON] that, it seems to me, should settle this matter with the House. At this same election and under the same registration there was elected a member of the Legislature of the State of Missouri. He claimed his seat by virtue of this registration and election. The lower branch of the Legislature considered the case and by a large vote declared that the secretary of State had the authority under the constitution and laws of the State to reject the vote of Callaway or any other county for disloyalty, and refused a seat to the person claiming it. The question came up at a subsequent period before the same Legislature and they adjudicated it again. Arguments were made upon it, the case was investigated in all its bearings, and the Legislature again declared that the authority rested in the secretary of State to reject the vote.

The whole question in this case turns upon the right of the secretary of State to reject that county if it appeared to him that the law had not been carried out there. The gentleman who makes this report takes the ground that there is no such authority in the secretary of State. The rejection of the vote in Callaway county in the case of the person claiming to be elected to the Legislature, of which I have spoken, was the very vote that we are passing upon here to-day, and we are called upon, in connection with this, to say whether the Legislature of Missouri, after full investigation, was right in rejecting the member claiming to be elected.

Mr. WARD. I would inquire if the returns of this county were rejected by the secretary of State?

Mr. BENJAMIN. They were rejected by the secretary of State in this case precisely as they were in the case of the member of the Legislature, and upon the same testimony. The secretary of State gave his certificate to the sitting member, certifying that after the rejection of Callaway county the sitting member had a majority of the votes given in the district. It requires a vote of over five hundred to be cast in that county in order to elect the contestant. The same vote that was cast in the county at this election, as I said before, if it had been cast for him then would not have elected him, but would have given the seat to the sitting member.

Now, as to the right of the secretary of State to reject the votes. The Legislature of the State passed a registry law. Registration was about to commence under it. The opposition found means, as I said before, to override the law in the disloyal counties. The Legislature seeing the state of things went to work and passed a supplemental law which required the superintendent of registration to certify the result of their labors to the secretary of State. That law was enacted in order that the power might be in the hands of the secretary of State to pass upon the question whether there was a registration in accordance with law.

Mr. COOK. Will the gentleman give the date of that law?

Mr. BENJAMIN. It was approved March 12, 1866, and will be found on page 910 of the Statutes of the State. That law requires the superintendent to report to the secretary of State the result of the registration, and to append a certificate to the returns, making the certificate evidence of the facts therein stated. Upon that certificate is stated the fact that there was no legal registration in that county; that such a state of things existed as precluded the possibility of carrying out the law.

A MEMBER. How about the other registration officers?

Mr. BENJAMIN. The gentleman wants to know what about the other registration officers. I believe there were some eight or nine of those officers. Three of them certify to these facts; the rest of them make no certificate whatever in connection with the registration beyond what they make to the superintendent. All the registering officers who certify at all

in connection with these returns certify that they were illegal, and that there was no registration at all in consequence of the peculiar state of things which existed there.

Now, Mr. Speaker, these are matters of importance that I felt called upon to present to the consideration of the House. First, it is utterly impossible for us to carry out our registry laws unless we concede this authority to the secretary of State; and in the next place, it has been adjudicated in Missouri and found against the contestant. This, it seems to me, should be sufficient for the action of the House. There are other points which I might present; but there are other gentlemen who wish to speak on this subject, and I will first yield to the gentleman from South Carolina, [Mr. WHITTEMORE.]

Mr. PAINE. I would like to inquire of the gentleman who has this case in charge whether we are to have a vote on it to-night?

Mr. KERR. In the absence of the gentleman from Illinois, [Mr. COOK,] who has charge of this report, I will answer the question. Before the gentleman from Illinois retired from the room he said to me that it was his intention to call for the previous question as soon as the hour of the gentleman now holding the floor had expired and I had submitted a few remarks, and to have a vote this evening.

Mr. WHITTEMORE. Mr. Speaker, so elaborately and fully have the facts and evidence been presented in this case by the honorable gentleman from Missouri [Mr. STOVER] that I shall in the short time allotted me confine my remarks to the general influences encountered during the late elections in the South. While the eloquence of the hopeful and brilliant minds that shape the expectations of the masses is being exhausted in arguments upon "what has been accomplished by the election of General Grant," and these Halls resound with the prudent, yet earnest, admonitions of veteran legislators, who speak for the people, as the oracles of their demands, and stand as sentinels at the gates of public safety, cautioning useless and extravagant outlays; while claimants of every character are pressing their importunate measures of relief, and the combined army of petitioners is moving toward the Capitol to secure aid in behalf of their "benevolent and universally-desired" projects, which they tell us are to develop the boundless resources of the gigantic Republic and add to the wealth of its people, the extent of its revenues, and consequently liquidate the national debt more easily and speedily; while our desks are covered and the lobbies are filled with appeals to our sympathies and judgments, that we may be enlisted among the advocates of bills and resolutions that shall dig canals, build bridges, construct railroads, increase and decrease the tariff, grant subsidies, and every other special favor that human ingenuity and necessity can devise, there are matters, Mr. Speaker, that demand the consideration of every one, without reference to party distinctions, who claim to have been exercised by or who now anxiously look for the coming event which has been promised—the era of peace.

There are claims which must be heard; the plea of "the burdens that oppress us" cannot and must not close the ears of Congress to the condition which the loyal men of our country, especially in the States so recently reclaimed from the results of secession and rebellion, have been and are now experiencing. It is one thing to pass reconstruction laws; to declare the governmental policies as to how the late rebel States shall be restored to their "practical relations in the Union;" by what means they shall come back to the fellowship of States and lift their voice in the councils of the nation; but it is another thing to carry out these laws, these policies, and make the legislation of Congress, its enactments, practical and enduring. It is unnecessary for me to repeat the many propositions or conditions which, from the close of the war of the rebellion, were tendered to the southern States and rejected by their Legislatures and condemned

by the paroled yet belligerent subjects of the nation's clemency; for already is the fact acknowledged by the final declarations of both Houses of Congress, the conformity to which alone has enabled the Representatives of the largest number of such States to present their credentials for and obtain their seats in the present Congress of the United States.

It has been no flowery path through which they have come; they have not been brought in the arms of such as have, according to the hackneyed phrase, "accepted the logic of events;" they have not filled the vacant chairs from which arrogant traitors hastened to their work of ruin, by the express wish of confederates converted, nor have they come to impose upon the nation the assurance that the reign of peace is triumphant among their constituencies.

So much has been said on this subject that the recital of what it has cost thus far to bring order out of confusion is received with a measure of doubt and caution by those who are willing to admit that much has been accomplished—more, perhaps, than might have been expected. It has become, however, too much the case that the honest reconstructionist of the North, who, if he differs with his neighbor in matters ever so radical in nature or opposite in character, and does so without fear of molestation or peril, thinks that the same condition of things exists throughout the whole land, or rather does not know that they do not exist. And when the faithful advocate of allegiance to the organic law of the land, the uncompromising friend of the Union, the defender of its honor, the loyal, true, and devoted patriot in the South, who has braved the contests which have been so fiercely waged, so severely won to restore the unity and perpetuity of the States, tells the perils he has encountered, reads the horrors of the inquisition that has been established among those who were to decide as to who they would have to "rule over them;" whether they would bring back "the wayward sisters" to the paternal household or leave them without in the wilderness of discontent and disorder, the wastes of confusion and alarm, it has been too often presumed that the mind of the narrator has become by virtue of his surroundings too easily impressed with imaginary fears, wrongs, and terrors, or that he is seeking to make for himself a notoriety, to establish himself a hero as yet unchronicled or unrecognized.

It is not too much for me to say that any one, however small the position he may have occupied, or humble he may have been in the efforts which have been put forth to reconstruct either of the "so-called confederate States," has a history to relate which would astonish the incredulous and astound the ready to believe. I know whereof I speak, that a price has been set upon the head of every prominent man who has dared to become the leader of the new order of things among the old adherents of the past régimes of the South; that a mark has been set against his name on the list of the doomed, and he was to be dragged to the slaughter in case the plans of the conspirators, who are not yet idle or sleeping, prevailed; and that mark has not yet been removed.

I am aware, indeed I know, that extermination of all who dared to espouse the cause of the Union was the purpose, the sworn intent, of the secret organized powers that held "their carnivals over the hopes that the lost cause might yet be regained." Intimidations of the most open and flagrant character have been practiced; men who desired to do their duty, to act in accordance with what they believed to be incumbent upon them, have been assured, if they dared to exercise the privileges that had been legislated them in any manner other than that which would satisfy such as were still plotting against reconstruction, they would do so at the peril of their lives and the loss of their opportunities to live.

Threatening has been the order in high and low places, and did any manifest the courage to encounter the probabilities before them the whole dialect of abuse and threats has been

exhausted to prevent their performance of a resolution so hazardous. The reign of terror, of fearful insecurity, has been encountered, and only through the taking of their lives in their hands with a full determination to win "liberty or death" have the loyal men of the South made their way thus far in the settlement of the great problem intrusted to their solution.

Fraud unexampled, bribery unparalleled, violence unmerciful, and every species of corruption known, except where total depravity prevails, has been the actuating endeavor of the unrepentant and unreconciled traitor who still "lives and moves and has his being" in the counsels of those who pretend "they are ready to submit to the manifest sentiments of destiny," only that they may the more speedily clutch at the throat of our national existence.

During the last election, when the decision was to be made whether we would have peace or war; whether reconstruction should be a success or a failure; when the enunciations of men at the North and men at the South were so unmistakable that "the wayfaring man though a fool" could not mistake their interpretations; when the old leaders, whose bugle calls had aroused the spirits of sedition in the past, looked their comrades in the eye and bade them gather for "the last grand struggle," and reprobate patriots struck hands and united purposes to turn back the wheels of progress in the cause of the rehabilitation of the South; and reechoed the heresy of rebels; when the acts of this national Legislature, passed by the representatives of loyal States, to preserve the whole Union from the hands of the treason-workers and covenant-breakers, were declared "unconstitutional, illegal, and void," and plots already had been perfected and proclaimed to set aside the work already done, close the doors of the Legislative Assemblies that had been opened by the key of "equal rights" given by constitutional provisions to all men, through the power transmitted by the highest tribunal of the land; when hope had been inspired in the breasts of the mourners over the rolled-up parchments of secession and the flags of rebellion, and they believed that a rally around the ballot-box would give them what they had lost through the cartridge-box, then did the loyal men of the South discover the danger that encompassed them, and the peril that was before them more imminent than ever; then did they learn the fallacy of the confessions of those who have affirmed "that they recognize the fact that the hope of the present as well as the future of the South lies in the stability of the Government of the United States." Those who were really the organizers of the opposition to congressional policies did not believe such a doctrine, nor do they believe it now. It was a strong invention of the enemy, and well calculated to deceive those who are willing to believe the wolf a lamb that hides himself in the fleece of innocence. I counsel those who hear me to beware, and cautiously to legislate in the future. True, armed rebellion does not exist, but the fires of sedition burn upon the altars which have been set up in the hearts of those who still reverence the stars and the bars. They sit in the lurking places of the villages, and in secret places, as well as open, murder the Unionists. The blood of our colleague cries out from the ground, though his voice is hushed by the violent and the cruel men of Arkansas, who would consign to sudden death every member of Congress who sympathizes with the work of loyal reconstruction had they the opportunity. Universal amnesty has bid the head and front of the confederacy return, and by their works in the past we are to judge whether they will be inactive in the future.

During the last election, not only were men not allowed the free and undisturbed exercise of the franchise, but such as dared to maintain it were compelled to pass through an ordeal that would have tried the courage of many who claim that fear is not in their vocabulary. Many, too, were forced to cast their ballots for men and measures fatal to their

best interests and antagonistic to their convictions or suffer banishment from society, discharge from labor, the avenues of trade and profit, cruel injuries in property and person, if not assassination and death. Returns of this election have been made false and illegal, and persons have been elected who never could have been elected had a fair, open, and impartial election been held. And such persons have been aiders and abettors in all that pertained to a total disregard of the laws of registration, intimidation, violence, and corruption. Some of them will send their petitions here for the removal of all legal and political disabilities, attaching to them by virtue of their participation in the rebellion, on the ground of being elected to office, but will fail to describe the manner of securing such an election. Some of them will make their appearance at the next Congress with their credentials, claiming to have received the highest number of votes, but they will not be indorsed thereon "secured through bribery, corruption, violence, and murder." Some of them will endeavor to press their way through these doors to these seats with their certificates covered with the blood of loyal men who have laid down their lives to carry out the great and glorious work which has culminated in the restoration of the Union of the States. They stand not, Mr. Speaker, on the order of their coming so they secure what they ever thirst for—opportunity for evil.

Mr. WOODWARD. I rise to a point of order. I have listened attentively to this discourse, and have not heard one word in respect to the pending case. I make the point that it is not in order for the gentleman to discuss elections in South Carolina on the question now pending.

Mr. WHITTEMORE. I am speaking in general of the questions involved.

Mr. WOODWARD. I insist on my point of order.

The SPEAKER *pro tempore*, [Mr. SCOTFIELD in the chair.] The Chair overrules the point of order. So far as the Chair has given attention to the remarks of the gentleman from South Carolina they seem to be something about elections.

Mr. WOODWARD. They are in reference to elections in South Carolina, and not this election in Missouri.

The SPEAKER *pro tempore*. The Chair has not been giving particular attention to them.

Mr. WOODWARD. That is the difference between the Chair and myself.

Mr. WARD. Gentlemen have been insisting on representation from South Carolina, and I do not see why the gentleman should not be heard.

Mr. WHITTEMORE. In the State of South Carolina, especially in the third and fourth congressional districts of that State, loyal organizations have been broken up, loyal men hunted like beasts, by night and by day their houses fired into by lawless and merciless mobs; they themselves tortured and murdered, public speakers hounded, threatened and assassinated. The chairman of the Republican State Central Committee, one of the most devoted champions of human rights and eloquent advocates of peace and good will, a State senator and several members of the General Assembly brutally and maliciously murdered; mass meetings called for loyal purposes prevented, shamefully disturbed, and dispersed; armed mobs openly banded and secret clubs solemnly sworn to prevent the free exercise of the ballot; managers of elections prevented the performance of their functions of office; the local press oracles only of rebellious sentiment and malice, counseling resistance to the law and the legally constituted authorities, arousing the basest and most direful passions, advising the hanging of such as might dare to express an opinion contrary to the will of the prime movers in the second grand conspiracy to bring ruin to the already endangered Republic; nameless indignities and outrages perpetrated upon women and men; law and order completely subverted; armed men in possession of the public rights

and immunities; the ballot-box, the palladium of American liberty, prostituted and desecrated, and proscription, ostracism, and terror established, such as at least in our own country has never before been witnessed, and God grant may never be again.

This is no overdrawn picture upon the canvas of imagination; but it is what the loyal men of the State I am representing have passed through to bring South Carolina back to her proper place in the Union. It is what loyal men of every southern State have contended against, that they might secure for all time the glorious immunities of freemen, the rights of American citizens, and the title deed guaranteed to us in our Magna Charta—the inalienable "right to life, liberty, and the pursuit of happiness." My colleagues on this floor, my peers from the States that have had an experience similar to my own, and those who have never deserted the grand underlying principle of our national faith, equal political privileges, who have on their knees beneath the starry banner prayed that "not one star should be erased or one stripe effaced," know that I have "set down nought in malice," nothing false extenuated; that I have spoke right on the things which they themselves can testify. But that I may strengthen the statements so positively declared I add the communication of his Excellency R. K. Scott, the Governor of South Carolina, transmitted in his message to the General Assembly shortly after the election to which I have alluded, which bears upon the same matter—

Mr. WOODWARD. I insist that it is not in order on this question to refer to messages of the Governor of South Carolina.

The SPEAKER *pro tempore*. The Chair having listened to the remarks of the gentleman from South Carolina, is of the opinion that they ought to be confined to the pending question.

Mr. WHITTEMORE. I have only a few words more. I know they may painfully surprise some and hurt the feelings of some, but I am only declaring my personal experience, as well as the history of the country.

Mr. WOODWARD. At the instance of several gentlemen near me, and especially the gentleman from Georgia, I withdraw my point of order.

Mr. WHITTEMORE. I read from the message of Governor Scott, as follows:

"It is my painful duty to bring to your notice a condition of affairs in certain portions of the State which imperatively demands your gravest consideration. Violations of law, and outrages upon persons and property have been perpetrated by vicious and unprincipled men, with a recklessness and ferocity which, while they have brought affliction and anguish to the bosoms of bereaved families and friends, have cast a shadow upon the fair fame of the Commonwealth, mortifying and painful to all who are jealous of her reputation, and which will require of you the prompt adoption of the most efficient measures for its ample vindication.

"Hon. James Martin, a representative in the General Assembly from the county of Abbeville, was murdered on the 5th day of October last. He was on his way homeward from the court-house, and was pursued by a gang of ruffians, by whom he was assassinated in the public highway. Mr. Martin was an intelligent and patriotic citizen, singularly inoffensive in language and demeanor, and all the circumstances connected with this outrage mark it as a cold-blooded assassination.

"Hon. B. F. Randolph, a Senator from Orangeburg county, was assassinated at Hodges' Station, near Cokesbury, Abbeville county, on the 16th of October. Mr. Randolph was on his way to address a meeting of his fellow-citizens, and upon the stopping of the train while on the platform of the car, was assassinated by three ruffians, who had evidently been lying in wait for the purpose; and notwithstanding there were a number of persons present, including those connected with the train, the assassins were permitted to leisurely mount their horses and escape. Mr. Randolph was a man of enlarged views, of great force of character, and exercised an extensive influence upon public sentiment. Notwithstanding that he was studiously courteous and liberal in his intercourse with his fellow-men, the additional infamy, as in the case of Mr. Martin, was attempted by sheer fabrications and falsehood to blacken his character and defame his memory as a palliation, if not justification of his murder. Other instances of violence and outrages of the most revolting character, in portions of Edgefield, Abbeville, and Newberry counties have been reported to this department, but prominence has been given to the assassinations of Messrs. Martin and Randolph because of their official position. Large rewards have been offered for the apprehension of these murderers, some of whom

are known to be refugees and outlaws from adjoining States, who availed themselves of the political excitement as a cloak for their schemes of rapine and murder; but such is the condition of society in their immediate neighborhoods that neither the promised rewards nor the strenuous efforts of civil officers have accomplished their arrest.

"They are fully armed and mounted, and boast of the extent and power of their organization. And a somewhat prominent individual, who is himself under heavy bonds to answer the charge of complicity in the murder of the lamented Randolph, has had the hardihood to publish an address to the Executive, threatening still further outrages and additional victims. As a discouraging evidence of the deterioration of journalistic worth and morals, it may be mentioned that this covert threat of assassination has been published and republished without a word of censure or dissent. The turbulent condition of affairs in the localities alluded to cannot and must not be longer tolerated. The law must be made supreme. The most arrogant must be taught to obey its behests; the humblest assured of its protection."

"The difficulties" or enormous outrages in Georgia, which have not yet ceased, the violations of all the intents and purposes of the law by men who have been uppermost in the councils of opposition to a popular government, who are by virtue of their traitorous deeds ineligible to office, yet controlling the power of the State and the destinies of the people, convince us that peace is not yet a national blessing. The very men who despise the terms and conditions which qualify them to hold place or position are still the secret organizers of terror and the approvers of its devilish results. In Tennessee, Missouri, Alabama, Mississippi, Arkansas, Louisiana, Texas, portions of North Carolina, wherever the voice of secession and the band of treason has been raised, there the reign of rapine and murder, the barbarisms of bloody clans have been inaugurated. Registration laws, constitutional provisions, legislative enactments have been disregarded, trampled under foot; the courts have become the refuge and the judges justifiers of prowling assassins who imbrue their hands in the blood of the lover of his country, in the wholesale slaughter of such as have been taught and baptized in the faith of our fathers and claim the protectorate of the national might.

The following is the report of Brevet Major General Reynolds, commanding the fifth military district, embracing the State of Texas:

HEADQUARTERS MILITARY DISTRICT,
STATE OF TEXAS, AUSTIN, November 4, 1868.

GENERAL: I have the honor to forward herewith annual tabular statement of expeditions, scouts, and report of movements of the various regiments serving in this district for the year ending September 30, 1868.

Armed organizations, generally known as "Ku-klux Klan," exist independently, or in concert with other bands, in many parts of Texas, but are most numerous, bold, and aggressive east of the Trinity river.

The precise objects of these organizations cannot be readily explained, but seem in this State to be to disarm, rob, and, in many cases, murder Union men and negroes, and as occasion may offer, murder United States officers and soldiers; also, to intimidate every one who knows anything of the organization, but who will not join it.

The civil law east of the Trinity river is almost a dead letter. In some counties the civil officers are all, or a portion of them, members of the Klan. In other counties, where the civil officers will not join the Klan, or some other armed band, they have been compelled to leave their counties; examples are Van-Zandt, Smith, and Marion counties; the county seat of the latter is Jefferson.

In many counties where the county officers have not been driven off their influence is scarcely felt. What political end, if any, is aimed at by these bands I cannot positively say; but they attend in large bodies the political meetings (barbecues) which have been and are being held in various parts of the State under the auspices of the Democratic clubs of the different counties.

The speakers encourage the attendance; and in several counties men have been indicated by name from the speakers' stand as those selected for murder. The men thus pointed out have no course left them but to leave their homes or be murdered on the first convenient opportunity.

The murder of negroes is so common as to render it impossible to keep an accurate account of them.

Many of the members of these bands of outlaws are transient persons in the State, the absence of railroads and telegraphs, and the great length of time required to communicate between remote points, facilitating their devilish purposes. These organizations are evidently countenanced, or, at least, not discouraged, by a majority of white people in the counties where the bands are most numerous. They could not otherwise exist.

I have given this matter close attention, and am satisfied that a remedy, to be effective, must be gradually applied, and combined with the firm support of the Army, until these outlaws are punished or dis-

persed. They cannot be punished by the civil courts until some examples of military commissions show that men can be punished in Texas for murder and kindred crimes. Perpetrators of such crimes have not heretofore, except in very rare instances, been punished in the State at all.

Free speech and free press, as the terms are generally understood in other States, have never existed in Texas. In fact the citizens of other States cannot appreciate the state of affairs in Texas without actually experiencing it.

The official reports of lawlessness and crime, so far from being exaggerated, do not tell the whole truth. Jefferson is the center from which most of the trade, travel, and lawlessness of Eastern Texas radiates, and at this point or its vicinity there should be stationed about a regiment of troops. The recent murder at Jefferson of Hon. G. W. Smith, a delegate to the constitutional convention, has made it necessary to order more troops to that point. This movement weakens the frontier posts to such an extent as to impair their efficiency for protection against the Indians; but the bold, wholesale murdering in the interior of the State seems at present to prevent a more urgent demand for troops than Indian depredations.

The frontier posts should, however, be reinforced if possible, as it is not improbable that the Indians from the north-west, after having suffered defeat there, will make heavy incursions into Texas.

To restore measurable peace and quiet to Texas will require, for a long time, that troops be stationed at many county seats, until by their presence and aid, if necessary, the civil law can be placed in the hands of reliable officers, and executed. This will be the work of years, and will be fully accomplished only by an increase of population.

I am, General, very respectfully, your obedient servant,

J. J. REYNOLDS,
Brevet Major General
United States Army, commanding.

ADJUTANT GENERAL U. S. A., Washington, D. C.

I quote again from the message:

"An armed organization, styling themselves the Ku-klux Klan, uniformed and masked, by their secret meetings and midnight atrocities upon peaceable and unoffending citizens and obstructing the laws, have inaugurated a reign of terror in many neighborhoods. Imitations of the secret societies of Europe during the Middle Ages, they are without their excuse of justification. In those days their power and their vengeance were directed against the turbulent nobles and barons who defied the laws and oppressed the people. Their object was the attainment of justice, not the acquisition of political power. Their victims were not the law-abiding and the lowly, but the bold bad men who trampled on right and outraged humanity. Their symbols were the dagger and the cord, fit emblems of their terrible authority and their mode of exercising it. But even in those days of rapine and murder the responsibility of this dangerous power was deemed so questionable and hazardous as to lead to its suppression."

From Louisiana comes a voice proclaiming the reign of terror triumphant through her boundaries. Governor Warmouth, in his letter to Senator KELLOGG says:

"I assert that the late election did not elicit the honest will of the people, and that the result was attained by the most shameless resort to murder, assassination, tumult, and intimidation, not to speak of proscription, that was ever known in this country, and that to allow it to go on as the expressed will of the people would be an outrage upon republican institutions and ruinous to good government for years to come."

Georgia, Alabama, Mississippi, Tennessee all tell the same eventful history. Nor with the election, Mr. Speaker, have these scenes of disorder and violence ceased. Although the great questions which to the over sanguine in their review of the moral, political, constitutional, and financial phases of our national character seem to have been settled, yet loyalty is not protected; the patriot southern man is not surrounded by that security which the nation owes to her citizens everywhere. But the time is not far off when we confidently look for that promise which I believe, Mr. Speaker, none more eloquently than yourself have assured to those who prove faithful to their country, "that loyalty shall be protected wherever found." All hail the coming day!

As an evidence of the turbulence of disloyal men, who continue their work of terror and hindrance to the law, I will read still another communication from the Governor of my State to the General Assembly:

STATE OF SOUTH CAROLINA,
EXECUTIVE DEPARTMENT,
COLUMBIA, S. C., December 14, 1868.

SIR: I have the honor to transmit to the house of representatives the inclosed communication from the deputy constable of Lancaster county, in relation to acts of lawlessness and violence in that vicinity, and the supineness and indifference of the executive officers of the county to the perpetration of outrages whereby the lives and property of peaceful and law-abiding citizens are placed at the mercy of the tur-

bulent and disaffected. I also inclose a letter from Dr. A. F. G. Mittag, the auditor of the county, on the same subject. Dr. Mittag is one of our most respectable and intelligent citizens, and his statements may be implicitly relied on. It is absolutely necessary that a stop should be put to these disgraceful outrages, and the turbulent and disaffected made to feel the force of laws which they are daily in the habit of violating, and to this end all the constitutional powers of the government should be promptly brought into requisition.

Very respectfully,
ROBERT K. SCOTT,
Governor.

The HONORABLE SPEAKER
of the House of Representatives.

Before the next Congress will appear men from "the unsettled portions" of my State asking admittance, who when they were nominated by the enemies of reconstruction acknowledged they could never be elected if the colored men of the districts to which they belonged "had the courage and audacity to vote, and that they would take good care that they did not vote." The result of the election shows how well they carried out their threatenings. I would, Mr. Speaker, ask for a committee of investigation to visit my State and report upon the outrages which have been committed, the corruption practiced, in order that the next House may be prepared to answer the demand of such as may come here claiming a right to a seat in the Forty-First Congress. I believe I should be justified in doing it, for the sacredness of the franchise there and elsewhere has been violated and the guardians of the public weal should learn how far those who come the accredited Representatives of loyal men are entitled to acceptance or rejection. But, Mr. Speaker, the frequent admonitions of my friend, the honorable gentleman from Illinois, [Mr. WASHBURN], have caused me to fear the success of such request.

All I ask, Mr. Speaker, is that loyal men may feel and know that they are to be fortified on every side by the strong arm and defenses of the nation; that they are to have not only the solemn assurances of protection, but that they may see, through the future legislation which may transpire in these Halls, that treason has been made odious, that traitors have been declared criminals, and that the severest penalties of the law will be visited upon those who persecute men because of their fidelity to their country, their unswerving integrity, and love of the right.

Mr. KERR. I will yield for two or three minutes to the gentleman from Georgia.

Mr. TIFF. Mr. Speaker, I desire to say now in reference to the statements made in the speech we have just heard that so far as my own State of Georgia is concerned they are untrue, and that in a few days I shall be prepared with testimony disproving the whole charge.

Mr. KERR. Mr. Speaker, it is not my purpose to detain the House very long with any remarks in this case; but I think that it is my duty to make a few. From the very origin of this case to this hour it has presented to the House and to the country features which are extraordinary. This case commenced before the constitutional life of this present Congress began. It has been pending before this Congress during its constitutional life, now within only a few days of its expiration, and yet this case remains undecided. I think gentlemen will consult the records of Congress in vain to find any parallel to this case in its treatment by this House.

Nearly one year ago, sir, the honorable gentleman from Vermont [Mr. POLAND] made a report in this case in favor of the contestant, which expressed the unanimous judgment of the Committee of Elections except one member. That report was clearly and strongly, on all points of law and fact, with the contestant. Action upon that report, at the instance of gentlemen who are colleagues of the sitting member in this case, for certain alleged reasons was indefinitely postponed. I fear the true reason was that the colleagues of the gentleman from the State of Missouri, expecting an adverse decision, did not want it to go to Missouri until certain cherished party purposes had

been attained in that State at the last election. It was therefore found necessary on the part of some of those gentlemen upon the floor of the House to assert a year ago that the contestant was not a loyal man, and by reason of disloyalty was not entitled to his seat in this House, and upon that allegation to ask this House to extend the time in which evidence might be taken by the respective parties on this new allegation. By the over-indulgence, in my judgment, if not the unjust willingness, of this House to lend its powers to the promotion of partisan schemes, that extension was granted in order that they might establish this new allegation against the contestant.

What did they do, Mr. Speaker? They went back to the State of Missouri, folded their arms in indifference as to this particular charge of disloyalty and as to the whole case, and proceeded to engage in the then pending canvass in that State, and gave their whole time and attention to that canvass and to the attainment of the purposes intended to be secured by the delay.

Mr. BENJAMIN ROSE.

Mr. KERR. In a moment. While that course is being pursued by them contrary to the rules of legal evidence, contrary to the requirements of common sense, and, I might add, to common justice, the contestant was compelled to go to the State of Missouri to incur additional expense and additional labor and trouble in taking testimony on his own account to establish a negative, to show that he was not a disloyal man, and to remove from this record the slightest color of a pretext for his continued exclusion from a seat in this House.

Mr. BENJAMIN. I wish to inquire of the gentleman from Indiana whether he is not aware of the fact that this House, by a most emphatic vote, instructed the Committee of Elections to make that inquiry; and whether he is not aware of the fact that the Committee of Elections have not summoned a witness to testify in the case, although a long list of witnesses was furnished to them?

Mr. KERR. I cannot yield for a speech.

Mr. BENJAMIN. Is not the gentleman aware of that fact?

Mr. KERR. I will answer the gentleman. I am glad that he has invited my attention to that question. I say to him that I do not know any such thing, and that no such thing is the fact in this case. I say further, Mr. Speaker, that it is a thing without a precedent in this country that a committee of elections shall be required in a contest between two claimants for a seat to go into the State from which the respective parties come. It is a most astonishing proposition that the Committee of Elections of the House of Representatives is to be made a perambulating, roving committee, a sort of committee of political scavengers, to run all over this country upon the request or nod of any member of this House, whether he be a party to the contest or not.

Mr. BENJAMIN. I ask the gentleman to let the resolution be read.

Mr. KERR. I do not yield. I ask the gentlemen of this House, I ask the members of this committee, I ask experienced and venerable parliamentarians whether this would not be a most extraordinary proceeding? Here is a contested election in which one party is the sitting member, who claims that he is entitled to retain his possession of that seat, and in which another party is the contestant, and alleges that the seat ought to be given to him. Now, a third party, not a party to this record at all, comes before this House, and on his own motion, in behalf of nobody, asks this House to send the Committee of Elections out of its proper place in this House, out of its proper place in the capital, to traverse the State of Missouri, or to go anywhere else where he should indicate that it might find evidence upon which to sustain some allegation he has thought it proper to make. Ah! Mr. Speaker, the misfortune in this case on the part of the gentleman from Missouri, and I fear on the part of the whole Republican delegation of

that State, is that they have suffered themselves to become so much personally interested in the result of this contest as to have sacrificed their disinterestedness, as to have sacrificed their freedom from bias, from prejudice, and from the control of passion and those fanatical feelings which lead to complete judicial blindness. The gentleman who has just propounded a question to me in his own remarks to-day said that he must confess to the House the intensity of his feelings in this case.

The gentleman from Missouri [Mr. BENJAMIN] asserts that the House directed the Committee of Elections to investigate his charge of disloyalty against the contestant. Such an order, or rather an order that seems to bear such a construction, was made by the House about a year ago. But the gentleman must know that a few days afterward, and to remove all ambiguity from the first order, the House adopted the following resolution:

"On motion of Mr. DAWES, from the Committee of Elections,

Resolved, That in the matter of charges of disloyalty made by Hon. J. F. BENJAMIN against the contestant for a seat in this House from the ninth district of Missouri, and of the contestant against the sitting member, the testimony be taken in the manner prescribed in the act regulating contested elections, the notice in each case to be served respectively on the respondent and the person making the charge, and the testimony to be filed with the Clerk of the House within ninety days from the passage of this resolution."

The gentleman is welcome to all the truth there is in his assertion concerning the order of the House.

Mr. Speaker, it is pertinent here to inquire why the gentleman referred to and all his Republican colleagues and the sitting member have failed to take one line or word of testimony to sustain or even justify his charge—in my judgment, most gratuitous charge—of disloyalty against Colonel Switzler. Is it unfair, is it unjust toward anybody to conclude that the charge having accomplished the desired postponement of the decision by the House it was at once abandoned, and the humiliating admission thus made that it never rested upon any truth? If it was true it was material, in the judgment of the majority of this House, to the right decision of this case; and if true it could have been established by proof. It was not, and no attempt was made to prove it. The House was thus trifled with, and its indulgence and power were abused, and that, too, to advance personal, partisan, and selfish aims. Such conduct demands the most signal rebuke both of this House and the country. But, Mr. Speaker, it was not true, and so the Committee of Elections have twice solemnly declared to the House.

Major General H. W. Halleck, the first commandant of the department of the Missouri, and whose administration of that department embraced the important years of 1861-62, bears this unequivocal testimony to Mr. Switzler's loyalty, under date of San Francisco, California, October 5, 1868:

"In regard to your conduct in Missouri in 1861-62, while I was in command of that department, it gives me pleasure to say that you were regarded as a reliable, outspoken, and uncompromising Union man. You gave valuable information in regard to the operations of the rebels in central Missouri, and assisted greatly in the success of the Union cause."

Major General Rosecrans, who was also a commander of the department of the Missouri, says:

"WASHINGTON CITY, D. C., August 14, 1868.

"I can assure any one who will take my word for it that while in command of the department of the Missouri I had occasion to inquire into your antecedents, and to know you personally and officially, and that you were in my estimation an undoubtedly loyal man."

Brigadier General Clinton B. Fisk, of Missouri, a well known Union officer and a member of the Republican party, bears the same testimony. Here is the correspondence, on file with the Committee of Elections:

MISSOURI STATESMAN OFFICE,
COLUMBIA, MISSOURI, September 8, 1868.

DEAR SIR: You knew me well during the war, and I am sure, notwithstanding our present political differences, will do me the justice to say that I was an active, uncompromising Union man. You will much

oblige me by stating in reply to this your convictions on this point.

Very truly,

W. F. SWITZLER.

St. Louis, September 17, 1868.

DEAR SIR: I never doubted your loyalty for a moment.

CLINTON B. FISK.

To the same effect, full, clear, and overwhelming, testify Generals Lewis Merrill, Joseph B. Douglass, Colonel William F. Shaffer, and some thirty or forty other Union officers, soldiers, and citizens. Few if any members of Congress, either Republican or Democratic, could produce a fuller, clearer, or more unequivocal Union record than Mr. Switzler has filed with the committee.

It is a remarkable fact in connection with this case also, Mr. Speaker, not only as to the conduct of the gentleman to whom I have last referred, but also to the conduct of the gentleman from Missouri, who is one of my colleagues on the Committee of Elections, that they have not been content in their argument here to talk about this case and the evidence and the law in this case as they appear upon the record made by the parties, but they have thought it to be their duty, it may be at the expense of delicacy on their part, to go outside of that record and to constitute themselves witnesses—yes, sir, witnesses—and to testify to numerous and important facts which are not on the record of this case at all. We are told by these gentlemen that this is not a question of law; that it is not a question to be determined by this House on the facts in this record. We are told that this is not a question to be determined by the House, sitting under the solemn obligations of our oaths, but it is a question of loyalty—a question whether loyal men shall govern the State of Missouri.

Mr. Speaker, I have been in the habit of supposing that the question which arises in all contested elections is, whether this House, sitting as a court, will be governed by the law and evidence, or whether it will be governed by passion and prejudice and appeals to party animosity and party hatred? I say, therefore, that we should divest ourselves of all these feelings and approach the consideration of this case as a question of law. We sit here, sir, as jurors. We ought not to come to the consideration of this case, as my friend from Missouri has done, as attorneys for either of the parties. We ought not to come here as friends of either party, having a personal interest in the case. We ought rather to come here as disinterested men, acting solely upon the evidence in the case and the law that should control its application and value.

My friend from Missouri, [Mr. STOVER,] my colleague on the committee, who has addressed the House to-day, has taken it to be a part of his duty—for I take it he would not do a thing that he did not believe to be in the line of his duty—to go so far in his argument as broadly to insinuate that the majority of the committee, through their organ, the gentleman from Vermont, [Mr. POLAND,] who made the first report in this case, have attempted to manufacture evidence, have attempted to distort and confound and confuse the evidence, it may be, for the purpose of misleading the House. Now, I do not know whether my friend and colleague intended to make that imputation and to stand by it, or whether I misunderstood him. If he does make it, and it is his pleasure thus to come before the House—himself the youngest member in service on that committee, and the only member of that committee who hails from the State of Missouri, and who, therefore, can be supposed personally to participate in and enter into these feelings of local and personal animosity which seem to control some gentlemen—if he chooses to occupy that attitude before the House, then all I have to say is that he is welcome to assume it, and I, for myself, esteem it unworthy of further notice.

Mr. STOVER. Mr. Speaker—

Mr. KERR. I will yield to the gentleman either for a question or for explanation.

Mr. STOVER. I desire to say that in that

portion of my remarks to which the gentleman refers I meant no discourtesy to the committee; and further, that if I am the youngest member of this House and the youngest member of the committee, I claim the right equally with the oldest member to give an honest expression to my views.

Mr. KELLY. The gentleman's claim, after his explanation, is certainly very proper, and I would be the last gentleman here or anywhere else to question the clear right of the gentleman to exercise his privilege as a member both of the committee and of the House; but let us see what it is that the honorable gentleman from Missouri has been struggling to accomplish in this case. He says it was only to express his honest opinion, and of course it was, because he is an honorable man; but he devoted a large part of his speech to an attempt to show, out of the mouth of one of the witnesses who is in this record, named Snedcor, himself a Republican, that his testimony is not worthy of credit, because he had sworn in one breath that all of the persons who had been registered at his poll had taken the oath required by the laws of Missouri, and in the next breath that only twenty-five of the persons who were so registered had taken that oath. My honorable friend, of course, only intended to express an honest opinion and not to pervert the testimony of the witnesses in this case. But let us see what the witness really said:

"There was no person registered who did not take the oath."

That is clear.

"There were about twenty-five, not exceeding twenty-five, of the first who registered that I explained to them the oath, and asked them if they took the oath, and upon being answered that they did, I then had them to subscribe their names."

That is, twenty-five of the first who appeared and demanded registration. Now, what follows?

"All of the rest of them I had to hold up their right hands while I read the oath to them, after which they subscribed to it."

That is all his testimony on that point. Now, does it appear out of the lips of this witness that any of these persons so registered did not take the oath required by the laws of Missouri? Why, most manifestly it does not; most manifestly it appears that every one of them took that oath, every one of them subscribed that oath, every one of them exactly and literally complied with the laws of that State. There was, therefore, no omission of duty on the part of Snedcor; there was no departure from law; there was no false swearing in his testimony; there was no inconsistency even in anything he said. Yet my honorable friend only intended by the lengthy criticism he made upon that testimony to express an honest opinion as to its just weight and value in this case!

Mr. Speaker, this case has been very fully stated in all its bearings to the House by the two gentlemen of the committee who have submitted reports on the subject. I must assume that every gentleman on this floor has done the justice to this case, and the justice to his own conscience, to read both of these reports, and if they have not satisfied his judgment, then I trust that he has turned to and read the report of the evidence in the case upon which the reports are based. If they have done that, if they have given that sort of consideration to the case, and have suffered their judgments to be controlled alone by the evidence and by the law, then I do submit in profound confidence that between me and any other gentleman on this floor there can be very little difference of opinion as to what the judgment of this House ought to be. There is a great deal of matter in this record, as in all such cases, that has no legal value as evidence. This is sufficiently exposed in the able report of the gentleman from Vermont, [Mr. POLAND,] and I will waste no time in its reexamination. The conduct of some of the officers in connection with this case merits most earnest condemnation, and is consistent only with most corrupt partisan purposes on their part. The disqualifying laws

of Missouri are in themselves a disgrace to the people of that State and to the civilization of our age. But it seems to have been the wicked determination of those officers to add intensified severity and cruelty in their execution.

The majority given for the contestant, upon a fair count of the votes, is 1,122. There was no evidence produced by the sitting member to overcome the facts which have been placed upon the record by the contestant. There has been no attempt on the part of the sitting member, as my colleague from Illinois [Mr. COOK] has most truly said, by evidence, by testimony, by legal means, by any of the agencies which the law places at his command, to show this House that that majority of 1,122 can be overcome by anything in fact or in law which should govern the report and judgment of the House. We decided, in the case of *Birch vs. VAN HORN*, from Missouri, with entire unanimity, without a dissenting voice, that where these outside irregularities are alleged to have existed, but are not placed upon the record in the form of legal testimony or legal evidence, they cannot be considered by the House as in the record at all; that it is no part of the duty of the House to travel outside of the record and take general statements, newspaper articles, rumors, vague suspicions, mere expressions of opinion on the part of earnest partisans, as any evidence at all. We decided that it is the duty of the parties to the contest, whose interest is also presumed to be so great as to lead them to do so, to present to the House, to the court, to the jury, all the facts upon which they desire that the case shall be decided. In that case Judge Birch, who was my political friend, who was the Democratic candidate in that district, failed to perform his duty in that particular. And I, therefore, as one of the members of the Committee of Elections, divesting myself of all prejudices, of all partisan feelings and predilections, determined and decided in my own judgment that he was clearly not entitled to unseat Mr. VAN HORN. Why? Not at all because, in my judgment, he had not in fact received a majority of the legal votes cast in that district; but because he had failed, by the record he had made here, to place that fact properly upon the record, and to bring it, in the mode prescribed by law, to the observation first of the Committee of Elections, and afterwards of the House itself. We decided, therefore, that he was not entitled to the seat.

Here is a case which upon all grounds is absolutely analogous to that one; it is almost precisely the same kind of a case. In the case under consideration it is alleged that large numbers of persons voted in Callaway county who were not authorized to vote, either by reason of their disloyalty or from the lack of some other qualification required by law. But there is no such proof. Why not? All such facts can be proven, if true. There is no testimony in this record that can satisfy any just and fair-minded judge that enough of those who voted in the county of Callaway for the contestant in this case were disqualified to affect in any material degree the result in this case or to change the right of the parties. Yet it was the sitting member's imperative duty to make the proof; he did not do it. He preferred to rely upon appeals to passion and partisanship. He preferred to find safety in the strength of his party in this House.

I have no hesitation in saying—and in this I agree with my friend from Missouri [Mr. STOVER]—that to the State of Missouri alone belongs the clear constitutional right to prescribe and fix the qualifications for suffrage within its limits. But that in no degree affects the rule of law which requires the party who undertakes to maintain an alleged state of facts to put upon the record in a legal form the testimony or evidence which is necessary to sustain his allegations.

It is alleged, and that, too, by my friend from Missouri, who is not upon the Committee of Elections, [Mr. BENJAMIN]—and it is a fact also that is outside of the record in this case—that in 1868 there was a registration made in this same county of Callaway, and that under

that registration there was a very large reduction in the aggregate list of voters in the county, as shown by the registration of 1866. Now, sir, that is no doubt true, although it is not in this record; but for the purpose of this argument I will concede that it is so. But that concession in no way changes my conclusion in the case, nor do I think it can in any way change the conclusion of any gentleman; because if it be all true, still it does not follow that the contestant would not upon that registration have been elected. The very contrary follows, whether you consider the registration of 1868 in point of numbers or that of 1866, taking the proportion of either registration to which the vote of 1866 would entitle the contestant; in either event it fails to change the legal result in this case. But, Mr. Speaker, if a fact like this is to be dragged into this case, it then becomes the imperative duty of the House to inquire, and to give the contestant an opportunity to show, by what agencies such a result was produced in the registration of Callaway county in 1868. I have no doubt it is a fact, and susceptible of legal proof, that that result is due in great part to the interest of certain gentlemen in this contest and the determination thus to manufacture "make-weights" to affect its decision; and I have no doubt that the registration is in itself a monument of fraud, injustice, cruel disfranchisements, and outrage against the citizens and legal electors of that county. I am most credibly assured this is the case. It is therefore most irregular, as well as cruelly unjust to the contestant, that the registration in 1868 should be appealed to at all. I submit, therefore, that after the long delay which has attended the prosecution of this case, it is alike due to the dignity and judicial fairness of this House and to the parties to this contest that the question shall now be decided, and decided upon its clear and manifest merits, wholly divorced from all feelings of prejudice or passion.

It has been said by the honorable gentleman from Maine [Mr. PETERS] that he has concluded that the judgment of the House in this case ought to be in favor of the sitting member for two reasons: first, that the contestant did himself in fact confess that in the year 1864 there were not two hundred qualified and loyal voters in Callaway county. Now, I would like to inquire of that gentleman—for, of course, he also meant no perversion of the evidence, no unfair statement of the facts upon the record—I would like to ask him from what testimony he deduces any such fact as that? Sir, the fact is not proven; it is not in this record; it is denied by the contestant. He says he never wrote any such letter; that he never expressed any such opinion. No such letter, no such opinion can be found anywhere in the records of the Provost Marshal General's office during that year or any other year.

The gentleman from Maine ought to have known that in March, 1867, in relation to this very case, this House by a resolution called upon the then Secretary of War to furnish to this House a copy of that letter, or a copy of any such letter that might be upon the records of the Provost Marshal's Bureau or of the War Department written by the contestant. No such letter has ever been found; no such evidence has ever been furnished; no such record has ever been shown. Its existence is denied by the contestant. Its existence is asserted by only one human being, and that man is a witness in this record by the name of Davenport, who swears only that he thinks such a letter was once written by the contestant. Yet upon this kind of evidence the gentleman from Maine makes the assertion which he has made, and bases upon it his judgment in this case. I think, Mr. Speaker—I say it with all proper respect for the gentleman—his assertion is as little sustained by anything either in this record or out of this record as the other statement which he has given as his second reason for his judgment in this case, that the members of the Democratic party in Maine were during the

war to a large extent disloyal, and, if justice had been done, would never have been allowed to vote. And neither of these assertions is worthy of any respect whatever.

Mr. PETERS. Mr. Speaker—

The SPEAKER. Does the gentleman from Indiana [Mr. KERR] yield to the gentleman from Maine, [Mr. PETERS?]

Mr. KERR. For a question.

Mr. PETERS. Or, I presume, for an explanation. I understand the gentleman to appeal to me to state upon what facts I based the assertion that the contestant had himself said that there were not two hundred loyal men in the county of Callaway.

Mr. KERR. Mr. Speaker, I do not yield at present.

Mr. PETERS. I will furnish the gentleman the testimony, which is uncontradicted.

Mr. KERR. I do not yield for the purpose of having that testimony read, unless the gentleman will say that he has some testimony upon which to base that statement besides the testimony of the witness Davenport, to which I have already referred.

Mr. PETERS. I will say that I have no other testimony then that, but—

Mr. KERR. Then I do not yield further.

Mr. PETERS. But allow me to say that I find it uncontradicted by the contestant himself.

Mr. KERR. He has always denied it. Now, Mr. Speaker, I will detain the House but a moment longer, because I do think that at this late day and hour there is no room for any member longer to doubt what his duty is in this case, and if he wants to perform that duty there need be no further delay in its discharge.

Now, Mr. Speaker, I surrender the floor to the gentleman from Illinois, [Mr. Cook,] who has charge of this question.

Mr. COOK. Mr. Speaker, unless the sitting member or the contestant desires to speak on this case I will call the previous question.

Mr. ANDERSON. I would like to have the floor long enough to allow the gentleman from North Carolina, [Mr. HEATON,] a member of the Committee of Elections, to make a statement with reference to the case.

Mr. COOK. Then I will not move the previous question at this time.

The SPEAKER. The Chair will then recognize the gentleman from North Carolina, [Mr. HEATON.]

Mr. HEATON. Mr. Speaker, from the fact that I happen to occupy a position on the Committee of Elections it seems to be proper that I should make a brief explanation before casting the vote which I intend to cast on the final decision of this question after having heard the arguments on both sides. I have had but little opportunity to hear the discussions which have been had before the Committee of Elections on this important subject. I was present for a short time during the pendency of this question, and have examined the report, and have come to a conclusion upon it. Sir, notwithstanding this report has been drawn by the distinguished gentleman from Vermont, [Mr. POLAND,] and notwithstanding I concede to him eminent legal ability, still I am of the opinion that the legal points in this report are erroneous in a very material point of view. The gentleman lays down in that report that the secretary of State of Missouri, occupying the position he did, was a simple ministerial and executive officer, and could not determine the important question whether he should cast out fraudulent votes from the returns made to him; that, in other words, he had no discretionary power whatever. I maintain, sir, according to the very language of the report of the distinguished gentleman from Vermont himself, in applying to this officer the term of "canvassing officer," that the position which he has assumed is untenable. Why, sir, the very term "canvass" implies a particular discretion. The secretary of State of Missouri was the canvassing officer, and that term "canvassing" means to examine, to search, to sift out. These returns having been made to him, it was his

solemn duty, under his oath and under the constitutional laws of Missouri, to look into this subject to see whether fraud had been committed, especially when the question had been brought before him in the most solemn manner that fraud had been committed.

Now, sir, that he was justified in casting out the vote from Callaway county I have no doubt. I believe it is the duty of this House, under constitutional provision, to determine the eligibility of members-elect, and in doing that, to go behind the returns to discover who really is entitled to the seat. One fact has been developed since the committee met of which I was not cognizant at the time, but which has influenced my mind in the vote which I propose to give. The fact is this: in 1866 it is shown that there was a registration in Callaway county of 2,034 votes, and that only two years afterward, that is, in 1868, there was another registration, showing only 664 votes—making a difference of 1,370 votes. That fact is satisfactory evidence to me, together with other proof of fraud which has been produced, that the secretary of State of Missouri exercised his rightful authority in casting out the vote of Callaway county; and I ask this House, before voting on this important subject, to remember that fact. For myself, I have come to the conclusion to cast my vote in favor of the sitting member retaining his seat.

Mr. Cook obtained the floor.

Mr. BENJAMIN. I ask the gentleman to permit me to read the resolution adopted at the last session of Congress.

Mr. UPSON. I object, unless the order of the House made subsequent to that is also read.

Mr. COOK. Let them both be read.

The Clerk read as follows:

"I move that the case be recommitted to the Committee of Elections, with instructions to the committee to examine into the charges made against the contestant by the gentleman from Missouri who has just concluded his remarks, and to report thereon to the House, with leave to send for persons and papers; and in order to test the sense of the House I call for the previous question."

Mr. UPSON. I now ask the Clerk to read the action of the House subsequent to that.

The Clerk read as follows:

"On motion of Mr. DAWES, from the Committee of Elections,

Resolved, That in the matter of charges of disloyalty made by Hon. J. F. BENJAMIN against the contestant for a seat in this House from the ninth district of Missouri, and of the contestant against the sitting member, the testimony be taken in the manner prescribed in the act regulating contested elections, the notice in each case to be served respectively on the respondent and the person making the charge, and the testimony to be filed with the Clerk of the House within ninety days from the passage of this resolution."

Mr. COOK demanded the previous question.

The previous question was seconded and the main question ordered.

Mr. COOK. I rise to close the debate, and yield to the gentleman from Vermont thirty minutes.

Mr. POLAND. Mr. Speaker, I happened to be a member of the Committee of Elections at the time this case was heard before them, and it so happens that I was the organ of the committee in making the report of the majority; and although I have ceased to be a member of that committee, still as this report has been to some extent assailed I think it proper I should say a word in support of the conclusions of the majority of the committee. I know, Mr. Speaker, how very thankless a task it is for a man to undertake to say a word upon a question of this sort against the right of a gentleman to a seat who belongs to the majority of the House politically. I am aware that to a very great extent the question with many a man is simply this: "Which man belongs to my party?" Now, the sitting member is a gentleman in full political fellowship with the party to which I belong. He is a gentleman that I personally very highly esteem, and there is no man on this floor who would vote for him more cheerfully than I would if I believed he was elected. There is a single reason why I cannot vote that he shall retain his seat in this House, and that is, that I verily believe, upon

a careful examination of all the evidence introduced before the committee, that he never was legally elected.

Now, to all that class of gentlemen who only wish to know which of the men belongs to their party I have nothing to say. If they can satisfy their consciences by merely ascertaining which of the two men who claims the seat is their political friend, very well. I have no argument to address to that class of gentlemen, even if they belong to my party. As a member of the Committee of Elections, and as a member of this House, in any vote I shall give upon an election case I intend to give that vote just as I would give my vote if I was trying a case between two parties in reference to a mere private right. I know of no law, of no principle of law or of politics or of morals, that will justify any man in giving his vote upon any different grounds. If any gentleman here knows of any principle that will justify him in voting otherwise let him vote so, and let him answer to his own conscience, his constituents, and his God.

The great question that was raised upon the trial of this case before the committee, and the one that is presented to this House, is one that has been undertaken to be obscured and covered up. It is not a question of how many legal voters there were in the county of Callaway, or how many were registered, or how many men voted who were not entitled by the law of Missouri to vote. That is not the question at all; but it is, whether there was a lawful registration of voters in the county of Callaway. The secretary of State of Missouri took it upon himself to throw out the vote of that county entirely, upon the ground that there was no lawful registration of the voters. That is the question to be determined here. It is not at all a question whether there were illegal votes cast in that election or whether there were not.

Now, what is the claim on behalf of the sitting member? It is claimed that in that county there was such a public and general opposition, such a feeling of hostility by the great majority of the people against these provisions of the law of Missouri in relation to the registration, that the registrars dare not carry out the law, and that the loyal inhabitants of the county dared not go before the registrars and make objections to persons who asked to be registered; that they were deterred by fear of personal violence. Upon that ground the secretary of State took it upon him to throw aside the vote of the county of Callaway, declaring that there had been no legal registration there.

Now, I say, in the first place, that the secretary of State of Missouri had no more right to undertake to determine that question than I had. By the laws of the State of Missouri the secretary of State is a mere canvassing, a mere returning officer. The supervisors of registration in the various counties are to certify to the registration as made by the registrars of the different precincts to the secretary of State, and it is made the duty of the secretary of State to count up the votes and give the certificate of election to the man who has the majority. The secretary of State is clothed by the laws of the State with no more authority to go behind the registration and undertake to hear evidence and determine whether there has been a lawful representation or not than any other official in the State. And I venture to say, although my successor on the committee [Mr. HEATON] says it is not law—and I congratulate the Committee of Elections on having obtained superior legal wisdom by the change—that all the authorities in all the books entirely preclude any officer of this sort from undertaking to determine any question of that kind. The authorities are multitudinous on the subject. There is no such law as the gentleman from North Carolina laid down. The statute of Missouri clothes the secretary of State with no such power. He is merely to add up the votes that are returned to him by the supervisors of registration in the various counties, and determine by mathematics which candidate has the majority.

Mr. GRAVELY. I would ask the gentleman if the registration law of Missouri does not require that a list of the names of all the men who are entitled to vote in the State of Missouri shall be certified by the supervisors of registration and filed in the office of the secretary of State? And I would ask, in addition to that, if the election laws of Missouri do not require that the clerks shall send up to the secretary of State the vote of each county, and that he shall take this registered list of voters and compare the names with the certificate of return and award the certificate of election to the man who receives a majority of the votes?

Mr. POLAND. Certainly; and what does all that prove, Mr. Speaker? Why, it proves nothing, either one way or the other, different from what I said. It is made the duty of these officers to return the names of all the men who are registered as qualified voters or who are registered as not qualified, and those returns are to go up under the certificate of the supervisor of registration to the secretary of State, and he, if he knows enough of arithmetic, is to add the votes together and determine which candidate has a majority. There is nothing in the statute of Missouri different from the statutes of other States in relation to the duties of secretary of State in this respect.

I ask you and I ask every gentleman on this floor if you have ever heard before that the secretary of State in any State is to determine the validity of the election? In my own State the secretary of State is the man who is to canvass the votes and give the certificate of election; but it would be a very novel doctrine in Vermont, and I think it would be in North Carolina or in any other State of this Union, that the secretary of State can go behind the certificate of returns and determine who were legal voters and who were not, and whether there was a legal registration in particular counties or whether there was not. He is to determine upon the face of the certificates. Gentlemen talk about the certificate that Mr. Thomas, the superintendent of registration, appended to this return and some certificates that he procured to be appended by one or two of the registrars, as they term them, of the precincts, going aside from the proper certificate that the law authorized and undertaking to state some facts, and gentlemen say that they are to be regarded as conclusive.

Now, suppose that the superintendent of registration had inserted in his certificate that my honorable friend who has just now questioned me had been guilty of horse stealing, would that be legal evidence of it? Just as much so as these facts that he undertakes to certify outside of anything that the law makes it his duty to certify. I say, then, in the first place, that the secretary of State had no right whatever to act upon any of this species of evidence; and more than that, these certificates of the superintendent of registration and of the deputy registers of the precincts, when they went aside to do anything else except to certify to the correctness of their lists, were, as lawyers say, *coram non judice*. It was all entirely outside of any duty which the law devolves upon them, and whatever they may say about it is no more evidence than anything said by any mere outsider or interloper. So with all the evidence of that kind; it is to go for nothing in this case.

Mr. WILSON, of Pennsylvania. Is not there evidence before the committee to prove that in a short time after this election the population of Callaway county increased very much, while two years afterward the registration decreased more than one half?

Mr. POLAND. The gentleman knows just about as much about that as I do. I never heard anything of the kind until to-day.

Mr. DICKEY. Does not the evidence before the committee show that to be the fact?

Mr. POLAND. I have not now the honor to be a member of the Committee of Elections. I do not know what may be the proof before the committee on that point. The registration of 1868 took place since this case was tried

before the committee and since this report was made by them. I am informed by a member of the committee, the gentleman from Indiana, [Mr. KERR,] that no such evidence ever has been produced before the committee. Whether it has or not I do not know, because I am not a member of the committee. But, be the fact as it may, I regard it as entirely outside of the issue involved in this case.

Mr. WILSON, of Pennsylvania. I would also inquire of the gentleman from Vermont [Mr. POLAND] if witnesses have not testified that at the time of this election there were not two hundred persons in Callaway county who were loyal men and entitled to vote?

Mr. POLAND. There was no legal evidence upon that point.

Mr. WILSON, of Pennsylvania. Was there any testimony given to that effect?

Mr. POLAND. There was evidence of this sort: several gentlemen said that they were acquainted in that county, and that in their opinion the number of loyal voters would not exceed, some said, two hundred; others said two hundred and fifty; they varied between those two numbers. But this House has decided that that was not legal evidence at all upon which a committee was authorized to act. Prior to this case we had before the Committee of Elections another case from Missouri, Birch vs. VAN HORN. In that case it also happened that the contestant was a Democrat. That election took place under the same State law that applies to this case. It also happened, in that case, that I was the organ of the committee to make their report to this House.

The evidence in the case disclosed the fact that in that district there were three thousand men who were refused registration whose names were put upon the "unqualified" list, if that is the term. They offered their votes for Judge Birch, and their votes were rejected. Mr. Birch, the contestant, produced abundant witnesses who testified that they were generally acquainted with the men who were thus refused registration, and that in their judgment a great majority of them, nearly all of them, were loyal men, legally entitled to be registered, and ought to have been allowed to vote. Now, if we had regarded that kind of evidence we must have found that a very much larger number of votes had been wrongfully excluded than would have been necessary to elect Mr. Birch. But the committee decided that that was not legal evidence; that we must know whether Mr. A, Mr. B, Mr. C, &c., was or was not a legal voter; that we could not allow a man to make a general estimate of the voters of a county; to say how many loyal men and how many disloyal men were in the county, but that it was a species of evidence that could not be regarded by the committee. And every honorable man in this House, Republican or Democrat—the vote was unanimous—voted that the committee was right. That was good enough law at that time to be applied to a Democrat. But now gentlemen turn upon the Committee of Elections and ask us to eat our own words, and to adopt an entirely different rule when it is to be applied to a Republican. The Committee of Elections are not prepared to do any such thing. If my political friends upon this floor are prepared to lay down one rule to decide the case of a Democrat and another rule to decide the case of a Republican, very well; they are not responsible to me; they must answer to their own consciences.

Now, that is the only species of evidence that we have before us in relation to the number of loyal men or disloyal men there were in the county of Callaway. But that is not a question at all affecting the registration in that county. It is said that there was such a spirit of enmity and hostility to the registration law that it could not be enforced; that there was a pall, a cloud spread over that entire county; that the registration law could not be carried out because of the fear in the hearts of all loyal men that their persons and their lives would not be safe if they should come forward and undertake to enforce the law. Now, Mr.

Speaker, what is the evidence upon this point? The decision of the secretary of State has nothing to do with the question one way or the other. He has no more right to decide such a question than I have. But, sir, although the secretary of State had no right whatever to decide such a question, the Committee of Elections had the right to decide it, and this House has the right to decide it, upon the evidence. Now, Mr. Speaker, I say to gentlemen on this floor that the evidence shows overwhelmingly that this pretense of fear and intimidation has nothing to justify it. The evidence, when carefully considered, establishes beyond question that there was no such ground of fear and no such fear, in fact.

Now, in the first place, let us see in whose hands this registration was. It will not be claimed, I take it, that the gentleman then serving as Governor of Missouri was not a loyal man. It will not be claimed that Mr. Thomas, whom he appointed superintendent of this registration, was not a loyal man; and no one has said that any one of the persons whom Mr. Thomas appointed as deputy registrars in the various precincts of the county of Callaway was not a loyal man. The evidence shows that the great majority of them were the political friends of the sitting member; and there is not a particle of evidence but that every one of them was his political friend, as in the nature of things each of them would be very likely to be. They being appointed by Mr. Thomas, I do not think there is very much ground to presume, in the absence of evidence, that any one of them was not the political friend of Mr. Thomas and the political friend of the sitting member. All those deputy registrars except one or two say that everything connected with the registration was perfectly orderly and peaceable and quiet; that there were no threats of any violence, and that there was no violence, in fact; that they themselves feared nothing in the performance of their duty, and knew of no ground for fear on the part of anybody.

Mr. WILSON, of Pennsylvania. I desire to ask the gentleman—I may be mistaken in my recollection of the evidence—whether one of those registrars does not himself testify that a man who had lost an arm in the rebel service presented himself for registration and was registered, although the registrar knew at the time that the man had been in the rebel service?

Mr. POLAND. There is the testimony of a witness who says that he had lost a leg or an arm in the rebel service and was registered in one of the precincts; and this man says the registrar knew he had been in the rebel service, or rather he says he supposes the registrar knew it. The registrar does not say any such thing. Without referring to this man, Garner, I believe that is his name, the registrar swears, in general terms, that he registered no man whom he knew to be disloyal or to have been guilty of disloyal acts. So that at the very most there is on the one side upon this point the evidence of this one-armed or one-legged rebel soldier, and upon the other side the evidence of the registrar directly the other way.

I have hardly time, Mr. Speaker, to go into an examination of the testimony with reference to this allegation of intimidation and violence; but I desire to call the attention of members to the testimony of Mr. James E. Turley, who was one of these deputy registrars. He is the great witness upon whom this case hangs in relation to the fear which is alleged to have pervaded the hearts of all loyal men in that county and prevented them from doing their duty. His testimony is so laughable, so ridiculous, and shows so clearly that this allegation of fear and intimidation is a mere pretense, that I will take the liberty to read a part of his evidence. He was the registrar for Bourbon township, and he was one of the men who made the certificate upon which the secretary of State acted in throwing out the vote of Callaway county:

"Question. In signing the certificate to your regis-

tration for Bourbon township, did you believe that the law was faithfully carried out?

Answer. I did then, sir; and if I had to do it again would do just as I did then; but I heard, after I signed the certificate, things which if I had known when I registered I would not have signed the certificate.

Question. Was there not a system of intimidation in the county at the time?

Answer. There was against me, sir. I was intimidated by fear of being interrupted.

Let me read a little further from the testimony of this man Turley:

Question. What did the people say that scared you?

Answer. When you (the contestant) spoke in the court-house you asked if the supervisor was present, and when told that he was not you then asked if any registrars were present, and he told them that we were in a very delicate situation, and to be careful.

Question. What other persons said anything to scare you?

Answer. James K. Sheely made another very frightful remark to me.

Question. When and where did Sheely make the remark, and what was it?

Answer. It was after I was appointed, in front of his office in Fulton. He said if this registration law was carried out according to radical rule there would be five hundred lawsuits in Callaway county.

Question. Didn't you carry out the registration according to the Radical rule?

Answer. I don't think I did; as I had to skin between two parties, as it was rather a zigzag course, liable to a suit from either party.

Question. Were there any suits brought against you?

Answer. Not that I know of.

Question. What other persons scared you by remarks?

Answer. Jeff. Jones made remarks in a speech here that scared me.

Question. What did Jones say?

Answer. Jones advised the people, soldiers and all, to open polls of their own and hold an election in spite of the registration.

Question. Was not Jones's advice not to resist the registration law?

Answer. I did not so understand it; but he advised them not to register at all, but to hold polls of their own at the election.

Question. What other persons made frightful remarks to scare you?

Answer. Well, sir, I'll take Mr. Hookaday as the next man, as he struck more terror to my heart than anybody else. Mr. Hookaday got up the day Mr. Jones spoke and read a document, one clause of which was that "we will put down the Radical party so that they will never destroy any other nation as they have done this."

Question. Was not that document a resolution ratifying the action of the Philadelphia convention?

Answer. I do not know.

Question. What other persons frightened you?

Answer. It was M. Y. Duncan, of Audrian county.

Question. What did he say?

Answer. He said pretty much what you said; only he went further, and said that if any man came forward and took the oath of loyalty, and the registrar refused to register him, he was liable to prosecution.

Question. Are these all that scared you?

Answer. These are all the important ones; there was some neighborhood chat of minor importance."

This is the language of Mr. Turley, one of the gentlemen who was frightened out of his wits and could not make a proper registration. The other man whose testimony Mr. Thomas acted on and who testified that there was such a state of affairs was John Young. He says expressly that all the threats he ever heard about it were that men said if they took the oath and were not registered they would bring suits. I never heard that the threat to sue a man was unlawful. I never heard that it was unlawful for a man to say that he would appeal to the legal tribunals of the country for redress. Every one of these registrars swears that the certificate of Thomas is unequivocally false from top to bottom, and the evidence of these registrars, under oath, in addition to their official certificate, is supported by the testimony of a very considerable number of other witnesses.

The SPEAKER. The gentleman's thirty minutes have expired.

Mr. COOK. I will yield the gentleman ten minutes more.

Mr. POLAND. I would have been glad to have occupied a few minutes' more time, but I see the House is impatient and I will yield the floor.

Mr. COOK. I want to read a clause of the law of Missouri relating to the right of the secretary of State, and I shall then call for a vote:

"The supervisors of registration for the several counties and for each senatorial district in the State and the county of St. Louis shall be required to make and forward to the secretary of State a certified copy

of registration therefor, which shall contain the names of all registered voters; which certified copy shall be evidence of the facts therein stated and may be used as such in any contested election case or other local proceeding."

He is authorized to certify to the facts and nothing else.

The question first recurred on the following resolution:

Resolved, That George W. Anderson is not entitled to a seat in this House as a Representative in the Fortieth Congress from the ninth congressional district of Missouri.

Mr. COOK demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 55, nays 89, not voting 78; as follows:

YEAS—Messrs. Axtell, Bailey, Baker, Barnes, Barnum, Beaman, Beck, Bingham, Blair, Boyer, Burr, Cary, Chanler, Cook, Dockery, Eldridge, Ferry, Getz, Golladay, Grover, Hotchkiss, Humphrey, Jenckes, Johnson, Thomas L. Jones, Kerr, Ketcham, Knott, Ladin, George V. Lawrence, Marshall, McCormick, Miller, Moorhead, Mungen, Niblack, Nicholson, Poland, Pruyn, Randall, Robinson, Ross, Smith, Stewart, Taber, Tift, Trowbridge, Upson, Van Aiken, Van Trump, Elihu B. Washburne, James F. Wilson, Woodbridge, Woodward, and Young—55.

NAYS—Messrs. Ames, Benjamin, Benton, Blaine, Boies, Bowen, Brownell, Broomall, Buckley, Rodrick R. Butler, Callis, Reader W. Clarke, Sidney Clarke, Clift, Cobb, Coburn, Corley, Cornell, Covode, Delano, Dowese, Dicke, Driggs, Eggleston, James T. Elliott, Ferriss, Fields, French, Gove, Gravely, Griswold, Hamilton, Harding, Haughey, Heaton, Higby, Hopkins, Hunter, Alexander H. Jones, Judd, Julian, Kelley, Kelsey, Kitchon, Koontz, Lash, William Lawrence, Mallory, Maynard, McCarthy, McKee, Mercer, Moore, Mullins, Myers, Newcomb, Newsham, Norris, Paine, Perham, Peters, Pierce, Pile, Prince, Raum, Robertson, Roots, Sawyer, Shanks, Starkweather, Stevens, Stokes, Stover, Sypher, Taffe, Taylor, John Trimble, Twichell, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Henry D. Washburn, Welker, Whittemore, Thomas Williams, William Williams, Stephen F. Wilson, and Windom—89.

NOT VOTING—Messrs. Adams, Allison, Anderson, Archer, Arnell, Delos R. Ashley, James M. Ashley, Baldwin, Banks, Beatty, Blackburn, Boutwell, Boyden, Brooks, Buckland, Benjamin F. Butler, Cake, Churchill, Cullom, Dawes, Dixon, Dodge, Donnelly, Eckley, Edwards, Ela, Thomas D. Eliot, Farnsworth, Fox, Garfield, Glossbrenner, Goss, Haight, Halsey, Hawkins, Hill, Holman, Hooper, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Halburd, Ingersoll, Kellogg, Lincoln, Loan, Logan, Loughridge, Lynch, Marvin, McCullough, Morrill, Morrissey, Nunn, O'Neill, Orth, Pettis, Phelps, Pike, Plants, Polsley, Pomeroy, Price, Schenck, Scofield, Selye, Shellabarger, Stigraeves, Spalding, Stone, Thomas, Lawrence S. Trimble, Vidal, Ward, Cadwalader C. Washburn, William B. Washburn, John T. Wilson, and Wood—78.

So the resolution was disagreed to.

During the roll-call,

Mr. SCOTFIELD said: I am paired with the gentleman from Massachusetts, [Mr. BUTLER.] If he was here he would vote "no;" I would vote "ay."

Mr. KERR. I desire to say for the gentleman from New York [Mr. WOOD] that he is paired with the gentleman from Ohio, [Mr. ASHLEY.] The former gentleman would have voted "ay," and the latter "no." I am also requested to say for the gentleman from Pennsylvania [Mr. GLOSSBRENNER] that he is absent on account of death in his family, and if here he would vote "ay."

Mr. O'NEILL. I am paired with the gentleman from Maryland [Mr. McCULLOUGH.] I would vote "no," and he would vote "ay."

The result having been announced as above, Mr. BENJAMIN moved to reconsider the vote by which the resolution was disagreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The question recurred on agreeing to the second resolution, as follows:

Resolved, That William F. Switzer is entitled to a seat in this House as a Representative from the eighth congressional district of Missouri.

Mr. BENJAMIN. The House having disagreed to the first resolution, I move that this resolution be laid on the table.

The motion was agreed to.

EXPENSES OF NATIONAL LOAN.

Mr. WASHBURN, of Illinois, by unanimous consent, presented a letter from the Secretary of the Treasury in regard to the expenditures under the appropriation for expenses of

the national loan; which, with the accompanying papers, was referred to the Committee on Appropriations, and ordered to be printed.

ORDNANCE DEPARTMENT.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting a statement of the contracts and purchases of the ordnance department for the year 1868; which was referred to the Committee on Ordnance, and ordered to be printed.

QUARTERMASTER'S DEPARTMENT.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting a statement of contracts made by the quartermaster's department during the last six months of the year 1868; which was referred to the Committee on Military Affairs, and ordered to be printed.

PATENT OFFICE REPORT.

The SPEAKER also laid before the House a letter from the Commissioner of Patents, transmitting his annual report of the condition of the Patent Office; which was referred to the Committee on Patents, and ordered to be printed.

MINERAL RESOURCES.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury, transmitting the report of Rossiter W. Raymond on the mineral resources of the States and Territories west of the Rocky mountains; which was referred to the Committee on Mines and Mining, and ordered to be printed.

GENERAL BANKING LAW.

Mr. PRICE, by unanimous consent, introduced a bill (H. R. No. 1753) to amend the general banking law; which was read a first and second time, and referred to the Committee on Banking and Currency.

Mr. PRICE entered a motion to reconsider the vote by which the bill was referred.

INDIAN DEPARTMENT.

The SPEAKER, by unanimous consent, laid before the House concurrent resolutions of the Legislative Assembly of Kansas, asking the transfer of the management of the Indians from the Interior to the War Department; which was laid on the table.

LEGISLATURE OF NEW MEXICO.

The SPEAKER also laid before the House resolutions of the house of representatives of the Territory of New Mexico, asking for an appropriation by the Congress of the United States for two translators; which was referred to the Committee on Appropriations.

CONFINEMENT OF PRISON CONVICTS.

Mr. PRUYN, by unanimous consent, introduced a bill (H. R. No. 1754) to designate a place of confinement for persons convicted of offenses against the laws of the United States and sentenced to imprisonment in certain States; which was read a first and second time, and referred to the Committee on the Judiciary.

Mr. MULLINS moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

And then, on motion of Mr. BENJAMIN, (at five o'clock p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. ELIOT, of Massachusetts: The memorial of Josiah Quincy and others, harbor commissioners of the Commonwealth of Massachusetts, praying for appropriations to preserve and protect the harbors of Boston and Provincetown, in Massachusetts.

By Mr. JULIAN: A petition of 42 citizens of New York, praying that in any proposed

change or amendment of the Constitution of the United States to extend or regulate suffrage there shall be no distinction made between men and women.

Also, a petition of 30 citizens of New York, praying the same.

Also, a petition of 163 citizens of Nebraska, praying the same.

By Mr. MOORE: The petition of S. S. Thorp, of the city of New York, owner in eighty vessels, praying protection by Congress from illegal exactions by State and municipal corporations.

Also, a petition of owners and masters of vessels of Townsend Inlet, New Jersey, praying the intervention of Congress to protect all engaged in navigation from illegal exactions by State and municipal corporations.

By Mr. NIBLACK: The memorial of Jacob C. Youngman, late second lieutenant in company G, one hundred and forty-third regiment Indiana volunteers, praying for compensation for expenses in recruiting.

By Mr. PETERS: The petition of Hermon Bartlett, and others, of Bangor, Maine, asking a change in the naturalization laws.

By Mr. PRUYN: A remonstrance of the Albany Aniline and Chemical Works, and its officers, against any reduction of duties on aniline dyes.

Also, the petition of James F. Patterson of Staunton, Virginia, to be relieved from political disabilities.

By Mr. ROBERTSON: The remonstrance of George W. Mead, president of the New York, Housatonic and Northern Railroad Company, against any further increase of duty on imported iron and steel.

By Mr. STEWART: A petition of criers and tipstaves of the United States circuit and district courts of southern and eastern districts of New York, for increase of pay.

By Mr. THOMAS: A petition of a number of citizens of the fifth congressional district of Maryland, praying for the repeal of sections seventy-eight and ninety-four of an act entitled "An act imposing taxes on distilled spirits and tobacco," approved July 20, 1868.

By Mr. VAN AERNAM: The petition of Charles Ten Eyck, praying Congress to pass an act for repayment of commutation money.

Also, the petition of John Garnet, on the same subject.

Also, the petition of R. L. Patterson of Culpeper, Virginia, for payment of property taken and used by the United States Army.

IN SENATE.

FRIDAY, January 22, 1869.

Prayer by Rev. E. H. Gray, D. D.

The Secretary proceeded to read the Journal of yesterday.

Mr. TRUMBULL. As no one seems to be listening to the Journal, and we have very little time for morning business, I move to dispense with the further reading.

The motion was agreed to.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report from the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate of December 21, 1868, the report of the Superintendent of United States Weights and Measures in relation to furnishing one set of the standard weights and measures of the metric system for the use of the States respectively; which was referred to the Committee on Finance, and ordered to be printed.

CREDENTIALS.

The PRESIDENT *pro tempore* presented the credentials of Hon. Thomas E. Bayard, elected by the Legislature of the State of Delaware a Senator from that State for the term of six years, commencing March 4, 1869; which were read, and ordered to be filed.

The PRESIDENT *pro tempore* presented the credentials of Hon. James A. Bayard, elected by the Legislature of the State of Del-

aware to fill the vacancy occasioned by the death of George R. Riddle, late a Senator from that State; which were read; and the oaths prescribed by law were administered to Mr. BAYARD.

PETITIONS AND MEMORIALS.

Mr. SUMNER. I present two different petitions from merchants of Boston, in which they petition that a reciprocity treaty may be made with the dominion of Canada and the British provinces in North America. In presenting these petitions I need hardly remark that a treaty cannot be made with the Dominion of Canada or with the British provinces, but it must be made with Great Britain. I move the reference of these two petitions to the Committee on Foreign Relations.

The motion was agreed to.

Mr. WILLEY presented a petition signed by C. E. Doddridge, R. D. Gardner, Joseph L. Anderson, William H. Davis, Stephen Kirby, James M. Crockett, Napoleon B. French, P. F. Woolwine, John W. Hancy, John S. Draper, John R. Dunlap, all of Pulaski county, Virginia, and Robert C. Trigg, of Christiansburg, Virginia, praying to be relieved from political disabilities; which was referred to the Committee on the Judiciary.

Mr. VAN WINKLE presented the petition of William Henderson, praying compensation for mules and horses furnished to the Government of the United States; which was referred to the Committee on Claims.

He also presented a petition of John Otey Taylor, of Lynchburg, Campbell county, Virginia, for the removal of political disabilities; which was referred to the Committee on the Judiciary.

Mr. WILSON presented the petition of James W. Davis, praying the removal of the political disabilities imposed on him by Congress; which was referred to the Committee on the Judiciary.

Mr. KELLOGG presented the memorial of G. T. Beauregard, president of the New Orleans, Jackson, and Great Northern Railroad Company, remonstrating against any further increase of duty on imported iron and steel; which was referred to the Committee on Finance.

Mr. POMEROY. I am charged with a petition from settlers upon some public lands in the State of Kansas, in which they represent that under a treaty made with the Great and Little Osage Indians, signed on the 29th September, 1855, and ratified January, 1867, they were settlers upon this land, and they ask that the rights of homestead settlers may be extended to them; and further, in the event that that cannot be done, they ask that they may have the right to buy their lands at \$1 25 per acre, with a reasonable time to make payment. I am glad to present this petition, and coincide with the objects of it; and I ask that it may have special attention from the Committee on Public Lands.

The PRESIDENT *pro tempore*. It will be referred to that committee.

Mr. POMEROY presented petitions from citizens of New York, New Hampshire, and Florida, praying that in any change or amendment of the Constitution Congress may propose to extend or regulate suffrage there shall be no distinction made between men and women; which were referred to the Committee on the Judiciary.

Mr. HARLAN. I present the memorial of William Dixon, N. K. Browne, and James R. O'Beirne, a committee of the Provident Aid Society of the District of Columbia, representing the existence of great destitution among the poor of the District, and praying that Congress will make an appropriation to aid in their relief. I move that the memorial be referred to the Committee on the District of Columbia.

The motion was agreed to.

Mr. CONKLING. I present a very brief petition which I desire to have printed; and if there is no objection I wish to have it read, as that will take less time than it will to state it.

The PRESIDENT *pro tempore*. If there be no objection the paper will be read.

The Clerk read as follows:

"The undersigned beg leave to represent to your honorable body that under the existing tariff a high duty is imposed on many foreign drugs and medicines in daily and common use by the American people—articles which do not come in competition with any of our domestic products, inasmuch as they are not the growth or production of our own country; that in some instances this duty amounts to more than one hundred and fifty per cent, thus imposing a heavy burden upon the sick as well as an onerous tax on country medical practitioners, who are often obliged to furnish the sick poor with medicines for which they are unable to pay. Moreover, none of these articles can be regarded as luxuries or in any other aspect than necessary agents in the ordinary treatment of disease, a condition which renders its subjects helpless and wholly unable to sustain the ordinary expenses of living. Besides, it is to be noticed that owing to the prices of these medicines they are very extensively and generally adulterated, so that it is very difficult to obtain them in a pure and genuine state, while the cost, as above stated, places them beyond the reach of the poorer classes."

Mr. CONKLING. I do not ask to have the enumeration of medicines read; but I have ventured to have so much of this petition read in the hope of attracting the attention of the Senate to what I believe to be a subject demanding attention. The petition is signed by a large number of medical professors and physicians throughout the country. They do not ask that opium be put on the free list, but simply that a list of cheap and indispensable crude drugs, which are not and cannot be produced in this country, shall be. I move that the petition be referred to the Committee on Finance, and printed.

The motion was agreed to.

Mr. CONKLING. I have another petition, not so palpably healing, perhaps, in its nature. It is the petition of Mrs. M. E. G. Gage and four hundred other women, of the county of Onondaga, New York, asking woman suffrage. I have not been selected, Mr. President, as the medium to bear this communication to the Senate because I champion the legislation which it proposes. I think it has been sent to me rather because the honorable Senator from Kansas [Mr. POMEROY] has been undeservedly, and I think invidiously, decorated and favored of late by his countrywomen. He has received so many of these petitions that he seems to think that he receives them as a matter of right, and presents them here, I notice, with a formal dispatch and coldness which was not altogether to have been expected from him.

Now, sir, avoiding the indifferent manner in which some of these presentations have been met, I beg to submit one remark, and that is this: that those who deem intelligence a test of the right to vote ought to look with respect upon this movement. The agitation has received some advantages no doubt from arguments coming from men; but it has been mainly sustained by the pens and by the tongues of women, who have shown a faculty and steadiness of discussion which certainly put them beyond danger wherever intelligence is to be taken as the criterion. I only hope, sir, that they will be able to revive and sustain the flagging energies of their co-laborers and advocates among men, one of whom I cannot claim to be. I move that the petition be referred to the appropriate committee.

The PRESIDENT *pro tempore*. It will be referred to the Committee on the Judiciary.

Mr. POMEROY. I will only say a word in reply to the Senator from New York. I trust if any persons want their petitions presented with a flourish of trumpets they will send them to him. [Laughter.]

Mr. CONKLING. If the Senator will indulge me, I beg to say that that is the most cogent remark I ever knew him to make in connection with this subject. [Laughter.]

WESTERN MILITARY CLAIMS.

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred House joint resolution No. 404, have directed me to report it back with an amendment, and I ask the Senate to consider it at this time.

Mr. EDMUNDS. What is it?

Mr. TRUMBULL. It provides simply for printing some evidence that is in the War Department, which it is desirable to use in the Court of Claims on the part of the attorneys of the Government. I suppose there will be no objection to it.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 404) providing for the disposition of certain papers relating to military claims accruing in the department of the West. It provides that all the papers and evidence returned to the War Department by the Davis, Holt, and Campbell commission (touching claims against the department of the West accruing immediately before the 14th of October, 1861,) shall be surrendered and turned over to the Attorney General, whose duty it is to be to cause the evidence to be examined; and such part thereof as has any bearing on cases pending in the Court of Claims is to be printed, and received in the Court of Claims as if it were evidence taken under commission from that court, subject, however, to reexamination or cross-examination of the witnesses by either party.

The Committee on the Judiciary reported the joint resolution with an amendment, which was to strike out all of the resolution after the words "to be," in the ninth line, in the following words: "examined; and such part thereof as has any bearing on cases pending in the Court of Claims shall be printed and received in said Court of Claims as if it were evidence taken under commission from said court, subject, however, to reexamination or cross-examination of the witnesses by either party," and to insert the word "printed;" so that the resolution will read:

That all the papers and evidence returned to the War Department by the Davis, Holt, and Campbell commission (touching claims against the department of the West accruing immediately before the 14th of October, 1861) shall be surrendered and turned over to the Attorney General, whose duty it shall be to cause the evidence to be printed.

Mr. DRAKE. I would inquire of the chairman of the committee for what reason the last portion of that resolution should be stricken out? I do not see any use in the world in having all that great mass of evidence printed if after it is printed there can be no use made of it in the Court of Claims. I should like to have that explained by the chairman of the committee.

Mr. TRUMBULL. The Senator from Missouri, I presume, is acquainted with the Davis, Holt, and Campbell commission. He knows what it was. This testimony was taken *ex parte* by that commission. They were not a commission organized by law, but were selected by the War Department for the purpose of examining claims in the department of the West. There are cases pending in the Court of Claims to which this testimony relates. The attorneys of the Government, in defending the Government against those claims, wish to have access to these papers, so as to put them upon the line of testimony, if there is anything in it that they ought to procure to properly defend the Government. It was thought by the committee that it was not proper that this testimony taken *ex parte* should be received in court as evidence without the other party being present to examine it, and particularly as it was taken before a board that was not authorized by law to take testimony. But it is very desirable that the Attorney General's office should have access to these papers. The proposition is only to print those portions of the papers relating to the cases that are pending in court.

Mr. DRAKE. I am inclined to think that there may be a mistake of fact on the part of the Judiciary Committee in regard to this testimony. If I am wrong in attributing a mistake to them the honorable chairman will make it known to me immediately. I do not think that that testimony was in every instance *ex parte*.

Mr. TRUMBULL. Probably not in every instance, but much of it was.

Mr. DRAKE. If there were witnesses exam-

ined with regard to the claims of any individual against the Government and he had the opportunity of cross-examining those witnesses, then by all the rules of law the testimony taken and recorded there is evidence in all cases between the same parties at any period of time afterwards.

Mr. EDMUNDS. What! Unless the witness is dead?

Mr. DRAKE. Unless the witness is dead or inaccessible. I suppose it may be subject to that qualification.

Mr. TRUMBULL. That difficulty can be corrected afterwards, if it turns out so.

Mr. DRAKE. The only reason why I make any remarks at all about this matter is that that commission who were sent there to examine those cases were a commission of very able and upright men, and they acted according to their conscientious conviction of duty to the Government. I do not wish now that the opportunity shall be given to overthrow their deliberate judgment upon the facts before them without these facts appearing to the tribunal before which it is sought to overthrow their action. It may be that the amendment proposed by the committee is all right; but I do not think that probably it is. I think, perhaps there is some mistake, and that the original resolution as it came from the House of Representatives should be allowed to pass. It does not seem to me that there is any hardship to the individual suing in the Court of Claims that that testimony should go there to be used in that court against his claim.

For these reasons, I object to the amendment proposed by the committee, and I think that perhaps it was not offered with as much advice as is desirable under the circumstances.

The amendment was agreed to.

The joint resolution was reported to the Senate. The amendment was ordered to be engrossed, and the resolution to be read the third time. The resolution was read the third time, and passed.

REPORTS OF COMMITTEES.

Mr. POMEROY, from the Committee on Public Lands, reported a bill (S. No. 823) to grant lands to aid in the construction of a railroad from the Mississippi river to Yanceton, on the Missouri river, and to amend an act entitled "An act for a grant of lands to the State of Iowa, in alternate sections, to aid in the construction of a railroad in said State," approved May 12, 1864; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred the bill (S. No. 715) to legalize certain land locations, reported it with amendments.

Mr. KELLOGG, from the Committee on Commerce, to whom was referred the bill (S. No. 765) to define the limits of the collection district of the Teché, in the State of Louisiana, and for other purposes, reported it with amendments.

Mr. WILLIAMS, from the Committee on Public Lands, to whom was referred the bill (S. No. 776) to amend an act entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific railroad, in California, to Portland, Oregon," approved July 25, 1866, reported it with an amendment.

JOHN H. OSLER.

Mr. HOWE. The Committee on Claims, to whom was referred the bill (H. R. No. 1451) for the relief of John H. Osler, of Guernsey county, Ohio, have directed me to report it back with an amendment, and recommend its passage. It is a bill which allows a lieutenant about two months' pay, I think, which he has not been able to get because of the loss of his proper vouchers. The amendment of the committee cuts out everything except that, and it has to go back to the House; and if there is no objection I should like to have the Senate consider it at the present time.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to con-

sider the bill. It directs the payment to John H. Osler, late first lieutenant twenty-sixth regiment Ohio volunteer infantry, the pay of a first lieutenant of infantry from the 9th of December, 1864, to the 27th of March, 1865, together with three months' pay, and also the pay of a first lieutenant of infantry, from the 31st of July to the 4th of October, 1865.

The Committee on Claims reported an amendment to strike out the words "the pay of a first lieutenant of infantry from the 9th of December, 1864, to the 27th of March, 1865, together with three months' pay, and also;" so that the bill will read:

That there be paid to John H. Osler, late first lieutenant twenty-sixth regiment Ohio volunteer infantry, the pay of a first lieutenant of infantry from the 31st of July to the 4th of October, 1865.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The amendment was ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

FUNDING BILL.

Mr. CORBETT. I desire to present several amendments that I propose to offer to the bill (S. No. 793) in relation to the public debt and the currency, reported by the Finance Committee. In the main features of the bill I agree, but I desire to move some few amendments that I think will tend to perfect the bill and make it more efficient. I move that the amendments be printed, and at some future time I shall advocate their adoption.

The PRESIDENT *pro tempore*. The order to print will be made.

RAILROAD SUBSIDIES.

Mr. DRAKE. I am instructed by the Committee on the Pacific Railroad to report to the Senate the following resolution, and to ask the present action of the Senate upon it. I will simply remark that the resolution is presented by the unanimous direction of the committee:

Resolved, That it is inexpedient that any subsidy in Government bonds should be authorized by Congress to any railroad enterprise not entitled thereto under existing laws.

The PRESIDENT *pro tempore*. Is there any objection to the present consideration of the resolution?

Mr. EDMUNDS. I guess it had better go over. If it had not the last branch, which seems to make an exception of one railroad, should not object to it.

The PRESIDENT *pro tempore*. Being objected to, it goes over under the rule.

BILLS INTRODUCED.

Mr. STEWART asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 824) relative to the refining of gold and silver bullion at the Mint of the United States and branches; which was read twice by its title, referred to the Committee on Appropriations, and ordered to be printed.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 825) to establish a bridge across the East river, between the cities of Brooklyn and New York, in the State of New York, a post road; which was read twice by its title, referred to the Committee on Commerce, and ordered to be printed.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 291) to drop from the rolls of the Army officers absent without leave; which was read twice by its title, referred to the Committee on Military Affairs, and ordered to be printed.

Mr. HOWARD asked and obtained leave to introduce a joint resolution (S. R. No. 202) more effectually to insure the faithful completion of the Union Pacific railroad and its branches according to law; which was read twice by its title, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bill

and joint resolution; in which it requested the concurrence of the Senate:

A bill (H. R. No. 1751) in relation to the appointment of midshipmen from the lately reconstructed States; and

A joint resolution (H. R. No. 253) to change the name of Four-and-a-half street, in the city of Washington, to Lincoln avenue.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 1558) to amend an act entitled "An act to prescribe the mode of obtaining evidence in cases of contested elections," approved February 19, 1851.

HOUSE BILLS REFERRED.

The bill (H. R. No. 1751) in relation to the appointment of midshipmen from the lately reconstructed States was read twice by its title, and referred to the Committee on Naval Affairs.

The joint resolution (H. R. No. 253) to change the name of Four-and-a-half street, in the city of Washington, to Lincoln avenue, was read twice by its title, and referred to the Committee on the District of Columbia.

STATE PASSENGER TAXES.

Mr. FRELINGHUYSEN. With the consent of the Senate, I will take this occasion to submit the few remarks in which I was interrupted yesterday, in reply to the Senator from Indiana, [Mr. MORTON.]

The PRESIDENT *pro tempore*. If there be no objection, the bill (S. No. 798) to punish the collection of illegal taxes on passengers will be considered as before the Senate, the pending question being on the motion of the Senator from Indiana [Mr. MORTON] to refer the bill to the Committee on the Judiciary.

Mr. FRELINGHUYSEN. Mr. President, I took the floor yesterday to submit a few remarks in answer to the argument of the Senator from Indiana, [Mr. MORTON,] and perhaps was led to do so because of his declaration that the State which I in part represent was making its living by levying taxes on the public travel of the country; but having been interrupted by the course of business I should now let the matter pass had I not assumed to answer that argument, and were it not that the brevity of the period in which I shall have any opportunity of correcting misapprehensions of fact and of law in reference to taxation in New Jersey seems to render it my duty now to say something on the subject. I shall be commendably brief.

I do not speak in behalf of the Camden and Amboy Railroad Company. I certainly am under no obligations to them, and they are under none to me. The fact is, this bill is in the interest of that company. While I believe they are reasonably ready to pay their debts, I imagine that they will not be particularly offended should Congress pass a law declaring that it shall be a crime for them to pay their taxes to the State, while the law leaves them fully invested with all their chartered rights and privileges. This bill is directed against the State of New Jersey, not against the railroads of that State.

And, as the invocation of prejudice, intentional or otherwise, is often the readiest way of preparing the mind of a deliberative assembly for the infliction of injustice, I must be permitted at least to controvert the declarations made by the Senator from Ohio [Mr. SHERMAN] in his recent speech, and which has since been read by hundreds of thousands in this country. He says, in speaking of this subject:

"It is secession intensified, for if a State seceded it lost the benefit of the protection of the General Government; but a State that can grapple and control for her own interests merely all communication over her territory could enjoy all the benefits of union and yet inflict on her sister States all the injuries of separate governments. The case of New Jersey is a marked and, fortunately for the country, an isolated example of this policy. Her territory lies between the two great cities of the continent. It is generally level, presenting no difficulties for constructing railroads. She receives vast local benefits from her proximity to those cities. One of those cities controls the

commerce of the continent, the other is the chief manufacturing city of the continent. The road between them should be open, free, easy, and cheap. Every mode of transit should compete for the exchange of commodities and productions. Yet New Jersey undertakes to declare that but one corporation shall transport all these commodities and productions, and that this corporation shall collect for her a tax on all this commerce."

Why, Mr. President, one would suppose that the State of New Jersey stood at the gate of the great metropolitan sea-port of this country, and in a churlish, inhospitable spirit would not permit the free people of this land, who have a right to go anywhere, hardly to pass her borders at all; and if she did permit the gate to turn on its rusty hinges, stood like some bullying brigand to rifle the pockets of every wayworn traveler that might pass. I think I can show she is very far from meriting any such imputation. Secession mitigated or intensified, infidelity to the truest and best interests of this nation, whatever may be her shortcomings, is the last charge that can truly be made against New Jersey. Her more remote as well as her more recent history disproves it. When in the waning fortunes of the Revolution the country looked to her they did not look in vain. There is scarcely an ancient spire in her borders the shadow of which does not rest upon the graves of those who have British bullets encased with them; and if the ancestry of my respected friend from Indiana, who were Jerseymen, were possessed of the same patriotic impulses which the nation rejoices to accord to him, some of them may now fill such honored graves. In the more recent struggle she was equally true; for first of all the States, on the call of the President, New Jersey placed her full complement of men in Pennsylvania avenue for the defense of Washington. She maintained her historic character on every battle-field of this Union. Secession or infidelity does not live in the breasts of the people I represent. And as to the charge that she is grappling for her own interests and taxing all the commerce that passes through the State, let me call the attention of the Senate to a few facts.

The railroad enterprise of the country had its birth in New Jersey. There is no courage now required to undertake the building of railroads. The errors by which millions on millions of capital have been lost have all been discovered. New Jersey tried the experiment, and the whole land, without sharing in the losses incident to the trial, profits by our experience. The Camden and Amboy railroad, extending from Camden to South Amboy on the Raritan bay, and from thence by steamer to New York, was completed in 1832; the railroad from Philadelphia to New Brunswick, by way of Trenton, was completed in 1838; and no other railroad from New York existed until ten years later. The Harlem, the New Haven, the Hudson River, were constructed in 1848; the Erie in 1850. And with the exception of the Philadelphia and Wilmington road, no railroad excepting this was constructed from Philadelphia until 1844. New Jersey has expended, as the census of 1860 shows, more money in constructing railroads than any State between Washington and Canada, with the exception of the two great States of New York and Pennsylvania and the State of Massachusetts. Every county in the State has a railroad; and the fruits of her enterprise are discovered in the statistics of the land, which show that the average value of an acre of land in New Jersey is considerably greater than that in any other portion of this country.

I would remind my friend from Indiana that while his State in population is the fifth in the nation, and New Jersey the sixteenth, in the fiscal year ending June 30, 1866, Indiana paid into the national Treasury \$5,200,633, and New Jersey paid \$9,781,492, an excess of nearly four million dollars over Indiana; and in the year ending June 30, 1867, while Indiana paid into the Treasury \$4,101,182, New Jersey paid \$7,838,504. We do not live, sir, entirely by taxing public travel.

Now a word as to the facilities of transit

across the State. Is it true that there is but one railway by which you can cross our territory? No. There are seven railroads radiating in every direction from the city of New York across New Jersey. There is the Northern railroad, from Jersey City to Piermont; the Erie railroad, from Jersey City to the boundary line, and thence on to Lake Erie; the Morris and Essex railroad, running from Jersey City to Pennsylvania, doing a large business in the transportation of passengers and produce to and from the West; the Central railroad, extending from Jersey City to Pennsylvania—a road perhaps more expensively and perfectly constructed than any in the Union; the Camden and Amboy, from Camden to South Amboy, on Raritan bay, connecting with New York by steamers—the road that we usually travel, through New Brunswick, Trenton, and to Philadelphia; and there is also the railroad from Port Monmouth, extending to Cape May, and a road which, since the monopoly has expired, will be able to make connection with Philadelphia. Here are seven railroads shooting in different directions across the State of New Jersey. There, too, is the Delaware and Raritan canal, than which there is not a nobler or more expensive work in this country, extending from the Delaware to the Raritan. In the administration of President Monroe his Secretary of War recommended this as a military measure in order to avoid the danger of the outside passage in time of war. The Government did not adopt it as a public improvement, and the capital of New Jersey constructed it. It is a canal seventy-five feet wide and seven feet deep, admirably constructed, and on which ply steamers and other vessels doing an immense commerce between Philadelphia and New York. There is another public work that occurs to me. De Witt Clinton happened to be spending some time in the mountains of New Jersey and discovered a beautiful and extensive lake on the top of the mountains, affording a large supply of water, and the idea occurred to him that by the use of that water a canal might be constructed between New York and Pennsylvania over the hills that intervene. The enterprise of the State was invoked, and a canal one hundred and three miles long, overcoming by means of inclined planes an elevation of nearly one thousand feet, was constructed. New Jersey, sir, is not exactly a Chinese wall, good for nothing else but to be kicked at by those who have nothing better to do.

Now, a word or two on the law. He affirms, and truly, that no State has the right to impose a tax on passengers. That position will not be disputed; and if it be denied, his lucid argument and the authorities adduced demonstrate its truth. But that is not the point where the argument comes in. The question is, whether this statute, avowedly directed against the policy of New Jersey, is called for; whether that State does tax passengers? Had he here addressed himself there would have been more to answer. The general proposition is most succinctly stated by that just and learned judge who during the war, by one or two of his decisions, rendered a service to the nation as important as a great victory. Justice Grier says:

"A tax imposed by a State for entering its territories or harbors is inconsistent with the rights which belong to citizens of other States as members of the Union, and with the objects which that Union was intended to attain. Such a power in the States could produce nothing but discord and mutual irritation; and they clearly do not possess it."

The true question, however, is whether the tax complained of is a tax on passengers? I assert that it is not. Every State may in some manner tax its railroads. Taxation is not in itself an infringement of the Constitution. It is only the peculiar mode in which it is effected, as by taxing passengers, that is objectionable. There are various methods by which States tax railroads. In some instances the tax is levied on the stock in the hands of the company. Again, it is levied on the cost of the road, so

that both the stock and bonds of the company are reached. Another mode of taxation is to tax the railway, the machine-shops, the depots, and water-tanks in every county. That is the manner of taxation in Indiana. Still another plan of taxation, and that which is clearly the most just, is to tax the company according to its ability to pay, or in other words to tax its business. This is not a tax on passengers, but on the company in respect to its passengers.

Mr. EDMUNDS. A tax on income in reality.

Mr. FRELINGHUYSEN. Yes, substantially a tax on income. By either of these modes of taxation the tax is paid by those who use the road. The consumer, in this as in all other cases, pays the tax. How else can it be paid? We cannot find the tribute money in the fish's mouth. It must be earned, and those who use the road must pay it, and one mode of taxation is no more a tax on passengers than the other.

The State of New Jersey while railroads were in their infancy, not knowing what capital would be required, the profits being very uncertain, instead of imposing a tax (as experience has enabled them subsequently to do) upon the stock, imposed a tax on the company in respect to their business. The State provided that the treasurer should once in three months make a return to the State of the number of passengers and of tons of freight which had been transported. The tax was then apportioned to the business, being ten cents for each passenger, fifteen cents for each ton of bulky freight, and ten cents for each ton of merchandise. This was found too heavy a tax, and was so altered as only to apply to passengers crossing the State, such as those coming from Philadelphia or Trenton. The amount of fare imposed upon way passengers being greater than that on through passengers they really contribute more than their proportion of the expense of taxation. As to the railroad from New Brunswick to New York, their tax was laid at eight cents a passenger. This was afterwards changed to eight per cent. on the gross receipts from through passengers. The way-passenger business having proven equal to the through business the tax on the through passengers business is about four per cent., say fourteen cents for each passenger from New York to Philadelphia. From looking at the statutes of New Jersey it seems that as to the railroad from South Amboy to Camden, in 1832 the State commuted this mode of taxing in respect to the number of passengers as \$30,000 a year; but the plan as originally adopted remains in force as to the Trenton route.

The Senator from Indiana insists that we add the tax to the fare. There he is in error. It is more impracticable to add the tax to the fare in this case than where the tax is levied on the stock of the company. The charter limits the maximum of fare, which is not usual. The rate of fare between New York and Philadelphia for the first-class rapidly-moving cars is three dollars, while there are comfortable trains at \$2 25 and \$1 50. The fare cannot be made more. Why, sir, the railroad company is bound to pay New Jersey the tax if they should carry their passengers for nothing; and yet this bill makes it a crime, even under such circumstances, for the company to pay the State that which they have agreed to pay.

Observe, too, the law provides that this tax is in lieu of all other taxation. No city, county, township, or other State tax can be imposed. The tax is less than is usual in other States. It is a fact that when our railroads are making arrangements with the railroads of Pennsylvania for through passengers, it is claimed that the New Jersey roads shall take less than their proper proportion of the fare, because the tax expenses of our roads are less. I think I may safely say that the tax does not exceed one and a half per cent. on its capital. I observe by the recent message of our Governor that the tax received from the two railroads

from New York to Philadelphia and from the canal last year was \$267,000. In the State of Indiana the tax is two and a half per cent. on the capital, one per cent. more than in New Jersey, and I would ask him if the passengers who pass through that State do not pay that tax; and if they do pay it, whether it is not a tax upon public travel? Is the tax unconstitutional when one and a half per cent. in New Jersey and constitutional when two and a half in Indiana? Is it unconstitutional for a State to exempt a railroad company from all county, city, and township taxes, and to impose a tax on business even if the public travel be made cheaper by reason of such arrangement? Is there anything in this plan of taxation that is unlawful? I trust that the Congress of the United States is not in the habit of deliberately violating the Constitution; and yet the mode of taxation in New Jersey is exactly that which Congress has adopted for imposing taxes. I read from the revenue law in reference to railroads now in force:

"That every" * * * "corporation owning or possessing or having the care or management of any railroad, canal, steamboat, ship, barge, &c., except, &c., shall be subject to and pay a tax of two and one half per cent. of the gross receipts from passengers and mails of such railroad."

This action of Congress will at least make the crime New Jersey is guilty of respectable.

We have been referred to the "passenger case" found in Howard. That was a tax of \$1 50 imposed by the State of New York on every person who landed in New York from a foreign port. It was clearly a tax on passengers. It could not be anything else. There was nothing else to tax. New York had no right to tax the free highway of the ocean; but is that true of those who travel upon our railroads? Are not those who use the road bound to contribute toward the expense item of taxation? There is no similarity whatever between the case upon which the honorable Senator relies and that to which he seeks to apply it. The former was a pure capitation tax.

The case of *Crandall vs. The State of Nevada* is equally inapplicable. That was not a tax upon any company and did not pretend to be. It was a general law that every person who left the State of Nevada by railroad, coach, stage, or other vehicle should pay a dollar to the State. It does not assume to be a tax on anybody excepting on the passengers, and the very law calls it "a capitation tax." It is not in lieu of other taxation, and the tax was added to the fare, was to be collected by officers and paid over to the sheriff. The act is in these words:

"There shall be levied and collected a capitation tax of one dollar on every person leaving the State by any railroad, stage-coach, or other vehicle engaged or employed in the business of transporting passengers for hire."

The act itself sustains me in all I have said.

The next position of law that my friend comes to is the fourteenth amendment; and I am glad that he has called attention to it, for I believe that there is to be found a mine of gold not yet explored. And, turning away from the case in hand for a minute, let me say that the second section of the amendment executes itself, the penalty for withholding the ballot being the loss of representation. But the first section does not execute itself, and it is competent for Congress by legislation to enforce it. The amendment declares that no citizen of the United States shall be abridged of his privileges or immunities; and in passing let me say that if it is an abridgment of the rights of citizenship to withhold from him full representation, and hold that he shall be represented in Congress or elsewhere only by a privileged class, if it is an abridgment of rights to hold that he shall be forever ineligible to office on account of his complexion, then there is power under that amendment for Congress by enactment to enforce it. I make these remarks outside of the case in passing, because this amendment is now a subject of interest on account of the Georgia difficulties.

As to the case in hand the amendment is

applicable and pertinent, if it is one of the immunities of an American citizen to travel on railroads which pay no taxes. But it has nothing to do with the case if that is not one of the immunities of an American citizen. If the railroad must pay the tax the citizen must contribute to the expense item of taxation. It would be quite as rational to hold that it was the right of the citizen to travel without paying fare as to travel free of incidental taxation.

But, Mr. President, the argument of my friend is *felo de se*. He insists that Congress must pass a statute making it a crime for an agent to pay New Jersey the tax agreed to be paid, because it is a tax on passengers, and sustains the argument by showing that the judiciary have set aside as null statutes which impose such a tax. Well then, I pray, what the necessity of a statute? It is a subject that belongs to the judiciary instead of to the legislative department, and when presented to the judiciary they can calmly discriminate between that class of cases which are clearly a taxation on passengers and that class which by a careful examination are as clearly only a taxation on business.

Mr. MORTON. I shall detain the Senate but a few minutes, and I prefer replying to the Senator from New Jersey now rather than waiting for some future time.

Mr. DOOLITTLE. Let it be understood that the regular order is laid over informally. ["Certainly."]

Mr. MORTON. Mr. President, the position taken by the Senator from New Jersey in reference to my argument is, that this is not a tax upon passengers, but that it is a tax upon business, and that the State of New Jersey has a right to tax the business of the railroads within its limits in lieu of all other taxes. The New Jersey law provides that the railroad company to which I referred shall pay to the State ten cents for each passenger carried across the State, and fifteen cents for every ton of freight. Now, Mr. President, it comes right back to this question, is a tax levied on a railroad company in this way in the nature of a tax upon the passenger? I insist, with all respect to my honorable friend from New Jersey, that that question is settled directly. It is true that the State of New Jersey does not say that this is a tax upon the passenger, but it says that the company shall pay so much for each passenger carried. What was the statute of New York upon which the decision was made that I quoted yesterday? It provided for collecting "from the master of every vessel from a foreign port for himself and each cabin passenger \$1 50; for each steerage passenger, mate, sailor, or mariner, one dollar." And second, "from the master of each coasting vessel for each person on board, twenty-five cents; but no coasting vessel from the States of New Jersey, Connecticut, and Rhode Island shall pay for more than one voyage in each month."

The statute of New York did not say it was a tax upon the passenger, but it said that the captain of the ship should pay so much for each passenger carried; and the statute of New Jersey says that the railroad company shall pay so much for each passenger carried. In the one case it is the captain, and in the other case it is the railroad company that has to pay. Can we make any distinction in principle? It is utterly impossible; and yet the Supreme Court said most directly and repeatedly that the tax put in this form was a tax upon passengers. Sir, it is not an open question. Let me read a brief extract from the opinion of Judge McLean in the passenger cases. Speaking of this law of New York, he said:

"It imposes a tax or duty on the passengers, officers, and sailors, holding the master responsible for the amount at the immediate termination of the voyage, and necessarily before the passengers have set their feet on land. The tax on each passenger, in the discretion of the Legislature, might have been five dollars or ten dollars."

Now, suppose this tax had been ten dollars for each passenger carried, just as the Supreme Court puts the case here, instead of being ten

cents, what then? The Senator says it is a mere tax on business, and the Legislature of New Jersey has a right to impose it. But in a precisely similar case the Supreme Court of the United States says it is a tax on passengers, although the captain of the vessel is bound to pay it; and here, although the railroad company is bound to pay it, it is nevertheless a tax upon the passengers for the same reason. Again, said the Supreme Court in that case:

"A tax or duty upon tonnage, merchandise, or passengers is a regulation of commerce, and cannot be laid by a State except under the sanction of Congress and for the purposes specified in the Constitution."

Mr. Justice Catron, in his opinion, goes on to state that one of the reasons that brought about the American Union was the levy of a tax upon passengers and freight by other States, and he uses this language, to which I call the particular attention of the Senate:

"If it be the true meaning of the Constitution that a State can evade them by declaring that the master may be taxed in regard to passengers on the mere assertion that he shall have a remedy over against the passengers, citizen and aliens, and that the State may assess the amount of tax at discretion, then the old evil will be revived, as the States may tax at every town and village where a vessel of any kind lands."

Now, sir, it is a mere verbal difference. The Legislature of New York did not call the tax in that case a tax upon passengers; it did not call it a tax at all; but it was so much that the master of the ship was bound to pay on account of his passengers; and yet it was obvious that it would be collected off the passengers, and therefore it was called a tax upon passengers.

In the case of *Crandall vs. The State of Nevada*, the same argument was made that has been made by the Senator from New Jersey. What said the counsel for the State in that case:

"It is strictly a tax on his business, graduated by the amount of such business, as are license taxes, which often are made to vary *pro rata* with the amount of business done by the person taking the license."

Mr. FRELINGHUYSEN. I would call the attention of my friend to one difference. The argument is true in the case of New Jersey; it was not true there.

Mr. MORTON. That depends upon argument rather than upon assertion. Now, I assert that there is no difference in principle between the statute of New Jersey and the statute of Nevada. What is the statute of Nevada? It is—

"That there shall be levied and collected a capitation tax of one dollar upon every person leaving the State by any railroad, stage-coach, or other vehicle engaged or employed in the business of transporting passengers for hire, and that the proprietors, owners, and incorporations so engaged shall pay said tax of one dollar for each and every person so conveyed or transported from the State."

What are the operative words of that statute? That the stage company or the railroad company shall pay so much to the State for every passenger carried, just precisely as in New Jersey the railroad company shall pay so much for every passenger carried. But the New Jersey statute does not call it a capitation tax, and the Nevada statute does call it a capitation tax. The operative words in the Nevada statute are that the company shall pay the tax, not the passenger; yet the court said it is nevertheless a tax upon the passenger. Mr. Justice Miller, in delivering the opinion, said:

"It is claimed by counsel for the State that the tax thus levied is not a tax upon the passenger, but upon the business of the carrier who transports him. If the act were much more skillfully drawn to sustain this hypothesis than it is we should be very reluctant to admit that any form of words which had the effect to compel every person traveling through the country by the common and usual modes of public conveyance to pay a specific sum to the State was not a tax upon the right thus exercised."

And accordingly it is here held in express terms that it is a tax upon the passenger, although the passenger was not required to pay it at all; but the stage company or the railroad company was required to pay it, just as in the case of New Jersey. Where is the difference?

The Senator from New Jersey says that any State has a right to levy a tax on the business of a corporation, instead of taxing its property. I deny it. That is the very point that is here

decided. There are some kinds of business which the State of New Jersey has no right to tax, even to the amount of one farthing. It may be said to be in lieu of all other taxes; it may be a good arrangement for the company; it may be a bad arrangement for the State; but it is the character of the business that is taxed and not the amount of it that settles the question.

Now, let us suppose, for the sake of the argument, that it would have been much better for New Jersey to tax the property of this railroad company in the ordinary way, just the way all other property is taxed. Suppose, for the sake of the argument, that it is a good thing for the company to be compelled to pay only so much upon passengers and so much upon freight, does that change the principle? It is the character of the tax, and not the amount of it. Chief Justice Marshall said, in the case of *McCulloch vs. Maryland*, it is not the amount of the tax that Maryland levies on the notes of the banks of the United States, but it is the fact that she levies a tax at all. And he went on to say that if she had a right to levy a tax of ten cents she had a right to levy a tax of \$100 or \$1,000. And so in the case of the State of New Jersey: if New Jersey has a right to require a railroad company to pay ten cents for one passenger she has a right to require the company to pay one dollar or \$100, and it amounts to a destruction of travel. No, sir; it is not the amount of the tax, nor is it the fact that it is in lieu of all other taxes. That makes no difference. It is the kind of business that is taxed; and what is that business? It is the carrying of passengers across the State—a business secured and guaranteed by the Constitution of the United States.

Now, sir, let me make an illustration or two. Let me suppose that the State of New Jersey should levy a tax of one fourth of one per cent. on all sales made by importers of foreign goods in the original package, and should say that that should be in lieu of all other taxes on those persons. There is a tax upon business in lieu of all other taxes. Has the State of New Jersey a right to do that? No, sir; those importers have a right to sell their goods in the original package by virtue of the Constitution and laws of the United States, and the State of New Jersey has no right to levy a tax upon their sales even to the amount of one fourth per cent. or of one hundredth part of one per cent. It might be a very good arrangement for the importers to be taxed in this way; their taxes might be much smaller than if they were imposed upon their property in the ordinary way; it might be a very bad arrangement for New Jersey to do it; but, sir, it is the character of the business that is taxed that makes the difference. New Jersey has no right to tax that business. Let me take another illustration. Suppose New Jersey should levy a tax of one half per cent. upon the incomes of all persons derived from interest on United States stocks, and should provide that for the amount of money received they should pay a tax to the State of one half per cent., and that this should be in lieu of all other taxes on them. There is a tax upon business; but has the State of New Jersey a right to do it? It may be a very bad thing for the persons thus taxed; but New Jersey cannot impose that tax because the receipts from United States stocks are in virtue of a contract with the United States, and the State cannot interfere with it. If a State can lay a tax of one half per cent. it can make it one per cent. or it can make it ten per cent. That comes right back to the old principle; it is the kind of business you are taxing; it is not the amount of the tax which regulates the question. You cannot tax the importer on his sales in the original packages; you cannot tax the income from the United States bonds; you cannot tax travel across the States of this Union in any form. It is not the amount, but the character of the business.

Mr. CATTELL. Will the Senator from Indiana allow me to ask him a question?

Mr. MORTON. Certainly.

Mr. CATTELL. I ask whether the railroads in the State of Indiana pay any tax to the State?

Mr. MORTON. Yes, sir.

Mr. CATTELL. If the railroads in Indiana pay a tax to the State where do they get the ability to pay it except from the profits of their roads; and what difference is there whether the tax is laid on the number of passengers crossing the road or upon the gross receipts or the value of the property?

Mr. MORTON. The railroads of Indiana pay tax just as other kinds of property pay taxes. They pay no special tax. The State of Indiana has no right to levy a tax upon travelers and release the companies from the ordinary taxes that other corporations and that private persons pay. But, sir, all these things are wholly foreign to the question. It is the kind of business that the Legislature of New Jersey proposes to tax which makes the tax objectionable. The Supreme Court of the United States has said, on various occasions, that no State has the power, directly or indirectly, to tax travelers and travel.

Mr. BAYARD and others addressed the Chair.

The PRESIDENT *pro tempore*. The Chair feels bound to arrest the debate for the purpose of calling the attention of the Senate to the unfinished business of yesterday, which is now regularly before the body.

SMITHSONIAN INSTITUTION REGENTS.

Mr. WILSON. Before that is taken up I desire to introduce a resolution which ought to be acted upon at once. It is to provide for the reappointment of Professor Agassiz as regent of the Smithsonian Institution, his term having expired.

By unanimous consent, leave was given to introduce the joint resolution (S. R. No. 200) reappointing Louis Agassiz a regent of the Smithsonian Institution; and it was read three times, and passed.

CHARTERING OF RAILROAD COMPANIES.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 554) to promote commerce among the States, and to cheapen the transportation of the mails and military and naval stores, the pending question being on the amendment of Mr. DOOLITTLE, to insert after the word "empowered," in line two of section eight, the words "with the consent of the Legislature of the State or States through which said railway may be located."

Mr. DOOLITTLE addressed the Senate. [See Appendix.]

Mr. CAMERON obtained the floor.

Mr. CONKLING. I ask the Senator to allow me to make a report from a committee of conference.

Mr. CAMERON. Certainly.

The PRESIDENT *pro tempore*. The report will be received.

Mr. POMEROY. I desire to renew the amendment which was offered by the Senator from West Virginia [Mr. WILEY] to this bill, and withdrawn by him.

The PRESIDENT *pro tempore*. That cannot be done until the amendment before the Senate is disposed of.

Mr. POMEROY. It will only be an amendment to an amendment.

Mr. EDMUNDS. Let us hear this report from the conference committee.

EVIDENCE IN CONTESTED ELECTIONS.

The Chief Clerk read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 1558) entitled "An act to amend an act entitled 'An act to prescribe the mode of obtaining evidence in the case of contested elections,' approved February 19, 1851," having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from their disagreement to the amendments of the Senate and agree to the same with an amendment, as follows: Strike out all of said Senate amendments and all after the word "that" in line one of the original bill down to and including the word "district" in line two, and insert in lieu thereof

as follows: "Any register in bankruptcy or notary public resident in a congressional district;" and that the Senate agree to the same.

ROSCOE CONKLING,
FREDERICK T. FRELINGHUYSEN,
GEORGE VICKERS.

Managers on the part of the Senate.

H. L. DAWES,
SAMUEL MCKEE,
JOHN W. CHANLER.

Managers on the part of the House.

Mr. EDMUNDS. I should like to hear the bill read as it will stand if that report is agreed to. I am perfectly unable to understand what it means in the way in which it has been stated.

Mr. CONKLING. I can state it in one moment, if the Senator will allow me. The bill, as it will stand if the report is concurred in, will authorize either a register in bankruptcy or a notary public to act as the officer before whom testimony may be taken in any congressional district in which there is a contest. That is the whole of it, I believe, in appropriate language.

Mr. EDMUNDS. I do not wish to make any serious opposition to a little matter of this kind; but I have the impression that the Judiciary Committee, to whom this bill was referred in the first instance, were of opinion that a register in bankruptcy, which was the original House proposition, ought not to be one of the persons authorized to take this testimony, and we reported it with an amendment which provided some other officer; I believe, as we reported it, a United States commissioner. Then, on the motion of my friend from New York, that was amended by general consent by substituting a notary public, I think. Now the conference committee propose to reinstate in the bill the register in bankruptcy. The objection that was suggested to that (although it will have no force in my State that I know of) was that registers in bankruptcy, as they now exist, practically have been nominated and their appointment controlled by the members of Congress from the various congressional districts, and hence it was supposed that a member having a contested election might have in the register who was to take the testimony a person who might be under some prejudice or partiality in his favor, and who would not stand, therefore, entirely neutral and unprejudiced between the parties. That was the objection that was suggested by my friend from Illinois, [Mr. TRUMBULL,] who is not now in his seat, to the bill as it originally stood. I do not know that the objection is a very serious one; but I thought it right to call the attention of the Senate to it, inasmuch as the result of the conference appears to be the opposite of that to which the committee came who reported the bill in the Senate.

Mr. CONKLING. The progress of this bill must be gratifying, I think, to all beholders interested in diligent and circumspect legislation. The bill originated in the House of Representatives. It related exclusively to a very simple matter pertaining to the privileges of the House, there being a number of contested-election cases in which it had been found impossible seasonably to obtain an officer authorized to take testimony. Without dissent of views in the House, as I understand, it was proposed to authorize registers in bankruptcy to act in necessary cases; and they were selected for the obvious reasons, first, that there was one in every congressional district, so that there would be no provocation or excuse for long travel and constructive mileage; second, that every register in bankruptcy was a lawyer, and would understand how to act as a master in taking testimony. The bill came here and was the subject of very diligent and careful scrutiny, and it was thought that various officers had better be substituted, and at length, as the Senator says, notaries public were put in on my suggestion. I thought it was not a wise selection, but it harmonized the views of the committee, and it was done. The bill went back to the House, and the chairman of the committee of Elections there, who is a gentleman of pretty large and extended experience on this subject, thought the amend-

ment was unwise, deemed registers in bankruptcy the best persons for this purpose, and the House non-concurred in our action. When a conference came to be held, they seemed to consider notaries public rather surplusage than otherwise, and were willing they should be retained to do it, and that is the reason it was agreed to.

Now, I have but one single word to say about the merits of it. It is a bill in which I feel very little interest. It is of considerable interest to a number of persons whose time prescribed by statute within which they must take testimony has almost run, and who have been unable to find any officer before whom testimony can be taken. Registers in bankruptcy were appointed by the district courts of the United States upon the nomination of the Chief Justice of the United States, and the Chief Justice was, as all will remember, quite fastidious in his mode of satisfying himself of the fitness of these officers. They were compelled to come with certificates under the seal of courts of record, setting forth their qualifications in a variety of respects enumerated in a circular which was sent out by the Chief Justice. And now really I am unable to stretch my credulity so far as to believe that a serious risk is to be run in allowing the House of Representatives to direct that testimony may be taken before registers in bankruptcy if they choose. It may possibly be that some register in bankruptcy is at once so dishonest and so much beholden to the Representative of his district, whose election is contested, that he will write down untrue testimony given, or refuse to write down that which is given; but it strikes me that is so very remote a possibility that I think we shall discharge our share of duty toward this bill if we allow it now to pass after its long pilgrimage through the two Houses.

Mr. EDMUNDS. Mr. President, I wish to repeat what I said a few moments ago, that this is a matter which does not interest, so far as I know, anybody in the State of Vermont; but I did think it right that the Senate should be informed of the singular metamorphosis through which this bill has gone since it was reported to this body, with the opinion of a majority of the Judiciary Committee that it was not a wise piece of legislation to add to the large number of persons who are authorized to take this testimony registers in bankruptcy, of all other men. And the reason upon which the committee proceeded was the one that I have named, that we know that the Chief Justice, in the exercise of that care and conservatism which characterize him, had relied mainly upon the member of Congress from each district for the selection of an appropriate person to fill that office; and hence the committee thought that to enlarge the area of persons who were to take this testimony by the addition of that particular class of persons might, as a principle, lead to just criticism in the selection by the member of that particular officer to perform the duty.

As my friend says, this may be all fanciful. The presumption is that every register in bankruptcy is honest, certainly. The presumption is, also, that every member of Congress is honest, I take it. Why not permit him to take the testimony himself, and the contestant himself, or his brother, or his son, or his clerk, or somebody who stands in a position of particular friendship and partiality toward him? It is the same wise principle which forbids that which should pervade all the operations of Government that partake of the nature of jurisprudence and of judicial proceedings; and that is, that every agency in the administration of justice and in the elimination of truth from a witness should be conducted through a channel which is absolutely above not only actual partiality and prejudice, but above the suspicion of it. That is the proposition, because, sir, permit me to say that a suspicion in a community that justice is being administered by partial and unfair hands, that testimony which is to affect the right of the people to representation in a contested case is being taken through a channel which is colored in the least

degree by partiality or prejudice or friendship, is one of the most dangerous steps in the administration of a free Government that can be taken.

That was the view of a majority of the Judiciary Committee, without intending to imply in the least degree that in the particular half a dozen cases that may be pending where this bill would operate there was any dishonesty in the register in bankruptcy; but when we pass general laws we pass them for the general good of the whole body-politic; we pass them to stand on the statute-book as long as there shall be occasion for that species of administration; and passing them in such a spirit we must pass them upon principles that will bear investigation, and under guards that will preclude not only the possibility of improper conduct, but any reasonable suspicion of it.

Now, it is said that this subject relates to the privileges of the House of Representatives. So be it, sir. If they are constitutional privileges of the House of Representatives, which they are entitled to be the judge of themselves, then it does not need any law about it. The House of Representatives can select its own agents, and if a majority of the body desire to select a register in bankruptcy let them do it; it would be far from me to complain. But if this is one of those measures of regulation which the Constitution requires the law to make over the proceedings of Government, then we must look at it as a law, and the fact that it concerns the House of Representatives is no argument in favor of one class of persons rather than another being selected.

I will say too, sir, that I think we hear quite too often as reasons for the action of this body that the opinion of the House of Representatives, or particular members of it, is so and so. It used to be thought in old times, before we entered upon modern parliamentary practice, that such methods of argument and such allusions were entirely out of order and unparliamentary; but I do not know but that it is late to retrace our steps in that respect. While, as I said before, this is a matter which concerns the body of people whom I have the honor to represent in a very small degree, indeed, I think it right to call the attention of Senators to the fact that this bill has now got back to the same position in which it stood when the Judiciary Committee reported against it and proposed a substitute for it, which is now set aside and this restored. I have no more to say.

Mr. FRELINGHUYSEN. Mr. President—

Mr. CAMERON. If the gentleman will allow me, I desire to suggest that I had the floor and gave way to the Senator from New York, at his request, on the condition that there was to be no discussion. I see now that this matter will occupy the whole day, and I desire to make my motion for an executive session.

Mr. FRELINGHUYSEN. I shall bethrough in a minute, and then the Senator can take the floor.

Mr. President, as a member of the Judiciary Committee I held the same views as those expressed by the Senator from Vermont on this bill, while at the same time I did not consider it a very serious question, as the duties to be performed by this commissioner are purely ministerial, not judicial in any sense; but as the House of Representatives, after hearing our objection, still adhered to their former view, and as it was a matter entirely relating to them, I thought it becoming on the part of the Senate, being one of the committee of conference, that we should not adhere to our views.

The PRESIDENT *pro tempore*. The question is on agreeing to the report of the committee of conference.

The report was concurred in; there being on a division—ayes 26, noes 13.

Mr. CAMERON. I now move that the Senate proceed to the consideration of executive business.

Mr. SHERMAN. I think we can finish the

bill to-day. We have got to do it some time or other, and may as well do it now.

Mr. CAMERON. I do not think so at all. I cannot give way again.

Mr. EDMUNDS. I suggest to the Senator from Ohio that he had better let the bill be printed as it now stands with the amendments.

Mr. SHERMAN. They make no change in it.

Mr. EDMUNDS. There have been several amendments made.

Mr. SHERMAN. Merely striking out; that is all.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Pennsylvania to proceed to the consideration of executive business.

Mr. GRIMES. I believe a motion to adjourn takes precedence of that, and I make that motion, that the Senate now adjourn until to-morrow.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

Friday, January 22, 1869.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BRYNTON.

The Journal of yesterday was read and approved.

MORNING HOUR.

Mr. WASHBURNE, of Illinois. I call for the regular order.

The SPEAKER. This being Friday, the business in order is the calling of committees for reports of a private nature, the Committee for the District of Columbia being entitled to another morning hour.

BANKRUPT LAW.

Mr. POLAND, by unanimous consent, from the Committee on the Revision of the Laws, submitted a report in relation to the bill (H. R. No. 1701) to amend the seventh section of an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1868, and for other purposes," approved March 2, 1867. Also, a report in relation to the bill (H. R. No. 1702) in amendment of an act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved March 2, 1867; and the same were ordered to be printed, and recommended to the committee.

SPECIE PAYMENTS.

Mr. GRISWOLD, by unanimous consent, introduced a bill (H. R. No. 1755) to diminish the fluctuations in gold and provide for a return to specie payment; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

OLIVER BASCOM.

Mr. GRISWOLD also, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Claims be instructed to inquire into the claim of Oliver Bascom, assignee of Edward Lusher, for services in taking care of a dredge for the United States at Whitehall, in the State of New York, and report by bill or otherwise.

Mr. CHANLER moved to reconsider the votes of reference, &c.; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ASSAY OFFICE AT HELENA.

Mr. KELLEY, by unanimous consent, introduced a bill (H. R. No. 1756) to establish an assay office at Helena, in the Territory of Montana; which was read a first and second time, and referred to the Committee on Coinage, Weights, and Measures.

Mr. KELLEY. I ask to have the bill printed.

Mr. WASHBURNE, of Illinois. I do not think it ought to be printed.

Mr. KELLEY. It comes from the committee with the recommendation of the Secretary of the Treasury, and is introduced in connection with another bill I now present for the

reduction of the mint at Denver to an assay office—a matter of economy.

Mr. WASHBURNE, of Illinois. What does the gentleman propose?

Mr. KELLEY. To have it printed and referred to the committee. The mint at Denver has cost \$235,611 34, and the receipts have been \$9,512 89. It is proposed to reduce it to an assay office, and to establish another at Helena.

Mr. WASHBURNE, of Illinois. How much has the other coined?

Mr. KELLEY. It is not for a mint; it is for an assay office, and it is a matter of economy. The motion to print was agreed to.

UNITED STATES MINT AT DENVER.

Mr. KELLEY also, by unanimous consent, introduced a bill (H. R. No. 1757) to convert the branch mint of the United States at Denver, Colorado, into an assay office; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

REFINING OF GOLD AND SILVER.

Mr. KELLEY also, by unanimous consent, introduced a bill (H. R. No. 1758) relative to the refining of gold and silver bullion at the Mint of the United States and branches; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

Mr. WASHBURNE, of Illinois, moved to reconsider the votes by which the bills, were severally referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CHARTER OF GEORGETOWN.

Mr. KOONTZ, from the Committee for the District of Columbia, reported back, with the recommendation that it do pass, the bill (H. R. No. 418) to amend the charter of the corporation of Georgetown, District of Columbia.

The bill was read. The first section provides that in addition to the rights heretofore granted to the corporation of Georgetown, District of Columbia, to regulate the anchorage and mooring of vessels arriving at the port thereof, said corporation shall be authorized to levy and collect, according to regulations to be established by said corporation, from each and every vessel arriving in the port and harbor a fee not to exceed the sum of \$4 50, which fee shall be graduated according to the tonnage of said vessels, and also a ballast fee not to exceed \$1 25 from each and every vessel discharging ballast in said port.

The second section proposes to ratify and confirm all acts done and performed by said corporation of Georgetown under an ordinance passed by the corporation entitled "An ordinance for the appointment of harbor masters, and for other purposes," approved September 10, 1864, and all acts done and performed by harbor masters or assistant harbor masters under said ordinance.

Mr. KOONTZ. In explanation of this bill I would state that prior to 1867 harbor masters' dues were collected under an ordinance of the municipal authorities of the city of Georgetown, but at some time during that year there were certain decisions of the courts of the District of Columbia and of the Supreme Court of the United States by which provisions similar to those contained in the ordinance were held to be unconstitutional. The ordinance under which such fees had been collected was to this effect:

"Be it enacted, &c., That section second of the act entitled 'An act for the appointment of a harbor master, and for other purposes,' be so amended that the harbor fees to be collected by the harbor master shall be as follows: on all vessels of fifty tons and under, fifty cents; vessels of fifty tons to one hundred tons, one dollar; two hundred tons, \$1 50; from two hundred tons to three hundred tons, \$2 50; from three hundred tons to five hundred tons, four dollars; and over five hundred tons, five dollars."

Mr. ELIOT, of Massachusetts. In the confusion prevailing in the Hall it has been impossible to hear the bill; but I now make the point of order that this bill is not a private bill

and ought not to be introduced here to-day. It is a general bill granting to the city of Georgetown the right to impose a tonnage tax. It is a bill that ought to be considered very carefully, and I, think, by the Committee on Commerce. I submit the point of order that it is not a private bill.

The SPEAKER. The Chair would state that the point of order is made too late. The bill was read by the Clerk at the Clerk's desk, and if the gentleman from Massachusetts was not attending to what the Clerk read it is not the fault of the Clerk.

Mr. ELIOT, of Massachusetts. I am not finding fault; but the misfortune is, that living in the Alaska region, it is utterly impossible for me to hear what is said. [Laughter.]

The SPEAKER. That complaint is not generally made against the Clerk, whose voice is usually audible throughout the Hall.

Mr. ELIOT, of Massachusetts. If my point of order is too late I wish to give notice that whenever I can obtain the floor for the purpose I will move that this bill be referred to the Committee on Commerce.

The SPEAKER. The Chair will state to the gentleman from Massachusetts [Mr. ELIOT] that by May's Parliamentary Practice, which lays down the distinction between private and public bills in the British Parliament, this would be a private bill. The precedents are found on pages 612 and 613 of that work, as follows:

"Though a bill relating to a city is generally held to be a private bill, bills concerning the metropolis have been dealt with as public bills; the large area, the number of parishes, the vast population, and the variety of interests concerned constituting them measures of public policy rather than of local interest. Thus the metropolis police bills in 1828 and 1839, the metropolis local management bill in 1855, the main drainage of the metropolis bill in 1858, and others similar bills were brought in, and passed through all their stages, as public bills."

"Bills concerning the city of London only have generally been private bills, having been solicited by the corporation itself, which desired special legislation affecting its own property, interests, and jurisdiction. Thus even the bill for establishing a police force within the city was brought in upon petition, and passed as a private bill."

As Congress is the exclusive legislature for this metropolitan District of Columbia, it would appear from the above precedents established in the nation whence we draw our parliamentary law that this bill, confined as it is in its operations to the city of Georgetown, is a private bill, while taxation bills operating throughout the whole District should be held as public bills if objection was made to their being considered on private bill day.

Mr. KOONTZ. This bill has been fully considered by the Committee for the District of Columbia, and I believe the members of that committee, with one exception, are unanimously in favor of the passage of the bill. As I was about stating when interrupted, the owner of the schooner Nautilus refused to pay the small harbor fee of fifty cents which was levied on his vessel. An action was brought for the amount so levied and the case was taken before the supreme court for the District of Columbia, and the court decided that the levying of such dues was unconstitutional. The provision under which these fees were collected was precisely the same as those under which the authorities of Georgetown previously collected them. In the case of the Southern Steamship Company of New Orleans against the masters and wardens of the port of New Orleans, the Supreme Court of the United States declared that it was unconstitutional to collect fees of a similar character that were imposed by authority of the Legislature of Louisiana.

It is held in both these cases that inasmuch as Congress alone possesses this power under that clause of the Constitution which provides that "no State shall, without the consent of Congress, lay any duty of tonnage," &c., no State or city authority, without a previous grant of power by Congress, has a right to impose any such duty. The committee have deemed it advisable, in view of the importance of this officer, that this power should be given to the corporate authorities of Georgetown. The

duties of the harbor master are to remove from time to timeships and vessels in order to make room for others or to admit the river craft to pass in and out of the docks, and to compel the masters and captains of ships and vessels to accommodate each other, so that ships and vessels arriving from sea shall for a reasonable time be entitled to berths next to the wharves until they have unloaded their cargoes. There are a variety of duties imposed upon him, regulating the whole matter of the lading and unloading of vessels and their entry and departure from port.

An officer of this kind is absolutely necessary at every port. I have examined the authorities, and, so far as I can find, there is not a port in the United States in which such an officer is not found. Yet under the decisions of the supreme court of the District of Columbia and the Supreme Court of the United States I do not hesitate to say that in every case where fees are imposed and collected, either by legislative or municipal authority, it is done in violation of the Constitution of the United States. It is not denied, however, that Congress has the right to confer the power to collect such fees upon the municipal authorities of any city. Therefore it becomes merely a question of expediency whether this power shall be granted; and when it is also understood that there is an absolute necessity for an officer of this kind in every port, I think that gentlemen will agree with the Committee for the District of Columbia that this bill should be passed. And now, sir, with this explanation, unless some gentleman desires to be heard upon this subject, I will call the previous question.

Mr. BALDWIN. Will the gentleman yield to me for a moment?

Mr. KOONTZ. For what length of time?

Mr. BALDWIN. I do not want much time; not more than five or ten minutes.

Mr. KOONTZ. I will yield to my colleague on the committee.

Mr. BALDWIN. I think this bill ought not to pass until it is more clearly and fully understood by the House. It is a bill to allow the corporation of Georgetown to levy tonnage duties for revenue on vessels visiting that port. It does not provide merely to allow harbor masters to receive pay for services rendered to vessels visiting that port, but to allow the corporation of Georgetown to collect money by means of this tax, which is to go into the city treasury. This bill certainly proposes a novelty in our legislation, and a novelty that is every way objectionable. If any authority of this kind shall be granted, which I cannot suppose possible, it should be by a general law. At all events, I shall urge here, as I urged in the committee reporting this bill, that before it is further considered the bill should be referred to the Committee on Commerce; and I ask the gentleman from Pennsylvania [Mr. KOONTZ] to yield and allow such a motion to be made.

Mr. KOONTZ. I cannot yield for such a motion.

Mr. CHANLER. Will the gentleman yield to me?

Mr. KOONTZ. No, sir.

Mr. CHANLER. I rise to address an inquiry to the Chair.

The SPEAKER. A member cannot be taken from the floor by another member rising to put an inquiry to the Chair.

Mr. CHANLER. The gentleman, when explaining this bill, was not heard in this part of the Hall, and I would like to ask him for some information.

Mr. KOONTZ. I yield to the gentleman for a question.

Mr. CHANLER. I ask the gentleman whether this bill proposes to introduce an exceptional system in the collection of revenue, or whether it is in accordance with the established custom of the Government in regard to the collection of revenue at ports throughout the Union?

Mr. KOONTZ. I will say to the gentleman from New York [Mr. CHANLER] that in all the other ports of the United States these fees are

collected either under municipal authority or by legislative enactment; and, as I have already stated, according to the decisions of the courts, including the Supreme Court of the United States and the supreme court of the District of Columbia, the collection of these fees under such authority is unconstitutional. This bill, so far as it confers this power upon the city of Georgetown, is perhaps exceptional.

Mr. CHANLER. That is what I wanted to get at. Now, I will ask the gentleman whether he has any objection to introducing a similar measure with regard to the corporation of the city of New York?

Mr. KOONTZ. I have no objection whatever to such an enactment, though I have no authority from the committee to present such a measure.

Now, I will say in reply to my colleague on the committee [Mr. BALDWIN] that if he had examined this bill he would have found that it contains no provision by which revenue is to be raised by the collection of these fees. The first section of the bill provides—

"The corporation of Georgetown are authorized to levy and collect, according to rules and regulations to be established by said corporation, from each and every vessel arriving in its port, a harbor fee not to exceed the sum of \$1 50, which sum shall be graduated according to the tonnage of said vessels."

The bill contains no provision by which revenue is to be raised from these fees. They are simply designed to compensate the harbor masters for services rendered in assigning vessels their proper places at the docks, removing them, attending to loading and unloading them, and performing the other duties I have already enumerated. The authority proposed to be given by the bill is precisely similar in character with that formerly exercised under the ordinance authorizing the collection of these fees. As the collection of such fees under municipal authority has been declared unconstitutional, the bill proposes to authorize their collection by act of Congress, the only power competent to give such authority.

Mr. ELIOT, of Massachusetts. I hope the gentleman will allow me a few minutes before he yields the floor.

Mr. KOONTZ. I yield to the gentleman for five minutes.

Mr. ELIOT, of Massachusetts. Mr. Speaker, I will begin by saying that this bill, if it be passed, will stand alone upon the statute-book, being wholly exceptional in its character, without precedent, so far as I am advised, in any legislation heretofore adopted by Congress. The Committee on Commerce have now upon their files a multitude of petitions praying that some legislation should be had prohibiting the imposition in different ports of various taxes under local laws. It appears that the tax which has heretofore been in some way or other collected at Georgetown has been ruled by the courts to be contrary to the provisions of the Constitution; and now the corporation of that city having made application to Congress, the Committee for the District of Columbia have reported a bill, which has not been printed, and which has not been examined by any gentleman who has not had the chance to read it in manuscript, proposing that Congress shall confer upon the corporation of Georgetown the right to impose on every vessel coming into that port a tax not exceeding \$4 50 for one purpose, and a ballast fee not exceeding \$1 25 for another purposes. Now, Mr. Speaker, it may be well enough for Congress to take into account the interests of all the ports of the United States before undertaking to say that any one port shall have the privilege to impose tonnage taxes upon the commerce of the United States. I submit that this is a question that ought to receive the most careful consideration of the committee charged by this House with the duty of examining questions of this kind, and that it is not right that bills professing to affect only specific ports, but which may affect the interests of the whole commerce of the country, should be reported from committees not having charge of the general subject. I cannot, in the few minutes which are al-

lowed me, undertake to state to the House the various objections to this proposed legislation. All I can do now is to say that it is wholly exceptional in its character, and that it has not received the examination of the committee whose duty it is, as it seems to me, to look into questions of this kind. I shall, if I have the opportunity, move the reference of this bill to the Committee on Commerce.

Mr. RANDALL. I rise to corroborate the statement of the gentleman from Massachusetts. My constituents are now petitioning Congress upon this very subject—to be relieved from this sort of extortion. I hope, therefore, that the House will send this bill to the Committee on Commerce, so that if there is to be a bill passed on the subject it shall be made general, and not as this is, exceptional in its character.

Mr. KOONTZ. The reason this bill is exceptional is this: the corporate authorities of Georgetown have deferred to the decisions of the courts; in other cities they have refused to do so. The fees are now being collected in New York, Philadelphia, and other ports in violation of the Constitution of the United States. The committee were not asked to consider the question of giving the power to other cities. This bill provides that power be conferred upon the authorities of Georgetown to have an officer under the law to do what is now done in other ports without law. I demand the previous question.

Mr. RANDALL. If the previous question is voted down, will it be in order for the gentleman from Massachusetts to make a motion to refer the bill to the Committee on Commerce?

The SPEAKER. Certainly.

The House refused to second the previous question—ayes 22, nays 92.

Mr. ELIOT, of Massachusetts. I move to refer the bill to the Committee on Commerce.

Mr. ROSS. I move to lay it on the table.

The question being taken on the motion to lay the bill on the table, there were—ayes 79, nays 46.

Mr. KOONTZ. I demand the yeas and nays.

The yeas and nays were refused.

So the bill was laid on the table.

Mr. ELIOT, of Massachusetts, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BREVET RANK IN THE ARMY.

Mr. GARFIELD, by unanimous consent, presented a letter of the Secretary of War, in regard to brevet rank in the Army; which was ordered to be printed, and referred to the Committee on Military Affairs.

FOUR-AND-A-HALF STREET.

Mr. INGERSOLL, from the Committee for the District of Columbia, reported back the bill (H. R. No. 253) to change the name of Four-and-a-half street, in the city of Washington, to Lincoln avenue.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. INGERSOLL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MASONIC MUTUAL RELIEF ASSOCIATION.

Mr. WOOD, from the Committee for the District of Columbia, reported a bill (H. R. No. 1779) to incorporate the Masonic Mutual Relief Association of the District of Columbia; which was read a first and second time.

The bill was reported.

Mr. WOOD. I do not think this bill requires any explanation. It explains itself. It is simply a bill granting an application by the members of the order of Masons in this District to have an active incorporation to enable them jointly, all the lodges being represented,

to distribute their alms to their brethren and their widows and orphans.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WOOD moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HAMILIN, one of its clerks, announced that that body had passed the following bill and joint resolutions; in which the concurrence of the House was requested:

A bill (H. R. No. 1451) for the relief of John H. Osler, of Guernsey county, Ohio; and

A joint resolution (H. R. No. 404) providing for the disposition of certain papers relating to military claims accruing in the department of the West; both with an amendment.

LOANS UPON UNITED STATES NOTES.

Mr. INGERSOLL. I now yield for three minutes to the gentleman from New York, [Mr. BARNES].

Mr. BARNES. I ask unanimous consent of the House to present a bill to prevent loaning money upon United States notes for the consideration of the House at this time. I will state that the bill has been considered by the Committee on Banking and Currency, and considered of vital and immediate importance, and is unanimously recommended to the attention of the House at the present time.

Mr. WOOD. I object.

POLICE COURT OF THE DISTRICT OF COLUMBIA.

Mr. WELKER, from the Committee for the District of Columbia, reported back, with sundry amendments, chiefly verbal, the bill (H. R. No. 1627) to establish a police court for the District of Columbia.

The bill, as proposed to be amended, reads as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be established in the District of Columbia a court, to be called police court of the District of Columbia, which shall have jurisdiction of all offenses committed in the District of Columbia not deemed capital or infamous crimes; that is to say, of all offenses which are declared to be misdemeanors and made punishable as such and not punishable capitally or by imprisonment in the penitentiary, and of all offenses against any of the ordinances of the city of Washington, or of the city of Georgetown, or the levy court of the county of Washington. It shall consist of one judge, who shall be appointed by the President of the United States, by and with the advice and consent of the Senate, for the term of six years; and who shall, before entering on the duties of his office, take the oath prescribed to be taken by judges of the courts of the United States.

Sec. 2. *And be it further enacted,* That the salary of said judge shall be \$3,000. The said court shall have power to appoint a clerk, at a salary of \$2,000; said clerk shall have power to administer oaths and affirmations, and shall give bond with surety as prescribed by law for clerks of district courts of the United States, and who shall hold his office for six years, unless sooner removed by said court for good cause.

Sec. 3. *And be it further enacted,* That prosecutions in said court shall be by information, without indictment by grand jury or trial by petit jury. But a party deeming himself aggrieved by the judgment of said court may appeal to the criminal court held by a justice of the supreme court of the District of Columbia; and in such case said appeal shall be tried on the information filed in the court below, certified to said criminal court by a jury attending at said criminal court, although the case had originated in the last-mentioned court.

Sec. 4. *And be it further enacted,* That said police court shall hold a term thereof in each month of the year; said terms shall begin on the first Monday of each month. Said court shall have the power to issue process for the arrest of persons against whom information may be filed at any time, and to compel the attendance of witnesses. Such process may be directed to the marshal of the District of Columbia, who shall execute the same in like manner as in other cases. Such process shall be under the seal of said court, and shall bear teste in the name of the judge thereof, and signed by the clerk.

Sec. 5. *And be it further enacted,* That the said court shall have power to punish contempts and to issue all process necessary for the exercise of its jurisdiction, and shall have a seal. It shall not have jurisdiction to naturalize foreigners.

Sec. 6. *And be it further enacted,* That said court shall have power to appoint one bailiff, who shall receive for his services \$3 50 for each day's attend-

ance upon said court, as provided for in section four-teen, certified by the judge of the court.

Sec. 7. *And be it further enacted,* That there shall be no fee charged for any service by the clerk. The marshal and witnesses shall receive the same fees as are allowed for similar service and attendance in the supreme court of the District of Columbia, and be paid in the same manner.

Sec. 8. *And be it further enacted,* That in all appeals from said court the party applying for the appeal shall enter into a recognizance with sufficient surety, to be approved by the said court, for his appearance at the criminal court then in session, or at the next term thereof, if said criminal court be not then in session, there to prosecute said appeal and to abide the judgment of said criminal court. Said recognizance, with said approval indorsed thereon, and the information, shall be immediately transmitted to the clerk of the supreme court of the District of Columbia. Upon such recognizance being entered into all further proceedings shall be stayed in the said police court, and the judgment of said criminal court shall be final in the case.

Sec. 9. *And be it further enacted,* That the bailiff of said court may act as a deputy for the marshal of said District of Columbia for the service of process issued by said court.

Sec. 10. *And be it further enacted,* That said police court shall be provided with a suitable place for the holding of its sessions, at the expense of the District of Columbia. Said court shall have power to do all acts which may be necessary to the exercise of the jurisdiction hereby conferred.

Sec. 11. *And be it further enacted,* That upon the failure of any party appealing from the judgment of said police court to the criminal court to enter into recognizance, as provided for in section eight, he shall be committed to jail to await his trial upon his appeal, and said trial may be held in said criminal court as though said recognizance had been entered into. In such case it shall be the duty of the court below to send up the information filed in the cause, and a copy of the record of all the proceedings, to the criminal court.

Sec. 12. *And be it further enacted,* That the judge of said police court shall have power to take the acknowledgment of deeds for lands in the District of Columbia, to administer oaths to public officers, and to certify to the sufficiency of sureties in official bonds and guarantors of contracts with the various Departments and Bureaus of the Government; for which service, in either case, a fee of one dollar may be charged.

Sec. 13. *And be it further enacted,* That said court shall have power to make such rules and regulations as may be deemed necessary and proper for conducting business therein. Contempts may be punished by fine and imprisonment, or both; but the fine shall not exceed twenty dollars, nor the imprisonment be longer than twenty-four hours.

Sec. 14. *And be it further enacted,* That the salaries of said judge and clerk of the police court, and the compensation of the said bailiff, shall be paid quarterly by the authorities of the cities of Washington and Georgetown and the county of Washington in such proportions as may be fixed by the mayors of Washington and Georgetown and the levy court of said county, having reference to the value of the taxable property therein, respectively.

Sec. 15. *And be it further enacted,* That all fines and penalties assessed and collected by said court shall be paid over by the clerk thereof to the proper authorities of the cities of Washington and Georgetown and said county of Washington in the same proportion as said mayors and levy court shall apportion the salaries aforesaid.

Sec. 16. *And be it further enacted,* That it shall be the duty of the United States attorney of said District, or his assistant to attend to the trial of all cases in said police court and conduct the trial thereof, and attend to all business in said court in relation thereto, on behalf of the Government; and for his services rendered in said court the said United States attorney shall receive as compensation the same fees allowed him by law for similar services in the criminal court of said District, to be paid by the authorities of the cities of Washington and Georgetown and the county of Washington, to be apportioned as aforesaid on the certificate of the judge aforesaid that such services were rendered; and said attorney shall not be required to include said fees in his semi-annual emolument return to the Secretary of the Interior, and they shall be in addition to the fees paid him by the Government for other services.

Sec. 17. *And be it further enacted,* That all justices of the peace in said district having jurisdiction of the crimes and offenses of which jurisdiction is given herein to said police court shall recognize such accused persons for appearance in said court instead of the criminal court of said District, and certify the proceedings to said court in the same manner as now provided by law in the case of recognizance of accused persons to said criminal court of said District.

Mr. WASHBURN, of Illinois. Will the gentleman from Ohio yield to me to offer an amendment?

Mr. WELKER. I will hear it read.

Mr. WASHBURN, of Illinois. This seems to be a bill to establish a new court here and create a great deal of additional expense, and if it can be done at the expense of the District I do not know that I shall have any objection. I desire the gentleman to allow me to offer the following as an additional section:

Sec. —. *And be it further enacted,* That it shall be the duty of the levy court of the District of Columbia to levy a tax to pay all the expenses of the court,

which shall be paid into the Treasury of the United States and held as a special fund to pay such expenses, and no expenses of said court shall be a charge upon the Treasury.

Mr. WELKER. I have no objection to providing that the levy court may levy the tax, because the bill provides that this court shall be at the expense of the District.

Mr. WASHBURN, of Illinois. What want to provide is that the establishment of this court shall not entail, as it would under the bill as reported, an additional and very heavy expense to the Government.

Mr. WELKER. I have tried to prevent its being any expense to the Government.

Mr. HOPKINS. I suggest to the gentleman from Illinois this modification of his amendment:

Sec. —. *And be it further enacted,* That no expense incurred by the organization of this court shall be paid by the Government of the United States.

Mr. WELKER. I have no objection to that amendment being offered.

Mr. WASHBURN, of Illinois. Then I will accept it as a modification of my amendment.

Mr. BOUTWELL. Will the gentleman yield to me for a suggestion?

Mr. WELKER. Certainly.

Mr. BOUTWELL. This bill as proposed to be amended, it seems to me, is objectionable in one or two particulars. I am not sufficiently informed in regard to all the facts; but one of the objections which occur to me is that it proposes to allow the district attorney to charge certain fees which are not specifically described in the bill or the proposed amendment. Now, we have on various occasions passed bills containing provisions of that sort, and afterward ascertained that allowances had been made which never would have been made if this House had understood exactly what was being done. Then another objection I have to the bill is, that it allows justices of the peace now holding commissions to take cognizance first of the very offenses of which this police court are to have jurisdiction, and that the parties charged are to be held over to answer in the police court. I do not see why the police court should not have original and exclusive jurisdiction of all those cases. I understand that one of the grievances, if it be not something worse, in this District is that these justices of the peace arraign persons who, perhaps, ought not to be arraigned, and in one way or another receive very large fees either from the treasury of the District or from the United States.

Mr. WELKER. I will first answer the last objection of the gentleman from Massachusetts, [Mr. BOUTWELL.] We have undertaken in this bill to provide that these justices of the peace shall have some criminal jurisdiction. It is not proposed to give justices of the peace any additional criminal jurisdiction whatever.

Mr. BOUTWELL. The point I make is, that this police court should have the same place in the judicial proceedings of this District that police courts usually have in cities of the size of this one; that is, original and exclusive jurisdiction.

Mr. WELKER. This bill does give that court general jurisdiction. But in the District of Columbia these magistrates, or justices of the peace, examine charges against individuals and bind them over for trial in the criminal court of the District. In place of the criminal court it is proposed by this bill to establish a police court for the trial of certain offenses.

Mr. BOUTWELL. The great grievance complained of in this District, and which I understand is to be perpetuated if the proposed amendment to this bill shall become law, is that justices of the peace will have original jurisdiction, as well as this police court, of various offenses under the general name of misdemeanors. Now, I think, if we are to set up a police court here, that court should not only have original but exclusive jurisdiction, and that justices of the peace should be disrobed of their power to arraign any one. And the fees that are complained of, and which are now taken by these justices of the peace; con-

stitute one of the difficulties which we ought to get rid of when we establish a police court for this District. Without that I certainly would not vote to establish a police court here.

Mr. WELKER. It is not proposed by this bill to change at all the jurisdiction of justices of the peace in relation to this class of crimes. If there is any complaint to be made against them for the exercise of that jurisdiction I am entirely willing that the section directing them to bind over to this court shall be stricken out of the bill. The bill itself gives the police court original jurisdiction in all that class of crimes in this District. But I supposed that these justices of the peace, now having criminal jurisdiction, could go on under the present law investigating offenses charged and bind over to the police court that class of criminals which they now bind over to the criminal court of the District.

[Here the hammer fell.]

The SPEAKER. The morning hour has expired, and this bill will go over to the morning hour of the next private bill day.

Mr. WELKER. I ask that the bill, with the pending amendments, may be printed for the use of the House.

No objection was made; and the bill and pending amendments were ordered to be printed.

LEAGUE ISLAND BRIDGE.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Navy, transmitting a communication from Commodore Glisson, commanding League Island navy-yard, asking authority to repair the bridge connecting the island with the main land, and asking an appropriation of \$10,000 for that purpose; and the same was referred to the Committee on Appropriations.

WITHDRAWAL OF PAPERS.

Mr. MILLER asked and obtained leave to withdraw from the files of the House papers in the case of Captain James Thompson, of Juniata county, Pennsylvania.

PRINTING OF A BILL.

Mr. ASHLEY, of Ohio. I ask that the bill (H. R. No. 1625) concerning the boundaries of the States of Nevada, Minnesota, and Nebraska, and the Territories of Colorado, Montana, and Wyoming, which has been made a special order for next Thursday, be ordered to be printed, with the amendments.

The SPEAKER. If there be no objection, the bill and amendments will be ordered to be printed.

There was no objection.

EVIDENCE IN CONTESTED ELECTIONS.

Mr. DAWES, from the committee of conference upon the bill (H. R. No. 1558) to amend an act entitled "An act to prescribe the mode of obtaining evidence in case of contested elections," approved February 19, 1851, presented the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to bill (H. R. No. 1558) entitled "An act to amend an act entitled 'An act to prescribe the mode of obtaining evidence in case of contested elections,'" approved February 19, 1851, having met, after full and free conference, have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from their disagreement to the amendments of the Senate, and agree to the same with an amendment as follows: strike out all of said Senate amendments, and all after the word "that" in line one of the original bill down to and including the word "district" in line two, and insert in lieu thereof as follows: "any register in bankruptcy or notary public resident in a congressional district;" and that the Senate agree to the same.

H. L. DAWES,
SAMUEL McKEE,
JOHN CHANLER,

Managers on the part of the House.

ROSCOE CONKLING,

F. T. FREELINGHUYSEN,

GEORGE VICKERS,

Managers on the part of the Senate.

The report was agreed to.

Mr. DAWES moved to reconsider the vote by which the report was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS TO-MORROW.

The SPEAKER. The Chair will state that to-morrow morning, immediately after the reading of the Journal, the gentleman from Massachusetts [Mr. BOUTWELL] will, according to notice already given, call up the constitutional amendment in regard to suffrage for debate during the day.

DENVER PACIFIC RAILWAY.

The House, according to order, resumed the consideration of the bill (S. No. 570) for a grant of land, granting the right of way over the public lands to the Denver Pacific Railway and Telegraph Company, and for other purposes.

Mr. VAN TRUMP resumed and concluded the remarks begun by him on last Wednesday.

The entire speech is as follows:

Mr. Speaker, I shall crave the attention of the House for a time while I proceed to give some of the reasons why I cannot concur with the majority of my colleagues on the Pacific Railroad Committee in asking for the passage of the bill now before the House. The question is of vast importance to the material interests of the people; and I am much mistaken in the popular sentiment if it does not demand a prompt and definite settlement of the proposition one way or the other. I do not consider the votes already taken as at all conclusive of the question yet to be presented on some of the many bills not reported, and of the one now before the House. The vote on the Niagara canal bill and on the resolutions of the honorable gentleman from Indiana [Mr. HOLMAN] may be indicative of what is called the temper of the House; but they are not conclusive.

"We have scotched the snake, not killed it."

Sir, it is a fact disputed by no one that the action of the present Congress in relation to the almost untold numbers of bills now pending in committee asking the aid of the Government in the construction of railroads and ship-canal and other kindred works denominated public improvements, will affect the public interests, if not the public feeling and opinion, with consequences which will reach into the far-off future, and exert an influence, for good or for evil, upon the coming generations. I regret exceedingly, sir, that I have been hurried into this debate without that examination and preparation, especially upon its legal and constitutional propositions, which its importance demands, and without which a full knowledge and understanding of all its multifarious bearings upon the great interests of the people in the present embarrassed affairs of the Government cannot be fully obtained. I shall reserve the right, if I can get the opportunity hereafter, to present my views upon the constitutional questions involved in this grand scheme of Government subsidies to private corporations. Nor shall I now confine myself to the bill under consideration.

I wish to say, right here, in relation to this Senate bill, No. 570, proposing to grant a subsidy, in the bonds of the Government, of \$800,000 to the Union Pacific railway, eastern division, that I am most decidedly opposed to voting any more subsidies, either in the people's lands or the people's money, to these private corporations, for the reason that, outside of the question of constitutional power, they are intended to inure more to the selfishness of private ends than the public good. I not only have very grave and serious doubts of our constitutional power to do so, but my convictions as to the wrong and impolicy of the thing, in the present disturbed condition of the country, are clear and unhesitating. Sir, with this great and mighty public debt resting upon and tormenting the people to an extent and with a crushing weight never before imposed upon an equal amount of population and property in all man's history, we are now asked, or will be asked, to increase the vast volume of this public obligation in a sum of more than one hundred million dollars in the way of grants of lands and bonds to railroads and ship-canal, owned and controlled by a few

private and unscrupulous individuals whose attention is more devoted to cheating the Government in their construction than to care for and protect the people's rights by a fair and honest compliance with the terms of the law which gives them these enormous subsidies.

Sir, in my humble opinion it is high time we should pause in this mad course of extravagance and special legislation. In times like these, if in no other, all our legislation should look to the common weal and the public safety instead of private aggrandizement and the creation of these most intolerable special and personal privileges. These jobs and speculations may triumph now, but a day of the most signal retribution will surely come. The people may be careless and indifferent now, or seem to be so; but there will come a time when they will look into these things with a most thorough and searching scrutiny. The frenzy of party politics, the passions and prejudices growing out of the war and belonging to the great question of reestablishing the Government, may yet for a time so occupy and absorb the public mind as to ignore all other questions; but a time will surely come when we, as the Representatives of the people, will be held to the strictest accountability for our present action upon these gigantic schemes of public plunder. Sir, do I state the question too strong? Do I denominate this system by too harsh a term? It is no time now to deal in honeyed phrase, any more than it is to deal in unmerited vituperation. The plain, straightforward language of truth is what the times demand; and he who does not dare to use it so as to clothe truth with all its significance and power fails in his duty to the people, when their rights and their interests are at stake. I shall present some facts before I take my seat which will show that the importance and fearfulness of this subject cannot be exaggerated.

Mr. Speaker, the best way to comprehend and anticipate the future is not to neglect or forget the practical teachings of the past. It is the instinct of wisdom to profit by example. History is the great light-house of the nations; and woe unto that people who do not heed the rocks and shoals disclosed by its warning light shed across the troubled waters of a nation's life! Everything in the past warns us of the future. There is not so much difference in men, either as individuals or when massed into classes, in the impulses and passions which dictate and lead to their actions, as there is in the circumstances and temptations by which they are surrounded and controlled. Time and circumstances do not so much make as they develop human character. Applying this philosophy to the subject in hand, we can form some idea how these new schemes of railways and subsidies will be managed in the future, by looking into the management of those which have already been consummated. I think I shall show either the most reckless extravagance or else the most gigantic fraud that has ever occurred even in railroad extravagance and corruption.

Take the Union Pacific railroad as an instance. In 1862, in the midst of the war, during its darkest and most gloomy prospects, and upon the miserable plea of a "war necessity," this gigantic monopoly and swindle upon the people was incorporated with a capital of \$100,000,000. This war cry is still kept up to force a compliance with the leech-like demand for more bonds and lands. I beg leave here to say that in my opinion my friend, the honorable gentleman from Minnesota on my left, [Mr. WINDOM,] marred his very able and elaborate speech the other day, in advocacy of the Northern Pacific railroad, by using this worn-out appeal of a "war necessity" in relation to our troubles with the western Indians. It was not worthy of the high level of his general argument.

The distinguished gentleman from Pennsylvania, [Mr. KELLEY,] who immediately preceded me in the discussion of the bill now before the House, also sounded this war-whoop against the "poor Indian." All this shows

that the art of war is not at a stand-still. Why should not improvements be made in the science of war as well as in anything else that pertains to man in his onward march to perfection? Sir, it would be a most amusing sight to see a noble squadron of this iron-sinewed steam cavalry making a charge through the narrow cañons and over the lofty precipices of the Rocky mountains upon a few flying and scattered sachems, mounted on their shaggy and half-starved ponies! The poet's idea of the "leaps of the living thunder" among the Alpine crags would be almost realized. But, sir, in all seriousness, there is a much better remedy for our Indian difficulties than the screams of the steam-whistle or the prancings of the iron horse. Let this Government deal fairly and justly with these Indian tribes; let it put an end to the chicanery and dishonesty of its Indian agents; let it bestow but a fraction of the consideration and money upon the red man which it does upon the black, and we will hear no more of Indian troubles or Indian wars.

Mr. Speaker, there was a day in the history of this Government when the great and almost imperial corporate powers of this Union Pacific Railroad Company, outside and independent of its enormous land and money subsidies, would have excited the alarm and indignation of the people; but the popular mind seems to have become paralyzed, and nothing now, whether of power or expenditure, either shocks or attracts the public attention. But, sir, I must postpone to another time the consideration of its tendency to political and commercial dominion: I only wish to call attention now to the monstrous mismanagement if not corruption of its affairs, and the insatiable voracity with which it has swallowed up the lands and the bonds of the Government. We have none of us forgotten the slashing and unmerciful description by the honorable gentleman from Illinois [Mr. WASHBURN] of the manner and the means by which this act of incorporation was carried in 1862. That was a picture of legislative action, a photograph of parliamentary tactics, not soon to be forgotten.

But that is not all. The passage of the supplementary act of 1864 must have been quite as extraordinary, for by that act the first mortgage lien of the Government upon the entire road and all its equipments, solemnly enacted to secure \$20,000,000 of its bonds, was absolutely struck out of existence by the insertion of five short lines in the amendatory law in order to give place to an equal amount of the private bonds of the company, perhaps largely owned by its own stockholders! That was a sweep of the pen, "my masters," which would have been magnificent had it not been so profoundly unjust and iniquitous. Then look, too, at the gigantic scale of these subsidies! There is nothing in all history that can compare with it. Lands enough to form and sustain an empire have been squandered upon these railroad corporations.

Sir, what a most radical change has taken place in the legislative if not the popular mind in the theory of disposing of the public domain from what it was in the days of Webster and Wright, of Clay and Cass, and of Ewing and Benton, as the great leaders of the two opposing parties in the halls of legislation and upon the hustings! Then it was a very grave and vexed question whether Congress had any power at all over the subject upon the question raised between the two parties, and whether it was, outside of the mooted constitutional question, the true policy of the country, that even the proceeds of the sales of the public lands should be distributed among the people of the several States. As a political question, it never was permanently settled, for the verdict of the ballot-box vibrated both for and against it. Now, however, Congress wrests this great heritage of the people from the hands of both States and people by millions upon millions of acres, and absolutely gives it away without compensation to a few favored individuals

for the purpose of building up immense private interests under the guise of insuring the public prosperity. But my object at present, Mr. Speaker, is not to speak at large of these land grants. That subject was completely exhausted on yesterday by the honorable gentleman from Illinois, [Mr. WASHBURN.]

In speaking of these bond subsidies and the wrong use which has been made of them I shall only consider those of the Union Pacific road proper, excluding those granted to the Central Pacific, although that road is an extensive portion of the same trunk line, for the reason that I shall only notice the delinquencies of the first-mentioned line, as officially reported by the Secretary of the Interior in his late annual communication to the President; and I do this to warn the country of the inevitable tendency of this system of subsidies which we are asked to sustain and extend by the passage of the bill now before the House. I shall not notice now the immense land subsidies to this corporation, although the extraordinary covenant is entered into on the part of the Government to extinguish by purchase with the money of the people for the benefit of this company the Indian title to all lands held and owned by them along the route of the road.

The act of incorporation establishes three different scales for the issuing of the bonds of the Government. For three hundred miles on the mountain slopes bonds were to be issued at the rate of \$48,000 per mile; an uncertain portion of the route lying between the Rocky and Sierra Nevada mountains was to receive \$36,000 per mile; and the residue of the line was to be compensated at the rate of \$16,000 per mile. This latter section includes the great plain of the Platte lying west of Omaha, the eastern initial point of the road, on five hundred and thirty-five miles of which there is not a single rock excavation, the whole extent of that portion of the line presenting nearly practicable natural grades. There is but one tunnel on this whole portion of the Union Pacific railway, and that is only two hundred and thirty feet long. There are only four other tunnels in the mountain ranges, and the entire amount of tunneling on the whole road is only eighteen hundred and thirty-four feet. I mention these facts to show either great fraud or great extravagance in its construction.

As an index to the fact whether it is the one or the other, it may be regarded as a pregnant circumstance that the great contractors who have engaged to do the greater portion if not the whole of the work are composed of an inner "ring" of the principal stockholders of the company itself! A very nice and convenient *modus operandi* of fraud, and in itself presumptive of wrong, unless the gentlemen who sustain this double character of contractors and stockholders approximate a degree of human perfection not common in these modern days. The charter provides that before any bonds of the Government shall be issued or any patents issue for the lands thus granted the company should have at least forty miles of their road constructed and equipped "equal in all respects to a fully-completed first-class railroad," and so on, consecutively, for each additional forty miles thereafter. In order that these conditions precedent should be fully and faithfully performed, and as the evidence of their actual performance the act of incorporation also provides that it shall be the duty of the President of the United States to appoint three commissioners to examine and report as to whether the company, in each consecutive instance of forty miles of constructed road, have fully complied with these provisions of their charter.

Now, sir, I wish to call the attention of the House and of the country to the very recent report of one of these commissions appointed by the President. On the 25th of September last General G. K. Warren, of the United States Army, Jacob Blickensderfer, jr., of Ohio, and James Barnes, of the State of Massachusetts, were appointed such commission. It is hardly

worth while to stop to criticize the appointment of a commissioner from the State of Massachusetts, where the ruling stockholders and contractors of this company reside, or that Mr. Blickensderfer is one of the original incorporators named in the act of incorporation, and one of the constructing engineers of the road itself. I have known Mr. Blickensderfer for a quarter of a century, and can indorse his honesty and integrity of character. I only mention these things to show how this Pacific company arranges all its operations. I have no doubt that these commissioners have made a reasonably fair and honest report of the character and condition of the road, and to that I shall now proceed to pay some attention. They report as their opinion—

"That the location of the road, as a whole and in its different parts, is upon the most direct, central, and practicable route, but that the line is not in all respects well adapted to the ground, as there are points where the full capabilities of the country have not been developed, and others where, in its details, the location is radically wrong. This has been occasioned by a desire to diminish the cost of the work by the introduction of more and sharper curves than the circumstances require, although the saving in cost was but small in comparison to the permanent injury of the road. The line as built should not be permanently adopted. The higher embankments are not brought up to the proper standard, and in some instances the width of the top is less than the length of the ties. The cuts have not all been excavated to the depth desired. On the curves the rails have not been bent to conform to them. The track has, without exception, been laid on the bare roadway, without the latter having been previously prepared to receive it. Six hundred and sixty trestle and pile bridges, after providing for those over the principal streams, must be replaced by box girders, arches, or stone abutments, with girders or trusses of short span."

The commissioners enter into a very minute and detailed estimate of the cost of supplying these palpable deficiencies in the construction of the road, of which the following is a condensed synopsis: it will cost \$200,000 in changing locations to improve line and diminish curvature; \$200,000 for completing embankments to full width; \$245,000 for reducing grades; \$910,000 for ballasting and readjusting track; \$144,000 for abutments and pier foundations; \$457,200 for masonry in abutments and piers; \$380,250 for Howe truss bridges; \$565,100 for supplying openings of trestle work; \$100,000 for renewing Dale creek bridge; \$100,000 for additional water ways; \$310,000 for sixty new passenger locomotives; \$150,000 for repair of locomotives; \$234,000 for forty-four new passenger cars; \$114,000 for thirty baggage, express, and mail cars; \$450,000 for five hundred box freight cars; \$200,000 for fifty additional locomotive stalls; \$350,000 for completing shops at Cheyenne; \$80,000 for additional water stations; \$75,000 for additional station buildings; \$50,000 for additional snow fences; and \$30,000 for additional fencing against stock; making the enormous aggregate of \$6,489,550 to supply the deficiencies in only a part of the road, and on the cheapest and easiest portions of the entire route.

From this exhibit of facts, drawn from the report of a commission composed of gentlemen certainly not adverse to this corporation, it is manifest to my mind that many millions of bonds have been issued to this road not authorized by the strict stipulations of its charter. But this is not all, sir. The annual report of the Secretary of the Interior, laid upon our tables only a few days ago, contains a statement of the most startling and alarming character. Sir, if I am not much mistaken it is a disclosure of the acts and doings of these railroad cormorants which will astonish the people; one which will arouse them from their lethargy, and draw down upon the heads of these unconscionable speculators their deepest condemnation. I honor the Secretary for his well-timed and manly independence in making the statement, for he must have known that nothing could have been more damaging to the interests as well as the character of these railroad managers. On page 14 of his printed report the honorable Secretary makes the following statement:

"As the actual cost of this road is a matter of public interest I deem it proper to present, in a condensed

form, the estimates submitted, on the 14th instant, by Jesse L. Williams, esq. He states that the cost of the road, as shown on the books of the railroad company, is, of course, equivalent to the contract price per mile. The actual cost to the contractors forming an association, which embraces most of the larger stockholders of the company, is shown only by their private books, to which the Government directors have no access. The calculations were, therefore, made from the most accurate available data, and the estimated cost of the first seven hundred and ten miles of the road was taken as the basis for computing that of the whole line. Should the road, as is expected by the company, form a junction with that of the California company, near the northern extreme of Great Salt Lake, a little west of Monument Point, its length would be about eleven hundred and ten miles. The cost of locating, constructing, and completely equipping it and the telegraph line is \$38,821,821, an average per mile of \$3,977.32.

The Government subsidy in bonds for that distance at par amounts to \$29,504,000, an average per mile of \$2,950. The company's first mortgage bonds are estimated at ninety-two per cent., and would yield \$27,143,680. The fund realized by the company from these two sources amounts to \$56,647,680, being an average per mile of \$51,034, exceeding by \$16,056.68 the actual cost of constructing and fully equipping the road, and yielding a profit of more than \$17,750,000."

Now, Mr. Speaker, I put the question directly to this House whether this is not a most extraordinary statement of the management of the affairs of this road, in which the money of the people is so deeply involved? It is to be borne in mind that this is no personal or partisan allegation, no idle newspaper charge, no imputation resting upon mere common rumor; but that it is a sober, serious statement, upon reliable data, in a public official State document, by one of the great Departments of the Government, and which remains to-day unchallenged and uncontradicted by any of the "high contracting parties" alleged to be connected with the transaction. There are one or two features of this statement calculated to challenge an attention at once intense and painful. The very worst feature of all is the fact that "most of the largest stockholders of the company" should have combined with each other to "form an association," thus creating an adverse interest, as "contractors," to the interests of the corporation, for the purpose of building a road in which the Government had invested the sum of nearly thirty million dollars as guarantor of that same corporation; a situation so delicate and so full of temptation to prey upon and fraudulently deal with such an immense outside capital that no honest man or men would desire to occupy.

I should like to see a list of those contracting stockholders. I think it would open the people's eyes. Sir, it is a specimen of the "confidence game" in which we might well affirm that its turpitude is almost lost in its magnitude. If we could look in upon all its secret springs and hidden movements what an interesting and spectacular drama might it not present! But it is to us and to the people a *terra incognita*. Railroad embankments, excavations, bridges, and underground masonry are capital inventions to hide away ill-gotten treasure with no danger of its discovery or exposure unless through the instrumentality of honest and disinterested science in a full and accurate measurement of the entire work from one end of the line to the other. One of the Government directors, Mr. Williams, in a letter of November 14, 1868, says that the actual cost of the road to the contracting company is shown only by their private books, of which the Government directors have no knowledge. He knows what the cost of the road is to the corporation, and consequently to the Government, by the terms of the contract; but all else growing out of this *credit mobilier* arrangement "shadows and darkness" rest upon it.

But, sir, I shall give these stockholding contractors, these happy recipients of the proceeds of Government bonds by millions, credit for a mistake which the Secretary of the Interior has evidently made in the elements of his statement, that a profit in the sum of \$17,750,000 was or will be made in the full construction of the road. He has unquestionably failed to deduct two items from that amount, to wit: the amount it will require to compensate for

the deficiencies of construction for the first eight hundred and ninety miles as stated by the commissioners, in the sum of \$6,489,550, and the same ratio of deficiency in the residue of the unfinished line, terminating at the head of the Great Salt Lake, near Monument Point, in the further sum of \$1,620,000, making the total sum to be deducted \$8,109,550. This sum deducted from \$17,750,000 leaves the sum of \$9,640,450. This is the true result of the data as furnished by the commissioners, taken in connection with the facts furnished by Mr. Williams. And in its reduced proportions is it not wonderful enough? A "profit" of \$9,640,450! Who realized it? Was it the stockholders generally, said not to number over forty individuals, or was it the stockholding contractors in particular?

Sir, is it not strange that none of these stockholders or contractors have either admitted or denied this most remarkable statement made in an official document issued by one of the great Departments of the Government? And yet, as to this immense sum thus found in the hands of these disinterested patriots, it is to be borne in mind that not one dollar of it comes from the millions of acres of lands granted by the Government to this all-grasping monopoly. That great subsidy yet remains intact and untouched, and will hereafter add millions of dollars more to this "profit" fund, when they shall be sold by the company to the people, the original and rightful owners. Sir, it is indeed time that the people should ponder well and seriously upon these most extraordinary transactions.

The people will have some idea of the vast resources placed in the hands of a few favored individuals when they are informed that over fifty-one million dollars of the bonds of the Government have already been issued to a single line of road and its tributaries and connecting branches. The Union Pacific railroad is connected with, and therefore will control, the following other roads, to wit: Central Pacific, of California; Union Pacific, eastern division; Sioux City and Pacific; Western Pacific; Atchison and Pike's Peak; and Central Branch, Union Pacific. The last annual report of the Secretary of the Interior shows the following amounts of Government bonds issued to these several lines, which, with the \$7,000,000 issued last month and since that report was made, make the aggregate sum over fifty-one million dollars, as before stated:

Union Pacific, 800 miles.....	\$20,238,000
Central Pacific, of California, 390 miles.....	14,761,000
Union Pacific, eastern division, 394 miles.....	6,303,000
Sioux City and Pacific, 69½ miles.....	1,112,000
Western Pacific, 20 miles.....	320,000
Atchison and Pike's Peak, { 100 }	640,000
Central Branch, Union Pacific, { miles, }	960,000
1,798 miles.....	\$44,337,000

Mr. Speaker, the sensitive and delicate modesty of these corporations should elicit our highest admiration. They are perfect models of retiring diffidence. They are seekers after the public good under difficulties which nothing less than the bravest spirit of the highest philanthropy could overcome. While they are extorting from the Government, as well as from private individuals, the most exorbitant rates of charge for freights, and even for the transportation of troops to form a protecting guard against provoked depredations of the Indians on their own property, they do not hesitate to come here with an array of lobby solicitors to demand of Congress the grant of still further millions of acres of lands and bonds in untold amount to aid them in building up the very monopoly which enables them to impose such imperious terms. Their rates of passenger fare and freight exceed those of the Atlantic and Mississippi valley roads more than two hundred and fifty per cent.

By a statement in a pamphlet publication of the eastern division of the Union Pacific railroad, issued a few months ago by themselves, it appears that the amount received by that road from the Government, for freight and

transportation of troops for the year ending December 31, 1867, was the sum of \$511,908.24. A letter from General D. H. Rucker, acting quartermaster general of the United States Army, to William H. Palmer, esq., treasurer of the Union Pacific railroad, eastern division, dated Washington, June 6, 1868, shows that the rate of charge on this business was ten and ninety-nine hundredths cents per ton per mile. This is also the rate of charge on the Union Pacific railroad proper, and, as I suppose, on all its several branches. The rate for passenger fare is ten cents per mile, one hundred per cent. higher than the rate under the old mail-coach system.

Now, Mr. Speaker, by referring to the official railroad reports of the several Atlantic States, made by the requirements of State legislation, it will be found that the average rate of charge for the same kind of freight over lines of much shorter transit than those of the Pacific is a large fraction less than three cents per ton per mile. It is thus that the Government, by a process of the most unwise legislation in the grant of corporate power, as well as of its lands and credit, has been made a party in the erection of a great and overshadowing monopoly, which will not only regulate to suit its own selfish purposes the overland trade between the two oceans, but will dictate and control the politics of all the States and Territories lying along its line. Is this fact or is it fiction? Why, what a scene did we have presented here on this floor only the other day! The chairman of the Committee of Elections [Mr. DAWES] solemnly proposing to have a Delegate from the Territory of Wyoming sworn in, who was originally from my own State, and who is or has been connected with the Pacific company, elected or selected by a mass meeting largely made up of the employes of the road, and whose only credentials consisted of a certificate of three of the members of the meeting, and the meeting itself held before Wyoming was organized as a Territory! This is only a "specimen brick" of what we may expect in the future. They intend to rule not only the business but the politics of the people, and will exert their influence not only at the ballot-box, but in the legislative halls of the country.

Mr. DAWES. I would like to ask the gentleman upon what ground he makes the statement that this Delegate from Wyoming was selected by a mass meeting?

Mr. VAN TRUMP. I derive my information from a gentleman coming from that region. I do not assert the fact on my own authority.

Mr. DAWES. The Committee of Elections are desirous of getting all the information they can upon this question; and if the gentleman has any information to the effect he has stated he will oblige the committee by communicating it to them.

Mr. VAN TRUMP. I will, if the chairman of the committee desires it, refer him to the gentleman who communicated the matter to me, who will doubtless give the committee the benefit of the information. Most of the facts which I have stated in my place to-day were stated by gentlemen on the floor when the gentleman made his report.

Mr. DAWES. We shall be much obliged for any such information.

Mr. VAN TRUMP. Sir, while I would be the last one to decry the importance and benefits of railway communication in developing the great and yet dormant resources of our country, I am not unmindful of the fact that even our choicest blessings may be turned into tormenting curses if misused or distorted from their natural and legitimate purposes. This great existing railroad system for power and influence may be said to constitute already the third estate in this Government. With forty thousand miles of running railway communication, fully equipped and based upon a capital of \$1,700,000,000, we can at once appreciate the tremendous power for good or for evil which lies concentrated in that mighty investment. It is the business of legislation to see that the rights and interests of the people shall

be amply protected against the monopolizing tendencies of such a vast system of associated capital and corporate power. I know, sir, that in this storm and pressure period, this age of fast men and lax principles, when prudence is denounced as imbecility and honesty is "whistled down the wind" as something almost disreputable, these apprehensions of the future, these warnings of placing too much power in the hands of a few, will be contemned and disregarded as being too slow and conservative for this age of radical revolutionary ideas. But time will test their wisdom, and the people, in regard to this question, as in all others when surrendered to the whirlwind instead of moderation and reason, will learn when too late the hard lesson of experience.

Mr. Speaker, I have thus noticed some of the prominent and startling facts in the management of the Union Pacific Railway Company rather than discuss the particular merits or demerits of the claim presented in the bill now before us, for the reason that I oppose the system rather than the particular bill, and because this debate opens the whole question of Government subsidies. And yet even this bill is a manifestation of the "crooked ways" in which legislative wrongs are sometimes perpetrated. As the honorable gentleman from Illinois [Mr. WASHBURN] said the other day, its very title is a cheat and deception. The *suppression veri* is betrayed in every word and syllable. It is declared to be "a bill for a grant of land granting the right of way over the public lands to the Denver Pacific Railway and Telegraph Company, and for other purposes." Now, sir, what are these other purposes, and how are they expressed in the body of the bill? The leading purpose of the bill, to those who understand it, is the grant of a money subsidy, not to the Denver Pacific Railway and Telegraph Company, so ostentatiously paraded in the title of the bill for a land grant and for the right of way over the public lands, but to the Union Pacific Railway Company, eastern division, in the sum of \$16,000 per mile for an unknown and undetermined distance, but supposed to be about fifty-four miles.

We are presented with no survey to fix the distance, and consequently the extent of the grant. No one not acquainted with the previous and complicated legislation in relation to the eastern branches of the Union Pacific railway would dream of a money subsidy in the bonds of the Government lying concealed in the following ingeniously ambiguous language of the bill, to wit:

"And upon the connection of the Union Pacific railroad and telegraph, eastern division, with said railroad and telegraph at Denver City, said company shall be entitled to the same rights and privileges as if the whole line had been completed by said eastern division company."

And yet, sir, this is the meal-tub in which lies snugly hid away from unpracticed eyes the nice little subsidy in Government bonds to swell the public debt of the country, amounting to nearly the sum of one million dollars, for the benefit of the eastern division of the Union Pacific Railway Company! We also have this surprising fact for our consideration, that although this road is but very imperfectly built for a distance of four hundred and five miles, and besides its land grant has already received in the bonds of the Government the sum of \$6,463,000, it has discontinued its work and is awaiting the passage of this bill for a recommencement of its operations. Sir, I look upon this bill as a test question in the Fortieth Congress. The embryo life of many a railroad, ship-canal, and mining-tunnel hangs quivering in the scales. If the voice of an awakening people could be heard on this floor I have no doubt what their decision would be.

Mr. Speaker, as the people, in legal effect, have so tremendous an investment in these roads, it is all-important for them to know how their interests have been managed in their construction and equipment. I have already shown with what reckless prodigality, if not bad faith, the trunk line of the Union Pacific road has been constructed from Omaha to its present

western terminus. I propose now, very briefly, to exhibit the deficiencies of construction in the eastern division, which, as a corporation, is independent of the main trunk line. A commission, composed of General Warren and Mr. Blickensderfer, made an examination and report of this road, which was communicated to this House by the Secretary of the Interior only a few days ago. The commissioners allege in their report that—

"The whole line bears evidence of the unsettled purposes which have operated in determining it. In the details of the location there is too much curvature; the grade is generally laid too near the ground and follows too closely the undulations of the natural surface. Cheapness of first construction seems to have been the ruling idea. The grades are too high. The track has been laid on the bare road-bed, without having the latter previously prepared by a covering of ballast to receive it. The fastenings are the old style, now almost universally discarded, and the rails are not bent to conform to the curvature. The commissioners exhibit the following estimate of cost to make the road equal to the requirements of the law: \$260,000 for increasing width of cuts and embankments; \$240,000 for correcting changes in location; \$227,000 for reducing grades; \$32,000 to supply deficiency in cross-ties; \$15,000 for abutment and pier foundations; \$54,000 for masonry in abutments and piers; \$20,000 for replacing stone culverts of defective construction; \$33,500 for replacing wood culverts; \$251,500 for replacing trestle-bridges; \$523,500 for ballasting and lifting track; \$50,000 for snow-fences; \$50,000 for cattle-fences; \$700,000 for fifty additional locomotives; \$90,000 for fifteen passenger cars; \$23,000 for ten baggage, express, and mail cars; \$360,000 for four hundred box freight cars; \$500,000 for engine-houses, turn-tables, machine-shops, &c.; \$75,000 for additional water-stations; and \$70,000 for additional station-buildings—making in the aggregate the sum of \$3,662,500."

Thus, sir, it will be seen that this road is also deficient in its construction and equipment to an amount almost equal to one third of the entire sum which should have completed and fully equipped it as a first-class railroad. And yet every dollar of the full quota of Government bonds have been issued and delivered in violation of the express provisions of a law passed almost *in furore* by a Congress but too ready and anxious to serve the interests of a banded clique of capitalists and speculators, who have from the beginning looked more to the construction of the road than to the road itself and its business afterward, as the means of private profit to themselves. Does any one doubt that these stockholding contractors in the Union Pacific railroad feel more interest in their contract than they do in their stock, and that the temptation to sacrifice their unpaid stock to the profits of their contract is the real key to this most remarkable arrangement? The stock as an investment, and the ultimate success of the road is a naked experiment; the profits of the contract made under such circumstances can be placed beyond all contingency. In such an alternative self-interest never hesitates. It will sacrifice the lesser to the greater interest, and as between two modes of speculation, or even speculation, it will grasp the certain at the expense of the uncertain.

Now, in view of this state of facts, Mr. Speaker, I here make the prediction that the end of all this will be that ultimately and after there is a transfer of the original stock these roads will be sold in the same manner that a large proportion of our American roads have already been sold, and the first-mortgage lienholders will become the owners, thus cutting off the lien of the Government for the security of its bonds, leaving the people to foot the bill. That, sir, is the probable feast which the American people will be invited to sit down to hereafter. I am not alone in this opinion. I think one of the Government directors in the Union Pacific Company is impressed with the same apprehension. In the report on the Union Pacific railroad sent to this House on the 18th of last month there is a very curious letter from J. L. Williams, esq., to Oliver Ames, esq., president of the Union Pacific Company. In this letter he alludes to a "paper" inclosed as explanatory of his suggestion of what he calls a "reserved fund;" but, singular enough, no copy of the paper is given in the report, nor is there any reply of Ames, although the letter is dated July 1, 1868. Williams goes on to say that those representing the Government might

well hesitate to sanction the delivery of the entire subsidy for the whole extent of the road while the work is in so incomplete a state. He concludes his letter with the following significant paragraph:

"I should add that if the control of the work would certainly remain in the hands of the very respectable and wealthy gentlemen now holding the stock, no such precaution might be necessary, for they would put in fresh money as needed to make an efficient road. But in the ever-changing control of such works this is not probable."

Mr. Speaker, I do not know how the fact may be, for I have not the means of knowing, but I do know that the opinion prevails pretty extensively among the people that not a dollar of the large stock originally subscribed to the Union Pacific railroad has been applied to its construction. I see my colleague on the committee, the gentleman from Massachusetts, [Mr. AMES,] now sitting before me, smiles at this declaration. I do not state the fact as of my own knowledge; I state it as a common belief. But, however this may be, sir, one fact is certain, that by the amendatory act of 1864 the miserable pittance of five per cent. semi-annually may be assessed upon the stockholders; so that in any event sixty per cent. of its entire stock yet remains undue, and of course not paid in. The inference to be drawn from all this is at once suggestive and alarming.

Sir, I feel so deep an interest in the defeat of this bill, not so much for its own sake as from the fact that it is the test as well as the representative of a most vicious system of legislative extravagance, that I have a very great repugnance to make any political allusions whatever. But I may say, what will not and cannot be controverted, that this whole scheme of Government grants and subsidies to private corporations is a Republican measure, inaugurated and carried on by a Republican Congress. Whatever of merit or demerit it may possess belongs exclusively to the party now in power. The Democratic party can claim no part in its honors, nor can they be called upon to share in any of its responsibilities. Such has been its history in the past; what the future may produce we must wait for the future to develop. I am rejoiced, however, to observe some indications that General Grant is disposed to put a check upon this extravagant legislation, or at least that he will lend his influence in that direction. I know, sir, the hint has been thrown out that he does not so much object to the system as he does to particular lines. As I am not one of his supporters, it matters not to me what his motives are, whether dictated by principle, or policy, or partisanship. If he opposes all future appropriations to new roads from the Atlantic to the Pacific, upon the ground of their becoming rivals to the Union Pacific railway, while I may not admire the motive I am bound to accept the result, because it accords practically with my own views, although mine may be drawn from quite a different stand-point. The leading Republican journal of Ohio infers, from my opposition to these schemes of public plunder, that I shall become a supporter of the administration of General Grant. As the editors of that journal are avowedly in favor of one or more competing lines of Government-aided railroads across the Rocky mountains, the sarcasm of its prediction is as likely to be intended for General Grant as for myself, or it may be for both.

But these gentlemen may rest perfectly easy on that score, as I can assure them there is no very great danger of any such political conjunction. The General would have to cut himself loose from the party which has raised him into power upon scores of other great and vital questions, involving not only the rights and liberties of the white citizen, but the reestablishment and supremacy of the Constitution over all the States, alike in Georgia as in Massachusetts, before I would be willing to acknowledge myself as one of his supporters in general politics. Whenever he is right upon any given question of policy he will receive no factious opposition at my hands; and I shall never stop to inquire whether I will gain or

lose by supporting his administration when my judgment shall be convinced that it is my plain and direct duty to do so, either as a private citizen or as a Representative of the people.

Sir, I fully appreciate the argument of a rival road to divide the trade and perhaps reduce the cost of transportation both of passengers and such light freights as could successfully compete with the water transit through the Gulf of Mexico, between the Atlantic and Pacific States. At the proper time and with the use of the proper means that will be all well enough. Whenever a second road could be made profitable, or whenever it shall be made plain and clear that a second line is an absolute necessity, there is no reason, or there ought to be none, why the private capital of the country could not and would not build such a road. Because Congress has already improvidently added some fifty or sixty million dollars to the public debt by the issuing of bonds to existing roads is certainly no good or conclusive reason why they should more than double that amount to new roads, the present necessity for which is neither apparent or probable. The system itself, under any circumstances, is radically wrong; and you might just as reasonably desire that the plague should compete with the cholera in afflicting and decimating mankind as that the wrongs of this system of government aid to private corporations should be doubled in order that its instruments or creatures should be pitted in competition with each other.

Mr. CLARKE, of Kansas, obtained the floor.

The SPEAKER. The Chair will state that the gentleman from Kansas has made an arrangement with the Arkansas delegation that he shall occupy the floor till quarter before three o'clock, when the death of Hon. JAMES HINDS, late member from Arkansas, will be announced.

Mr. CLARKE, of Kansas. Mr. Speaker, in what I have to say it will be my purpose to discuss the bill now before the House. I shall not attempt to follow the gentleman from Ohio [Mr. VAN TRUMP] through the general declamation in which he has indulged against our Pacific railroad system. With some of the views he has so ably presented I entirely agree, while from much he has said I dissent most emphatically. Much less, sir, shall I attempt to imitate the remarkable speech of the gentleman from Illinois, [Mr. WASHBURN], made at the onset of this debate. Sir, the gentleman from Illinois [Mr. WASHBURN] has seen many years of service in this House. He has been honored by its Presiding Officer with the chairmanship of one of its most important committees. But, sir, no length of service, no parliamentary position here can possibly justify his unbridled license of statement and misconception of facts so far as this bill is concerned. I am at a loss whether to condole with him most on the array of accusations with which some one has supplied him or the ridiculous errors into which they have led him. I admire the ambition which seems to inspire him to be the "watch-dog of the Treasury," and my desire to see such a spirit raised to its highest usefulness leaves me to regret that it should hurl its thunders blindly against every expenditure, whether it be a measure of dishonest or unnecessary appropriation or an expenditure necessary for the highest interests of the nation. It is one thing, sir, to legislate for the public good and to protect and foster the public welfare, while it is quite another thing to indulge in unwarrantable philippics and needless declamation.

Supported by facts and sustained by wise considerations of public policy, the gentleman from Illinois [Mr. WASHBURN] has often rendered on this floor great service to the country in resisting schemes of reckless extravagance and fraud. But, sir, in the discussion of this bill the gentleman has grown furious at a phantom, has presented fictions for facts, and has evidently been made the victim of misplaced confidence by some over-zealous and ignorant opponent of the pending bill.

What are the facts? It is the exact provis-

ions of this bill to which I desire to call the attention of the House. In the first place, this bill does not grant a single acre of land beyond what is granted by existing laws. Let me read from the amendatory act of July 3, 1866, as follows, which authorizes the construction of the road up the valley of the Smoky Hill river:

"That the Union Pacific Railway Company, eastern division, is hereby authorized to designate the general route of their said road, and to file a map thereof, as now required by law, at any time before the 1st day of December, 1866; and upon the filing of said map, showing the general route of said road, the lands along the entire line thereof, so far as the same may be designated, shall be reserved from sale by order of the Secretary of the Interior: *Provided*, That said company shall be entitled to only the same amount of the bonds of the United States to aid in the construction of their line of railroad and telegraph as they would have been entitled to if they had connected their said line with the Union Pacific railroad on the one hundredth degree of longitude as now required by law: *And provided further*, That said company shall connect their line of railroad and telegraph with the Union Pacific railroad, but not at a point more than fifty miles westwardly from the meridian of Denver, in Colorado."

Now, sir, under this law the land has been already withdrawn from market for the use of the eastern division company when they build the road, extending all the way from the present terminus of the road to Denver, and from thence to the connection with the Omaha line. Cheyenne is on the Omaha line of the Pacific railroad, one hundred and six miles north of Denver; Cheyenne Wells is on the line of the eastern division road, fifty-six miles west of the present terminus of its track, and about one hundred and fifty miles southeast of Denver. This bill extends the subsidy of \$16,000 per mile, and no more, to the Eastern Division Company from the present terminus of the track to Cheyenne Wells; and the amendment of the committee limits the same to fifty-four miles in all, amounting in the aggregate to \$864,000 in bonds. The attempt of the gentleman from Illinois to torture this bill into any other meaning is not complimentary, at least, to the intelligence of this House. But what else does this bill contain? It authorizes the eastern division company to transfer that part of its lands beyond Denver to the Denver Pacific Company, in consideration of said company building that part of the road and giving the eastern division company perfect running connections as provided in the original Pacific railroad law. Thus it will be seen that the two hundred and fifty miles of road west of Cheyenne Wells is to be built without any further aid in bonds, and with the lands already granted.

The privilege of mortgaging that part of the road that gets nothing but the lands already granted is given to the two companies, respectively, by the bill—a privilege I suppose they have already. Now, sir, this is all there is in this bill. It is fair and honest in all its provisions, and is in no way liable to the fictitious construction put upon it by the gentleman from Illinois. Can it be possible, Mr. Speaker, that a single member of this House will vote against this bill because the gentleman has sought by violence of denunciation to give a construction to its provisions entirely foreign to its language and its objects? I say again that it does not grant a single acre of land, and I challenge the gentleman from Illinois to make good his statement to the contrary.

And now, what are the reasons why this bill should pass? They are many, and in my judgment such as ought to govern the candid judgment of this House.

From time immemorial it has been the policy of this nation to make judicious expenditures on behalf of trade and commerce. Millions upon millions have been lavished upon rivers, harbors, and coast works, to insure and protect the mercantile and commercial interests of the people. The spirit that condemns this use of public moneys is alien to the necessities of the country, and hostile to its growth, prosperity, and wealth. The enterprise which weds the eastern and western shores of this continent by a grand thoroughfare which is destined, in the event of its success, to avenue the accumulated wealth of ages, and lay its vast

treasures at the feet of our people, is one not less deserving our encouragement and aid than those measures which call for the nation's treasure to protect the commerce of the seas.

The attempt of the gentleman from Illinois to prejudice the fate of this bill by alluding to the origin of the charter upon which the Union Pacific Railway Company have been building their line, and stigmatizing the gentlemen who are connected with it as a "border-ruffian company," seems to me unworthy the cause in the interest whereof he professes to resist the passage of this measure. It cannot be a matter of great import that the Legislature which originally chartered the Leavenworth, Pawnee, and Western Company was composed of those whom he characterizes as "border ruffians." Few of the original corporators are now living; none, I believe, are interested, directly or indirectly, in the present company—a body of enterprising and practical gentlemen, whose names are too well known to ask or need defense from me.

The gentleman cannot be ignorant that the charter of the Kansas territorial Legislature, to which he thus refers, covers not more than one hundred and forty miles of the four hundred and more already completed and in running order; and it cannot be a matter of serious concern to the nation that the present company, which has pushed with unexampled and remarkable energy this great railway nearly five hundred miles from the Missouri river toward the cordilleras of the Sierra Madre, are the assignees of men who may have merited the severe language applied to them by the honorable gentleman. It is but charity to believe that the inflamed and hostile language of the gentleman reflected the feeling of some irritated litigant with the company, who seeks to color with his grievances the deliberations of this body.

It is not to be forgotten that the aid of the Government has left this company upon the most barren and sterile point between the mountains and the Missouri, in the heart of the "American desert," where it, however, is rendering most signal services to the nation by the transportation of troops, munitions, and supplies to advanced posts upon our western frontier. Valuable, however, as are its uses to-day, were the road extended, as they hope by the passage of this bill to be enabled to extend it, almost incalculable benefits would inure both to the Government and to the people.

The gentleman from Illinois denounces the aid proposed to be extended by this bill as reckless and extravagant on the part of the Government. I oppose this statement with the declaration that it would be worse than recklessness and extravagance not to pass it, and I will attempt to prove this assertion to the satisfaction of the House. On the 25th of May, 1863, the honorable gentleman from Ohio, [Mr. GARFIELD], chairman of the Committee on Military Affairs, to whom was referred a letter from the Secretary of War, inclosing a letter of Lieutenant General Sherman, dated March 4, 1863, recommending Government aid to extend the Union Pacific railway, eastern division, as a military necessity and a measure of public economy, submitted a report unanimously concurred in by the committee, a portion of which I send to the Clerk's desk, and ask to have read.

The Clerk read as follows:

"That they have carefully considered the statements therein made, and have found them confirmed by the following facts, drawn from official record. The cost to the Government for transportation on the Union Pacific railway, eastern division, in 1867, was..... \$511,968 24
If the military supplies had been wagoned and the mails carried by stage and the troops marched, (taking the average rates at which the Government made its transportation contracts for that year, as shown by certificates of the departments of the Quartermaster General and Postmaster General,) the cost would have been..... 1,358,291 06

Saving to the Government in 1867..... \$846,322 82

"At this rate of saving all the United States bonds issued in aid of this road, principal and interest, would be extinguished in less than four years.

"These are the results of the use by the Government of the finished portion of the road in Kansas in the last year.

"In regard to the extension of the road beyond the point in Kansas at which its subsidy ends, the committee find that there are three regiments of troops in New Mexico, (two of infantry and one of cavalry,) nearly all of the supplies for which are wagoned from the end of the Kansas Pacific railway at a cost of \$1 23 per hundred pounds per hundred miles. At the present freight rates of the railway, as shown by their printed schedule, the saving in transportation on these supplies to Albuquerque, on the Rio Grande, a central distributing point in New Mexico, would be per annum \$851,880. We have ascertained that the additional saving to the Government in the transportation to Albuquerque of the mails, troops, and Indian supplies would be \$231,922. Total annual saving, \$1,083,802.

"But there is another consideration of economy in the public expenditure as the result of constructing the road. Lieutenant General Sherman has testified that one half of the military force in New Mexico could be dispensed with if the road was constructed, owing to the greater mobility of the remainder and the growth of self-protecting settlements on the line of the road. As his estimate of the cost of maintaining the two regiments of infantry and one of cavalry was about four million dollars a year, the committee find that an additional saving to the Government of \$2,000,000 annually would thus be effected by the road. This saving, added to the saving in the transportation of the diminished military force that would be left in New Mexico and of the supplies to maintain them, including the carriage of the mails and Indian goods and supplies would, in less than six years, reimburse the entire loan necessary to extend the road from its present terminus to the Rio Grande."

Mr. CLARKE, of Kansas. There can be no mistake, Mr. Speaker, about these significant facts presented by the Committee on Military Affairs. They come to us authenticated by a committee of this House, and, overwhelmingly refuting the statements made by the opponents of this bill, show to the House and to the country that we will be unmindful of true economy if we deliberately refuse to encourage an enterprise which in reality is daily saving vast sums to the Government. If this bill is not passed, more money will be taken from the Treasury next year, and every year thereafter, by \$94,000 than heretofore, and I challenge a contradiction of the fact. Last year the Government transportation on route No. 2, beyond the present end of the track to New Mexico, as stated by General Easton, of the quartermaster general's department, was over 20,000,000 pounds or 10,000 tons. The above 10,000 tons carried over the 54 miles for which this bill grants aid would cost, at the railroad tariff, 10½ cents per ton per mile, which would amount to \$58,800. The United States mails carried over the same distance at contract rates by railroad, \$150 per mile per annum, amounts to \$8,100.

The United States troops carried last year numbered 6,225 over an average of 173 miles of road, equivalent to 2,692 taken to the end of track, which is 400 miles. The cost of transportation of these troops on the 54 miles to be constructed would amount to \$12,123. Total amount of Government transportation on the 54 miles, \$78,523, of which the Government would pay the railroad company under the present law but one half, or \$39,262.

Now, if these supplies should continue to be transported by wagons over the 54 miles, the mails carried by stage, and the troops marched, I estimate the cost as follows: Government freights, 10,000 tons, at 28½ cents per ton per mile, \$158,360; United States mails, at \$243 per mile per annum, \$13,122. The saving by transportation of 2,692 troops by railroad is estimated at one third the cost of marching the said troops: so that this saving would be one half of \$12,123, or \$6,062. From this statement the following facts are shown: the total cost under the present system would be \$184,667. If the railroad were constructed the actual outlay of the Government would be \$39,262. The yearly retrenchment on existing Government business over this 54 miles would be \$145,405. Total aid in Government bonds, \$864,000. Interest at six per cent., \$51,840. Yearly saving to the Government over the interest, \$93,565; which would wipe out the entire principal of the Government loan in less than eight years, leaving for the twenty-two years thereafter, until the bonds

mature, \$93,565 yearly to the Government of the United States. This sum placed at interest by the Government would yield over five million dollars by the time the bonds will become due. It is with such facts as these with which I oppose the inaccurate statements of the gentleman from Illinois.

Mr. WASHBURN, of Illinois. As the gentleman has referred to me, I would like him to yield to me for a moment.

Mr. CLARKE, of Kansas. I yield for a question.

Mr. WASHBURN, of Illinois. What I desired was to show the House the enormous rates of freight which this company is exacting from the Government of the United States, and how much absolutely the Government has to pay, which I undertake to say is more than it would cost to haul the freight by teams.

Mr. CLARKE, of Kansas. Mr. Speaker, that does not meet the question. This is not a question of fares of freight for the people. On the question of reduction of rates I agree with the gentleman. I have given the exact rates of freight which the Government is charged for the transportation of troops and mails; and I say that these rates, from the official record, show a vast reduction upon what is paid by the quartermaster's department by contract at the present time for Government wagon transportation. I repeat that a comparison of the prices paid under the two modes of transportation shows that the sum of \$145,405 would be saved in one year by the Government upon existing business if the remaining fifty-four miles of this road were constructed and in running order.

Mr. WASHBURN, of Illinois. If the road had not been built there would have been no necessity for these expenditures. The construction of the road has stirred up these Indian wars and necessitated these vast expenses.

Mr. CLARKE, of Kansas. I will have something to say about that by and by. I suppose the gentleman from Illinois, as little as he admits upon this floor, will concede the fact that the business of this Government in future years over this great line of communication will increase and not diminish; and while the statement I make to-day is based upon the business of the last year, and shows the fact that \$145,405 was actually saved by the Government, I do not hesitate to say that the business of the Government for the present year, when eight thousand troops are operating upon the plains against hostile Indians, will be once, twice, and even three times as great as heretofore.

Mr. Speaker, I have learned for the first time, from the gentleman from Illinois to-day, that the construction of these roads is regarded by anybody as the sole cause of Indian hostilities and increasing the cost of Army transportation upon our frontiers. I deny that assumption, and will remind the House of the fact that the expressed opinions of every one of our military commanders—Grant, Sherman, Sheridan, Hancock, and others—are contradictory to that of the gentleman. But these estimates are made on the single item of transportation, and the figures are taken from official sources. If we calculate the time required to transport the troops; if we take note of the increased efficiency of the Army; if we remember the fact that the mere existence of the railroad goes far to prevent the recurrence of Indian hostilities; and if members of this House would analyze the vast expenditures of the Interior and War Departments on our western plains, they would most readily see that the figures I have presented do not actually exhibit the real saving to the public Treasury by the construction of this road.

I think it is safe to say that there are at this moment not less than eight thousand troops in the vicinity and on the line of this road operating against the hostile Indian tribes and protecting the vast commerce of the plains and the rich mineral regions beyond, all of whom draw their supplies by this line of communication. If our Pacific railroad system were so far

completed as is contemplated by this bill one half of these troops at least would be relieved from duty, and an expense of not less than \$5,000,000 saved to the Government in a single year. Moresagacious than the gentleman from Illinois, and more mindful of the public welfare and the public Treasury, because foreseeing the military as well as the commercial necessities of the Government, General Grant, while treating on this subject in his report as Secretary of War, said:

"During the last summer and summer before I caused inspection to be made of the various routes of travel and supply through the territory between the Missouri river and the Pacific coast. The cost of maintaining troops in that section was so enormous that I desired, if possible, to reduce it. This I have been enabled to do to some extent from the information obtained from these inspections, but for the present the military establishments between the lines designated must be maintained, at a great cost per man. The completion of the railroads to the Pacific will materially reduce this cost, as well as the number of men to be kept there. The completion of these roads will also go far toward a permanent settlement of our Indian difficulties."

General Sherman has declared:

"The completion of this road during the present year to Fort Lyon would be a most important event to the military interests of that frontier, and the completion of the other branch (Denver branch) to coal and wood would also be most important to all the interests along the valley of the Smoky Hill, chiefly so to us who have to guard that line and provide for the wants of the necessary garrisons. It seems to me that we can, with great propriety, recommend to Congress at its present session to extend their subsidy to this company at the present rate for two hundred and fifty miles more, the aggregate amount being \$4,000,000 in bonds. This road is a military necessity."

General Sheridan has declared:

"I know that pecuniarily it would be to the advantage of the Government to help this road; certainly as far as Fort Wallace, and also to Fort Lyon. But, in addition, it is a most substantially ends our Indian troubles by the moral effect which it exercises over the Indians, and the facility which it gives to the military in controlling them. No one, unless he has personally visited this country, can well appreciate the great assistance which this railroad gives to economy, security, and effectiveness in the administration of military affairs in this department."

General Schofield, Secretary of War, wrote to Senator DRAKE, of the Pacific Railroad Committee, in July last:

"In reply to your communication of July 2, respecting the Union Pacific railway, eastern division, in which you desire to know the wishes of the War Department as to the proposed extension of Government aid to that road as far as Cheyenne Wells, I have no hesitation in recommending the proposed extension."

"By reference to a letter from General Sherman to General Grant, dated March 4, 1868, now before Congress, it will be seen that a much greater aid is recommended than that now proposed, and that the road is spoken of as a military necessity."

"No man could be better able to judge of this matter than General Sherman, and I have no hesitation in indorsing his opinion."

"I believe near Cheyenne Wells is the most easterly point where a temporary depot for the supplies destined for Fort Lyon and the posts beyond can be made so as to conveniently subserve the military interests."

"Abundant water and forage at that point make it more suitable than any other point farther east for such depot, while the distance (about forty miles) from Fort Wallace to Cheyenne Wells will be saved in wagon transportation of supplies."

"The proposed extension appears to be a measure of economy to the Government."

General Hancock wrote to the Secretary of War, under date of June 4, 1868:

"I have the honor to state that from my knowledge of the facts concerning this road, which is probably as intimate and extensive, and, as regards actual experience, in some respects more minute as to details than that of those who have spoken favorably of the enterprise, I feel at liberty to offer the weight of my testimony in a few words, believing that the interests of the Government may be benefited thereby. I commended the department of this Missouri last year, during an Indian war, and from my personal experience, obtained while I was on the plains, with respect to the transportation of troops and supplies by the railroad in question, as well as its great importance in connection with the settlement of that country, I feel that I can speak in strong language as to the necessity of this road being extended as rapidly as possible."

"I consider any assistance given by the Government to this enterprise as most wisely and advantageously applied."

But there is another reason far more cogent than the figures presented in the report of the Military Committee and the opinions of Generals Grant, Sherman, Sheridan, Schofield, and Hancock why this bill should become a law.

The vast mining interests of Colorado, New Mexico, and Arizona are languishing to-day for want of cheap, speedy, and easy transportation. In the Territory of Colorado alone the product of gold can be increased by the introduction of capital, machinery, and labor to \$100,000,000 annually, thus going far to solve the problem of returning to specie payments. And not only will the production of bullion in Colorado be stimulated, but the vast mining resources of the surrounding Territories will be awakened into life and activity, and the great commercial avenues and centers of the whole country correspondingly enriched and benefited. Thus, while eastern enterprise and capital will smite the stubborn sides of the "mountains of gold," the Pacific railroad will bear back to the great money centers of the East the vital elements of wealth, prosperity, and power.

I hesitate not to say here, sir, as a member of this House, that when our Pacific railroad system is completed in all its parts and the volcanic and mineral regions of New Mexico and Arizona are opened up by the great line of railway which shall soon find its way across the valley of the Rio Grande and stretch onward toward Mexico, the Gulf of California, and to San Francisco, and when that other great national line from Lake Superior to Puget sound penetrates the gold regions of the North, that the annual product of the precious metals and of other mineral values in the United States will more than equal similar products in all other parts of the world. No temporary fit of false economy; no refusal to meet the present exigencies of the public welfare; no cowardly attempt to shift the responsibilities of to-day on those who are to come after us; no political demagoguery or special pleading can arrest the irresistible progress of our civilization, or stay but for a moment the onward destiny of the Republic in the development of its material resources. And, Mr. Speaker, let me also say that I am one of those who believe that we owe something of encouragement and support to the sturdy pioneers of our civilization who brave the dangers of our frontier and sacrifice so much in extending the area of our wealth and developing the elements of our material, educational, religious, and political progress. These men have fought our battles in all our wars, and are fighting a continual battle for the benefit of the generations who are to come after them. It would be base ingratitude, worse than cowardice, and a policy not less fatal than foolish and short-sighted, to declare now that we will stay the further development of the new sections of the country, and withhold from their people a just encouragement to those avenues of communication essential alike to individual and national prosperity. We cannot afford to do it! If we refuse as legislators to keep pace with the just demands of the people in any section of this country we shall be and ought to be rebuked by those who exercise the sovereign power of the Republic. Political parties are omnipotent only as they represent with fidelity the popular will. As with parties so it is with men. Not even the gentleman from Illinois, grown gray in the public service and entitled to grateful recognition from the people—from which I would be the last to detract—can stay the march of empire or successfully resist the demands which a progressive and enlightened people have the right to make upon him.

Mr. Speaker, on the 8th of June, 1867, I had the honor to meet a large company of distinguished gentlemen from all parts of the country at the then terminus of the Union Pacific railway eastern division, near Fort Harker, Kansas. Not half a dozen miles away countless herds of buffalo covered the broad prairies and hostile bands of Indians hovered in the vicinity. I remember now that several distinguished gentlemen upon this floor were present upon that occasion. A meeting was organized, and with the broad and beautiful panorama of nature spread out before us we enjoyed the pleasure of listening to several addresses. The distinguished gentleman from Indiana, [Mr. ORT],

in the course of able and eloquent remarks relating to this great enterprise, said:

"Where we stand to-day the Indian and the buffalo but a few days ago held undisputed sway, while the not distant morrow will witness their departure to wilder scenes and more inaccessible recesses."

"Our good 'Uncle Sam' has come here and he brings with him science and civilization, and he intends to plant permanently a part of his great family; for he is now founding empires, and his mission will not be fulfilled on this continent until every foot of its soil will acknowledge his dominion and his power. [Applause.]

Less than twenty years ago the project of a railroad uniting the Atlantic with the Pacific was regarded by our most practical business men as chimerical, while to-day we look with amazement, even in this fast age when scarcely anything amazes us, upon the rapidity with which this great work approaches completion. The Pacific railroad has become a political necessity, and our Government, even if such a thought were harbored, cannot now recede from lending such material aid as will, under wise and judicious management, accomplish its completion at the earliest practical period."

"In view of these facts, so hastily glanced at and so imperfectly brought to view, I submit to you, Mr. Perry, as President of the eastern division of the Pacific railroad, whether you are not about reaching that point in your route when a southern detour becomes necessary? Should you not at once reach out the iron arm of your road and grasp the rich valleys of the Rio Grande and its tributaries?"

"Should you not furnish an artery for the vast commerce of northern Mexico, an outlet for her mineral wealth, which equals in richness the best veins of Nevada and Montana? And not only an outlet for Mexico and Mexican products, but as a necessary consequence a market, rich and profitable, for the products of American skill, energy, and industry. [Applause.]"

The gentleman from Indiana on the other side of the House [Mr. NIBLACK] said:

"When I first entered the Congress of the United States, now near ten years since, Kansas was the theme of almost every tongue, and practically absorbed all other questions. I was frequently called upon to vote on different phases of her political affairs, and finally had the honor of voting to make her one of the States of this Union. [Cheers.] I am one of a very few members of the present Congress who can claim this honor; most of those who participated in her admission have either retired from public life or been swept down by the swift course of mighty events which have since intervened. I confess, therefore, that it was with some emotion that I entered the borders of this State the other day for the first time in my life, and looked out upon her broad plains and fertile prairies. As much as I have heard said and seen written concerning these I was not quite prepared to see such beautiful scenery and so grand a country. Had I the power of painting scenery as only a master hand can paint it I feel that I still could not make a picture so beautiful as that I have seen. The grandeur would, at least, be wanting."

"I shall return, as I doubt not others will who live east of the Mississippi, with impressions as to the scenery and country now around us which will never be effaced. I shall return, too, under the impression that the eastern division of the great Union Pacific railroad is in the possession of the right men, and that each man is in his right place. [Cheers.] I will ever bear with me the kindest recollections of the courtesies and hospitalities which have been so profusely extended to us. What I have seen of the country west of the Mississippi has more than ever impressed me with the practicability of reaching the Pacific ocean by railroad and with the grandeur of the enterprise. From its geographical location, if for no other reason, the eastern division of this great work must ever be a favorite route with those among whom I live. Come what will, then I do not want to see it fail. [Cheers.] Whatever, therefore, I can in conscience and honor, do to forward it, I will. I hope, feel ever ready to do. [Cheers.] Of course I do not desire to see this road pressed forward in any way that shall be injurious to other routes. I wish to see the Government extend a fostering hand to the extent of its ability and power to all kindred enterprises. There is room for many routes to the Pacific, and there is little danger, I imagine, that too many will be constructed."

The gentleman from New Hampshire [Mr. STEVENS] also added his testimony to the importance of this work, as follows:

"Mr. Chairman, I possess no language in which to express my surprise and delight with the scenes through which we have flown in our progress from the sea and by which we are surrounded to-day. Such scenes can never fail to impress most vividly the feelings and imaginations of those who visit for the first time the fertile fields, the teeming cities, and the boundless prairies of the great West. In my own little but gallant State we are accustomed to boast of natural wonders which attract and repay the distant traveler; and yet for myself I must say that I do not believe that I should be penetrated by greater astonishment than has been awakened in my mind by this grand proscenium of the continent over which our progress has led us, if on my return I should find the face of the 'Old Man of the Mountain' wreathed in smiles or behold Mount Washington nodding his imperial head in stately courtesy to these expansive prairies."

"I owe the pleasure of this trip to the call of personal friendship and the curiosity of travel. But I

feel, sir, that it has not been without its practical lesson or its real benefits. And here, sir, in the very center of the continent, on the historic soil of Kansas—with what a price has she purchased her liberty!—I am free to say that I recognize the utility, yes, sir, the future necessity, of uniting the shores of the Atlantic with those of the great peaceful sea, and binding together the industrial East with the Golden Gates of California by those iron bands which in the future are to bear the burden of a mighty commerce in its transit across the continent. Against all obstacles this great enterprise, this magnificent scheme, must go forward to its completion. I shall be glad to lend my personal and official aid to this great work. I hope it is not now to be interrupted by war. I trust the rising cloud of Indian hostilities will prove a cloud only. Be that as it may, this work must go forward. While the peaceful Indian can rest in security side by side with our own race, the warlike savage, the wild, untamed, and untamable Indian, must retire before the advancing tread of cultivation. New England found that out two hundred years ago. Let the rest profit by our history, let the country mark our example, and promptly and speedily the barbarities of the Indian and the sensuality of the Mormon shall give way to the progress of civilization, commerce, and Christianity."

Following the gentleman from New Hampshire came the gentleman from New York, [Mr. LAFLIN.] I quote from his eloquent address:

"I feel a personal pride in the success which has crowned the efforts of the great Pacific railway. Coming as I do from the State containing within its borders the largest number of people in any of the glorious States of this great Union—a State represented by a wealth and a commerce of which we may be justly proud; a State which has felt from its very infancy the force and effect of the prosperity of the section of country beyond it, at the West, and a State, too, which has somewhat distinguished itself by its works of internal improvement—I may say that, coming from that State, I feel that all the States beyond us at the West and all the improvements which have developed in them are part and parcel of our system."

"When we remember that it is almost within the lifetime of some of those who are before us that the mighty Empire State, now numbering within its borders four million people, had a population little exceeding the present population of the territory which now constitutes the State of Kansas—which twelve years ago was an unknown wilderness—we are astonished at the progress which our country has made. And when we bear in mind that in a few more years this State of Kansas, containing within its borders more than double the number of square miles of the State of New York, and possessing far more of the elements of agricultural wealth, will also count its millions of inhabitants, the imagination is lost in wonder at the teeming millions of prosperous people who will occupy our great Republic of America, through the heart of which we have passed on this journey."

"Indeed, there are persons with us, young it may be, who will scarcely arrive at the age of the majority of us, who will see occupying this immense territory of the United States a population nearly equal to one half of the whole population of the globe. And is it not a matter of pride, should it not be a matter of congratulation, that those who are the pioneers, those who are to lead onward the tide of immigration and of population which is bearing westward, are men of such enterprise, men of such public spirit, and, as we can all testify, men of such eminent private virtue and ability as those gentlemen who are leading on the enterprise of constructing this railroad through to the Pacific?"

I will conclude this testimony by quoting a brief extract from the address of the gentleman from Delaware, [Mr. NICHOLSON:]

"I have been amazed at the stupendous obstacles which nature has interposed in the pathway of human enterprise, but no less amazed at the success which has crowned your efforts in surmounting those obstacles. The most formidable of the difficulties you have had to encounter appears to me to have been immensity of distance, and this is vanishing at your touch. You stagger not at apparent impossibilities; and now this great work, spanning a continent, the progress of which we have been brought hither to witness, presents every assurance of speedy accomplishment."

So it seems, Mr. Speaker, that members of this House, standing in the very center of the continent and on this great line of road, united with our military commanders in concurrent testimony in favor of the work to be accomplished by this bill. I only regret, sir, that the gentleman from Illinois had not wandered thus far away from the shades of Galena, and, abandoning for a time his peculiar problems of economy, looked with unprejudiced eyes upon the necessities of the whole country and comprehended, like the honorable gentlemen from whose remarks I have quoted, the present and prospective wants of not only the commerce of the plains but the commerce of a continent.

Now, Mr. Speaker, I desire to call the particular attention of the House to the location of the line of this road west of the meridian of

Fort Riley. By the act approved July 1, 1862, it was provided as follows:

"The route in Kansas west of the meridian of Fort Riley to the aforesaid point on the one hundredth meridian of longitude, to be subject to the approval of the President of the United States, and to be determined by him on actual survey."

But on the 3d of July, 1866, Congress passed the act allowing this road to follow the valley of the Smoky Hill, providing that the company constructing the same should be entitled to only the same amount of bonds as they would have been entitled to if they had connected their road with the Omaha line on the one hundredth degree of longitude, as required by the original act. The grant of land, as I have said before, was made to a point not to exceed fifty miles westwardly from Denver. Now, as a matter of fact, the route west of Fort Riley under the original law was never located by the President of the United States, nor was the point of intersection ever fixed by the President on the one hundredth meridian. It has been often said upon this floor, and was stated by the gentleman from Pennsylvania [Mr. KELLEY] in his speech in favor of this bill, that this route was to run by the valley of the Republican river. This is a mistake.

Mr. KELLEY. I stated distinctly that they took the Republican route because the Smoky Hill valley was then involved in an Indian war; and as they had, according to the terms of the law, to file a map by a certain day, they took the route of the Republican fork, although they might, and but for the war would, have taken the preferable route of the Smoky Hill.

Mr. CLARKE, of Kansas. This additional statement of the gentleman is entirely correct.

Mr. PRICE. By the original act granting a subsidy to the Union Pacific railroad and its branches they were compelled to make the connection at or near the one hundredth meridian, between the Republican and Platte rivers, in the Territory of Nebraska, and therefore this junction could not be on the Smoky Hill route.

Mr. CLARKE, of Kansas. I do not so understand the law. Any of the roads running west from the Missouri river were authorized to connect at a more westerly point under certain conditions. The eastern division road might have been located on the Republican river in accordance with the law, or it might have been located on any other route if found more practicable. It might have followed any one of the many streams which flow into the valley of the Kansas from the northwest; or it might have followed the divides on the prairies in equal harmony with the provisions of the law. Thus, sir, it will be seen by way of illustration that if it had been located in the Republican valley the distance might have been, say, three hundred and fifty or three hundred and seventy-five miles; while had it been located on any one of the other practicable routes, the distance might have been reduced to three hundred miles. But it is impossible to tell on which of the routes the President would have located the road. If it had followed the meandering of the Republican valley the distance applied to the present line of the road would have extended beyond Cheyenne Wells, and would have rendered this bill unnecessary. This fact alone amply vindicates not only the wise policy of Congress in amending the original act, but it refutes the charges made against the company, so far as keeping faith with the Government is concerned.

In this state of uncertainty as to the point where the subsidy ends it is assuredly the duty of Congress to fix the same by law, as is now proposed. In fact, sir, the company have no other remedy than to submit the case to the judgment of Congress. They have done so with a frankness of explanation and statement and with that regard to the public interest which ought to protect them from the misrepresentation by which it is attempted to envelop the consideration of the bill now before the House.

Let me in conclusion say, sir, that while the road already has passed through Kansas and has acquired a purely national character, that

the citizens of that State are neither insensible to its magnitude or unfriendly to its projectors. The amusing effort of the gentleman from Illinois to resurrect the venerable ghost of the border ruffian, untimely dragged back to earth, will not do more than provoke the mirth of the people I have the honor to represent. It has no more to do with the merits of this measure than has the ghost of Don Quixote. Let me say to that gentleman that I yield to no man in reverence to that historic young State. In that early struggle Kansas gave a name and character to the party into whose charge has been intrusted the keeping of the Republic. Her people have struggled against heavy odds to build up a State which shall be a pillar to the nation. I believe the honorable gentleman is not insensible to the importance of the results which have been there achieved. I will go with him, as a member of this House, in resisting all schemes of monopoly and speculation. I will go with him in protecting the public lands from the grasp of the monopolist, who seeks, in enriching himself, to nullify the homestead and preemption laws of the United States and outrage the most sacred interests of the great mass of the people.

I believe that in all our future grants of land to railroad corporations, and for all works of internal improvement, it should be opened to actual settlement only at stated prices, and under such regulations as will render it easy for all classes of people to acquire a speedy title. I will go with the gentleman from Illinois for a reduction of fares and freights, as I did in the last Congress, on all the Pacific roads to which the Government has extended its aid. Roads constructed by the aid of the people of this country ought to be open to them at the lowest possible rates. But these are not questions involved in this bill. The real question is, shall the fostering aid of this great Government be denied to an enterprise so truly national in all its essential features, and which, as I have shown, will, instead of being a permanent outlay on the part of the Government, speedily return to the public Treasury far more than what is now solicited and secure incalculable advantages to the development of our national resources. In my judgment, sir, if this House consults the true principles of economy it cannot possibly refuse to pass this bill.

Mr. LOGAN. Mr. Speaker, I only propose at this time to modify my substitute so that it will read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That the Union Pacific Railroad Company, eastern division, is hereby authorized to continue the construction of said road from the point of its present completion fifty-four miles in the direction of or to the Cheyenne Wells. Said company shall have authority to issue coupon bonds to the extent of \$16,000 per mile of road to be built, said bonds to run forty years and to bear interest at the rate of six per cent. per annum, payable semi-annually on the 1st days of February and August of each year in lawful money, the interest and principal to be payable at the Treasury of the United States or at the office of the Assistant Treasurer of the United States, at the city of New York, at the option of the Secretary of the Treasury, under such rules and regulations as the Secretary of the Treasury may prescribe; and the President of the United States shall appoint three competent persons as commissioners to examine said railroad; and as sections of twenty miles of said railroad are built in a good and substantial manner said commissioners shall so report in writing to the President, who being satisfied with such report shall approve the same and cause it to be filed with the Secretary of the Treasury, whereupon the United States shall guaranty the payment of the interest of the bonds authorized to be issued as aforesaid to the extent of \$16,000 per mile of road built; and it is hereby made the duty of the Secretary of the Treasury to indorse and register such bonds for the United States, guarantying the payment of the interest thereof in such form as he may deem proper; and the indorsement of such bonds by the Secretary of the Treasury on behalf of the United States shall ipso facto constitute a first mortgage on said railroad, its rolling-stock and furniture, the interest on said bonds; and it is hereby made the duty of said railroad company to have or deposit with the Treasurer of the United States, at least ten days before any semi-annual installment of interest falls due, a sufficient amount of money to pay such installment of interest and upon failure to do so, the President may cause the Secretary of the Treasury, upon sixty days' notice to said company, to take possession of said railroad, stock, and fixtures for and on behalf of the United States. And for the purpose of making provision for

the payments of the interest of said bonds the Secretary of the Treasury is hereby directed to retain—

First. All sums of money due said company on account of transporting troops, munitions of war, and military and Indian supplies.

Second. All moneys arising for the transportation of the mails by said company.

Third. All moneys arising from the transmission of telegraphic messages by said company for the United States.

And the Secretary of the Treasury shall cause semi-annual statements of the interest account to be made with said company; and any surplus money remaining after the payment of any semi-annual installment of interest shall be paid to said company. And for the purpose of making provisions for the payment of the principal of said bonds so indorsed by the United States the lands of said company heretofore granted by the United States for the construction of said road, or so much as lie along or on either side of said road, as herein mentioned to be hereafter built, (except so much as may be necessary to the operating of said road, which shall be set apart for said purpose by the three commissioners aforesaid,) shall be, as fast as every twenty miles of said road are completed, put into market to actual settlers at \$2.50 per acre, under such rules and regulations as shall be prescribed by the Secretary of the Interior. And all moneys arising from the sale of said lands shall be paid into the Treasury of the United States; and the Secretary of the Treasury shall thereupon cause such money to be invested in said bonds, the same to be canceled and delivered to said company.

Sec. 2. And be it further enacted. That so much of this act as provides for the putting into market to actual settlers at \$2.50 per acre, and requiring the money arising therefrom to be placed in the Treasury of the United States, to be invested in the bonds of the said company, shall equally apply to said road from Cheyenne Wells to Denver, and to the Denver Pacific Railroad and Telegraph Company, from Denver to Cheyenne, on the Union Pacific railroad.

The substitute, as amended, was ordered to be printed.

Mr. LOGAN held the floor; when the Speaker stated that, in accordance with the understanding, the Arkansas delegation would now have the floor to announce the death of one of their colleagues.

DEATH OF HON. JAMES HINDS.

Mr. ELLIOTT, of Arkansas. Mr. Speaker, since the first session of the present Congress death has invaded our midst, and among those who have been called from the scene of their usefulness and labor in this world must be recorded the name of the lamented Hon. JAMES HINDS, of Arkansas. As his successor, it devolves upon me to make the painful announcement of his demise to this House; and greatly do I regret, in offering this tribute to his memory, that my very limited acquaintance with him, and my humble abilities, will hardly enable me to do justice to his character. My acquaintance with him commenced during the exciting canvass for the adoption of the present constitution of the State of Arkansas, and the zeal and enthusiasm which he displayed in the cause which he had espoused won for him the praise and admiration of all who took an interest in that eventful struggle. At that time our State was the scene of intense political excitement, and it required great firmness and the most daring courage for any one to advocate the adoption of that constitution or to attempt to defend it against the attacks of its enemies. But JAMES HINDS failed nor faltered not, and the dangers of the hour were unheeded in the discharge of what he considered his duty to his country. Devoting all his energies, enlisting all his sympathies, contributing all his might, he had at last the proud satisfaction of seeing the State of his adoption redeemed from political anarchy and again restored among the sovereign States of our Union, in which proud position may she ever remain.

Mr. HINDS was born December 5, 1833, of highly respectable parents, residing five miles north of the village of Salem, New York, within the borders of the town of Hebron. He was the youngest of a family of five sons and a daughter, all of whom survive him. One of his brothers having become established in the legal profession in the far West induced him, while he was yet a minor, to remove thither also. He there engaged in the study of law, and attended the courses of instruction given in the law schools at St. Louis and Cincinnati, at which latter place he graduated in 1856. He thereupon settled in the practice of his profession in the town of St. Peter's, Minnesota. Here he was appointed

district attorney, thirteen counties being embraced in his district. While the war of the rebellion was in progress he enlisted in an expedition which was sent by the Government against the hostile tribes of Indians on our western frontiers. Emigration having become suspended by the war, and St. Peter's having greatly declined from its previous prosperity, he cast about him for a more inviting place in which to establish himself. Accordingly, on the downfall of the rebellion he moved to Arkansas, and settled at Little Rock in June, 1865. He hence became so well known and highly esteemed that he was chosen a member of the convention which framed the constitution under which Arkansas was readmitted to the Union, and at the election of State officers he was chosen one of the three Representatives of the State in the national Congress. Immediately thereupon he repaired to Washington and took his seat. On the adjournment of Congress, not having seen his aged mother for eleven years, and his father having died within this period, he visited the home of his boyhood and remained there but a short time. Leaving his wife and two children with his relatives, he hastened back to his adopted State to attend the convention which had been called to make the congressional nomination for his district. Finding that other candidates were anxious to obtain this nomination, he declined having his name presented to the convention. He thus had no direct personal interest in the election, but he evidently regarded the contest as one of momentous importance and claiming his best services. Accordingly, he entered upon a canvass of the State, addressing meetings in the several counties. These meetings were largely attended, and the utmost courtesy was extended by him to the Democratic party, his political opponents, at those meetings. In obedience to this call of duty he took his place in the vanguard among the sons of liberty, and fell by the hand of Democratic Ku-Klux assassination while nobly sustaining and defending those principles which concede equal rights and privileges to all men, regardless of race or color. Thus, Mr. Speaker, has another martyr been added to that glorious band of heroes who have struggled and died in the honest conviction of the righteousness and justness of the principles they advocated.

This is a painful and solemn charge to have recorded against the State which I have been a citizen of for the last twenty-two years, and gladly would I suppress the facts if it were charity and justice to do so; but such acts of violence have become so common that they deserve our loudest condemnation, and no State pride or partiality should cause us to hesitate a moment in denouncing them in the strongest terms or cease to regard them as other than crimes of the most heinous nature.

Mr. Speaker, persons in all ages who have been the victims of violence or assassination in advocating just and great principles have been regarded as martyrs, and their untimely fate has always added strength and power to the cause they have advocated. Indeed, so much is this the case that it has passed into proverb that "the blood of the martyr is the seed of the church;" and JAMES HINDS, in laying down his life in the defense of that cause which he so enthusiastically loved and espoused, has entitled himself to be regarded as one of those great men who have sacrificed life to principle, and his name must rank high among those heroes whose life and death form the book of martyrs in their country's cause.

There are many among you who can recall to mind their social intercourse with Mr. HINDS, his affable disposition and pleasant address, combined with the noble attributes of a warm heart, that left an impression upon your minds which will cling around you long after the scenes that now surround us have passed away.

Mr. HINDS's devotion to his country amounted almost to idolatry. Beyond her prosperity he saw nor anticipated not. In her laws and Constitution he saw the wisdom of many great minds whose examples he might safely follow

and in whose footsteps he could with honor tread. With the precepts of such brilliant examples before him he shaped his course, as the mariner who shapes his course from the charts and compass of those who have preceded him. Peace to his ashes. Let his slumbers be undisturbed. With him the din of political strife is over. His memory belongs to his country, and his labors will never be forgotten by those for whom he served and fought so earnestly.

Mr. Speaker, I now offer the following resolutions in memory of my deceased friend.

The Clerk read as follows:

Resolved, That the House has received with deep sensibility the announcement of the death of Hon. JAMES HINDS, a member from the State of Arkansas.

Resolved, That this House tenders to the family of the deceased the expression of its sympathy in this afflictive event; and as a testimony of respect for his memory the members and officers of this House will wear the usual badge of mourning for thirty days.

Resolved, That the Clerk of this House be directed to communicate a copy of these proceedings to the family of the deceased, and also to the Senate.

Resolved, That as a further testimonial of respect for the deceased the House do now adjourn.

Mr. ARNELL. I rise to second the resolutions that have been offered. Upon occasions like the present nothing more beautiful and appropriate, full of instruction and of thought, can be told than the ancient myth of man's origin. The old mythology, with all its defects, had a true and clear conception of life. I will repeat the myth. Care, with downcast eyes, was crossing a river, and observing the marly clay, began to form man out of it. Jupiter happening to pass that way, she entreated him to animate it. He did so; but a contest immediately arose concerning the ownership. The Spirit of Earth clamored for her right, as she had afforded the body. Time was taken as arbitrator. He decided the ownership in favor of Jupiter, but possession while living for Care, and that the new-formed creature should be called man, (*homo*), because made of earth, (*humus*.) A touching and pathetic declaration of our common brotherhood, our bondage to care and heirship of immortality. Yet to appreciate this in some realizing sense we must be stirred, admonished, perhaps startled, by the departing footsteps of some friend or brother pressing ahead of us into that "great darkness" of which sense knows nothing, and faith next to nothing, save that we are passing from one mystery to another—from God to God!

Mr. Speaker, the memorial services of to-day have for me more than ordinary significance. The pathway of this third session of Congress has literally been over the graves of its members. The first was that of the "great commoner," but his demise we felt to be according to the order of nature; the fall of ripe fruit in the slow-dropping, mellow autumn. After him came his colleague, (Mr. Finney,) released from endurance of long disease by the Great Physician's healing. Next was Mann, of Louisiana—an orange and magnolia covered grave. To-day we stand by another bier. Mr. HINDS, of Arkansas, was comparatively a stranger to most of us, yet who does not remember his peculiarly sad and reflective face? Little, however, did we deem that the shadow of the death angel was so near to it. When we separated from this Hall last summer for our distant homes those of us who live within the "dead line" of the rebellion well understood the work before us. Freedom of speech was to be practically asserted upon the most sensitive of political questions where never before it had been tolerated even; and it was asserted. Yet lift the pall from the face of our comrade and let those "dumb mouths" (his wounds) speak its price. Men of the great North, who sit undisturbed by quiet firesides, little do you understand that unconquered battle, yours as much as ours, that rages still about our southern doors!

But we have come to look upon the face of our dead comrade. Here is death, not overtaking the weary old man, as he did our great Thaddeus Stevens, and summoning him, with

the smile of one of Corregio's angels, to a couch of rest, but death in the midst of life, death in youth, death by violence. This is the first time assassination has entered this body. Until the great horror of Mr. Lincoln's death, assassination in this country, for political reasons was thought impossible. The dominion of the "Old Man of the Mountain," the father of assassins, was put to an end by the Moguls at the close of the twelfth century, and we believed no brood of his could exist in a free republic. History, however, repeats its darkness as well as its grandness. JAMES HINDS, of Arkansas, lost his life in the brave discharge of duty and in the assertion of free speech. We are his debtors for all time to come. Let us gather into our minds the circumstances of that death, that we may realize the intrinsic nobleness of his self-sacrifice. It was the 22d of October. The golden light of a mellow autumn flooded field and wood. A Representative of the people, belated by the refusal of a steamboat captain to give him passage because he was "a Radical," riding peaceably with a single friend to a public appointment, there to uphold, not his claims for office, but the claims of freedom, and to vindicate by argument the Republic, is overtaken by a fiendish and pursuing assassin, whose lips were burdened with "peace resolutions" but an hour before as a mask to his fell purpose, and who knew him and hated him only as the Representative of the victorious nation, at noonday this Representative, without personal provocation on his part, without a moment's hostile warning even on the part of his foe, is brutally shot down by this cowardly assassin and dies by the roadside.

I think that autumn day must have cried out in agony. It is said that we only recognize our noblest when death has overtaken them. I think that this is true. Here was one that passed among us unknown for a hero, yet has proved himself capable of the highest self-abnegation. Yes, we are blind and know it not. Let us stand around this hero's grave with uncovered heads. Yet the chief mourners are not all here. Involuntarily my mind wanders away to that far-off home darkened by this fearful tragedy. There a wife gathers her orphan children and hushes their sobs for a never-returning father. Words cannot lift the overwhelming weight of her sorrow, and I would not trespass upon the sanctity of her grief. Yet let us realize for our ourselves in her sorrow the costly price of freedom—realize for ourselves that this murderous spirit to day treads the Republic and numbers its victims. Through this grave a cry comes up to us to-day from the South for better protection. American homes rest for happiness upon American liberty. Here was one who sacrificed his life in obedience to duty that yours and mine, Mr. Speaker, might be more secure. We shall have but little manhood left us, either as a nation or as individuals, when we grow indifferent and unmoved by the struggles and sacrifices of the true and the noble. It was in the degenerate and not heroic days of Greece that the announcement was made to those sitting in the theater at Athens that a great battle had occurred and the best blood of Greece had unavailingly been poured out, and the audience only drew their cloaks about their eyes, heaved a sigh, and the next moment had forgotten it in the play of the Grecian master.

JAMES HINDS, we are told by his colleagues, was a soldier; then soldierly did his life-work end. Reconstruction is a part of the great battle begun in 1861, and not yet ended. He enlisted in both and did honorable service in both; and it will be well remembered of thee, O patriot soldier! Remember that undaunted, with true warrior heroism, thou didst enter and die in thy country's battle. Thy service merits thee a double crown, and sweet, perpetual remembrance! And in the long hereafter it will often be tearfully told how a soldier of the Union perished by an assassin's hand in the brakes of Arkansas—perished because he was freedom's servant and freedom's Representative.

Mr. ROOTS. Mr. Speaker, the sad subject occupying the attention of this honorable body is one that bears upon my mind with peculiar force. I was personally acquainted with JAMES HINDS during a busy portion of his eventful life, and it was in the district that I have the honor to represent in which he met his terrible death by political assassination.

His life, though short, was long enough for many hundreds to have become so endeared as to have wished it longer. His life, though short, was long enough to afford a wonderfully instructive lesson of encouragement to all those in this crowded world struggling against the barriers of poverty. Its history is an account of the child of poverty, developed into the honored man by its own exertions. Its history recounts what mighty results may be accomplished on no other capital than a clear intellect under the impetus of an indomitable will. Generally, when one falls so young the exclamation is, "Oh! what might have been." In this instance imagination might feast itself on such a theme *ad libitum*; but that is not necessary. It is grand enough to say, "See what was!"

Only twenty years ago JAMES HINDS was a fatherless, penniless lad. But so determined was he to acquire knowledge that he attended school when he only did so by hiring a room, doing his own housekeeping, and working enough beside outside of school hours to earn the means of paying for his school expenses and daily living. Such earnest perseverance created success even under the most lowering clouds of adversity.

Traveling by such rugged steps he did not come upon the stage of manhood a mere hot-house production of opulence, but an earnest, laborious youth, gradually developed into a self-made, self-reliant man. Experience taught him to never wait for the coming of success or friends, but first make success, and then friends would come. His nature and training alike rendered it equally impossible for him to play sycophant to the rich or oppressor to the poor. His warm sympathy with the oppressed and downtrodden touched a responsive chord in men's hearts that returned him in a remarkable degree the affection of the masses. The humblest and most friendless loved him without fear of being repulsed, and learned to regard him as their especial champion.

When the great struggle came between human oppression and the nation's life, he was at once found positively on the side of his country, and he went forth to do battle upon the side of loyalty, of freedom, and justice to humanity.

It is now, though, nearly four years since the happy moment arrived when we considered the struggle ended. We all proudly felt that henceforth free speech and free men were to be as universal south of Mason and Dixon's line as they long had been north. It was at that happy period that Mr. HINDS was allured by the genial clime and inviting features of the Southwest to make his home in Arkansas, and engaged in the practice of his profession with an assiduity that received merited success.

Alas! it was not long until the fact was developed that the fierce fires built on human oppression to destroy and keep destroyed the relations of the State to the nation were not extinguished, but only smoldering; compressed and changed, but not abated. When this fact was developed, and the question arose as to whether or not Arkansas should make an effort to regain her lost sisterhood in the great family of States, notwithstanding the odium and dangers with which those who had severed the State from her proper relations cast about such a course, JAMES HINDS became an earnest advocate of her return to the loyal household. Elected to the constitutional convention by one of the largest majorities in the State, he soon became recognized as one of the prominent leaders, and to him the humble, toiling citizen of that State owes a debt of gratitude he can never repay; for in the construction of the fundamental law of the State

he was most active in the introduction and riveting of those points which are barriers of protection for the many weak against the few strong, and for the securing to the humblest all the rights of citizenship granted to the proudest.

After the adjournment of the convention and the submittal of its work to the people he was elected by a remarkably large vote to a seat in this body, and even in the brief period of his presence here he exhibited a lively interest in the welfare of the State and indefatigable efforts to promote her good without failing to strive for the greatest weal of the whole nation.

Immediately upon the closing of the summer session he went to his home and entered vigorously into the canvass for freedom, peace, and prosperity against caste, oppression, revolution, and murder. I know, sirs, many of you may think that the party which Mr. HINDS opposed was equally anxious for peace with the party whose principles he espoused. That might have been the case in other places, but in Arkansas at least their acts showed that the Republican party advocated peace with a desire that the beloved white-winged spirit of peace might settle and abide in the land. But when the Democracy did for a moment advocate peace their desire seemed to be for pieces of Radical skulls. To advocate real peace was not entering upon a holiday pleasure excursion, but was to brave death and tread on the very verge of eternity. All this JAMES HINDS knew, yet faltered not. A few days before his death he wrote to a friend:

"We must win the election, stand a fight, or leave the State, and it is sad to think that many of our number, perhaps myself included, must be murdered before seeing the ides of November, to know whether we win, fight, or leave."

On the day of his murder he was in a county which he considered less dangerous than some through which he had traversed, and he so expressed himself, but added:

"With men all over the country bound by terrible oaths to take Radical lives, we do not know where there is any safety. Oh! it is terrible. But it may be that it is all for the best, for they say the blood of the martyr is the seed of the church, and it may be that the loyal blood now drenching this land will arouse those criminally timid men who had the power and withheld the grant of arms to our State authorities, and arouse the patriotic masses to realize it is the nation's duty to protect the nation's citizens."

Oh! little did he think at that moment that ere the sunlight of that beautiful October day should give way to the cold dew of night his own soul would be driven from his body by the cold damp of death. He was traveling with Hon. Joseph Brooks, another tried and valiant soldier in the great cause of freedom and equal rights. They were to speak that day about six miles from the village of Indian Bay. They had been refused passage on a steambot because they were Radicals, and so were belated. Some hundreds of eager, expectant Republicans were awaiting their arrival. To this meeting the officers of the Democratic club had gone as advocates of the adoption of "joint peace resolutions." The Republicans said that several Radicals had then recently been killed in the county, and no Democrats; and therefore they thought if the Democracy had suddenly acquired a desire for peace no resolutions were necessary; but although some of them thought it merely a cloak for Democratic villany, they were willing to bind themselves in resolutions to do what they intended doing anyhow, and they therefore unanimously adopted the resolutions. One of the principal signers and most apparently earnest advocates was George W. Clark, secretary of the Democratic club. But as soon as he had signed them he returned to his home, arriving there before Messrs. Brooks and HINDS had reached that far, and himself gave the fated ones direction as to the road. When they had ridden on he got his gun, saddled his horse, and rode after them. The intended victims were riding along with their greatest solicitude at the moment, being anxious thoughts to reach the waiting crowd.

The horses being differently gaited, Mr. Brooks was at the moment some fifty yards ahead. The man with grayish suit on rode up near, but a very little in the rear of Mr. HINDS, smiling as Judas may have smiled when he kissed his Lord and Master, he engaged in pleasant conversation. For a second the three thus rode on, the victims wholly unsuspecting, and the smiling murderer, with cold-blooded calculation, waiting for a better opportunity to make sure of both. An illustration of the meaning of Democratic peace resolutions is about to be made. The same hand which a few hours before signed peace resolutions now grasps the assassin's weapon; within a very few feet of Mr. HINDS's back, the gun is suddenly raised. Click, click, hear the triggers! Oh, the terrible instant! bang, bang, goes the gun. Mr. Brooks's horse, stung with buck-shot, bounds ahead with a wounded rider, while the second horse madly leaps forward riderless, and JAMES HINDS lies on the ground motionless, dying. Another order of the Ku-Klux-Klan has been executed; smiling with a fiend's smile upon his features stands the Democratic assassin: the soul of another martyr is sent unshriven before the arbitrator of eternity; dying, shot in the back, lies the Radical Congressman. Would to God the curtain of oblivion might drop over the scene forever!

JAMES HINDS's spirit has passed from earth, but his life, deeds, and death will not soon pass from memory, so well he lived, so hard he toiled, so young was he gathered into the unseen fold, that when we think of him we cannot avoid to lament that:

"The hand of the reaper
Takes the ears that are hoary,
But the voice of the weeper
Wails manhood in glory."

He had so many noble qualities and won so many strong friends we can very easily drop the veil of charity over his faults, whatever they may have been. Had he been faultless he could not have been human. It is said a deathbed is a detector of human hearts. If so, it is pleasing to know that in his expiring moments, lying with no more friendly touch than the breast of mother earth, his few words were not concerning his own death tortures, but were expressions of solicitude for his wife and two sweet daughters whom he loved so dearly. Could you, sirs, have seen the hundreds of compressed lips and wet eyes which spoke in an eloquence and intensity of grief words could not be framed to utter when his remains passed through the city of Little Rock. You would have exclaimed, "Behold, how they loved him," and certainly he who has thus won the love of man must have a strong claim on the mercy of God.

But ceremonies in honor of the dead can only be beneficial in so far as they affect the actions of the living. Could the spirit of JAMES HINDS speak to us to-day it would not be with an effort to induce fulsome eulogies upon those who are beyond mortal aid, but from the portals of the dead he would say protect the living.

The nation has the power to obey such a request, and when the people arose in their might and majesty on the 3d day of November, it was to declare in unmistakable terms their heartfelt approbation of the promise of him whom they felt had the power to execute the promise that freedom and protection should be guaranteed as well on the warm gulf coast as on the cold lake shores. That was the keynote to the entire canvass. The mighty leader of the loyal hosts was a popular man, remarkably, deservedly popular for his glorious services to his country. But he was most popular from the full confidence that the people had in him that he had the will and the power to speak into peace and tranquillity the angry waves of prejudice and passion that were raging in the South, crimsoned with human gore. It was the embodiment of that will and power for which the nation in such overwhelming numbers spoke its preference, and the present is an auspicious moment to inaugurate obedience to the people's behests. Many good men

who have always wanted peace, but could not tear themselves loose from political thralldom in the heat of political excitement, now express their earnest, anxious longing for protection of life and the restoration of peace to the country. The very leaders of the political assassinations themselves seem now to be partially revolting from the horrible atrocities of the execution of their own schemes and orders, which feeling, added to the wholesome belief they have that the authorities will be sustained, lives will be protected, and peace will be maintained, is making even them for the time converts to the great loyal heart's desire for restoration of peace and protection.

It is not indemnification for the past that is asked, it is only security for the future. The murdered cannot be brought to life, but murderers can be made to spare the living. Honeyed words alone cannot accomplish this, but men must be made to feel that protection will prove more profitable than assassination; kind words may do the work if it is positively known that the nation supports the State authorities, so that there is a reserve of sterner power which can be brought to the support of kindness on any instant of emergency. Let party lines be obliterated in this desire for the maintenance of peace and protection. Let partisans now be absorbed in patriots, so that all men, Republicans and Democrats alike, will feel an inspiration of such God-given patriotism as found utterance from the steps of this building when nearly four years ago he who spake as one with less in him of earth than heaven, said: "With malice toward none, with charity for all, with firmness in the right as God gives us to see the right, let us strive to do all which may achieve and cherish a just and lasting peace." His words fell with magic effect, because while he extended the olive-branch with the left, in his right hand he wielded the great American Army, the most potential power on the face of the earth. The olive-branch should still be extended, but it will only be to loose the hand that offers it unless it is demonstrated that the strong arm of power will be used whenever necessary to overwhelm the crushing tyranny of lawlessness and oppression.

Agonized the great Omnipotent who snatched time from eternity and spoke system from chaos, said "Let there be light," and the sacred chronicler informs us "there was light." To-day the mighty people who have saved the nation's life in the sanguinary struggle and declared freedom in the kingdom of slavery, have said "let us have peace." Shall not the historian who records the doings of this year be allowed to say "there was peace?"

Oh, shall it not be so! The spirit of JAMES HINDS unites with hundreds (you know not how many) of other spirits of treacherously murdered men in beseechingly asking the question. Their suffering widows and orphans, without even the little comforting crumb of a Government pension, are weeping asking the question. The hundreds of thousands of maimed and crippled loyal men who fought and suffered beside comrades who, fighting, fell to establish peace and protection, are earnestly asking the question. Thirty-eight million inhabitants in these United States, whose prosperity can only be commensurate with the maintenance of peace and protection, all join in prayerfully asking the question. The countless lovers of freedom throughout the whole world with one accord are looking to this nation and anxiously asking the question. And, sirs, remember the Representatives of the people and the Government must be responsible for the answer.

Mr. DONNELLY. Mr. Speaker, before the outbreak of the late civil war the deceased member from Arkansas was a citizen of the State of Minnesota, which I have the honor in part to represent here. His memory is cherished there by many relatives and friends. I feel constrained, therefore, however reluctant

to trespass on the time of the House, to add a few words to those already spoken by his colleagues.

It was my good fortune during the last session of this Congress to become comparatively well acquainted with Mr. HINDS. I learned to highly esteem his solid worth; the gentleness of his character and the modesty of his nature. He seemed just stepping forth upon a bright and useful career, possessed of all those qualities of mind and heart which could bestadorn it.

Death is in any form a terrible interruption of the hopes and plans of life—a rude sundering of all the ties of affection. It enters like a fierce intruder amid the warm and glowing scenes of our existence, and at one blow strikes everything to the earth. But when its terrible aspect comes suddenly upon us, lighted with the glare of murder, and looks out upon us through the awful eyes of the assassin, a thousand additional terrors are added to the blow. Such was the death of him whose loss we lament to-day.

He died a conspicuous victim amid that long array of martyrs, that army of the slain, whose blood has held together this nation, and upon whose ashes we are to build the temple of our future greatness. As they pass by us in countless multitude their uplifted hands and imploring eyes plead to us to stand faithful to those great principles of liberty and human progress for which they perished.

The future age will scarce believe that the dissemination of wise and liberal principles, the diffusion of the purest light of civilization over the darkened and benighted portions of our country could have met with such fierce resistance, and that men perished in their blood for being simply the missionaries of this gospel of equal rights, equal justice, and equal liberty. It is the worst characteristic of error that it hurls itself with fiercest cruelty against those who would lift up its victims, while it licks, beast-like, the feet of those whose efforts are directed to increase their sufferings. The Republican party has had no mission save to benefit mankind by alleviating the miseries of its most unhappy race; to tear down all walls of caste, and to throw open the gates of opportunity to all men. Yet, with this noble, Christian motive as its actuating principle, the waves of its advance have met everywhere a flood of blood, and men have seemed to prefer desolation rather than liberty.

It is, however, pleasant to reflect that all these things are ephemeral; that wrong and wrath and hate pass away; that even murder cannot stay the forward movement of humanity; and that amid frothing waves and roaring breakers the great tide steadily rises, overwhelming and covering all the weak devices of man to stay its upward progress.

In that day when peace shall dwell amid the fair fields of Arkansas, when education shall be universal, when benevolence shall take the place of old half-forgotten bitterness and hate, and when the equal rights of men before the law shall be an accepted, unquestioned axiom, even as their right to air and light and life, then shall Arkansas honor herself by erecting enduring monuments to her martyred dead, and amid them all no more deserving name shall be recorded upon the marble than that of our late esteemed companion and associate on this floor, JAMES HINDS.

Mr. BOLES. Mr. Speaker, the ruthless destroyer, death, has snatched from our number another victim. My late colleague, Hon. JAMES HINDS, fell as no other member of this House before him. Death did not approach him with stealthy steps, in the form of wasting disease. He fell, not as the military hero, on the field of glory amid the multitude who throng the gates of sudden death, and who continue to live in song and story. Neither were there any loving hands of wife or children to wipe the death damp from his brow or to smooth the pillow on which he died. No loved ones' tears fell upon his bed of death; but while

stooping to lift the heel of oppression from the poor and lowly he was stricken to the earth. He fell by the hand of the assassin, the first martyr of our number to the God-given doctrine bequeathed to us by our fathers, that "all men are born free and equal;" and

"His virtues
Will plead like angels, trumpet-tongued, against
The deep damnation of his taking off."

He was born in Hebron, in the State of New York, in the year 1833; was educated at the State normal school at Albany, after which he graduated at the Cincinnati law school; from thence he went to St. Peter's, Minnesota, and entered upon the practice of the law. While in Minnesota he served three years as district attorney, and for a short time filled the position of United States district attorney for the State.

During the late war he was a firm, unflinching supporter of the administration of President Lincoln, although at that time he was a member of the Democratic party. He was among the first to offer his service to the Government when the hand of treason was stretched forth against the life of the nation; but the examining surgeon refused to accept him, deciding that he was physically incapable of marching. Nevertheless, when General Sibley made his campaign against the hostile Indians of the West Mr. HINDS succeeded in enlisting in the cavalry, doing good service during the whole campaign.

In the year 1865 Mr. HINDS located himself at Little Rock, Arkansas, and resumed the practice of the law, taking but little part in political matters until after the passage of the reconstruction acts. Seeing in these acts of Congress an opportunity to work effectively to secure the rights of all men in the State of his adoption, he fearlessly and ably advocated the reconstruction measures. He took great pains to lecture and teach the lately enfranchised colored men the nature and extent of their newly-acquired rights as citizens of the United States; and in doing so he did not forget to impress them with a sense of the duties and responsibilities which were incumbent upon them in their changed condition. His early and able advocacy of the immutable principle of justice caused the loyal men of Pulaski county to select him as a delegate to the State constitutional convention in November, 1867, and was one of the ablest and most industrious members of that body, reflecting credit upon himself and the body of which he was a member.

In March, 1868, he was elected to the Fortieth Congress after an arduous and dangerous canvass in behalf of the ratification of the constitution which he had assisted to frame. He was admitted to a seat in this body on the 24th day of June, 1868. His term of service in this Hall was brief, and his manners were so retired and unassuming that comparatively few of this body formed his acquaintance or knew his worth. Reference to the Journal of the House will show that he jealously watched the interests of his adopted State, and was ever ready to promote them. During the few weeks he occupied his seat here he introduced a bill for the sale of the Hot Springs of Arkansas, which passed the House, his object being to promote the interest of the school fund of the State. He also introduced a resolution proposing to open the Court of Claims to loyal claimants from Arkansas, which passed the House; and a resolution extending to the State of Arkansas the benefits of an act of Congress aiding in the establishment of agricultural colleges; and a bill to place colored soldiers enlisted as "slaves" on an equal footing with white soldiers in regard to bounty. These bills and resolutions having been introduced and two of them passed in one month show that Mr. HINDS was an active and industrious member of this body; and had his life been spared he would have become a prominent and useful man.

The Legislature, in redistricting the State, separated the county in which he resided from the district he represented, which prevented

him from being renominated. Yet he never ceased his advocacy of the cause he had so long battled for until the heart within him ceased to beat, his busy brain was stilled by the chilling breath of death, and his noble soul had gone to the God who gave it.

Hon. JAMES HINDS is dead. How strange it sounds! He that was so full of life, health, and the vigor of youth but a few days since is dead. Alas, it is true! To say that he died on the 22d day of October, 1868, without going more into the details of his awful death, would be falling far short of duty. I would gladly draw the curtain of forgetfulness over the tragic scene if it stood alone in the late fearful canvass in which he lost his life; but such is not the case. His assassination was but one of a number which seemed to have been planned and executed with such diabolical precision and cruelty as to convince all unprejudiced minds that the fell spirit of treason still burns in the hearts of many of the late rebels in our State, and they only await a favorable opportunity to fall with all their envenomed fury on the heads of the loyal men. Again, justice to the memory of the deceased requires that the slanderous reports made by those who consented to his death should be silenced by the records of the country.

Weeks, months, and years of bloody scenes almost without parallel have been endured by the loyal men of Arkansas without apparent hope of redress from the law. They have seen fathers, husbands, brothers, and sons weltering and dying in their blood upon their own floors and around their own hearth-stones. The ears of the authorities there have been pierced by the shrieks of anguish and the appeals for redress coming up from the scores and hundreds of widows and orphans deprived of their protection by the assassin's hand. At times I wonder that the patience and endurance of the loyal people has not long since worn out, and they, driven to desperation, should swear such oaths of vengeance over the graves of their loved and honored ones as would blanch the cheeks and cause the hearts of men to stand still who were unacquainted with their woes and wrongs. Little is known outside of the late rebel States of the terrible cost of being loyal. If you argue the question at issue your arguments are met by the halberd, bludgeon, revolver, or shotgun. If you dare sympathize with the maltreated, or take them into your house, the torch of the incendiary is ready to apply to your home. Social ostracism and business proscription is your reward from those who are the power behind the outbreaking ruffians. This has been for some time the condition of affairs in many portions of Arkansas. Such facts impel me to give the account of the murder of Mr. HINDS more in detail than I otherwise would feel my duty.

On the 22d day of October, 1868, Mr. HINDS and Hon. Joseph Brooks, of Helena, Arkansas, a leading Republican of the State, (and from whom I received the particulars of the assassination,) stopped at the house of one Clark, in Monroe county, on their way to fill an appointment made for them in that county, to inquire the way to the place. Clark gave them the desired information, when they rode off in the direction indicated, thinking that they were safe under the protection of the flag of our country, for which they had periled their lives on the field of battle. They had ridden but a short distance when they were joined by Clark, who had mounted his horse and overtaken them, armed with a shot-gun. Mr. Brooks, whose horse was much the faster walker, was a few yards in advance of Mr. HINDS. Hearing some one talking to Mr. HINDS he looked back and saw Clark armed as described riding alongside of him. His suspicions were not aroused, because carrying arms has become so common there. They had ridden thus but a few moments when Mr. Brooks felt the sharp sting of gunshot wounds and heard the report of a gun. He turned just in time to see Mr. HINDS fall from his horse mortally wounded.

As soon as the report of the assassination

became known at Little Rock, dispatches were sent all over the country, stating that Messrs. Brooks and HINDS were extremely radical, and therefore offensive to many of the Republican party, who, fearing their influence in the party, had plotted their death. Their object in this was well known in Little Rock. Messrs. HINDS and Brooks were among the most influential canvassers in the State, and they were feared by the disloyal. The rebels felt it necessary to create an opinion in the country that they had not done the deed, not regretting it was done on account of the assassinated, but because of the effect of such an outrage on men so well and favorably known in the country.

The only denial of the willful slander thus sent abroad necessary to refute it is the finding of the coroner's jury which sat on the case, it being composed of white men of both parties. The unanimous verdict of that jury was that Mr. HINDS was killed by Clark. This Clark was the secretary of a Democratic club of Monroe county, and only knew the victims by reputation. And there can be found no palliating circumstances connected with the assassination. The assassin was not prompted to the committal of this dark deed by feelings of revenge, for he had nothing to revenge; he did not do the deed under the influence of a sudden outburst of passion, for the time dethroning his reason. No, sir; it was a cool, premeditated, willful murder for political purposes.

About an hour after the assassination some men who had been at the place where the meeting was to have been held coming up found Mr. HINDS's horse loose in the road, and soon came to the spot where he had fallen and was still lying, the thirsty soil eagerly drinking in the life blood of its adopted son, as if anxious to hide the traces of a crime so fearful, and blushing that a deed so damnable should have been perpetrated on its bosom. Mr. HINDS had just strength enough to observe that strangers were near him, and implored them not to shoot him again as he could live but a few moments longer in his present condition. They succeeded in proving to him that he was in the hands of his friends. They procured a wagon and took him some two miles to a house. Their labor of love was all in vain. While he was being conveyed from the wagon into the house his brave spirit winged its flight to the spirit land. The men who discovered Mr. HINDS found beside him the paper lining of his hat which he had torn out, and in those fearful moments while dying alone he had written on it, "I have a wife and two children at East Norwich, New York, to whom I wish my remains sent." What mind shall be found so active as to trace the lightning thoughts of the man during that awful hour dying alone!

"Found dying! dying alone,
There was nobody near, nobody near,
When the martyr dying on his pillow of stone
Was found; no wife, no children dear.
Not a friendly voice to soothe or cheer,
Not a watching eye or a pitying tear."

The poet may beautifully describe the fact of found dying alone; but what tongue of eloquence shall be found able to tell of the thoughts, the hopes, the fears, the anguish of mind endured for an hour while dying alone! How often the hearts of the widow and his fatherless children will yearn to know what he would have said during that eventful hour, contested for by life and death, time and eternity, in that lonely, silent wild, disturbed only by the clattering hoofs of the horse of the assassin while carrying him to a place of refuge among his accessories. And then the assassin yet remains securely shielded from the penalties of the outraged law.

His death was a severe blow to the loyal people of Arkansas, and cast a gloom of sorrow over the State which dampened the joys of his constituents even in the midst of their triumph over that class of people who by their counsels had brought about the condition of society of which the spirit of assassination was the legitimate offspring. He was a man of

unimpeachable integrity, a devoted husband and kind father. He was a man of firm and fixed principles, and the first in his part of the State to brave the indignation of the late ruling class there by openly and zealously advocating the cause of the weak and the oppressed colored man. The poor never plead with him in vain, and the humble ever found in him an able advocate and a warm friend. From the time he became a citizen of Arkansas he was an enthusiastic and brave advocate of equal rights. He lived a friend to freedom and sealed his devotion to his principles with his blood, and behind him left a noble record worthy of emulation. His deeds will follow him; and notwithstanding he is dead he still lives holding an enviable position in the hearts of his countrymen. He needs neither towering marble shaft nor high sounding epitaph to commemorate his virtues. The name of JAMES HINDS is and has been a household word among the humble, and will be cherished by the rising generations.

Mr. BUCKLEY. Mr. Speaker, in rising to pay my humble tribute of respect to the memory of our departed associate I am painfully conscious that my feeble words cannot reach the ear of the silent sleeper whose death we mourn. Speech can add no luster to the crown he wears. Panegyric is in vain; and in view of the ever-approaching summons of the dread messenger who called him hence none are so ignoble as to give way to invective or dwell upon the infirmities of mortality. He has gone beyond the reach of our praises or our censures. He has joined the champions and martyrs of human freedom, civil and religious, and fallen thus, is numbered with all the hosts of them who counted not their lives dear unto them for the sacred cause of country and humanity. By the offerings we bring let us rather seek to refine and ennoble our own souls and fit ourselves the better for the work laid on us to do.

During the few short weeks I have held a seat in this House, once and again have we made our pilgrimage to the cities of the dead, to the sepulchers of our fallen comrades. But of all the ways in which death smites down its victims none is more appalling, none more heartrending, than the manner in which our late associate met his fate. Others have been taken hence at the close of a long and brilliant career, crowned with honor; and with manly forms bowed beneath the weight of years they have come to their grave in full age, like as a shock of corn cometh in in his season. But he whom we mourn was stricken down in the prime of life, standing upon the threshold of an opening and promising career; yes, life, with its cherished purposes, its exalted aims, its high ambitions, its stimulus to noble action and its sweet rewards was in the broad outlying future. All the realization of all, was within the possibility of a lofty, heroic nature. Others, in the "mellow autumn" of life, have been permitted to pluck ripened fruits from their spring-time planting, but he was snatched away in the midst of the summer culture. Like the prudent husbandman he planted trees, the fruit of which he will pluck never in this world. It is true he caught glimpses of the reward of his self-sacrificing and patriotic labors as men catch glimpses of the shining sun through the rifts of the storm-cloud. He lived to see our endangered liberties rescued and our broken Union restored. He lived to see a race emancipated and elevated to American citizenship. He lived to see his adopted State take her place again in the sisterhood of States with a new and higher life beating in her heart, with new and purer blood coursing through her arteries; her soil too free, her air too pure for the feet or the lungs of slaves. And in the last glimmer of expiring life he caught, as by prophetic vision, the dawning of the era of peace and prosperity to the Republic upon which we are so soon to enter.

Others have passed from their high station to the grave as sometimes falls aged oak of the forest when not a breeze sighs in the pine-

top nor a leaf trembles upon the aspen. They have been taken in times of public tranquillity, from peaceful and quiet homes, where there was "no lack of gentle nursing," surrounded by affectionate kindred and devoted friends, whose pious hands closed their eyes in death. But alas! how different with him to whose memory we pay the tenderness of our regards. He was stricken down in the brightness of noonday splendor by the hand of a cowardly assassin, so hardened in crime that he waited not for the cover of darkness to gratify his thirst for the blood of a loyal man. An ancient historian of standing authority, in speaking of the death of the Roman general who led his victorious legions over Britain, accounted his chieftain who had faced death on many a battle-field happy because by his death-bed sat his affectionate wife, and over his grave shed the tears of her affectionate remembrance. These tender, sacred rites of the Roman general were denied a member of the American Congress, and the departed passed unwept to his last resting place.

But we turn from this sad picture to the contemplation of his virtues, to emulate which is more manly and befitting than to indulge in the lamentations of grief.

Mr. HINDS has gone; he has passed his trial and got his verdict; but his heroic self-sacrifice in the priceless cause of liberty and justice, of right and truth—the very light and life of men—is not lost. Men die; but forces and principles are eternal and operative evermore. The liberty he demanded for himself he conceded to all men, and aided them to achieve it. In the mighty struggle he even dared to die; and who shall say he did not die in a noble cause?

"The fittest place for man to die
Is where he dies for man."

Let us trust and hope that one who bore his part so worthily was himself consecrated by the noble cause he espoused.

That was a beautiful custom, Mr. Speaker, in the Middle Ages, which led the lover in the stillness of the midnight hour to seek the grave of his affianced, and seating himself by her side, with bated breath and uncovered head, listened to her words of warning and her commands of duty. Methink if we were to pause to-day and place our ears by the side of the grave of the nation's dead, of all the thousands who have been immolated upon their country's altars; if the spirit of the noble dead who have fallen during and since the war in the cause of equal rights and civil liberty for all men, from our martyred President to this moment, could speak, the profound lesson of this bereavement would be as clear as the noonday sun. What, then, is the lesson of this national bereavement, this long-continued baptism of blood? It is, I believe, this, and to this, it seems, the index-finger of God's providence points, it is to make speech as free, as respected in Arkansas—yes, on the very spot where our lamented associate fell—as beneath the shadow of this national Capitol; it is to make the protecting shield of American citizenship as powerful to the humblest citizen, of whatever race or color, in Texas as in New England; it is to secure to the weakest citizen of the Carolinas the same political and civil rights enjoyed by the most favored citizen of Massachusetts. In short, it is to make peace, liberty, and personal security, blessings all over our common country, as universal as the air we breathe. Doing this, we shall pay our highest tribute and our tenderest regards to the memory of the noble dead; we shall act worthy of a noble ancestry and a glorious history; we shall honor and pay tribute to the grandeur of American nationality at home and abroad.

Mr. MULLINS. I rise, Mr. Speaker, to pay my tribute of respect to the passing bier of the dead as it is borne by my door. It is one of the most solemn occasions that man can possibly be called upon to behold. The great Creator has declared that "by sin death entered into the world, so that death has passed

upon all men." Hence the decree of Him who brought the world out of chaos, that "man is of but few days and full of trouble." In consequence of sin man must die; his days are numbered, and they fly swift as a weaver's shuttle. His life is but a span. Nevertheless, Mr. Speaker, human life is the gift of God, and should not be taken by a fellow mortal, except it be necessary, in consequence of the violation of the laws of society, that a man should forfeit his life so that peace and good order may be preserved.

Sir, I cannot sit silently here while this requiem of death is being sounded on our border and this solemn procession is marching by me. I turn to those who are paying their last respect to their colleague who has fallen a martyr to the cause of liberty and of the perpetuity of a Government that has spread its benign influence over the civilized world, and I join with them on this occasion of more than ordinary solemnity in paying my tribute to departed worth. It is but a few days since we were called upon to perform this duty to the memory of others who passed from among us. They have given up their life while in the service of their country. God, in his own good time, has removed them. But we are now called upon to pay the last sad tribute of respect over the pale and palsied frame of one who has been murdered in his country's cause and by that country's enemies.

Looking back to the earlier history of the United States, what do we witness? In the State of South Carolina there transpired a scene that makes my heart grow cold when I think of it. While the first defenders of our country were there arrayed against a foreign foe that was invading our soil the patriot Hayne was murdered by a British court-martial. What a picture do we behold! His wife and family, clad in the habiliments of mourning, implore that the life of the husband and the father may be spared. But no; falling into the hands of the enemies of our Government he must die, and die upon the gibbet. In the same way those who to-day are following the paths marked in blood by our fathers must suffer and die, falling victims to the enemies of the Government, who array themselves against all who would perpetuate liberty for themselves and their posterity. Thus it was with Mr. HINDS. Perilous everything to perpetuate liberty and to deliver those who had been in bondage, who had been overridden by rebellion, he is shot down without a moment's warning, and his immortal spirit takes its flight to—

"The undiscovered country, from whose bourn
No traveler returns."

For him all the affairs of time are now ended. It only remains for those of his survivors who sympathized with the cause to which he devoted his life to testify their condolence with his relatives and personal friends. We can do no more than show that our hearts beat with sympathy and mourn with those who are bowed down in the affliction of bereavement.

Sir, we have had in my own State instances of the same fiendish spirit that wreaked its vengeance upon Mr. HINDS. One of the senators in our State Legislature, going to visit his family for a few days, was attacked by this same band, the enemies of republican government, and was murdered within a few miles of his home. There was another member of our Legislature whose son was the victim of a similar cold-blooded murder. This was in 1866 or 1867. And, sir, since this session of Congress has begun the news has come to us in the public prints that Captain Dowdy, another member of our State Legislature, while on a visit to the western part of the State, was murdered by a band of assassins such as those who took the life of Mr. HINDS.

Why, in the ordering of Divine Providence, these atrocities are permitted God alone knows. My mind can come to no other conclusion than that the great Ruler of the universe is permitting these men to go on in their wickedness that their cup of iniquity may be filled, till at last they fall beneath the wrath of His avenging sword, and this at no distant day.

But Mr. HINDS has gone from among us. His voice will never again be heard in these Halls or in the popular assemblies of his countrymen. He sleeps among the silent dead, awaiting the great trump that shall break the slumber of the tomb. Born in the State of New York, his body, as I learn from those more intimately acquainted with him, reposes in Hampton cemetery. There all that is mortal of our late fellow-member must lie enveloped in the darkness of the grave till Gabriel shall sound the last catastrophe of nature; when the heavens shall grow dark and the foundations of earth be rent asunder. Then his body shall become immortal, and, rising above the smoke and desolation of a crumbling world, shall be joined with his undying spirit in the realms above, to dwell forever with those who fought side by side with him in the great battle for human liberty and the well-being of mankind.

The resolutions were unanimously adopted; and accordingly (at twenty minutes past four o'clock p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. CULLOM: A petition, signed by citizens of Springfield, Illinois, asking that the law in relation to stamps on cigars be changed.

By Mr. ELIOT, of Massachusetts: The petition of John M. Lynn, late of company I, thirty-second regiment Massachusetts volunteers, for a pension.

By Mr. EGGLESTON: The petition of 52 merchants of Cincinnati, Ohio, praying that financial aid be granted to the Northern Pacific railroad.

By Mr. KELLEY: The petition of Robert M. Heterick, of Rappahannock county, Virginia, for removal of disabilities.

By Mr. LYNCH: Resolutions of Board of Trade of Portland, in favor of the Niagara ship-canal.

By Mr. ROBINSON: The petition of Bridget Hearn, for a pension.

By Mr. SELYE: The petition of Stephen Boyce, of Penfield, Monroe county, New York, asking reimbursement of \$500 in Treasury notes held by him and destroyed by fire while in his possession.

By Mr. WILSON, of Ohio: Additional testimony in the case of Adam Carrell.

IN SENATE.

SATURDAY, January 23, 1869.

Prayer by Rev. E. H. GRAY, D. D.

On motion by Mr. WILSON, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

PETITIONS AND MEMORIALS.

Mr. MORGAN. I present a preamble and resolutions of the Chamber of Commerce of the State of New York, in which they set forth that the three times appointed by Congress for the unconditional discharge of voluntary bankrupts, namely, one year from the approval of the act; one year from June 1, 1867; and, finally, January 1, 1869, have all elapsed, and the law is now in the shape intended by Congress to be final in that regard. They therefore declare that in the opinion of the Chamber the true interests of commerce require that the law in its present form should be allowed to be fully tested by experience; and that no new extension of the time for an unconditional discharge should be enacted by Congress. I move that this memorial be referred to the Committee on the Judiciary.

The motion was agreed to.

Mr. CATTELL presented the petition of Polly Hunt, administratrix, and George W. Hunt, administrator, of the estate of Walter Hunt, deceased, praying to be allowed a rehearing before the present Commissioner of

Patents of their application for an extension of patents for improvements for manufacturing paper collars; which was referred to the Committee on Patents.

Mr. WILLEY presented the petition of John B. Goode, praying a removal of the political disabilities imposed on him; which was referred to the Committee on the Judiciary.

He also presented the petition of Thomas K. Weisinger, praying the removal of the political disabilities imposed on him; which was referred to the Committee on the Judiciary.

Mr. SPENCER presented the memorial of the Legislature of Alabama, asking a grant of land to aid in the construction of the Eufaula, Opelika, Oxford, and Guntersville railroad; which was referred to the Committee on Public Lands.

He also presented resolutions of the Legislature of Alabama, in favor of aid for improving the harbor of Mobile; which were referred to the Committee on Commerce.

He also presented the memorial of the Legislature of Alabama, in favor of aid for the improvement of the navigation of the Black Warrior river; which was referred to the Committee on Commerce.

He also presented the petition of Jones M. Withers, praying the removal of the political disabilities imposed on him; which was referred to the Committee on the Judiciary.

He also presented a petition of A. D. Simmons, praying the removal of political disabilities imposed on him; which was referred to the Committee on the Judiciary.

Mr. CONKLING presented three petitions of citizens of Washington county, Missouri, praying that the land known as the Spanish claim of Moses Austin may be disposed of to actual settlers under the homestead laws; which was referred to the Committee on Private Land Claims.

He also presented a petition of the trustees of the town of Potosi, Missouri, praying the confirmation of the title to the land on which that town is situated; which was referred to the Committee on Private Land Claims.

Mr. POMEROY presented a petition of citizens of Massachusetts, praying that women be granted the right of suffrage; which was referred to the Committee on the Judiciary.

He also presented a petition of citizens of New York, praying that women be granted the right of suffrage; which was referred to the Committee on the Judiciary.

Mr. CHANDLER presented the petition of captains and owners of vessels engaged in the coal trade, and plying between Providence and Pawtuxet, Rhode Island, and Virginia and the District of Columbia, praying the intervention of Congress to protect them from taxes imposed on them by States, cities, and sea-port towns; which was referred to the Committee on Commerce.

Mr. McCREERY presented the petition of John W. Lee, praying compensation for supplies furnished to the quartermaster's department; which was referred to the Committee on Claims.

REPORTS OF COMMITTEES.

Mr. NYE, from the Committee on Territories, to whom was referred the bill (S. No. 810) to regulate elections in Washington and Idaho Territories, reported it without amendment.

Mr. RICE. I am directed by the Committee on the Judiciary, to whom was referred the bill (S. No. 182) declaring null and void acts of confiscation or forfeiture passed by the late rebel authority, to report it back with the statement that in their opinion, by the laws as they now stand, such acts of confiscation and forfeiture are null and void; and the committee therefore report adversely on the bill.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 1370) to fix the time for holding the terms of the United States district courts in Virginia, reported adversely thereon.

He also, from the same committee, to whom

was referred the joint resolution (H. R. No. 310) to extend the provisions of the act of July 4, 1864, limiting the jurisdiction of the Court of Claims to the loyal citizens of the State of Arkansas, reported adversely thereon.

He also, from the same committee, reported a bill (S. No. 827) to amend an act entitled "An act to protect all persons in the United States in their civil rights, and to furnish the means of their vindication," approved April 9, 1866; which was read and passed to a second reading.

Mr. HARRIS. I am directed by the Committee on the District of Columbia, to whom was referred the bill (S. No. 692) to amend an act entitled "An act concerning notaries public in the District of Columbia," to ask its indefinite postponement.

Mr. POMEROY. I hope that bill relating to notaries public in this District will not be indefinitely postponed.

The PRESIDENT *pro tempore*. It will not be acted upon if there is any objection to action.

Mr. POMEROY. I object to the indefinite postponement of that bill.

CANNON FOR A MONUMENT.

Mr. WILSON. I am directed by the Committee on Military Affairs to report a joint resolution (S. R. No. 203) donating cannon for a monument to the memory of the late President Lincoln. I suppose there will be no objection to the joint resolution, and I ask to have it put on its passage.

By unanimous consent, the joint resolution was read twice, and considered as in Committee of the Whole. It authorizes the Secretary of War to deliver to the Lincoln Monument Association, of Springfield, Illinois, such quantity of condemned ordnance as may be necessary for the castings of a monument to the memory of the late President.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. HARRIAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 826) supplementary to an act to incorporate a Newsboy's Home; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. PATTERSON, of New Hampshire, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 828) to define the jurisdiction of the orphan's court of the District of Columbia, and for other purposes; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 829) to incorporate the Calvary Baptist church and congregation in the city of Washington; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

SUFFRAGE CONSTITUTIONAL AMENDMENT.

Mr. STEWART. I move that the Senate proceed to the consideration of Senate joint resolution No. 8, proposing an amendment to the Constitution of the United States. I do not propose to press it to a vote to-day, but I wish the Senate to commence the consideration of it, so that we can get through with it at an early day.

The question being put, there were, on a division—ayes 18, noes 7; no quorum voting.

Mr. STEWART. I call for the yeas and nays.

Mr. POMEROY. I have no objection to proceeding at a very early day to the consideration of that resolution; but I have an amendment which I intended to submit to it, and I desired to submit it with some remarks upon it. If the resolution is going to be pressed to-day I shall not be prepared to do so.

Mr. STEWART. I presume there will be

no definite action had to-day upon it. There are amendments to be offered by several Senators. I merely desire to bring the subject before the Senate.

Mr. POMEROY. To take up such a subject in the morning hour merely for remarks is hardly customary.

Mr. STEWART. I want to fix a day for its consideration.

Mr. TRUMBULL. We have upon the table a great many bills that will take very little time, and which ought to pass; some of them of public importance. I have charge of several such, and if I could get the attention of the Senate for half an hour or an hour they could be passed, and ought to be passed to promote the public interests. I think there would be no objection to them if we could get the consideration of the Senate to them; and the only opportunity to consider them is in the morning hour. Bills of a controverted character have been under discussion which have taken up all the time of the Senate. Now it is proposed by the Senator from Nevada to call up a proposition to amend the Constitution in the morning hour. We shall just use up the morning hour, and it will prevent the passage of a good many bills that there would be no objection to if we could get attention to them. The constitutional amendment doubtless will be more or less discussed, and we cannot get through with it in the morning hour. Let it come up at one o'clock some day and have the attention of the Senate, and let us then hold on to it until we get action; but it seems to me we shall accomplish nothing if we take up in the morning hour an important matter of that kind, which unquestionably cannot pass between now and one o'clock. I think we had better go on with the ordinary business; and that is the reason why I have voted against taking it up at this time. It is poor economy of time.

Mr. STEWART. The session is drawing to a close, and if there is to be action on this subject at this session it is very important that it should be at an early day. Since the resolution was reported I have been trying to get the floor every day to urge it forward; but it is utterly impossible to get it up after the morning hour. I want to call it to the attention of the Senate particularly. I believe that there is a general concurrence that it should be passed at this session. I do not think that it will involve long discussion; at all events, I do not propose to make any protracted remarks, if any, on it. I do not care to make any. It is an amendment that is well understood. The principles upon which it is based have been discussed at great length at each session for several years, and it is necessary to get action very soon. I understand that on Monday next the chairman of the Committee on Finance will occupy the time of the Senate with business from that committee, and I do not know for how many days. When that financial question is opened it may last a long time; I cannot tell. There is other business pressing, and I felt called upon this morning to call this subject to the attention of the Senate, and as it is very important I will move to make it the special order for Thursday next. I now desire to call it up for the purpose of making that motion. If we can get to it on Thursday next it will be making progress. Of course I cannot interfere with the business of Monday next unless the chairman of the Committee on Finance will give way on that day. I now ask that the resolution be taken up, with the view of making it the special order for Thursday.

Mr. CONKLING. I do not see why this proposition may not be voted upon in the morning hour, without fixing a future day and without deferring other business. It relates to a very important subject, upon which there has been, and there might still be, indefinite debate; but debate upon it would naturally be conducted for the purpose of influencing those here who are to listen to the debate. As no canvass proceeds in the country now, the temptation would seem to be slight to debate

for the purpose of effect beyond the limits of this Chamber; and it seems to me that every Senator must have formed definitely his opinion in reference to the real question involved in this amendment. If so, I see no reason why we should not vote upon it promptly and speedily; and unless it shall turn out by experiment or by a declaration of Senators that they intend to indulge in protracted debate, it seems to me the vote had better be taken at once; and I suggest to the Senator from Nevada that unless an avowal shall be made by some Senator that he wishes to occupy time in discussing a question which I think has been subjected, I may say, to the utmost rigor of discussion already in Congress and in the country, he had better hold on to his motion and see whether it cannot be disposed of now.

Mr. STEWART. I should like to have the yeas and nays on the question of taking it up.

The yeas and nays were ordered; and being taken, resulted—yeas 83, nays 9; as follows:

YEAS—Messrs. Abbott, Cameron, Catto, Chandler, Cole, Conkling, Corbett, Drake, Edmunds, Fessenden, Frelinghuysen, Grimes, Harlan, Harris, McDonald, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Nye, Osborn, Pool, Ross, Sawyer, Sherman, Spencer, Stewart, Sumner, Thayer, Trumbull, Wade, Williams, and Wilson—33.

NAYS—Messrs. Bayard, Davis, Dixon, Doolittle, Fowler, Hendricks, McCreery, Norton, and Vickers—9.

ABSENT—Messrs. Anthony, Buckalew, Conness, Cragin, Ferry, Henderson, Howard, Howe, Kellogg, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Ramsey, Rice, Robertson, Saulsbury, Sprague, Tipton, Van Winkle, Warner, Welch, Whyte, Willey, and Yates—24.

So the motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 8) proposing an amendment to the Constitution of the United States. The joint resolution, as originally introduced by Mr. HENDERSON, reads as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring,) That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be valid as part of the Constitution, namely:

ARTICLE XV.

No State shall deny or abridge the right of its citizens to vote and hold office on account of race, color, or previous condition.

The Committee on the Judiciary proposed to strike out the words of the projected article, and to insert:

The right of citizens of the United States to vote and hold office shall not be denied or abridged by the United States or any State on account of race, color, or previous condition of servitude.

The Congress, by appropriate legislation, may enforce the provisions of this article.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Committee on the Judiciary.

Mr. WILLIAMS. I desire to move an amendment to that.

Mr. TRUMBULL. I understood that when we voted to take up this resolution it was to fix a day for its consideration. I voted to take it up with that understanding. The Senator from Nevada said he wished to fix a day for its consideration. We cannot get through with it in the morning hour, of course.

Mr. STEWART. I did not know that it was so understood. I intended to adopt the suggestion of the Senator from New York, but if any Senator voted to take up the resolution with that view and desires to have it postponed, of course I will make such a motion. I move that this joint resolution be postponed until Thursday next and made the special order for that day at one o'clock.

Mr. SUMNER. On the question of postponement and making a special order for Thursday I desire to call the attention of the Senator who has this resolution in charge to the pending question now before the House of Representatives. It is understood that they are this very day acting on a similar proposition, and under their rules, with the previous question, it is supposed that within one or two days they will arrive at a result. Now, the question which I have to submit to my friend is whether it would not be better for us to act on the proposition that shall come to us from the House

of Representatives? That, of course, will be advanced one stage further to the result which we are all trying to reach.

Mr. STEWART. If that proposition should be passed in the other House to-day, our committee will have time to look at it and have it before the Senate on Thursday, if this resolution be postponed until that day; and we can then act upon the House resolution, making this an amendment to it, or making such other amendments as the committee may suggest or the Senate may decide upon. In making this motion I desire to have it understood that the subject-matter, in whatever form it may be here—a resolution from the House, if they shall pass one, or, if not, this resolution—is to be considered on Thursday next.

Mr. DIXON. Before the vote is taken on the motion to postpone, perhaps this is a proper time to give notice of an amendment which I propose to offer when the subject shall be before the Senate, so that the Senate may have time to consider it. Article five of the Constitution, which relates to the proposition of amendments by Congress, provides that—

"The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or on the application of the Legislatures of two thirds of the several States, shall call a convention for proposing amendments, which in either case shall be valid to all intents and purposes as part of this Constitution, when ratified by the Legislatures of three fourths of the several States or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress."

Now, sir, this proposal of an amendment to the Constitution of the United States provides for its ratification by the Legislatures of the States, instead of by conventions; and that has been the usual mode, and I am not sure but that it has been the uniform mode of proposing amendments to the Constitution when they have been proposed by Congress. At any rate it has been the mode in recent times. Now, sir, there are reasons, and it seems to me very strong reasons, existing at this time why this proposition, if submitted, should be submitted to conventions and ratified by conventions of the States, instead of by the Legislatures. I propose, therefore, when the matter shall come before the Senate for its consideration, to move to strike out the word "Legislatures" and insert "conventions," so as to provide that the proposed amendment shall not be valid until ratified by conventions of three fourths of the States.

The reasons for this I will not give now at any length; but I will barely state that it seems to me so important a proposition as this should be ratified by bodies selected for that very purpose. In my own State it is peculiarly important, because in the first place the Legislature in that as in other States is not chosen for that purpose; and then again, as is well known, the Legislature of the State of Connecticut does not represent the people in consequence of the peculiar mode of our representation. It may be said that the same remark may apply to a convention; but I take it if Congress order the ratification to be made, if at all, by a convention, it would be in the power of Congress to say that the convention should be chosen in such a manner that it should represent the people; that it should be chosen in some mode, distributing its members in some way, so that the convention would represent the people of the State.

If it is proposed by the sovereign power of Congress to the people of the whole country to change the suffrage laws of the State of Connecticut, it does seem to me that Connecticut, as a component part of the whole country, should have the power of expressing its opinion on that subject aside from all other questions, and that the question should be presented to the people of the State of Connecticut for their consideration; and the only mode of doing it is, as it seems to me, to submit it to a convention of the people chosen for that purpose. Then the voice of the people will be expressed. But it will be very difficult to secure an expression of the voice of the people by the Legisla-

ture, especially if that Legislature were chosen before the subject was submitted to them. In this case, I agree, in the State of Connecticut the Legislature would be chosen subsequently; but there are many existing Legislatures in various States of the Union to which bodies it is proposed to submit a proposition of this kind, where the people to this day have never for a single moment considered it. Take for example the Legislatures now in existence, the Legislature of Massachusetts, the Legislature of Illinois, the Legislature of Maine, the Legislatures of perhaps a majority of the States of the Union, already chosen; they are to consider a question of this kind which the people have never had an opportunity to canvass or to express in any manner their opinion upon. That is a reason why at least the body to ratify should be a body chosen subsequently to this period. That would be accomplished by the amendment I propose to offer.

I will not now go into this subject at any length. My object in giving the notice is that the Senate may have time to think of it, and that Senators may consider whether in a matter of such vast importance as this, a matter which goes to the very root of our republican institutions, changing the mode of suffrage in the States, and not only changing the mode of suffrage but changing the principle of suffrage; that is, taking it from the people of the States and giving it to Congress, the voice of the people should not be distinctly and unmistakably pronounced.

Now, sir, it is not only a question as to what the precise mode of this change, as in this instance, but it is a question as to whether the right of regulating the suffrage in a State shall be left with the people of the State, as has been done from the foundation of the Government to this time. I will not now enlarge upon the question; but when the joint resolution comes before the Senate for consideration, I may take the opportunity of expressing my views more at length.

Mr. FERRY. I should like to ask my colleague a question with his permission, whether he proposes that Congress shall not only direct that the amendment shall be submitted to conventions, but also direct in what manner the State of Connecticut shall elect its convention, and how the convention shall be composed? If I understand my colleague correctly, he prefers to depart from the usual custom in cases of constitutional amendments, which have been, ordinarily, as he says, submitted to the Legislatures of the States. But in the case of the State of Connecticut, one reason for his proposed change is, as he says, that our Legislature does not represent the people. Does he therefore propose that Congress shall legislate as to the mode in which the State of Connecticut shall choose its convention?

Mr. DIXON. Why, Mr. President, I threw out that idea, so far as I did hint at it at all, with a view of answering what I supposed might be an objection to submitting the question to conventions, and that was that the convention would be precisely like the Legislature so far as the representation is concerned. I thought that my colleague and others might say, what do you gain by submitting it to a convention, because a convention to be chosen now by the State of Connecticut would be probably founded on the representation in the Legislature, so that the convention would be the same thing, and therefore there would be no advantage in that except that the convention would be chosen afterward, and in our State there would be no advantage in that respect because the Legislature is chosen afterward. I therefore hinted at that objection, and meant barely to say that if that was an objection it might be provided for by Congress.

Mr. FERRY. Does my colleague mean to have Congress provide that Connecticut shall choose a convention in a particular way?

Mr. DIXON. I am coming to that. I suppose there would be full power in Congress to legislate in regard to the mode of choosing conventions. The Constitution provides that Con-

gress may submit amendments to conventions of the States, and if my colleague will look at the Constitution he will see that the subject is left, I might say, almost in an obscure state as to the mode in which an amendment to the Constitution is to be presented to conventions. The language is, that it may be submitted to the Legislatures or conventions. The question would at once arise, how shall that convention be chosen? I take it, there would be power in Congress, under the clause which gives Congress power to pass all laws necessary to carry the Constitution into effect, to provide for the mode of choosing that convention. I think that is a constitutional power.

Mr. FERRY. The question I ask is, would my colleague have the power exercised?

Mr. DIXON. That is a question of policy which would require consideration. If it were necessary to accomplish the great purpose of enabling the people to pass upon this subject in the proper manner I would not object to it. If it is a constitutional power existing, it would certainly be no encroachment. Whether that would be proper or necessary, I will say to my colleague, I do not know; that would be a question for after consideration; but I can tell him that it would be far better for Congress to pass a law on the subject providing for a proper mode—that is, if Congress has the power, if the power exists—than to submit this question to a body which cannot express the opinions of the people. It is certainly important that the people should have the opportunity to express their sentiments on this question. In the State of Connecticut, our unfortunate, I may say rotten-borough system of representation, gives the city of New Haven, with fifty thousand inhabitants and nearly ten thousand voters, the same representation in the Legislature which the smallest town in the State has with only one hundred and fifty voters. That is the mode of representation in the State of Connecticut to-day. The city of Hartford and the city of New Haven, with nearly twenty thousand voters between them, and paying more than one fifth of the whole State taxes of the State, if I am not mistaken, have only four representatives in the Legislature. This sometimes works a grievance. It may, I agree, sometimes work for the advantage of the people of the State, and perhaps of the whole country. It sometimes sends a Senator to this body who misrepresents the people of the State. It may in particular instances, as in the very case which now exists, work perhaps for the advantage of the people of the State in the election of my most worthy and estimable successor. But, sir, there is a prejudice, perhaps not unreasonable, in the minds of the people of this country in favor of the Legislature responding to the sentiments of the people of the State, and although in the choice of a Senator it may not be of as much importance, because that is, although for a term of somewhat long duration, after all rather temporary, still in a change of the fundamental law of the country with regard to suffrage it is important.

I will say one word more with regard to the question proposed by my colleague. If it is necessary to answer it further, I will say to him frankly that I do not know what would be the proper mode of choosing the convention. It occurred to me, as I looked at the Constitution, that it was somewhat difficult to say how it should be done, but I think it could be provided for, and I have no doubt his ingenuity would enable him to devise a mode by which conventions could be chosen in the States which should represent the sentiments of the people of those States; and that is all I desire in this connection.

Mr. FERRY. I wish it to be understood that the drift of my colleague's argument is, that in submitting this amendment to the Constitution to the people of Connecticut he would have our system of representation changed, not by the act of the people of that State, but by act of Congress. Such is the drift of his argument.

Mr. DIXON. One word further, with the

consent of the Senate, on that question. I do not know that there is any other method of changing the mode of representation. Perhaps it might be submitted to the Legislature. I do not know but that Congress would have power to authorize the Legislature to point out the mode in which the convention should be chosen; but at any rate, if Congress is to do it, it should be remembered that it is to do it by existing power and authority. If the power exists in Congress, then there is nothing very shocking to my mind in the exercise of the power.

Mr. POMEROY. I do not desire to interrupt this discussion, but simply wish to say that it is far from my desire to put any obstacle or stumbling-block in the way of the passage of the resolution. I am for the enfranchisement of every human being in this country who is an American citizen. But if we are going to change the fundamental law I do not propose to allow the States to make any inequalities among their citizens unless they have committed crime. The equality of the citizen is the doctrine which, so far as I am concerned, I shall insist upon putting into the Constitution of the United States as a part of the fundamental law.

Mr. GRIMES. Without regard to sex or color?

Mr. POMEROY. Yes, sir; without regard to sex or color. If the resolution is to be postponed, as I suppose it is to be, I shall prepare an amendment looking in that direction.

Mr. WILSON. I wish to inquire of the Chair if the question before the Senate is not on the postponement of this subject to next Thursday, and making it a special assignment for that day?

The PRESIDENT *pro tempore*. The question is on postponing the further consideration of the joint resolution until Thursday next, and making it the special order for one o'clock on that day.

Mr. POMEROY. There can be no object in making it a special order. The unfinished business takes precedence of a special order, and nothing can be gained by making this resolution a special order.

Mr. STEWART. I hope it will be made a special order.

Mr. WILSON, (to Mr. STEWART.) Do not contend for that. It will not make any difference.

Mr. FESSENDEN. It takes two thirds to make it a special order.

Mr. STEWART. I have no doubt there will be two thirds willing to make it a special order.

Mr. FESSENDEN. Special orders are very embarrassing to the transaction of business at this period of the session.

Mr. SHERMAN. I may as well give notice now that I feel bound, by what I stated the other day, to call up the currency bill reported from the Committee on Finance on Monday next, and I trust the Senate will then be prepared to take up and consider that subject, and kindred subjects that may be presented by members of the Senate.

Mr. EDMUNDS. Do you mean the currency bill regulating the national banks, or respecting the public debt?

Mr. SHERMAN. The bill I reported on Monday last; and I now give notice that in three days, which I think will be sufficient, I hope to secure action of the Senate upon that bill. I shall therefore vote for the proposition of my honorable friend from Nevada, hoping that in three days we may dispose of the other subject.

Mr. HENDRICKS. I ask leave to submit an amendment as an additional section to the proposed article of amendment to the Constitution which has been called up, which I desire to have printed.

The PRESIDENT *pro tempore*. The order to print will be made if there be no objection. The question now is on postponing the further consideration of the joint resolution until Thursday next, and making it the special order for that day at one o'clock. That motion

requires the concurrence of two thirds of the Senate, and the yeas and nays will have to be called if there is any opposition to it.

Mr. FESSENDEN. I object to special orders at this period of the session. They always prove exceedingly embarrassing to the transaction of business, and it was for that reason that the Senate changed the rule so as to require a two-thirds vote to make a special order. I hope it will not be done in this instance. I have no doubt the Senator from Nevada can call up this resolution on Thursday next without making it a special order.

Mr. EDMUNDS. The railroad bill was made a special order the other day, I think.

Mr. SHERMAN. No; there has been no special order this session, I believe.

Mr. FESSENDEN. I will not object to the resolution being postponed until next Thursday, and I have no doubt the Senator can call it up then. I shall probably vote for taking it up.

Mr. STEWART. I do not know whether I can get it up or not. That is the trouble.

Mr. FESSENDEN. There will be no difficulty about it, judging by the vote this morning.

Mr. POMEROY. There is no advantage in making it a special order.

Mr. STEWART. There are two advantages that will be secured by making it a special order.

Mr. GRIMES. What are they?

Mr. STEWART. In the first place, we shall secure the attention of the Senate to the subject at that time, and it will take a vote of the Senate to put it out of the way; but if it is not made a special order I have no doubt that it will be antagonized by a dozen measures on that occasion, and one of them may obtain precedence of it, because somebody will be very likely to get the floor before I can. Then, again, if it is made a special order it will be a decision by the Senate that they intend to consider it at that time. This is a very important subject. By postponing it until Thursday its consideration is put off until we hear from the House of Representatives. They will probably take action to-day, and sufficient time will be allowed for action by our committee, if it should be deemed necessary, and we can dispose of the matter next week. I hope we shall have a vote on the question whether the joint resolution shall be made a special order or not. I want to take the sense of the Senate on that point.

Mr. FESSENDEN. As I shall not vote to make any subject a special order at this period of the session, I ask for the yeas and nays on the motion. It is a matter of indifference to me how the Senate decide it.

The PRESIDENT *pro tempore*. The yeas and nays will have to be called, as there is opposition to the motion.

Mr. POMEROY. Is the motion susceptible of division?

The PRESIDENT *pro tempore*. The Chair thinks not.

The question being taken by yeas and nays, resulted—yeas 37, nays 11; as follows:

YEAS—Messrs. Cameron, Cattell, Chandler, Cole, Conkling, Conness, Corbett, Cragin, Drake, Edmunds, Ferry, Frelinghuysen, Grimes, Harlan, Howard, Howe, McDonald, Morrill of Vermont, Morton, Nye, Osborn, Patterson of New Hampshire, Pool, Rice, Ross, Sawyer, Sherman, Stewart, Sumner, Thayer, Trumbull, Van Winkle, Wade, Warner, Wiley, Williams, and Wilson—37.

NAYS—Messrs. Bayard, Davis, Dixon, Doolittle, Fessenden, Hendricks, McCreery, Norton, Patterson of Tennessee, Vickers, and Whyte—11.

ABSENT—Messrs. Abbott, Anthony, Buckalew, Fowler, Harris, Henderson, Kellogg, Morgan, Morrill of Maine, Pomroy, Ramsey, Robertson, Saulsbury, Spencer, Sprague, Tipton, Welch, and Yates—13.

So (two thirds voting affirmatively) the joint resolution was made the special order for Thursday next at one o'clock.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPIERSON, its Clerk, announced that the House passed a bill (H. R. No. 1758) to incorporate "The Masonic Mutual Relief Association of the District of Columbia;" in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. No. 1558) to amend an act entitled "An act to prescribe the mode of obtaining evidence in cases of contested elections," approved February 19, 1851; and it was signed by the President *pro tempore*.

ORDER OF BUSINESS.

Mr. WILSON. There is a joint resolution on the table, which has been returned from the House of Representatives with an amendment, which I desire to have taken up.

The PRESIDENT *pro tempore*. The Chair is bound by the rules to call the attention of the Senate to the fact that, the morning hour having expired, the unfinished business of yesterday is before the Senate.

Mr. WILSON. I ask the Senator who has charge of that subject to allow a joint resolution, returned from the House of Representatives with an amendment, to be taken up.

Mr. CAMERON. I rise for the purpose of moving that the Senate proceed to the consideration of executive business. There is a great deal of business of that character to be done, and some important questions to be decided, and I think this is the proper time to begin their consideration. I therefore move an executive session.

Mr. WILSON. I ask for the yeas and nays on that motion. ["No!" "No!"] I withdraw the call.

Mr. WHYTE and others called for the yeas and nays; and they were ordered.

Mr. CAMERON. I think we ought to decide whether we are to do any executive business or not at this session.

The question being taken by yeas and nays, resulted—yeas 26, nays 27; as follows:

YEAS—Messrs. Bayard, Buckalew, Cameron, Davis, Dixon, Doolittle, Drake, Fowler, Harlan, Harris, Hendricks, Howe, McCreery, Morton, Norton, Nye, Osborn, Patterson of Tennessee, Pomeroy, Pool, Rice, Ross, Van Winkle, Vickers, Wade, and Whyte—26.

NAYS—Messrs. Cattell, Chandler, Cole, Conkling, Conness, Corbett, Cragin, Edmunds, Ferry, Fessenden, Frelinghuysen, Grimes, Howard, Morgan, Morrill, of Maine, Morrill, of Vermont, Patterson of New Hampshire, Robertson, Sawyer, Sherman, Stewart, Sumner, Trumbull, Warner, Willey, Williams, and Wilson—27.

ABSENT—Messrs. Abbott, Anthony, Henderson, Kellogg, McDonald, Ramsey, Sausbury, Spencer, Sprague, Thayer, Tipton, Welch, and Yates—13.

So the motion was not agreed to.

COMMITTEE SERVICE.

Mr. HENDRICKS. I am not well enough to serve on the committee of conference on the bill (H. R. No. 941) to amend certain acts in relation to the Navy and Marine corps. I therefore ask to be excused from service on that committee.

The motion was agreed to.

RAILROAD FIRST MORTGAGE BONDS.

Mr. MORRILL, of Vermont. I offer the following resolution calling for information:

Resolved, That the Secretary of the Treasury be instructed to inform the Senate whether any railroad first mortgage bonds, having a prior lien to that of the United States, have been issued with the condition that the interest shall be payable in coin, in violation of the law requiring all such bonds to be of even tenor and date, time of maturity, rate and character of interest, with the bonds authorized to be issued to said railroad companies respectively.

A single word in explanation of this resolution. I am informed that such bonds have been issued, and I am inclined to the opinion that if they have been they are illegal. At all events it will be seen that the United States has a very clear interest in knowing whether these railroads have increased their prior lien upon these roads, or not. I suppose there will be no objection to the passage of the resolution.

The PRESIDENT *pro tempore*. Is there any objection to the present consideration of the resolution?

Mr. CONNESS. I object.

The PRESIDENT *pro tempore*. Objection being made it goes over under the rule, and the unfinished business is before the Senate.

VIRGINIA AND TEXAS.

Mr. WILSON. I ask the Senator from Ohio to allow a joint resolution now on the table, which has come back from the House of Representatives with an amendment, to be taken up.

Mr. SHERMAN. I have no objection to any morning business being done informally.

Mr. WILSON. I move, then, to take up that resolution, which has been lying on the table for several days.

The PRESIDENT *pro tempore*. Does the Senator ask that the order of the day be passed over informally?

Mr. WILSON. Yes, sir; that is all.

The PRESIDENT *pro tempore*. It can be done by unanimous consent. Is there any objection?

Mr. BUCKALEW. What is the bill?

The CHIEF CLERK. A joint resolution (S. R. No. 173) respecting the provisional governments of Virginia and Texas, returned from the House of Representatives with an amendment.

Mr. SHERMAN. Will it lead to debate?

Mr. WILSON. If it does I will not press it.

The PRESIDENT *pro tempore*. No objection being made, the joint resolution is before the Senate, the question being on the amendment made to it by the House of Representatives, which will be read.

The Chief Clerk read the amendment, as follows:

Provided, That the provisions of this act shall not apply to persons who, by reason of the removal of their disabilities, as provided in the fourteenth amendment of the Constitution, shall have qualified for any office in pursuance of the act entitled "An act prescribing an oath of office for persons from whom legal disabilities shall have been removed," approved July 11, 1868: *And provided further*, That this joint resolution shall not take effect until thirty days from and after its passage.

Mr. CONKLING. Let us hear the original resolution read.

The Chief Clerk read the joint resolution, as follows:

Be it resolved, &c., That the persons now holding civil offices in the provisional governments of Virginia and Texas who cannot take and subscribe the oath prescribed by the act entitled "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862, shall, on the passage of this resolution, be removed therefrom; and it shall be the duty of the district commander to fill the vacancies so created by the appointment of persons who can take said oath.

Mr. WILSON. I move that the Senate concur in the House amendment, with an amendment applying the provisions of the resolution to the State of Mississippi, so as to put all three of those States on the same footing.

The PRESIDENT *pro tempore*. It is proposed to amend the amendment of the House of Representatives by adding to it the following additional proviso:

And provided further, That the provisions of this resolution shall be, and are hereby, extended to and made applicable to the State of Mississippi.

The amendment to the amendment was agreed to.

The amendment of the House of Representatives, as amended, was concurred in.

HOLLY, WAYNE, AND MONROE RAILWAY.

Mr. HOWARD. I move to take up the bill relating to the Holly, Wayne, and Monroe railroad, in the State of Michigan. It is a House bill, and there is a necessity for its being passed at once.

The PRESIDENT *pro tempore*. The Senator from Michigan moves to postpone the order of the day and all prior orders for the purpose of taking up the bill indicated by him.

Mr. POMEROY. I thought I had the floor on the regular order.

Mr. MORRILL, of Vermont. I think this bill will give rise to no debate. It is merely to allow a railroad company to stamp their certificates of stock, which has been inadvertently omitted.

Mr. HOWARD. That is all. There is a necessity for its immediate passage.

Mr. POMEROY. If it can be proceeded with by unanimous consent, I have no objection.

Mr. MORRILL, of Vermont. I presume there will be no objection to it.

Mr. POMEROY. I yield to the Senator from Michigan to call up that bill.

Mr. HOWARD. Then I submit the motion. The bill was reported from the Committee on Finance a few days ago.

The PRESIDENT *pro tempore*. The special order can be passed over informally for the purpose of considering this bill, if there be no objection.

Mr. POMEROY. If it leads to no debate I presume there will be no objection to that being done.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 687) to enable the Holly, Wayne, and Monroe Railway Company, in the State of Michigan, to have the subscription to its capital stock stamped, and the stamps already affixed and to be affixed to be duly canceled.

The Committee on Finance proposed several amendments to the bill. The first was after the word "directors" in line three to insert "of the Holly, Wayne, and Monroe Railway Company in the State of Michigan."

The amendment was agreed to.

The next amendment was after the word "stamps" in line ten to insert "required by law, affix the proper stamps."

The amendment was agreed to.

The next amendment was before the word "cancel" in line thirteen to insert "also," and after the word "thereof" in line fourteen to insert "as aforesaid."

The amendment was agreed to.

The next amendment was before the word "valid," in line seventeen, to insert "good and."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill, as amended, reads as follows:

Be it enacted, &c., That the president of the board of directors of the Holly, Wayne, and Monroe Railway Company, in the State of Michigan, or any directors of said company, may appear before the collector of the revenue of the first congressional district of the State of Michigan at any time prior to the 1st day of May, 1869, with the subscriptions to the capital stock of said company, and the said collector shall, upon the payment of the proper stamps required by law, affix the proper stamps to said subscriptions to said capital stock, and note upon the margin thereof the time of his so doing; and he shall also cancel and note upon the margin thereof as aforesaid all such stamps as have already been affixed and not duly canceled; and the said subscriptions to the capital stock of said company shall thereupon be held good and valid to all intents and purposes, and may be used in all courts and places in the same manner and with like effects as if they had been originally duly stamped.

The PRESIDENT *pro tempore*. This is the proper time for acting on the preamble. The Committee on Finance propose to amend the bill by striking out the preamble, which will be read.

The preamble was read, as follows:

Whereas the subscriptions to the capital stock of the Holly and Monroe Railway Company, in the State of Michigan, were not duly stamped and the stamps thereon were not duly canceled.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading; and was read the third time, and passed. Its title was amended so as to read: "A bill to enable the Holly, Wayne, and Monroe Railway Company, in the State of Michigan, to have the subscription to its capital stock duly stamped."

HOUSE BILL REFERRED.

The bill (H. R. No. 1758) to incorporate the Masonic Mutual Relief Association of the District of Columbia was read twice by its title, and referred to the Committee on the District of Columbia.

CHARTERING OF RAILROAD COMPANIES.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 554) to promote commerce among the States,

and to cheapen the transportation of the mails and military and naval stores, the pending question being on the amendment of Mr. DOOLITTLE, to insert after the word "empowered," in line two of section eight, the words "with the consent of the Legislature of the State or States through which said railway may be located."

Mr. POMEROY. I saw in this bill of the Senator from Ohio, called the railroad bill, when it was first introduced, something that was attractive to me, and I was willing to proceed with its consideration, because the Senator explained it as providing several roads to Washington, and I thought it was time that there were more public avenues reaching to this city, the capital of the nation; but the bill now has dwindled down to one line. The Senate, on the motion of the committee reporting it, have amended this bill so as to strike out everything from it except a provision for a competing line of road to one we already have between here and New York. I believe there is no public necessity for that. I do not know of any controlling necessity for it. We are now tolerably well accommodated between here and New York; at any rate, better than between here and any other point; and to occupy the time of the Senate day after day simply to invent some scheme against the Baltimore and Ohio or the Camden and Amboy Railroad Company, seems to me to be a waste of time. I do not believe there is enough in that to justify us in exercising any doubtful constitutional power.

If the bill had in it the original provision opening new thoroughfares, especially those to the great grain fields of the West, I should have supported it; but as we are informed by the chairman of the same committee who have occupied the attention of the Senate for several days with this bill that he intends on Monday to occupy the Senate with other measures, and as there cannot now be anything in this bill of great and controlling importance, I move to postpone the further consideration of this bill and all prior and pending orders, and proceed to the consideration of Senate bill No. 256. That is a bill relating to the Central Branch Union Pacific railroad, which we have already considered at considerable length. There will be no opportunity of acting on that bill unless it be acted on to-day, and I feel it a duty I owe to my constituents, to those in my State who have carried forward that enterprise thus far, that we shall have the vote of the Senate on the measure. If there was anything in this bill that was of public or great importance I would not antagonize it; but I believe there is now nothing in it of national importance, and we can never reach a vote on it; and the Senator from Ohio notifies us that on Monday he wishes to proceed with something else. There can, then, be no importance in attending to this to-day; and therefore I make the motion which I have indicated.

Mr. SHERMAN. I have nothing to do, as a matter of course, with the excuses which the honorable Senator from Kansas gives for opposing this bill. He says he would have voted for it in its original condition. He voted against taking it up.

Now, Mr. President, every Senator here knows that the two branches, as they are called, were stricken out at the suggestion of many Senators opposed to including three different bills in one. I preferred to put them all together and to vote for the entire bill as it originally stood; but Senators around me know very well that several objected to this form of legislation, but were willing to vote for one of these propositions if left by itself; and at the request of Senators the select committee concluded to take these roads separately, each in a bill by itself. Now the Senator from Kansas makes this the ground of objecting to the passage of this bill. I wish to strip that objection of all pretense.

Mr. President, there are two roads that were stricken out of this bill, one that would have connected with the Chesapeake and Ohio road and furnish a railroad to Cincinnati. No man

can be more in favor of that project than I am; and at any time, at this session or at any future session, there will be no difficulty in getting the necessary legislation. That railroad goes through the State of Virginia, not through the State of Maryland; and the State of Virginia, as it is now being reconstructed, is liberal and grants charters for the building of railroads wherever necessary. There is, therefore, no present necessity for calling for the action of Congress to aid in building a railroad through the State of Virginia; and it was inserted here originally because of the anomalous position of affairs in Virginia which prevents immediate legislative action. There is no doubt at all that the Legislature of Virginia will promptly pass a railroad act to enable a railroad to be built to the Chesapeake and Ohio road, and then Congress may assent to it. In regard to the other, a railroad to Pittsburg, just as sure as we authorize a road to be constructed between Washington and New York, and one is constructed, the Baltimore and Ohio railroad will build the Metropolitan road, and they will never do it before, because it is against their interest. The Metropolitan railroad will not be built unless the Baltimore and Ohio railroad company are compelled to build it.

Now, if there is any question upon which there is a united feeling in this country, from the Pacific to the Atlantic, it is that Congress should break down the restrictive laws in several of the States which check commerce between great States. If there is any question upon which there is a union of popular opinion in this country it is a demand that we shall break down the restrictive legislation which controls the avenues of trade.

I listened to the argument of my friend from Wisconsin [Mr. DOOLITTLE] yesterday. I could have read to him from Mr. Polk's messages, from Mr. Monroe's messages, and from various other documents, arguments such as he used; but they have been answered over and over again on this floor and elsewhere, and I could have shown him nearly five hundred precedents where this power has been exercised. The arguments that have been read here and could be read for ten or fifteen or twenty days have been answered. Sir, the country will remark that while this bill has been pending here three days no one has spoken in favor of it; all that the friends of the bill ask is a vote upon it, while for three days there has been a continual opposition to it by long speeches not meeting the distinctive point in debate.

Now, sir, I agree that unless the Senate are willing to stand by this bill to-day and pass it, after having heard three days' debate against it, it is idle to waste more time upon it. If it is the determination of Senators to defeat the bill by consuming valuable time, as a matter of course it cannot pass at this session; and if that is the purpose the sooner it is stated the better. But, in my judgment, the public voice and the public interest demand the passage of the bill or some general scheme by which new railroads may be constructed from this city. The reason why the committee selected the route between Washington and New York as the entering wedge, I may say, as the means of opening new avenues of trade, was because everybody feels and knows that there is a necessity for a competing line between this city and New York. There is not a citizen of the United States but feels the importance of it.

Now, Mr. President, look at the motion made by the Senator from Kansas. He proposes to postpone this bill, which will provide for a railroad to be constructed by private capital, without money or cost to the Government, in order to take up a bill to subsidize by the Government of the United States a railroad in a remote section of country where there are no people. That is, he will postpone the erection and construction of a railroad between the capital of our country and the city of New York, without money and without cost to the Government, by the voluntary energy of our own people, in order to take up a bill to grant a subsidy to a company to build a railroad

where nobody lives but Indians. What an absurd proposition that is!

The proposition now is, when our credit is already being impaired by subsidies, to take up and pass a bill to provide for constructing a railroad from a point one hundred miles west of St. Joseph off to Fort Kearny, on the very ground where the Indians are yet roving savages, and to take from the Treasury of the United States \$16,000 a mile to aid in that project. If the Senate is willing to do that let it be done; but it seems to me extraordinary. If there is pressing public business here that prevents us any longer from yielding to an unnatural and undue opposition to this bill let it be done, but let it not be done under the pretext of taking up a bill to put our hands into the Treasury and to take out \$2,400,000 in order to build a railroad in a country where white men yet cannot live.

I do not desire to consume time, because having already, as briefly as I could, expressed the opinions of the committee on this bill, we concluded that we would not debate it, but let the bill stand on its own merits. There is nobody here, no powerful lobby interest, no controlling money interest to advocate the passage of the bill for a new railroad between New York and Washington. I doubt very much whether if the bill passes anybody could make any money by it, because its terms are so restrictive that none but capitalists embarking large sums of money would engage in the enterprise, and they cannot expect more than a living profit, competing with great and powerful monopolies. Therefore nobody supports this railroad bill except from the general interest and the public good of this whole country; but there is opposed to its passage the most powerful money interest in the country. The great railroad presidents have proclaimed their voice against it; the Camden and Amboy, the Baltimore and Ohio, and all the existing interests are opposed to it, while there is nothing to speak for it except the general voice and the general good of the whole country.

Now, therefore, if the Senate is compelled to defeat this bill merely by the ability of those who are opposed to it to make long speeches, let it be done gracefully; but in the name of God, of the public credit, and of public justice, let us not when we are doing it take up another bill to take from the Treasury of the United States \$2,400,000 to build a railroad in a remote wilderness.

Mr. DOOLITTLE. Mr. President, if my honorable friend from Ohio, in his great zeal in favor of this measure, stated the issue between these two bills, and stated it correctly, I think there would be considerable force in his argument against the taking up of the bill referred to by the honorable Senator from Kansas. But, sir, the Senate must not forget that we have already legislated upon the subject of this Central Branch Pacific railroad, and the best lawyers of the country who have been consulted upon the question, as I understand, give their opinion that by the law as it now stands this Government is already obligated to pay the subsidy to the one hundredth meridian of longitude, and that the bill—

Mr. MORRILL, of Vermont. May I ask the Senator from Wisconsin—

Mr. DOOLITTLE. Allow me to finish my sentence. I do not like this catechising in the middle of a sentence. When I finish the sentence I will yield. I say the Senate should not forget that the proposition contained in this bill is to ask permission of Congress to stop short of the one hundredth meridian—to stop at Fort Kearny, at a distance some forty or fifty or sixty miles this side of Fort Kearny; so that instead of a proposition to take money out of the Treasury it is to save the Treasury from a liability to which it will be subjected if the company go on and build their road to the one hundredth meridian. I will now yield to the Senator from Vermont.

Mr. MORRILL, of Vermont. The Senator from Wisconsin is always so cool on the floor that I supposed he could be interrupted with-

out any inconvenience to himself or I should not have presumed to propose a question.

Mr. DOOLITTLE. I only object to being broken off in the middle of a sentence.

Mr. MORRILL, of Vermont. The Senator asserts that some of the ablest lawyers in the Union have given their opinion that equity requires some further favor on the part of Congress, or something to that effect.

Mr. DOOLITTLE. That the law requires it.

Mr. MORRILL, of Vermont. I desire merely to ask him if he does not think that for the same fees, equally able lawyers could be procured to give opinions on the opposite side of the question?

Mr. DOOLITTLE. Well, Mr. President, in the estimation in which I hold the gentlemen in the profession to whom I have referred—and I allude especially to Mr. Curtis, of Massachusetts—I do not believe that Mr. Curtis, for any fee that could be given, would give his opinion deliberately upon a public law against the convictions of his judgment. I believe that from all I know of him, from his character and his antecedents; and I will say to my honorable friend that I believe that a majority of the members of the legal profession who have reputation and standing in the States of this Union would not suffer themselves for any money consideration to publish an opinion against their convictions. That is my opinion of the legal profession.

Mr. MORRILL, of Vermont. That is not the point of my question. I do not doubt that these men gave honest opinions. The only question is whether there are not equally able and equally honest lawyers who entertain different opinions.

Mr. DOOLITTLE. It may be that other lawyers equally able may differ from Judge Curtis; I do not know how that is; but I confess for myself after reading the opinion of Judge Curtis I was inclined to think that he was correct in the construction which he gave upon the statute as it stands; and if his construction be correct Congress is already bound by the laws which we have enacted to pay to this company the subsidy of \$16,000 a mile and make the grant of the lands if the company goes on from its present termination and extends its line to the one hundredth meridian in pursuance of law; and I understand that what the company now ask is the permission to stop short of the one hundredth meridian, at Fort Kearny, and that it is rather a saving to the Treasury. Therefore, if this construction be true, (and it will appear when Senators turn their attention to the law as it stands,) the idea of my honorable friend from Ohio, that this proposition is a proposition to involve the Treasury or take money out of the Treasury, is a mistake.

I would not go for anything which was to take money out of the Treasury for any new subsidies or appropriations; and if he will persuade me on the discussion of the law, as it stands, that we are not legally or equitably bound by what has been already done by Congress, I would not be for incurring any new obligation.

Mr. SHERMAN. I ask my friend, then, if under the law this road has the right to these bonds, why does it come here? It is only because the Secretary of the Interior and the late Attorney General Stanbery, certainly as good a lawyer as Mr. Curtis, the authorities of the present administration decided that under the law it was not entitled to these bonds, and therefore there was no authority to issue them.

Mr. DOOLITTLE. I do not understand that that decision has been made. The company must first build twenty miles further of the road before they can legally demand the subsidy in bonds, as I understand.

Mr. EDMUNDS. Why do not they do it and apply to the courts, then?

Mr. DOOLITTLE. If the company are compelled to do that, they must go on to the line of the one hundredth meridian, and not stop at Fort Kearny. It is a question of law, I admit, a question on the law as it stands, and

the discussion in the Senate may convince me that we are not bound; and if we are not, I do not incline to the granting of any new subsidies in the present situation of the Treasury.

Mr. President, in relation to the project pending before the Senate I expressed my views yesterday, and I, of course, shall not take any time in saying further anything on that subject now.

Mr. HOWARD. Mr. President, the honorable Senator from Ohio is not more earnestly in favor of the passage of the railroad bill of which he has charge than I am. I intend to vote for that bill, though I may have a word to say upon it before it is finally disposed of. But the bill alluded to by the honorable Senator from Kansas is one which was before the Senate for consideration during the last session and was fully discussed, at least very largely discussed, during several days, and I flattered myself that the Senate could come to a vote upon the bill without much more discussion; and I think that will be the case if we take it up now. I do not anticipate that much time will be spent in the further discussion of the merits of that bill.

The company concerned complain that the Government has not fully performed the contract which it made with them originally, or rather that the Government has not fulfilled the assurances held out to them in the statutes in reference to the construction of their road. They have expended a very large amount of money already in the prosecution of their enterprise, and they complain that it is a severe hardship upon them to leave them according to the common saying "out in the cold," and withdraw from them that aid which the Government originally promised that they should receive at its hands. I do not think that the bill will consume much of our time, as I said before, and I shall be ready for one to proceed immediately when that is disposed of to the consideration of the bill of the honorable Senator from Ohio. I hope the Senate will take it up and let us dispose of it one way or the other.

Mr. HENDRICKS. Mr. President, I should regret if the bill introduced by the Senator from Ohio should be taken up to-day. I did wish to submit some remarks to the Senate in regard to it, but I am not able to do so. My convictions are very clear that I ought not to vote for the measure; and on the question suggested by the Senator from Kansas it is hardly necessary for me to add to what I had an opportunity of saying in the Senate a year ago. I came to the examination of that bill with a decided prejudice against it, and intended to vote against it; but when I found the law to be as I think I did find it to be, of course I concluded to cast my vote according to the law. I believe it is the law, as enacted in 1862 and 1864, that this Atchison branch was entitled to a connection, and in the absence of such connection being allowed because of the failure of the other companies, the Atchison road became entitled to occupy the ground and the benefits which were promised to the defaulting road. The difficulty, as I understand, in this case was that Congress permitted the departure of the road with which this should have connected, and allowed it to take a southwestern direction, so that the connection became impossible, and the work resulted in the structure of a road in the wilderness and a stopping there. Of course that was not the purpose of Congress.

But, Mr. President, my object in rising was to say that I hope very earnestly the bill that the Senator from Ohio calls up will not now be considered. It is rather a new measure in its present shape. I wish to discuss it somewhat, if I shall recover my health sufficiently to do so. I think it is not only an infringement of the Constitution, going beyond the powers of Congress, but I think it is a dangerous precedent to set. We need not invite great enterprises into Congress; we need not invite jobs here; there is no occasion for it. The corruption of Congress is a possibility, perhaps; and it was not intended that the Congress of the United States should have juris-

diction of things like this. But, sir, if I have an opportunity I intend to express my views upon it; not at the present time.

Mr. NYE. It seems to me, sir, that there are two or three considerations about the taking up of the bill last mentioned that should prevail with the Senate. For more than a year this company have been hung up here in this body awaiting its decision upon this important bill. Its corporators are among the best, ablest, and foremost supporters of this Government, and men whose names rank with the highest in the land. They have made large outlays themselves; they have received large subsidies from the Government; they have received and expended large amounts from their first mortgage bonds, so large that their interest now is more than three hundred dollars a day, and they are not earning, in the imperfect state of their road, enough to pay the running expenses of the road itself. Now, sir, it seems to me to be due to them, it is due to this body, it is due to the principles of justice between the Government and those who deal with it that the question should be settled. I speak not now of the manner in which they shall be settled; I leave that to the candid judgment of each Senator who shall vote on this important measure; but I insist upon it that it is due to them, due to the dignity of the Government, due to its good faith, that these men should be taken down from this legislative hook on which they have hung for more than twelve months, and that they shall know what the decision of this body is to be.

Sir, I repeat I do not know what the sentiment of this body will be; but it is better to dive into trouble than wade in. It is afflicting to go inch by inch to an overwhelming gulf; you had better jump in at once. If it is to be the judgment of this body that the Government shall lose what it has put in this road, or that it shall take the last cent of the private fortunes of those gentlemen to pay the interest on the debt, and that the first mortgage bonds shall take the fragment of a road they have got completed, let it be so determined at once; but, I repeat again, it is high time that these incorporators should know what the judgment of Congress is.

Now, sir, I am as anxious as the Senator from Ohio to pass that bill of his, not only that the road should be constructed, but for the establishment of the principle announced in that bill; and I shall vote for it and support it cordially and heartily; but there are no great private interests suffering now for an immediate decision upon that bill. On the other hand, with regard to this other bill, there are interests that appeal even to the humanity of this body to determine the question at once. I hope, therefore, that the judgment of the Senate will be, and that the Senator from Ohio will concur in it, that this bill shall first be taken up, that these individuals shall know their fate. It is due as well to the Government to look for its own security, for if this road is not to be extended the investment already made by the Government in it is lost and the private fortunes of those individuals will not rescue it.

Mr. President, I hope the Senators will with great unanimity determine the rights of these individuals first; their sufferings appeal to us in tones that we are not at liberty to disregard.

The PRESIDENT *pro tempore*. It is moved by the Senator from Kansas that the bill under consideration be postponed until to-morrow for the purpose of taking up the bill indicated by him.

Mr. SHERMAN asked for the yeas and nays, and they were ordered; and being taken, resulted—yeas 33, nays 16; as follows:

YEAS—Messrs. Abbott, Bayard, Buckalew, Cameron Cole, Corbett, Cragin, Davis, Dixon, Doolittle, Drake, Ferry, Fessenden, Grimes, Harlan, Hendricks, Howland, McCree, McDonald, Morrill of Maine, Norton, Nye, Patterson of Tennessee, Pomeroy, Pool, Rice, Ross, Thayer, Trumbull, Van Winkle, Vickers, Whyte, and Wilson—33.

NAYS—Messrs. Anthony, Cattell, Chandler, Conkling, Conness, Edmunds, Harris, Howe, Morgan, Morrill of Vermont, Morton, Osborn, Sherman, Stewart, Warner, and Williams—16.

ABSENT—Messrs. Fowler, Frelinghuysen, Henderson, Kellogg, Patterson of New Hampshire, Ramsey, Robertson, Saulsbury, Sawyer, Spencer, Sprague, Sumner, Tipton, Wade, Welch, Wiley, and Yates—17.

So the motion to postpone was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had disagreed to the amendment of the Senate to the joint resolution (H. R. No. 404) providing for the disposition of certain papers relating to military claims accruing in the department of the West, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. RUFUS P. SPALDING of Ohio, Mr. F. C. BEAMAN of Michigan, and Mr. W. S. HOLMAN of Indiana, managers at the same on its part.

CENTRAL BRANCH PACIFIC RAILROAD.

Mr. POMEROY. I move now to take up Senate bill No. 256.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 256) relating to the Central Branch Union Pacific Railroad Company, the pending question being on the amendment of Mr. MORRILL, of Vermont, to strike out in lines twenty-four and twenty-five the words "for any greater length of road than one hundred and fifty miles" and insert the word "beyond;" so as to make the proviso read:

Provided, That no subsidy in United States bonds shall be allowed to said Central Branch Company beyond the termination of the one hundred miles on which bonds are already authorized to be issued on said line of railroad.

Mr. HOWARD. I hope that amendment will not be agreed to. It will almost entirely destroy all the benefit of the bill should it become a law. It narrows down the amount of the subsidies very largely.

Mr. EDMUNDS. Does not that make it conform to the original law?

Mr. HOWARD. It is making a new law, not recognizing the old law. The amendment will allow the company simply what the original law gave them. They find it necessary to extend their line and build a greater length of line than they were required to do before by a great number of miles; I do not know how many.

The amendment was rejected.

The bill was reported to the Senate without amendment.

Mr. SHERMAN. I will state in a very few words what this case is. I desire merely to enter my protest against the bill, because I take it from the vote already cast the Senate is disposed to pass the bill. We, by the unanimous vote of the Committee on the Pacific Railroad, yesterday reported a resolution that no more subsidies should be granted to Pacific railroads, or to any railroads. We have before us, laid on our table, a report stating that the present Pacific railroad has yielded a profit of about seventeen thousand dollars per mile, being the greatest yield of any enterprise probably in the history of mankind. According to the statement of Mr. WILLIAMS, the cost of the road is about thirty-four thousand dollars a mile. The first mortgage bonds are \$27,000 per mile. The United States grants as subsidy the best bond in the market, an average of about twenty-seven thousand dollars a mile. Then the stockholders have twenty miles of land and all the stock of the road. This has excited so much public attention that the Senate committee felt it their duty promptly to say that they would grant no more subsidies. The House of Representatives have done the same; and now this bill proposes to give \$2,400,000 of subsidy to a railroad that will be built upon the land grant as sure as the progress of civilization marches westward. No man can doubt but what under the present law, with the benefit already of \$1,600,000 of subsidy from the Government, the road from St. Joseph or Atchison will be built to join the main line at Fort Kearny, or this side of it. The development of that beautiful country along the Republican fork in this

course of four or five years will as surely build the road without any subsidy as that our country remains as it is, prosperous and growing, especially in that western region.

This additional subsidy is asked upon the ground that this company have a legal right to it. But for that claim no Senator here, in the face of public opinion, would vote the proposed subsidy. Now, sir, if they have a just and legal claim for that subsidy they can make it in the courts. There is not a Senator who, if their claim was established by law, would not vote for the requisite authority to issue the bonds; but the executive authorities of this Government have decided that they have no legal right to this subsidy, that under the existing law the bonds cannot be issued to them, and that they cannot be issued except by the authority of an act of Congress. If they dispute the decision of the executive authorities they can make a case in twenty-four hours presenting to the courts their right to a subsidy. If they have confidence in their claim they can build, with the subsidy already granted, twenty miles of road, apply to the proper officers for their bonds, and in case of refusal a mandamus would promptly issue to compel the executive officers to enforce the law. They have a legal remedy for a legal claim. Why shall we not let them rest upon that legal remedy? Why shall we now add to the burdens of this Government \$2,400,000? I have never yet been able to satisfy my mind that there was any legal claim for this grant, while, as I said at the last session, I do see a kind of equitable demand growing out of the circumstance of the passage of the law authorizing a change of direction of the road with which this branch was to connect. But it must be remembered that when we made that change of direction from Fort Riley south, all those railroad interests were here acquiescing and assenting to it.

Mr. HOWARD. If the Senator will allow me—

Mr. SHERMAN. Let me get through; I shall be through in a moment. If this central branch company believed that that legislation would impair their rights or change their legal right to bonds, or prevent them from making the connection, if that claim had been made known to the Pacific Railroad Committee or made known here in Congress in such way as to attract the attention of the Senate or of the House, provision would have been made to guard against all pretense of such a claim. I myself voted for the change of route because it was done upon their suggestion and at their request, and I was willing to give them any choice of routes they chose which would not increase the subsidy; and that was the intention and meaning of the act. When we passed that bill no Senator contemplated that by making this divergence of track we added to the burdens of the Government \$2,400,000. No such claim was made here, so far as I remember, in the Senate.

Under these circumstances, I am not prepared on account of a mere appearance of an equitable claim to extend the grants already made to Pacific railroads. If they have a legal right they have a plain legal remedy, as plain as any man could have upon a note of hand; a remedy that is as open to them as the courts are open to any suitor. You are now violating the resolution to which you have come, substantially, because I have no doubt the resolution reported from the Committee on the Pacific Railroad is the opinion of the Senate itself, as it was of the House of Representatives—you are violating that rule by issuing \$2,400,000 of bonds, when if they have legal right to those bonds they can enforce it by a plain and palpable remedy in the courts, a remedy that my honorable friend from Michigan could point out; so learned a judge as Judge Curtis could point it out to them very readily. All that would be necessary for them to make their legal claim would be to comply with the law, by which they say they have the right to the subsidy, by building twenty miles of rail-

road, and then making their formal application for the bonds.

Under these circumstances, I do not know that it is worth while for us to make any protest about it, because I take it from the vote already cast the bill will pass; but I desire to say that after a faithful examination of this question at the last session I came to the conclusion that the law gave them no legal right to these bonds; that the subsidy of \$1,600,000 they have already received would be amply sufficient, together with the grant of lands, which I was willing to increase, to enable them to build their road to connect with the existing Pacific railroad. The Government has done all in this direction that it ought to do. Anything more than that would be a departure from the principle we have now adopted, without any claim on their part that is sustained by law.

Mr. HOWARD. Mr. President, I will not protract the debate. I will say a word, however, in reply to some of the remarks of the honorable Senator from Ohio. He does not state to the Senate that by the original charter of the Union Pacific Railroad Company, the eastern division, the Kansas branch so called, was required to pass up the Republican fork, so called, in a northwestern direction. It was contemplated originally that the eastern division would form its connection about the one hundredth degree of west longitude, and would pass upon the Republican fork. The central branch had the privilege of forming a connection with that eastern division on its way up the Republican fork. It was required to form that connection with the eastern division by law. By the act of 1866 Congress allowed the eastern division to diverge off in a western and southwestern direction, so as to render it impossible, according to then existing laws, for the central branch to form that connection. The object of the central branch, of course, was to have access from the point of its commencement on the Missouri river to the Union Pacific railroad proper, and to emerge out upon that road on the line formed by the eastern division. The legislation of 1866 took away from the central branch that valuable privilege which was guaranteed to it by the charter itself. It cannot now form this junction, as it was allowed to do by the old law, and the fact that it is left in the condition it is is the ground upon which it makes this claim before Congress. It asks to have restored to it its original privilege of forming a connection of the Union Pacific railroad at or about the one hundredth degree of west longitude. That was a privilege originally given to it that was taken away from it by Congress by the act of 1866.

I will not say the company has any legal right—any right which it could assert in legal form in a court of justice. It is not necessary that I should express an opinion upon that subject; but I was well satisfied, and so were the Committee on the Pacific Railroad, that it has an equitable claim to a restoration of this same privilege of forming connection with the Union Pacific railroad. That is the basis of the claim.

Now, sir, as the honorable Senator from Ohio has referred to the resolution which was introduced into this body yesterday, I ask the Clerk to be good enough to read it, and let us see whether this case comes within its terms. I think it will turn out that it is not by any means embraced in that resolution. This is a case already pending before Congress, resting upon the equity growing out of the statutes we have passed. The object of that resolution, if I understood it properly, was that we will not make any further subsidies of Government bonds upon any new enterprises or new works to be commenced or recognized hereafter.

The PRESIDENT *pro tempore*. The Clerk will read the resolution called for.

The Chief Clerk read the resolution reported yesterday from the Committee on the Pacific Railroad, as follows:

Resolved, That it is inexpedient that any subsidy in Government bonds should be authorized by Con-

gress to any railroad enterprise not entitled thereto under existing laws.

Mr. HOWARD. That is it. Clearly it does not include this case. The ground upon which this rests is the equity, that the central branch has an equitable claim upon Congress for this extended privilege for the issue of further bonds—a claim growing out of our own legislation. Certainly no such case is contemplated by the resolution.

The honorable Senator remarks that this company acquiesced in the change of the law made in 1866, by which the eastern division was allowed to diverge off west and southwest. I do not know what may be the sources of information from which he derives that knowledge, if it be knowledge; but I will say simply this: that the moment that legislation came to the knowledge of the Central Branch Company it hastened to present its remonstrance to the House of Representatives against the passage of the act of 1866, granting that privilege of diverging off, and the remonstrance was presented to the House of Representatives on the 22d of June, 1866, and I hold it now in my hand. The company did all that it was in their power to do to prevent the passage of that bill. I am not aware, however, that any such remonstrance was ever presented in the Senate; I will not say that, but it was certainly presented in the House of Representatives.

Mr. CORBETT. I offer the following amendment:

And provided further, That no more Government bonds shall be issued to said company, but that Government may guaranty the interest on said bonds for twenty years, and the interest may be paid at the Treasury of the United States, but all earnings of said road for service performed for the Government, and five per cent. of its gross earnings, shall be paid into the Treasury of the United States, under such rules and regulations as the Secretary of the Interior may prescribe, to secure the payment of the interest on the same.

Mr. CONKLING asked for the yeas and nays; and they were ordered.

Mr. POMEROY. The only objection to that is, it is a new form of subsidy which the Government has never yet adopted, guarantying interest on other people's bonds. That form of subsidy might have been the best if the Government had adopted it; I do not know that it would not have been originally; but to adopt that new form now, of guarantying interest, would be a derangement of the whole system by which these railroads have been built. It might be the best form if we had started out in that way, but I hope it will not be introduced here as a beginning.

Mr. CORBETT. I have offered this amendment to this bill for the reason that our debt is large, and there is an objection to increasing the debt of the Government; but I think it but just and right that we should guaranty the interest upon these bonds in order that this company may be enabled to make a connection with the Union Pacific railroad. From my examination of this subject I believe that the Government is in duty bound to assist this road to some extent to make this connection; but whether it is bound to give a subsidy of \$16,000 a mile, accepting a second mortgage upon the road for that amount and allowing the company to mortgage the road for \$16,000 more, is a very serious question in my mind. I deem it my duty to offer this amendment to this bill, and probably a similar provision will be introduced into all bills of this sort hereafter presented to Congress, so that the Government shall not assume the payment of the principal of these bonds, but guaranty the interest upon them, and assist these roads in that way.

I think it is proper and right for the Government to develop its resources and internal commerce in this way, and thus advance the interests of our settlers by opening up new lands to cultivation, and making the Government lands through which these roads run more valuable. But I believe this company can build this road for the remaining distance with the assistance of a guarantee of the payment of the interest upon its bonds by the Government. They may have the right to

issue additional bonds to the extent of \$16,000 per mile of their road under the same provisions as heretofore, but I think this proposition will assist the company and also the Government out of the trouble in which we are now involved. I offer it as a compromise between the different interests of the country.

Mr. DIXON. I do not propose to speak upon the amendment offered by the Senator from Oregon, but upon the bill itself which is pending. As I understand this case, this railroad company claim to have a right to issue a certain amount of bonds, and the Secretary of the Interior, whose duty it is to issue the bonds, declines to make the issue in consequence of his doubt whether they have a legal right to them. The company claim that they have a legal right to the subsidy in question. Now, they either have or have not that right. If they have, if their right is clear, then there is no occasion for an act of Congress. They have furnished us the opinions of distinguished lawyers which go far to convince me that they have a legal right.

I should hesitate very much before I differed from Mr. Benjamin R. Curtis upon a legal question, and I am very much inclined to think he is right, and that they have the right which they claim; but I feel somewhat with regard to this matter as Mr. Webster did with regard to reënacting the laws of God. He said he would not reënact those laws. I do not wish to reënact the laws of Congress. If this company have a legal right, then why are they here asking us to make that right more legal? I am therefore unwilling to vote for the bill, taking it for granted that they are right in supposing that they have a legal claim. But, sir, suppose they have not; if they have no right, then I certainly am unwilling to give it to them.

Mr. President, if there ever was an occasion when our pretensions of economy should be carried out in practice, this is that time. If at this time we propose to make a grant, a gift to any company whatever, let us hereafter say nothing upon the question of economy.

I am unwilling upon either view of this case to vote for this bill. If the right exists they need no assistance, they need no help; if the right does not exist they ought not to have it.

Mr. MORRILL, of Vermont. I shall vote for the amendment of the Senator from Oregon, provided I cannot get a vote upon another and direct proposition which was indirectly embraced in the amendment that I offered on a former occasion, and on which I think the vote was taken when the Senate did not fairly understand it and while I happened to be called out for a single moment.

Mr. President, I think it is obvious throughout the world that the railroad business has been vastly overdone. Take the guaranties of England for her railroads in India and in Canada. The stock that she has guarantied is worth something; but when you go beyond that, railroad stock is worth little or nothing.

I have been in favor of a Pacific railroad. I want one finished and made complete, that we may see how it will operate. I have no doubt that in due time we shall need more. When that time arrives I shall be ready to vote as my judgment dictates. We are even now negotiating for a passage across the Isthmus of Darien. If we should have a ship-canal across that isthmus how much that will compete with these roads who can tell? All are aware that a water communication is vastly cheaper than any other; and if there should be a canal built across that isthmus it will unquestionably take the major part of the trade from the Pacific coast. That is inevitable.

But I desire, as I said, a direct vote on the question whether you will in any case grant further subsidies on the part of the United States to railroads. I think the policy heretofore inaugurated of giving public lands to those roads is well. It is possible that something more in some cases will be needed, but it is very apparent that we have squandered unnecessarily millions already in this direction that we ought to have saved, and which will

go eventually into the pockets of a very small number of stockholders in these roads. I hope the Senator from Oregon will withdraw his amendment for a single moment to enable me to offer an amendment in order to obtain a direct vote of the Senate on the proposition whether we will grant further subsidies to this road or not. I propose to strike out all of the proviso to the bill after the word "provided" and to insert what I send to the Chair.

The PRESIDENT *pro tempore*. Does the Senator from Oregon withdraw his amendment?

Mr. CORBETT. I should like to hear the proposed amendment of the Senator from Vermont read for information first.

The Chief Clerk read the proposed amendment, which was to strike out all of the proviso at the end of the bill after the word "provided" and in lieu thereof insert:

That no subsidy in United States bonds shall be allowed or authorized by anything herein contained.

Mr. MORRILL, of Vermont. I desire to add that if there is any subject upon which the people of this country have made up their minds, in an economical point of view, it is that Congress ought to be economical in relation to this very matter.

Mr. CORBETT. I do not know that there will be any objection to the proposition of the Senator from Vermont as an independent amendment; but cases may arise where it may be necessary for the Government to assist these roads with bonds. I would rather decide upon that question as each case is presented. I understand that this amendment of mine is substantially the proposition that is now proposed with regard to all the roads that are asking Congress for subsidies. It proposes that the Government shall guaranty the interest upon certain bonds to be issued, instead of making it liable for the principal of the bonds, and I understand the proposition of the Senator from Vermont to be to cut off all those bonds.

Mr. MORRILL, of Vermont. I only desire an opportunity to reach a vote on my amendment, and the Senator will see I shall not have that opportunity unless it is allowed to be tested first. I shall certainly vote for his amendment provided mine does not carry. The Senator can have no objection to having a test vote on this question. It is merely in relation to this railroad, whether it shall have a subsidy or not. That is all that my proviso covers.

Mr. CORBETT. It may be that if that amendment were defeated it would commit us to the idea of furnishing the bonds, which I desire to avoid by the proposition that I offer.

Mr. MORRILL, of Vermont. You will have an opportunity to offer your amendment afterward, undoubtedly.

Mr. CORBETT. I shall feel obliged to vote against the amendment of the Senator from Vermont.

The PRESIDENT *pro tempore*. The Chair does not understand whether the Senator from Oregon withdraws his amendment or not.

Mr. CORBETT. I would rather not withdraw it.

The PRESIDENT *pro tempore*. The amendment is not withdrawn.

Mr. NYE. Mr. President, I have but a few remarks to make upon the amendments offered by the Senator from Vermont and the Senator from Oregon, and also upon the real question that is presented to this body in the bill before us; and I shall court brevity in making them.

Two things are acknowledged in this debate. The first is that the principle of giving bonds as subsidies to these roads is a settled fact. Another is, that this central branch road is a part of the system, a part of the unit of the Pacific railroad, both Union and central. Its construction was entered upon with that full understanding, and with the guarantee of the Government that it should receive these bonds. Now, what has it done since to forfeit them? The southern branch has been diverged, leaving the western end of this road in a wilderness where nothing short of Omnipotence could rear a town, cut off from all connection

with the great line, north and south; and there it stands as an unfinished monument to the perfidy of some one.

The honorable Senator from Vermont has taken up the modern popular cry, "down with all subsidies for railroads." I desire to say here to-day as an humble member of this body, that that cry has no effect upon me. I know how readily I shall be criticised by the journals of the day as being desirous to get my hands or somebody else's into the Treasury of the United States upon this subject of railroads. I desire to say to them and to the world that I never owned a dollar of stock in a railroad in my life, and never expect to do so.

But, Mr. President, I have lived to see two or three generations realize what was thought to be the most ideal thing in the world, to wit, the construction of internal improvements by the aid of the General Government and the States. The whole internal commerce of our nation, which in 1852 amounted to \$480,000,000, has within the last year, under the operation of this system of internal improvements, amounted to \$11,000,000,000, a sum four times greater than the national debt.

I have seen other fruits of this system, and he it said to the honor and liberality of this Government and its farsightedness, I have seen the prairies of Illinois, seeing them first in 1832, from one barren waste of profitless land come up under the system of public improvements to which the nation gave its help, until it to-day pays \$25,000,000 into the revenue of this nation. Against the proposition to aid the great railroad which has brought about this wonderful change I heard in both branches of Congress stronger denunciations hurled than the Senator from Vermont can hurl in this body.

Mr. MORRILL, of Vermont. It did not have any subsidies.

Mr. NYE. It had what was better than subsidies—the rich land of the prairies, which is growing in value every day. I heard that project denounced. Robert Rantoul, jr., one of New England's brightest geniuses, was the author and the founder of that system. His sun set while it was yet rising; but the glory of his foresight and his work abide and magnify upon the visions of the present day.

Mr. President, I have seen a little more than this. I have seen this railroad enterprise strike across the almost trackless prairie, over which the emigrant, after one hundred and forty days of toil and battling with sands and hills, and valleys and streams, by hard work managed to make his way to the Pacific coast. I have seen as if by magic every improvement of modern times borne by this great improvement across the continent of this nation, and the barren wildernesses of the West to-day bud and blossom like the rose as the legitimate fruit of a great nation's generosity in aiding that grand work. No matter if it has made individuals rich; it has increased the productive acres of this country; and it is to those acres that you must look to pay every dollar of your indebtedness. Talk of your tariffs or of whatever sources of revenue you may, it is the teeming earth that has got to pay your indebtedness, and there is no way in which to enable it to pay but to open and develop means to get its products to market. This road has not only carried private individuals to wealth, but it has carried Christianity and American civilization to the very coasts of the Pacific ocean. That is no small triumph for the nation to win; and allow me to say to the honorable Senator from Vermont that when the spasmodic cry for economy is over, he will want to wipe out the speeches in which he declared it to be the settled policy of this Government to do no more toward developing its mighty resources.

Sir, this great system of internal improvement has done more. It has not merely brought the productions of the earth to market. The object of these improvements is to make channels where nature failed to supply them. There is in that western country a great basin twelve hundred miles in extent, with not a navigable stream within its borders, but almost every acre

of it will yet be as productive as the soil that surrounds us in this Capitol. How is that great basin, so soon to teem with countless inhabitants, to get its products to market? Tell not the plowman to plow nor the reaper to gather his sheaves when there is no market for the result of his toil; it is an insult. Say rather to the husbandman, as he goes into the wilderness, "We will bring to your door the means by which you will be enabled to carry your products to market."

My friend from Vermont says he is very anxious to see a railroad to the Pacific. He can see it within two hundred and eighty miles of completion to-day. If he will go to the western end of this road he will see that the company there, against the settled judgment of the most scientific men of this nation, who have been sent upon that errand, declaring it impossible to mount the Sierra Nevada mountains with a railroad—he will there see the conquest of individual enterprise aided by the Government over their science. Ay, sir, above the eagle's nest is heard the whistle of the locomotive. Has not the nation any glory in this? Is it not a source of congratulation to every man here that he has aided in that mighty work and brought the two oceans within sound of each other's roars? No, no, my friend from Vermont says, there has been stealing on the road. Sir, there are two things they cannot steal—

Mr. MORRILL, of Vermont. I did not say anything about that.

Mr. NYE. You said it had made a great many individuals rich. It was a slight intimation that there had been a little picking around. I do not know but that there has been; but there are two things, thank God, that they cannot steal. They cannot steal the foresight of this Government in yielding its aid to the construction of this road, nor can they steal the road that is already made. That stands as a monument to the enterprise and foresight of the American people. The rapidity of its construction has been the wonder of all Europe. It has been spoken into existence as if by magic. How? By individual enterprise and by Government aid. I count it as one of the highest glories of this country, and let no man undertake to belittle those who had the manliness to project it and the vigor to execute it.

Sir, there will be more railroads to the Pacific. This railroad across the continent is as the spider's single web to the locomotive and its path. My friend from Vermont and my friend from Ohio, I am afraid, have forgotten that we have just opened up to eight hundred thousand people a commerce which to-day is another monument to the foresight of this nation. I know how bitterly the subsidy to that line of steamers was opposed; but, sir, it pays; and while heretofore the commerce of the world has been almost confined to Europe, by the foresight and energy of this great people, at the proper moment, we have grasped the commerce for which the world has striven for centuries—the commerce of the Indies and its rich productions. Large amounts of that commerce are coming across this continent now. My friend will be able to get his tea after awhile across the plains free, as the citizens of Boston once did. They got a large pot of tea there once free. [Laughter.] The trains of this road will be loaded with silks and the rich productions of the East. My friend will live to see the day, I sincerely hope, when there will be not only one, but three or five railroads across this continent.

Mr. President, I rose chiefly to say that I did not yield to this spasmodic contraction which the newspapers of the day and some politicians are trying to carry out. I know men who were burnt in effigy for voting an appropriation for the Erie canal; but, sir, the day of their vindication has come, and New York, by virtue of that great improvement, stands peerless in the sisterhood of States. Her greatness consists in her internal improvements, and the name of Clinton will survive that of all his calumniators, and will go down to posterity as

the name of the wise man who mingled the waters of our inland seas with the tide-waters of the Atlantic ocean. Let not my friend from Vermont or anybody else be cramped by this unnatural spasm. We have given lands, we have given money to railroads. What have we secured in return? Where are the trophies? Let the riches of the western mountains and the products of the western plains be my answer.

Sir, I have read carefully the provision of the law in relation to this railroad. I have heard the criticisms of the honorable Senator from Ohio [Mr. SHERMAN] and of my honorable and learned friend from New York [Mr. CONKLING] on a former occasion upon it, and criticisms from several other sources; but were I sitting as a juror to-day upon my sworn obligation, in my honest judgment I should say this road is entitled to these bonds. It is so "nominated in the bond;" it is so written in the law; it was so understood by Congress, and this quibble to avoid it was an afterthought that was born in this unnatural spasm of contraction.

Sir, against the justice of such a construction of the law I enter my protest. These men entered into the construction of this road under the honest belief that they had a right to these bonds. Nobody can doubt that. I hold in my hand the affidavits of these men, showing that they have paid in \$1,000,000, less \$35,000, in cash towards this project. They have paid in their own solid money; and these are affidavits by men who could not be moved by thousands to forego the reputation for truth which they have acquired. Tell me, honorable Senators, whether these men, who have offered their millions upon the altar of the faith of this Government, are to be now turned out to batten upon what I should term legislative quibbles? If there is the color of right, if honest men have entered upon this work with an honest impression that they were entitled to this subsidy, and the Government sanctioned it for one hundred miles, as they have done, tell me not that it is the duty of the Legislature to turn their backs upon such a case.

There is another consideration of economy that I wish to suggest. We are told that this road has received \$1,000,000 of Government subsidy. The security of the Government is the road. On the top of this security lies a first mortgage bond. Now, I appeal to the honorable Senators around this circle, as a matter of economy, shall the Government pocket the loss of \$1,600,000 or shall they carry out the honest intention of Congress when they chartered the road? As a matter of economy it seems to me that it is wisdom as well as justice to help this road to meet the branch that it was intended to meet at the nearest practicable point.

I hold in my hand the affidavits of these men who have paid \$1,000,000 of their own money, less \$35,000, into this project. They have honestly put in it the subsidies they have received from the Government. Their road is in the wilderness, and they cannot go any further without aid. The question is now submitted to the Senate for their decision, and I will venture to stand between public criticism and the conscience of my friend from Vermont if he will vote for it. Sir, a man who would not do this in his own private business could not have an honorable standing in his own neighborhood, and a nation cannot afford to do, under the color of legislative proceeding, what an individual ought not to do. The same standard of judgment will be applied to the nation that is applied to me as an individual. If a contractor with me had made an honest endeavor to carry out this work and encountered these difficulties I should be ashamed to look him in the face and deny the right he had to my fulfillment of my part of the contract to help to make profitable and useful the expenditures he had already made.

Mr. MORTON. Mr. President, when this bill was brought before the Senate at the last

session I entertained very strong prejudices against it, and perhaps if it had been brought to a vote at any time during the last session I should have voted against it; but upon further investigation of the subject it seems to me that we are not at liberty to regard it in the light of an original proposition. I should certainly, as one member of the Senate, vote against entering upon any new project which involved subsidies; but that is not the attitude in which this question is presented here to-day.

Let me make a brief statement of what I understand to be the history of this question. Several years ago Congress passed a bill granting subsidies and making provision for the construction of a railroad starting at Omaha, in the State of Nebraska, to the Pacific ocean, terminating at San Francisco, a point some four hundred miles south of the starting point, Omaha. By the same bill provision was made for the construction of a branch road, starting from Kansas City, on the Missouri river, a point nearly three hundred miles south of Omaha, intending to connect with the main branch starting from Omaha at a point not further west than the one hundredth meridian. The same bill then provided for an intermediate road, starting from Atchison, about two hundred miles south of Omaha, and about eighty-five miles north of Kansas City, which was to connect with the branch starting from Kansas City at a point not more than one hundred miles from Atchison.

Mr. DOOLITTLE. If the honorable Senator will allow me I desire to correct him in one statement of fact that he has made. The original bill did not make Omaha the starting point of the Pacific railroad, but it was fixed at the one hundredth meridian. From Omaha to the one hundredth meridian it is a branch just like the branch from Sioux City and the branches to which the Senator has referred. The branches are all alike.

Mr. MORTON. I am glad to be corrected, but still the correction does not alter the effect of my statement. The construction, as I understand it, of these three roads commenced simultaneously, or very nearly so. The road that is now under discussion, starting from Atchison on the Missouri river, was to connect with the branch starting from Kansas City at a point about one hundred miles west. Therefore this road was necessarily dependent for any value whatever, or at least for its chief value, upon the construction of the road from Kansas City to intersect with the main branch of the Pacific road; for if it was not to have that connection it would not be worth while to build the road, and it could have but little value when constructed. Therefore this road was built upon the faith of constructing another road from Kansas City, intersecting the main Pacific road at a point not further west than the one hundredth meridian.

After this company had been organized and private stock had been subscribed and the Government subsidies had been issued according to the original provision of the charter, Congress permitted the southern branch, starting west from Kansas City, to diverge to the southwest, so as not to intersect with the main branch at all. This, of course, would render the intermediate road, the central branch, of no value unless it got a connection somewhere. It has been built out one hundred miles, and there stops in the Indian country.

Now, Mr. President, it cannot be said that there is not good faith involved in this question. The men who invested their money in this enterprise invested it upon the distinct understanding that the road should be built from Kansas City to the main branch of the Pacific road, starting from Omaha. And now that the Government has permitted that southern road to diverge to the southwest instead of running northwest to the Pacific road starting from Omaha, the question is, what is the duty of the Government in regard to this middle road which was commenced upon that faith?

Mr. DOOLITTLE. Will the honorable Senator allow me to state one fact right here?

Mr. MORTON. Yes, sir.

Mr. DOOLITTLE. The diversion of the southern road was without the consent and against the protest of this road.

Mr. WILLIAMS. I should like to know where that protest was made, and to whom?

Mr. HOWARD. It was made to the House of Representatives. I hold it in my hand.

Mr. SUMNER. It was duly presented by Hon. Alexander H. Rice, and filed on the 22d of June, 1866.

Mr. WILLIAMS. When the bill passed the House of Representatives and passed the Senate I supposed it was by the common consent of both parties. I heard nothing then of this terrible wrong which is to be inflicted on this company.

Mr. MORTON. I do not know anything about that protest beyond what the Senator has stated, which I have no reason to question. But it is not reasonable to suppose that the persons engaged in the construction of the middle road would consent that the southern road should diverge to the southwest and not make the connection with the road starting west from Omaha, because that would leave the middle road without any connection at all. Therefore, such a consent could hardly be presumed.

Now, what must this middle road do in order that the men who have put their money into it shall not lose their money, and in order that the Government shall not lose the \$1,600,000 it has invested in it? The middle road must either connect with the northern road or with the southern road. They do not want to connect with the southern road. They did not start out with that understanding. They want to connect with the northern road, and as the southern road now will not connect with the northern road, the Government must enable them to connect with the northern road, or what they have invested may be said to be lost.

We cannot suppose, Mr. President, that intelligent men would invest their money in a road which was to run one hundred miles west and stop in the Indian country. We cannot suppose that the Government would put \$1,500,000 into such a road. Therefore, it is inevitable that the men investing their money in the road and undertaking the construction of it, and the Government, at that time, did understand that it was to have the connection as then provided by law with the road running northwest from Kansas City to the road starting west from Omaha. That understanding has been destroyed by the action of Congress, and it comes up as a question of equity and justice, what shall this Government do in the premises? It is not a new question, whether we shall now start out by making a road and granting subsidies, but it is simply a question whether we shall complete an enterprise undertaken some four or five years ago.

The Government has got \$1,600,000 in this road. I understand that by now investing \$2,000,000 more and completing the road to make the connection with the road starting west from Omaha it will make it a valuable road, and that the earnings of the road will pay the interest on all the money invested. Would it not, then, be a matter of wisdom, as well as of economy, to complete the road to the northern line, and thus make a road that will pay the interest on the whole investment rather than, by stopping where we now are, lose the \$1,600,000 that have been put in? That, I think, is the question. I put that as a question of prudence and economy on the part of the Government, aside from the question of justice.

There is another consideration to which my attention has been called, and which I think is entitled to some weight. In the first place, I think it was imprudent and unnecessary for the Government to start two branch roads to connect with the road starting west from Omaha within eighty-five miles of each other. It would have been sufficient to have started the one west from Atchison or the one west from Kansas

City to make the intersection with the road running west from Omaha; but the Government started two branch roads. Now, sir, I insist that it is a matter of some importance that at least one of these branch roads shall be completed; and why? It will be observed by looking at the map that Atchison, where this road starts west, is on a point nearly due west from the capital of Illinois, the capital of Indiana, and the capital of Ohio, and but little south of the capital of Pennsylvania. Any person starting to go to the Pacific coast by way of the Pacific railroad in order to get upon that road must go almost directly north to begin with one hundred and sixty or one hundred and seventy miles. Any one starting from Cincinnati to go to the Pacific by the way of that road must first go north to get on that road at Omaha, or, going by the way of Chicago, he must go north nearly two hundred and fifty miles; and if he starts from Memphis or from any point further south, of course the distance he has to go north is increased. As a matter of justice and convenience to that great travel going west from the meridian of Indianapolis, Columbus, Harrisburg, and St. Louis there ought to be some way of striking the Pacific road without being compelled to go north in the first place from one hundred and sixty to three or four hundred miles. By looking at the map you can see the importance of that to all persons living on the latitude that I have described and south of that latitude.

Mr. President, I believe it will be a great many years before we shall have more than one Pacific railroad. We shall have two, and perhaps three in course of time; but it will be a very long time before we have more than one; and during that period it will be a very considerable hardship if all the persons living south of Chicago, and from there down to the gulf, are compelled to go north as far as Chicago or Omaha before they can start west to get on to the Pacific road. In this point of view this central branch road is important; and as the Government has already put \$1,600,000 in it, as it was begun upon the faith that the road was to be constructed from Kansas west, intersecting the northern road at a point not further west than the one hundredth meridian, and as Congress has turned that road in another direction, it seems to me to be a matter of justice, a matter of good faith, that it shall enable this road to get up northwest to make that intersection.

Mr. SUMNER. Mr. President, I have more than once expressed my opinion on this bill, and I have no desire now to enter at length into the discussion. What I have to say shall be directly on the proposition moved by the Senator from Vermont; and that I may be perfectly understood, I desire to have the Secretary read the amendment.

The PRESIDENT *pro tempore*. The amendment under consideration is the amendment of the Senator from Oregon.

Mr. DOOLITTLE. I understood the Senator from Oregon did not withdraw his amendment; that is now before us.

The CHIEF CLERK. The proposition of Mr. MORRILL, of Vermont, is to strike out the following words in the proviso at the end of the bill, "that no subsidy in United States bonds shall be allowed to said Central Branch Company for any greater length of road than one hundred and fifty miles from the termination of the one hundred miles on which bonds are already authorized to be issued on said line of railroad," and in lieu thereof to insert "that no subsidy in United States bonds shall be allowed or authorized by anything herein contained."

Mr. SUMNER. Mr. President, there are two ways of opposing a measure: one is directly on its merits; the other is by creating a diversion. My friend from Vermont is too experienced not to be a perfect master of both systems. He knows when to meet any measure on its merits; he knows also when he can meet it only by creating a diversion. He has not attempted the first system to-day; he has

attempted the second. He has brought before you a proposition, general in its character, on which he has made an argument general also in its character. He opposes any further subsidies to railroads. Very well; admit his argument; how does that bear on the question? I am not now going to enter upon his argument. The Senator from Nevada [Mr. NYE] has already engaged the attention of the Senate upon that question, and we may offer our gratitude to my friend from Vermont that he has given occasion to the outburst of eloquence to which we have listened.

But permit me to say that the argument of the Senator from Vermont and also the eloquence of my friend from Nevada are out of place at this moment on this measure. There is no question of principle with regard to subsidies; there is no question as to any policy of Congress in supplying subsidies for the prosecution of railroad enterprises. It is simply a question of good faith on the existing legislation of the country. Congress by its legislation has induced certain parties to undertake a railroad at the West. They have embarked largely in it; they have contributed out of their means; they are extensively interested. Then afterward, by subsequent legislation, Congress rendered all that they had done comparatively valueless. Congress did that against the protest of these gentlemen. So doing, I submit that Congress became liable to make good their original legislation to these parties; and that is the simple object of the present measure. It is to carry out in good faith the original legislation of Congress; nor more, nor less.

Senators in the debate have already alluded to the affidavits which have been introduced. I hold a copy of them in my hand. Let any Senator read them, and then I would ask him, can he hearken to my friend from Vermont and on any general sentiment against subsidies refuse to sustain the faith of the Government? Day by day we plead for the preservation of the national faith. God grant that it never may fail in any respect; and now again I plead for it, not on any great historic question as of faith to the national freedmen or of faith to the national creditor, but of faith to corporators who have entered upon a great public work in the trust that they would be sustained to the end by Congress. I have here in one of those affidavits positive declaration that the subscriptions were made "in good faith, and on the faith that this road was a branch of the Union Pacific railroad, and was to have a connection therewith;" "and this deponent avers and declares that such connection was all that gave the road value in the estimation of capitalists." The Senator from Indiana has shown how that connection gave value to the proposed road. I need not enlarge upon it. Nobody can look at the map, nobody can read one of these affidavits, or become in any way familiar with this case, without seeing that without such connection the road was almost worthless.

Among these affidavits is one from a name that I know will be honored in this Chamber. It is that of the present Governor of Massachusetts, William Claflin, well known now in public life, where he has earned an honorable renown, but also in a less conspicuous circle known as one of the true, just, business men of the country. Wherever he is known his word is as good as his bond. He is one of those corporators, one who has invested largely in the construction of this road. What does he say?

"That his subscription to the capital stock of said company was made on the faith of the acts of Congress known as the Pacific railroad laws, and on the faith, as therein provided, that the said central branch was to connect with the eastern branch railroad at a point above one hundred miles west from Atchison, where the maps of the two companies, then filed, showed a junction; that said central branch was located and built with reference to such connection until the route of said eastern division was changed by Congress."

This is a deposition signed by himself. I find added, also, the name of Nathaniel Thayer, an eminent banker of Boston, A. C. Mayhew, A. H. Batcheller, and John T. Manny.

I need add nothing to this statement, which is plain and explicit. These gentlemen embarked in this enterprise and put their money in it on the faith of Congress. The simple question now is whether Congress will keep its faith.

Mr. CRAGIN. Mr. President, I intend to vote for this bill, and as I am opposed to granting any new subsidies to railroads I wish to state briefly why I am in favor of it. In the first place, I wish to allude to the statement made by my friend the Senator from Vermont at the last session, and by the Senator from Ohio to-day, that the friends of this road, the central branch, in 1866 asked that the eastern division might be turned from its original route and go up the Smoky Hill fork. At that time I was a member of the Committee on the Pacific Railroad, and it so happened, owing to sickness, that I was compelled to remain in Washington several weeks after the adjournment of Congress. During that time these gentlemen, among others Governor Claflin, of Massachusetts, came to me after the adjournment of Congress and called my attention to that legislation, and told me that it was a great wrong to the central branch and that they protested against it.

From that circumstance I was induced to look into this matter, as I did as well as I was able to do, and my investigation convinced me beyond a doubt that these gentlemen who had embarked their fortunes in this central branch road had been wronged by the action of Congress; that Congress had granted them the right to unite with the eastern division and thereby form a connection at about the one hundredth meridian upon the great trunk of the Union Pacific road, and it had also provided that in case any branch should fail to build its road the other might take up that road and carry it forward to the point of union. But Congress having voted that the eastern division might change its route, there was no such thing as a failure to build in the eye of the law. Congress had actually granted land and subsidies over the identical route now asked by this road, the route to the one hundredth meridian. All that these parties now ask is that they may have the right to go forward under that original intention of Congress and complete their enterprise. I believed then, and I believe now, that they have the right and the justice upon their side, and believing that I shall vote for this bill, not as a new subsidy, but as carrying out the original policy and design of Congress. Besides, there is no other way by which St. Louis and points on either side of it can at present make a direct connection with the Union Pacific road. Therefore, in addition to the rights of the individuals interested in this enterprise I conceive it to be a public question, a question of magnitude and importance to the country at large, and especially that portion of the country.

Believing, then, fully in the justice and equity of this claim I shall vote for this bill, although I am opposed to any further subsidies to railroads at present. If this was an original proposition, if it was a new question, I should vote against it; but the Government has already advanced \$1,600,000, and it only needs this additional legislation not only to complete the road, but to make valuable what has been already advanced.

Mr. MORRILL, of Vermont. Mr. President, I believe I have not occupied in all that I have said on this bill over twenty minutes' time of the Senate, and I am somewhat surprised at the elaborate attention I have received this morning from the Senator from Nevada [Mr. NYE] and the Senator from Massachusetts [Mr. SUMNER.] So far as the eloquent Senator from Nevada is concerned, I always listen to him with pleasure, whether he delivers an original speech, or whether he lets "the locomotive scream at the top of the eagle's nest," as we have heard him this morning, not, perhaps, for the first time. I do not think he need to have any fear of being charged at home or abroad with any unusual "contraction," any "spasmodic economy." There is, it seems to

me, no danger of that. But let me say to that Senator and to the Senator from Massachusetts that the very existence of the Republican party depends upon whether we adopt the principle of economy for the next four years or not. That, whether we blink the issue or not, will be the main question. I am not a common ranter in relation to this subject of economy. I allow my course to be judged by my works, by my votes, not by mere words. It is very unusual for me to say anything on this subject, but I trust in my official action here never to lose sight of it.

But, Mr. President, when a measure of this sort comes up in the Senate, involving millions, I conceive that I have a right to make a direct proposition—not an indirect one, as the Senator from Massachusetts asserts—upon it. I come forward with a proposition asking the Senate to vote directly on the question whether we shall give a subsidy for the extension of this road or not. Is there any indirection in that? If there is, I fail to comprehend it.

The Senator from Massachusetts takes refuge under great names from home. I take no such refuge. I prefer to vote upon my own independent judgment in relation to this matter. I have no Governors or other distinguished citizens whose affidavits have been given or whose letters are to be read here; but there are thousands of taxpayers who will watch my vote, as they will the votes of other Senators.

The Senator also seeks some sort of refuge in voting for this subsidy, as an exception to his general rule of opposing further subsidies, on the ground that the public faith has been pledged. I recognize no such pledge. I have read the whole of the documents which have been presented to us on this subject, including the opinions of the attorneys, whose opinions have been brought into the case; and while I admit that they have the power of confusing the subject so that it requires a great deal of labor to understand it, I confess that so far as my mind has enabled me to comprehend the subject I have not seen a particle of evidence tending to pledge the public faith to a further subsidy of bonds. We have done already all that the law required of us. So far as I am concerned I feel perfectly free and at liberty to vote as my judgment dictates upon this bill. Sir, if it were an original question do you suppose that the Senate could be induced to vote for a further subsidy on this line? Is it needed by the Government, or is it only in the interest of private parties? I do not believe it could obtain the vote of one third of the Senate as an original question. Coming here now after the long importunities that we have had, after every Senator has been button-holed for over a year in relation to this matter, it is not surprising that it receives some support. I expect it to pass. All that I ask—and I do not think I deserve to be taken to task in the style I have been for this—is that Senators shall place themselves on the record directly on the question whether we will vote this additional subsidy to this road at this time or not. I take it there is no indirection about that; and I hope yet to be able to obtain a vote upon that question.

Mr. WILSON. I should like to have the amendment pending read.

Mr. CORBETT. Let it be read as modified. THE CHIEF CLERK. The amendment, as modified, is to insert at the end of the bill the following additional proviso:

And provided further, That no more Government bonds shall be issued to said company, but that the Government shall guaranty the interest on said company's bonds for thirty years, on the completion of each section of twenty miles of said road, and the interest shall be paid at the Treasury of the United States; and to secure the payment of such interest all earnings of said road for services performed for the Government, and five per cent. of its gross earnings, shall be paid into the Treasury of the United States under such rules and regulations as the Secretary of the Interior may prescribe.

Mr. STEWART. I send to the Chair an amendment, which I ask the Senator from Oregon to accept in place of his amendment. I think it answers the purpose a little more

carefully. It is the amendment that was proposed by the Senator from Oregon [Mr. WILLIAMS] the other day to another bill.

The PRESIDENT *pro tempore*. It will be read for information.

The Chief Clerk read the proposed amendment, which was to insert as additional sections the following:

SEC. 2. *And be it further enacted*, That no additional bonds shall be issued to said company; but whenever and as often as the said company shall complete and equip ten or more consecutive miles of the said road in all respects as a first-class railroad, the President of the United States, at the request and expense of the said company, shall cause the same to be inspected by three skillful commissioners appointed by him; and upon their favorable report, approved by the President, the Secretary of the Treasury shall deliver to the said company, for each such completed mile of road, sixteen bonds of the said company prepared by him, of the denomination of \$100,000 each, payable by said company in gold coin at the Treasury of the United States thirty years from the 1st day of January or July then next ensuing, with half-yearly interest coupons attached, payable by the said company in gold coin at the said Treasury at such rate, not exceeding six per cent. per annum, as the company may elect; upon the face of which coupons shall be a statement, signed by the Treasurer of the United States, that payment of the same, according to its terms, is guaranteed by the United States. And the principal of the said bonds shall constitute a first lien upon the said road and telegraph, and upon the rolling stock and all other real and personal estate of the said company.

SEC. 3. *And be it further enacted*, That the moneys arising from the sale of the said lands, and from the transportation and other business to be done by the company for the United States, shall remain in the Treasury of the United States as a fund for the payment of the interest on the said bonds; and if the moneys so reserved shall be insufficient for that purpose, the company, after two years from the completion of their said road, shall pay into the said Treasury three per cent. of their remaining gross receipts, or so much thereof as may be necessary to meet the said interest as it falls due; and any surplus of the said reserve not required for any half-yearly payment of interest shall be paid to said company.

SEC. 4. *And be it further enacted*, That after the expiration of ten years from the completion of the said road the said company shall pay annually into the Treasury of the United States such sums as will amount to the principal of their said bonds by the time the same will fall due; which several payments shall, as between the United States and the company, be deemed to be payment of like amounts of the said bonds.

SEC. 5. *And be it further enacted*, That if the said company shall fail to make any of the payments required by this act for the account of either the said interest fund or the said sinking fund, the Secretary of the Treasury shall report such failure to the President of the United States, who may, and if he deems it necessary to the security of the United States or of the bondholders he shall, appoint a receiver to take possession of the said road and operate and manage the same for the best interest of the company, and pay into the Treasury of the United States so much of the receipts therefrom as may be necessary and sufficient for the said purposes, or until the company shall make the said payments.

Mr. STEWART. Having been a member of the committee and consented to make this report, I should like to call the attention of the friends of the measure to this amendment. I believe it would be a fair settlement of the whole transaction and give just about what ought to be given. Admitting, for the sake of the argument, that the central branch at the time the law was passed was intended to go on until it should have a junction with the other road—and such I believe was the intention of the law—it was also the intention of the law very clearly that they should unite at a point not so far distant as the one hundredth meridian. The two branches—the Union Pacific, eastern division, and the central branch—were to unite long before they reached the main stem from Omaha.

The central branch or the Atchison branch has completed one hundred miles of road. If the Union Pacific, eastern division, had gone in its original direction to make the connection, before it got to the one hundredth meridian the Atchison branch would not have been by the map more than one hundred and fifty miles long. There would have been only about fifty miles more or in that neighborhood; from forty to sixty, on which subsidies would have been granted to them in any event; perhaps not more than thirty miles. It would depend somewhat on the way in which the road would be run.

This bill proposes to extend the subsidy for one hundred and fifty miles, as reported by

the committee. These persons come to us and say "Inasmuch as we expected to have a connection with the eastern division, and you changed the direction of the eastern division, thereby depriving us of it, you have destroyed the value of our road, and the investments we have made are not available for any purpose, and we ask Congress to relieve us." If they relied upon the letter of the law the courts would be the proper place for them to apply for relief.

The PRESIDENT *pro tempore*. Will the Senator from Nevada give way to enable the Chair to receive a message from the House of Representatives?

Mr. STEWART. Certainly; and I give notice that I shall conclude my remarks on another day.

DEATH OF HON. JAMES HINDS.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced the death of the Hon. JAMES HINDS, late a member of the House from the State of Arkansas; and communicated the proceedings of the House of Representatives thereon.

Mr. RICE. Mr. President, it becomes my painful duty to announce the death of Hon. JAMES HINDS, late a member of the House of Representatives.

Mr. HINDS was born in Hebron, Washington county, State of New York, on the 5th day of December, 1833. He studied law and graduated at the Cincinnati law college in 1856, and located for the practice of his profession at St. Peter, in the State of Minnesota. Shortly after he established himself there he was elected district attorney, which office he held, faithfully discharging his duties, until 1860.

Shortly after the breaking out of the late war he entered the Federal Army as a private, and was honorably discharged after several months' service. In 1865 he removed to the city of Little Rock, in the State of Arkansas, where he resumed the practice of his profession with fair success. He was an active and prominent member of the State constitutional convention that framed the present constitution of the State. He was in that convention liberal toward the enemies of reconstruction and just toward the colored people.

His manifest ability as one of the committee on the judiciary caused the convention to select him as one of the commissioners to codify the laws of the State. He was, at the first election after the adoption of the constitution by the convention, elected to represent his district in the Fortieth Congress of the United States.

The story of his death is too barbarous, too atrocious, to detail with the ordinary feelings that one would have had it been the result of natural causes. I dislike this portion of my duty. I cannot think of the brutality that actuated the assassination, or the more deplorable fact that it was the result of party action and a part of a great scheme by which the State was to be cleared of all its prominent, active Union men, without being inclined to use language too harsh to be appropriate on this sad occasion. I will therefore simply recite the circumstances attending the murder. It was during the recent presidential canvass. Mr. HINDS, being an able and very effective speaker, entered the canvass in behalf of the Republican ticket. He and Hon. Joseph Brook, than whom there is not a better man or better speaker in the State, had a list of appointments in a number of counties in the eastern part of the State. Although the times were anything but peaceable, although assassinations in other parts of the State were of almost daily occurrence, yet these two men, without any regard for their personal safety, determined to do what they conceived to be their whole duty to the Government under which they lived. Without other protection than their natural but greatly misplaced confidence in what claimed to be a generous, law-abiding people, they started on their canvassing tour. After filling several appointments they, on the 21st day of October last, proceeded on their

way to fill an appointment at Mr. Evans's, in Monroe county. In this county Mr. HINDS was an entire stranger, and Mr. Brook had but few acquaintances and no personal enemies. At Indian Bay, six miles from the place of meeting, they inquired at a store for an acquaintance of Mr. Brook, and a stranger to them volunteered to tell them that he had gone to the speaking and gave them directions to the place; and they passed on.

When out about a mile and a half from Indian Bay, from the difference in the walking gait of their horses, Mr. Brook led Mr. HINDS some fifty yards. At this point, Mr. Brook heard some one talking, and looked back and saw this same man that had given them directions riding alongside of and in a friendly conversation with Mr. HINDS. The man had a double-barreled shot-gun in his hand. Thinking nothing of the circumstance Mr. Brook rode on. In less than a minute afterward he felt a blow in his side and heard the report of a gun. Immediately looking back he heard another shot and saw Mr. HINDS fall from his horse. Thus, in open day, without the slightest warning he was murdered. Mr. Brook put his horse at full speed for assistance, but before it arrived some kind man had found Mr. HINDS and removed him to his house, where he expired about two hours after receiving the fatal shot. Mr. Brook was shot in the side and thigh, and his wounds were so serious that he has not yet recovered. The murderer returned to Indian Bay and boasted of what he had done. A coroner's jury were summoned, and after hearing the evidence, found that he came to his death by being shot, and that George W. Clark was the murderer. This George W. Clark was the secretary of the Democratic club at Indian Bay, and not two hours prior to the shooting participated in a peace meeting of the leading men of both parties, in which resolutions were passed deprecating violence and pledging themselves to the preservation of peace and order in the community. Such is the brief history of the life and death of Mr. HINDS.

In the midst of life he found death. In the prime of manhood he became a martyr. Mr. HINDS had strong traits of character. His success in life was owing to those traits.

I know that it is usually the case with most persons when they see a man in position to inquire in their own minds how he came to be selected for that place, what are his peculiar traits of character that have caused his fellow-citizens to elevate him to position. These are the usual reflections, I suppose, of most men.

In the case of the deceased the answer to these inquiries could be readily made by any one acquainted with him. He was a man of strong convictions, strong will, very persistent in the advocacy of what he thought right.

These characteristics manifested themselves in a very marked degree after he turned his attention to politics. He was one of the first in the State of Arkansas that espoused the cause of the colored people on the subject of suffrage. At the time he commenced pressing the matter upon the public mind it was very odious even to many leading men who afterward became its strong advocates. The opposition he met seemed to inspire him with increased zeal and fervor in behalf of what he regarded and what was a great principle. He embraced this doctrine long in advance of the passage of the reconstruction acts, and contended that through the enfranchisement of the colored race alone could the reconstruction of the southern States ever be effected. He concentrated all his energies upon this one question; it was the burden of all his speeches and of all his conversation upon politics. Of course, he could give it no shape until after the passage of the reconstruction acts by Congress.

Then his ideas took a practical form, and his arguments became effectual; and many who had before this joined in heaping odium on him for his incendiary doctrines, as they were termed, became themselves warm advocates of the same. It was his persistent

adherence to these sentiments, through evil as well as good report, that marked him as a man who could be trusted by the people. By his course he had acquired a hold on the colored people so strong that nothing that could be said about him would shake their confidence in him. He was a strong, forcible speaker, with sufficient industry to be well posted on any subject he attempted to discuss. His convictions were his politics. As to what is termed policy he knew nothing and seemed to care nothing for it. He was unsuspicious, and hence easily deceived. With no disposition to violence toward others, he had childish confidence that none would be inflicted on him, and therefore was never prepared to resist or avoid it. This is a brief history of him whom we mourn to-day.

I can truthfully say of him that he lived a patriot and died a martyr to the cause he loved—the cause of man, the cause of his country.

Mr. President, I move the adoption of the following resolutions:

Resolved, That the Senate has received with profound sensibility the announcement of the untimely death of Hon. JAMES HINDS, late a member of the House of Representatives from the State of Arkansas.

Resolved, That with a view of showing proper respect for the memory of Hon. JAMES HINDS, the members and officers of the Senate will go into mourning by the usual mode of wearing crape on the left arm.

Resolved, That the Secretary of the Senate be directed to communicate a copy of these proceedings to the family of the deceased.

Resolved, That, as a further mark of respect for the memory of Mr. HINDS, the Senate do now adjourn.

Mr. McDONALD. Mr. President, as one of the Senators of Arkansas it is proper that I should add a word to what has already been so well said relative to the untimely death of our lamented friend. His history and services have been recounted by those who knew him far better than I knew him. My acquaintance with him began with his first settlement in Arkansas, and I have known him since as the stern and determined supporter of the principles of good government, and the relentless and uncompromising foe of treason in all its forms.

Although a Democrat at the period of Mr. Lincoln's first election, in the stirring events that followed he patriotically ranged himself on the side of the Administration, and devoted all the energies of his character and intellect to the earnest support of the Government of his country. His manly nature held no sympathy with treason, and in the stern struggle for the life of the nation his was no doubtful or uncertain utterance. The war found him a Democrat, but left him a Republican.

As during the war he espoused the side of the Government, so in the reconstruction of his adopted State his voice and influence were given in behalf of loyalty and freedom, and against those who had sought to sunder and destroy the perpetual Union of the States. In the maintenance and advocacy of those principles so dear to his heart and the country, those principles which have been enacted into statutes and become the law of the land, he was stricken down by the hand of the assassin, and his name has been added to the brilliant roll of heroes and martyrs whose lives have been sacrificed because of their devotion to the country; and history will record and remember this sacrifice as warmly and gratefully as if his life was yielded on the stricken field of battle and amid the crash of hostile legions. The valor and heroism he exhibited in maintaining and defending his principles were equal to that of the "hero of an hundred battle-fields;" and yet dead indeed must be the heart of patriotism in the State of Arkansas before his memory can be permitted to perish from our midst. He needs no eulogy from me. His life and death are written in the hearts of his people, and history will erect his monument for the admiration and sympathy of future years.

Mr. SUMNER. Mr. President, it is with hesitation that I add a word on this melan-

choly occasion, and I do it only in compliance with the suggestion of others.

I did not know Mr. HINDS personally, but I have been interested in his life and touched by his tragical end. Born in New York, educated in Ohio, a settler in Minnesota, and then a citizen of Arkansas, he carried with him always the energies and principles ripened under our northern skies. He became a Representative in Congress, and, better still, a vindicator of the rights of man. Unhappily that barbarism which we call slavery is not yet dead, and it was his fate to fall under its vindictive assault. Pleading for the equal rights of all, he became a victim and martyr.

Thus suddenly arrested in life, his death is a special sorrow, not only to family and friends, but to the country which he had begun to serve so well. The void when a young man dies is measured less by what he has done than by the promises of the future. Performance itself is forgotten in the ample assurance afforded by character. Already Mr. HINDS had given himself sincerely and bravely to the good cause. By presence and speech he was urging those great principles of the Declaration of Independence, whose complete recognition will be the cap-stone of our Republic, when he fell from the stealthy shot of an assassin. It was in the midst of this work that he fell, and on this account I am glad to offer my tribute to his memory.

As the life he led was not without honor, so his death was not without consolation. It was the saying of antiquity that it is sweet to die for country. Here was death not only for country but for mankind. Nor is it to be forgotten that, dying in such a cause, his living voice is echoed from the tomb. There is a testimony in death often greater than in any life. The cause for which a man dies lives anew in his death. "If the assassination could trammel up the consequence," then might the assassin find some other satisfaction than the gratification of a barbarous nature. But this cannot be. His own soul is blasted; the cause he sought to kill is elevated; and thus it is now. The assassin is a fugitive in some unknown retreat. The cause is about to triumph.

Often it happens that death, which takes away life, confers what life alone cannot give. It makes famous. History does not forget Lovejoy, who for devotion to the cause of the slave was murdered by a fanatical mob, and it has already enshrined Abraham Lincoln in holiest keeping. Another is added to the roll; less exalted than Lincoln, less early in immolation than Lovejoy, but like these two, to be remembered always among those who passed out of life through the gate of sacrifice.

Mr. WARNER. Mr. President, I would not dispel the impression which the eloquent truths uttered by the Senator from Massachusetts have made upon this body; but I would simply say, that while I have not had time to prepare for presentation the thoughts which have occurred to me in connection with the assassination of Mr. HINDS, there are one or two considerations which I will present.

I knew Mr. HINDS personally. Agreeing with Mr. Carlyle in his admiration for earnest and sincere men, I can say of Mr. HINDS, from personal knowledge, that he was an earnest and a sincere man, and therefore a hero worthy of our best admiration. But there is a lesson which we may draw from the story that has been detailed to us. To-day the American Senate is sitting and passing resolutions of respect for a man who died for his political opinions. We are to-day confessing the fact, in the face of this great people and of the civilized world, that there are districts in this country where an American citizen may not go and be a free-man without fear of the assassin's knife.

Mr. President, this is a melancholy confession for the Senate and Congress and people of the United States to make. This nation has shown that it has the power to subdue armed rebellion; to crush millions of armed men whose

hands were raised to strike against the flag of the country; but it has not yet shown—I hope it may show—that it has also the power to reach its strong hand down to the humblest of its citizens, to take within the arms of its protecting power the lowliest of its citizens, and protect and cover them with its shield. It is this lesson which I would have the Senate learn from this tragic event: to see by what means we may give that protection which all men have a right to demand.

This is not a singular occurrence, my brother Senators. Those of us who are familiar with the condition of things at the South know that in some sections of the country every man who went forth to the exercise of the rights of an American citizen, to proclaim his political opinions and to urge the election of General Grant to the Presidency, carried his life in his hand. Two of the men who sheltered me in my campaign in Alabama last summer, two of those who gave me hospitable welcome under their roofs, within a week afterward were assassinated.

These things exist to some extent in the southern States. Now let the impression be left upon our minds by this sad event that we shall protect everywhere American citizens in the exercise of their constitutional and natural rights.

The resolutions were agreed to *nem. con.*; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, January 23, 1869.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BRYNOR. The Journal of yesterday was read and approved.

LEAVE OF ABSENCE.

Mr. MOORE obtained leave of absence for three days.

EXPENSES OF SUBSISTENCE BUREAU.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting a letter from the Commissary General of Subsistence, asking an appropriation of \$9,000 for the contingent expenses of his office; which was referred to the Committee on Appropriations.

REFUNDING OF TAXES.

On motion of Mr. WILSON, of Iowa, by unanimous consent, the Committee on the Judiciary was discharged from the further consideration of the bill (H. R. No. 1548) to regulate the refunding of taxes paid into the Treasury of the United States; and the same was referred to the Committee of Ways and Means.

REGISTERS IN BANKRUPTCY.

On motion of Mr. WILSON, of Iowa, by unanimous consent, the Committee on the Judiciary was discharged from the further consideration of the bill (H. R. No. 1467) repealing so much of the third section of the general bankrupt law, approved March 2, 1867, as directs the Chief Justice of the Supreme Court of the United States to nominate and recommend registers in bankruptcy, and to vest that appointing power in the President of the United States; and the same was referred to the Committee on Revision of Laws of the United States.

PAY OF UNITED STATES MARSHALS.

On motion of Mr. BLAINE, by unanimous consent, the Committee on Appropriations was discharged from the further consideration of a communication from the Secretary of the Interior, transmitting, in compliance with the House resolution of the 18th ultimo, a statement showing the amount due and necessary to pay certain United States marshals for services in connection with the eighth census, in 1860; and the same was referred to the Committee of Claims.

MISSISSIPPI AND MEXICAN GULF CANAL.

On motion of Mr. BLAINE, also, by unanimous consent, the Committee on Appropriations was discharged from the further consideration of the bill (H. R. No. 1520) concerning the Mississippi and Mexican Gulf and Ship-Canal Company, asking an appropriation of \$300,000; and the same was referred to the Committee on Roads and Canals.

ST. MARY'S FALLS SHIP-CANAL.

On motion of Mr. BLAINE, also, by unanimous consent, the Committee on Appropriations was discharged from the further consideration of the petition of citizens of Philadelphia, asking for appropriations for the improvement of St. Mary's river and St. Mary's falls ship-canal; and the same was referred to the Committee on Roads and Canals.

INVENTORS OF NEW FRUIT.

Mr. KETCHAM, by unanimous consent, introduced a bill (H. R. No. 1759) to encourage and protect inventors of new kinds of fruit; which was read a first and second time, and referred to the Committee on Patents.

BUILDINGS IN WASHINGTON.

Mr. FARNSWORTH, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of State, Secretary of War, Secretary of the Navy, Secretary of the Treasury, and of the Interior be requested to furnish the House with a statement of the buildings and premises held and occupied by their Departments, respectively, in the city of Washington under lease for rent; for what purposes so held; the owners of the respective buildings; how long said buildings or premises have been so held; what time the leases severally have to run; the amount of the annual rent of said premises as so leased, respectively, and whether any such buildings can be dispensed with.

PROPERTY OF WILLIAM T. HARRIS.

Mr. KELSEY, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of State be, and he is hereby, directed to inform this House whether any, and if any what, measures have been taken by the United States Government to recover from the Government of Brazil the property of William T. Harris, an American citizen, who died at Bahia in the year 1852, and whose property it is alleged was seized by officers of the Brazilian Government after his death, notwithstanding the protest of the United States consul; and the Secretary of State is directed to send to this House copies of all correspondence with the Government of Brazil, and papers relating to the estate of William T. Harris, deceased, that are on file in his Department.

ENROLLED BILL SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (H. R. No. 1558) to amend an act entitled "An act to prescribe the mode of obtaining evidence in case of contested elections," approved February 19, 1851; when the Speaker signed the same.

WESTERN MILITARY CLAIMS.

On motion of Mr. SPALDING, by unanimous consent, the joint resolution (H. R. No. 404) providing for the disposition of certain papers relating to military claims accruing in the department of the West, returned from the Senate with an amendment, was taken up.

The amendment of the Senate was to strike out all of the resolution after the words "to be," in the ninth line, in the following words: "examined; and such part thereof as has any bearing on cases pending in the Court of Claims shall be printed and received in said Court of Claims as if it were evidence taken under commission from said court, subject, however, to reexamination or cross-examination of the witnesses by either party," and to insert the word "printed;" so that the resolution will read:

That all the papers and evidence returned to the War Department by the Davis, Holt, and Campbell commission (touching claims against the department of the West accruing immediately before the 14th of October, 1861,) shall be surrendered and turned over to the Attorney General, whose duty it shall be to cause the evidence to be printed.

Mr. SPALDING moved that the amendment of the Senate be non-concurred in and

a conference asked on the disagreeing votes of the two Houses thereon.

The motion was agreed to; and the Speaker appointed Mr. SPALDING, Mr. BEAMAN, and Mr. HOLMAN managers of the conference on the part of the House.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HAMLIN, one of its clerks, informed the House that the Senate had passed a joint resolution (S. R. No. 200) reappointing Louis Agassiz a regent of the Smithsonian Institution; in which the concurrence of the House was requested.

The message further informed the House that the Senate had agreed to the report of the committee of conference upon the disagreeing votes of the two Houses upon the bill (H. R. No. 1558) to amend an act entitled "An act to prescribe the mode of obtaining evidence in case of contested elections," approved February 19, 1851.

MIAMI INDIANS OF INDIANA.

Mr. SHANKS, by unanimous consent, introduced a bill (H. R. No. 1760) to secure to certain members of the Miami tribe of Indians, who reside in Allen and Huntington counties, Indiana, the lands to which they are entitled; which was read a first and second time, and referred to the Committee on Indian Affairs.

Mr. WASHBURNE, of Illinois, moved to reconsider the various votes of reference; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

B. & O. R. R. DEPOT, WASHINGTON.

Mr. WILLIAMS, of Indiana, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee for the District of Columbia be instructed to inquire whether the depot of the Baltimore and Ohio railroad in Washington ought not to be removed from its present site, north of and near the Capitol, to some point more remote from the public grounds, and where it will less interfere with and injure city property and obstruct the course of city improvements; and that the said committee report at the earliest practicable day by bill or otherwise.

DEFALCATION, ETC., IN IDAHO.

Mr. HIGBY, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be directed to send to this House all information in his possession in relation to a contract made with Frank C. Kenyon to print certain statutes passed and journals kept by the Legislature of the Territory of Idaho; whether the books have been delivered in accordance with the terms of the contract; what amount was paid, when paid, and to whom; and also to send with the other information a copy of the report made by special commissioners, H. C. Street and W. R. Deftrees, filed October 18, 1863, in relation to this matter among others; and also all information in relation to the defalcation of Horace C. Gillson, former secretary of Idaho Territory, how the money delivered to him was to be disbursed, and what amount of money was lost by the Government through his defalcation.

CESSION OF PUBLIC BUILDINGS.

Mr. FLANDERS, by unanimous consent, introduced a joint resolution (H. R. No. 414) ceding the buildings at Fort Steilacoom to Washington Territory for an insane asylum; which was read a first and second time, referred to the Committee on the Territories; and, with the accompanying papers, ordered to be printed.

GEORGIA CONTESTED-ELECTION CASE.

Mr. DAWES. I give notice that it is my intention, at the first moment special assignments will permit, to call up the contested-election case from Georgia.

RIGHTS OF WOMEN IN THE DISTRICT.

Mr. ARNELL, by unanimous consent, introduced a bill (H. R. No. 1761) for the better protection of the rights of women in the District of Columbia; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

ORDER OF BUSINESS.

Mr. WASHBURNE, of Illinois. The first business in order to-day I understand to be

the question of suffrage brought up by the gentleman from Massachusetts, [Mr. BOUTWELL,] by a motion to reconsider. I would like to inquire of the Chair what is the present condition of the business of the House, and I desire to know what course the gentleman from Massachusetts intends to pursue in regard to the business of which he has charge. I desire this information to enable me to direct my action in reference to the appropriation bills. First, I would inquire of the Chair the present condition of the business of the House?

The SPEAKER. By the unanimous order of the House the bill in regard to the Denver Pacific railway is made the special order after the morning hour each day until disposed of. Upon days when there is no morning hour—as upon Thursday last, when the Missouri contested-election case was considered—that bill does not come up. After that bill shall be disposed of the next bill which is made the special order is a bill reported by the gentleman from Maine, [Mr. LYNOX,] in regard to specie payments. A motion to reconsider, however, is privileged above all other motions, except a motion to adjourn, and can be called up immediately after the reading of the Journal on any day.

Mr. WASHBURNE, of Illinois. The business of the gentleman from Massachusetts [Mr. BOUTWELL] would, then, take precedence of everything else.

The SPEAKER. It will take precedence of the morning-hour and of special orders.

Mr. WASHBURNE, of Illinois. I hope that after to-day the gentleman from Massachusetts will consent to a postponement of the business in his charge until some future time, so that on Monday we may get at the Denver Pacific railway bill and dispose of it as soon as possible. And I wish to give notice that immediately after that bill shall have been disposed of I shall move to go into Committee of the Whole, from day to day, until the legislative appropriation bill shall have been disposed of.

Mr. ELIOT, of Massachusetts. I do not understand that the morning hour of Tuesday next will be interfered with by the business of my colleague, [Mr. BOUTWELL.]

The SPEAKER. It will be, unless, by a majority vote the House shall postpone that business until after the morning hour of that day.

Mr. BOUTWELL. I desire to state a circumstance which may to some extent modify the course I had at first intended to pursue in regard to the business which I propose to bring before the House this morning, by calling up my motion to reconsider. The gentleman from Wisconsin, [Mr. ELDRIDGE,] a member of the Judiciary Committee, who expects to speak upon this question, does not understand in precisely the same way that I do a conversation which we had in reference to this matter. My desire is to arrange as far as possible so as to accommodate my course upon this bill to what he understands to have been the nature of the conversation between us; and therefore, observing his understanding of our conversation, I cannot consistently call for the vote on this measure before Friday or Saturday next. I would be glad to call for it earlier, and would do so if it were not for this circumstance.

After to-day, on Monday next, I will ask the House to hold an evening session, for debate only, if there are members who desire to discuss this proposition. I will not interfere with the morning hour of Tuesday, and will not call for a vote before Friday next. I will endeavor to carry out the arrangement I have stated, keeping, however, control of the measure, so as to get a vote in six or seven days.

Mr. WASHBURNE, of Illinois. I do not understand the gentleman to say that the entire time of the House will be taken on Monday with this bill.

Mr. BOUTWELL. Not at all; only the evening session.

Mr. ELDRIDGE. I only desire that there may be a perfect understanding of what the gentleman from Massachusetts designs to do in

regard to this bill. I certainly did understand that the gentleman from Massachusetts, if allowed to make his report at the time he did without objection, would at some day thereafter, to suit his own convenience, call it up and make his speech on it, and if there were any other gentlemen on his side of the House who wished to debate it they should have the opportunity. I supposed when he called it up to-day that such would be the order, that he would make his speech on the bill, and others on his side who wished to speak on it should have the floor, and that then the discussion should be postponed for one week. Whether it is Friday or Saturday next does not make any particular difference to me, so far as I am personally concerned. This understanding I gave to my friends, that that was the order in which the bill would be discussed. They so understood it. But there is one gentleman on our side who is prepared to make his speech to-day, and there will be no misunderstanding between the gentleman from Massachusetts and myself if he shall make his speech and then yield the floor to the gentleman from Kentucky, [Mr. KNOTT,] to submit his remarks. There are other gentlemen on this side of the House who wish to make speeches, and if the bill be postponed until next Friday or Saturday that will be understood.

Mr. BOUTWELL. I cannot consent to that, for that is different from any understanding I could have had with the gentleman from Wisconsin. As far as the business of the House will permit, I desire that the discussion on this bill shall run on during every hour that I can control between this and next Friday. I understood that the extreme limit asked by the gentleman from Wisconsin was that he should speak one week after I made my speech.

Mr. ELDRIDGE. The gentleman from Massachusetts could not have so understood me, it seems to me. He proposed to report the bill without a written report, and to bring it up at the time he did. I tried to get him to make a written report, so that we might know something about the course intended to be pursued. He knew that I had been engaged on the sub-committee, and that my whole time had been occupied with the investigation into the charges against Judge Busted ever since it had commenced. Finally, he told me, as I understood him, that he would report the bill, and at some time afterward, convenient to himself, make his speech, and then consent to its postponement. I so understood him; and when the gentleman from Kentucky [Mr. BECK] objected I went to him, and he withdrew it on the understanding which I have just stated. I hope the gentleman will not insist on any other order, because it was on that understanding that the bill was allowed to be reported.

Mr. HIGBY. I ask whether any member has the control of a measure of this kind so as to say when it shall be postponed, and when acted upon? If there is any such understanding I hope the House will take into its own hands the control of a matter of such importance to the country.

Mr. BOUTWELL. I resume the floor.

Mr. McKEE. I call for the regular order.

SUFFRAGE.

The SPEAKER. The regular order is the motion of the gentleman from Massachusetts, [Mr. BOUTWELL,] to reconsider the vote by which the bill (H. R. No. 1667) to secure equal privileges and immunities to citizens of the United States, and to enforce the provisions of article fourteen of the amendments to the Constitution, and the resolution (H. R. No. 402) proposing an amendment to the Constitution of the United States, were recommended to the Committee on the Judiciary. The gentleman from Massachusetts now calls up that motion, and is entitled to the floor.

Mr. BOUTWELL. I do not think it necessary for me to consume the time of the House in discussing the conversation which I had with the gentleman from Wisconsin, [Mr.

ELDRIDGE.] My object was not to make any arrangement by which the business of the House should be improperly controlled, but as the gentleman was a member of the Committee on the Judiciary, and was engaged upon a sub-committee in the service of the House, and desired to speak upon this subject, it was, of course, natural and proper for me to seek to so arrange the conduct of this measure as to give him an opportunity to be heard. That is all I designed to do, and I beg the gentleman from California [Mr. HIGBY] to take notice of it. For the future conduct of the bill I can only say that it is my desire that the gentleman from Wisconsin shall have an opportunity to be heard on Thursday or Friday; but if the House judges otherwise, and takes control of the measure, the House will be responsible for its own action.

This measure, or these two measures, which have been reported together by the Judiciary Committee, are the last as far as I can foresee of a series of great measures growing out of the rebellion, and necessary for the reorganization and pacification of the country, with which the Republican party to a large extent, through their Representatives and Senators in the Thirty-Eighth, Thirty-Ninth, and Fortieth Congresses, has been charged. I say that this measure, as far as I can foresee, is the last of those great measures, and for this reason: if we secure to all the people of the country, without distinction of race or color, the privilege of the elective franchise, we have then established upon the broadest possible basis of republican equality the institutions of the country, both state and national.

I am persuaded, by my experience upon those other questions and by the circumstances in which we are now placed, that it is impossible, whatever may be the desire of individual members of the House, whatever may be the wishes, or the hopes, or the prejudices of any portions of the people of the country, for us to escape this issue as a Congress and as a party. I shall speak to-day with great freedom upon the responsibility of the Republican party to the country. I know it is not customary in a legislative assembly to present measures in what is called a party aspect, and I will therefore state to the House very briefly the reasons for the course I now pursue.

Those reasons are largely based on the declaration that the Republican party stands in a relation to the country and to certain great questions and interests differently from any other party that has existed since the revolutionary era. During all previous time since the close of the revolutionary war parties have divided upon questions of administration, upon a difference of ideas as to what the public policy of the country should be. During the revolutionary war the differences between the Whig party and the Tory party were more comprehensive and fundamental. One party maintained the right of the Colonies to a separate and independent existence as a nation, and the other denied that right. We stand to-day in an analogous position. The Democratic party of this country as a party organization, from the opening of the war to the present time, has been identified with all those ideas and measures which were calculated in their nature and in their operation to prevent the restoration of the Union by and through the agency of war for the suppression of the rebellion. It is a noticeable fact, which we do not to-day sufficiently appreciate, that this nation is indebted to the Republican party for its existence. Therefore, I say that the Republican party organization is responsible, and it cannot escape being responsible, for the consummation of those measures which are necessary to the perpetuity and to the peace of a nation which the Republican party has saved from overthrow.

One of the measures reported by the committee is a bill to secure equal privileges and immunities to citizens of the United States, and to enforce the provisions of article fourteen of the amendment to the Constitution. The other is a joint resolution proposing an amendment

to the Constitution of the United States. I am aware that there are persons who believe that all that is necessary to be done should be done by an act of Congress. There are others who are of opinion that the subject is not within the proper scope of legislative power, and that the only way to secure equality of suffrage to the people of this country, without distinction of race or color, is by an amendment to the Constitution.

As I proceed I shall state the reasons why I am not willing to rely exclusively upon a law of Congress, and also the reasons why I think it not wise to submit a constitutional amendment without the aid of legislation. For the present I only desire to say that the committee, I believe—certainly in speaking for myself I am able to say it—invite examination and criticism in regard to the phraseology as well as to the objects proposed by the bill and by the constitutional amendment, it being our purpose to make the two measures as perfect as possible without regard to the paternity of the words employed. I shall direct my remarks generally to the provisions of the bill. The first section of the bill is in these words:

That no State shall abridge or deny the right of any citizen of the United States to vote for electors of President and Vice President of the United States or for Representatives in Congress, or for members of the Legislature of the State in which he may reside, by reason of race, color, or previous condition of slavery; and any provisions in the laws or constitution of any State inconsistent with this section are hereby declared to be null and void.

The second and third sections are remedial and punitive, and are not necessary to be considered particularly in the discussion in which I am now engaged. The fourth section of this bill is framed in accordance with and by authority of the fourteenth amendment to the Constitution. It is in these words:

That any person disqualified by section three of article fourteen of the amendments to the Constitution of the United States, and from whom such disability shall not have been removed by act of Congress, who shall exercise the powers and duties of any office therein specified, shall be deemed guilty of a misdemeanor, and being convicted thereof shall be imprisoned and kept at hard labor for the term of two years; and an indictment for the same may be found at any time within ten years from the commission of the offense.

The purpose of this section is clear. There are in many of the States, those that have been reconstructed, those that are still under military government, as well as in the State of Kentucky, and perhaps in some other States that were not engaged in the rebellion, men who by the fourteenth article of amendment are disqualified from holding office. While, as I shall have occasion to say, we are not in our legislation to be governed by any feeling of resentment or malice, I still think it is due to the supreme and solemn character of the fourteenth amendment to the Constitution that Congress should enforce it against every man who by that provision is disqualified; and after having enforced it, we may then consider whether those men should be relieved of their disqualifications. But I hold it to have been a duty on the part of every man who professes now to be loyal to the Government of his country and who was holding office when the fourteenth amendment was adopted to resign his office, and thereby recognize the supremacy of the Constitution of the United States.

It will be seen that the first section of this bill, which contains all the essential provisions with reference to the right of suffrage, limits the operation of the law to elections for President and Vice President, Representatives in Congress, and to members of the State Legislatures. It will also be seen, by the argument which I shall submit, based upon the Constitution of the United States, that the powers of Congress are probably broader than those set forth and asserted in the section of the bill which I have just read; but inasmuch as I believe all the objects which we are now seeking can be accomplished by the legislation here proposed, and the right of every citizen, whether black or white, native-born or naturalized citizen, can be secured within a reasonable period of time, I am in favor of legisla-

ing so far only as may be necessary, to secure those objects, not waving, however, or in any way, qualifying the assertion of the constitutional right in Congress to legislate upon the subject of the franchise, even in reference to the election of officers not named in this section of the bill. Those who are familiar with the debates which took place in the convention that framed the Constitution of the United States, and especially those who have read the debates that took place in the several State conventions upon the subject of ratifying the Constitution of the United States, must have been struck with the circumstance that all the friends of the Constitution asserted that there was power in the Constitution over the elective franchise to an extent which would enable the national Government to preserve its own existence independently of any action on the part of the States. If this Government be not a mere confederacy, held together by the merest thread, this must be true in the nature of the case. If the declaration in the preamble that we are a people has any meaning; if the Constitution which the people of the United States as one people established has any virtue or any force, any power to accomplish the purposes of a Government, then in this Government there must be constitutional means by which those charged with the administration can provide for its preservation and continuance.

I am now dealing with general principles, and not with the text of the Constitution, to which I shall come ere long. Upon general principles there must be power in the national Government to provide whatever is necessary for its own preservation. But if the doctrine of those who maintain that the whole question of suffrage is vested in the States be true, then the States may refuse to choose electors; they may refuse to send members to this House; they may refuse to choose Senators by their Legislatures, and thus the Government of the United States would come to an end. There would be no President; there would be no Senate; there would be no House of Representatives, and the Government would consequently cease to exist.

Sir, I know not in the darkest days of the Republic, when State rights were triumphant, I know not of any theory more destructive to national existence and public liberty more directly opposed to the nature of our Government than that which is now avowed. It is a remnant of ancient and false traditions not supported by the Constitution. I shall ask the House to consider what the Constitution does declare upon the subject of suffrage. It will be found that there is no word or phrase in the instrument which tolerates the idea that the existence of this great Government, continental in its dimensions, is at the mercy of the States through defects in our fundamental law.

I come now to the provisions of the Constitution of the United States bearing upon the question of suffrage. I read first that provision on which I suppose much reliance is placed to sustain the doctrine that the power over the question of suffrage is, to a certain extent, vested absolutely in the States. The second section of the first article of the Constitution is in these words:

"The House of Representatives shall be composed of members chosen every second year by the people of the several States; and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

It has been assumed, upon this section of the Constitution, that each State has the power absolutely to fix the qualifications of electors of the most numerous branch of the Legislature, and that therefore the power of Congress, if it existed at all in reference to the election of Representatives to Congress, was controlled by what the State might have done in reference to electors for members of the most numerous branch of its Legislature. But if gentlemen will look at the phraseology of this section as it stands they will see that it does not give power to the States in reference to the qualification of voters; that it does not give power to the United States in reference to the quali-

fications of voters; that it does not take power from the States, nor does it take power from the United States. It merely declares the fact that the voters for Representatives in Congress shall possess the qualifications of voters for members of the most numerous branch of the State Legislature. It is an injunction to the States if they have the power to prescribe the qualifications of voters; it is an injunction to the national Government if the national Government has that power. But there is no declaration in this section that either has the power, and certainly not that either has the power to the exclusion of the other. But the fourth section of the same article of the Constitution further provides that—

"The times, places, and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof."

If the provision ended here, the theory which is maintained by gentlemen who deny the propositions contained in this bill would be well supported by the Constitution:

"The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof."

The word "manner," in this connection of course becomes important. All writers upon words have considered the power and scope of three words which have a great similarity of meaning, "mode," "method," and "manner," and it is uniformly agreed that "manner" is the largest and most comprehensive of the three in its scope. Patrick Henry, of Virginia—and I shall read his declarations to the House—gave his view of the meaning of the word "manner," which coincides with the view that I now take. It includes, as I maintain, everything relating to an election, from the qualification of the elector to the deposit of his ballot in the box. Here is set forth the power of the State. By the Constitution a State has original jurisdiction of the "times, places, and manner of holding elections for Senators and Representatives;" and it is from this provision of the Constitution that the State gets its power over the subject, so far as the Constitution of the United States is concerned.

Either one or the other of two things is true: either these words as herein employed in their scope and meaning cover the entire subject of elections, from the qualifications of the voter to the deposit of his ballot in the box, or else, by necessary legal inference, the States have not the power which they have been in the habit of exercising; for if this be a qualified and limited grant or recognition of authority, then what is not granted or recognized they do not possess. But the history of the facts from the first, and the recognition by Congress of the powers of the States, go to the extent of conceding to them entire scope and original control of the whole matter of voting, including the qualifications of the voter, his registration, and the deposit of his ballot in the box.

Mr. ELDRIDGE. Will the gentleman allow me to ask him a question?

Mr. BOUTWELL. Yes, sir.

Mr. ELDRIDGE. I wish to inquire of the gentleman from Massachusetts whether he means to affirm that the States possess no powers except those which are granted to them in and by the Constitution of the United States?

Mr. BOUTWELL. I have not said that.

Mr. ELDRIDGE. I supposed the rule to be entirely the other way; that the United States Government has no powers except those which have been granted to it. I understood the gentleman to declare that the States cannot possess the power which we claim they have of regulating the qualifications of voters, because the Constitution contains no grant of the power to them. That is the way in which I understood the gentleman.

Mr. BOUTWELL. The gentleman misunderstands me. This is a declaration in the Constitution of the power of the States over the subject of voting. If it is a full and complete power over the whole subject it is what we maintain; but if it be not a full and complete power, then inasmuch as here is a declar-

ation of the extent of the powers of the States, then the States are limited necessarily by the interpretation that is put upon this language; for if the Constitution of the United States says that States have certain powers, even though there be no negative in the declaration, they cannot go beyond the powers thus defined. Let me read what remains of this provision:

"But the Congress may at any time by law make"—

Very broad language—

"or alter such regulations, except as to the place of choosing Senators."

Now, sir, taking the language of the Constitution itself, divested of all theories and traditions concerning the meaning put upon it by State-rights men, can anything be more clear than that the Congress of the United States has all the power which the States could exercise, except merely as to declaring where the Senators shall be chosen? Can there be any doubt that the powers granted to or recognized as existing in the States, whatever the extent of those powers may be, is the measure of the powers which Congress may exercise? And therefore, when a State-rights man proves that by the Constitution of the United States a State has a right to decide who shall exercise the elective franchise, he has proved also that Congress may do the same thing under this provision of the Constitution which says that Congress may make any regulations it chooses relating to this subject or may alter such regulations as have been made by the States.

This is no new doctrine. It was asserted, as I have already stated, in most of the conventions which ratified the Constitution of the United States. It was declared again and again in the Convention which framed the Constitution of the United States.

Mr. Hamilton, in the *Federalist*, says, speaking of the fourth section of the first article:

"I am greatly mistaken, notwithstanding, if there be any article in the whole plan more completely defensible than this. Its propriety rests upon the evidence of this plain proposition, that every Government ought to contain in itself the means of its own preservation."

Again he says:

"Nothing can be more evident than that an exclusive power of regulating elections for the national Government, in the hands of the State Legislatures, would leave the existence of the Union entirely at their mercy. They could at any moment annihilate it by neglecting to provide for the choice of persons to administer its affairs."

In the several State conventions the ablest opponents of the Constitution based their objections to it upon the very ground that it gave to Congress the power which I am now advocating; and the defenders of the Constitution, so far as I have been able to ascertain, never denied the soundness of the theory on which those objections were based. Hear what Patrick Henry says. In the second volume of Elliott's *Debates*, page 149, Patrick Henry, speaking of the first section of the fourth article, giving to Congress power over the time, place, and manner of choosing officers, says:

"According to the mode prescribed, Congress may tell you that they have a right to make the vote of one gentleman go as far as the votes of one hundred poor men."

Can there be any broader declaration as to the power of Congress than that made by Patrick Henry in these words? Again, he continues:

"The power over the manner admits of the most dangerous latitude. They may modify it as they please. They may regulate the number of votes by the quantity of property without involving any repugnancy to the Constitution."

That was Patrick Henry's objection to the Constitution and to this particular provision. Replying to that objection, Mr. Madison, in the same volume, while he does not admit in terms the doctrine laid down by Patrick Henry, does not deny it, but asserts that the existence of this power is absolutely necessary to the existence of the Government. He says:

"With respect to the other point, it was thought that the regulation of the time, place, and manner of electing Representatives should be uniform throughout the continent. Some States might regulate the elections on the principles of equality, and others might regulate them otherwise."

This is exactly the condition in which we are

to-day. "Some States," says he, "may regulate the elections upon the principles of equality, and some States may regulate them otherwise."

"This diversity would be obviously unjust. Elections are regulated now unequally in some States, particularly South Carolina, with respect to Charleston, which has a representation of thirty members."

Thirty members were in the Legislature of South Carolina from the city of Charleston. What was the theory of Madison? That that provision of the Constitution enabled the Congress of the United States to go into South Carolina and decide that the city of Charleston should not have more members in the Legislature of South Carolina than she was entitled to on the principle of equality.

Mr. Madison says:

"Should the people of any State by any means be deprived of the right of suffrage, it was judged proper that it should be remedied by the General Government."

Forty thousand citizens of the United States are deprived of the right of suffrage in the State of Kentucky. What is here suggested by Mr. Madison is what the committee propose to-day. There are at least one hundred and fifty thousand citizens of this country who are denied the right of suffrage. Mr. Madison says that "it was judged proper that it should be remedied by the General Government." He says further:

"It was found impossible to fix the time, place, and manner of the election of Representatives in the Constitution. It was found necessary to leave the regulation of this, in the first place, to the State governments, as being best acquainted with the situation of the people, subject to the control of the General Government, in order to enable it to produce uniformity and prevent its own dissolution. And considering the State government and General Government as distinct bodies, acting in different and independent capacities for the people, it was thought the particular regulations should be submitted to the former and the general regulations to the latter. Were they exclusively under the control of the State governments the General Government might easily be dissolved; but if they be regulated properly by the State Legislatures, the congressional control will very probably never be exercised. The power appears to me satisfactory and as unlikely to be abused as any part of the Constitution."

He says again, on page 305:

"With respect to the time, place, and manner of elections, I cannot think, notwithstanding the apprehensions of the honorable gentleman, that there is any danger, or, if abuse should take place, that there is not sufficient security. If all the people of the United States should be directed to go to elect in one place the members of the Government would be exasperated for the infamous regulation. Many would go to trample them under foot for their conduct, and they would be succeeded by men who would remove it. They would not dare to meet the universal hatred and detestation of the people, and run the risk of the certain dreadful consequences. We must keep within the compass of human probability. If a possibility be the cause of objection we must object to every Government in America. But the honorable gentleman may say that better guards may be provided. Let us consider the objection. The power of regulating the time, place, and manner of elections must be vested somewhere. It could not be fixed in the Constitution without involving great inconveniences. They could then have no authority to adjust the regulations to the changes of circumstances. The question then is, whether it ought to be fixed unalterably in the State governments or subject to the control of the General Government. Is it not obvious that the General Government would be destroyed without this control?"

Mr. James Wilson, of Pennsylvania, was one of the ablest of the statesmen engaged in framing the Constitution of the United States. He was also a member of the convention of Pennsylvania that ratified the Constitution. In the latter body he gave his opinion upon the question now under debate. He said:

"I hope, sir, that it was no crime to sow the seed of self preservation in the Federal Government. Without this clause it would not possess self-preserving power. By this clause the times, places, and manner of holding elections shall be prescribed in each State by the Legislature thereof. I think it highly proper that the Federal Government should throw the exercise of this power into the hands of the State Legislatures, but not that it should be placed there entirely without control."

Again he says, in support of the powers of Congress:

"But there is an additional reason still that shows the necessity of this provisional clause. The members of the Senate are elected by the State Legislatures. If those Legislatures possessed, uncontrolled, the power of prescribing the times, places, and manner of electing members of the House of Representatives, the members of one branch of the General Legislature would be the tenants at will of the elect-

ors of the other branch, and the General Government would lie prostrate at the mercy of the Legislatures of the several States."

I do not intend to follow the discussion in all of the States. I have read what was said by Patrick Henry and Mr. Madison in the Virginia convention, and by Mr. Wilson in that of Pennsylvania. There were in Massachusetts two very distinguished men, Caleb Strong, from the western part of that State, and Theophilus Parsons, from Essex county, both distinguished persons, and the latter among the most eminent jurists of his time in this country, and, indeed, I think it not extravagant to say one of the most eminent jurists of modern times. He said, speaking of this very power:

"But a State Legislature, under the influence of their Senators, who would have their fullest confidence, or under the influence of ambitious or popular characters, or in times of popular commotion and when faction and party spirit ran high, would introduce such regulations as would render the rights of the people insecure and of little value. They might make an unequal and partial division of the States into districts for the election of Representatives, or they might even disqualify one third of the electors. Without these powers in Congress the people can have no remedy. But the fourth section provides a remedy, a controlling power, in a Legislature, composed of Senators and Representatives of twelve States, without the influence of our conventions and factions, who will hear impartially and preserve and restore to the people their equal and sacred rights."

What was said by Caleb Strong is substantially the same as that uttered by Theophilus Parsons.

The reporter of the Massachusetts debates makes this note:

"Several other gentlemen went largely into the debate on the fourth section, which those in favor of it demonstrated to be necessary: first, as it may be used to correct a negligence in elections; secondly, as it will prevent the dissolution of the Government by designing and refractory States; thirdly, as it will operate as a check in favor of the people against any designs of the Federal Senate and their constituents, the State Legislatures, to deprive the people of their right of election; and fourthly, as it provides a remedy for the evil; should any State, by invasion or other cause, not have it in its power to appoint a place where the citizens thereof may meet to choose their Federal Representatives."

Similar debates took place in North Carolina, New Hampshire, South Carolina, Rhode Island, and New York. The opponents of the Constitution objected to the fourth section of the first article upon the ground that it gave to Congress complete jurisdiction of this whole subject; and its friends never denied, so far as I can ascertain, that such was its scope and design. What happened next? Four States—New Hampshire, Massachusetts, Rhode Island, and New York—in ratifying the Constitution, demanded the amendment of the article relating to the powers of Congress over the subject of suffrage. I read the resolution adopted by Massachusetts:

"That Congress do not exercise the powers vested in them by the fourth section of the first article, but in cases where a State shall neglect or refuse to make the regulations therein mentioned, or shall make regulations subversive of the rights of the people to a free and equal representation in Congress, agreeably to the Constitution."

In seven of the conventions, at least, this provision of the Constitution had been assailed by most eminent men. What was done? The First Congress submitted twelve amendments to the Constitution, and neither of them touches the question raised by the four States.

What is the conclusion, then, of the whole matter upon the text of the original Constitution in reference to the question of suffrage. Why, first, that the power to make regulations concerning elections is vested in the States, and secondly, that the power of the General Government upon the subject of the franchise is just as comprehensive as the power of the States, and that we may make regulations as the States have made. This view is supported, first by the necessary theory of the Government that it cannot exist independently of the States if this power in the General Government is denied. It is also supported by the debates in the Convention that framed the Constitution itself. It is supported by the debates in the State conventions which ratified the Constitution, where the issue was distinctly

made upon that question between the friends of the Constitution and its opponents. The opponents of the Constitution charged that it contemplated precisely what we now say it means; the supporters of the Constitution did deny that it contemplated precisely what we say it means, and upon that ground they advocated the provision. The opponents of the provision in four of the States sought the submission of an amendment to the people giving a different and more limited construction to the article. The Congress of the United States refused to submit such an amendment. This is conclusive evidence that all the men who participated in framing this Government were of opinion that the power to regulate elections was in the States, subject to the supreme control of the General Government; and this without any inquiry into other provisions of the Constitution, which give us ample basis for all the legislation we now propose.

I come next to the consideration of a provision of the Constitution on which I might safely rest for the exercise of this power, certainly as far as several States are concerned, even if all that is granted to Congress in the provisions relating to representation were wanting. I refer now to the provision of the Constitution by which the United States are to guaranty to each State a republican form of government. I read from the Federalist what is old and very well known. Mr. Hamilton says:

"In a confederacy founded upon republican principles and composed of republican members the superintending Government ought clearly to possess authority to defend the system against aristocratic and monarchical measures."

I take it nobody will deny this. In the Pennsylvania convention Mr. Wilson treated the guarantee clause as justifying substantially what is now proposed. He says:

"In this system it is declared that the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature. This being made the criterion of the right of suffrage, it is consequently secured, because the same Constitution guaranties to every State in the Union a republican form of government. The right of suffrage is fundamental to republics."

It is not necessary for my purpose to go further. What is the nature of the difficulty with which we are now dealing? Is it a difficulty in harmony with republican institutions and a republican form of government, or is it a difficulty which is antagonistic to republican institutions? What is the essence of an aristocracy? How is it distinguished from a republic? The essence of an aristocracy is in this, that the Government is in certain families made hereditary to the exclusion of others. That is all there is of it. You may limit this aristocracy to twelve men, you may enlarge it to a hundred, to a thousand, or to ten thousand; but if limited, if certain persons are included and certain others excluded, not for themselves merely but for all their posterity, you have an aristocracy. There is, I submit to this House, no other possible definition of an aristocracy; there is no other possible honest distinction between an aristocratic and a republican form of government.

Mr. NIBLACK. I desire to ask the gentleman this question: will not the position which he assumes require us, in order to make a State government republican in form, to confer suffrage also on females to the same extent that we do upon males?

Mr. BOUTWELL. Well, Mr. Speaker, I have myself been rather broad and generous in times past in maintaining the right of people to vote. I see that there is a party coming which promises to go very far in advance of myself, with more rapid strides than I have been able to take. I am willing, for one, that the gentleman from Indiana [Mr. NIBLACK] for the present should maintain the doctrine which he suggests in the question he puts to me, because I suppose it carries with it as an incident the result which I seek by this bill. If he will go with me in granting suffrage to all male citizens of this country twenty-one years of age, without regard to race or color, I will listen most atten-

tively to any argument he shall make here, or anywhere else within my reach, in favor of the right of women to vote.

Mr. ELDRIDGE. The question is, will you vote for it? We are doing precisely the same thing for you—listening to your argument; but we do not propose to go with you on this question, and we do not expect you will go with us on the other question.

Mr. BOUTWELL. I was proceeding to consider the distinction between an aristocracy and a republic. I say without hesitation that none of those States in which men are denied the elective franchise for themselves and for all their posterity are republican. They are aristocracies more or less offensive to republican institutions and to republican government, and inasmuch as by the Constitution the United States has power, and it is made its duty to guaranty a republican form of government to each State, if upon observation we find, as I think we do find in Delaware, in Kentucky, in Maryland, in Ohio, and in Pennsylvania, that the governments are not republican, it becomes our duty to exercise the power vested in us by the Constitution and make those governments republican by law.

Mr. JONES, of Kentucky. I would like to ask the gentleman a question just here. I would ask if he holds that the Constitution of the United States prohibits any State from regulating the right of suffrage? And if so, I ask the gentleman how he construes the tenth amendment to the Constitution of the United States, which, I believe, was suggested by his own State of Massachusetts? I think when Massachusetts met in State convention to ratify the Constitution of the United States she instructed her delegates not to cease their efforts in the Federal Convention until they had obtained that amendment, which I will read:

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people."

Mr. BOUTWELL. I must claim the floor. Mr. JONES, of Kentucky. I should be very glad to hear the gentleman answer my question.

Mr. ELDRIDGE. We will give the gentleman farther time to answer it. I will move that the House give him farther time.

Mr. BOUTWELL. Well, I will answer the question.

Mr. JONES, of Kentucky. If the power is not prohibited by the Constitution to a State, then it exists in the State.

Mr. BOUTWELL. I have already argued that point upon the provision of the Constitution which gives to the States power over the time, places, and manner of holding elections. I cannot add anything to the statement I made upon that point.

Mr. JONES, of Kentucky. My question is, does the Constitution prohibit the States from regulating the matter of suffrage?

Mr. BOUTWELL. There is a power recognized in the States by the fourth section of the first article, and there is a power in the same section granted to the General Government concerning the matter of elections, and the tenth amendment to the Constitution, to which the gentleman refers, does not touch this case at all. The power given to the States to regulate the time, places, and manner of holding elections is a specified and distinct power, and it is not disturbed by the tenth amendment. The power given to Congress in the same article to alter those State regulations is a specific power also, and that is not touched by the tenth amendment to the Constitution.

I leave now that portion of my argument based upon the guarantee clause, and proceed to the consideration of the fourteenth amendment to the Constitution of the United States. If there were any doubt remaining in the mind of any person as to the power of Congress over this whole subject, as derived from the three provisions of the original text of the Constitution to which I have referred, I believe that every doubt must disappear upon an

analysis of the fourteenth amendment. The first clause of the first section is in these words:

"All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the States wherein they reside."

Mark the words! Then comes the inhibition on the States:

"No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States."

By the first clause citizens of the United States are citizens of the States in which they reside. One of the immunities, then, and privileges of a citizen of the United States is that he shall be a citizen of the State where he resides, and the inhibition applies as well to the deprivation of rights derived directly from the States as to those rights derived directly from the United States Government. It is a comprehensive inhibition upon the States. They cannot deprive a citizen of the United States of any privilege or immunity which he may enjoy as a citizen of the United States; they cannot deprive him of any privilege or immunity which he may enjoy, or which any other citizen may enjoy as a citizen of the State in which he resides. This declaration in reference to the rights of citizens is for all or it is for nobody. We have certain privileges in this House, the two chief of which are, first, privilege from arrest in certain cases during the sessions and while traveling to and from our respective residences; and the other is, that we are not held answerable elsewhere for anything that we may say here.

Mr. Speaker, consider what is covered by the word "privileged," as used in the Constitution, not interpolated by me for the purpose of this debate. The rights to which I have referred are declared to be the privileges of members of the Senate and of the House of Representatives. They are distinctions by which, under the Constitution, we are recognized and set apart from other men. They are privileges, in the language of the lexicographers, "peculiar benefits, advantages, immunities." They are for all of us equally. We are characterized in the Constitution as "members." We are as members endowed with certain privileges, and under that provision of the Constitution we are peers. What are the privileges under the Constitution of one member are the privileges of every other member.

[Here the hammer fell.]

The SPEAKER. The hour of the gentleman from Massachusetts [Mr. BOUTWELL] has expired.

Mr. KNOTT obtained the floor; but yielded to Mr. ELDRIDGE, who said: I hope the time of the gentleman from Massachusetts will be extended.

The SPEAKER. For how long?

Mr. BOUTWELL. I cannot say how long.

Mr. ELDRIDGE. I do not propose any limitation of the time.

No objection was made.

Mr. BOUTWELL resumed the floor.

Mr. WARD. Will the gentleman yield to me for a question?

Mr. BOUTWELL. Very well.

Mr. WARD. I find by reference to the bill now before the House that it proposes to affect the question of suffrage not only in reference to the election of members of Congress, but also in reference to the election of the presidential electors. I have no difficulty in relation to members of Congress, for I believe that we possess that power. But I would ask the gentleman whether this bill is not in violation of that provision of the Constitution which prescribes that presidential electors shall be appointed in such manner as the Legislatures of the several States may respectively direct?

Mr. BOUTWELL. So far as the features of this bill are concerned I would prefer to defer their consideration for the present.

I was saying, Mr. Speaker, when my time expired, that under the Constitution the privileges of members of this House are for us all or they are for none of us. When you have

established the right of one member here to the benefit of these privileges you have established the right of all the members of the House to the same privileges.

Now, what is the language of the section which I am considering?

"No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States."

I inquire how are you to distinguish between the various classes of persons in the several States? By the first clause of this section "all persons born or naturalized in the United States are citizens of the United States." They may have been born in Africa, in Denmark, in Ireland; they may be white, they may be black; but by the Constitution they are citizens of the United States, and by that same Constitution it is declared that the privileges and immunities of citizens of the United States shall not be abridged by any State of this Union.

I say again, therefore, that that provision of the Constitution is for all the people or it is for none of them. Under that Constitution we cannot select and say that a man born in this country shall be entitled to certain privileges as a citizen to which a man born elsewhere and naturalized shall not be entitled. We cannot say that a white citizen shall enjoy privileges which are denied to a black citizen or to a naturalized citizen, white or black.

Next, is the right to vote one of the privileges of the citizen? I have here in my hand an authority from the State of Kentucky in which the characteristics of citizens are laid down by the supreme court of that State in most satisfactory and conclusive language, and I am willing to indorse it.

The opinion was given upon questions arising in an action of tort brought by a colored woman named Amy against a man named Smith, who claimed her as his slave. The action was in 1822, and the circumstances of the case were these: the woman was born a slave in the State of Pennsylvania, where she remained until the abolition of slavery was decreed in that State. She then went to Virginia, as I assume, before the admission of Kentucky. The man Smith, who claimed to be her master, used some brutality toward her for which she commenced an action against him.

The defense was that he was her master, that she was his slave. Her counsel maintained that, inasmuch as she was born in Pennsylvania, and was there when slavery was abolished in that State, she from the moment of the abolition of slavery there became not only free but a citizen of the United States; that having obtained in Pennsylvania the rights of a citizen, she was entitled to the benefit of that provision of the Constitution which says that the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States. How did the court meet this position? And this is the part of the opinion to which I wish to call the attention of the House. The court say:

"It was not, however, of that clause of the Constitution of the United States that the act of 1803 was contended by the plaintiff's counsel to be an infraction, but of the clause which provides that 'the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States,' first clause, second section, and fourth article. To entitle the plaintiff to the benefit of this clause it is obviously necessary that she should be a citizen of some one of the United States; and it is accordingly urged by her counsel, in support of her title to that character, that she was before her removal from Pennsylvania a citizen of that State, and that by her removal to Virginia she became a citizen of the latter."

"Before we can determine whether she was a citizen or not of either of those States, it is necessary to ascertain what it is that constitutes a citizen. In England, birth in the country was alone sufficient to make any one a subject. Even a villain or a slave born within the king's allegiance is, according to the principles of the common law, a subject; but it never can be admitted that he is a citizen. One may, no doubt, be a citizen by birth as well as a subject, but subject and citizen are evidently words of different import, and it indisputably requires something more to make a citizen than it does to make a subject. It is, in fact, not the place of a man's birth, but the rights and privileges he may be entitled to enjoy which make him a citizen."

The term citizen is derived from the Latin word *civis*, and in its primary sense signifies one who is

vested with the freedom and privileges of a city. At an early period after the subversion of the Roman empire, when civilization had again begun to progress, the cities in every part of Europe, either by usurpation or concession from their sovereigns, obtained extraordinary privileges in addition to those which were common to the other subjects of their respective countries; and one who was invested with these extraordinary privileges, whether he was an inhabitant of the city or not, or whether he was born in it or not, was deemed a citizen. (See *Ree's Cyclopædia*, under the word citizen.) In England a citizen is not only entitled to all the local privileges of the city to which he belongs, but he has also the right of electing and being elected to Parliament, which is itself rather an extraordinary privilege, since it does not belong to every class of subjects. (Com. Dig. Parliament, D. 6, 4 Inst. 6.)

"If we go back to Rome, whence the term citizen has its origin, we shall find in the illustrious period of her republic, that citizens were the highest class of subjects to whom the *jus civitatis* belonged, and that the *jus civitatis* conferred upon those who were in possession of it all rights and privileges, civil, political, and religious. (Butler's *Horæ Juridicæ*, 26, 27.)

"When the term came to be applied to the inhabitants of a State, it necessarily carried with it the same signification with reference to the privileges of the State which had been implied by it with reference to the privileges of a city, when it was applied to the inhabitants of the city; and it is in this sense that the term citizen is believed to be generally, if not universally, understood in the United States. This indeed evidently appears to be the sense in which the term is used in the clause of the Constitution which is under consideration; for the terms 'privileges and immunities,' which are expressive of the object intended to be secured to the citizens of each State in every other, plainly import, according to the best usages of our language, something more than those ordinary rights of personal security and property which by the courtesy of all civilized nations are extended to the citizens or subjects of other countries while they reside among them.

"No one can, therefore, in the correct sense of the term, be a citizen of a State who is not entitled, upon the terms prescribed by the institutions of the State, to all the rights and privileges conferred by those institutions upon the highest class of society. It is true that females and infants do not personally possess those rights and privileges in any State of the Union, but they are generally dependent upon adult males, through whom they enjoy the benefits of those rights and privileges; and it is a rule of common law, as well as of common sense, that females and infants should in this respect partake of the quality of those adult males who belong to the same class and condition in society, and of course they will or will not be citizens as the adult males of the same class are or are not so.

"Nor do we mean to say that it is necessary even for an adult to be a male citizen that he should be in the actual enjoyment of all those rights and privileges which belong to a citizen. He may not only not be in the actual enjoyment of those rights and privileges, but he may even not possess those qualifications of property, of age, or of residence which most of the States prescribe as requisites to the enjoyment of some of their highest privileges and immunities, and yet be a citizen. But to be a citizen it is necessary that he should be entitled to the enjoyment of those privileges and immunities upon the same terms upon which they are conferred upon other citizens, and unless he is so entitled he cannot, in the proper sense of the term, be a citizen."

Here is a full and I believe a fair statement of what constitutes a citizen. He must be in the enjoyment of all the rights and privileges of any other citizen.

Mr. NICHOLSON. Will the gentleman yield to me for a question?

Mr. BOUTWELL. Yes, sir.

Mr. NICHOLSON. I desire to inquire whether, when the fourteenth article of the amendments of the Constitution was under discussion in the Thirty-Ninth Congress, the gentleman himself, and other members of his party who took part in that discussion, did not concede the distinction between civil and political rights and privileges; and whether they did not also concede that this fourteenth article would not confer political rights upon the class intended to be benefited?

Mr. BOUTWELL. I have no recollection of anything of that sort, though it may be that some persons did make such a concession. I believe that gentlemen on the other side of the House generally claimed that it would confer such rights; and I cannot say but that some members on this side of the House may have disavowed that construction; but I was not one of them.

Mr. ELDRIDGE. Will the gentleman allow me to inquire in this connection whether it was not conceded at that time that this fourteenth article recognized the existence on the part of the States of the right to regulate suffrage without the control of Congress, subject to the penalty that their representation in Congress

might be curtailed if they should exclude from suffrage persons of a certain class?

Mr. BOUTWELL. I will state my views on that point. Of course, I should not omit, in an argument upon this subject, the question suggested by the inquiry of the gentleman from Wisconsin, [Mr. ELDRIDGE.] I say, then, considering the first section of the fourteenth article of the amendments, that that section runs entirely in harmony with the previous provision of the Constitution concerning the rights of citizens. It is in harmony with the declaration made by the supreme court of the State of Kentucky, in the opinion from which I have just read, that it is an essential quality of citizenship that the citizen should enjoy the highest privileges that appertain to citizenship in the State or city of which he is a citizen. Therefore, when you prove to me that one man in the State of Kentucky votes for President, or for a Representative in Congress, or for members of the State Legislature, you have proved that every man having like qualifications of education or property has the same right. If you deny it to him you deny that to which by the Constitution he is entitled: the enjoyment of equal privileges and immunities as a citizen of the United States, and as a citizen of Kentucky in the State of Kentucky.

Then, sir, by the fifth section of the fourteenth article, Congress has power to enforce by appropriate legislation the provisions of the article. Does anybody doubt—in the presence of this provision of the Constitution, in view of the unlimited power under the fourteenth article to legislate so as to secure to citizens of the United States the privileges and immunities of citizens of any one of the States—does anybody doubt our duty?

Mr. BECK. I desire to ask, if by the first section of the fourteenth amendment it was intended to prevent the States from determining who should and who should not vote, why, when it provides that "no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States," it did not add, nor make discriminations among the citizens of the State itself in the exercise of the right of suffrage?

Mr. BOUTWELL. There was the plainest reason in the world. It was not necessary. The article provides, as it stands, that there can be no discrimination by the States among the citizens of the United States, who are as well citizens of the several States and entitled equally to the privileges of citizens.

I come now to the second section, upon which I know reliance will be placed by the opponents of the bill. It is there provided—

"SEC. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State."

If gentlemen will consider these two sections together they will see how entirely in harmony they are with each other, and how wholly unsupported is the doctrine that there is in this second section any concession to a State to abridge or deny to a citizen the right to vote. By the second section there is a political penalty for doing that which in the first section it is declared the State has no right to do. I read the first section:

"SEC. 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws."

It is here provided that there shall be no

abridgment of the privileges and immunities of citizens; and in the second section there is a penalty provided for a State that disregards the inhibition. We were then acting in the presence of the fact that many States of the Union were doing that which the first section declared they had no right to do. It was uncertain when Congress would exercise the power conferred by the fifth section of the fourteenth amendment, and in order that the States should not take advantage of their own wrong during the period while Congress might be inactive a penalty was provided. We knew that Kentucky, Maryland, and Delaware were doing what they were inhibited from doing by the first section of the article, and we said that they should suffer in representation for so doing. Power was given to Congress to remedy this evil, and that power Congress is now called upon to exercise.

But, sir, consider the anomalous feature in our Government if the doctrine be successfully maintained that we cannot legislate on this subject. There are citizens in Kentucky and Maryland who, if the doctrine set forth by the opponents of this bill be a sound constitutional doctrine, are eligible to the office of President or Vice President of the United States, and yet who cannot vote for Representatives in Congress or even for a State, county, or town official. What is the qualification for the office of President? He must be a native citizen of the United States and thirty-five years of age. Nothing more. These are the only qualifications for the office of President. By the fourteenth amendment to the Constitution we have declared that all the black men in Maryland and other States shall be citizens of the United States. Certain State governments have for the present denied those people the right to vote, and yet one of them may be elected President of the United States and another Vice President. Is there such an anomaly in our Government? Are we prepared to admit its existence unless the Constitution imperatively requires it? The Constitution provides that any one twenty-five years of age, who has been a citizen for seven years, may be elected a Representative upon this floor, and colored men, although denied the right of suffrage in their own States, may be elected to legislate for the whole country. Thus is the General Government put in an anomalous and inconsistent position.

Mr. ELDRIDGE. The gentleman from Massachusetts has entirely ignored the question I put to him in regard to the fourteenth amendment to the Constitution. The question I desire to put is this: whether there is not in that amendment a distinct recognition of the existence of the power to regulate suffrage in the States themselves?

Mr. BOUTWELL. Oh, no; not the least.

Mr. ELDRIDGE. Then I do not understand it.

Mr. BOUTWELL. If the right to vote for certain officers be denied or abridged, then certain political consequences follow; but in the first section there is a distinct declaration that this cannot lawfully be done. We only recognized the existing facts. We knew there were some States in which the wrong existed. It might require time before Congress could exercise its powers under the fifth section, and the country meant to say that while this state of things continued—a state of things unjust and contrary to the Constitution—the States should not have the benefit of their wrong doing.

Mr. ELDRIDGE. In view of the gentleman's position I ask him how it is possible that a State can disfranchise any citizen?

Mr. BOUTWELL. I think they cannot properly or lawfully.

Mr. ELDRIDGE. How can they ever cause this penalty to attach? How can they lessen their representation by any acts of their own?

Mr. BOUTWELL. A Legislature may do a thing which as matter of fact they are capable of doing, but which, considered in the light of the Constitution they have no right to do; and while we may have the power by which we can

correct that misdoing, still not being in a condition to put that power in force we say meanwhile you shall not take advantage of your own wrong-doing.

This bill, then, is defensible, first on the original text of the Constitution; in which the subject of suffrage is considered; it is defensible upon the guarantee clause of the Constitution; it is defensible upon the fourteenth article of amendment to the Constitution; and it is defensible as the exercise of a necessary power in the Government. The power is essential to the existence and preservation of the Government itself; and was so regarded by the men who framed the Constitution of 1787.

Leaving the argument I come now to the presentation of certain reasons why we should pass this bill, and also submit the proposed amendment to the Constitution to the Legislatures of the several States.

Mr. PRUYN. I dislike to interrupt the gentleman, but as he has just stated that he has passed to another point, I would like to ask him, in view of his recent declaration, on what grounds the bill is defensible—whether he means that those grounds are cumulative or whether he would rest the whole on the original Constitution without the fourteenth article of amendment?

Mr. BOUTWELL. What I mean to say is, if either one of the three positions which I have taken is sound then the bill is defensible; that is to say, if my construction of the original provisions of the Constitution concerning the power of the national Government over the time, place, and manner of holding elections be correct, or if the power given to us under the guarantee clause of the Constitution be what I assert it to be, or if we rely exclusively upon the fourteenth article of amendment, that either of these constitutes a sufficient justification for what we now propose to do. But when we have the cumulative power—if it be possible to conceive of an accumulation of power in the Constitution—when we have the cumulative power of those three great provisions added to the supreme necessity of the case that the national Government should have the right to exercise those powers necessary for its own existence, I hold that there remains no longer a constitutional or logical reason why we should hesitate to act.

Mr. PRUYN. The statement is not quite satisfactory.

Mr. SHELLABARGER. Before the gentleman proceeds to the consideration of the other matter I desire to have the benefit of his views upon a difficulty that occurs to my mind in his argument; not because I antagonize with the views he has presented, but simply that I may have the benefit of his views touching that difficulty. I understood the first proposition of the gentleman's argument to be substantially this: that if the Constitution had reposed in the States the unlimited power to regulate the matter of voting for Federal officers it would involve this mischief, to wit: that thereby the power would be placed in the States to withhold from the Government the election of Federal officers at all, and that that mischief might be fatal to the Government itself. Am I right in that statement?

Mr. BOUTWELL. Yes, sir.

Mr. SHELLABARGER. Then the gentleman in passing to what is called the guarantee clause of the Constitution as the third point to be discussed, maintains that the clause operates as a limitation upon the power of the States to prohibit them from creating what the gentleman calls an aristocracy; in other words, prohibits them from confining the right to vote to such a number of people as that it would not be a republic. Now, the question that I wish to ask, and the difficulty in my mind that I wish the gentleman to remove is this, whether his last proposition does not destroy his first one, and whether, taking the two together, there is not found in the Constitution, in the guarantee clause, that very check upon the reduction of the representative franchise to such an extent as in his first proposition, he

says, would or might overthrow the Government.

Mr. BOUTWELL. I have no difficulty in my own mind upon that point. The provision in the Constitution in the first article referred to relates exclusively to the subject of suffrage, and the second of the provisions which I have read, as I interpret it, gives to the General Government precisely that power over the subject of voting which the States themselves possess. When a difficulty arises in a State, relating solely to the matter of suffrage, we may legislate under and by virtue of these provisions of the Constitution and remedy that particular evil, but the provision in the Constitution in relation to the guarantee by the United States of a republican form of government to each State is a broader authority. It not only relates to the question of suffrage, including that, of course, but it also includes many other possible anti-republican evils or difficulties in a State. As for example the very case which the Supreme Court in the Rhode Island controversy suggested, that a State might establish a military government. Suppose they did so, as was done in France, by universal suffrage, it would be none the less an anti-republican proceeding, a military government antagonizing, superseding a republican government. We might not be able to reach it under the provisions of the first section of the Constitution relative to suffrage, and then we should be obliged to act under the great power vested in the United States to guaranty to each State a republican form of government. We could exert our power, political and military if necessary, to dispossess those people who through universal suffrage had taken military control of the State.

Mr. SHELLABARGER. Still, Mr. Speaker, I fail to see how the difficulty is met by the proposition now suggested. If I understand what is now suggested, it is that the guarantee clause was meant to prevent more mischief or other mischief than the mere matter of the curtailment of the right of suffrage.

Mr. BOUTWELL. But includes that.

Mr. SHELLABARGER. And includes that too. But the difficulty still remains; I suppose, and I will repeat it; it is this: the first argument or proposition of the gentleman, which has exceeding force, taken by itself, is that if the power to regulate the matter of suffrage be left in the States unlimitedly, then he says the States have the power of the continued existence of the Government in their hands.

Mr. BOUTWELL. I think I see more distinctly now what point the gentleman has in view.

Mr. SHELLABARGER. My point is this: is not that difficulty in your construction of this clause met and overcome by that which you concede to be included in the other clause?

Mr. BOUTWELL. I have no doubt about that; but then I can understand that in the work of framing machinery for a Government the Convention of 1787 could very properly have said: we will provide a special remedy for particular grievances or wrongs, to wit, we will give power of the General Government to make or alter any State regulation relating to the times, places, and manner of holding elections. The idea of investigating all the institutions of a State for the purpose of ascertaining whether its government is republican in form involves larger consequences than a mere inquiry as to whether the ballot is equally enjoyed by all the citizens of a State. They provided in the Constitution a special remedy for these particular difficulties, but in providing a larger remedy for other and greater difficulties they were in the nature of the case led to the use of language which included the subject of suffrage. But for the purposes of the particular inquiry in which we are now engaged, if the provision of the Constitution relating to the times, places, and manner of holding elections had been omitted and the guarantee clause included, we still should have had the necessary authority; or if the guarantee clause had been omitted and the

provision relating to the times, places, and manner of holding elections had been included, we still should have constitutional power sufficient for the present exigency.

If I have made myself clear upon this point I desire now to pass to the consideration of those reasons operating upon my mind in favor of the passage of a bill, and the submission by joint resolution, also, of an amendment to the Constitution of the United States. And I must speak very plainly, though my words may, as I anticipate they will, give opportunity for those who are opposed to this measure to indulge in criticism upon what I may say. Our object is to secure universal suffrage to all adult male citizens of this country. The power is in our hands, first, as a Congress, and secondly as a party responsible for what this Congress does. If we submit a constitutional amendment alone, we in a certain sense admit that the power for which I am now contending is wanting. More than that; there are but twenty-five States to which we at the present time could look for the ratification of this amendment. We have then to secure three other States in support of the proposition. We are to enter upon that work with a certain amount of prejudice against and traditional opposition to negro suffrage.

Sir, I doubt not that nine tenths of the Republican party of the country are in favor of manhood suffrage. One tenth of the party are not in favor of it, and they constitute the great obstacle in the way of perfecting this benign measure. For one, I am in favor of taking the responsibility of the position which we occupy. We are responsible for universal suffrage as one of the crowning measures of an administration of eight years' duration, to be continued for four years by the judgment of the people already pronounced. The great majority of the people—and in this connection I will say that by "the people" I mean those who on the 3d of November last supported General Grant for the Presidency—the great majority of them expect of us the consummation of this plan. We have at this moment the right and the power on our side. Why, then, not submit a bill alone? Because there is no provision in the Constitution by which the United States is denied the power of abridging the right of citizens to vote. There is, in the fourteenth article of amendments to the Constitution, a limitation upon the power of the States in that respect, but none upon the power of the United States. The amendment which we propose secures the people against any abridgment of their electoral power, either by the United States or by the States. In that alone there is sufficient reason to justify the amendment.

In the next place, although I am myself persuaded of the existence of the power, and that it covers all State officers, still a different argument may be made against the proposition to legislate in reference to State officers from that which can be made against the proposition contained in this bill. Exercising the power which we possess, we provide that members of the State Legislatures shall be elected by all the adult male citizens in the several States.

Mr. BINGHAM. Will the gentleman yield to me at this point for a moment?

Mr. BOUTWELL. Certainly.

Mr. BINGHAM. If I have heard the gentleman aright, in the progress of his remarks he has said repeatedly that the drift of this proposition was to secure political power to the male adult citizens of the United States. Now, I would ask the gentleman if the proposed amendment as printed contains any such provision at all? Do I understand the gentleman aright as saying that the object is to secure the political power in the several States of this Union to the adult male citizens of the United States?

Mr. BOUTWELL. That is the purpose of the amendment.

Mr. BINGHAM. Then I would call the attention of the gentleman to the fact that this joint resolution as printed does not relate to the adult male citizens of the United States.

Mr. BOUTWELL. It does not speak of

them as such. I do not desire now to discuss that particular provision of the proposed amendment. I will, however, listen at another time to any suggestion on that point the gentleman may desire to make, either in public or in private.

Mr. BINGHAM. I hope I shall have the opportunity to move an amendment to this joint resolution, to improve its language.

Mr. BOUTWELL. Opportunity will certainly be given for amendment, as we desire to perfect this proposition.

If we rely exclusively upon a bill which when enacted is merely a law, and subject to congressional control and to all the vicissitudes of politics and changes of opinion, we cannot be assured of its fate in some future Congress. Therefore, if we have power to do what is contemplated in this bill, let us act. Having given to the colored people in several of the States the power to vote we have put into the politics of the country an element by which the amendment itself can be carried. I speak very plainly, because I have no processes in my own mind in reference to this or any other public measure which I am not at all times willing to disclose. There are one hundred and fifty thousand citizens of the United States who by this bill will be entitled to the elective franchise but who are now disfranchised—seventeen hundred in Connecticut, ten thousand in New York, five thousand in New Jersey, fourteen thousand in Pennsylvania, seven thousand in Ohio, twenty-four thousand in Missouri, forty-five thousand in Kentucky, four thousand in Delaware, thirty-five thousand in Maryland—who will rally to the support of this constitutional amendment if by the law they are enfranchised. These men have by the Constitution and by the judgment of the people of this country been declared citizens and entitled to all the rights of citizens. Now, in this struggle for the establishment of manhood suffrage in the country are we to decline the services of one hundred and fifty thousand men who are ready to do battle for us at the ballot-box in favor of human rights; not of their own rights merely, but of the rights of all men on this continent?

Sir, there can be no safety while we continue the wrong. If one hundred and fifty thousand black men may be disfranchised in ten States of this Union, if hundreds or thousands of naturalized citizens may be disfranchised in Rhode Island, where is the security? The foreigners naturalized in this country have acted under an opinion or impulse or prejudice against enfranchising the negroes; but when they see that their own class may be disfranchised, what security have they better than the negro who in Maryland is disfranchised? Some day or another the foreigners may desire to settle in South Carolina. South Carolina has a majority of black people. Suppose they disfranchise the natives of Ireland, or Germany, or the Scandinavian States. In view of such a contingency will the foreign citizens hesitate in this crisis when they have the power to settle this great question of human rights, not for negroes merely, but for white men? To white men born in this country, to white men born in other countries and coming here, as well as to negroes, there is no security while this great wrong continues. If we fail to act, and if, sir, there be a day of retribution for our omission to do our duty, as there has been a day of retribution for those men who omitted to do their duty upon another great question involving public crime, there can be no defense for us.

Mr. WELKER. I desire to inquire whether there is anything in this bill that will prevent any of the States from requiring of voters a property or an educational qualification?

Mr. BOUTWELL. I do not suppose there is. Mr. WELKER. Then the States may, under this bill, require such a qualification?

Mr. BOUTWELL. I suppose they may. Mr. Speaker, there is a special duty which we owe to these black people. There is a special duty which we owe to the white people of the South. To day the blacks in the South are

laboring under special disadvantages due to the circumstance that in Ohio and in other States of the North their kindred are not allowed to vote. When we shall have established universal manhood suffrage for the whole country we shall have given the black people in the South a position in the affairs of their respective States which they cannot command while their race is the subject of an unjust discrimination in other States of the Union. This question goes home as well to the white people of the South. Many of this class have been before a committee of this House asking for the removal of their political disabilities. I, for one, am not influenced by any resentment, by any malice, by any desire conceivable to myself, to delay for one moment their restoration to all the rights they formerly enjoyed. But, sir, I do not see how this House or this country can consent to relieve these men from their disabilities while those with whom they associate, and for whose conduct they are in some degree responsible, are oppressing our friends, the loyal men of the South.

Whenever we do justice to the black man in the North we improve his position, his capacity to take care of himself in the South. I know very well, from personal interviews with conservative men of the South, that to-day they are influenced in their opposition to negro suffrage by the fact that negro suffrage is not established in the old free States of the Union. The measures before us are a part of the great work of harmonizing the country, of pacifying all classes, of reconciling all interests.

Mr. Speaker, the Republican party must abide the judgment of posterity upon what it has done, but it must still move forward and consummate the great works it has undertaken. We need only courage, a fixed purpose to be just, with economy and honesty in administration. If to preserve our power in the country we are unjust we shall become timid. "Conscience doth make cowards of us all," and, becoming timid, the people will abandon us. Justice, honesty, economy, power on one side; injustice, timidity, ruin on the other.

Mr. BROOKS. I move the following amendments to the bill and joint resolution, in order to carry out the principles of the gentleman from Massachusetts and to do justice to millions of women:

Strike out the word "citizens" and insert "persons;" and insert before the word "race" "his or her;" and after the same word insert "sex, nativity, or age when over twelve years;" so the joint resolution and bill will read as follows:

Joint resolution proposing an amendment to the Constitution of the United States.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring,) That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be held as part of said Constitution, namely:

ARTICLE.—

SECTION 1. The right of any person of the United States to vote shall not be denied or abridged by the United States or any State by reason of his or her race, sex, nativity, or age when over twelve years, color, or previous condition of slavery of any citizen or class of citizens of the United States.

SEC. 2. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

A bill to secure equal privileges and immunities to citizens of the United States, and to enforce the provisions of article fourteen of the amendments to the Constitution.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no State shall abridge or deny the right of any person of the United States to vote for electors of President and Vice President of the United States, or for Representatives in Congress, or for members of the Legislature of the State in which he may reside, by reason of his or her race, color, sex, nativity, or age when over twelve years, or previous condition of slavery; and any provisions in the laws or constitution of any State inconsistent with this section are hereby declared to be null and void.

SEC. 2. And be it further enacted, That every person lawfully engaged in preparing a registry of voters, or in holding or conducting an election for any of the officers named in the first section of this act, who shall willfully refuse to register the name or to receive, count, return, or otherwise give the proper legal effect to the vote of any person entitled to vote

for any officer named in the first section of this act, on account of his or her race, color, nativity, sex, or age, when over twelve years, or previous condition of slavery of such citizen, shall be punished by a fine of not more than \$4,000 or by imprisonment for not more than two years.

SEC. 3. And be it further enacted, That any person who shall willfully hinder or obstruct, or attempt to hinder or obstruct any person on account of his or her race, sex, nativity, or age when over twelve years, color, or the previous condition of slavery of such citizen, in the exercise of his right to vote for the officers named in the first section of this act, shall be punished by a fine of not more than \$3,000 or by imprisonment for not more than one year.

SEC. 4. And be it further enacted, That any person disqualified by section three of article fourteen of the amendments to the Constitution of the United States, and from whom such disability shall not have been removed by act of Congress, who shall exercise the powers and duties of any office therein specified, shall be deemed guilty of a misdemeanor, and being convicted thereof shall be imprisoned and kept at hard labor for the term of two years; and an indictment for the same may be found at any time within ten years from the commission of the offense.

SEC. 5. And be it further enacted, That the district courts of the United States, within their respective districts, shall have exclusive jurisdiction of all offenses committed against this act, and the district attorneys, marshals and deputy marshals of the United States shall, and they are hereby specially authorized and required, at the expense of the United States, to institute proceedings against any person who shall violate the provisions of this act.

The amendments were ordered to be printed.

Mr. ROBINSON. I move the following amendments:

In joint resolution, line nine, strike out the words "citizen of the" and insert in lieu thereof "inhabitant of and who has no residence other than in."

In the bill, section one, line three, strike out the word "citizen" and insert "inhabitant," and in line four, after the words "United States," insert "having no residence elsewhere than in the United States."

The amendment was ordered to be printed.

Mr. KNOTT. Mr. Speaker, as the other provisions of this measure will no doubt be fully and ably discussed by other gentlemen on this side of the House, I will confine myself in what I shall have to say, to the consideration of the fourth section of the bill, in connection with the third section of the fourteenth amendment proposed to the Constitution of the United States, under which its enactment is not only sought to be justified, but claimed to be necessary. It is not my purpose, however, to enter into any discussion of the manner in which that amendment is said to have been ratified. I shall forego any remark upon the singular political phenomenon presented in the duplex character which has been ascribed to ten States of this Union—sovereign and coequal States when the concurrence of their will has been necessary to effect an alteration in the Federal compact, but subjugated provinces, prostrate and powerless at the feet of the conqueror, when it has suited the caprice, or the interest of a majority in Congress to annul their constitutions, dissolve their governments, abrogate their laws, destroy the harmony of their domestic relations, and rob their citizens of every guarantee in the Bill of Rights. I shall say nothing of the extraordinary means resorted to by the power which proposed this amendment, to secure its ratification according to the letter of the Constitution, and shall leave it to casuists of more subtlety and astuteness than I possess, to determine whether the spirit of that instrument has been consulted in the employment of those means. I shall not inquire whether Congress, for the purpose of procuring the formal ratification of a proposed amendment to the Federal Constitution, can either justly or legally trample under foot the rights of a given number of States, throttle their governments, suspend or destroy their constitutions, strip their electors of the habiliments of citizenship, invest others with the elective franchise, create Legislatures, subservient to its will, and compel those Legislatures to give their assent to the amendment proposed under the penalty of having their respective States debarred from all participation whatever in the General Government, besides being deprived of the republican State governments guaranteed to them in the Constitution.

I shall not attempt to explore the sources of constitutional authority to ascertain whence it is claimed that the Federal Legislature derives

such extraordinary powers; nor seek to determine the effect which such a condition of moral duress should have upon the validity of an amendment to the Constitution procured in such a manner. Still less shall I undertake to say that the course pursued toward several of the States of this Union to compel their ratification of this amendment has been consistent in every particular with the cardinal doctrine of the Declaration of Independence, that Governments derive their just powers from the consent of the governed. But waiving a consideration of all these questions which have been already so often and so elaborately discussed by able intellects than my own, I will concede for the purposes of the argument I now propose to submit that this amendment has been duly ratified in accordance with both the letter and the spirit of the Constitution, and is to all intents and purposes, as much a part of that instrument as if it had been inserted in the original draft. As such it is nothing more nor less than a part of the *lex scripta*—simply a portion of the written law of the country; no more sacred, no more binding, and no more mysterious, either in effect or construction, than any other statutory provision passed in pursuance of the Constitution, although enacted by a different power and in a different mode from those pertaining to ordinary legislation, and it is consequently subject to the same rules that apply in the interpretation of all other statutes, and to no others.

I propose therefore to examine the third section of this amendment by the light of those long-settled canons of legal interpretation, which were recognized in the earliest dawn of our system of jurisprudence, and which have been adhered to and enforced by almost every enlightened jurist who has had occasion to advert to them from that time to the present moment. These rules are of the very essence of natural reason, and strict morality. They were ordained by the Divine Power when it endowed mankind with the capacity of discriminating between right and wrong. They are indicated by the plainest dictates of simple justice; and I undertake to say, sir, that no rational and unprejudiced mind can make a fair and impartial application of them to this section, without being satisfied that it has no retrospective operation at all, that it has no reference whatever to any person who was engaged in the late rebellion against the Government of the United States, but was intended to apply to those only, who should engage in rebellion or insurrection after its ratification. At any rate it so appears to my mind, and it is the truth of this particular proposition that I now desire to prove.

It is remarked by Dr. Lieber, in his *Legal and Political Hermeneutics*, that "every man, or body of persons making use of words does so in order to convey a certain meaning; and to find this precise meaning is the object of all interpretation." Hence the most natural and obvious of all the rules by which the rational mind seeks to ascertain the intention of the law-maker in the enactment of a particular statute, is the one so familiar to every member of the legal profession, that in construing a statute recourse must in the first instance be had to the words in which the legislative will has expressed itself. If they are plain and unambiguous, there investigation ceases. No matter what our own feelings, or convictions as to the policy, or expediency of the law may be; no matter what conclusions extraneous consideration might lead to, we are compelled to presume that the legislator meant what his words plainly imply, and we are not at liberty to go beyond them to determine the legislative intent, unless a rigid adherence to them would result in an absurdity, or palpably conflict with the context. This principle is abundantly sustained by authority. Vattel, in discussing the rules for the interpretation of treaties; book 2, chapter 17, section 262, says:

"The first general maxim of interpretation is, that it is not allowable to interpret what has no need of interpretation. When a deed is worded in clear and

precise terms, when its meaning is evident, and leads to no absurd conclusion, there can be no reason for refusing to admit the meaning which such deed naturally presents. To go elsewhere in search of conjectures, in order to restrict or extend it, is an attempt to elude it."

The same rule was clearly, and concisely stated by the Supreme Court of the United States as a cardinal principle of legal construction in the case of the *United States vs. Fisher* and others, reported in 2 Cranch, page 358, in this language:

"Where a law is plain and unambiguous, whether it be expressed in general or limited terms, the Legislature should be intended to mean what they have plainly expressed, and consequently there is no room left for construction."

But, sir, in all the vast number of cases, both in this country and in England, which I have examined upon this point, and which affirm the rule as I have stated it, I have nowhere found it more beautifully, more fully, or more forcibly and clearly expressed, than by the court of appeals of New York in *Newel vs. The People*, 3 Seld., 97; from which I will read the following.

The court says in this case:

"Whether we are considering an agreement between parties, a statute, or a constitution with a view to its interpretation, the thing we are to seek is the thought which it expresses. To ascertain this, the first resort in all cases, is to the natural signification of the words employed, in the order and grammatical arrangement in which the framers of the instrument have placed them. If thus regarded, the words embody a definite meaning which involves no absurdity, and no contradiction between different parts of the same writing; then the meaning apparent on the face of the instrument is the one which alone we are at liberty to say was intended to be conveyed. In such a case there is no room for construction. That which the words declare, is the meaning of the instrument, and neither courts, nor Legislatures, have a right to add to, or take away from that meaning."

But, sir, this principle has frequently been declared by the highest judicial authority known to our Government, to apply to the Constitution of the United States, as well as to every other statute, or instrument of writing whatever; for, as I said awhile ago, there is no good reason why the Constitution should be interpreted according to any other rules than those which apply to all other statute law. Chief Justice Marshall, the great original expounder of the Constitution of the United States, the splendid judicial luminary whose effulgence gilded the morning of our constitutional history and whose lingering beams will fringe the twilight of its existence, himself repeatedly so applied it. Here, in the case of *Sturgis vs. Crowninshield*, (4 Wheaton, 202) he says:

"It is well settled, that the spirit of the Constitution is to be respected no less than its letter, yet that spirit is to be collected chiefly from its words, and neither the practice of legislative bodies nor extrinsic circumstances can control its clear language."

Again, the same illustrious jurist and statesman, in the later case of *Gibbons vs. Ogden*, (9 Wheaton, 188) says:

"As men whose intentions require no concealment, generally employ words, which most directly, and aptly express the ideas they intend to convey, the patriots who framed our Constitution, and the people who adopted it, must be understood to have employed words in their natural sense, and to have meant what they said."

I might go on, sir, and cite authorities to this effect almost indefinitely; but taking it for granted that no impartial legal mind will question the correctness of the principle I have stated, that the meaning of a written law must in the first place be determined, if possible, from the words in which it is expressed, and that when they are plain, we are not at liberty to resort to extrinsic facts and circumstances to discover what the law-maker might have intended, I will ask attention to the words of this particular section, and see if we cannot, without the aid of any extraneous circumstance whatever, ascertain from them the idea they were intended to convey. The section reads as follows:

"No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States or under any State, who having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State to support the Constitution of the

United States, shall have engaged in insurrection or rebellion against the same, or given aid and comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each House, remove such disability."

Now, sir, if there is any obscurity in this language, it is not in the signification of the terms employed, but results, if at all, from the great number of words which the draftsman thought it necessary to use in enumerating the several positions and offices from which certain persons shall be excluded, and the various circumstances under which such persons are supposed to have taken an oath to support the Constitution of the United States. When the text is analyzed the words will be found to have a plain and definite meaning, about which there can be no dispute; and, sir, it should be distinctly observed that the terms here made use of to denote the time of the commission of the criminal act for which the guilty party is to be disfranchised under this section, are the words "shall have," for these two words afford a key by which we can determine infallibly, whether this section was intended to be an *ex post facto* law or not. If in their plain and ordinary acceptation they denote an action which had taken place before the time at which they were employed in this connection, then this section was manifestly intended to operate retrospectively, but if, on the contrary, they signify, as here used, an action which is to transpire after they are made use of, then the section is as clearly prospective, and can have no reference to any one who had engaged in rebellion before it was enacted.

They must, however, refer to one or the other—the past or the future. They cannot refer to both. For, sir, in every mind capable of forming a conception of time at all, there are three distinct ideas—as distinct, in fact, as three things can possibly be—under one or the other of which the mind naturally and instinctively ranges every action, event, or condition of things of which it is capable of taking notice. I mean the ideas of the past, the present, and the future; and as words are the means devised by human reason, whereby the ideas of one mind may be clearly and distinctly manifested to another, every language spoken upon the earth must of necessity furnish signs by which these ideas of the past, the present, and the future may be unmistakably distinguished from each other, and these signs can no more be confounded with each other than the ideas themselves. If they could be, language would cease to have any definite signification, and degenerate into simply unmeaning jargon. Particularly is this true of written language, which may be said to be crystalized thought—ideas not only manifested but fixed, and made tangible and permanent, so as to reflect themselves without extraneous aid in whatever mind may be sufficiently instructed to read them, and more especially when those ideas are designed, as in this instance, to affect the most valued interests of the citizen, and the highest concerns of society.

What then, sir, does the expression "shall have engaged," as used in this section, mean? Does it refer to an action which had taken place before the enactment of this amendment, or to one that was to take place after its ratification? Now, if we assume that the intentions of those who proposed, as well as those who ratified this amendment required no concealment, that they aimed to use the words which would most directly and aptly express the ideas they intended to convey, and that they meant what they said, we are forced to the conclusion that they had no reference to past transactions at all; because if they had they would have said "no person shall be a Senator, &c., who *has* engaged in rebellion, &c.," or if they had intended to limit it to the late rebellion they would have said "no person shall be a Senator, &c., who *engaged* in the late rebellion, &c.," or if they had intended that the section should embrace both the past and the future, they would naturally have said "no person shall be a Senator, &c., who *has engaged* or may hereafter engage in

rebellion," &c. And in either case their language would have been so plain "that the way-faring man, though a fool, need not err therein." The simplest child in the land could not mistake it.

But here, sir, instead of using any of these plain and simple expressions, which the most ordinary intellect in the country could not fail to understand as relating to the past, they employ a term to express the time of the criminal action which common usage, the established practice of our best speakers and writers, the authority of every standard author upon the philosophy and etymology of the English language, and the very nature of the language itself, concur in appropriating exclusively to the expression of our ideas of future action, and which never has been, and never can be employed to denote a past transaction without violating the plainest principles of common reason. Lindley Murray, and every other standard, or even respectable writer on English grammar, tell us in substance, if not in so many words, that "shall have" is the sign of the second future tense, which "denotes a future action, or event which will be accomplished at or before the time of some other future action or event;" and I challenge the production of a solitary instance in the entire range of our standard literature in which these words "shall have" have been used convertibly with any of the past tenses. And moreover, sir, if you will search the classic literature of any other cultivated language, ancient or modern, you will not find an instance in which the equivalent of these words has ever been used to express the idea of a past action; they *always* denote the future, and can no more be used to denote the past, than "to-morrow" can be employed to signify "yesterday," or the word "black" to convey the idea of "white." It is not only idle, but insulting to the reputation of those who framed this amendment, to say that they were so ignorant of the plainest principles of our language that they could not have made this section so clearly retroactive that it could not have been misunderstood by any child in the country if such had been their intention. To show that they could have done so if they had desired to, I would simply call attention to the very section for which this was finally adopted as a substitute. I will read it:

"Until the 4th day of July, 1870, all persons who voluntarily adhered to the late insurrection, giving it aid and comfort, shall be excluded from the right to vote for Representatives in Congress and for electors for President and Vice President of the United States."

This is the language of one who had nothing to conceal, who meant what he said—the language of Thaddeus Stevens. No one can mistake it, however simple he may be. But why, I would ask, was not the section under consideration, made to refer to the past in like pointed, plain, and unmistakable terms, if such had been the intention of the learned and distinguished men who framed it?

Now, had the framers of this section said "no person shall be a Senator, &c., who shall engage in rebellion, &c.," they would have expressed their idea it is true, but not with the strictest grammatical accuracy, for the word "shall" as there used refers to the unlimited future, without reference to any other future action or condition whatever; so that a man might really be a Senator and be guilty of rebellion, both in the future, for he might rebel after being a Senator, which although not within the intent is within the meaning of the language used. But if we will keep in mind the true definition of the second future tense, as laid down by all our grammarians and sanctioned by universal usage, that the words "shall have," when prefixed to a word denoting an action, indicate that the action will take place in future, and at or before the time of some other future action; and then imagine a wise and just legislator who would frame an act to disfranchise persons guilty of rebellion, in terms of the strictest grammatical accuracy, and at the same time avoid the most unjust,

odious, and detestable of all tyrannical acts, *ex post facto* or retrospective legislation, we shall find him using language like this: "No person shall be a Senator, &c., who shall have engaged in rebellion," &c. For the expression "shall have engaged," &c., conveys two distinct ideas: one that the party to be disfranchised shall commit the offense for which his disqualification is to be the penalty, after the enactment of the law, and before another future act or condition, namely, his offer to assume the position or office for which his offense disqualified him.

Here, sir, it seems to me, the whole argument might rest; for if the principles I have stated be true, that men whose intentions require no concealment, will naturally imply the words which most directly and aptly express the ideas they intend to convey, especially when those ideas are to constitute a new rule of civilization by which the highest interests of individuals and the gravest concerns of society are to be regulated and controlled, and that therefore the law-giver, where his words are plain, must be presumed to have intended what he said, regardless of whatever conclusions extraneous considerations might lead to, we are compelled to conclude that this section was intended to operate prospectively, and not as an *ex post facto* enactment. There is no possible escape from this, unless we are to assume that our language—the language of Shakespeare and of Milton, of Burke and of Webster, of Locke and of Bacon, of Blackstone and of Kent, the language of poetry, of eloquence, of philosophy, and of law—after all, furnishes us no adequate means of discriminating between the past and the future, but in its exceeding paucity exhibits the pitiable paradox of expressing two ideas as dissimilar as day and night by the use of the same term.

I must be pardoned, sir, for dwelling at such length upon a point which to the intelligent mind, it seems to me, must be too obvious to demand more than a simple statement; but I have deemed it necessary in this instance, because so many highly cultivated minds have hurried to the conclusion, that this provision is *ex post facto*, without having apparently had due regard, if indeed any whatever, to the peculiar verbiage in which it is expressed, and because I find, in a case to which I shall presently more particularly advert, that one of the barons of the exchequer, by a singular inattention to the rudiments of our language, was led to say that the expression "shall have" referred to the past tense; while another was guilty of the still stranger inaccuracy of supposing that they expressed the idea of both the past and future; notwithstanding which, however, the court held the language to be prospective only, and not retrospective.

But, sir, suppose we admit, for the sake of the argument, what is as absurd as to say that the same word may convey the idea of hot or cold, black or white, north or south, or any two opposite extremes, namely, that "shall have" may mean the past or the future, the question still recurs, which does the expression mean in this instance, the past or the future? Had this question been asked of some proud old civilian who gloried in venerating the remnants of right and justice which had survived the wreck of the ancient republic, at a time when the will of the prince under the despotism of the Roman empire was paramount to every obligation whatever, he would have gathered his toga around him in the conscious dignity of a just and upright man, and answered it in the language of the code:

"Leges et constitutiones futuris certum est dare formam negotiis, non ad facta præterita revocari, nisi nominatim et præterito tempore et adhuc pendenti negotiis cautum sit."

Had it been asked of Bracton, when our own system of jurisprudence was yet in its infancy, and the great cardinal principles of right and justice which have since made it the pride and glory of the Anglo-Saxon race, were struggling with ignorance, with despotism, and rapine, and outrage of every kind, he would have answered

it in the words of that maxim, which wise and conscientious jurists have esteemed a fundamental rule of construction from that time to the present moment:

"Nova constitutis futuris formam debet imponere, non præteritis."

How, then, should it be answered by the jurist and statesman of America, who, in the advanced civilization of the nineteenth century, feels a just pride in the purity of his country's Constitution and the justice of her laws? Sir, the reply is obvious. There is something so repugnant to the commonest instincts of justice, so contrary to all our notions of morality, so revolting to every sentiment of honorable manhood, in the idea of inflicting a penalty upon our fellow-man by retroactive legislation, that even to deprive him by such means of the most insignificant right has ever been regarded as the very essence of the accursed spirit of despotism. It has, therefore, become a settled rule of legal construction, steadily adhered to both in England and this country, that no law is to have a retrospective operation, unless the intention of the legislator that it should so operate appears so plainly upon the face of the statute that it cannot possibly have any other meaning. This is no new principle peculiar to the jurisprudence of this country. It was plainly and emphatically recognized in the civil law, as is evident from the very maxim I have just quoted from the code:

"It is certain that the laws and constitutions are to present a form for future transactions, and not to be referred to matters already finished, unless specially named and (as) of a preceding time as a caution to those which are yet pending."—*Code L. i. tit. xiv. sec. 7.*

It was also an article in the constitution established for the French republic in 1795, that no law, criminal or civil, could have a retroactive effect; and the same limitation was laid down as a fundamental truth in the code in force under the sanction of the empire which succeeded, atrocious as the despotism of that empire is said to have been. It is no matter of wonder, then, that Sir Edward Coke should have reaffirmed the aphorism of Bracton, which is a substantial embodiment of the same great principle, as he did in his commentary upon the statute of Gloucester, or that the English courts, which so frequently thrust themselves as the last defense between the aggressions of the Government and the rights of the citizen, should have so constantly and persistently insisted upon the doctrine I have asserted as a cardinal rule of construction.

Blackstone, in his commentaries, treats it as a first principle, that all laws shall commence *in futuro* and operate prospectively; and if we go back to the reign of Charles II, in 1678, we will find the court of king's bench, in the case of *Gilmore vs. Shuter*, unanimously refusing to give a retrospective effect to a provision in the statute of frauds, because such a construction would make the act repugnant to common justice.

Again, if we examine the more modern case of *Couch vs. Jeffries*, in 4 Barrell, 2460, we will find the same court unanimously refusing to give a retrospective effect to a statute, because by so doing they would punish the plaintiff with costs. It is true, sir, there seems to have been an apparent departure from the principle in one or two cases in the Common Pleas and at *Nisi Prius*, but those cases were all reviewed in a comparatively recent case decided in the court of Exchequer, in which they are not only severely criticised but emphatically declared to be erroneous. I allude to the case of *Moon vs. Durdan*, reported in the second Exchequer reports, page 22, which fully sustains the doctrine for which I contend. This was an action brought on a wager, but before the trial an act of Parliament was passed providing—

"That no suit shall be brought or maintained in any court of law or equity for recovering any money or valuable thing alleged to be won upon any wager, or which shall have been deposited in the hands of any person to abide the event on which any wager shall have been made."

I read the very words of the statute, sir, because, it will be observed, they present a

text very nearly parallel to that of the section we are considering; and it was contended that this statute operated to defeat the action. The court held, however, that it did not. But some of the learned barons lay down the rule I have stated so much more clearly and forcibly than I can myself, I will read from their opinions. Baron Rolfe says, after reciting the clause, I have read from the statute:

"The effect of this clause is to make void all wagers, and to prevent the bringing or maintaining any action for the recovery of money won on any wager; and the only question is whether its operation is retrospective, so as to affect past transactions and existing suits. The general rule is stated by Lord Coke in the second Institute—*Nova constitutio futura formam imponere debet non preteritis*—and the principle is one of such obvious convenience and justice, that it must always be adhered to in the construction of statutes, unless in cases where there is something on the face of the enactment putting it beyond doubt that the Legislature meant it to operate retrospectively."

Baron Alderson says, in the same case:

"In construing statutes the general rule, as it seems to me, which ought to guide us in their construction is that which has been stated. They are not to be supposed to apply to a past but a future state of circumstances."

Then further down, after giving instances in which a departure from the rule would work great mischief, he says, in conclusion:

"Here, no doubt, the Legislature were desirous of putting an end to gaming and wagers; but unless the words imperatively require it, we ought not to make their prohibition retrospective, for it is contrary to the first principles of justice to punish those who have offended against no law, and surely to take away existing rights without compensation is in the nature of punishment."

I will simply pause, sir, to ask if this principle is so sacred and important that one of the most learned courts that ever graced the English bench refused to give a statute a retrospective meaning, simply because by so doing they might deprive a set of gambling sharpers of the gains of their nefarious calling, we, as statesmen, are to consider this section in such a light as to sweep away without trial, the most important rights that can pertain to the citizen in society?

But, sir, a still more determined opposition, if possible, to giving statutes a retrospective effect has been manifested by the courts of this country than by those of Great Britain. The judges of the Supreme Court of the United States have several times spoken in the strongest terms of disapprobation of all retrospective laws which may affect a right. In the case of *Calder and wife vs. Bull and wife*, (3 Dal., 386,) the first, I believe, in which a distinction was drawn by that court between *ex post facto* laws and other varieties of retrospective legislation, Mr. Justice Patterson uses this language:

"I had an ardent desire to have extended the provision of the Constitution to retrospective laws in general, for there is neither policy nor safety in such laws, and therefore I have always had a strong aversion against them. It may, in general, be truly observed of retrospective laws of every description that they neither accord with sound legislation nor the fundamental principles of the social compact."

And in the later case of *Ogden vs. Blackledge*, reported in 2 Cranch, page 272, they considered the point too plain for argument that a statute could not retrospect so as to take away a vested civil right. The same doctrine was laid down by Chief Justice Story in *Prince vs. United States*, reported in 2 Gallison, 204, and has been affirmed in a great number of cases in the supreme courts of the various States in the most unequivocal terms. For instance, in *Maine*, in the case of *Hastings vs. Lane*, reported in 3 Shepley, page 134; in *New Hampshire*, in *Woart vs. Winnick*, 3 N. H., 481, and in *Clark vs. Clark*, 10 N. H., 386; in *Vermont*, in *Briggs vs. Hubbard*, 3 Vt., 86; in *Massachusetts*, in *Somerset vs. Dighton*, 12 Mass., 383; *Medford vs. Learned*, 16 Mass., 215, among others; in *Connecticut*, *Perkins vs. Perkins*, 7 Conn., 558; *Plumb vs. Sawyer*, 21 Conn., 351; and several other cases; in *New York*, in the case of *Dash vs. Van Kleeck*, 7 John., 477; *Watkins vs. Haight*, 18 John., 138; *Sayer vs. Wisner*, 8 Wend., 661, and quite a number of others; in *Pennsylvania*, in the case of *Tyson vs. School Directors*, 51 Penn. State R., 9; in *Ohio*, in the case

of *Allbyer vs. State*, 10 Ohio N. S., 588; *Indiana, State vs. Barber*, 3 Ind., 258; in *Illinois*, in *Thompson vs. Alexander*, 11 Ills., 54; *Price vs. Schuyler*, 4 Gilman, 221; in *Wisconsin*, in the case of *Atwood*, 11 Wis., 422; in *Iowa*, in *Bartruff vs. Renny*, 15 Iowa, 257.

Of course, sir, I cannot in the limited time allowed me advert particularly to all of these cases, nor do I deem it necessary. I mention them merely that those who have a mind to, may examine them for themselves and see how sedulously our courts have adhered to the rule I am endeavoring to discuss. But there is one of them to which I will ask attention, because it has been cited as a leading case in many of the others into which the language of the distinguished judges has been copied, but mainly because the most profound and elaborate opinion in it was delivered by one of the purest men, as well as one of the most learned and upright judges that ever adorned the bench of this or any other country—a man whose memory will be revered and whose genius and acquirements will be admired as long as enlightened jurisprudence has a votary on earth. I allude to Chancellor Kent, who was then Chief Justice of the court, and the case is that of *Dash vs. Van Kleeck*, reported in 7 Johnson, page 477.

It is not necessary that I should enter into a statement of the facts of the case, and besides I have not time if I would, but I desire to read simply the principles laid down by the learned judges, for they confirm and place beyond controversy the view for which I am now contending. Mr. Justice Thompson, after having reviewed to considerable extent the authorities upon the very point I am now endeavoring to discuss, says:

"If such be the light in which retrospective laws ought to be received, how unjust the imputation against the Legislature that they intend a law to be of that description unless the most clear and unequivocal expressions are adopted!"

And Chief Justice Kent says in the same case, page 502:

"The very essence of a new law is a rule for future cases. The construction here contended for would make the statute operate unjustly. It would make it defeat a suit already brought upon a right already vested. This would be punishing an innocent party with costs as well as divesting him of a previously acquired right. Nothing could be more alarming than such a subversion of principle. A statute ought never to receive such a construction, if it be susceptible of any other, and the statute before us can have a reasonable object and full operation without it. We are to presume, out of respect to the law-giver, that the statute was not meant to operate retrospectively, and if we call to our attention the general sense of mankind on the subject of retrospective laws it will afford us the best reason to conclude that the Legislature did not intend, in this case, to set so pernicious a precedent. How can we possibly suppose that in so unimportant a case?"

"The Legislature coolly meant the prostration of a principle which has become venerable for the antiquity, and the universality of its sanction and is acknowledged as an element of jurisprudence?"

"It is a principle in the English common law as ancient as the law itself, that a statute, even of its omnipotent Parliament is not to have a retrospective effect."

Again, further over, on page 504, he says, after reviewing the authorities furnished by the civil law:

"Our constitutions do not admit the power assumed by the Roman prince, and the principle we are considering is now to be regarded as sacred. It is not pretended that we have any constitutional provision on the subject, nor have we for numerous other rights dear alike to freedom and justice. An *ex post facto* law, in the strict technical term, is usually understood to apply to criminal cases, and this is its meaning when used in the Constitution of the United States. Yet laws impairing previously acquired civil rights are equally within the reason of that prohibition and equally to be condemned."

"We have seen that the cases in the English and in the civil law apply to such rights; and we shall find upon further examination that there is no distinction in principle nor any recognized in practice between a law punishing a person criminally for a past innocent act, or punishing him civilly by depriving him of a lawfully acquired right. The distinction consists only in the degree of the oppression, and history teaches us that the Government which can deliberately violate the one right will soon cease to regard the other. There has not been, perhaps, a distinguished jurist or elementary writer within the last two centuries who has had occasion to take notice of introspective laws, either civil or criminal, but has mentioned them with caution, distrust, and disapprobation."

Then further down, after a most elaborate

and critical review of the authorities upon the point, he concludes:

"This train of authority, declaratory of the common sense and reason of the most civilized States, ancient and modern, on the point before us, is sufficient, I apprehend, to put it at rest, and to cause not only the judicial but the legislative authority to bow to such a sanction."

And in this conclusion I presume every intelligent and impartial mind will concur.

Now, this section can have a prospective construction perfectly consistent with reason and justice, and in full harmony with the sense of all eminent and enlightened jurists for centuries past. If it is to be considered as applying only to the future, it may be with propriety regarded as a wise and just measure by which no one can be injured, for whoever shall engage in rebellion hereafter, will do so with full notice of the consequences beforehand, and if he sees proper to hazard these consequences, he can complain of no one but himself should they be visited upon him. Admitting, then, that the language of this section may be ambiguous, and may be considered as referring to the past or the future indifferently, to which, in the light of all the authority to which I have adverted, will we limit it? Will we assume to say for the Legislatures of twenty-seven States of this Union, as well as two thirds of each House of the Thirty-Ninth Congress, that they deliberately intended to prostrate a great principle, recognized as one of the fundamental elements in every enlightened system of jurisprudence upon the earth, and venerable not only for its antiquity, but the universality of its sanction? And shall we do this, too, in defiance of their plain words, in the face of all the authorities I have adduced, and in violation of the plainest dictates of natural justice, or will we give this section such a construction as accords with reason, with authority, with humanity and justice?

But, sir, these principles I have stated, and which I presume no intelligent mind will dispute, founded as they are in reason, and verified by such an irrefragable array of authority, acquire an accumulated weight when we come to consider this section in the light of another rule, which is as familiar to every legal mind as the alphabet, and which applies in this instance with peculiar force. I mean the well-settled rule, that penal statutes are always to be construed strictly, so that no one shall incur a penalty, unless the act which subjects him to it is clearly within both the spirit and the letter of the statute imposing it. For I imagine no one will have the hardihood to deny that this section is highly penal in its character. To say that a man may be deprived of all right to participate in the Government of his country, either State or Federal; that he may be singled out from his fellow-men and degraded in the political scale below the horse thief, the highway robber, and the midnight assassin, and yet suffer no punishment from his degradation, is worse than absurd; it is an insult to common sense. We had as well say that it would be no punishment to him to rob him of his property, deprive him of his liberty, or deny him any of the privileges of a member of society. So sacred has this rule ever been held that as far back as the reign of Edward VI we find it settled, that the law will rather endure that a particular offense should escape without punishment than it should be violated, and for the soundest reason too; for, as Chief Justice Best says in the case of *Fletcher vs. Lord Sondes*, (3 Bingham, 380:)

"If these rules be violated the fate of accused persons is decided by the arbitrary discretion of the judge, and not by the express authority of the law."

And must this rule, so wise, so just, so essential to the safety of the citizen, and so long established, be swept away with everything else in order to give this section a retrospective effect contrary to its plain meaning and the common sense of all mankind?

But, sir, passing from a consideration of the mere letter of the law, should we find that ambiguous, the next most obvious and natural means of ascertaining the will of the legislator is to explore the context and construe the

whole instrument together, so that its various provisions may harmonize with each other; or, as Blackstone expresses it in the first book of his Commentaries, page 60:

"If the words happen to be still dubious we may establish their meaning from the context, with which it may be of singular use to compare a word or a sentence whenever they are ambiguous, equivocal, or intricate. Thus the preambles are often called in to help the construction of an act of Parliament. Of the same nature and use is the comparison of a law with other laws that are made by the same legislator that have some affinity with the subject or that expressly relate to the same point."

Considering this section, then, as a part of the Constitution, let us examine it by the light of other provisions contained in that instrument.

I have already alluded to the unqualified disapprobation, and disgust with which the wisest statesmen, and most enlightened jurists of all civilized countries have universally regarded every variety of retrospective legislation affecting previously acquired or existing rights; and, sir, it is not surprising that the people of these States after they had cut themselves loose from the monarchies of the Old World, and come to lay the foundations of a Federal Union, and Government, in which liberty should be protected, and justice administered according to the most enlarged views of enlightened jurisprudence, sought to protect themselves and their posterity from the detestable and dangerous engines of tyranny which had so often cursed the country from which they had just separated. With the long list of bloody attainders, and atrocious instances of retrospective legislation, which had disgraced the history of many of the older Governments of the world, fresh in their memories, they undertook to demonstrate the great problem that a Government might be established and sustained for the benefit of the governed, without a resort to any of those barbarous and inhuman measures justified under the specious plea of necessity by tyrants who claimed their prerogative by divine right. Consequently we find the wise and patriotic statesman to whom they assigned the duty of drafting the Constitution of the Government they designed to establish providing in the ninth section of the first article of that instrument, that—

"No bill of attainder or *ex post facto* law shall be passed."

This was intended as a limitation upon the powers of the General Government they were proposing to erect; but so thorough was their abhorrence and detestation of this iniquitous character of legislation that they provided in the very next section that "No State shall pass any bill of attainder or *ex post facto* law;" and when the people of the several States ratified the Constitution they, by that act, pledged their faith to each other, in the most solemn and emphatic manner, not only that the Federal Government should never enact such odious and despotic laws, but that the individual States would not themselves. And more than this, sir, as if this were not a sufficient safeguard to the rights of the citizen, or a sufficient expression of the utter detestation in which they held such inhuman acts, thirty of the States whose constitutions I have examined, and possibly some others whose constitutions I have not seen, have incorporated the same prohibition in the most pointed and emphatic terms in their own organic laws.

Now, I do not pretend to say, sir, that the Legislatures of three fourths of the States of this Union have not the power, according to the letter of the Constitution, to pass an *ex post facto* law under the guise of a constitutional amendment, should such a thing be proposed by two thirds of both Houses of Congress. They might even go further, and in the same manner abrogate the entire Bill of Rights, rob the people of a whole section of the country of their property without compensation, destroy the coördinated departments of the Government, and concentrate all its powers and functions in the same person, or do any other despotic and revolutionary act, and there would be no remedy for those affected by such tyrannical action except resistance, to be resorted to at

their peril. But I do say, sir, that no such thing could be done without a most palpable and infamous breach of the faith solemnly pledged by the people of the several States to each other in their ratification of the Federal Constitution. And I say further that no *ex post facto* law could thus be passed unless two thirds of both Houses of Congress should ask the States to do what the Constitution declares they shall not do, and which they severally, by their ratification of that instrument, pledged themselves not to do.

Shall it be said then, sir, that Congress has placed itself in the questionable attitude of asking the State Legislatures to violate the faith thus solemnly pledged, or that the Legislatures of three fourths of the States have violated that faith by acceding to the proposition? Who will say that those who proposed, and those who ratified this amendment have deliberately said to the despotisms of the Old World, our plan of a just and free Government is a mistake, and a failure? Your engines of oppression, your sanguinary bills of attainder, your atrocious *ex post facto* laws are all right, in proof of which and that the fact may never be disputed we have placed upon the face of our Constitution one of the most glaring instances of sweeping retrospective legislation in the annals of the entire world can produce. Who will have the hardihood to contend that the Legislatures of twenty-seven States of this Union deliberately intended to do what their own State constitutions, the Constitution of the United States, and the common sense of mankind concur in condemning as immoral, unjust, and oppressive? Who will say that the American people ever consented to see one of the most conspicuous and venerable landmarks of liberty and justice thus removed from their Constitution? Yet, sir, we must admit all this if we insist that this section shall have a retroactive operation. For if retrospective at all, it comes clearly within the definition of an *ex post facto* law, as understood by the profession for centuries past; and if its framers meant that it should be so construed, they deliberately intended to incur all the imputations I have mentioned—imputations which for one I can never get my consent to make.

But again, sir, if we turn to section two of article second of the Constitution we will find that it confers upon the President the unlimited power of granting reprieves and pardons for all offenses against the United States except in cases of impeachment. This provision sprang from the noblest impulses of the human heart, the heaven-born sentiments of mercy and forgiveness, the remnants of pristine purity and perfection which survived the fall of the human race; and a similar power has been exercised by every Government that has ever existed on earth, savage or civilized, free or despotic. We know, too, that the President, in the exercise of this benign prerogative, extended the full and unconditional clemency of the Government, both by special pardons, and by proclamations of amnesty, issued in pursuance of acts of Congress, to many of those who will be affected by this amendment if it is to be construed retrospectively, long before it was even proposed, much less ratified by the States; and we know, moreover, that many of such persons have accepted and now hold offices under their respective States. Now, what the effect of such pardon was upon the political and social status of the recipient I will let the Supreme Court of the United States say. If gentlemen will turn to the case *ex parte* Garland, 4 Wallace, page 380, they will find the language which I will now read:

"The inquiry arises as to the effect and operation of a pardon, and on this point all the authorities agree. A pardon reaches both the punishment prescribed for the offense and the guilt of the offender, and when the pardon is full it releases the punishment and blots out of existence the guilt, so that in the eye of the law the offender is as innocent as if he had never committed the offense. If granted before conviction it prevents any of the penalties and disabilities consequent upon conviction from attaching. If granted after conviction it removes the penalties and disabilities, and restores him to all his civil rights. It makes him, as it were, a new man, and gives him a new credit and capacity."

Or if this will not do I will read from another authority, which I presume, will not be questioned in this House. I will quote from one who was the acknowledged autocrat of his party, whose intellect was always clear and incisive, and whose words were always deliberate and pointed. I allude to the late Hon. Thaddeus Stevens. In the debate upon the resolutions reported from the joint Committee on Reconstruction, for which this amendment was finally adopted as a substitute, Mr. Stevens said, in answer to a question by the honorable gentleman from Maine, [Mr. BLAINE:]

"I will answer that question. I do not know if the gentleman is a lawyer, but I suppose he has examined this question. A pardon, whether by the President having power or specially by act of Parliament or Congress, extinguishes the crime. After that there is no such crime in the individual. A man steals; he is pardoned; he is not then a thief, and you cannot call him one; or if you do you are liable to an action for slander."

Again, he says:

"The law says that a man convicted of felony shall not testify. You call him as a witness; the objector shows his conviction, and he shows his pardon, and he is no felon."

But, sir, we find no exception made in this section, of any recipient of executive clemency whatever. If it applies to one, it applies to all of the class mentioned, without a solitary exception; and if retrospective in its operation it amounts to a cool and deliberate recantation of the forgiveness extended under the beneficent power of pardon, in the name of the people of the United States, and in which their honor was most solemnly pledged. This is the conclusion, sir, from which no logic can absolve you. You cannot escape from it. The people of the United States, through their constitutional agent, extended their gracious pardon to these persons, saying: "Here, accept this; it destroys your guilt; it gives you a new credit in society; it makes the past oblivion; it restores to you every right of the most unoffending citizen." Yet if this section is retrospective it reaches out the strong hand of despotic and vindictive power, and snatches from the poor, defenseless recipient the priceless boon of forgiveness bestowed upon him by a generous and magnanimous people.

It may not be unjust to the reputation of the mob who howled around the palace of Pontius Pilate, clamoring for the blood of our Saviour, to suppose that they, in the heat of excitement, might have done such a thing; but who will dare to make such an insinuation against the honor and manhood of the Congress of the United States and of the Legislatures of twenty-seven States of this Union? I imagine, sir, that those who voted for this amendment would exclaim, with indignant scorn upon such a foul allusion, "What! is thy servant a dog that he should do this thing?" Yet, sir, every man who contends that this amendment is retrospective accuses all who were concerned in its enactment of this atrocious disregard of moral obligation and pledged faith; but as for me, I never can believe they intended thus to incur the reproachful criticism of mankind through all coming time. Never, sir; never!

But, sir, if we will go back to the preamble we will find the people of the United States solemnly declaring that the very first great object for which the Constitution was ordained, after the formation of a more perfect union, was "to establish justice." And now I would ask if this amendment was intended to give the lie to this solemn protestation of a great and virtuous people? Or did those who enacted it have such a contemptible opinion of the common sense of mankind as to suppose they would believe that justice is to be established by overthrowing, and trampling under foot its most cardinal principles? Did the Legislatures of twenty-seven States mean to say, that justice was to be established by the enactment of just such a law as is twice condemned in the Constitution of the United States, and again in the constitutions of thirty States of this Union, as unjust and oppressive? Did the Legislature of New Hampshire mean to say that the twenty-third section of their own bill of rights, which

declares that "retrospective laws are highly injurious, oppressive, and unjust, and no such laws, therefore, should be made, either for the decision of civil causes or the punishment of crimes" is a lie, and that the way to establish justice and "secure the blessings of liberty to ourselves and our posterity" is by enacting just such laws as this clause in their own State constitution declares to be "highly injurious, unjust, and oppressive?" Did the Legislature of Massachusetts intend to say that this declaration in their own State constitution was a mistake:

"Laws made to punish for actions done before the existence of such laws, and which have not been declared crimes by preceding laws, are unjust, oppressive, and inconsistent with the fundamental principles of a free Government?"

I repeat, sir, did the framers of this amendment, or any of those who ratified it, suppose that the way to "establish justice" was to place upon the face of the Constitution itself an instance of injustice and tyranny excelling in atrocity even the despotic freak of Caligula, when he wrote his laws in small characters and hung them on high pillars, the better to ensnare the people? I say excelling in atrocity this strange freak of oppression, for the subjects of the Roman despot might by extraordinary means have ascertained the legislative will and governed themselves accordingly; but here the tyrant's vengeance, locked in his own bosom until the auspicious moment, is launched like a thunderbolt from a clear sky upon the unsuspecting victim while he is reposing with confidence under the ægis of his country's pardon.

But, sir, I never will believe that the makers of this law intended it to operate retrospectively. The reasons against such a conclusion are to my mind so overwhelming that, whatever others may choose to do, I will not do such injustice to their integrity and wisdom as to entertain it for a single moment.

"I will not do them wrong; I rather choose
To wrong the dead, to wrong myself and you,
Than I will wrong such honorable men."

But, sir, notwithstanding the words of this section have clearly a prospective meaning, and cannot be otherwise construed without a gross violation of the plainest principles of our language; notwithstanding the well-settled rule of legal construction, which compels us to abide by the words of a statute when they are plain; notwithstanding the universally recognized rule, that where the words leave it in doubt whether the law was intended to be retrospective or not we must out of respect to the lawgiver and the general sense of mankind always construe it as prospective; notwithstanding we cannot construe this section retrospectively without making it shamefully inconsistent with other provisions in the Constitution, as well as with the entire scope and genius of our Government; notwithstanding we cannot so construe it without making it the engine of the grossest injustice and oppression; notwithstanding we cannot give it such a construction without violating the pledged honor of the people of the United States, and ignoring the plainest dictates of common humanity—notwithstanding all this, I say, I may still be told that we know, and the country knows that this section was designed to disfranchise those who were engaged in the late rebellion; but, sir, this is simply a plain *petitio principis*—a mere begging of the question. For how do we know it? And how can we determine the intention of its makers, except by the means I have indicated? I may be told that the necessity of the occasion demanded that it should be so; but, sir, I deny it. I can well see how the experience of the late civil war may have taught our people the necessity of providing more stringent penalties for those who may engage in rebellion in future, for the dread of such penalties may tend to prevent the commission of the offense; but it is impossible for me to conceive how it can be necessary to create a new punishment for an offense which has already been committed. It cannot cure the wrong already done, nor will it tend to prevent

its repetition in future. On the contrary, with no interest in or affection for a Government which deprives him of the rights which it accords to the felon reeking with crime, fresh from the cells of the penitentiary, and exasperated by the manifest injustice of such a punishment, the victim of it would only have fresh reasons for revolt. Besides, sir, in a Government like ours, whose paramount object it is "to establish justice," it can never be necessary to do injustice to any one.

"'Twill be recorded for a precedent,
And many an error, by the same example,
Will rush into the State."

Gentlemen should not forget that the inventor of the guillotine was himself a victim to the offspring of his own ingenuity, and that the precedents they establish may recoil upon themselves or their posterity.

Again, sir, I may be told that we know this section was intended to operate retrospectively, because such is the prevalent opinion in the country, which nobody disputes but myself. I am aware that the passions of the human heart have been stirred to their lowest depths by the late terrific civil war, and that the troubled deep has not yet been calmed. I know, too, in the general expectation of witnessing a grand exhibition of vengeance, the still small voice of justice is to a great extent unheeded; but are we, sir, to close our eyes upon the language of the written law of the country, and seek the legislative will in the crude impressions of the excited multitude? If so, I have nothing more to say. We are already in the vortex of anarchy, and it is idle to talk of law.

But, sir, it may be said that the debates upon this amendment in Congress show it to be retrospective. Apprehend, however, that no lawyer will take such a position, for although I have not time now to analyze the cases which verify it, I presume no gentleman of any respectable attainments in the profession will dispute me when I state it as a well-established rule, that for the purpose of ascertaining the intention of the Legislature, no extraneous fact prior to the passage of the bill which is not itself a rule of law, or an act of legislation, can be inquired into, or in any way taken into view. If the speeches made in the Legislature which enacts a law are to control the plain words of the statute, then it is nonsense to reduce laws to writing at all, but all should be left to collect the legislative intent from the debates. And besides, while we may ascertain the views of those who participate in the discussion from the speeches made by them, we must at last rely upon the words of the statute itself for the ideas of those who take no part in the debate, for in that way only they choose to express their will. But it is a sufficient answer to all this to say that Congress did not make this law. It required the concurrent action of the Legislatures of twenty-seven States, embracing, perhaps, over two thousand different minds to give it the effect it has; and how have these Legislatures expressed their wills except by the simple words of the section itself?

And finally, sir, it may be insisted that this section should be regarded as having a retrospective effect because this Congress has so considered and acted upon it in numerous instances; but if gentlemen will recur to a passage I read a while ago, from the case of *Sturgis vs. Crowninshield*, they will find this point already answered by Chief Justice Marshall. I will repeat what he says:

"It is well settled that the spirit of the Constitution is to be respected no less than its letter, yet that spirit is to be collected chiefly from its words, and neither the practice of Legislatures, nor other extrinsic circumstances can control its clear language."

He made use of this language in reply to the position that the State insolvent laws did not conflict with the constitutional prohibition upon laws impairing the obligation of contracts, because such laws were supported by the unbroken practice of the State Legislatures for thirty years. And he says further:

"But if, in any case, the plain meaning of a provision, not contradicted by any other provision in the same instrument, is to be disregarded because we believe the framers of that instrument did not intend

what they say, it must be one in which the absurdity and injustice of applying the provision to the case would be so monstrous that all mankind would without hesitation unite in rejecting the application."

That is to say, sir, no difference what we may believe to have been the motives and intentions of the framers of this section, from extrinsic circumstances, if the language of the section is plainly prospective in its terms, and if giving it such a construction will not render it inconsistent with other provisions of the Constitution, we are bound to regard it as prospective unless such a construction would be unhesitatingly pronounced by all mankind to be unjust, absurd, and monstrous.

Now, sir, if my reasoning has been correct, it must follow as an inevitable conclusion that the fourth section of the bill under consideration is not only unnecessary, but that it must lead to the most mischievous consequences, as it must of necessity, should it become a law, subject a large number of our citizens, who I consider it no disparagement to the gentleman from Massachusetts to say are as honorable and as well disposed toward this Government as either he or myself, besides cumbering our courts with a vast number of irritating and vexatious actions which cannot fail to promote discord, bitterness, and bad feeling wherever they exist without producing any good results. And I will add, sir, without any disrespect to any one, that it seems to me to be singularly cruel and unjust to subject men who honestly and conscientiously believe they have a perfect legal right to the offices they now hold, to a criminal prosecution for discharging the duties of those offices before their right to do so has been judicially denied.

I have now, sir, endeavored to discuss this question strictly from a legal stand-point; to consider it as I hope and trust it will be considered by a wise and upright judiciary should it ever be brought before the courts of the country. And if I have been tedious in the array of legal principles I have attempted to make it is because those principles are "like apples of gold in pictures of silver"—the calm and dispassionate opinions of wise and just men whose positions elevated them above the influence of passion and party strife, and who expressed them under every obligation which honor, morality, and religion could impose to speak the truth, maintain justice, and defend the right. Some of these principles may have occasionally been departed from, it is true, at a time when the division line between the great powers of Government were but feebly drawn and imperfectly understood, but such departures have never failed to be severely reprehended by all just and good men, and I think I may safely say that I have stated no legal proposition that may not now be considered the settled law of the land.

But I know, sir, that few if any, have had the temerity to venture upon the ground I occupy in regard to this question, and I may be ridiculed for groping amid the somber catacombs of the law while others are basking in the blaze of new and brilliant theories of government, but like Richelieu, "I appeal to time." When the passions and the prejudices of this hour shall have been forgotten, when some subject of the future empire shall look back upon the days of the old Republic when liberty was protected and justice administered by law, or when, as I would rather hope, our Government shall have reared again the ancient landmarks of the Constitution, and

"Returning Justice lift aloft her scales,"

then, and perhaps not till then, will my position on this question be vindicated.

Mr. CULLOM obtained the floor.

RESUMPTION OF SPECIE PAYMENTS.

Mr. LYNCH. I ask unanimous consent to move to recommit the bill reported by the Committee on Banking and Currency in relation to the resumption of specie payments.

Mr. BARNES. What is it?

Mr. LYNCH. It is a bill that has been made a special order.

No objection being made, the bill was recommended.

Mr. LYNCH. I move to reconsider its commitment; and I give notice that I shall call up the motion to reconsider on Monday next after the morning hour.

NEW MEXICO INDIANS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of Indian Affairs submitting estimates of appropriations to supply deficiencies in the appropriations for the Indian service in New Mexico; which were referred to the Committee on Appropriations.

WILLIAM H. NEWMAN AND COMPANY.

On motion of Mr. WASHBURN, of Indiana, leave was granted for the withdrawal of the papers filed and referred with House bill No. 902, to authorize the payment of the claim of William H. Newman & Co. and L. A. Van Hoffman & Co., of New York city.

LEAVE OF ABSENCE.

Mr. PRUYN. I ask leave of absence for four days, on account of the death of a relative; and also that I may have printed in the Globe hereafter, as part of the debates, the views which I hold on the bill and joint resolution which have been under discussion to-day.

There was no objection; and it was ordered accordingly.

EMPLOYÉS IN PENSION BUREAU.

Mr. HARDING. I ask unanimous consent to offer the following resolution:

Resolved, That the Secretary of the Interior be, and is hereby, directed to report to the House of Representatives without delay the names of all clerks, messengers, and copyists who have been discharged from the Pension Bureau, Department of the Interior, since the adjournment of Congress in July, 1868; the numbers and names of all clerks, copyists, messengers, and laborers appointed in said bureau during that period, stating their actual place of residence, by whom recommended, the amount of compensation they now receive, how many were in the United States Army, and if any one of said clerks, messengers, copyists, or laborers have either served in the rebel army or have given aid or comfort to the so-called confederate States; also the amount of the contingent fund of the Pension Bureau that has been expended since the said adjournment of Congress in July, 1868, and for what purpose, stating the names and cost of all articles which cost over fifty dollars, and of whom purchased.

Mr. BROOKS. I think I must object to this persecution of the clerks.

MILITARY ROAD IN OREGON.

Mr. ANDERSON, by unanimous consent, introduced a bill (H. R. No. 1762) to amend an act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State; which was read a first and second time, and referred to the Committee on the Public Lands.

Mr. WARD moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JAMES P. EARL.

Mr. BARNES, by unanimous consent, introduced a bill (H. R. No. 1763) for the relief of James P. Earl; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOHN AND WILLIAM MATTINGLY.

Mr. VAN WYCK. I ask unanimous consent to offer the following resolution:

Resolved, That the President of the United States be requested to inform this House the reasons why he pardoned John and William Mattingly, tried in circuit court, Kentucky district, in October, 1867, for having whisky in possession with intent to remove the same without payment of tax, convicted and sentenced to pay a fine of \$32,000.

Mr. BROOKS. That is a Kentucky and not a New York matter. I object.

SUFFRAGE.

Mr. CULLOM resumed the floor.

Mr. SHANKS. If the gentleman will give way I will move that the House adjourn.

Mr. CULLOM. Before I do so I desire to

state that a part of the remarks which I intend to make are not entirely pertinent to the subject under discussion to-day, and I would like to have the unanimous consent of the House to make them, so as not to be called to order upon that point. I should, of course, be subject to whatever rules the House may enforce as to any other point of order.

Mr. ELDRIDGE. Let him have it.

No objection was made.

Mr. SHANKS. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at three o'clock and forty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BANKS: The petition of the Pacific Mail Steamship Company, of New York city, praying for the passage of an act giving them the right of appeal from the judgment of the consular court at Yokohama, Japan, in the case of the steamer Hermann.

By Mr. COBB: The memorial of William H. Downs and others, citizens of Richland Centre, Wisconsin, on the subject of naturalization.

By Mr. COOK: A petition of the professors and faculty of certain medical colleges in the city of New York, and resolutions of the class of Bellevue Hospital Medical College, praying for the passage of a bill for the reorganization of the medical department of the Navy.

By Mr. EGGLESTON: A resolution of the council of the city of Cincinnati, asking for an appropriation to purchase a site for a custom-house and post office in said city.

Also, a protest from the saw manufacturers of Cincinnati, against an increase of duty on steel as proposed in House bill No. 1849.

By Mr. HAUGHEY: A memorial of the General Assembly of Alabama, asking a grant of land to aid in the construction of a railroad from Eufaula to Guntersville, in that State.

By Mr. ELIOT, of Massachusetts: The petition of John S. Burnell and others, praying for legislation protecting persons engaged in navigation from illegal exactions.

By Mr. JULIAN: A petition of 168 citizens of Dayton, Ohio, praying that in any proposed change or amendment of the Constitution of the United States to extend or regulate suffrage there shall be no distinction made between men and women.

Also, a petition of 49 citizens of Clyde, Ohio, praying the same.

Also, a memorial of the General Assembly of Alabama, asking congressional aid for the improvement of the Warrior river, in that State.

By Mr. ORTH: A petition of citizens of Warren county, Indiana, asking for the passage of a law preventing frauds in elections.

By Mr. ROBINSON: The petition of Osborn & Cammack, George C. Peters, Shepherd Knapp, and many others, for the removal of obstructions at Hell Gate, in the harbor of New York.

By Mr. WARD: A petition of leading citizens of Steuben county, New York, in favor of the restoration of Commander R. S. May to the active list in the Navy.

IN SENATE.

MONDAY, January 25, 1869.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. CONNESS, and by unanimous consent, the reading of the Journal of Saturday last was dispensed with.

CREDENTIALS.

The PRESIDENT *pro tempore* presented the credentials of Hon. ALEXANDER RAMSEY, chosen by the Legislature of Minnesota as Senator from that State for the term commencing March 4, 1869; which were read and ordered to be filed.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a letter of the Secretary of the Interior, communicating an estimate of appropriation required to supply a deficiency in the appropriation for the Indian service in New Mexico for the years ending June 30, 1866, and June 30, 1867; which was referred to the Committee on Indian Affairs.

He also laid before the Senate a letter from the Secretary of War, communicating, in compliance with a resolution of the Senate of the 18th instant, documents relating to the claim of Cowan & Dickinson for cotton taken for the defense of Knoxville, Tennessee; which was, on motion of Mr. PATTERSON, of Tennessee, referred to the Committee on Claims.

WESTERN MILITARY CLAIMS.

The PRESIDENT *pro tempore* laid before the Senate the action of the House of Representatives on the amendment to the joint resolution (H. R. No. 404) providing for the disposition of certain papers relative to military claims accruing in the Department of the West.

The PRESIDENT *pro tempore*. What order will the Senate take with reference to this bill?

Mr. GRIMES. I think the Senator from Illinois [Mr. TRUMBULL] had charge of that matter, and as he is not present I suggest it lie on the table for the present.

The PRESIDENT *pro tempore*. It will lie on the table.

COMMITTEE SERVICE.

The PRESIDENT *pro tempore* appointed Mr. FRELINGHUYSEN a member of the committee of conference on the disagreeing vote of the two Houses on the bill (H. R. No. 941) to amend certain acts in relation to the Navy and Marine corps.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented the petition of Mary A. Lincoln, widow of the late Abraham Lincoln, who was assassinated while President of the United States, praying to be allowed a pension; which was referred to the Committee on Pensions.

He also laid before the Senate a letter from the Governor of Indiana, communicating a report of the sales made by that State of the land scrip received from the United States under the act of July 2, 1862, relative to agricultural colleges, and the appropriation of the proceeds of such sales; which was referred to the Committee on Public Lands.

He also presented the petition of Rowland Cromelien, praying that he may be granted the right of way for an air-line railway to be laid under his patent from Washington, District of Columbia, to Annapolis, Maryland; which was referred to the Committee on Post Offices and Post Roads.

Mr. MORGAN presented the petition of Dr. Edward Delafield, president, Drs. Willard Parker, John T. Metcalf, T. M. Markoe, and others, professors and students of the College of Physicians and Surgeons of the city of New York, in favor of the bill for the reorganization of the medical corps of the Navy; which was referred to the Committee on Naval Affairs.

Mr. SUMNER presented the petition of Augustus W. Puchard, of Boston, Massachusetts, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. FERRY presented the petition of Littleton R. Edwards, praying the removal of political disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

Mr. CRAGIN presented a petition of Dr. Cyrus B. Baker, of Claremont, New Hampshire, a contract surgeon in the Army during the late rebellion, asking that a pension may be granted to him; which was referred to the Committee on Pensions.

He also presented the petition of Benjamin C. Stone, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. WILLEY presented the petition of Nicholas K. Trout, praying the removal of the political disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

He also presented a memorial of members of the Clarksburg, West Virginia, bar, remonstrating against the removal of the circuit court of the United States for the district of West Virginia to Wheeling; which was referred to the Committee on the Judiciary.

Mr. HARRIS presented a petition of Richard Charles Downes, praying the removal of political disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

Mr. HARLAN presented the petition of Stark B. Taylor, bailiff of the Court of Claims, praying an increase of salary; which was referred to the Committee on the Judiciary.

Mr. CONKLING presented a memorial of merchants of New York, remonstrating against any new legislation to extend or renew the franchises of the Commercial Navigation Company; which was referred to the Committee on Post Offices and Post Roads.

REPORTS OF COMMITTEES.

Mr. EDMUNDS. I am instructed by the joint select Committee on Retrenchment, to whom was referred the bill (H. R. No. 1666) to repeal "An act regulating the tenure of certain civil offices," to report it back with an amendment.

Mr. SUMNER. I should like to know the nature of that amendment. Will the Senator be good enough, to state it?

Mr. EDMUNDS. I will state it, if the Senate desire it, although it occupies time to do so.

Mr. SUMNER. I merely wish to know the substance of it.

Mr. EDMUNDS. The substance of it is, that it leaves the heads of Departments, those gentlemen who are commonly called the Cabinet, subject to removal by the President during a recess of the Senate at his own will and pleasure. All other officers may be suspended by the President during a recess of the Senate, in his discretion, without requiring him to have specific evidence, as it is thought the old law did require, although I do not think that is the proper construction of it. That is the whole substance of the reported amendment.

I am also instructed by the same committee, to whom was referred the bill (S. No. 774) to amend an act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, to report it back, and to move that it be indefinitely postponed, because the subject is covered by the amendment which we have reported to the other bill.

Mr. WILSON, from the Committee on Military Affairs, to whom was referred the bill (S. No. 811) to provide for the reduction of the military forces, and for other purposes, reported it with amendments.

He also, from the same committee, to whom was referred the bill (H. R. No. 1487) to declare and fix the status of the corps of judge advocates of the Army, reported it with amendments.

Mr. ABBOTT, from the Committee on Military Affairs, to whom was referred the petition of Brevet Brigadier General Orlando Brown, late captain and assistant quartermaster United States volunteers, praying to be relieved from all liability for property expended under General Orders No. 46 issued by General BUTLER for the issue of public property, reported a bill (S. No. 830) for the relief of Orlando Brown; which was read and passed to a second reading.

Mr. FESSENDEN, from the Committee on Public Buildings and Grounds, to whom was referred the bill (S. No. 752) to incorporate the Washington Market Company, reported it with amendments.

He also, from the same committee, to whom was referred the letter of the Secretary of the Interior, recommending an appropriation for

the purchase or rent of a building for the accommodation of the clerical force in the offices of the Commissioner of Pensions and Commissioner of Patents, reported a joint resolution (S. R. No. 204) relating to the Department of the Interior; which was read, and passed to a second reading.

Mr. HOWARD. I ask the consent of the Senate to take up Senate joint resolution No. 202 for consideration.

Mr. CONNESS. I object, this morning.

Mr. PATTERSON, of Tennessee. What is the resolution?

Mr. HOWARD. The resolution is entitled a resolution more effectually to secure the faithful completion of the Union Pacific railroad and its branches, according to law.

Mr. CONNESS. I hope it will lie over for to-day.

The PRESIDENT *pro tempore*. The motion cannot be entertained at this time, objection being made.

SENATOR FROM GEORGIA.

Mr. STEWART, from the Committee on the Judiciary, to whom were referred the credentials of Joshua Hill as Senator from Georgia, submitted a report, accompanied by the following resolution:

Resolved, That Joshua Hill, claiming to be Senator-elect from Georgia, ought not now to be permitted to take a seat in this body.

Mr. STEWART. I move that the report be printed, and in the mean time the resolution, with the credentials, can lie on the table.

Mr. TRUMBULL. I desire to present my own separate views, as a minority of the committee, in that case. I do not agree with the majority report. I submit in writing my reasons for disagreeing with the majority, which I ask shall take the same course as that given to the majority report.

The PRESIDENT *pro tempore*. That course will be taken and that order made if there be no objection.

Mr. HENDRICKS. Mr. President, it was my intention also to submit a minority report upon the credentials of Mr. Hill as Senator from Georgia, but my health during the past week has been such that it was impossible for me to prepare it. I shall desire to present my views, however, which do not agree with those of the majority of the committee, when the case shall come up for consideration.

Mr. HOWE. I move that the Senate proceed to the consideration of Senate bill No. 647.

The PRESIDENT *pro tempore*. The motion is not in order at present.

BILLS INTRODUCED.

Mr. EDMUNDS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 831) relating to the supreme court of the District of Columbia; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. ROSS asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 205) authorizing the diversion of certain moneys appropriated for and belonging to the Kansas tribe of Indians; which was read twice by its title, referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 206) relating to the mileage of Charles Westmoreland; which was read twice by its title, and referred to the Committee on Finance.

WILLIAM M'GARRAHAN.

Mr. MORTON. I desire to call up, merely for the purpose of reference, House bill No. 65, for the relief of William McGarrahan.

The PRESIDENT *pro tempore*. The Chair is informed that that bill was postponed indefinitely at the last session.

Mr. MORTON. I understand that, but I do not understand that that kills the bill. I do not understand that that prevents its being taken up at this session.

Mr. WILLIAMS. I wish to advise the

honorable Senator that he cannot take up that bill and have it referred without a controversy.

Mr. CONNESS. It cannot be taken up anyhow. It does not belong to the business of the session.

Mr. MORTON. Well, Mr. President, I hope that my motion will not be disposed of in that very summary way, by saying "it cannot be taken up anyhow."

Mr. WILLIAMS. I said it could be taken up and referred; but I supposed from the honorable Senator's remark that he presumed there would be no objection, and that therefore it was proper to proceed with its consideration at this time. I only wish to notify the Senator that if he proposes to take up that bill and recommit it to another committee there will be discussion. That is all.

Mr. MORTON. It is true that this bill was postponed at the last session, and perhaps it is proper that there should be some remarks made about it.

Mr. HOWE. Allow me to inquire if it was postponed indefinitely?

Mr. MORTON. Yes, sir.

Mr. HOWE. What, then, I inquire of the Chair, is the question before the Senate?

The PRESIDENT *pro tempore*. The Chair has not had time to consider this question, but believes that according to the practice of the Senate an indefinite postponement disposes of the bill, and it is not before the Senate. The bill now referred to has gone back to the House of Representatives, where it belongs, it being a House bill, and is not now before the Senate. That is the opinion of the Chair, but the question is rather new.

Mr. MORTON. I call the attention of the Chair to the twenty-first joint rule, adopted in August, 1848, which is as follows:

"After six days from the commencement of a second or subsequent session of Congress all bills, resolutions, or reports, which originated in either House, and at the close of the next preceding session remained undetermined in either House, shall be resumed and acted on in the same manner as if an adjournment had not taken place."

I suppose that under the operation of that rule, if it means anything, it would be proper to take up this bill at this session on motion. That is the construction which I have given to it, and which others have given to it. If the Senate has ever come to a different conclusion, has ever given a practical construction to this rule otherwise, I do not know it.

Mr. HOWE. The Senator will allow me to make a suggestion. I do not know of any objection to his offering a bill precisely like that which he wishes to take up, and moving its reference; but it seems to me that the rule which he has just read does not apply to this case. It seems to me that this bill has been definitely disposed of by the Senate and is not now pending. I do not wish to discuss the matter. I should not have interfered at all if I had not once submitted a motion that the Senate proceed to the consideration of a bill which is pending. I did not press my motion in opposition to this case. I supposed that this was a mere formal matter, and that the bill would be referred without any discussion. It seems that cannot be done, and I hope the Senator will allow me to urge on the motion which I submitted some time ago.

Mr. HENDRICKS. I think the Senate Committee ought to have an opportunity to consider this bill. If the disposition of it is to be regarded as final, it was not under such circumstances as enabled an understanding of it by the Senate, and if the Chair can regard it as undisposed of finally I think it will promote the right. That is my impression about it. I had supposed that a vote indefinitely to postpone was a vote to postpone for that session, and that the business would be in the control of the body at the next session, provided a final adjournment of the Congress had not in the mean time taken place. There is no rule of the body that has taken this business away from the Senate; on the contrary there is a rule of the body that keeps it before the Senate for the purpose of consideration at this session, pro-

vided the vote indefinitely to postpone is not a vote against the bill upon its merits, which cannot be reviewed except upon a motion to reconsider. I have not understood that force to be given to a vote of indefinite postponement. It is but a postponement. It is not a vote upon the merits, as I conceive, and therefore I hope the motion of my colleague can be heard by the Senate. I think it will be well that this bill shall be considered by another committee.

The PRESIDENT *pro tempore*. The question is new to the Chair, but the inclination of his mind is that indefinite postponements in the Senate have been considered as a final disposition of the matter. The Chair is aware that there is a joint rule which continues bills from session to session of the same Congress where they are undisposed of; but in the Senate, though not aware that the precise case now presented has arisen directly, the Chair believes that an indefinite postponement has always been treated as a final disposition of the subject-matter. But the question is an important one, and the Chair instead of deciding it will refer it to the Senate to decide; and the question for the Senate will be, whether the motion now to take up a bill that was indefinitely postponed at the last session is in order.

Mr. SUMNER. As there is a question of order involved in that motion, or at least a question with regard to the usage of the Senate, I desire to say that while I have regretted, with such knowledge as I have, that the motion for indefinite postponement of this bill was made and acted on by the Senate, I do not see any way to rectify it now during the present session. I believe that a motion to postpone indefinitely, when made and carried, is what the name implies, an indefinite postponement of the measure. It takes it, I should say, for the existing Congress out of the jurisdiction; it is a final disposition for that Congress. So I have always regarded the rule, and such I believe to have been the practice. Were the question presented in any other form, were the proposition that the bill should be introduced again, I should favor it; but I do not see any way of reviving the old bill; it is a corpse; I do not think it can be resuscitated.

Mr. SHERMAN. Jefferson's Manual lays down a rule which I think settles the matter. The Senate uses a different mode of postponement from that which is used in Parliament, and Jefferson in stating the equivalent motions says that a parliamentary postponement indefinite is equivalent in the Senate to a postponement to a day beyond the session, and that is all he says about it. It would seem that that modifies the general effect of a motion to postpone. A motion to postpone indefinitely in the Senate is simply equivalent to a motion to postpone to a day beyond the session. Jefferson treats them as equivalent motions, as will be seen by reference to his Manual, at page 198 of the compilation in my hand.

Mr. DAVIS. Mr. President, this is an important question, and the intimations of the Chair and of the Senator from Ohio are a little different from what I have usually understood the rule to be. I have some extracts here which I will read on this point:

"Indefinite postponement is peculiar to our legislative assemblies; and the nearest proceeding to it which could take place, according to the forms of Parliament, would be to discharge the order for its consideration on a particular day without renewing it."—*Cushing*, 1335.

"The motion to postpone indefinitely is of American origin, and peculiar to legislative assemblies in this country, in which it is used. In the House of Representatives it is provided by a rule that when a question is postponed indefinitely, it shall not be acted upon again at the same session."—*Cushing*, 1336.

"If they wish to suppress a bill for the whole of that session, they postpone it indefinitely. This quashes the proposition for that session."—*Jefferson's Manual*, 143.

"When a question is postponed indefinitely, the same shall not be acted on again during the session."—*Barclay*, 36; *House Rule*, 142.

"In the Senate if they wish to suppress it for the whole of that session, they postpone it indefinitely."—*Barclay*, 95; 3 *Hatsell*, 183.

The result according to parliamentary law of an indefinite postponement is to arrest any

further action on the proposition at the same session, and carry it to the next session, and hence the twenty-first joint rule becomes applicable. It seems to me that that is the principle of parliamentary law generally, and it is the rule of convenience in one sense. What is imported by the words "a motion to postpone indefinitely?" According to the understanding of that rule by all the parliamentary authorities, that disposes of the subject for the session, but for no longer period; and without going over the forms of referring the subject again to a committee and having a report of the committee, the result of the parliamentary law seems to be, and I think it is consistent with good sense, that at the next session the subject may be taken up as though it had not been acted upon at all, as unfinished business of the preceding session.

I have not referred to the rules of the House of Representatives to see whether they have a special rule relating to the subject or not, but as quoted in the extracts which I have read the rule of the House is specifically that a motion to postpone indefinitely prevailing only disposes of the subject for that session, and that is confirmatory of the parliamentary law as quoted from Jefferson's Manual.

Well, Mr. President, if the Senate have no express rule upon that point, and the House has, there ought to be as much homogeneity as possible between the proceedings and rules of the two Houses. The fact, then, that the House of Representatives has provided by a definite rule that the effect of this motion prevailing shall be simply to postpone the subject for the session, and leave it to be taken up at the next session, in the absence of any rule of the Senate on the subject we ought to conform to the rule of the House; and, according to the quotation I have read from Jefferson's Manual, that seems to be the effect and the principle of the general parliamentary law.

Sir, it seems to me that a motion to postpone indefinitely is not equivalent to a rejection. The latter is a specific motion referring to the merits of the proposition, and to the whole of its merits. Where that motion is made and prevails there is a specific judgment of the body against the merits of the proposition, and it stands rejected until it is renewed according to the forms of parliamentary law; but where the motion is not to reject, but simply to postpone indefinitely, it is not an equivalent motion; because many members of the Senate might be willing to vote for an indefinite postponement who would not vote for a specific motion to reject. It seems to me that the parliamentary law, as it is referred to in these extracts, and the fact of a positive rule upon the point existing in the House of Representatives, to which for convenience the Senate ought to conform if it has not a rule of its own, ought to lead the Senate to the decision that such a motion as that prevailing only disposes of the subject for that particular session.

Mr. FESSENDEN. When I first looked at this question, my attention having been called to it, I had the same impression which seemed to prevail with other members of the Senate, that a motion to postpone indefinitely, if it prevailed, was equivalent to the rejection of a bill. I, however, took a little pains to examine the authorities on the subject, and I came precisely to the conclusion, on seeing those authorities, to which the Senator from Kentucky has arrived, that that was an entire misapprehension, and that under the parliamentary law the effect was simply to postpone the bill so that it could not be acted upon at the session at which the motion was made and prevailed. If that is the case—and that was the conclusion to which I came, and about which I think, on looking at the authorities, there can be no doubt—the result is that this bill is simply unfinished business, business which we did not finish at that session, but postponed the consideration of, so that it could not be again considered at that session. The result of that is that under our general rule the bill comes over to this session as unfinished busi-

ness, and may properly be called up as it has been called up by the honorable Senator from Indiana.

I was glad to come to that result in my own mind simply for the reason that on looking at some of the papers in the case, which I was requested to do, I became convinced that Mr. McGarrahan had labored under a misapprehension, which had arisen from conversation and a letter of one of the committee that considered the bill. He had every reason to believe that the bill was to go over to this session in the ordinary course of business. Any one would draw that inference from the letter which was written, and which is in print, on the subject from one of the committee. He was requested or advised to get other testimony, and he left with a design to get other testimony, on the strength of what may be called an implied assurance that the matter was not to be considered until he had had an opportunity to obtain it. Under those circumstances, leaving the city, and leaving the matter in nobody's charge, and it being a matter of very great and vital importance to himself—whether he is right or wrong I do not undertake to say—it happened that on the very last night of the session the subject was called up and the bill indefinitely postponed without any objection or any understanding certainly on the part of those, if there were such, who had looked into Mr. McGarrahan's case and believed that he was right. As he was evidently taken by surprise, however innocently it might have been done, and however properly it might have been done, it is no more than right, if within the rules his bill can be considered fairly, that it should be considered before the Senate; and, believing it to be entirely within the rule, I hope the motion will prevail.

Mr. STEWART. Mr. President, inasmuch as Mr. McGarrahan has sent a circular around the Senate complaining of bad treatment, and there has been a great deal said about his case, and inasmuch as I have been complained of by Mr. McGarrahan in connection with the case, before this motion passes from the Senate I desire to review the claim sufficiently to let the Senate understand its general characteristics; for I believe there never was a bill before this body with regard to which there was such an erroneous impression prevailing. I think it due to the committee who made the report that that report should be first read. I wish to have it read as a part of my remarks, and then I shall have further remarks to make with regard to this subject. I want the whole transaction brought before the Senate.

Mr. POMEROY. I hope the merits of the bill will not be discussed on the motion now before the Senate.

Mr. STEWART. The merits of the bill have been alluded to, and the fact that Mr. McGarrahan has been badly treated and advantage taken of him has also been alluded to.

Mr. FESSENDEN. The Senator is mistaken; the merits of the bill have not been alluded to by me, and I believe I am the only one who has spoken of it. All that I said was in relation to the manner in which it was disposed of. I said I had no opinion upon the merits of the bill itself. I did not go into the merits of it, and if the Senator does he must not plead the example of anybody else.

Mr. STEWART. The two Senators from Indiana have stated that they thought the bill deserved consideration on its merits, and did not like the way it was disposed of.

Mr. MORTON. I did not say so.

Mr. STEWART. I so understood the Senator.

Mr. MORTON. But I will say so if I get the opportunity.

Mr. STEWART. I should like to have the report of the committee read.

Mr. FESSENDEN. And then let the report that was made in the House of Representatives be read also.

Mr. STEWART. Very well; and then I shall have some remarks to make on the subject.

Mr. SUMNER. It seems to me that the preliminary question of order had better be settled first.

The PRESIDENT *pro tempore*. The papers were all sent back to the House of Representatives with the bill. According to our practice, where there is an indefinite postponement the bill and accompanying papers go back to the House in which it originated, and the papers in this case have gone there.

Mr. SHERMAN. I should like to have the twenty-first joint rule read. I think that will settle the matter.

The Chief Clerk read the twenty-first joint rule, as follows:

"21. After six days from the commencement of a second or subsequent session of Congress all bills, resolutions, or reports which originated in either House, and at the close of the next preceding session remained undetermined in either House, shall be resumed and acted on in the same manner as if an adjournment had not taken place."

Mr. SUMNER. I had proposed to call the attention of the Senate to that joint rule, which seems to me to govern this case. I observed a moment ago, when I was up, that so far as I was aware the unbroken usage of the Senate had been to treat the indefinite postponement of any measure as a final disposition of it by that Congress, not merely by the session in which the motion prevailed, but by that Congress. I had never looked at the books to see to what extent in their language they sustained what I thought was the usage of the Senate, but my attention has been called to this twenty-first rule, which, at the suggestion of the Senator from Ohio, has now been read by the Secretary, and it seems to me that it governs this case. By that rule—

"All bills, resolutions, or reports which originated in either House, and at the close of the next preceding session remained undetermined in either House, shall be resumed and acted on in the same manner as if an adjournment had not taken place."

The operative words of that rule which are applicable to this case are "remained undetermined." When the motion to indefinitely postpone is made and carried does not that determine the question? Can you say afterward that the matter which has been indefinitely postponed has "remained undetermined." I submit that you cannot, and I submit further that this rule is possibly the secret, if I may so express myself, of what I believe has been the invariable usage of the Senate. I am not aware that any matter indefinitely postponed has been revived during the same Congress. I may be mistaken. That I give as my recollection, and I now adduce this rule as sustaining the usage.

Mr. FESSENDEN. The words of the rule, "remained undetermined," must of course be construed with reference to what the immediate phrase means. For instance, if, as the Senator assumes, on the ground that he does not recollect anything to the contrary, an indefinite postponement means a rejection, then he is right; it is then definitely determined. But if the true construction of the phrase "indefinite postponement" is not rejection, but a postponement to another session, then it does remain undetermined, for it goes over to be determined at the next session. So that the phrase "remained undetermined" must be taken with reference to the operation of the motion to indefinitely postpone. That the honorable Senator does not remember anything to the contrary does not prove what the true construction of this indefinite postponement is—what it means. I remember no case, either, and perhaps there has been none since the Senator from Massachusetts and myself have been members of the Senate; but that proves nothing except that this is the first time that the question arises. I stated that I had the same impression. It was because when a matter is indefinitely postponed it is usually the case that by common consent it is a matter that should not be further considered, and therefore the question has not arisen. But has the Senator been able to point us to any precedent? Has he been able to discover anywhere a decision that goes the length of saying that an indefinite postponement of a bill is a rejection of that

bill? Not at all. Neither is it within the memory of any Senator; neither is it to be found in any book. On the contrary, in all the books it is found that this proceeding, being peculiar to this country, the universal reading of it is that it only carries a bill over to the next succeeding session, and does not determine it. That cannot be overcome by the want of recollection of the honorable Senator from Massachusetts, or my want of recollection, or anybody else's. The question is, has the question arisen and been determined? If it has not, now is the time to determine it on a motion which properly presents the question itself.

Mr. CONNESS. The determination of this question does not rest with the memory or the want of knowledge on the part of my honorable friend from Massachusetts, as stated by the Senator from Maine, because there is no want of that kind. There is a rule on the subject—a rule that illustrates and explains what indefinite postponement in the Senate means. What is the rule? It is a rule of universal usage, namely, that the other House, the body in which a measure originates which has been indefinitely postponed, are always informed by a message, an official communication, that the bill, giving its number, has been rejected or indefinitely postponed, as the case may be. We do not inform the House, nor does the House inform the Senate, when a bill is postponed to a day certain, when it is referred to a committee for consideration, or when it is in any of the stages by which it is before the body. But when it is definitely disposed of, when the Senate has said that they will postpone it indefinitely, which means to postpone it to a day after the session, which is not a legislative day, and therefore a day upon which it dies and has ceased to be, then an official communication is sent by the body that does that act to the body in which the bill originated, informing them of that form of rejection. I will ask the Chair or the Clerk, familiar with the proceedings of this body, whether there has ever been an exception to that official information being conveyed?

I have no objection to the reintroduction of this bill. I facilitated for Mr. McGarrahan when his bill was before this body the most thorough examination of the subject; and an exhaustive investigation of the subject has been made. Let it be made again, if necessary, but let not the rules of this body and the usage of this body from the time it begun be set aside for the purpose of resuscitating a measure. I have never heard before of any exposition of the motion of indefinite postponement but the one stated by the Senator from Kentucky, that it is a postponement to a day beyond the session. In addition to that, it prohibits the reintroduction during that session, after the indefinite postponement, of that measure again; but in addition to that prohibition it is a rejection, for it is a postponement to a day that is not a legislative day, and the moment that the motion passes it dies.

Mr. WILLIAMS. Mr. President—

ORDER OF BUSINESS.

The PRESIDENT *pro tempore*. The morning hour having expired, the unfinished business of Saturday is before the Senate, being the bill (S. No. 256) relating to the Central Branch Union Pacific Railroad Company, on which the Senator from Nevada [Mr. STEWART] is entitled to the floor.

Mr. SHERMAN. With the consent of the Senator from Nevada I will move, in pursuance of the notice I gave a week ago, to postpone the present and all prior orders with a view to take up Senate bill No. 793, in relation to the public debt and the currency.

Mr. MORRILL, of Vermont. Will the Senator from Ohio allow me to introduce some amendments which I propose to the bill, in order that they may be printed?

Mr. SHERMAN. That can be done as soon as it is taken up.

Mr. HOWARD. I hope the Senate will proceed with the consideration of the bill men-

tioned by the Chair, Senate bill No. 256, which is the regular order of the day. I think we shall not be occupied long upon that bill before we come to the final disposition of it. We have spent so much time upon it, both at the former session and at this session, that it appears to me due to the parties in interest, who claim our consideration, that we should proceed and dispose of the case. Let them know what their fate is to be. If we intend to come to their aid, let us do so; and if we do not, let us say so plainly; but let us finish the bill. I shall be entirely willing to take up the bill to which the Senator from Ohio has alluded the moment this is disposed of, but I think it is due to the parties who have presented this claim that they should have a prompt answer upon this subject. It is a very important subject to them.

Mr. SHERMAN. I do not know that it is necessary for me to enlarge upon this question. I thought it was the general understanding during the whole of the past week that the subject of the finances should be taken up at this time and disposed of. The Senate ought to consider whatever it does in regard to the public debt and the currency with great deliberation. It is a subject of vital importance, far outweighing all railroad bills of any character. I trust, therefore, we may now at this period of the session take it up and decide upon whatever action we may agree upon. In regard to this Central Branch railroad bill, I know it will consume a good deal of time; and the state of the public business is now such that we must proceed to act upon those bills of general importance on which we can have a vote of the Senate. To-morrow, I am informed, several appropriation bills will be brought before us; Thursday has been already set apart for the consideration of the constitutional amendment; and I take it, if we take up this bill, the natural weight of the subject will require the attention of the Senate at least three days. I trust, therefore, that no opposition will be made to this motion. The Senator from Michigan can get the attention of the Senate at some other time to this railroad measure. At any rate, the question of a subsidy to a railroad is of far less importance than the general subject relating to the public debt and the currency.

Mr. MORTON. The chairman of the Committee on Finance gave notice early last week that he would move to take up his bill on that subject to-day. I think it is due to him that he should be allowed to do it, and that the pending business, the railroad bill, should be displaced long enough to enable him to make his speech. I am in favor of the railroad bill, but I think it ought to give way long enough to allow the chairman of the Committee on Finance to take up his bill and make his speech on the subject.

Mr. SHERMAN. I do not wish it to be taken up for that purpose or to be placed on that ground.

Mr. NYE. The honorable Senator from Ohio took three days in the discussion here of a bill providing for a railroad from Washington to New York, and I suppose the bill he now proposes to take up will occupy quite as long. We have now got so near the disposition of the Central Branch railroad question that I think it would be economy of time to dispose of it. It is quite as important as that other railroad bill.

Mr. SHERMAN. I will state to my friend from Nevada that I would unquestionably have moved to postpone that or any other bill, even although I was very much in favor of its passage.

Mr. NYE. So was I; but it seems to me we are so near the end of the discussion on this bill that we had better let it be decided, and then take up the Senator's bill and sit it out. I am willing, for one, to stay here as long as the Senator desires us to stay in order to dispose of it.

The PRESIDENT *pro tempore*. It is moved that the order of the day be postponed for the purpose of taking up the currency bill.

Mr. HOWARD. I hope that the friends of

this bill will stand by it and let us come to a test vote upon it. I therefore ask for the yeas and nays on this motion, with a view to test the sense of the Senate on the question of its further consideration at this session.

The yeas and nays were ordered.

Mr. MORRILL, of Vermont. I ask the consent of the Senate to present some amendments to the bill called up by the Senator from Ohio, and have them printed. I do not ask even to have them read, but I desire to present them that they may be printed before the bill shall be finally disposed of.

The PRESIDENT *pro tempore*. They will be received and the order to print will be made, if there be no objection.

Mr. GRIMES. To which bill?

Mr. MORRILL, of Vermont. Senate bill No. 728 and Senate bill No. 793, reported from the Committee on Finance.

Mr. POMEROY. I think it will not be long before we can get a vote on the railroad bill. We should have reached it on Saturday, in my opinion, but for the obituary notice from the House; and I believe now it will be an economy of time to reach a vote upon it to-day. I hope it will not be postponed. Will the Chair state the question? I do not know precisely what it is.

The PRESIDENT *pro tempore*. The question is on postponing the unfinished business, being the Central Branch railroad bill, for the purpose of taking up the bill mentioned by the Senator from Ohio, on the subject of the public debt and the currency.

The question being taken by yeas and nays, resulted—yeas 21, nays 30; as follows:

YEAS—Messrs. Anthony, Bayard, Buckalew, Catell, Cole, Conkling, Davis, Dixon, Edmunds, Frelinghuysen, Howe, McCree, Morgan, Morrill of Vermont, Morton, Osborn, Patterson of Tennessee, Sherman, Spencer, Wade, and Williams—21.

NAYS—Messrs. Abbott, Cameron, Chandler, Conness, Cragin, Doolittle, Drake, Ferry, Fessenden, Grimes, Harlan, Harris, Hendricks, Howard, McDonald, Morrill of Maine, Nye, Pomeroy, Pool, Ramsey, Rice, Robertson, Ross, Sawyer, Sumner, Thayer, Trumbull, Van Winkle, Vickers, and Welch—30.

ABSENT—Messrs. Corbett, Fowler, Henderson, Kellogg, Norton, Patterson of New Hampshire, Salisbury, Sprague, Stewart, Tipton, Warner, Whyte, Wiley, Wilson, and Yates—15.

So the motion was not agreed to.

CENTRAL BRANCH PACIFIC RAILROAD.

The Senate resumed the consideration of the bill (S. No. 236) relating to the Central Branch Union Pacific Railroad Company, the pending question being on the amendment of Mr. CORBETT, to insert at the end of the bill the following proviso:

And provided further, That no more Government bonds shall be issued to said company, but that the Government shall guaranty the interest on said company's bonds for thirty years on the completion of each section of twenty miles of said road, and the interest shall be paid at the Treasury of the United States; and to secure the payment of such interest all earnings of said road for services performed for the Government, and five per cent. of its gross earnings, shall be paid into the Treasury of the United States under such rules and regulations as the Secretary of the Interior may prescribe.

Mr. STEWART. Mr. President, I was about to remark in regard to this bill when interrupted on Saturday that I believe the parties interested in this central branch road have some equity; that they might reasonably suppose at the time they undertook this enterprise that they would have a connection with the Union Pacific, eastern division, so as to make the enterprise a success. They would have had that connection but for the legislation that was had here, and their enterprise would have been a success. It appears that they did not ask for that legislation, but protested against it. At the time, however, that that bill was under consideration I knew nothing of the protest. It was not before the Committee on the Pacific Railroad of the Senate, according to my recollection. I saw nothing of it.

If they had been allowed to make this connection, as was anticipated by the law, the road would have been a much shorter one than it will be to go to the one hundredth meridian. It would not have been more than one hundred and fifty miles in length at the outside.

They have had subsidies for one hundred miles. Of course the point where they would unite would be a little indefinite, but I think one hundred and fifty miles would be the outside of the length of this road if it had been constructed as originally contemplated.

These parties now come here and ask for relief. I believe they should have some relief. The question then arises, what kind of relief should they have? It seems to me every fair-minded man would say they should have such relief as would enable them to build the road to a point where they could have a connection and make the road available. That will be fair, in my estimation of the transaction. They having been deprived of that connection without any fault on their part, as I believe to be the fact, Congress, if it is to act upon the subject, should act in the light of giving them such relief as will place them in as good a position, or something near as good a position, as they would have been in but for our previous legislation. It is claimed that they ought to be allowed to have bonds to the full extent—one hundred and fifty miles; that that is the only relief which will be adequate.

I think Congress made a mistake. I do not know that I ought to say it was a mistake either, because it was necessary to offer great inducements to get the Pacific railroad started, but they have not sufficiently protected the Government in providing for these railroads. The law as it now stands allows the companies to issue a first mortgage to an amount equal to the bonds issued by the Government. The subsidy here is \$16,000 a mile. The company may put upon the line first-mortgage bonds for the same amount. From the report of the Secretary of the Interior on the Union Pacific railroad, it appears that that road has issued its first mortgage bonds and sold them upon the market, as well as received the bonds of the Government. These mortgage bonds are a first lien upon the property of the company. It appears from the statement that I saw from the Secretary of the Interior that there was a much larger amount realized by the bonds that the Government issued and the first-mortgage bonds that the company issued than was necessary to build the road; that from fifteen to twenty millions more had been issued than had been appropriated in the building of the road. In what condition does that leave the Government? These parties, if they were disposed to do so—I do not know that the company have done so; I hope they have not—might make a dividend on the surplus, get rich in building the road, and then allow the road to be sold under the first-mortgage bonds by the mortgagees, and thus the Government would be entirely without remedy. That may be done on the Union Pacific railroad. It may be done on this road if we follow the same kind of legislation. Experience teaches us that that legislation does not sufficiently protect the Government.

The amendment which I sent to the Chair on Saturday last, which was carefully prepared by the Senator from Oregon, [Mr. WILLIAMS,] provides that for the amount of bonds guaranteed by the Government the Government shall have the first lien upon the road. It also provides that the lands which are donated by the Government shall be appropriated to the construction of the road. It also provides for paying off this debt. It gives the company sufficient credit to build the road; it gives them their connection, and saves the Government, and prevents the existence of a first mortgage that might be foreclosed, and thus place the road in the hands of third parties and deprive the Government of any remedy for the bonds issued.

Now, I do not believe we ought to indulge in any more of that class of legislation. If \$16,000 a mile is not enough, make the amount sufficient to build the road, because this cuts them off from raising money elsewhere; because the Government takes all the security, both the land and the road, and is empowered to enforce that security in case the payment is not promptly made. In that way you protect

the Government; at the same time the road is built and these parties are relieved, and they have a longer piece of road than they originally contemplated having; they have a connection with the Union Pacific; they have a connection without competition from the eastern division. They will be in a great deal better position than they otherwise would, because if the eastern division had made the connection on the one hundredth meridian it would have been a competing road to the Atchison branch. The Atchison branch will be a much better road without that competing road seventy-five miles off than it would otherwise be. If we guaranty a sufficient sum to enable them to build the road, and take ample security to the Government, they will be placed, I say, in a better position than they would be if they were to build another fifty miles of this road and make the connection with the Union Pacific, eastern division, and have a competing road. It seems to me that this is fair. As to the exact amount of bonds to be guaranteed, let that be fixed at the lowest rate that will build a road over the plains which can be ascertained. I cannot vote for issuing any more bonds direct, and allowing the companies to make a first mortgage, because in that way the Government may be deprived of any redress or any payment back of the money. I do not like that kind of legislation. This is all I have to say about it.

Mr. FESSENDEN. I wish to say a few words with reference to this bill, more by way of explanation of the reasons why I shall vote for it than for the purpose or with the expectation of throwing any new light on the subject, because it is perfectly well understood now, I think.

When the bill was up at the last session my impressions were very much against it. Those impressions were strengthened by the very able attack upon it that was made by the honorable Senator from New York, [Mr. CONKLING,] to all of which I listened and with which I was disposed to concur. Had the vote been taken at that time, I should unquestionably have voted against the bill; but at the request of a gentleman who came here as the agent of the parties interested, and who was attending to the bill, I took the papers home with me and examined the question at my leisure and gave it as careful consideration as I could with such papers as were before me, and the result was that I came to a conclusion that, however reluctant I might be to do so, I could not help voting for some relief to these parties. I say I was reluctant to come to that conclusion, because I have been opposed to the general course of the legislation of Congress with regard to these railroads. I was one of the very few members of Congress who did not vote for the original Pacific railroad bill, and of course I did not vote for the second bill, which was passed to explain it and to give still greater privileges.

The reason of my non-action at that time was not that I was not in favor of a Pacific railroad, but I believed that if one was built it should be built by the Government itself and owned by the Government, and I did not think that we had sufficient light on the subject to justify us in supporting the bill that was introduced, which not only provided for one main trunk but for three lines converging to a point, running through States of the Union for a very considerable portion of their distance. I thought that the bill was brought about, not as a good bill in itself except so far as the object was concerned, but as a bill that was produced by the junction of different competing interests, to which the great interest of the Government was sacrificed, and therefore I did not give it my assent, although in favor of the main matter. That kind of legislation, to which I was much opposed, prejudiced me very much against the whole system and everything connected with it. I have not voted, to my knowledge, for any of the subsequent subsidies that have been granted or anything that has been done in relation to

them, but have been content to let the matter go along without making what I knew would be a fruitless opposition, being really and strongly in favor of having a railroad to the Pacific built if we could get one built upon some plan. One reason why I have held myself aloof from the subsequent bills which have been proposed is that I saw that the legislation we had then has led to all sorts of schemes. I have trembled for the Treasury when I have seen the extent of the schemes that were brought before Congress for making other railroads, and seen the powerful interest that has been brought here in order to effect the purposes desired. I believe, sir, there is a better appearance of things now; that light is dawning on the public mind, and that we may really hope to check some of this very bad legislation and corrupting legislation, in my judgment, to a very great extent.

Now, sir, with regard to this particular bill, how does it stand? I can add nothing to the very clear exposition that was made by the honorable Senator from Indiana [Mr. MORTON] the other day. It seems that the three arms (if I may so call them) at this end of this railroad were authorized. I do not remember the names of them; but I will call them the northern, central, and southern. They were all to converge to a point on the one hundredth meridian, and they were all granted a certain amount of lands and a certain amount of subsidy. The object, manifestly, as shown by the original bill authorizing the construction of the Pacific railroad, was that they should all converge to a certain point, and there the main trunk line should begin. The bill was so drawn as to give certain privileges to all of these lines; but that idea was specifically kept in view.

Now, with regard to this central branch, what was the legislation? It was simply this, if I understand it—and if I am wrong I shall be very glad to be corrected; in fact I should be glad to find some good ground on which I can vote against this subsidy, as I have been disposed to do against all others—the central branch was granted a subsidy for one hundred miles and there to stop; it was to have no more. But what was granted it in addition? The privilege to join either of the other lines. That privilege was specifically granted to it just as it pleased, if I recollect aright; it could connect with which one it liked, and thus become a part of the Pacific railroad proper. Well, sir, what did it do? It obtained subscriptions. It waited. Why did it wait? It waited because it wished to ascertain what was to be the location of these other lines with either of which it might join. A certain time was given within which that location should be made and a map filed; and that was to determine the course of these several roads. This company having no right to a subsidy beyond the one hundred miles, but having this privilege of junction, as I understood it, waited until the other location seemed to be completed. The time of filing the map, the time of making the location was concluded. The point was reached. Apparently on the face of the paper, on the face of the earth, the route of these railroads was laid down. It then makes its selection to join what is called, I believe, the eastern division railroad. It did not commence its operations, it made no finality until that thing had been done; and that was all under the legislation of Congress.

Now, sir, what was manifest? It was perfectly manifest that this central branch was of no sort of value, and could be of no sort of value unless with the privilege of joining one of the other roads or continuing its construction, and a provision was inserted in the bill that if any of these roads should fail to construct its line either of the others might go on and avail itself of all the privileges and make the same construction, and thus become a part of the Pacific railroad. This company having waited until the final step seemed to be taken and the map filed and the eastern division had located (so far as the map went) its road up

the Republican fork, so called, then the central branch began. It obtained subscriptions to the amount of \$1,000,000; it borrowed money and made its mortgages; it took its bonds and sold them; and it constructed its one hundred miles of railroad, or got so far that the road might be considered as constructed, when what took place? It had gone entirely out of the direction of the northern line; it had concluded to join the eastern division, so called, or the southern line; it made its road accordingly to join that eastern division; it expended its money; it went to a point, and there it stopped, so far as the Government was concerned.

Then, sir, what does Congress do? The eastern division, notwithstanding that its time had expired for filing its map, notwithstanding that it had located its road, came here and asked Congress for permission to change its direction. Congress, without considering the rights of this other company, without considering the effect that such a change was to have upon this other company, granted permission to the eastern division to change its location; and not only gave that permission, but gave it all the lands and all the subsidies that it would have been entitled to if it had kept it on according to its original location. The proper way to do, in my judgment, if it did anything in regard to it at that period, was to say to the eastern division company, "You can change your location if you please, but the subsidies and the land must be given to this other road to enable it to reach the point of junction." Congress did no such thing; but it gave the subsidies and the land to this very eastern division, and left the central branch, having thus expended its money and made its bonds and finished its road, or at least gone so far that it could not recede, precisely at a point where the road itself, according to all the information I can get on the subject and as I should judge from its location, must necessarily, if it stops there, be utterly without any value.

Mr. EDMUNDS. How many miles were actually built at the time the act of 1866 was passed?

Mr. FESSENDEN. I presume the one hundred miles were not entirely finished, but a large portion of the road was built.

Mr. EDMUNDS. I should like for information to ask my friend, who has examined the subject, to tell us if he knows, and if he does what is the source of his information, just how many miles of this central branch had been actually constructed at the time Congress passed the act of 1866 that permitted the divergence of the eastern division?

Mr. FESSENDEN. That I am unable to do, because I am not sufficiently familiar with the subject. My understanding is that enough was built to render it impossible for the company, with any regard to their interests, to change the direction in which they were going.

Mr. POMEROY. If it is of any importance I suppose I can answer the question.

Mr. FESSENDEN. The Senator can do so afterward. I am merely explaining why I shall vote as I proposed to do. Although at the last session I understood the facts to be pretty much as I have stated them, I was not disposed then even to give my vote for the bill, for the simple reason that here at the time the act was passed granting leave to change the location of the eastern division the then president of the central branch, as I understood, was in this body a Senator and not objecting and not stating to this body what the objections were on the part of the central branch; at any rate not stating them so that I understood the objections. If an agent of the company was present, a person standing in that relation to it, and was disposed to submit to this change and not inform this body fully and thoroughly what the effect of it would be, and when at the same time the chairman of the Pacific Railroad Committee informed the Senate that it did not affect the rights of the Government or the rights of any other road, as I recollect, I was willing to let it go; but I am credibly informed, informed on authority and

on proof which I certainly cannot resist, that the moment the mass of gentlemen engaged in this work, who had put their money in it, became informed of the condition of things they came directly on here to resist it.

Mr. HOWARD. One moment, if the Senator from Maine will allow me. The Senator refers to a remark made by me in the discussion of that bill in 1866 when it was before the Senate.

Mr. FESSENDEN. Yes, sir.

Mr. HOWARD. It is probable I made some such remark as that which he refers to, but it grew out of this circumstance. I desire to set myself right on the subject. Whoever will read the sixteenth section of the amendatory act of 1864, and consider it in the light of construction, will, I think, come to the conclusion that this central branch company had the right to proceed onward with its work and to form a connection with the Omaha branch; as therein expressed—

Mr. FESSENDEN. Will the Senator oblige me by deferring his explanation until I get through?

Mr. HOWARD. Just allow me one word further now. It was the doubt that grew out of the construction of that section and the uncertainty of that language that finally induced the Secretary of the Interior to withhold the lands and the bonds from this company.

Mr. FESSENDEN. I was remarking, sir, that as soon as the persons who were interested by having subscribed their money learned that this matter was in agitation, they came directly to Washington to arrest the passage of that bill, but it was too late to arrest it in the Senate. They presented their remonstrance to the House of Representatives, and vigorously pressed it, stating the effect it would have upon them. That went to the committee—and, as I am informed, the Pacific Railroad Committee of the House were opposed to the bill—but by the power that was exerted by a great man, then living, over the House, and who seemed to have different opinions, the bill was taken out of the hands of the committee and passed through the House and became a law. Now, I am not disposed to punish men who were concerned in this road who honestly put in their money, and who actually resisted that bill in good faith when they ascertained what the facts were, because they did not ascertain them early. The original wrong was done here in this Chamber, in my judgment. We should have refused, in the first place, to grant that privilege of diverging, or if we had granted it, we should have granted it only on the condition that the other road, which was thus left out in the cold, should have the right to the subsidies and the lands which were originally to be given to the eastern division provided it reached the point to which it professed to desire to go. We did not do that. We allowed them to go off in another direction, as I understand now, and I understand it definitely from them; I did not at the last session. They have no idea of joining the central line, the great trunk line, but propose to go off in another direction. They have already received the original amount, probably, of the lands and the subsidies which they would be entitled to receive if they went to this point. I do not know exactly how that is; but what is the result? The result is that we held out the inducement to this company, which we have confined to one hundred miles so far as our subsidies and lands are concerned, to make their road in order to become a part of the great Pacific railroad system, and when they have dipped themselves in so heavily and so deeply that they cannot recede without very heavy loss, we then turn round to them and deprive them of the great privilege by which alone they could make the whole matter desirable to them as an investment.

Under such circumstances I cannot but think that they have a very strong equitable claim upon this Government; and I think, moreover, that notwithstanding Congress gave permission to the eastern division to go off in another direction, as it did, had I been at the

head of the Interior Department my decision would have been that when they chose to do it, even under congressional permission, they failed to perform the very first condition which would entitle them to any further subsidies and lands, and that this central branch company, if it took up the work and continued it, would be entitled to these subsidies and lands. But the decision has been different, and being different they are left without any redress unless we choose to afford them redress.

Now, sir, what that aid, what that redress should be I have not examined the question sufficiently to decide. I understand that by continuing their road at their own expense some twenty or thirty miles further than the point where they now end they would probably have struck the eastern division had it been continued up the Republican fork. Even then the distance which they would have to go from that point, (and which perhaps they must do at their own expense,) in order to reach the other road on the one hundredth meridian, the point of departure, if I may so express it, of the Pacific railroad, would be more than one hundred and fifty miles, for which it is proposed here to grant them subsidies. If so, in my judgment they are entitled to the aid for one hundred and fifty miles given by this bill; whether this specific aid is sufficient or not I am unable to say; perhaps \$16,000 a mile is too much; perhaps aid in another direction might be given them which would be more for the advantage of the Government; but that they should receive the aid of the Government to enable them to reach the point for which they originally started is, in my judgment, a very clear matter of equitable consideration.

I was struck also by the remark made by the honorable Senator from Indiana, to the effect that having built one hundred miles of road, and the Government having already advanced them \$1,600,000, it is for the interest of the Government to do something not to have that a dead loss as well as to have all the benefits of the road lost to the country.

This is the simple explanation which I wished to make for my own proposed action on the subject which, as I stated before, is a course of action which I adopt very reluctantly, for it is against all my preferences.

Mr. HOWE. Mr. President, I did not intend to take any part in the debate upon this bill; and I should not, I think, have taken any part but for the fact that the bill is now pressed very persistently by many members of this body to whose judgment I am very much in the habit of deferring, and to whose judgment I feel under some obligation to defer. I have no reason in the world for opposing this bill except that, in my judgment, it is a great injury and a great wrong to the public interest. That is a consideration that weighs, or ought to weigh, equally upon every member of the Senate; and therefore I feel called upon, since I cannot come to the conclusion that other Senators do in reference to this matter, to state why I cannot do it.

I listened, charmed, as I am very much in the habit of being when I do listen, to the honorable Senator from Nevada [Mr. Nye] the other day, and I have listened this morning to the honorable Senator from Maine, [Mr. Fessenden.] Being utterly unable to concur with either of them in the conclusions to which they come, it seemed to me that I was called upon to apologize, for whenever I do listen to the Senator from Nevada I generally feel obliged either to vote with him or apologize. As I cannot go with him, I am up here now to send my "regrets."

Mr. President, I am utterly unable to understand, after all that has been said, that the legislation of 1866, which has been so often referred to, was in violation of any legal right then vested in what is now known as the Central Branch Pacific Railroad Company. Every right which that company had at the time that act passed it seems to me that company still has. What were the rights vested in that company by the original act under which it claims—

for it claims as the assignee of the Hannibal and St. Joseph Railroad Company of Missouri. The right to extend a line of railway from the termination of the Hannibal and St. Joseph road by the way of Atchison, in Kansas, either to connect with the line of railway up the Kaw valley, now known as the eastern division, or with the line running from Omaha through Nebraska to the one hundredth meridian, taking its choice to connect with either, but with the privilege of a subsidy in lands or money for the extent of one hundred miles, and one hundred miles only. Those were the rights vested in that organization by that legislation. Those rights they still have. They can still connect with the Omaha line; they can still connect with the Kaw valley line as they choose; they have had the whole subsidy which that act conferred upon them. Of what wrong, then, can they complain? Why, it is said for them that they have built one hundred miles and they have not touched either line.

Mr. President, there is not a line in any one of the acts which ever intimated that they would strike either of those roads in one hundred miles. They could have struck the Kansas line—the Kaw valley line—in one hundred miles; they could have struck it in fifty miles. There was, when the first act was pending before the Senate, a determined effort on the part of many Senators to compel them to connect, or in other words to limit, their subsidy to fifty miles, with the view of compelling them to connect with the Kaw valley line at or near Topeka, in the State of Kansas; and that proposition was supported by both of the then Senators from Kansas, and it was supported by a former Senator from the State of New Hampshire who took a deep interest in the prosecution of that bill, (Mr. Clark.)

I say, sir, there was not a syllable in any one of those acts which undertook to guaranty or secure in any way to the central branch company a connection in one hundred miles. They could run their line as they pleased, run it in what direction they pleased, take a long line or a short one, to a junction with either the Kaw valley line on the south or the Omaha line on the north; but subjected to this condition always, that the Government would grant them subsidies in land or money only to the extent of one hundred miles. They have had the whole surface of the country between the Kaw valley and the Platte valley open to them; they have chosen their own route, and they have prosecuted it on a line which would not have effected a junction with the Kansas branch if it had gone up the Republican valley, is not within fifty miles, so the report here shows, of a junction with that branch of road if that company (the Kansas company) had pursued their way up the Republican fork.

How, then, is the central branch company injured in any one of its legal rights by the act of 1866? What did the act of 1866 do? Why, Mr. President, under the original act inaugurating the Pacific railroad enterprise the company charged with the building of the Kansas branch could have gone up the Smoky Hill fork. There was nothing in that act which required them to go up the Republican fork. They could go where they pleased. The termini of that branch were fixed by that act, and only the termini. One end was the mouth of the Kansas river; the other was a point on the one hundredth meridian of longitude anywhere between the southern bank of the Republican fork and the northern bank of the Platte river. And those were the only conditions imposed upon that company, the Leavenworth, Pawnee, and Western Railroad Company, in locating the line of their road; they could reach that meridian of longitude either up the Republican fork or up the Smoky Hill fork, or south of both; only, if they kept far south, as they might, till they struck the one hundredth meridian, then they would have to run north on that meridian until they struck the initial point of the road running from that meridian west to the Pacific. All that the act of 1867 did, therefore, was to release the Leavenworth,

Pawnee, and Western Railroad Company from the obligation of touching that initial point at all. How can the central branch say that they are injured by that? This company might have taken a line which would have carried them two hundred miles distant from the present terminus of the central branch road.

The Senator from Maine, speaking upon this point, does not claim that it was the act of 1866 which interfered with the rights of the central branch company. He does not claim that the central branch company acted in the faith of any legislation of ours, but—

Mr. FESSENDEN. Entirely so.

Mr. HOWE. The Senator will not dispute with me if he understands what I am about to say. I will accept his corrections if I do not state him correctly. I understood him to say that the central branch company did not locate their road in view of any legislation of ours, but they waited until the Leavenworth company had located their line; and when they found that the Leavenworth company had located their line up the Republican fork then they took their direction.

Mr. FESSENDEN. The Senator will observe, if he will excuse me for interrupting him, as I wish to be understood, that the act limited the time within which the location by the filing of a map should be made. They waited until the expiration of that period. In the mean time the eastern division filed its map and thus located its direction. Relying upon that legislation, the time had expired within which they could do it, and it having been done within the time the central branch company then made its location.

Mr. HOWE. But, Mr. President, it was the act of the company and not the act of Congress which misled the central branch company, if they were misled at all. Because the Leavenworth company had mapped out a line of road up the Republican fork, therefore the central branch inferred that they were going to build upon that line. That was a very natural inference; but there was nothing in the act of location which debarred the Leavenworth company from changing its mind, and nothing in any act of Congress which debarred that company from appealing to Congress for the right to change its line.

The question of law presented here, Mr. President, is simply this: because the central branch company was authorized by act of Congress to connect with the Kaw valley line, was the Kaw valley line bound to locate its line with reference to the convenience of the central branch company? That is the whole question of law. Was this an easement in the rights of the Kaw valley line granted to the central branch company, or did both companies stand like all other companies, simply upon the rights vested in them respectively by the different acts of Congress, coupled with the right in each one of them to come to the national Legislature for such additional aid or privileges as either might require? I cannot see anything in any of these acts which gave the central branch company any control over the Kaw valley line in the execution of its chartered privileges.

Mr. President, perhaps the central branch company, when it had prosecuted its enterprise up to 1866, was interested in having the Kaw valley road constructed up the Republican fork. I say perhaps it was interested in having that done. How can we say so? How can Congress say so? When the central branch company obtained from us its chartered rights it had not determined whether it wanted to connect with the southern line or with the northern line, with the branch from Omaha or the branch from Kansas City; it therefore took the right to connect with either. The Senator from Maine says that it commenced the execution of its enterprise by aiming to a junction with the Kaw valley line. Very well. I think that was wise, perhaps; at all events we have no occasion to question the wisdom of that choice. It chose to aim toward the Kaw valley line. But Senators may say they did so in the belief

that the Kaw valley line would go on to a junction with the Omaha or with the main line from the one hundredth meridian.

How do we know that? The projectors, the managers, the controllers of the Kaw valley line finally determined that it was not for their interest to connect with the Omaha line at all. If not for their interest, why should we conclude that it was for the interest of the central branch? The Kaw valley line is still being prosecuted toward the Pacific ocean in another direction widely divergent from that pursued by the Omaha line. How could we say in 1866, how can we say to-day, that it was not the judgment of the friends of the central branch road that they should unite their fortunes on the eastern division, going up the Kaw valley, going up the Smoky Hill fork, and going on toward the Pacific ocean over the line which that company is now pursuing? Sir, we cannot settle that.

I make these remarks with the view of suggesting that if Congress had known precisely what the attitude of these several companies was in 1866, when the act of July 3, of that year, was passed, we were not authorized to conclude that the changing of the line of the eastern division was an injury to the central branch. We had as much evidence to believe that it would be profitable to the central branch company to go to the Pacific over the route now pursued by the eastern division company as it is to the eastern division company itself.

But, Mr. President, I stand here to say that Congress is not responsible for the act of July 3, 1866, no matter how seriously or injuriously it may affect the interests of the central branch company. I stand here to say that the central branch company itself is responsible for it. If that act had purported to take from the central branch company its right to build a mile of road, its right to a dollar of subsidy, and the central branch company had acted in reference to it as they did in reference to the act we passed, the mouth of the central branch company would have been closed against all right of complaint on their part. I have no right to convey the farm of my friend from Vermont; but if I do convey it and he stands by and sees me do it, he cannot question the title which you take from me in his presence with full knowledge of the act without a word of protest against it; by the fact of his keeping silence when the conveyance was made he is estopped from questioning your right to the property conveyed. Sir, was not this the attitude of the central branch company when the act of July 3, 1866, passed in these two Houses? This point was made at the last session of Congress. Attention was called then to the fact that one of the officers of the company was at that time on the floor of the Senate, and, instead of objecting to the passage of that bill was urging it.

Mr. POMEROY. Mr. President, I corrected that several times, and I take this opportunity to correct it again. I not only did not urge it, but opposed it, as I have shown from the Globe.

Mr. HOWE. I beg the Senator's pardon if he has corrected it. My attention had not been called to that fact. I understood the Senator from Maine to repeat that this morning.

Mr. POMEROY. I rose to correct him, and he said he wished I would wait until he got through; but I corrected that at the last session.

Mr. HOWE. I certainly stand corrected, then, as to the attitude of the Senator from Kansas. I ought, therefore, to waive that position. I did not rely upon it then. The mere silence or the mere support of an officer of the company here I do not feel authorized to regard as conclusive upon the rights of the constituency which he represented to a certain extent, for it is only to a certain extent that any single officer of a corporation can represent the stockholders. I was in some doubt as to whether I was authorized to conclude that the company itself knew of the pendency of the act of July 3, 1866; but the fact that they did know of it was put beyond all controversy the other day by the Senator from Michigan; [Mr.

HOWARD,] who presents here what purports to be a copy of a remonstrance which he says—and I have no disposition to question the accuracy of his statement—was presented in the House of Representatives. That remonstrance shows this fact conclusively, that the company did know of the pendency of that act. It does not conclusively show that they knew it until the 21st of June, if I remember rightly. The remonstrance bears date on that day. It was presented in the House of Representatives on the 22d of June. The bill had been reported early in March preceding.

Many of the gentlemen who signed that paper reside in Massachusetts, others in New York. Mails go between this locality and those every little while—more than once in three months, at all events. Now, I cannot help coming to the conclusion that that intelligent railroad corporation did know of the pendency of the bill while it was in the Senate. The Senator from Maine has come to the contrary conclusion. He thinks they did not know anything about it until the 21st of June, 1866. I do not know that he is wrong, and therefore I do not know that I am right, but I think it fairer to conclude that they were not so excessively stupid, so very sleepy upon this great right, which they now insist was infringed upon, as that conclusion of the honorable Senator would make them out to be. I think they must have known of the pendency of the bill long before it passed the Senate. What, then, was manifestly their duty if they meant to be governed by good faith toward Congress? Why, if they held that to be an infringement of their rights they should have come to the Senate as well as to the House of Representatives, and have said so.

It is not enough for them to ask the judgment of one House of Congress upon their rights. It takes the concurrence of both Houses to pass a law granting or infringing rights; and they were as much bound to take the judgment of both Houses upon the question which interested them as the judgment of one; and I feel therefore authorized, I feel compelled, because of the fact that this bill went through here without a remonstrance from any of them, and from the fact that we never heard that a remonstrance was made on their part anywhere until within a day or two, to come to this conclusion, that the company deliberated at first upon the question whether they should let that bill pass both Houses, and then insist that they were clothed with the rights which the eastern division company had and could take the subsidy which had been granted to them in order to build up the valley of the Republican fork, or whether they should conclude that they had no such right, and should remonstrate against the passage of the bill.

It seems to me they deliberated upon that question. What their conclusion was finally I am not satisfied. It is said they presented this remonstrance and urged it to the House. The remonstrance says that this act of 1866 is a violation of their rights, or at least that it is an injury to their interests, because it will cut them off from a connection with the Omaha line. The remonstrance concedes the law of the case to be as it is settled by the Secretary of the Interior, the law of the case to be as I insist it is. The language of the remonstrance is a plain concession that they had no right to any subsidy beyond the one hundred miles, whether that bill passed or not; and that, therefore, if the bill did pass, there would be no power of making a connection except at their own cost. But I rather conclude, Mr. President, that they did not press that point. The balance of the evidence goes to satisfy me that they came to the conclusion that their best hold, as the boys say sometimes, was to let the bill pass, and then insist that the Government was bound to give them the subsidy which was originally provided for making a connection with the Omaha line. If that was their conclusion it seems to me they did not act in good faith toward the two Houses of Congress; and if it was not their conclusion, it seems to me they did not act in good faith toward the two Houses,

because they did not inform the judgment of both Houses as to the precise manner in which their interests were involved in the bill of 1866. But suppose I am wrong on both these points, I have two questions yet to suggest. If their rights were injuriously affected by the passage of the act of 1866, and this company was innocent in reference to the passage of that bill, these two questions remain to be considered: how much was the central branch injured by that act, and who should pay the damage? What was the damage and who should pay it? Upon the latter point I have no doubt whatever. If by our act we have destroyed the value of the franchises belonging to the central branch company, we should pay the bill; we should not take it out of the Treasury of the United States; it is our act. I wish the Senate to attend to the fact that you are about to vote a fine on the nation of something like two million dollars and take it out of the Treasury to make amends for an injurious and oppressive act of our own.

Mr. President, I do not like to do that. When I am found guilty of any conduct which subjects me to a penalty I would prefer either to put my hand in my pocket and pay it, if I can find the means there, or to call on my friends privately to help me out; but to impose a penalty on an innocent people whom we represent I do not believe is right. I do not feel that we ought to vote this penalty upon the people. But, sir, if the people are to be held responsible for it, if our constituency and not ourselves have got to make good these damages, then what should be the damages assessed upon the people? What is the franchise which is injured? The right to connect with either the eastern division or the Omaha branch; but that right is open to them. They were entitled to a subsidy for one hundred miles. That subsidy they have got, but they say the road is valueless. Well, sir, admit that to be so, what then is the injury that is inflicted upon the company? They certainly cannot be injured beyond the amount of money they have invested in the road. How much is that? I heard it said here the other day that it was \$1,000,000; that they had invested \$1,000,000 in the construction of that branch of one hundred miles. I think it absolutely impossible that any such amount of money can have been invested by the stockholders; but suppose it has been, how much better is it for us to take \$1,000,000 out of the Treasury and pay it to the company and thus own the road they have built, with all the stock they have on it, and dispose of it as we see fit; how much better is that, I say, than to give them \$2,000,000 more—for what purpose? To extend this very road to a connection with the Omaha branch. To what end so far as the public interests are concerned? Why, Mr. President, do you know who owns that Omaha line? Who owns the equity of redemption I cannot say just now; but I can remind the Senate of this, that the United States have a mortgage on it amounting to \$32,000 a mile. That is a pretty important interest in that road.

We are interested in the success of that road as a mortgage, because unless it does succeed, unless it earns money to pay its running expenses and to pay its interest, we are losers to this extent: we have invested \$16,000 a mile, and there is a mortgage ahead of ours to the amount of \$16,000 more a mile. What is the effect of this road which they ask us to allow them build to a junction with that road? It is to divide the business over that line for the first two or three hundred miles. The whole value of this road is to be subtracted directly from the value of that Omaha branch, or the eastern division; because every pound of freight and every passenger that go over this new line, if you construct it, will, without the new line, go over one or the other of those roads on which we hold these heavy mortgages to-day. Now, looking to the interest of the United States as the mortgagee of these two existing lines, who can doubt that it is vastly better for us that this competing line should

not be built than that it should be built? If it does no business, then it will be of no use to those who build it. If it does any business, whatever it does is a wrong, or if not a wrong it is an injury to the existing roads, in which we have the heaviest interest.

Mr. President, there is another fact which ought to be kept in mind by the Senate. This central branch road is now within about thirty miles of a junction with the eastern division. They decline that now, and they want to make a connection with the Omaha branch, and they want us to give them a subsidy for one hundred and fifty miles to connect with that branch, when, by the construction of about thirty miles, they can connect with the eastern division. I think it would be vastly better for the United States, and I do not know how we can come to the conclusion that it would not be just as well for the central branch company to connect now with the eastern division as to connect with the Omaha branch, unless there is money to be made in the construction of the road, mile by mile. If we are disposed to grant to this company \$16,000 a mile of Government bonds, with the right to sell their own bonds, sustained by a prior mortgage to the same amount, I am inclined to think there is money to be made by the building of the road if the road should never be of any value in the world. It cannot cost any \$32,000 a mile, for I understand that they are now in the valley of the Blue river—it is so located on the map; they are in the valley of the Blue river, which comes right down from the neighborhood of Fort Kearny. That is a plain; and how slight the difficulties of construction are will be made manifest by some figures which I take from a survey of the Omaha branch or line of road. I wish to call the attention of the Senate to them.

For the first three hundred miles from Omaha west the railroad only rises in the net eighteen hundred and eighty feet. The whole number of feet of ascent in three hundred miles is twenty-three hundred and thirty-two, and the whole descent is four hundred and fifty-two, making a net ascent of eighteen hundred and eighty feet—a little over six feet to the mile, and almost a regular grade from one point to the other. Well, Mr. President, this road, if they go on with it from the valley of the Blue river, where it now is, and follow that up, will strike this very highest point, being twenty-seven hundred and ninety feet above the surface of the water in the Missouri river at Omaha. The labor of grading there is almost nothing; the cost of the road is the iron and the ties. It is because of these considerations that I said just now I was utterly unable to believe that the central branch company had invested \$1,000,000 of their funds in the construction of these one hundred miles of road in addition to the \$16,000 a mile of the company's bonds and the \$16,000 a mile of Government subsidy.

I have to say then, Mr. President, first, that no legal right of this company has been infringed by any act of Congress; second, that if it has been done, it has been done with the knowledge and the tacit consent of the central branch company, and they are estopped from making any complaint; third, that if they are to be heard in complaint, and if damages are to be awarded them, we who committed the wrong ought to pay the money; and, fourth, that if we will not pay it but will vote it out of the Treasury, then we ought not to vote any such sum of money as is asked here, but that it would be infinitely better for the Government to pay the money they say they have spent and take the franchise off their hands, take the road ourselves, and make the best disposition of it we can. It is better for us to pay that \$1,000,000 which they say they have already put into it, and own that hundred miles of road, than to pay for building one hundred and fifty miles more, paying out of the Treasury \$2,000,000 of money just to build a new rival to compete with roads we already have so large an interest in.

Mr. President, though I acknowledge my

obligation to apologize when I differ from other Senators about me, I am not so sure after all that I should have stated even my apology if I were not reminded of the fact that I stand here in the Senate of the United States surrounded by the very same illustrious Senators who stood here recently for three weeks protesting in the name of the national poverty that they could not pay \$7,000 out of the Treasury to a girl, an orphan, who was admitted during the debate to be loyal, for her homestead which the Government had taken and used, upon the pretext that her next door neighbors were rebels. When we feel called upon by the national necessities to insist upon so stern a rule of law as the Senator from Massachusetts and other Senators about me instructed us in then, I feel called upon to look very carefully into the claims of a corporation which comes here and asks an appropriation of \$2,000,000, not to benefit the United States, but every dollar of which is to be taken out, subtracted from property interests already owned by the United States.

Mr. CONKLING. Mr. President, this bill involves \$2,400,000; but that is no answer to it if equity requires it. It involves nineteen hundred thousand acres of land; but that is no answer to it if equity requires it at our hands. The nation is suffering under a great debt, and every discerning person sees the over-mastering urgency of frugality and scrutiny of all claims upon the Treasury; but that is no answer if equity requires it. But, Mr. President, equity is absolute truth, complete justice; and the amount of land and of money involved in this bill makes it proper for every one to consider with some care whether the considerations belonging to it do establish that equity whereof we have heard so much.

Since it was considered before I, too, have reviewed carefully and dispassionately as I was able the facts which then were before the Senate, and I have endeavored to comprehend the grounds upon which we were to proceed if in truth the bill should be passed. As I understand the argument in favor of the bill, it proceeds upon four allegations:

1. That the corporation for which the subsidy is proposed acquired by act of Congress the right to build a railroad where one has been built, and by so building to reach and enjoy a connection with the main trunk railroad to the Pacific ocean.

2. That this connection was to be by uniting, in the valley of the Republican fork of the Kaw river, with the eastern division Pacific railway; that the law required the eastern division to go through the Republican valley to the main line; and that, relying upon the law, and expecting it to be observed, the claimants invested large sums of money and built their road where it is, and where it would have intersected the eastern division had its original route been adhered to. That was the *gravamen* of the argument of the honorable Senator from Indiana, [Mr. MORTON.]

3. That after the rights of the claimants became thus vested the eastern division was caused or permitted by Congress to abandon its route and to change its course before reaching the point at which a union would have occurred with the claimants' road.

4. That the grants of money provided in the pending bill are necessary to put the claimants in *statu quo*.

I think, Mr. President, that the most ardent advocate of the bill will admit that I have stated fully and fairly the grounds upon which it proceeds. Upon such a case all fair minds ought to meet in the same conclusion. But all of these propositions are necessary to round out this equity; indeed, to found it at all. If any one of them is untrue it is an answer to the pending proposition. Sir, I believe every one of them to be false, not in some particular or particulars only, but in the entire scope which gives value to any proposition which is the foundation of this argument.

Now, let me examine them, as briefly as I may, in order. First, I ask, had the claimants

a right to build their road where they have built it, and by so building to find a connection at their western terminus? Did Congress ever stipulate for this? These claimants are the successors of the Atchison and Pike's Peak Railroad Company. That company was the assignee of the Hannibal and St. Joseph Railroad Company of a right the precise nature of which the statute states. What was it?

"That the Hannibal and St. Joseph Railroad Company of Missouri may extend its road from St. Joseph via Atchison."

I ask the attention of the honorable Senator from Indiana [Mr. MORTON] to that fact, and I want to show him in legislative history the part which it plays in this case, and which it deserves to play in the conclusion to which he comes—

"via Atchison, to connect and unite with the road through Kansas, upon filing its assent to the provisions of this act, upon the same terms and conditions in all respects, for one hundred miles in length next to the Missouri river," * * * and may for this purpose use any railroad charter which has been or may be granted by the Legislature of Kansas."

In order that all Senators should see the great public benefit of this proposed completion in the aspect in which the Senator from Wisconsin [Mr. HOWE] commented upon it, they ought to read the assignment which I have here from the Hannibal and St. Joseph road to the Atchison and Pike's Peak road, and then they would learn that the assignment was made upon the fundamental condition that this central branch was to be built, operated, and preserved for the exclusive benefit and connection of the Hannibal and St. Joseph Railroad Company, never to be used in connection with competing roads, but exclusively for them; and they would learn also that this Atchison and Pike's Peak Company entered into a covenant, in which, in the language of it, they submitted to and obeyed—that is the expression—and agreed to do all these requisitions if the Hannibal and St. Joseph Railroad Company would give them the assignment and pardon the delay which had occurred in their own case, not, as I understand, for the reasons asserted by the honorable Senator from Maine.

Let me not, however, be diverted from the point to which I want to call the attention of the Senate just here. The statute said they might extend their road via Atchison from St. Joseph. Was that west? Was that northwest toward Denver? No, sir; it was southwest. How far might they extend it? One hundred miles from where? From Atchison? No, sir; from Saint Joseph, not one hundred and twenty-one miles from Saint Joseph, but one hundred miles from there via Atchison. They might select for themselves any charter existing under the laws of Kansas with which to do it. What charter did they select? The Atchison and Pike's Peak charter. Between what termini was that to operate? St. Joseph and Denver? Atchison and Denver? No, sir; but Atchison and Pike's Peak.

The honorable Senator from Kansas, [Mr. POMEROY,] at the last session, corrected my geography in reference to Pike's Peak. He thought I supposed it to be much further south than in truth it is, and he left upon my mind the impression that one who began at Atchison and journeyed westward, even as far to the north as this road points, would some time or other encounter Pike's Peak. Since that time, Mr. President, I have seen Pike's Peak—a vision not to be forgotten—and as I saw it in its picturesque vastness, with its cap hidden in the clouds, I could not help wishing that it might be seen of that multitude of Americans who turn their backs upon their own country, which they never traverse in its unending stretch and grandeur, and bend their steps to the Alps, the Rhine, and the Pyrenees. But there it stands, plain to be seen, more than ninety miles in a straight line south of Denver. Did any human being, geographer or railway discoverer, ever suppose that under a charter to operate from Atchison to Pike's Peak a railway was to be laid on the ground pointing toward Denver and reaching, first, Irving, and

then Clifton, on the Republican fork of the Kaw river? No, sir; never. Did any man ever suppose that one hundred miles from St. Joseph, even one hundred miles from Atchison—not running with the sinuosity which nature requires of railroads, but in an air line—that one hundred miles in the direction taken by these claimants would touch a point in the Republican fork where a union could be effected? No man ever supposed that who had passed over the ground; no man ever supposed it who had consulted a map. Do you suppose, Mr. President, that when this permission thus to extend one hundred miles was granted it had entered into the mind of man to conceive such an idea as I have stated? The geography forbids it; the facts forbid it; the selection of this charter to go toward Pike's Peak, referred to in the treaty with the Kickapoo Indians, forbids it.

But, sir, we are not left to general conjectures on this subject. I can show the Senate that this right, with the violation of which we are now charged, was obtained by the representation not only that a hundred miles but that fifty miles were to insure this connection. I can show the Senate that not only was the idea disclaimed of going on the route pursued by these claimants, but that Topeka, falling within fifty miles, was the point to which the claimants or the assignors of the claimants wished to go, and the point to which permission was intended to be granted by the act of which so much has been said. Further, Manhattan—that point to be touched by running down the Big Blue valley, where nature has graded a natural road-bed for this track, referred to by the Senator from Wisconsin—Manhattan, that point where now this connection ought to have been made, was the furthest westward suggested by anybody when Congress was petitioned to give this privilege of extension. Let us see whether I am right in that. I have here the Globe giving the proceedings and debates upon it.

Mr. DOOLITTLE. What page do you read from?

Mr. CONKLING. Page 2777 Congressional Globe, part three, second session Thirty-Seventh Congress, 1861-62:

"The PRESIDING OFFICER. The Secretary will now read *seriatim* and in order the several amendments which have been indicated for a separate vote.

"The Secretary read the first excepted amendment, which was in the third line of the thirteenth section to insert the words: 'via Atchison.'"

Just those two words constituted the amendment, and when those two words had been inserted, as they were, the act came to read and to speak as it does on the statute-book to-day. Now observe what followed:

"Mr. CLARK. The reason that influenced the committee in making the amendment was that there is already a railroad from St. Joseph to Atchison, which can be used if a proper agreement can be made with the company, and there will probably be no difficulty about it; but if there cannot be an agreement made with that company an independent road can be made from St. Joseph directly to the Kansas and Pawnee road, and I propose, after the amendments of the committee shall have been gone through with, to strike out the words 'one hundred'—"

"That is, before 'miles'—"

"and insert 'fifty' in the sixth line of this section, so that this road from St. Joseph shall be made to strike the Pawnee and Leavenworth railroad much earlier, and not run the branch out so far west, and thus save the money of the Government. My object is to take advantage of twenty miles of road which have been built, and strike off fifty miles from that which is to be built, and save expense to the Government."

Senators will understand that if they have the map in their minds. The Platte county road, as it is called, existed at that time from Atchison to St. Joseph. That is about twenty-one miles long, is it not?

Mr. HENDERSON. Yes, sir.

Mr. CONKLING. About twenty-one miles, the Senator says. One hundred miles was the greatest distance provided for. Mr. Clark said his purpose was to move an amendment making it fifty, implying that they might use this twenty-one miles, which would make seventy-one miles in all. Then what followed?

"Mr. POMEROY. I trust the amendment will be concurred in. The remarks of the Senator from New

Hampshire are very just and very appropriate. The Senator from Missouri lives at St. Joseph, and perhaps, as a local matter to him personally, it might be inconvenient not to have the road stop there; but consulting the public interest, I think there can be no question as to the propriety of bringing the road into the Kaw valley by the nearest possible route. A straight line from St. Joseph to Topeka, the capital of our State, in the Kaw valley, passes directly through Atchison. Instead of being a right angle, it does not take a quarter of a section out of a straight line. Perhaps I ought to say that I live at Atchison; I do not disguise that fact; but my friend from Missouri lives at St. Joseph."

Further on in the debate Mr. Clark says:

"I apprehend that it does not make it too short, but I want to strike the main branch at the earliest practicable point, so that we shall not build so much length of branches. That is my desire about it; and by going by the way of Atchison we secure that point so far, and then they can run in the same direction or incline a little further west, if necessary, by the most practicable route, to strike the Pawnee and Leavenworth road as soon as possible. The Government certainly has no interest in extending these roads so far west to give away its money."

"Mr. POMEROY. Fifty miles will make the connection in the Kaw valley, building from Atchison to the Kaw valley, but it will not from St. Joseph to the Kaw valley. Building a road from where they now run the cars fifty miles will reach the valley."

"Mr. CLARK. That is what I intend. Fifty miles from Atchison to the Pawnee road."

Let me read a little further to complete this history:

"Mr. LANE, of Kansas. The theory of the bill is to have the St. Joseph branch a hundred miles long, to unite at Fort Riley or Manhattan."

That was the theory of the bill before this amendment was offered—Fort Riley or Manhattan.

"The Senator proposes to shorten it fifty miles, and compel them to unite with the main branch at the seat of government of Kansas, Topeka. Of course that is best for our State, and I think it will be as well for the project, and therefore I shall vote for it."

Again:

"Mr. LANE, of Kansas. The practical result of the Senator's proposition will be to compel the St. Joseph road to meet the other at the seat of government of Kansas."

That is, the practical operation of putting in "via Atchison," which was the amendment as the vote taken will show, was to compel this road to seek the earliest practicable connection, which was there conceded to be the seat of government of Kansas, Topeka. Immediately following that remark—

"The question being taken by yeas and nays, resulted—yeas 24, nays 15"

Both the Senators from Kansas voting for that amendment.

Mr. President, nothing, I think, can be more incontestable than that that amendment was introduced to the end, as explained by the chairman of the committee, that the shortest distance might suffice; and no suggestion was made that a junction was to be sought in any event further west than Fort Riley or Manhattan. They are places very near together.

Let me go a little further to show how this was. I have in my hands a map—"a sectional map of Kansas, compiled from the United States surveys by Robert L. Ream, 1866." This road had then been projected, and this legislation was upon the statute-books—had been for years. According to the statement of everybody here, even of those who believe that money had been invested in such a way that making a connection at Manhattan would have occasioned a loss upon them after the change from the Republican to the Smoky Hill, even those who believe that and all others are aware of the fact that in 1866 these claimants had carried on their work to a considerable extent—precisely how far, I shall endeavor in a moment to show. Therefore it was known of all men, and it was in advertisements, where this road was to go and what it was to do. What is its route on this map? I wish Senators would look at it. They will not find a road running west; they will not find a road running northwest; they will not find a road heading for Denver, but they will find a road running toward Pike's Peak, making a connection with the eastern division road precisely where it now lies on the ground awaiting and inviting a connection. Here is the railroad extending from Atchison, the southern terminus of the Platte county road, right down

to Manhattan, where its hundred miles brought it into a connection with the eastern division. And up to that time, think you, Mr. President, it ever had occurred to anybody that the road was to be placed where it was subsequently placed by these parties?

I say, then, to complete my observations upon this point, that it is not true that these claimants or their assignors ever had or ever could have supposed they had a right to build a road in the direction which they selected and find at the end of a hundred miles a connection with any other road.

If this be so, the very first and most substantial part of progress toward a justification of the bill must fail. They had the right by this legislation to make a connection with the eastern division; they had a right to go one hundred miles from St. Joseph to do it; and they had a right to select any charter under which they chose to operate. Selecting the charter they did, had they operated under the charter and laid down their rails where the law and the understanding implied, there they would have found a connection, and there is the connection to-day, as I think I shall be able to show the Senate, much more valuable than the one for which the bill provides. The Senator from Wisconsin talked about presumptions. I will beg his attention presently to some facts which will show that we are not left to presumptions or surmises in order to ascertain whether a connection with the eastern division, where it is now, would or would not be more desirable than a connection upon an impracticable route up the Republican fork of the Kaw river.

Let me, Mr. President, as I wish to be brief upon this subject, come to the next point in the argument. Did the claimants—and I would crave, if I might, the attention of the honorable Senator from Maine especially to this point—did the claimants build their road where it is, relying upon the eastern division to traverse the Republican valley? Did they even build west of the point of connection, as represented to Congress, so as to make it inconvenient to go there before they knew that the Republican valley route was abandoned as impracticable? Let us look at that for a moment.

The act of July 1, 1862, gave the eastern division company three years within which to file their map. They might file a map, and then another map perfecting and changing it, as all companies do. For three years the absolute right existed in the Leavenworth, Pawnee, and Western road, as it was then called, thus to file and refile maps and surveys. But, sir, in the mean time, as we all too well remember, flagrant war broke out and paralyzed all railway construction and railway surveys. An interval occurred during which it was impossible to press forward the work. Nothing was done, in substance, before the war. About thirty miles only of the four hundred miles now existing were built anterior to the war, and, in truth, nothing of substance was or could be done upon this route until the downfall of the rebellion.

On the 21st of February, 1866, as I have the proof here to show, Mr. John D. Perry, the president of the eastern division railway, addressed to the honorable Senator from Iowa, [Mr. HARLAN,] then Secretary of the Interior, a note stating the comparative results of the surveys made by the company up the Smoky Hill fork to Denver and up the Republican fork, which showed the former, on account of timber for construction and coal for fuel, and a saving of one hundred and thirty-four miles to Denver, to be the superior route, and stating that the board of directors had accordingly adopted it, and ordered a map to be filed showing that as the general route of the company's road, claiming the right to do so under the ninth section of the act of 1864. I beg the attention of honorable Senators to that date. That was the 21st of February, 1866. But in the mean time the three years during all of which they had the indisputed right thus to change their route, according to the view of the Attorney General, had elapsed, because he

held that the time ran inexorably, war or no war, and therefore, although their right had existed, and although they had been deprived of that right by the existence of war, still time marched on, and therefore they had been caught simply upon the point of time.

Now, Mr. President, bear in mind this was February 21, 1866, and at that time I affirm it was perfectly well known to these claimants and matter of record in Congress that no road was to be built up the Republican fork, but that the eastern division was to traverse the Smoky Hill valley of the Kaw river. Let me see whether I am right in that. I think I do not exaggerate the materiality of the point. If it be true that at the commencement of the year 1866, and at a period anterior to the investment of these alleged moneys, the claimants perfectly well understood not only that they had no license to lay a road where they did, but that if they should lay their road there and continue it to the Republican fork they would find no railway there to meet them, then I think that equity must be enlarged even beyond the scope of the declamation to which we have been treated.

I read from the debates of the Senate on the 21st of March, 1866:

"Mr. POMEROY. I move to postpone all prior orders and take up the bill (S. No. 145) for a grant of lands to the State of Kansas to aid in the construction of the Northern Kansas railroad and telegraph.

"The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. The route of the proposed railroad is from Elwood, on the Missouri river, in Kansas, opposite St. Joseph, in Missouri, west through Marysville to a junction with the Pacific railroad, eastern division, on the Republican river, in Kansas."

"Mr. BROWN. I move to amend the bill in section one, line eight, by inserting after the words 'Republican river' the words 'or at some point east of the hundredth meridian'; so that it will read:

"That there be, and hereby is, granted to the State of Kansas, for the purpose of aiding in the construction of the Northern Kansas railroad, to wit: from Elwood, on the Missouri river, in Kansas, and opposite the city of St. Joseph, in the State of Missouri, west through Marysville, to a junction with the Pacific railroad, eastern division, on the Republican river or at some point east of the hundredth meridian, in Kansas, every alternate section," &c.

"Mr. LANE, of Kansas. I hope the Senator from Missouri will not insist upon that amendment. If the Union Pacific railroad runs up the Smoky Hill route they cannot form a junction east of the hundredth meridian.

"Mr. BROWN. They can form a junction with the other branch by striking out the words 'eastern division.' All I desire is to give them a connection in any event.

"Mr. LANE, of Kansas. The probability is that the two roads will be separated—that the northern branch will run on the north side of the Platte, and the eastern division branch will run up the Smoky Hill. In that case they will be permitted to connect at any point.

"Mr. POMEROY. If the Senator from Missouri will strike out the words 'eastern division,' he will accomplish all that he desires.

"Mr. BROWN. I propose to strike out those words. "Mr. LANE, of Kansas. Why limit them at all? Why not permit them either to connect with the Union Pacific or with the Northern Pacific at any point?"

"Mr. BROWN. That will suit just as well; and if the Senator will draw up an amendment in that shape I shall have no objection to it.

"Mr. POMEROY. The only difficulty about that is that the Burlington and Missouri River Railroad Company have got the grant south of the road leading from Omaha. I have no objection to the amendment, but I am satisfied they cannot do that.

"Mr. LANE, of Kansas. The Senator from Missouri will accomplish his object by striking out the words 'eastern division on the Republican river'; so that it will read:

"To a junction with the Pacific railroad in Kansas, every alternate section of land," &c.

"Mr. BROWN. Very well; I accept that. "THE PRESIDENT *pro tempore*. The question is on the amendment as modified.

"The amendment was agreed to. "The bill was reported to the Senate as amended; and the amendments were concurred in.

"The bill was ordered to be engrossed for a third reading, read the third time, and passed."

Because the eastern division was to run up the Smoky Hill, and because the fact was accepted by the Senate, an amendment was adopted striking out a connection with the eastern division in the valley of the Republican fork, and it was put simply that they might run westward of that valley.

Mr. HOWARD. Will the honorable Senator from New York allow me to call his attention to one fact?

Mr. CONKLING. Certainly.

Mr. HOWARD. That debate, as I understand, took place on the 21st of March, 1866. On the 4th of March, 1866, this central branch company had filed its map with the Secretary of the Interior as it now exists; and in June, 1865, the eastern division—

Mr. CONKLING. I dislike to interrupt the Senator, but I beg him to consider that afterward. I am coming to those precise points, and unless he wishes to set me right on some matter of fact, I crave of the Senator the privilege of finishing my remarks, if he will do me the favor to allow me to do so.

Mr. HOWARD. I wish to set the Senator right with respect to the filing of the map of the eastern division.

Mr. CONKLING. I have not alluded to any such thing. Without being discourteous, I beg the Senator to allow me to proceed, unless I fall into some error of fact. I have made no reference to that subject, and therefore I cannot have misstated the fact. I have made no reference whatever to the time when that map was filed. The point, from which I am sure the honorable Senator does not wish to divert me or the Senate, is this: that at this time, on the 21st of March, 1866, such proceedings took place in the Senate that Mr. Lane, of Kansas, said this:

"The Senator from Missouri will accomplish his object by striking out the words 'eastern division on the Republican river,' so that it will read: 'to a junction with the Pacific railroad in Kansas, every alternate section of land,' &c.

I am calling attention to the fact not only that these claimants knew that no connection was to be gained by going up the Republican valley, but that so thoroughly was that fact established that Congress based legislation upon it, instituted special alterations in the bill then pending, as reported by the committee, in order that those might be too late who come now to say that the central branch, or anybody else, believed at that time that a connection was to be gained by traversing the Republican valley.

Now, Mr. President, at this time had the central branch of the Pacific railroad or its stockholders, invested large sums of money? At this time had the railroad been built from Atchison to Irving, where it lies now? At this time had the railroad been built or graded from Atchison to a point from which it would have been inconvenient or uneconomical to proceed to Topeka or to Manhattan? That is the point to which the whole course of equity must go at this juncture of the discussion. Let us see; this was March, 1866. I have a letter from the Secretary of the Treasury addressed to me on the 22d June, 1868, in answer to a letter of inquiry:

SIR: In reply to your inquiries I have the honor to state that the first section of twenty miles of the Atchison and Pike's Peak railroad (now Union Pacific Railroad Company, Central Branch) was accepted by the President of the United States July 12, 1866, and bonds of the United States to the amount of \$320,000 were issued on said section by this Department on the 27th of July, 1866, bearing date July 19, 1866.

Yours, respectfully,

H. McCULLOCH.

Mr. President, we all know the hot-foot with which all these owners of subsidies make haste to bring to a technical and formal completion each section of their road, to the end that they may acquire at once the bonds which follow its completion, and we shall therefore understand how much of diligence there was in this case, and how nearly it fixes the date. We have, then, the fact that on the 12th day of July, 1866, twenty miles had been finished. I have no doubt that additional miles had been graded; and I had in my possession at the end of the last session, in a bundle of papers, the evidence precisely how far it was graded, but I have searched for it in vain. But let us concede, for the sake of the argument, that when twenty miles had been completed twenty more miles had been graded and were all ready to be ironed. It was not so; but let us suppose it was. Did that reach any point which made Topeka inconvenient? I ask Senators to look at the map. More emphatically, did it reach a point which made Manhattan a deviation

from the route which they were pursuing? No, sir; not at all. On the contrary, twenty miles and forty miles were in the direction, as the whole road, lying as it does now, is sufficiently in the direction, of a connection at Manhattan. How can it be true, then, even in the estimation of those who believe that this was a losing business, or a costly business, that any stockholder invested money in the central branch upon the faith of a connection in the valley of the Republican fork? It cannot be so, even if you admit that they had a right to select the route they did, which they had not.

But let me ask the attention of the Senate to the next point for a moment. Is it true that Congress, after the claimants' rights vested, ever caused or permitted a change of route of the eastern division before it reached a point at which a union would have occurred with the road the claimants were authorized to build? What did Congress do? The war had paralyzed railroad operations in that region of country, had arrested surveys, and for upward of two years the eastern division had been lying on its oars. The rebellion was prostrated and work was resumed. Comparative surveys began, and on the 21st of February, 1866, the president of the road addressed to the Interior Department a letter saying that the surveys which they had thus been able to complete demonstrated that the Republican valley route was one hundred and thirty-four miles longer than the Smoky Hill route, demonstrated that it was deficient in fuel, deficient in timber for construction, and that the other route was the best. Congress extended the time until the next December within which the eastern division company might do precisely what all the time it had for three years the right to do, of which right it had been practically deprived by the interruption of the war. That was all, sir; and that act was passed on the 3d day of July, 1866, nine days before the claimants' first twenty miles were completed.

Mr. President, let me pause here only for a moment, to ask the Senate to consider the true nature of this legislative act which has been spoken of as one changing the route of the eastern division, giving that company a right to go on a new route, and described otherwise as influential upon this question. What was it? For three years they had the absolute right to complete and perfect their surveys and their maps, and during all those three years no human being had a right to estop them or Congress by predicating any act upon any hypothesis as to what they would do. When they came with such diligence as they could use after the war was over to present their perfect surveys, the Attorney General, in an opinion which I have here, said no, this is only the right which the law gives them; but they are cut off by the statute of limitations, if I may so say. That was not his language, but the substance of it. In other words, he said the three years began on the passage of the original act, on the 1st of July, 1862, and it therefore expired on the 1st of July, 1865, and now some months had intervened, and technically they were cut off. What did Congress do? Simply released them from the statute of limitations.

I should like to ask the honorable Senator from Massachusetts nearest to me, [Mr. WILSON,] for I have heard him observe upon this, (although the question whether it was wise or not is of no materiality here,) whether it was exceptional legislation to relieve from the statute of limitations a party who by the war had been hindered and prevented from a diligent pursuit of his rights? Did we not pass laws abrogating the statute of limitations for other parties, and were they more meritorious than these? Will that honorable Senator say that it would have been wise for us to coerce the eastern division to build a road one hundred and thirty-four miles in addition to the necessary length by a route which their survey showed was deficient in timber for construction and fuel for use; and that, forsooth, because the long scissors of the rebellion had reached and clipped their movements?

What harm came to these claimants from it? As I have shown, in the meantime they had done nothing which they would not have done had they intended to end their road at Manhattan, or even at Topeka; and yet we are gravely asked now to find it not only as a general proposition, argued as such questions usually are, that it is wise and right to grant this subsidy, but that such a wrong was done by Congress, that such injustice befell these parties because we released the eastern division from the rigorous operation of the statute of limitations, that by existing law, as it is sometimes said, according to some refined and perfected equity, as I have heard it repeated, we are bound to make the enormous provision proposed by this bill. Why, sir, since I traversed this ground, as I have done during the interval between the last discussion and now, when I have heard this plea urged many times in private and put forward in papers as a part of the unexampled diligence in the lobby by which this claim has been pressed, I have felt inclined to exclaim, as another man did on a different occasion, "Oh, that in England there might be a tax upon hypocrisy!"

Now, Mr. President, the bill and the argument propose that subsidies shall begin, not where the eastern division would have been found had it gone through the Republican valley, but at the western terminus of the central branch. This implies that there is no intervening space there. This implies that a hundred miles from St. Joseph, Missouri, would have carried the claimants in the direction they took to a connection in the Republican valley. When I pointed out that a long interval existed here over which no past act of Congress and no past understanding could be stretched by any perversion or imagination, I was told by the honorable Senator from Kansas [Mr. POMEROY] that the Committee on the Pacific Railroad had fallen into a mistake when they said that there was an interval of fifty miles. Said the honorable Senator from Kansas, "I am as much amazed at the Senator from New York as if he were to say it is fifty miles from Albany to Troy; I have driven over it repeatedly, and it is not fifteen miles;" and so the debates, which I have here, report the honorable Senator from Kansas. Sir, here is a map [exhibiting it] made by Franklin Fanning, the chief engineer of this central branch company, sworn to by him in an oath annexed to it, giving the route of the road, and giving the sections; and if any Senator doubts that one hundred miles could never have carried these parties to a connection, if any Senator doubts that this bill is a *douceur*, a gratuity upon their own showing of \$640,000, which they never could have received under preëxisting understandings, I beg that Senator to look for one moment at this map, where he can count in a moment by the sections the distance. There starts the road at Atchison, and runs to Irving, in the valley of the Big Blue, and at Clifton is the point in the Republican valley at which they aim, and there are the sections to count the townships, six miles each, showing precisely what, according to their own survey, this interval is.

Mr. DAVIS. How much is the interval?

Mr. CONKLING. I will count it. It is in a straight line by townships, six in number; and six times six are thirty-six; so that if they could run in an air-line, which the Senator will see the surveyed route does not at all propose to do, then there would be an interval of the length which I stated in answer to the honorable Senator's question.

Now, Mr. President, has the genius or the ability of Benjamin R. Curtis enabled him to devise an argument showing that from the western terminus of their road they have a plausible claim for subsidies? I beg Senators to look at that argument, and they will find no such thing; and I think Judge Curtis is in no danger of stultifying himself by writing even an argument to that effect. I do not call it an opinion, because it is no opinion in any professional or truthful sense of that word.

But, again, suppose I am mistaken in these propositions; suppose, in truth, they were authorized to make a connection not within the one hundred miles, but wherever they pleased; suppose the eastern division was bound to go there, and Congress is to blame because it did not go there, then a very important question remains. Suppose the claimants were right in going northwest to Irving, as they have done; suppose they were entitled to a connection there and have lost it by the act or privity of Congress, are such subsidies as these necessary or appropriate to make them whole?

Since this bill was under discussion before—the honorable Senator from Wisconsin [Mr. HOWE] I think forgot it—an act has been passed by the Senate extending and fixing the route of the eastern division, so that it extends now, according to that bill, to Cheyenne Wells. From Cheyenne Wells it is to go to Denver, and from the city of Cheyenne, which is on the Union Pacific road, a railroad is to be built to Denver, making a connection; so that under the legislation—completed as far as this body is concerned—there is to be a continuous rail, I say to the honorable Senator from Indiana, not only from Manhattan to the main trunk Pacific railroad, but from Atchison, from St. Joseph, from Hannibal, from Indianapolis, from Harrisburg, from New York.

Mr. YATES. I ask the Senator if he will yield for a motion to go into executive session?

Mr. CONKLING. I do not wish, certainly, when I am on the floor, to interpose what might seem to be somewhat of mine against any wish of other Senators. If the Senator wishes to test the sense of the Senate on that motion I will yield for it, of course.

Mr. YATES. If the Senator will yield I move that the Senate go into executive session. ["No!" "No!"]

The motion was not agreed to; there being, on a division—ayes 18, noes 24.

Mr. CAMERON. Mr. President—

* Mr. CONKLING. I beg my honorable friend not to divert me any further. I would do almost anything for him; but I want to bring my remarks to a conclusion very soon, which I will do if he will allow me to go on.

Mr. CAMERON. I will not do "almost anything," but I will do anything for my friend from New York. Of course, I shall not interfere with his wishes.

Mr. CONKLING. I see the disposition of the honorable Senator to oblige me, and therefore I will go on.

At this point, Mr. President, I should neglect the purpose I have in view if I did not make clear to the understanding of Senators who do me the honor to listen to my remarks that upon undisputed facts the eastern division sought the Smoky Hill route in preference to the Republican valley, because it was not only more practicable, not only abounding in fuel to a greater extent and in timber for construction, but especially and primarily because it gave a connection with Denver and the Union Pacific railroad one hundred and thirty-four miles nearer than the route up the Republican valley. I should fail equally if I omitted to press the point that the eastern division, as it is now located and extended by the act of the Senate, passes precisely where it was designed to pass originally, at every point east of the furthest west of all the points at which a union could have been made by the claimants within one hundred miles; and that it furnishes not only a connection for the claimants with the main trunk road, but the very connection the loss of which they mourn. It furnishes a connection with the eastern division railway, shortened by one hundred and thirty-four miles and improved in its location.

This, as we all remember, was one of the arguments and the chief argument upon which, near the close of the last session, the bill to which I refer succeeded in the Senate. It was stated by the honorable Senator from Ohio, [Mr. SHERMAN], a member of the Pacific Railway Committee, when the bill was taken up, that his support of it in committee and his

view of it in the Senate was that it would furnish to the claimants here their long-lost connection and dispense with the urgency and the materiality of this measure. It did so, why? Because, carrying the road by the aid of the Government to Cheyenne Wells, it carried it so far that those who have traversed that country well know that a road coming, as it will, from the city of Cheyenne to Denver will go along the Cherry Creek valley and meet this road at Cheyenne Wells, and only a short line will be necessary to do it. Therefore, I say that bill accomplished that purpose, and gave to these claimants the connection which they insist they lost.

Their western terminus now is Irving. If Senators will take the trouble to consult the map they will see that a valley runs from Irving to Manhattan. I understood it to be stated in this Chamber at the last session—I have not looked at the report of debates, and therefore I will not make the allegation—but I understood it to be stated that it was over sixty miles from the existing western terminus of the eastern division to Manhattan or Junction City. I could not then deny, I felt hardly at liberty to doubt, that statement. Now, having passed over the ground, I am able to doubt it, and prudently to say to the Senate that thirty-five miles of railroad from the western existing terminus will give the claimants a connection, at Junction City, at Fort Riley, at Manhattan, as they please, less than thirty-five miles at Manhattan and thirty-five miles at Junction City.

Can any Senator see a reason, even taking the whole argument made in favor of the bill, why we should supply them a connection, by giving one hundred and fifty miles of subsidies, when thirty-five miles of construction will give them the same connection which they sought originally, and by a route looking to their ultimate destination, shortened one hundred and thirty-four miles?

But, again, Mr. President, not only are bonds and lands for one hundred and fifty miles proposed, fifty miles of which no existing law and no past understanding can be stretched to cover, but the same rate of subsidies is insisted upon which was thought proper on the 2d of July, 1864. Have Senators thought of the rate of these subsidies, and the propriety of that rate? On the 2d of July, 1864, when this rate was fixed, gold was \$2 30 and foreign rails cost \$1 27 a ton, currency. Now, when we propose to fix them, gold is less than one dollar and forty cents and rails cost, I should think, about eighty dollars a ton. That is not far from the mark; if it is not exactly the mark some Senator will correct me. Look at labor, freights, materials, every element of value and every increment of cost. At the time when this tariff was established the expense of railroad construction was perhaps not double but nearly double its present cost; and yet, in spite of all the facts, as I insist, we are to find that the claimants have been damnedified, and then by way of putting them in *status quo*, we are not to furnish them thirty-five miles of construction, which is the whole necessity to restore the old and lost connection, but we are to furnish them one hundred and fifty miles—and at what prices? At twice the cost measured by the gold market, the iron market, the material and the freight market, which, in truth, the present justifies.

Mr. President, there are a good many other considerations about this measure with which I do not mean to detain the Senate. There are one or two to which I venture to call attention before taking my seat. The lands which are sought here do not belong to the United States at all. I had information of that sort when the former debate took place, but I had not knowledge, and it was disposed of upon the statement made by an honorable Senator of his recollection or information. Now, I affirm that these lands proposed to be given do not belong to the Government at all, and hence, I suppose, is the retroactive and peculiar phraseology of the bill, not proceeding straight to

the point of saying that lands are granted, but constructively acting back and speaking behind some past legislation in point of time. Sir, these lands have gone by act of Congress to the St. Joseph and Denver Railroad Company. The honorable Senator from Michigan thought before that the acts were contemporaneous—the act chartering the St. Joseph and Denver Railroad Company and the act extending the time to file the map which led to the adoption of the Smoky Hill route.

That will be found to be an error; and upon his recollection the honorable Senator founded the suggestion that the lands could not have gone to the company of which I speak, because the acts being contemporaneous would not lead to that conclusion. The act under which the Smoky Hill route was adopted, and which transferred to other lands the right of the eastern division, was passed on the 3d of July, 1866. The St. Joseph and Denver Railroad Company act was passed on the 23d of July, 1866, and it carried these very lands. Now, that I need not speak in the air on that subject, I ask the attention of the Senate to the notes accompanying "Keeler's map of the United States territory," where it will be found that the St. Joseph and Denver Railroad Company received a land grant by the act of the 23d of July, 1866, for a road running from St. Joseph city to Denver city, and running, I will say to Senators, a large part of the way within ten miles of this central branch, and in some instances within five miles. To that company has been set off and assigned land to the amount of one million seven hundred thousand acres in alternate sections along its route, the very lands which it is proposed now to subject by retroactive legislation to the claimants here.

Mr. President, what is to be said of the equity of the St. Joseph and Denver Railway Company, a corporation which received no money subsidies—simply a grant of lands—a company which is proceeding to build its road from St. Joseph to Denver? What is to be said to them, to their equities, when, by legislation relating back and ousting them of vested rights, we have deprived them of the lands to which they are entitled by our own legislation, and which have been set off to them by departmental action? I was told at the last session that these lands were in a rainless region, comparatively very valueless. Oh, no, Mr. President, not that. I have passed over them on horseback and looked at them carefully since we talked of it before. There is very little land there which will not bear not only buffalo grass but gramma grass—the gramma grass of Mexico, almost as nutritious as oats. There are very few places where the seed of a sunflower dropped—and that is a pretty good test of the soil—will not spring up into vigorous and luxuriant growth. There is a very narrow belt which will not in the progress of time serve, and well serve, for grazing, if not for agriculture.

These lands then are of value, and they have inured by act of Congress to the St. Joseph and Denver Railroad Company; and now, although the subsidy has once been given in equivalent quantity to the eastern division, it is proposed to give it over again to the claimants and thus leave ourselves naked, absolutely naked of all defense against these other claimants, when they come here saying, "We received no subsidy in money; we received simply these grants of land; we have possessed them; we have embarked our money; we have entered upon our project of improvement, and with no fault, no laches, no blame in us, we have been ruthlessly robbed by Congress after diligently prosecuting the work they set before us."

It was said, Mr. President, that this company existed only on paper—was a thing without a local habitation if it had a name. I have taken some pains to learn how that is, and I have in my hand a statement furnished me by the Representative of the district in which this road starts; and I beg to read, as it is very brief, the questions and answers:

"1. When did the St. Joseph and Denver Railroad Company begin to build its road?"

The answer is—

"Prior to 1860; work was stopped on account of the rebellion."

"Troy, in Kansas, is about twelve miles from St. Joseph—the distance is not less than twelve miles; it may be greater."

"The road is graded fifteen miles, as I was informed some two weeks since"—

This letter was written some eight months ago, I should say—

"by Judge Woodson, the managing director of the St. Joseph and Denver City Railroad Company; the track is being laid and will be laid, to Troy by the 1st April, proximo."

That was last April.

"The available assets of the company, as shown by the official statements of its officers, exceed \$1,000,000. As soon as it is built to a point where its land grant can be made available it will be able to command ample means for its further construction."

"It has encountered many difficulties so far, because it has to be prosecuted as an enterprise in competition with the central branch Pacific road, which has received subsidies from the Government sufficient for its construction. I cannot say how far it will be built this season. It is the purpose of the company to build it without unnecessary delay. The business of the country demands the speedy construction of this road, and it will be built."

"The route of the road runs from St. Joseph, Missouri, via Marysville, in Kansas, to Denver City, Colorado."

"It claims and is entitled to all the public lands (ten sections per mile) within a distance of twenty miles on each side of the road which are not included in the grant to the Central Branch Pacific railroad."

For the first one hundred miles they are included; but beyond that, according to this statement, they are claimed by this company:

"The Central Branch Pacific railroad, having the prior grant, absorbs all the land for the length of that road—one hundred miles; the St. Joseph and Denver City road takes the remainder to the one hundredth degree of longitude."

That is not signed by Mr. LOAN; the signature is accidentally omitted. I have a note which he sent immediately afterward, saying that it had just occurred to him that he had forgotten to sign it, and now affixes his signature to it.

Thus, Mr. President, you see not only that these lands have reverted to another party, but that, pursuing by private enterprise without Government subsidy its work, a road is being constructed parallel with the central branch, running at times within a very short distance of it, which will furnish it a second connection onward to Denver and the main branch Pacific road.

There is, Mr. President, one other subject. I will endeavor to confine myself to that, although this debate is, if not tempting, provocative of continuance. When it is gravely charged that those who object to this bill are coming very near advocating repudiation one naturally feels like justifying the faith that is in him, and particularly if he believes as I believe, that in all that cloud of railroad bills which would darken legislation if they could fairly get loose upon it, there is not one less meritorious than this, it is rather difficult to abstain from assigning, perhaps at undue length, the reasons which occur. We have been told that this was a hardship and bad investment. I wish, Mr. President, that I could step into the shoes of these unfortunates; I wish I could receive a true account of the sums that have been realized and an assignment of the franchises and ownership of this road. Such an assignment would bring to me among other things "the celebrated Kickapoo lands"—I speak now in the language of an advertisement which I am going to read—would bring to me a body of land which alone (rejecting all grants) added to the \$16,000 a mile of Government subsidies renders this investment a harvest to those who enjoy it. I have the Atchison Daily Press of Monday evening, June 1, 1866. It is broadly occupied—the present occupant of the chair [Mr. ANTHONY] would understand how to describe it with an utter contempt of the columns which ordinarily divide matters in newspapers—with this advertisement:

"Land, Land.—The Central Branch Union Pacific Railroad Company now offer for sale their land within a district forty by one hundred miles in extent, containing in the aggregate one million two hundred and eighty thousand acres, and including the celebrated Kickapoo Indian reservation."

"Land on three, four, six, and ten years' credit. "Land at one, two, three, five, and ten dollars per acre."

There are various other things which I do not read, but here is one item:

"The Kickapoo lands are not taxable."

In another newspaper, *The Weekly Free Press*, published at Atchison, Kansas, on the second of May, 1868, I find on both sides an advertisement, illustrated by wood-cuts, I suppose, and well illustrated, looking to the direction which they took in going via Atchison toward Pike's Peak:

"The Central Branch Union Pacific railroad, diverging from the city of Atchison, has reached a point in its construction most encouraging to its managers and to the varied interests which are so visibly affected by the operations of this great enterprise."

And then follows an enumeration of these lands, and there appears a map giving the location and direction, at which I wish that every Senator might look; but more especially there appears on the other side of the sheet a map giving the location and extent of the Kickapoo reservation, and giving some other facts about this line:

"Along the line of the railroad, as shown in the accompanying map, and for a distance of twenty miles on either side of the same, the railroad company are offering for sale and settlement all the unoccupied odd sections of land, amounting to several hundred thousand acres, at prices ranging from one to ten dollars per acre, and upon terms to suit the purchaser."

And in the same paper I find other matter stating that—

"Land ranges all the way from the Government price to four, ten, fifteen, twenty, and forty dollars per acre, according to the location and the improvements."

These Kickapoo lands came to the central branch under a treaty which might properly be made a part of this case, and I think those who understand the value of these lands will not say that I am far out of the way in stating that they have been sold for more than eight dollars an acre, and that more than half a million dollars in money has been already realized from the sale of the Kickapoo lands.

It occurs to me that that form of statement may be open to some criticism. I do not mean that the money has been paid down, but I mean the lands have been sold and the money paid or abundantly secured with interest, as I am informed and believed.

Can anybody credit, in the light of notorious facts concerning the cost of railroad construction, that with such a patrimony as is referred to in these advertisements a company has been impoverished by constructing a railway across a flat country, with a subsidy of \$16,000 a mile from the Government, and first mortgage bonds of their own for \$16,000 more a mile? I am persuaded, Mr. President, that in fact no hardship exists in this case, that this investment has been not only a good but a most desirable one, one saleable in the market upon large terms of profit. Therefore, sir, I conclude—

First. That the claimants laid their road where they did at their peril without authority of law, and certainly without any right either to expect or claim a connection.

Second. That had they built it where it was designed to go, where Colton in the map of Kansas lays it down, a junction would have been found within one hundred miles at Topeka, Manhattan, or Fort Riley.

Third. That by extending the time to the eastern division no injury was wrought to the claimants, because then they had done nothing committing them to a location which they could not change.

Fourth. That in every aspect of the case the relief proposed is excessive, inordinate, unjustifiable.

Thus, Mr. President, I have assigned (in a manner prolix and tedious to the Senate, I fear) my reasons, which are not as fresh in my mind as they were some months ago, for believing this bill an unmeritorious one. It has been pressed upon us with great persistence—I do not refer to what has occurred within this Chamber, I beg to say to honor-

able Senators. It has been pressed upon us by that lion which roars sometimes, as we heard from an honorable Senator awhile ago; it has been pressed upon us by the roaring lion of the lobby, with an assiduity, with a pertinacity, with an enterprise never equalled during my brief experience in this body as far as I know. Every stone has been turned, every nerve has been strained, every confusion has been produced, to which effort was added.

And now at last, Mr. President, it seems to me the facts lead inexorably to the conclusion that this is the naked case of a party seeking subsidies, who not only has no special or extraordinary right, but who stands already as the recipient of great Congressional favor. So regarding it, it falls in my estimation within that category, within that class of measures forbidden, not by a ranting and affected economy, not by a mode of conducting legislation properly the subject of criticism anywhere, but forbidden by that conscientious circumspection which behoves every man now when called to pass upon a question between the burdened people of this country and claimants approaching the public Treasury. It seems to me, Mr. President, if there be anything in the pretensions of gentlemen, if there be any deference to the public judgment, if there be any respect for the facts in the presence of which we stand, anything in the situation of the nation groaning under a burden of taxation which every man is compelled to remember, there is something which should take effect upon a measure like this.

Mr. DOOLITTLE. Mr. President, I desire to say but a very few words—

Mr. DIXON. Will the Senator allow me to offer an amendment to be printed?

Mr. DOOLITTLE. Certainly.

SUFFRAGE CONSTITUTIONAL AMENDMENT.

Mr. DIXON. I gave notice on Saturday of an amendment to the resolution proposing an amendment to the Constitution affecting suffrage in the several States. I now ask that the amendment be printed. It is in line four, to strike out the words "Legislatures in the several States" and insert "conventions in the several States to be elected in the manner prescribed by the laws of said States," and in line six to strike out the word "Legislatures" and insert "conventions." I submit this amendment for the purpose of having it printed with the other amendments.

The amendment was received, and ordered to be printed.

WESTERN MILITARY CLAIMS.

Mr. TRUMBULL. If the Senator from Wisconsin will give way for a moment, I desire to call attention to a joint resolution on which the House of Representatives has asked for a committee of conference.

Mr. DOOLITTLE. I will yield if the pending measure is not displaced.

On motion by Mr. TRUMBULL, the Senate proceeded to consider its amendment to the joint resolution (H. R. No. 404) providing for the disposition of certain papers relating to the military claims accruing in the department of the West, disagreed to by the House of Representatives.

On motion by Mr. TRUMBULL, it was

Resolved, That the Senate insist upon its amendment to the said resolution disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

Mr. DOOLITTLE. Mr. President—
Mr. FRELINGHUYSEN. With the permission of the Senator, I will move an adjournment.

Mr. DOOLITTLE. I do not wish to prevent the taking of the sense of the Senate on that subject if they feel disposed to vote on that motion. I will yield to allow the sense of the Senate to be taken on that question.

Mr. FRELINGHUYSEN. I move that the Senate adjourn.

Mr. SHERMAN. I give notice that I shall try to get up the finance bill to-morrow.

The PRESIDENT *pro tempore*. It is moved that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

Monday, January 25, 1869.

The House met at twelve o'clock m. Prayer by Rev. CHARLES E. LORD, of Vermont.

The Journal of Saturday last was read and approved.

MORNING HOUR.

The SPEAKER. This being Monday, the first business in order is the call of the States, and Territories for bills and joint resolutions to be referred to their appropriate committees and not to be brought back upon a motion to reconsider, during which resolutions of State and territorial Legislatures may be presented, beginning with the State of Maine.

THE NATIONAL DEBT.

Mr. KELSEY introduced a bill (H. R. No. 1764) to provide for funding and paying the national debt, and for taxing interest-bearing bonds hereafter issued by the United States and for other purposes; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

RELIEF OF PAYMASTERS.

Mr. MORRELL introduced a bill (H. R. No. 1765) for the relief of paymasters; which was read a first and second time, and referred to the Committee on Military Affairs.

COLLECTION DISTRICTS.

Mr. THOMAS introduced a bill (H. R. No. 1766) to amend the act of February 25, 1867, entitled "An act to change certain collection districts in Maryland and Virginia;" which was read a first and second time, and referred to the Committee on Commerce.

PROTECTION OF THE REVENUE.

Mr. HEATON introduced a bill (H. R. No. 1767) to repeal the fourteenth section of an act entitled "An act to protect the revenue, and for other purposes," approved July 28, 1866; which was read a first and second time, and referred to the Committee of Ways and Means.

SOUTH CAROLINA ELECTION.

Mr. WHITTEMORE introduced a joint resolution (H. R. No. 415) for a select committee of seven to investigate irregularities in the recent election in the State of South Carolina, especially in the third and fourth congressional districts of said State; which was read a first and second time, and referred to the Committee on Reconstruction.

DISABILITIES OF CITIZENS OF GEORGIA.

Mr. CLIFT introduced a bill (H. R. No. 1768) to relieve from legal and political disabilities certain citizens of Georgia; which was read a first and second time, and referred to the Committee on Reconstruction.

SAVANNAH RIVER.

Mr. CLIFT also introduced a bill (H. R. No. 1769) asking an appropriation to improve the navigation of the Savannah river; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

DISABILITIES OF CHARLES C. CROWE.

Mr. CALLIS introduced a bill (H. R. No. 1770) to relieve from all political disabilities Charles C. Crowe, a citizen of the State of Alabama; which was read a first and second time, and referred to the Committee on Reconstruction.

Mr. CALLIS. I ask that the bill be printed.

Mr. BECK. I object to the printing of bills asking relief from disabilities. There are a great number of them, and there is no occasion to print them.

The SPEAKER. It is not usual to print such bills.

CANAL AROUND BIG MUSSEL SHOALS.

Mr. HAUGHEY introduced a bill (H. R. No. 1771) for the construction of a canal around the Big Mussel shoals in the Tennessee river; which was read a first and second time, and referred to the Committee on Commerce.

DISABILITIES OF SAMUEL M. MORROW.

Mr. HAUGHEY also introduced a bill (H. R. No. 1772) to relieve Samuel M. Morrow, of Alabama, from legal and political disabilities; which was read a first and second time, and referred to the Committee on Reconstruction.

REDUCTION OF OCEAN POSTAGE.

Mr. KELLOGG introduced a joint resolution (H. R. No. 416) directing the Postmaster General to open negotiations with the several European Governments with whom we have postal treaties for a further reduction of the rates of international postage; which was read a first and second time, referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

INTERNAL IMPROVEMENTS IN ALABAMA.

Mr. KELLOGG presented joint resolutions of the Legislature of the State of Alabama, respecting the national aid for internal improvements in that State; which were referred to the Committee on Commerce.

ALABAMA LAND GRANT.

Mr. KELLOGG also presented a memorial and joint resolution of the General Assembly of the State of Alabama, relative to a grant of lands for railroad purposes; which were referred to the Committee on the Public Lands.

REMOVAL OF DISABILITIES.

Mr. KELLOGG also introduced a joint resolution (H. R. No. 417) for the removal of legal and political disabilities from certain citizens of Alabama; which was read a first and second time, and referred to the Committee on Reconstruction.

LAND GRANTS TO ALABAMA.

Mr. BUCKLEY introduced a bill (H. R. No. 1773) to revive and renew certain grants of public lands to the State of Alabama; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

REPRESENTATION OF FREEDMEN.

Mr. PIERCE introduced a bill (H. R. No. 1774) making provision for the representation of two fifths of such persons as heretofore have been held in slavery; which was read a first and second time, referred to the Committee on Reconstruction, and ordered to be printed.

JOHN E. REESIDE.

Mr. GARFIELD introduced a joint resolution (H. R. No. 418) for the relief of John E. Reeside and his sub-contractors; which was read a first and second time, referred, with the accompanying papers, to the Committee on Military Affairs, and ordered to be printed.

CAUSES REMOVED FROM STATE COURTS.

Mr. TRIMBLE, of Kentucky, introduced a bill (H. R. No. 1775) to amend the act of July 18, 1867, for the removal of causes from State to Federal courts; which was read a first and second time, and referred to the Committee on the Judiciary.

JOHN T. KIRK.

Mr. BUTLER, of Tennessee, introduced a bill (H. R. No. 1776) for the relief of John T. Kirk, of Tennessee; which was read a first and second time, and referred, with the accompanying papers, to the Committee of Claims.

POST ROUTE IN TENNESSEE.

Mr. HAWKINS introduced a bill (H. R. No. 1777) to establish a post route in Tennessee; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

AUGUSTINE AND LOUISA HOLTZMAN.

Mr. HUNTER introduced a bill (H. R. No. 1778) for the relief of Augustine Holtzman and

Louisa Holtzman, his wife, of Indiana, and for other purposes; which was read a first and second time, and referred to the Committee of Claims.

J. C. M'QUISTON AND J. D. SKEEN.

Mr. HUNTER also introduced a bill (H. R. No. 1779) for the relief of John C. McQuiston and Jeremiah D. Skeen, of Indiana, and for other purposes; which was read a first and second time, and referred to the Committee on Military Affairs.

CHARLES RICHARDS.

Mr. COBURN introduced a bill (H. R. No. 1780) for the relief of Charles Richards; which was read a first and second time, and referred to the Committee of Claims.

NATIONAL CEMETERIES.

Mr. CULLOM introduced a joint resolution (H. R. No. 419) in relation to printing the collection of the proceedings at the soldiers' graves in May last; which was read a first and second time, and referred to the Committee on Printing.

WILLIAM H. H. ALDEN.

Mr. COOK introduced a bill (H. R. No. 1781) to increase the pension of William H. H. Alden; which was read a first and second time, and referred to the Committee on Invalid Pensions.

SCHOONER CARASSO MARINO.

Mr. BURR introduced a bill (H. R. No. 1782) to authorize the registry of the schooner Carasso Marino; which was read a first and second time, and referred, with the accompanying papers, to the Committee on Commerce.

JOHN GOTHARD.

Mr. GRAVELY introduced a bill (H. R. No. 1783) for the relief of John Gothard, guardian of minor child of John A. Gothard, late of company D, eighth Missouri State cavalry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

PACIFIC RAILROADS.

Mr. GRAVELY also introduced a bill (H. R. No. 1784) to amend an act entitled "An act granting land to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific ocean," approved July 27, 1866, and to facilitate the early construction of the Atlantic and Pacific railroad, the Texas Pacific railroad, the Union Pacific railway, eastern division, the Southern Continental railroad, and Southern Pacific railroad, (of California;) which was read a first and second time, referred to the Committee on the Pacific Railroad, and ordered to be printed.

Mr. ROOTS introduced a bill (H. R. No. 1785) to perfect and complete railroad and telegraph communication with the Pacific ocean; which was read a first and second time, referred to the Committee on the Pacific Railroad, and ordered to be printed.

PENSIONS.

Mr. FERRY introduced a bill (H. R. No. 1786) to restore pensions to soldiers employed in the civil service and withheld prior to June, 1866; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ABIGAIL REYNOLDS.

Mr. UPSON introduced a bill (H. R. No. 1787) increasing the pension of Abigail Reynolds, widow of Benoni Reynolds, a soldier of the revolutionary war; which was read a first and second time, and referred to the Committee on Revolutionary Pensions and of the War of 1812.

BARKS MARY JANE AND CAMBRIA.

Mr. DRIGGS introduced a joint resolution (H. R. No. 420) authorizing the Secretary of the Treasury to issue American registers to the bark Mary Jane and the bark Cambria; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

COURTS IN DISTRICT OF COLUMBIA.

Mr. WILSON, of Iowa, introduced a bill (H. R. No. 1788) to amend an act to reorganize the courts of the District of Columbia, and for other purposes, approved March 3, 1863; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

IOWA AND KANSAS RAILROAD.

Mr. PRICE introduced a bill (H. R. No. 1789) to authorize the construction of a railroad from Davenport, in the State of Iowa, to Topeka, in the State of Kansas; which was read a first and second time, referred to the Committee on Roads and Canals, and ordered to be printed.

WAR DEPARTMENT—INDIAN BUREAU.

Mr. CLARKE, of Kansas, presented a concurrent resolution of the Legislature of the State of Kansas, memorializing Congress in favor of the transfer of the control of Indian affairs from the Department of the Interior to the War Department; which was referred to the Committee on Indian Affairs.

SCHOOL LANDS IN ALABAMA.

Mr. TAFTE introduced a joint resolution (H. R. No. 421) explanatory of an act to authorize the selection of school districts in lieu of the sixteenth section within the twelve miles square reservation, in the State of Alabama; which was read a first and second time, and referred to the Committee on the Public Lands.

IOWA AND NEBRASKA RAILROAD.

Mr. TAFTE also introduced a bill (H. R. No. 1790) granting land to aid in the construction of a railroad from Sioux City, Iowa, to Columbus, Nebraska; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

COLUMBIA RIVER RAILROAD.

Mr. FLANDERS introduced a bill (H. R. No. 1791) authorizing the counties of Walla-Walla, Klickitat, Skamania, and Clarke, of the Territory of Washington, to aid in the construction of the Columbia River railroad; which was read a first and second time, referred to the Committee on the Territories, and ordered to be printed.

INDIAN DEPREDACTIONS.

Mr. CHILCOTT presented a joint resolution (H. R. No. 422) relative to depredations committed by the Sioux, Cheyenne, Arapaho and Kiowa Indians on the western frontier settlements; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

POST ROADS IN IDAHO.

Mr. HOLBROOK introduced a bill (H. R. No. 1792) establishing post roads in the Territory of Idaho; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

ALABAMA CLAIMS TREATY.

Mr. ROBINSON introduced a joint resolution (H. R. No. 423) protesting against the ratification of the treaty for the settlement of the Alabama claims; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

PROTECTION OF LOYAL MEN IN THE SOUTH.

Mr. CORLEY introduced a joint resolution (H. R. No. 424) for the better protection of loyal men at the South; which was read a first and second time, and referred to the Committee on Reconstruction.

JAMES M. MARTIN.

Mr. CORLEY also introduced a bill (H. R. No. 1793) to remove the political disabilities of James M. Martin, a citizen of South Carolina; which was read a first and second time, and referred to the Committee on Reconstruction.

SOUTHERN EXPRESS COMPANY.

Mr. PRINCE introduced a bill (H. R. No. 1794) to incorporate the Southern Express Company; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

GOVERNMENT OF THE INDIANS.

Mr. ELIOT, of Massachusetts, introduced a bill (H. R. No. 1795) to create a department of Indian affairs, and to provide for the consolidation, civilization, and government of the Indian tribes; which was read a first and second time, ordered to be printed, and, with the accompanying memorial, referred to the Committee on Indian Affairs.

Mr. ELIOT, of Massachusetts. Mr. Speaker, the memorial which I have presented in connection with the bill just referred is from the representatives of seven yearly meetings of the religious society of Friends in fifteen States—Maine, New Hampshire, Massachusetts, Vermont, Rhode Island, Connecticut, New York, Michigan, Maryland, Virginia, Ohio, Indiana, Illinois, Iowa, and Kansas. This document presents in a clear and brief manner the condition of Indian affairs in this country, and will, I think, be interesting to all the members of the House. I desire, therefore, that the memorial be ordered to be printed in the Globe. There being no objection, it was so ordered.

The memorial is as follows:

To the Senate and House of Representatives in Congress assembled:

The memorial of the undersigned, representatives of seven yearly meetings of the religious society of Friends in the States of Maine, New Hampshire, Massachusetts, Vermont, Rhode Island, Connecticut, New York, Michigan, Maryland, Virginia, Ohio, Indiana, Illinois, Iowa, and Kansas, respectfully represents:

That we have met in the city of Baltimore unitedly to consider our Christian duty in reference to the present condition of the Indians of our country.

While thus engaged, having before us the report of the joint special committee of Congress upon the "condition of the Indian tribes," printed January 26, 1867, and that of the "Indian peace commission, January 14, 1868," and subsequent reports of the civil and military proceedings in reference to the Indians, we have realized the deep responsibility which rests upon all members of a community professing to be Christians in their dealings and intercourse with the feeble remnants of the aboriginal inhabitants of this land.

In contemplating the disgraceful facts revealed in those reports and the admission of our own witnesses that our wars with the Indians, which have been almost constant, have been uniformly caused by injustice on the part of our white citizens and of Government officials,* we are reminded of the fact that the treaty of the Indians with William Penn was faithfully kept during the seventy years in which the government of Pennsylvania was administered upon the principles of its founder; and history tells us that "while the surrounding colonies were ever and anon at war with the Indians, and the scalping-knife and tomahawk brought death and terror to many a hearth, the Pennsylvanians and all their possessions remained unharmed." "The Indians remembered the treaty with the sons of Onas (Penn) and kept it inviolate."

Is there any reason to suppose that the Indians of the present day are less disposed to be faithful to their engagements than were their ancestors? The testimony of Colonel Bent, confirmed by other witnesses, before the joint committee above referred to, states, after thirty-six years' experience in the vicinity of the Indians against whom the United States Army is now engaged in hostile operations, that nearly every instance of difficulties between the Indians and the whites during his residence there were from aggressions on the Indians by the whites. And after giving an interesting detail of the causes which have directly or indirectly led to the present deplorable state of affairs, this experienced witness closed his testimony with these remarkable words: "If the matter were left to me I would guaranty with my life that in three months I could have all the Indians along the Arkansas at peace without the expense of war."

But we do not desire to dwell upon the sickening history of the past except to guard against its repetition in the future. While the white men whose brutal murders have brought upon many innocent settlers the vengeance of an outraged savage foetill go unpunished, and with blood upon their hands demand the extermination of the Indians, many of the tribes, both innocent and guilty of retaliation, have been destroyed by the sword, and their survivors have been reduced to subjection and have submitted themselves to the sense of justice in the white man's breast.

*"But it is said that our wars with them have been almost constant. Have we been uniformly unjust? We answer unhesitatingly, yes." See Peace Commissioners' Report, signed by Taylor, Henderson, Sherman, Harney, Sanborn, Terry, Tappan, and Augur, January 7, 1863.

While we have no sympathy with wrong or outrage of any kind, we cannot but express the hope that the further shedding of blood shall cease, and that the leniency which becomes a powerful nation may be extended to the children of the forest, who have been struggling for their right to live upon the soil of their ancestors.

"Mercy to him that shows it, is the rule
And righteous limitation of its act,
By which Heaven moves in pardoning guilty man;
And he that shows none, being ripe in years,
And conscious of the outrage he commits,
Shall seek it, and not find it, in his turn."

We have watched with deep interest and highly appreciate the evident desire of Congress to remedy the gross evils and abuses of our Indian system. We have no doubt that the proposal to place the Indian affairs in the control of the War Department has been dictated by motives of humanity, both to the interest of the Indians and the honor of the nation. While, however, we sympathize with our fellow-citizens in their desire to remedy these evils, we feel anxious that no retrograde course shall be adopted in these respects. The reasons which induced Congress in former years to remove these affairs from the War Department still exist, if possible, in greater degree. The loathsome disease which has destroyed thousands, and which now enfeebles and degrades most of the tribes, must be traced to licentious intercourse between the soldiers and the Indians. The demoralization to all parties from this cause is beyond estimate, and we respectfully submit that every consideration of principle and honor demand that the untutored Indian, who now looks to us for the arts of civilized life, upon which he must hereafter mainly depend, should be kept as far as possible from contact with dissolute and licentious men.

When we reflect upon the boundless evils of such contact, and the outrages to which they have been subjected, we can appreciate the remark of the indignant chief who said to your commissioners, "The white people treat us worse than the wolves do."

As professing Christians we have the utmost reliance upon the power of God upon the human heart; and we are confident that the faithful exercise of the principles and commands of our Lord Jesus Christ will be found sufficient to solve the Indian question without military aid. If we have heretofore failed to convert these heathen to the adoption of those principles, it is not because they are deficient in strength for their object, but because of the corruption and unfaithfulness of men whose examples have dishonored the Christian name. "Whatever our people may choose to say of the insincerity or duplicity of the Indian would fail to express the estimate entertained by many Indians of the white man's character in this respect."

The evils which arise from the exercise of arbitrary power by subordinate military men is more than enough to counteract the good which might be expected from the influence of officers of high character for principle and honor; and we are forced to conclude that the experience of military influence as a whole in the past is no warrant to expect a more favorable result in the future.

We therefore have roid with much satisfaction the bill before the Senate, introduced by the Senator from Kansas, "to create a department of Indian affairs, and to provide for the consolidation, civilization, and government of the Indian tribes." We believe that in its general features it is well adapted to secure the important reforms so loudly called for. Let the effort be made in good faith to promote their education, their industry, their morality. Invite the assistance of the philanthropic and Christian effort which has been so valuable an aid in the elevation of the freedmen, and render it possible for justice and good example to restore that confidence which has been lost by injustice and cruelty.

We are informed that the policy of our neighbors on our northern frontier has resulted in peace with the Indians for a hundred years. It is our belief that the sooner the tribal relation is broken up, and the Indian population permanently attached to the land, and brought under the same laws, privileges, and responsibilities with the rest of the community, the better it will be for the whole country. The three hundred thousand Indians will then become a valuable aid in the development of the national wealth; and the tax-paying inhabitants of the land will be spared from contributing the untold millions now worse than wasted in Indian wars. So long as these lands continue to be held in common they will present irresistible temptation to avaricious men, and schemes for obtaining possession of them, such as that which was last year denounced by the House committee as a shameful outrage, will continue to be devised. We cannot refrain from expressing the hope that the bill above referred to may contain a provision which will hereafter effectually prevent all men from attempting thus to enrich themselves at the expense of the national honor.

The last occasion upon which the representatives of our religious society appeared unitedly before you was during the darkest days of our country's history. Congress then listened with patient interest to our appeals in behalf of the rights of conscience, and granted relief. We now rejoice that the subject of our appeal is on behalf of humanity, in the interests of peace, and for the practical maintenance of the principles of Christianity. We desire that in legislating upon the rights and interests of the aboriginal inhabitants of our highly favored land, you may remember that "righteousness exalteth a nation, but sin is a reproach to any people." May you be enabled, as representatives of a Christian nation, to legislate respecting the Indians in the fear of the Almighty, and be guided by His wisdom. On the one side is weakness, and on the other is power; there-

fore justice and mercy, kindness and liberality, commensurate with its greatness, concern alike the honor and the interests of the nation.

We desire to strengthen the hands of those who fearlessly advocate the right, and to remind all that the eye of Omnipotence rests upon us.

It is our prayer that the result of your action may redound to your own peace and to the interests and happiness of all the inhabitants of the land.

Signed on behalf of the representatives of the meetings aforesaid:

JOHN BUTLER,
ENOCH HOAG,
WILLIAM WOOD,
WILLIAM B. COLLINS,
AUGUSTUS TABER,
BENJAMIN TATHAM,
WILLIAM C. TABER,
GEORGE HOWLAND, Jr.,
GILBERT CONGDON,
RICHARD M. JANNEY,
FRANCIS T. KING,
JAMES C. THOMAS,
JAMES CAREY.

BALTIMORE, 1st Mo. 21, 1869.

PROTECTION OF CIVIL RIGHTS.

Mr. McKEE introduced a bill (H. R. No. 1796) to amend an act entitled "An act to protect all persons in the United States in their civil rights, and to furnish the means of their vindication," approved April 9, 1866, and to provide for its effectual enforcement; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

SURETIES OF OTIS A. WHITEHEAD.

Mr. ROBERTSON introduced a bill (H. R. No. 1797) to relieve the sureties of Otis A. Whitehead, additional paymaster, from liability; which was read a first and second time, and referred to the Committee on Military Affairs.

EUROPEAN MAIL CONTRACT.

Mr. GRISWOLD introduced a bill (H. R. No. 1798) to authorize a postal contract for the conveyance of the European mails with Francis Skiddy and others; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

RAILROAD IN IDAHO.

Mr. ASHLEY, of Nevada, introduced a bill (H. R. No. 1799) to aid in the construction of a railroad and telegraph line from Boise, in Idaho Territory, to the Humboldt river; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

PAY OF ARKANSAS REPRESENTATIVES.

The SPEAKER. The call of the States for bills and joint resolutions having been completed, the next business in order is the calling of the States and Territories for resolutions, commencing with the State of Indiana, where the call rested at the expiration of the morning hour on Monday last.

Mr. SHANKS. In behalf of the delegation from Arkansas I offer the following resolution, and demand the previous question:

Whereas Representatives from the States of Louisiana and Tennessee were admitted to seats and paid for the full Congress within a few days of the close of the Thirty-Seventh Congress, while those States were represented in the confederate congress, and while the Representatives from Tennessee were admitted to seats and paid in full for the Thirty-Ninth Congress at nearly the same period in said Congress that the State of Arkansas was admitted to representation in the present Congress: Therefore,

Be it resolved, That the members of this House from the State of Arkansas be paid for the full term of the Fortieth Congress; and that the heirs of James Hinds be paid the amount that would be due to him to the date of his death, and his successor be paid from that date.

Mr. WASHBURNE, of Illinois. "I move to lay it on the table."

Mr. FARNSWORTH. I would like to make an inquiry as to what the precedents are in reference to members elected after the congressional term commences.

The SPEAKER. The resolution in its language states what the gentleman claims are the precedents.

Mr. UPSON. It does not state all the precedents.

Mr. SHANKS. I ask leave to state the precedents.

The SPEAKER. There are two undebatable motions pending.

Mr. SCOTFIELD. The gentleman himself has cut off debate by calling the previous question.

Mr. KERR. I desire to say on this subject that there is no precedent in this country.

Mr. ALLISON. I object to debate.

Mr. MAYNARD. Allow me to make a suggestion.

Mr. WASHBURNE, of Illinois. Regular order.

Mr. MAYNARD. I will then ask a parliamentary question. Would it not be in order to move to refer the resolution to the Committee of Elections, or on Reconstruction, so that some general proposition might be brought in?

The SPEAKER. It would not pending the motion to lay on the table.

Mr. MAYNARD. Another parliamentary question. If the present motion fails and the previous question is not sustained, will it not then be in order to move to refer the resolution?

The SPEAKER. It will if some gentleman does not rise to debate it, when it must go over under the rule.

Mr. BROMWELL. I would like to ask when those members were elected?

Several members objected.

Mr. WASHBURNE, of Illinois. I demand the yeas and nays on laying the resolution on the table.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 78, nays 88, not voting 56; as follows:

YEAS—Messrs. Allison, Delos R. Ashley, Bailey, Baker, Baldwin, Barnes, Barnum, Beatty, Benton, Bingham, Blair, Brouwell, Brooks, Buckland, Burr, Calkins, Cary, Chanler, Reader W. Clarke, Cook, Delano, Elin, Eldridge, Garfield, Getz, Glossbrenner, Halsey, Hopkins, Hotchkiss, Chester D. Hubbard, Richard D. Hubbard, Humphrey, Hunter, Judd, Kelsey, Kerr, Ketcham, Kitchen, Koontz, Laffin, William Lawrence, Lincoln, Loan, Loughridge, Marvin, McCarthy, McCormick, McCullough, Mercur, Moorhead, Niblack, Orth, Paine, Pike, Plants, Poland, Price, Baum, Ross, Sawyer, Schenck, Scofield, Spaulding, Stevens, Stone, Trowbridge, Upson, Van Auker, Van Trump, Ward, Elihu B. Washburne, Welker, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Woodbridge, and Woodward—78.

NAYS—Messrs. Anderson, Archer, Arnell, James M. Ashley, Beaman, Beck, Benjamin, Blackburn, Blaine, Boyden, Buckley, Benjamin F. Butler, Rodrick R. Butler, Callis, Churchill, Sidney Clarke, Cliff, Cobb, Corley, Dawes, Deweese, Dockery, Donnelly, Eckley, Edward, Farnsworth, Ferriss, Ferry, Fields, French, Golladay, Goss, Gove, Gravely, Grover, Hamilton, Harding, Haughey, Hawkins, Heaton, Higby, Ingersoll, Jenckes, Alexander H. Jones, Thomas L. Jones, Julian, Kelley, Kellogg, Knott, Lash, Logan, Mallory, Maynard, Miller, Morrill, Mungen, Newcomb, Newsham, Nicholson, Norris, O'Neill, Perham, Peters, Pierce, Polesy, Prince, Randall, Robertson, Shanks, Shellabarger, Smith, Starkweather, Stokes, Stover, Taffe, Thomas, John Trimble, Lawrence S. Trimble, Twichell, Van Aernum, Burt Van Horn, Robert T. Van Horn, Vidal, Henry D. Washburn, William B. Washburn, Whittemore, Windom, and Young—88.

NOT VOTING—Messrs. Adams, Ames, Axtell, Banks, Boies, Boutwell, Bowen, Boyer, Broomall, Coburn, Cornell, Covode, Cullum, Dickey, Dixon, Dodge, Driggs, Eggleston, Thomas D. Eliot, James T. Elliott, Fox, Griswold, Haight, Hill, Holman, Hooper, Asahel W. Hubbard, Hubbard, Johnson, George V. Lawrence, Lynch, Marshall, McKee, Moore, Morrissey, Mullins, Myers, Nunn, Pettis, Phelps, Pike, Pomeroy, Prayn, Robinson, Roots, Selye, Sigreaves, Stewart, Sypher, Taber, Taylor, Tift, Van Wyck, Cadwalader C. Washburn, Thomas Williams, and Wood—56.

So the House refused to lay the resolution on the table.

The question recurred upon seconding the previous question.

Mr. WASHBURNE, of Illinois. If the previous question is not seconded, will it be in order to move to refer the resolution so that it may be made to include all these gentlemen from the reconstructed States?

Mr. SHANKS. I object to a stump speech.

The SPEAKER. The gentleman from Tennessee [Mr. MAYNARD] has intimated his intention to move to refer the resolution.

Mr. WASHBURNE, of Illinois. Why does the gentleman from Indiana confine his resolution to the Arkansas members?

Mr. SHANKS. The gentleman objects to those I have in the resolution. There will be time enough to attend to the others afterward.

Mr. CAVANAUGH. Will the gentleman from Indiana allow me to offer an amendment?

Mr. SHANKS. I cannot yield for that purpose.

The question was put on seconding the previous question; and there were—ayes 57, noes 76.

So the House refused to second the previous question.

Mr. MAYNARD. I move that the resolution be referred to the Committee on Reconstruction, and on that motion I move the previous question.

Mr. WASHBURN, of Illinois. Will the gentleman withdraw the previous question to allow me to move to refer the resolution to the Committee on Appropriations?

Mr. MAYNARD. No, sir; I am in favor of the proposition, and I know where it would go if it was referred to the Committee on Appropriations; it would go to the tomb of the Capulets.

Mr. POLAND. It seems to me that it would be more appropriate to refer this resolution to the Committee of Elections.

The SPEAKER. Will the gentleman from Tennessee yield for that motion to be made?

Mr. MAYNARD. I prefer that it should go to the Committee on Reconstruction; they have had the general subject before them.

Mr. DAWES. The Committee of Elections will not be called again this session.

Mr. MAYNARD. The Committee on Reconstruction can report at any time.

The question was put on seconding the previous question; and there were—ayes 79, noes 60.

So the previous question was seconded.

The question recurred upon ordering the main question to be now put.

Mr. CAVANAUGH. Will it be in order for the gentleman from Indiana to accept an amendment to the resolution?

The SPEAKER. The gentleman cannot accept it unless by unanimous consent.

Mr. MAYNARD. I hope this question will be disposed of, and then the gentleman can bring his matter before the House.

Mr. WASHBURN, of Illinois. I demand the yeas and nays on ordering the main question.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 107, nays 63, not voting 52; as follows:

YEAS—Messrs. Anderson, Archer, Arnell, James M. Ashley, Axtell, Bailey, Beaman, Benjamin, Bingham, Blackburn, Blaine, Boyden, Brewster, Buckle, Benjamin B. Butler, Callis, Churchill, Reader W. Clarke, Sidney Clarke, Clift, Cobb, Coburn, Corley, Cornell, Cullom, Dawes, Delano, Jewkes, Eggleston, Dodge, Donnelly, Eekley, Edwards, Eggleston, Thomas D. Eliot, Farnsworth, Ferriss, Perry, Fields, French, Gurfield, Goss, Gove, Gravelly, Hamilton, Harding, Haughey, Henton, Higby, Hopkins, Richard D. Hubbard, Hunter, Ingersoll, Jencks, Alexander H. Jones, Julian, Kelley, Kollogg, Koontz, Lash, Lincoln, Loan, Lynch, Maynard, McCarthy, McKee, Miller, Moorhead, Morrell, Mullins, Nicholson, Norris, O'Neill, Prince, Raum, Robertson, Ross, Pike, Polisy, Price, Prince, Raum, Robertson, Ross, Shanks, Smith, Starkweather, Stokes, Stone, Stover, Taff, Thomas, John Trimble, Twichell, Upson, Van Aernam, Robert T. Van Horn, Vidal, Henry D. Washburn, William B. Washburn, Whittemore, Thomas Williams, John T. Wilson, Stephen F. Wilson, Windom, Woodbridge, and Young—107.

NAYS—Messrs. Allison, Baker, Baldwin, Barnum, Beatty, Beck, Benton, Blair, Boutwell, Brooks, Broomall, Buckland, Roderick B. Butler, Calk, Cary, Chanler, Cook, Eia, Eldridge, Getz, Glossbrenner, Golladay, Halstead, Thomas L. Jones, Judd, Kelsey, Kerr, Ketcham, Marvin, McCormick, McCullough, Mercer, Newsham, Niblack, Orth, Phelps, Plants, Poland, Randall, Sawyer, Schenck, Scofield, Shellabarger, Spaulding, Stevens, Lawrence S. Trimble, Trowbridge, Van Aiken, Van Trump, Ward, Elihu B. Washburne, Welker, William Williams, James F. Wilson, and Woodward—63.

NOT VOTING—Messrs. Adams, Ames, Delos R. Ashley, Banks, Barnes, Boies, Bowen, Boyer, Burr, Covode, Dickey, Dixon, Driggs, James T. Elliott, Fox, Griswold, Grover, Haight, Hill, Holman, Hooper, Asahel W. Hubbard, Hulburd, Johnson, Kitchen, George V. Lawrence, Logan, Loughridge, Marshall, Moore, Morrissey, Mungen, Myers, New-

comb, Nunn, Pettis, Pike, Pomeroy, Pruyn, Robinson, Roots, Selye, Sitgreaves, Stewart, Sypher, Taber, Taylor, Tift, Burt Van Horn, Van Wyck, Cadwalader C. Washburn, and Wood—52.

So the main question was ordered.

The question was put on Mr. MAYNARD's motion; and it was agreed to.

So the resolution was referred to the Committee on Reconstruction.

AGRICULTURAL COLLEGES, INDIANA.

The SPEAKER, by unanimous consent, laid before the House a communication from the Governor of Indiana, transmitting a report of the sales made by that State of the land scrip issued by the United States under the act of July 2, 1862, relative to agricultural colleges, and of the appropriation of the proceeds of such sales; which was referred to the Committee on Agriculture, and ordered to be printed.

SUFFRAGE.

The SPEAKER. The morning hour has expired. The House resumes the consideration of House joint resolution No. 402, proposing an amendment to the Constitution of the United States in relation to suffrage, upon which the gentleman from Illinois [Mr. CULLOM] is entitled to the floor.

Mr. BOUTWELL. I have been informed that some members who desire to speak upon this subject have not yet prepared themselves. I would therefore suggest that the further consideration of this subject be postponed until Wednesday next after the reading of the Journal, with the understanding that if there is any desire, as there probably will be, for a morning hour, I will then yield to a motion to postpone the subject until after the morning hour.

Mr. CULLOM. I have no objection to yield for such a motion, with the understanding that when the House resumes the consideration of this subject I shall be entitled to the floor.

Mr. BOUTWELL. Certainly; I would not ask the gentleman to give up his right to the floor. I now move that the further consideration of this subject be postponed until Wednesday next, immediately after the reading of the Journal.

The motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HAMLIN, one of its clerks, informed the House that the Senate had passed a bill and a joint resolution of the following titles, in which the concurrence of the House was requested:

A bill (S. No. 667) to enable the Holly, Wayne, and Monroe Railway Company, in the State of Michigan, to have the subscriptions to its capital duly stamped; and

A joint resolution (S. R. No. 209) donating cannon for a monument to the memory of the late President, Abraham Lincoln.

The message further informed the House that the Senate had agreed to the amendments of the House to Senate joint resolution No. 173, respecting the provisional governments of Virginia and Texas, with amendments, in which the concurrence of the House was requested.

DENVER PACIFIC RAILWAY.

The SPEAKER. The House now resumes the consideration of Senate bill No. 570, for a grant of lands granting the right of way over the public lands to the Denver Pacific Railway and Telegraph Company, and for other purposes, upon which the gentleman from Illinois [Mr. LOGAN] is entitled to the floor.

Mr. LOGAN addressed the House. [See Appendix.]

Mr. SCHENCK obtained the floor.

Mr. LOGAN. If the gentleman from Ohio [Mr. SCHENCK] will yield to me for a moment I desire to make one explanation. I intend, as I have said, to move at a suitable opportunity the reference of this measure to the Committee on the Pacific Railroad. I will not make that motion now, as a matter of course, because I do not want to cut off debate.

The SPEAKER. The Chair understands that the hour of the gentleman from Ohio [Mr.

SCHENCK] will probably be the closing hour of the debate on this bill. But the debate can proceed upon the motion to refer; and if the gentleman from Ohio yields for that motion it can now be entered.

Mr. SCHENCK. I do not yield for that purpose. I yield to the gentleman from Minnesota.

Mr. WINDOM. Mr. Speaker, I have sought the floor for a few moments on this question for the reason that it has been announced by two or three opponents of this measure that the vote on the bill before the House is to decide the question of railroad aid for this session. I do not believe it, sir; for I do not think the principle involved in the other bills—I refer especially to the one I introduced the other day—is involved in this one.

But I have taken the floor more particularly for the purpose of calling the attention of the House to a refutation of the old and long-accepted maxim that "figures will not lie." I believe that, arranged in certain forms, figures are the greatest liars on earth; and I think they have been so arranged in this House. I refer to a statement made by the gentleman from Illinois [Mr. WASHBURN] in opening the discussion on this question, that one hundred and eighty-five million acres of public land had been granted to railroads, and that that was one third of all the public domain of this country. Now, sir, the report of the Commissioner of the General Land Office shows that the present public domain of the United States is 1,834,998,000 acres. If that statement be correct, even if one hundred and eighty-five million acres have been granted to railroads, instead of our having given away one third of the public domain we have only given away one tenth.

I now call attention to the actual facts with reference to these grants of land. There have been granted, according to the same report, to all the railroads of this country, exclusive of the Pacific railroads, 57,588,581 acres. These grants were made to the States of Illinois, Mississippi, Alabama, Florida, Louisiana, Missouri, Iowa, Michigan, Wisconsin, Minnesota, Kansas, and California. Of the grants thus made over fourteen million acres were granted to the southern States, and consisted of graduated lands which had been long in the market and would not bring twelve and a half cents per acre. In granting those lands to the southern States Congress at once raised the price of all the other lands in their vicinity to \$2 50 per acre, and large quantities were sold at that price. Now, if I owned a quantity of land that was not worth twelve and a half cents an acre and by giving away one half of it I could get \$2 50 per acre for the rest, I think it would be a very good speculation on my part.

Mr. SYPHER. Will the gentleman yield?

Mr. WINDOM. I cannot, if it comes out of my time. The total amount granted to the States of Illinois, Mississippi, Alabama, Louisiana, Arkansas, Missouri, Iowa, Michigan, Wisconsin, and California is 39,692,000 acres. Of this amount 21,000,000 are all that have ever yet been certified to all the railroad companies in the United States. Now, in these States I have named as having received grants of 39,692,000 acres there were, as shown by the census of 1860, an increase in the national wealth from 1850 to 1860 of \$3,170,000,000. The entire increase of the national wealth in all the States during the same period was \$8,925,000,000. So that more than one third of the entire increase of national wealth was in the States which have received the land grants. Now, estimating the same increase from 1860 to 1870, and that the whole national wealth in 1870 will be \$30,000,000,000, you will have in these land grant States one fifth of the entire wealth of the nation. If we shall have to levy by taxation \$350,000,000 per annum to carry on the Government, these land-grant States in which railroads have been built by donations of public lands—which lands would have been worthless if no railroads had been built—will pay \$70,000,000 per annum of that amount.

Even if we have given away thirty-nine million acres of land, and have thereby built up this vast empire, which is paying into the Treasury \$70,000,000 per annum, is it not a good speculation? The average percentage of increase in the country from 1850 to 1860 was one hundred and twenty-six; the decimal ratio of increase in wealth in the land-grant States I have named has been almost worthless if it had not been for this system of internal improvements. I claim, then, that in so far as we have tested the system it has proved most profitable.

Now, one word further. Of the one hundred and eighty-five million acres thus heralded to the country as having been given to railroads thirty-five millions or more were given to the Union Pacific, making ninety-two millions as the sum total that has been withdrawn from settlement. There are now of the one hundred and eighty-five million acres thus nominally granted ninety-three million acres open to settlement to-day just the same as it has ever been. The whole amount of lands granted to Pacific railroads would make a strip across the continent of only from eighty to one hundred miles in width, including sage plains and deserts. Our vast public domain stretches sixteen or seventeen hundred miles north and south. So that if we estimate this whole amount as having been given away as stated, it will be but one acre out of seventeen of these vast plains in the West—one sixteenth instead of one third, as stated by the gentleman from Illinois. And if by giving away one acre in sixteen we can secure the settlement and improvement of that great country, I ask how the nation can make a better investment?

I presume my time has about expired, and I will merely add that so far as this question of economy is concerned I will go with him who goes furthest in all measures of true economy; but I do not believe the time has come when this nation should close business and appoint an executor. I believe that we may increase in prosperity and wealth in the future as we have done in the past; but if the theories and policy of the gentleman from Illinois be adopted we may as well hang crape on our doors and advertise to the world that our executors have been appointed and that the business of the great Republic is to be closed out.

Mr. SCHENCK. I yield for a moment to the gentleman from New York, [Mr. KELSEY.] Mr. KELSEY. I ask leave to print in the Globe some remarks upon a bill which I introduced this morning in relation to funding and paying the interest on the national debt.

There was no objection, and the leave was granted. [See Appendix.]

Mr. SCHENCK. I do not care whether the few remarks I propose to make are printed or not. I make them for the purpose of defining my position, as the phrase is among politicians, upon the subject which is now before the House. In submitting a few remarks upon the bill with the amendments before us I shall endeavor not to become at all excited. I have no interest, no prejudice, no feeling to be stimulated into any excessive action by the consideration of this matter; least of all shall I attempt to scold anybody here for differing from me in opinion in regard to the aid to be extended to public railroads. I regard the bill before us as one that does not call for that wide debate which has been entered into in regard to it. It is not a proposition to build a road to the Pacific. Such propositions we shall probably have hereafter in addition to that which already has the sanction of the Government, and when they come, undeterred by any popular clamor, if I can find the bills which provide for such improvements guarded and hedged around to my satisfaction with those provisions which will prevent an abuse of the privilege I intend and expect, if I am here, to vote for them.

I hold that connection with the Pacific by

some railroad system is an absolute essential to this country. I believe that if the Union and Central Pacific roads had not been commenced and completed to the extent to which they have now gone, with a prospect of speedy accomplishment in the near future, we should not be holding the Pacific States at this time as a part of this Union. I believe that the laying of these great iron clamps across the continent to hold the two coasts together is a necessity; that we cannot expect to keep the union of these States which shall bind together the eastern and western sides of the continent if it is to be upon the condition of the citizens of one part reaching the other for all time by passing through a foreign country; and I believe this to be the conviction of the people generally, and the conviction of the party to which, in politics, I belong.

What, then, is it that we have before us to-day? The Union Pacific road together with the Central Pacific road, making a chain of communication across the continent, are speedily approaching completion. It is now proposed, taking up what has been done in reference to another public improvement, to provide for a little link of fifty-four miles, upon the same terms and in the same way, with a view of making it, as it were, a branch of the Union Pacific road, and at the same time affording a good start for the Southern Pacific road across the continent. Now, I am in favor of this little bill for these reasons: I want it as a branch to the Union Pacific road, and I want it as a start for the Southern Pacific road.

My friend from Illinois [Mr. LOGAN] has introduced a substitute for this bill, which sets forth a scheme for the construction hereafter of these railroads. As carefully as I could, in the short time allowed me, I have read and thought upon this substitute as an amendment to the pending bill. And although I am not ready to vote for it and set aside what we have done or proposed to do in regard to the matter now before the House, still I find in the plan of the gentleman's chalking out, an outline at least, of what I conceive will be in the future an improvement upon all these schemes. And although I will not vote for his bill now as a substitute for the one before us, I think I may safely pledge him in advance that when we come to build the Southern Pacific railroad and the Northern Pacific railroad he and I will be found together endeavoring to adopt such guards and to hedge around every such charter and every such act of legislation in such a way that there will not be such abuses committed as have been complained of in reference to the Union Pacific railroad.

I am not standing here to defend the Union Pacific railroad. I know as well as the gentleman from Illinois, [Mr. LOGAN,] and as well as other gentlemen, how very apt, in the legislation of Congress, or of any other body, men are to enter into schemes of public improvement with a view to their own advantage, and how very apt they are to push that advantage to the utmost possible extent of profit to themselves. In one sense this is right and we must submit to it; for we cannot propose to any company or class of men, with any expectation that they will accept the privileges we offer them, that they shall out of pure benevolence and patriotism undertake any great public work. I believe, however, that there has been too much money made out of this railroad building under acts of Congress. I believe that this popular clamor against the Union Pacific Railroad Company does not rest fairly upon any aversion on the part of the people to the execution of the work. It rests upon and grows out of supposed abuses, perhaps upon abuses actually existing, on the part of those who have been carrying out these schemes of the General Government.

I said I was not actuated by prejudice, by the general outcry against these things; nor will I be influenced by anything of that sort. But I am afraid the gentleman from Illinois who addressed the House a few days ago [Mr. WASHBURN] yielded a little to that feeling.

When he gave us one of his customary lectures on extravagance, in which he is in the habit of assuming everybody but himself to be in the wrong, I am afraid he gave way to his imagination a little instead of confining himself strictly to the facts. So far as I could collect the statistics for the purpose, I have looked into some of the declarations made by the gentleman which were intended to prejudice the minds of members and to secure their votes against the bill now before us. The gentleman from Minnesota [Mr. WINDOW] has already alluded to one of his statements. The gentleman from Illinois told us that one third of all the public lands had already been given to these railroads. The gentleman from Minnesota showed from the record that one tenth is the utmost amount that has yet been given for that purpose.

Again, the gentleman from Illinois said, if I understand him aright, that there had been presented to this very road seven million six hundred and eighty thousand acres of land. I find upon investigation that perhaps three million three hundred thousand acres, a little less than one half the amount he named, will cover the whole subsidy in lands. The gentleman also said that in round numbers the sum of \$25,000,000 had been given for the purpose of building these railroads. I find by an estimate of these lands, founded upon the best data I have been able to obtain from the Land Office and from other sources, that about four million two hundred and fifty thousand dollars would cover all, being less than one fifth of the amount stated by the gentleman in that flight of imagination to which he treated us.

I mention these things for the purpose of calling the attention of the House to the condition of this debate, and to justify the course which I take, because it is not grounded upon this general outcry and these large imaginative calculations of what has been appropriated to these purposes, but is founded upon the facts of the case as nearly as I can ascertain them. Now, sir, why should we not pursue the policy which I have indicated? I hold that in governmental matters the best way ordinarily to get along is to do just as a sagacious individual would do in the management of his own affairs. Suppose I have lands lying out upon one of the prairies, remote from settlement, and I divide the tract into town lots or a number of small farms, how do I get those lands taken up? I offer to give to any mechanic who will go and settle there, to any one who will establish a small store or a church or a school, some of these lands free of charge, the occupation and the improvements thus made enhancing the value of the remainder of the tract. And when I sell my lands I sell them at first at a very low rate, expecting that the settlement of a portion will further enhance the value of the remainder of my possessions. Upon a similar ground I justify these appropriations of public lands and this pecuniary aid given by the Government to assist in opening up and developing the remote regions of the West by making highways of trade and travel through them.

This is the principle which actuated this House many years ago, during my earlier term of service here, when we granted, for the purpose of building the Illinois Central railroad, a very large portion of the public domain. It is very possible that we did not hedge around that measure with sufficient precautions to prevent a great monopolizing company from making a vast amount of money. Yet, though a great corporation may have feathered its nest out of that grant of public lands, I for one do not now regret that it was made, because the effect of it was to open up that which is to become probably before many years the second State of the Union, the great State of Illinois, and to give it an impetus which will set it forward in the way of development and progress perhaps a century. And it lies least of all in the mouth of any of the citizens of Illinois to object to appropriations of this kind when their own State is one of the most extraordinary

monuments of the wisdom of a policy of this kind pursued by the General Government.

But I will not multiply instances of this sort; they are familiar to every gentleman. I hold that it is a wise policy to open up our western possessions by liberal grants in order to induce settlement, progress, improvement, from all of which we shall have returns a thousand fold in the shape of increased resources, the Government deriving directly in the form of taxation more than all it appropriates in thus developing the country.

I have already alluded to the necessity, so far as these Pacific railways are concerned, of improvements of this kind for political objects, in order that the East and the West may be kept together. Now, I have indicated a purpose to vote hereafter for extending the aid of the Government to probably two other Pacific railroads. There is a reason for this to be found in the very fact that we have established one such railroad. In the first place it will be neither convenient nor wise for the people of the Atlantic coast and the people of the Pacific to be bound together by but a single line of travel. Here in the city of Washington we have been too long hung to the rest of the United States by but a single thread of railroad from Baltimore to this point. This exhibits upon a small scale the uncertainty, the inconvenience, the danger which we should experience upon a large scale from having but a single line of railway connecting the East with the Pacific coast. And when gentlemen are afraid of monopolies let them take care that they do not establish the greatest of all monopolies by building up one of these roads and refusing aid to any other.

It is in order that we may be connected by a sufficient number of these iron clamps to bind us together across the continent, and in order that one may not obtain too great an influence on the councils of the nation and in the administration of the Government, that I would give rivals to them. I believe it to be needed on both accounts, both for the purposes of the people of the United States and their convenience and to prevent that very monopoly which gentlemen are so afraid of. But, as I said before, I sustain this bill here to make this connecting link of fifty-four miles upon the old system, with full readiness to declare, when we come to those larger roads extending across the continent, that guards like those which the gentleman from Illinois has proposed, or we may hereafter devise, ought to be resorted to, and made as clear, as plain, and as secure as possible.

My friend from Illinois, [Mr. LOGAN,] who last addressed the House, informed us that we are going against the wishes of the people. I do not believe it. I do not believe the people are opposed to these great works of public improvement, but look at them as truly as any gentleman here can, and as understandingly; and I do not wish to depreciate their intelligence on that point. But I believe they are opposed to and are watching with jealous anxiety the abuses likely to spring from going forward with these roads without the guards I have indicated. But I do not mean to yield to a popular clamor which strikes at the whole system and the whole policy because that system and that policy have been abused. On the other hand I am not influenced by the intimation of the gentleman who has just closed his speech that we are going to do something not agreeable to the wishes of the President-elect. In the first place, I take issue with him on the fact. I believe I happen to know from the most authentic sources of information that while General Grant is opposed generally to the large and loose subsidies which have been made, and especially in the present embarrassed condition of the country, he has thought it very hard that this little road, in the light in which I have been presenting it, should not have this chance with the rest, as a branch of the Union Pacific and as needed for military purposes, and as, perhaps, affording a starting point for another road extending to the Pacific through Lower California. But if it were

true that it was against the wish and opinion of the President-elect I must admit I shall vote according to my own judgment and sense of duty to the country undeterred by any intimation of that character. I shall be sorry to differ from any one so respectable as General Grant, but it is my vote and not his to be given here to-day and on all future occasions when I vote; and I think I shall be respected, and every gentleman, more for giving a vote of that kind independently and according to the dictates of my judgment by General Grant himself, the President-elect, than if I were to seek to find out first what he wants and then record my vote accordingly.

Mr. LOGAN. I hope the gentleman from Ohio will yield to me right here, as he seems evidently to have misunderstood what I said. I did not say that General Grant had expressed any opinion about this road. I have never in my life talked with him on the subject. But, sir, I said this: that this company was asking this House to vote against the opinion of their constituents, against the platform upon which they were nominated, and against the understood and expressed views of the President-elect. The gentleman knows that is what I said. I do not use General Grant's name here as a scarecrow. I only made the remark which I have stated.

Mr. SCHENCK. I do not suppose that any one is more independent than my friend from Illinois on most of these matters; but I did understand it was thrown out as a reason why we should not vote for this bill, or a bill of this kind, that it was contrary to the expressed wish of the President-elect.

Mr. LOGAN. No, sir; but I was referring to the modesty of this corporation in asking us to do it.

Mr. SCHENCK. Corporations have not been very modest. They are a sort of embodied idealism, and cannot well blush. [Laughter.] I wish I could say the same in regard to individuals, for if corporations cannot be either modest or impudent because of the want of personality that is not true in regard to individuals, and some might be more modest than they are.

But, Mr. Speaker, I do not wish to be drawn away from the course of general remark I was pursuing. The gentleman from Illinois certainly did say, if I did not misunderstand him, that the true way was to let the country in the interior build its own roads. I do not think they can. If the country between this and the Pacific were like the country in my district or in yours, Mr. Speaker, or in your State anywhere, or in mine, I should be very far from coming to a conclusion that they needed or were entitled to any aid from the House to enable them to build their public improvements. But it happens, as I illustrated before, that this is a great unsettled country which we desire to fill with population, to fill with enterprise, over which we wish to extend all the conditions of civilization, and it is necessary for us, for the development of our great domain, to grant some of it away in order to accomplish that object. That is the whole of the argument.

To come back to where I commenced. This bill is not one which involves the necessity of inquiring into this whole subject of building a road to the Pacific. It is a bill which simply proposes to go on with a system which, whether it has been sufficiently guarded or not, has now become a well established system, and build up one little link of fifty-four miles, so as to secure an eastern branch to the Union Pacific railroad and afford a starting point for a southern Pacific railroad, if we should hereafter build a southern Pacific road; and that is the whole object.

Mr. DELANO. I ask my colleague to yield to me for a question.

Mr. SCHENCK. Certainly.

Mr. DELANO. Is my colleague able to say there is a design, a real purpose, to run this road to Denver?

Mr. SCHENCK. I do not know.

Mr. DELANO. That is a point to which I wish to call his attention. The bill as originally shaped does not require the company, as I understand it, to proceed toward Denver. They may use the subsidy so as to direct the line of the road to a point toward Albuquerque with a view ultimately to the completion of a new line across the mountains to San Francisco.

Mr. SCHENCK. I can only give my belief.

Mr. DELANO. I wish to say further that I have proposed an amendment which, if adopted, would require them so to appropriate this fund as to go to Denver and make connection with another road which connects with the Union Pacific; and it seems to me, if there is an honest purpose to accomplish what is said to be the intended object, this will be done. If it is not, we may then understand that this is a scheme to enable them to go further on this new line and then call upon us for more subsidies.

Mr. LOGAN. If the gentleman from Ohio will allow me, I will explain this from the map in a word; and I hope that I will not be considered as taking up too much of the gentleman's time. If the gentlemen in the House will direct their attention to the bill itself they will find that this is the language—that this road is to connect at or near Cheyenne Wells, in Colorado, and not further west than the meridian of said Cheyenne Wells. You will find that Cheyenne Wells is thirty miles south of the line of the road, and taking the meridian of Cheyenne Wells running in that direction they may strike the meridian of Cheyenne Wells thirty miles south in the direction of Albuquerque, which will make one hundred and twenty miles of subsidy to be given them.

Mr. SCHENCK. I understand my friend from Illinois that if we go on and grant a subsidy for fifty-four miles on the same principle we have granted it to the Union Pacific railroad they will have nothing to get along to Cheyenne Wells without a subsidy, and will give their lands away to build a road up to Denver. If it be so, so much the better. Then by the grant of a subsidy for these fifty-four miles we secure more than we have secured before. I think an arrangement will be made to answer my colleague on the subject. I think a road will be built to connect with Denver, and it is in that connection I am willing to grant a road to Cheyenne Wells, which is recommended by General Grant, General Sherman, and others, for military purposes—for Army transportation to a point where there is forage and fuel to be had, which cannot be had conveniently east of that point.

Mr. Speaker, I was saying, when interrupted, that this is a bill which does not touch the merits of any general policy on this subject, and when I vote for this bill I propose to vote for it with the reserved understanding that while this may accomplish the building of the road, which may hereafter become the main stem to Cheyenne Wells, and its connection by indirection also successfully with Denver City, thus making it part of the Union Pacific as an eastern branch, when we come to legislating in regard to the two or three other lines across the continent, to try and improve on that legislation so far as the guards and restrictions are concerned under which the Union Pacific and the Central Pacific have been built.

The gentleman from California desires a little of my time, and I would like to know how much I have left.

The SPEAKER. The gentleman has twenty-four minutes remaining.

Mr. SCHENCK. I will yield, then, to the gentleman from California for ten minutes.

Mr. HIGBY. Mr. Speaker, I had hoped that an opportunity would have been afforded to those of us who live in the extreme West to have had each an hour in the discussion of this important railroad question, but as it is apparent that it is the disposition of the House to close this debate and come to a vote, I shall take advantage of the generous offer of my friend from Ohio, and in the ten minutes allowed me submit a few remarks.

First, sir, let me say that I cannot agree with my friend from Indiana in the declaration he has made in reference to the Pacific coast and as to the probable result if we do not complete this railroad system. I admit, sir, that there was great danger; but I will say to him and all others in this House that while the generation who entered the Pacific slope, whose homes are scattered upon the Atlantic coast and in the midst of all the older States, survive and control the States of the Pacific coast there is not the least danger of their becoming a fragment by themselves. The only danger is that if the clamor raised in this House should be taken up and carried out into the country and sustained, and no further progress made in building these roads across the continent, then, when the generation now growing up upon the Pacific coast, who have not gone from the East, secures the control it may act very differently. Then, indeed, there may be great danger unless we have these great improvements stretching across the continent and binding it together in a firm Union.

We have not our first road yet built. It was commenced in the midst of the throes of the rebellion. Then the line was located and the enterprise begun, and it was almost impossible to organize the company—and I wish my friend from Ohio [Mr. DELANO] to hear this—it was almost impossible to organize the company, I repeat, and to raise the means necessary to carry it on, even with the second subsidy in 1864. The demand of this Government during the rebellion was so great for the raw products of the country for its own use that it was almost impossible to make any progress whatever with the construction of the Pacific railroad. And it will be borne in mind by gentlemen of this House that its great progress has been since the ranks of the rebels were broken and dispersed, and the Government has ceased to have so great a demand for men in the Army, or their employment in the field in raising supplies for the men in the Army. When that demand on the part of the Government existed it was almost impossible to employ men in the building of the road except at almost fabulous prices. Since the close of the rebellion, however, the construction of the road has gone on with a remarkable rapidity. Its enormity is now spoken of. Men fail to go back to the beginning to see what the necessities of the times were in reference to this matter. If the country had been at peace when this great improvement was commenced, if everything then was as favorable as now, it would have been a monstrosity to grant such a subsidy in money and land to any corporation. I am opposed to any such grant hereafter to the extent in which it was given to that road; but I do not yield to the clamor which has been raised here, because when the grant was made the times demanded it. Now that roads can be built on more reasonable terms I do not believe that our grants should be so extensive, and while I ask members to see to it that the interest and convenience of the country shall be cared for I also insist that our legislation shall be properly protected and restricted.

It has been attempted to be shown that these bonds are standing as a public indebtedness as against these companies. On this point I will state that these roads have not been the cause of any expense to the Government, except it may be in the lands which have been appropriated to aid in their construction. They are saving the Government harmless in regard to the payment of interest. It is so in reference to the great amounts of subsidy granted to the Union and Central Pacific railroads; and how is it in regard to the particular road now before this body? It is a fact well known, and can be sustained, that they have not only been paying interest to the Government, but the Government has now on hand a fund over and above that as a sinking fund for the payment of the principal of the bonds.

But members of the House say that in this bill we are carrying out something different from what was originally intended. If, with

the subsidy that has been given to extend the road fifty-four miles, another road is to be constructed in the direction of Denver, and that makes it a different thing, then I say it is for that very reason I shall more heartily sustain the proposition now before the House. The objection of the gentleman from Iowa, [Mr. PRICE,] although the change of route from the Republican fork to the Smoky Hill route may have injured another road which the Government was aiding, does not militate at all against the proposition urged by my friend from Ohio and others, that we must have more than one road across the continent if we wish to bind the Pacific and Atlantic firmly together.

Mr. PRICE. I ask the gentleman from California whether he does not know that in July, 1863, this same company came here and asked Congress to allow them to swing off—

Mr. HIGBY. That has been up before, and I cannot yield to the gentleman any further. The gentleman is referring to the very thing I spoke of, and if he had heard what I said he would have known that what he objects to is one of the reasons why I support this very bill.

The SPEAKER. The gentleman's ten minutes have expired.

Mr. STEVENS of New Hampshire, Mr. LOUGHRIDGE, and Mr. JULIAN were, by unanimous consent, granted leave to print their remarks as part of the debates. [See Appendix.]

Mr. SCHENCK. How many minutes remain of my time?

The SPEAKER. Fourteen.

Mr. SCHENCK. I will yield ten minutes to the gentleman from Pennsylvania, [Mr. O'NEILL,] and then the remaining four minutes to his colleague, [Mr. COVODE,] who has charge of the bill.

Mr. O'NEILL. Mr. Speaker, I am so hoarse from a bad cold that I doubt whether I can speak so as to be heard, and I regret very much that I have not my remarks written out so that I might have them printed instead of attempting to say one word at this time.

I am sorry to find that in the discussion a great deal has been insinuated about fraudulent transactions and corrupt corporations—of men and corporations taking grants of land and money from the Government and failing to devote them to the purposes for which they were designed. If such be true, let us have facts, and not mere insinuations. I will not dwell on that branch of the subject, brought in here to prejudice the proposed legislation, but come at once to the bill before us. What is it? It contains two or three clear and distinct propositions. In the first place, the Union Pacific railroad, eastern division, finds itself over four hundred miles beyond Kansas City. There the road has stopped, and the Senate has passed the bill proposing to give a subsidy of \$16,000 in bonds a mile for building fifty-four miles to Cheyenne Wells.

Mr. UPSON. I should like to ask the gentleman a question.

Mr. O'NEILL. Ask it.

Mr. UPSON. Can the gentleman say whether it is \$16,000 a mile or \$32,000?

Mr. O'NEILL. I take it from the bill itself, and from my knowledge of the credit and integrity of the gentlemen interested in this great enterprise, that they only want what the Government is asked to give them, \$16,000 a mile for these fifty-four miles, amounting in all to an appropriation, or rather a subsidy, of \$864,000.

Mr. LOGAN. I wish the gentleman would state how he gathers from this bill that the subsidy is only for fifty-four miles.

Mr. O'NEILL. If it does not say so in positive language that is its meaning, and any gentleman of ordinary intelligence who reads the bill and understands the provisions of existing laws giving subsidies to this company must see that its intention is to carry the road from its present terminus to Cheyenne Wells, a distance of fifty-four miles, for which the subsidy of \$16,000 per mile is desired. The bill actually and unequivocally fixes the point, Cheyenne Wells, at which the subsidy is to cease. There can be no mistake about this.

Both in word and intention it is so clear that demonstration is not needed. Survey and measurement have determined the distance, so that neither the company nor the Government could by any possibility increase or diminish it.

Mr. LOGAN. It does not say so.

Mr. O'NEILL. I advert to another proposition, which is this: that the eastern division proposes to transfer its land grants to the Denver Pacific Railroad Company, incorporated by the Territory of Colorado, upon the condition that the latter company build its road from Denver to Cheyenne, the point of connection with the Union Pacific railroad. The purpose of the eastern division is to make its line through Cheyenne Wells to Denver, thence from Denver to Cheyenne, thus giving it at a comparative early day a connection by the Union Pacific railroad with the Pacific ocean at San Francisco. Who can doubt this? Why would the eastern division so readily surrender its land grants? Why be so charitable, so benevolent? Why, amid the turmoil and the trouble and the remarks and the criticisms of members of Congress, and after a struggle for years, would that company be willing to give up its thousands of acres of land if the object were not to push forward the great work, as designed by this bill, of making a junction with the Union Pacific road? It seems wonderful to me how any gentleman can allege that Denver is not to be reached, when by legislation the eastern division asks to be permitted to give up in this respect its franchises, its rights, and its grant of lands to another company. To be sure, to make the connections complete the road must be built from Cheyenne Wells to Denver, a distance of one hundred and seventy or more miles, as I understand.

Mr. LOGAN. I will give it exact—it is one hundred and ninety-four miles.

Mr. O'NEILL. Now, does this road intend to stop at Cheyenne Wells? Why, Mr. Speaker, the very advantages to be gained of an unbroken line to the Pacific ocean by way of the Union Pacific railroad is a sufficient answer to such a question. The enterprise of the eastern division company has now equipped and in running order four hundred and five miles of road from Kansas City west, and has connections east to St. Louis of two hundred and eighty-three miles. The vast interests and yearly increasing population of the territory traversed by these nearly seven hundred miles of continuous railroad are demanding that they may have facilities for business and travel toward the Pacific coast. I cannot imagine why the House should desire to defeat the bill. The argument that there is a design to go by a more southern route, by Albuquerque to the Pacific, has no bearing upon the question now under discussion. The present purpose is to get to the Union Pacific railroad, and if hereafter, under more propitious circumstances, the eastern division can build a southern line, why let it be done, but do not stop the efforts now making, and which the passage of this bill will certainly bring to success, for the completion of the road from Kansas City to Denver and Cheyenne.

The subsidies already paid to the eastern division amount to some six million dollars. From statistics which I have examined, and which I know to be correct, the Government in the last two years has saved \$2,000,000 in freight by the difference in charges between the rates of this company and the transportation by wagons and other means of carriage. Private individuals have also been benefited in this respect, and both Government and individuals by each mile's extension of this road will reap the advantages which would follow our favorable action. The amount of subsidy here asked, \$864,000, I know is not a trifling sum of money; but comparing it with the vastness of this enterprise, and especially taking into consideration the immense gain to the country by helping on this work, it sinks almost to insignificance. While the more northern line to the Pacific has been carried more than one thousand miles beyond Omaha, let us cherish

also this, a route accommodating a population and business further south. I feel as if the country wanted us to aid such enterprises, and while some of the ideas of gentlemen relative to the influence of corporations are entertained by me, still I cannot stop to consider such things when I find the great interests of this continent are at stake, and that thirty-five millions of people, the most thriving on earth, are making such progress as justifies us in legislating so as closely to connect the Atlantic and the Pacific. I cannot hesitate to vote for the bill in the shape it came from the Senate.

Mr. COVODE. In the brief time allowed me I cannot permit myself to be interrupted. From the temper of the House I am satisfied that the time has come to settle this matter, and before sitting down I propose to call for the previous question.

Mr. LOGAN. I want a fair show in the fight, and I shall move to lay the bill and amendments on the table.

Mr. COVODE. I do not yield for that purpose. It has been represented that this company does not intend to build to Denver. I am satisfied that it does. I tell gentlemen that the time is coming when we will have to grapple with the institutions of Asia, and that, too, on the Pacific coast. The time is coming, and in this age, when civilization will no longer travel west, and when on the Pacific coast we will have to meet and grapple with the institutions of Asia. It becomes us, therefore, to occupy that territory first with our own people. As my time is up I demand the previous question on the bill and amendments.

Mr. WASHBURN, of Illinois. I move that the bill and amendments be laid on the table.

Mr. RANDALL. On that motion I call for the yeas and nays.

Mr. WASHBURN, of Illinois. I move that there be a call of the House, so that we may have every gentleman here to show his hand on this subject.

The House divided; and there were—ayes 65, noes 71.

So the motion that there be a call of the House was disagreed to.

The yeas and nays were ordered on the motion to lay on the table.

The question was taken; and it was decided in the negative—ayes 86, nays 92, not voting 44; as follows:

YEAS—Messrs. Allison, Arnell, Bailey, Baker, Baldwin, Barnes, Beaman, Beatty, Benton, Bingham, Blair, Bontwell, Boyer, Brooks, Broomall, Buckland, Burr, Cary, Chandler, Churchill, Reader W. Clark, Cobb, Cook, Cornell, Callom, Delano, Elia, Farnsworth, Ferriss, Ferry, Fields, Garfield, Golladay, Grover, Halsey, Harding, Hawkins, Hopkins, Richard D. Hubbard, Jencks, Thomas L. Jones, Judd, Julian, Kelsey, Kootz, Laffin, William Lawrence, Longbridge, Marshall, McCarthy, McCullough, Moorhead, Orth, Paine, Perham, Phelps, Pike, Plants, Price, Pruyn, Randall, Raun, Ross, Sawyer, Seofield, Selye, Shanks, Shellabarger, Spalding, Starkweather, Stewart, Sypher, Trowbridge, Unson, Burt Van Horn, Van Trump, Vidal, Ward, Elihu B. Washburn, William B. Washburn, Welker, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Woodward—86.

NAYS—Messrs. Anderson, Archer, Delos R. Ashley, Axtell, Barnum, Beck, Benjamin, Blackburn, Boies, Bowen, Boyden, Bromwell, Buckley, Calkins, Sidney Clarke, Clift, Coburn, Corley, Covode, Dowses, Dockery, Dodge, Donnelly, Driggs, Eckley, Eggleston, Eldridge, Thomas D. Eliot, James T. Eliot, Hitt, French, Getz, Glossbrenner, Goss, Gore, Gravely, Griswold, Hamilton, Haughey, Heaton, Higby, Hooper, Hotchkiss, Chester D. Hubbard, Hunter, Ingersoll, Alexander H. Jones, Kelley, Kellogg, Ketcham, Kitchen, Lash, Loan, Lynch, Mallory, Marvin, Maynard, McCormick, McKee, Mercer, Miller, Morrill, Mullins, Newcomb, Newsham, Nicholson, Norris, O'Neill, Peters, Pettis, Pierce, Pile, Poland, Polisy, Prince, Robertson, Robinson, Root, Schenck, Smith, Stevens, Stokes, Stover, Taffe, Twichell, Van Aernam, Van Aukon, Robert T. Van Horn, Henry D. Washburn, Whittemore, Windom, and Woodbridge—92.

NOT VOTING—Messrs. Adams, Ames, James M. Ashley, Banks, Blaine, Benjamin F. Butler, Roderick B. Butler, Dawes, Dickey, Dixon, Edwards, Fox, Haight, Hill, Holman, Asabel W. Hubbard, Hubbard, Humphrey, Johnson, Kerr, Knott, George V. Lawrence, Lincoln, Logan, Moore, Morrissey, Munger, Myers, Niblack, Nunn, Pomeroy, Sitgreaves, Stone, Taber, Taylor, Thomas, Tift, John Trimble, Lawrence S. Trimble, Van Wyck, Cadwalader C. Washburn, Thomas Williams, Wood, and Young—44.

So the House refused to lay the bill and amendments on the table.

During the vote,

Mr. WILLIAMS, of Pennsylvania, stated that he was paired with his colleague, [Mr. LAWRENCE,] who would have voted in the negative, while he would have voted in the affirmative.

Mr. NIBLACK stated that he was paired with Mr. VAN WYCK, or he would have voted to lay the bill and amendments on the table.

Mr. O'NEILL stated that his colleague, [Mr. MYERS,] who would have voted in the negative, was detained at home by sickness.

The vote was then announced as above recorded.

The question recurred on seconding the demand for the previous question.

Mr. DELANO. I desire to ask a parliamentary question. If the previous question is not seconded will a motion to recommit be in order?

The SPEAKER. A motion to refer will be in order. The bill has never been referred.

Mr. DELANO. In that case I will move to refer it.

Mr. JULIAN. If the previous question is not seconded will it not be in order to refer the bill and amendments to the Committee on the Public Lands?

The SPEAKER. The gentleman from Illinois [Mr. LOGAN] has indicated a desire to move its reference to the Committee on the Pacific Railroad, and by the usage that gentleman will be recognized.

On seconding the previous question there were—ayes 57, noes 87.

Mr. BOYDEN. I demand tellers.

Tellers were ordered; and the Chair appointed Messrs. BOYDEN and LOGAN.

The House divided; and the tellers reported—ayes 63, noes 86.

So the House refused to second the previous question.

Mr. LOGAN. I move to refer the bill with the pending amendments and substitute to the Committee on the Pacific Railroad.

Mr. JULIAN. I move to amend by substituting the Committee on the Public Lands.

Mr. LOGAN. I accept the amendment.

Mr. JULIAN. I move the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill with the pending amendments and substitute were referred to the Committee on the Public Lands—ayes 82, noes 64.

Mr. LOGAN moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

Mr. TRIMBLE, of Kentucky, was granted ten days' leave of absence.

GAUGING AND INSPECTING LIQUORS.

Mr. McCULLOUGH, by unanimous consent, submitted the following resolutions; which were read, considered, and agreed to:

Resolved, That the Commissioner of Internal Revenue inform this House at an early day at what rate he has fixed the fees of gaugers for gauging and inspecting liquors under the act of Congress approved July 20, 1868, section fifty-three; and whether he has authorized the gaugers to charge by the package or gallon; and whether the rates so fixed has been made uniform throughout the United States.

Resolved, That the Commissioner of Internal Revenue further inform this House, at as early a day as practicable, how much revenue has been raised from inspecting and gauging liquors under said act up to the 1st of January, 1869.

BUILDINGS IN WASHINGTON.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, in answer to the resolution of the House of the 23d instant, in relation to buildings or premises in the city of Washington occupied by the Interior Department under leases for rent; which was referred to the Committee on Appropriations, and ordered to be printed.

ORDER OF BUSINESS.

Mr. WASHBURN, of Illinois. I move

that the rules be suspended, and the House resolve itself into the Committee of the Whole on the special order, being the legislative appropriation bill.

Mr. LYNCIL. I rise to a privileged motion. I call up the motion I made on Saturday last to reconsider the reference of the bill in regard to resumption of specie payment to the Committee on Banking and Currency.

The SPEAKER. That cannot be called up now. The gentleman from Illinois moves to suspend the rules, which includes the rule by which the gentleman from Maine would be entitled to call up his motion.

Mr. WASHBURN, of Illinois. I will yield to allow my friend from Wisconsin [Mr. PAINE] to offer a resolution.

REPRESENTATION OF GEORGIA.

Mr. PAINE. I send to the Clerk's desk for action now a resolution. I do not offer it as a report from the Committee on Reconstruction, but I will state to the House that it has the approval of a majority of the members of that committee. It cannot properly be regarded as a report.

The Clerk read as follows:

Whereas it is provided by the reconstruction act, passed March 2, 1867, that until the people of the lately rebellious States shall be by law admitted to representation in Congress, any civil Government which may exist therein shall be deemed provisional only, and that no persons shall be eligible to office in such provisional governments who are disqualified for office by the fourteenth amendment of the Constitution of the United States; and whereas it is reported that the Legislature of Georgia has expelled the colored members thereof and admitted to their seats white men who received minorities of votes at the polls, and that members of said Legislature who had been elected thereto by the votes of colored men joined in such action, and that twenty-seven disqualified white men hold seats in said Legislature in violation of the fourteenth amendment of the Constitution and of the reconstruction acts of Congress; and whereas Senators from Georgia have not yet been admitted to the Senate of the United States: Therefore,

Resolved, That the Committee on Reconstruction be ordered to inquire and report whether any, and if any what, further action ought to be taken during the Fortyeth Congress respecting the representation of Georgia in this House.

Mr. ROSS. I object.

Mr. PAINE. I move to suspend the rules for the purpose of receiving and agreeing to the resolution.

Mr. ELDRIDGE. On that motion I demand the yeas and nays.

Mr. BINGHAM. This question has already been referred to the committee in the form of a bill. The committee therefore have power over it now. I refer to the bill of the gentleman from Massachusetts referred to the committee two weeks ago.

Mr. PAINE. I hardly like to dispute what the gentleman says, but I cannot—

Mr. ROSS. I object to debate.

Mr. BINGHAM. The Journal will show what I say.

The yeas and nays were ordered.

Mr. WASHBURN, of Illinois. I ask my friend to withdraw the resolution. I cannot yield for a vote by yeas and nays.

Mr. PAINE. My understanding with the gentleman compels me to withdraw the resolution now, the yeas and nays being ordered. I give notice, however, that as soon as I can get the floor I will move to suspend the rules for the purpose of agreeing to the resolution.

ORDER OF BUSINESS.

Mr. WASHBURN, of Illinois. I yield to the chairman of the Committee of Ways and Means to make a statement in regard to the business of the House.

Mr. SCHENCK. I wish to say to the House that there are two bills in Committee of the Whole on the state of the Union, one in relation to an amendment of the tariff, and the other a general amendment of the revenue laws, on which the Committee of Ways and Means desire to get action of the House if possible at this session in time for the passage of the bills. There is no danger but that the appropriation bills will go through before the end of

the session. I do not make any motion hostile to that of the gentleman from Illinois now, because the legislative appropriation bill is partially completed in Committee of the Whole; but I give notice that whenever that bill is out of the way, and before another appropriation bill is taken up, I shall endeavor to have a test question in the House whether, instead of taking up an appropriation bill, they will not proceed to consider those two bills, the tariff bill and the internal revenue bill.

Mr. WASHBURN, of Illinois. I will state to the gentleman from Ohio that the Indian appropriation bill is also pending in Committee of the Whole on the state of the Union.

Mr. SCHENCK. It has not been made a special order.

Mr. WASHBURN, of Illinois. It can be made one very easily.

Mr. LYNCH. I desire to ask the Chair whether, if the motion of the gentleman from Illinois be voted down, my motion will then be in order to take up the bill in relation to specie payments?

The SPEAKER. The gentleman from Maine would then be privileged, if the Chair should give him the floor, to call up the motion to reconsider the vote by which the bill in relation to specie payments was recommitted on Saturday.

Mr. WASHBURN, of Illinois. I now ask for a vote on my motion.

Mr. SPALDING. I move that the House do now adjourn.

Mr. WASHBURN, of Illinois. I hope my friend on the Committee on Appropriations will not insist on that motion.

The question was put; and there were—ayes 71, noes 70.

The SPEAKER. The Chair votes in the negative.

Mr. SPALDING. I demand tellers.

Tellers were ordered; and Messrs. SPALDING, and WASHBURN, of Illinois, were appointed.

The House divided; and the tellers reported—ayes 88, noes 61.

Mr. WASHBURN, of Illinois, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 82, nays 79, not voting 61; as follows:

YEAS—Messrs. Archer, Delos R. Ashley, Axtell, Baker, Beaman, Beatty, Beck, Benjamin, Blackburn, Boles, Bowen, Boyden, Boyer, Brooks, Buckley, Burr, Roderick R. Butler, Callis, Cary, Corley, Covode, De-weese, Dodge, Eldridge, James T. Elliott, Farnsworth, French, Garfield, Getz, Glossbrenner, Golladay, Goss, Gove, Gravely, Grover, Harding, Haughey, Hawkins, Heaton, Chester D. Hubbard, Richard D. Hubbard, Humphrey, Ingersoll, Alexander H. Jones, Thomas L. Jones, Judd, Julian, Kerr, Knott, Lash, Loan, Mallory, Marshall, Marvin, Maynard, McCullough, Miller, Mullins, Mungon, Newsham, Niblack, Nicholson, Phelps, Pierce, Pike, Pile, Polsley, Pruyn, Randall, Ross, Shanks, Spalding, Taffe, Upson, Van Auker, Robert T. Van Horn, Van Trump, Whittemore, James F. Wilson, Stephen F. Wilson, Woodbridge, and Woodward—82.

NAYS—Messrs. Allison, Ames, Arnell, Bailey, Barnes, Benton, Bingham, Blaine, Blair, Boutwell, Bromwell, Broomall, Buckland, Benjamin F. Butler, Cake, Churchill, Clift, Cobb, Cook, Cornell, Cullom, Donnelly, Driggs, Eli, Thomas D. Eliot, Ferriss, Ferry, Fields, Hamilton, Higby, Hooper, Hotchkiss, Hunter, Jenckes, Kelley, Kelsey, Ketcham, Koontz, Ladin, William Lawrence, Loughridge, Lynch, McCarthy, McKee, Mercer, Moorhead, Morrill, Norris, O'Neill, Paine, Perham, Peters, Pottis, Price, Prince, Raum, Robertson, Robinson, Root, Sawyer, Schenck, Scofield, Selye, Smith, Starkweather, Stewart, Stokes, Stover, Trowbridge, Burt Van Horn, Vidal, Ward, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, and John T. Wilson—79.

NOT VOTING—Messrs. Adams, Anderson, James M. Ashley, Baldwin, Banks, Barnum, Chanler, Reader W. Clarke, Sidney Clarke, Coburn, Dawes, Delano, Diekey, Dixon, Dockery, Eckley, Edwards, Eggleston, Fox, Griswold, Haight, Halsey, Hill, Holman, Hopkins, Asahel W. Hubbard, Hulburd, Johnson, Kellogg, Kitchen, George V. Lawrence, Lincoln, Logan, McCormick, Moore, Morrissey, Myers, Newcomb, Nunn, Orth, Plants, Poland, Pomeroy, Shel-labarger, Sitgreaves, Stevens, Stone, Sypher, Taber, Taylor, Thomas, Tift, John Trimble, Lawrence S. Trimble, Twichell, Van Aernam, Van Wyck, Cadwal-ader C. Washburn, Windom, Wood, and Young—61.

So the motion was agreed to; and thereupon (at four o'clock and fifteen minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of R. Cromelien, of Washington, District of Columbia, for a grant of the right of way for an air-line railroad from Washington, District of Columbia, to Annapolis, Maryland.

By Mr. BEAMAN: The petition of John Retallach and 35 others, citizens of Detroit, Michigan, praying for action upon the civil service bill, for the passage of the new tax bill, &c.

By Mr. BUTLER, of Massachusetts: A memorial of citizens of Buffalo, New York, against resumption of specie payment, and asking such action as will improve the present paper currency.

Also, a petition of citizens of Buffalo, New York, to Congress to give earnest consideration to the financial measure introduced by General BUTLER in the House of Representatives.

Also, a memorial of citizens of Illinois, approving and indorsing the views of General BUTLER on finance, as expressed in his bill and sustained by his speech, and pledging their earnest and cordial support in this contest of legal might against natural right.

Also, the memorial of Alfred S. Reid, of Campbell county, Virginia, for removal of disabilities.

By Mr. DONNELLY: The memorial of the Chamber of Commerce of the city of St. Paul, in the State of Minnesota, in favor of the early construction of the Northern Pacific railroad, and of a branch road from the Union Pacific railroad, via Sioux City, to the head of Lake Superior.

By Mr. DRIGGS: A petition of 100 citizens of New York and Philadelphia, manufacturers of chemicals, praying Congress to levy an increased duty upon cryolite, in order to protect works in this country in the manufacture of soda ash and other similar products.

By Mr. EGGLESTON: A protest against the increase of duties on refined sugars, from all the wholesale grocers of Cincinnati.

By Mr. HOOPER, of Massachusetts: The petition of William Thwing, for the passage of an act to authorize the issue of a register to the ship Alhambra.

Also, the petition of John Moriarty, of Boston, Massachusetts, a private in company K, third United States artillery, for bounty.

By Mr. HUNTER: The petition of S. W. Skinner, administrator of the estate of John H. Skinner, deceased, praying relief for supplies furnished the Union armies in Virginia from the 18th day of November, 1862, to the 1st day of May, 1865.

By Mr. JULIAN: The petition of R. S. Ward, for special relief for services rendered in the late war for the Union.

By Mr. MULLINS: The petition of Newton Dickens, a private soldier in company A, eleventh Tennessee mounted infantry, to have his name placed on the rolls of said company.

By Mr. NIBLACK: The petition of Ragon, Dickey & Casson and a number of others, citizens of Evansville, Indiana, remonstrating against any further increase of duty on sugar.

By Mr. O'NEILL: A petition of importers and others, merchants of the city of Philadelphia, asking for the reduction of the duty on foreign salt to fifty per cent. over cost.

By Mr. SCHENCK: The memorial of Adam Jewett and 150 others, citizens of Montgomery county, Ohio, praying Congress to abolish the franking privilege.

Also, a memorial of grocers, citizens of Ohio, praying Congress to make no change in the tariff on sugars.

Also, the petition of Mary Maloy, widow of John D. Maloy, late private company H, ninth regiment West Virginia volunteers, for arrears of pension.

Also, the memorial of E. M. Davis, of Philadelphia, Pennsylvania, praying Congress to repeal the law making gold a legal tender, and asking for a new money system.

Also, a memorial of grocers of St. Louis, Missouri, praying Congress to make no change in the tariff on sugars.

By Mr. THOMAS: A petition of citizens of Annapolis, Maryland, asking Congress to exert its constitutional powers to secure to the people of that State a State government republican in form.

By Mr. UPSON: The petition of Comfort Tyler and 18 others, citizens of St. Joseph county, Michigan, praying for an increase of pension to Abigail Reynolds, widow of Benoni Reynolds, a soldier in the revolutionary war.

IN SENATE.

TUESDAY, January 26, 1869.

Prayer by Rev. E. H. GRAY, D. D.

On motion by Mr. MORTON, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

WESTERN MILITARY CLAIMS.

The PRESIDENT *pro tempore* appointed Mr. TRUMBULL, Mr. STEWART, and Mr. MCCREERY the committee of conference on the part of the Senate upon the disagreeing votes of the two Houses on the joint resolution (H. R. No. 404) providing for the disposition of certain papers relating to military claims accruing in the department of the West.

REVISION OF THE STATUTES.

The PRESIDENT *pro tempore* laid before the Senate the report of the commissioners to revise the statutes of the United States; which was referred to the Committee on Revision of Laws of the United States, and ordered to be printed.

CREDENTIALS.

Mr. WILSON presented the credentials of Hon. CHARLES SUMNER, elected by the Legislature of Massachusetts a Senator from that State for the term commencing March 4, 1869; which were read, and ordered to be filed.

PETITIONS AND MEMORIALS.

Mr. WILSON presented the petition of Judson A. Mosman, of Natick, Massachusetts, executor of Arthur L. Hyde, praying to be allowed the same bounty to which the father, if living, of Arthur L. Hyde, deceased, late a private in company B, second Massachusetts cavalry volunteers, would be entitled; which was referred to the Committee on the Judiciary.

Mr. SUMNER presented the petition of Josiah Quincy, and others, harbor commissioners of the Commonwealth of Massachusetts, stating the necessity of certain improvements in the harbor of Boston, and of appropriations in order to carry them out; which was referred to the Committee on Appropriations.

Mr. MORGAN presented a petition of citizens of Steuben county, New York, in favor of the passage of a law granting pensions to the surviving soldiers of the war of 1812; which was referred to the Committee on Military Affairs.

Mr. EDMUNDS presented sundry affidavits of citizens of Vermont, in favor of the bill (S. No. 759) to extend the patent granted to G. V. Blodgett and P. T. Sweet for an oven for baking; which were referred to the Committee on Patents.

Mr. DRAKE presented resolutions of the Union Merchants' Exchange of St. Louis, against any further extension of the provision of the bankrupt act requiring the payment out of the bankrupt's assets of fifty per cent. of his liabilities; which were referred to the Committee on the Judiciary.

Mr. POOL presented the petition of Joseph Ward and others, members of the thirteenth Tennessee cavalry, praying that the Secretary of War be directed, on their application, to remove any charge of desertion that may stand upon the rolls against them; which was referred to the Committee on Military Affairs.

He also presented a petition of citizens of North Carolina, praying that William B. Beville be relieved from the political disabilities

imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

He also presented the petition of fishermen on the waters of eastern North Carolina, praying the reduction of the duty and tax on salt; which was referred to the Committee on Finance.

Mr. ANTHONY presented a petition of citizens of Rhode Island, praying that the right of suffrage be extended to women; which was referred to the Committee on the Judiciary.

Mr. VICKERS. I present the petition of Rowland Cromelien, asking the passage of an act granting him the right of way for an air-line railway to be laid, under his patent, from Washington city to Annapolis, Maryland. I ask that a portion of it may be read. ["Oh, no."]

The PRESIDENT *pro tempore*. It will be read if there be no objections.

Mr. SHERMAN. I object. It is not usual to read petitions.

The PRESIDENT *pro tempore*. The reading is objected to. What disposition will the Senator make of the paper?

Mr. VICKERS. I move that it be referred to the Committee on Post Offices and Post Roads.

The motion was agreed to.

Mr. ABBOTT presented a petition of Dr. A. B. Sams, praying compensation for services rendered as contract surgeon in the United States Army; which was referred to the Committee on Military Affairs.

He also presented a petition of citizens of Wilmington, North Carolina, praying for the erection of a post office building suitable for the accommodation of the increasing postal business of the city, and suggesting an appropriation of \$15,000 for the erection of a good and substantial building; which was referred to the Committee on Commerce.

Mr. POMEROY presented a petition of citizens of Pennsylvania, praying that the right of suffrage be extended to women; which was referred to the Committee on the Judiciary.

Mr. SUMNER. I present a series of resolutions in the nature of a petition adopted by the council of the Union League of Winchester, Virginia, in which they set forth that a few disfranchised rebels and others in sympathy with them are making a strenuous effort to obtain the removal of the disabilities of one Judge Parker, of Virginia, so that he may continue on the bench. They set forth the character and conduct of this Judge Parker, and also a charge to the grand jury which he delivered during the rebellion. I have heard of this person before, and I will say that if our great historian, Richard Hildreth, were alive, I would recommend this Judge Parker to him as a proper subject for an additional chapter in his book entitled "atrocious judges." I move the reference of this petition to the Committee on the Judiciary.

The motion was agreed to.

Mr. MORTON presented the petition of Phebe Wood and Sylvia Ann Wood, praying remuneration for the invention of a plow by their father, Jethro Wood; which was referred to the Committee on Claims.

CIVIL SERVICE.

Mr. SHERMAN. I am directed by the Committee on Finance, to whom was referred the bill (S. No. 255) to reorganize the Treasury Department, to report it back to the Senate, and to say that the committee have given the subject a great deal of attention, but have not been able to report a bill likely to meet the assent of Congress during the present session; but as several bills are before other committees of the body to reorganize different Departments of the Government, and as they ought all to be considered together and ought to form a harmonious whole, the committee have concluded, on the whole, it is best not to report a bill at this session, but ask the passage of the following resolution for the reorganization of the civil service:

Resolved by the Senate, (the House of Representatives concurring,) That a joint committee, to be composed

of three members of the Senate and five members of the House of Representatives, shall be appointed at the beginning of the next session, in the same manner as other joint committees are appointed, which shall continue during the Forty-First Congress, and shall have leave to sit during the recess of that Congress, and whose duty it shall be to examine and report upon the expediency of reorganizing the civil service in the several Departments of the Government, the clerical force necessary in each, the rate of compensation, and such regulations as will secure a more economical and efficient performance of the civil service.

The PRESIDENT *pro tempore*. The Senator from Ohio asks the unanimous consent of the Senate to consider the resolution at this time. No objection being made, the question is on agreeing to the resolution.

Mr. SHERMAN. I will state at the request of Senators that I have reported back from the Committee on Finance the bill introduced by the Senator from Maine, [Mr. FESSENDEN,] and after having spent much time upon it and not being able to agree upon a bill likely to pass at the present session of Congress, and there being other bills to reorganize other Departments of the Government—the Army, Navy, Post Office, and other Departments—which have been referred to different committees, we thought the whole subject ought to be acted upon together, because great changes have been made by the war in the different Departments, and they ought all to be reorganized so as to adapt them to the changes in service in peace. We therefore thought it better to have the whole subject of the reorganization of the Executive Departments, the clerical force in each, the amount of compensation, &c., sent to a special committee to be organized in this way with the view to consider that special subject.

Mr. CONNESS. I ask the Senator whether the resolution is not confined to the civil service alone?

Mr. SHERMAN. Certainly; the civil service in the Departments. As a matter of course there is in the War Department a branch of the civil service.

Mr. FESSENDEN. It is confined to the Departments entirely.

Mr. SHERMAN. Yes, sir. It does not affect the military or naval service, but the civil service entirely of the various Departments, including the War and Navy Departments. We thought it was better to adopt this course.

Mr. CONKLING. I should like to inquire whether it is not unusual to direct now the appointment of a committee by the next Congress?

Mr. SHERMAN. I will state that it is always done.

Mr. CONKLING. Let me say one word, if the Senator will allow me. This is a concurrent resolution; the House of Representatives is to concur; and the resolution directs that a committee shall be constituted of five members of that House joining three on the part of this body. Those members are not elected; the Congress is not in existence in which this is to take place. Now, I think it would be a very unusual thing, taking the House part of the resolution, for the Fortieth Congress in the House to create a committee to be appointed by the next House, of a special character. Suppose we were to adopt a resolution that a committee of three members of this body should be appointed to join a committee of five members to be constituted by the House, and suppose then the House were to pass a resolution, or were asked by the Senate to pass a resolution, directing that the next House of Representatives, not now in being, should appoint a given committee of a given number for a given purpose, special in its character. I do not know but that there may be some example of this; I remember none, and it seems to be a very unusual proceeding.

Mr. SHERMAN. I can state to the Senator that there are not only many precedents, but it is the common way. Committees are organized, sometimes special, sometimes standing, in one Congress, and continue Congress after Congress. It is true the committees are organized in that Congress. All the standing committees of this body are made in pursuance

of resolutions of the body, and joint committees are made in pursuance of joint resolutions, as for instance, the Committee on the Conduct of the War, and the Committee on Retrenchment. All joint committees are made by a concurrent resolution of the two Houses. We confined this committee to the Forty-First Congress, because it is supposed that having a specific duty to perform it can be confined and limited to that term.

Mr. EDMUNDS. The Committee on Retrenchment, to which the Senator has alluded, was only appointed for a particular Congress, and by the Congress that appointed it, and when the new Congress came in that Congress, after it came in, revived the committee. Now, I entirely agree, having read the resolution at the desk, to the propriety of accomplishing the purpose the Senator from Ohio has in view. I think if a joint committee charged with that specific duty and with nothing else could sit during the next recess and really devote themselves to attempting to reorganize the details of the Departments, they would accomplish a very great good indeed. While, therefore, I am in favor of the amendment which is suggested, I am troubled by the same difficulty that the Senator from New York has as to the legal possibility of our adopting this resolution, so as that it shall have any binding effect after the 4th of March. The House of Representatives by its Speaker cannot under this resolution appoint a committee after the 4th March without a further resolution of the House authorizing him to do so, and creating such a committee, and of course if it is to be a concurrent committee by concurrent action, whatever indispensably required the action of the Forty-First House of Representatives would necessarily require the concurrence of the Senate during the same period of time. Therefore I confess I am unable to see what effect this resolution can have after the 4th of March that it will not derive from action which must be taken then.

Mr. POMEROY. I think the Senator will accomplish the purpose by moving to strike out the words "at the beginning of the next session." I see they are underlined, and were an afterthought evidently.

Mr. SHERMAN. Oh, no; they were adopted by the committee.

Mr. POMEROY. If the Senator will strike out the words "at the beginning of the next session" the resolution will read right.

Mr. SHERMAN. Then it will be subject to the objection made by Senators, that we are attempting, during this Congress, to make a committee to serve during the next Congress. There is no difficulty in this Congress prescribing that the next Congress shall have certain committees. Suppose the next Congress should repeal the resolution. If Senators are in favor of the object, this resolution will accomplish it, and it is very simple and very important.

Mr. EDMUNDS. I think it is very important, but I do not see how we can do it.

Mr. SHERMAN. It will have the force of a law or joint resolution, binding on the two Houses until it is changed. That is all there is of it.

Mr. POMEROY. I am in favor of the object sought to be accomplished by this resolution. I think the Departments should be reorganized. I think there ought to be different grades of clerkships, beginning down as low as \$800, \$1,000, \$1,200, and so along, and they ought to be open to all persons. As it now is there are a few lower grades to which women can be appointed, but they cannot be promoted. I want to see that system changed in any reorganization that may be made.

Mr. GRIMES. I propose that this matter lie on the table until gentlemen familiar with the rules and parliamentary law shall decide what course we ought to pursue, and in the mean time we can go on with the business of the Senate.

Mr. POMEROY. There is no question of parliamentary law involved in this resolution.

Mr. GRIMES. I thought there was. There is a long discussion going on about it.

Mr. SHERMAN. I hope it will be disposed of now. I do not want to call it up again. I believe it meets general assent.

Mr. GRIMES. So that we can get a vote I do not care what is done with it.

The PRESIDENT *pro tempore*. Does the Senator withdraw his motion?

Mr. GRIMES. Yes, sir.

Mr. POMEROY. I move to amend the resolution by striking out the words "at the beginning of the next session;" so that it will read:

That a joint committee, composed of three members of the Senate and five members of the House of Representatives, shall be appointed in the same manner as other joint committees are appointed, &c.

Mr. SHERMAN. Allow me to read the present standing rule of the Senate on the subject of committees:

"The following standing committees shall be appointed at the commencement of each session."

The very words that are used here. That rule was made on the 5th of March, 1857, and has been continued from that time to this.

Mr. POMEROY. This is a proposition to organize a new committee. It does not interfere at all with the standing committees provided for nor the manner of their appointment.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Kansas.

The amendment was rejected.

The resolution was adopted.

CHARLES WESTMORELAND.

Mr. WILLIAMS. I am instructed by the Committee on Finance, to whom was referred the joint resolution (S. R. No. 206) relating to the mileage of Charles Westmoreland, to report it back without amendment and recommend its passage; and if there be no objection I should like to have it passed at this time.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It directs the Secretary of the Treasury to pay to the Secretary of the Senate, out of the appropriation for the payment of the messengers of the respective States, for conveying to the seat of Government the votes of electors of the States for President and Vice President, in trust for Charles Westmoreland, the only child of the late Charles Westmoreland, the person appointed by the electors of California to deliver to the President of the Senate a list of the votes of California for President and Vice President for 1868, and who died at Panama on his way to the seat of Government with that list, the sum to which he would have been entitled had he reached the seat of Government and delivered the same; and the receipt of the Secretary of the Senate is to be a sufficient voucher therefor.

Mr. WILLIAMS. I will state briefly, if necessary, that Mr. Westmoreland was chosen to bring the vote of California to Washington and died of the small-pox at Panama and left an only son, fourteen or fifteen years old, in impoverished circumstances.

Mr. MORTON. No wife?

Mr. WILLIAMS. No wife or other relative, except sisters and brothers. This resolution provides that the money shall be paid into the hands of the Secretary of the Senate in trust for this boy.

Mr. GRIMES. Has he a guardian?

Mr. WILLIAMS. No, sir. The object is to get the money out of the hands of some person who may perhaps get it and misapply it. The Secretary of the Senate is a personal friend of Mr. Westmoreland and has all his papers, and everything he has is transmitted to the Secretary of the Senate, and he holds the matter in trust for this boy.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

REPORTS OF COMMITTEES.

Mr. MORRILL, of Maine, from the Committee on Appropriations, to whom was referred

the bill (H. R. No. 1564) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1870, reported it with amendments.

He also, from the same committee, to whom was referred the bill (H. R. No. 1596) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1870, reported it with amendments.

Mr. SUMNER. The Committee on Foreign Relations, to whom was referred the memorial of Charles Weile, late United States consul at Tumbes, Peru, praying that investigation be had in relation to the treatment he received while consul at Tumbes by the authorities of that place, have had the same under consideration, and directed me to report it back to the Senate with the request to be discharged from the further consideration thereof.

In making this report I add a statement that a treaty has just been negotiated between the United States and Peru, although it has not yet received the sanction of the Senate, for the hearing of all claims of American citizens, and also of Peruvians; and it will be for Mr. Weile, if he chooses, to prosecute his claim before the commission constituted by that treaty. It is on that account that the committee at this time ask to be discharged from the further consideration of these papers.

The report was agreed to.

Mr. SUMNER, from the Committee on Foreign Relations, to whom was referred the petition of Margarette S. Morse, administratrix of the estate of Isaac E. Morse, deceased, praying compensation for services rendered by him as commissioner to New Granada, reported adversely thereon.

BILLS INTRODUCED.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 833) for the reorganization of the Navy of the United States; which was read twice by its title, referred to the Committee on Naval Affairs, and ordered to be printed.

Mr. RICE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 834) to incorporate the Southern Express Company; which was read twice by its title, referred to the Committee on Commerce, and ordered to be printed.

Mr. KELLOGG asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 835) to aid in the construction of the Pacific Central Transit railway and telegraph from the city of New Orleans, Louisiana, to some point on the Rio Grande river, Texas, in the direction of San Blas, on the Pacific coast; which was read twice by its title, referred to the Committee on the Pacific Railroad, and ordered to be printed.

Mr. DRAKE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 836) for the relief of Celestia P. Hartt; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. ANTHONY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 837) for the relief of Mrs. Sallie V. Griffin; which was read twice by its title, referred to the Committee on Military Affairs, and ordered to be printed.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of the Interior, communicating, in compliance with a resolution of the Senate of the 15th instant, a statement of the tracts of land selected by members of the Grand river band of the Ottawa and Chippewa Indians under the treaty of July 31, 1855; which was referred to the Committee on Indian Affairs, and ordered to be printed.

He also laid before the Senate a letter from the Secretary of War, communicating, in compliance with a resolution of the Senate of December 14, 1868, further information concerning the battle on the Washita river; which was ordered to lie on the table, and be printed.

He also laid before the Senate a letter of the

Secretary of the Interior, communicating an estimate of appropriation required for surveying Indian reserves for the fiscal year ending June 30, 1867; which was referred to the Committee on Indian Affairs, and ordered to be printed.

WILLIAM M'GARRAHAN.

Mr. MORTON. Mr. President, there was a question of order left undisposed of yesterday morning which I hope will be disposed of this morning; and for the purpose of having it disposed of I renew the motion to take up House bill No. 65, for the relief of William McGarrahan.

The PRESIDENT *pro tempore*. On this motion a question of order was raised, which the Chair proposed to submit to the Senate for determination.

Mr. MORTON. At the last session—on the last night of the session, I believe—this bill was indefinitely postponed. I now move to call up the bill, and the objection is made that by the indefinite postponement the bill was killed. I insist that it is saved by the operation of the twenty-first joint rule. All the authorities state the effect of an indefinite postponement to be simply to prevent the taking of further action during that session. It is not in the nature of a rejection of the bill; it is not a judgment on the merits of it; but it is a determination that no further action shall take place at that session. The authorities were read yesterday by the Senator from Kentucky, [Mr. DAVIS,] and I need not read them again; but every authority states the result of the motion to be that no further action can be taken at the same session.

I admit that that would have the effect of killing the bill if that session and the session following were not connected together. But for such connection the end of the session would have the effect to destroy all the unfinished business of the session, and bills on their third reading could not now be taken up and passed. The end of the session, if there were not some provision to the contrary, would in fact destroy all pending business; and it was to prevent that very thing that the twenty-first joint rule was adopted by which the two sessions are connected together and the unfinished business is saved. This is clearly unfinished business; and it is saved by the operation of the twenty-first joint rule that connects the two sessions together. Mr. Cushing says that a motion to postpone indefinitely is peculiar to American parliamentary law, and that it is equivalent to a motion in England to discharge the order for the consideration of a bill on a particular day without renewing it. He does not put it on the ground that it is a determination of the merits of the question. It is not in the nature of a rejection of the bill. Again, he says:

"The motion to postpone indefinitely is of American origin, and peculiar to legislative assemblies in this country in which it is used. In the House of Representatives it is provided by a rule that when a question is postponed indefinitely it shall not be acted upon again at the same session."

But now we connect the two sessions together by the operation of the twenty-first joint rule; and this is just as clearly unfinished business as any other business that would be carried over by the operation of that rule. Were it not for that rule all the business would die at the end of the session, even without an indefinite postponement; but the twenty-first joint rule comes in and carries over all unfinished business, and by the same force of reasoning takes up as unfinished business anything that has been indefinitely postponed. It seems to me that there is no resisting the force of the twenty-first joint rule; it is within the reason of the law and for the convenience of Congress.

Mr. WILLIAMS. I do not profess to be as familiar with the practice of the Senate as some other gentlemen; but at the same time I am astonished to find any Senator of experience supporting this proposition. It is conceded to be, and I believe that it has been the invariable practice of the Senate from time immemorial, to regard the indefinite postponement

of a bill as equivalent to a rejection, and no exception can be adduced to that practice. It has been customary here since I have been in the Senate for the chairman of a committee in reporting bills adversely, where it was desirable to end the matter, to ask at once for their indefinite postponement. I will invite the attention of the Senate to a proceeding which transpired here three or four days ago on the part of the chairman of the Judiciary Committee. He reported back a bundle of bills to which the committee did not assent, and proceeded to say: "For the purpose of removing this business from the Calendar I move the indefinite postponement of these bills;" and when they are indefinitely postponed they are taken off the Calendar and regarded as finished and settled business.

Mr. GRIMES. That was at this session. How would it be in regard to bills indefinitely postponed at the last session?

Mr. WILLIAMS. I would ask if the Secretary ever puts a bill indefinitely postponed at the last session on the Calendar for this session? Every motion, resolution, or bill pending at the adjournment of the last session goes upon the Calendar for this session; but every motion, resolution, or bill that was indefinitely postponed at the last session, if it originated in the House of Representatives, is returned by the Secretary of the Senate to the House with a notice that it has been rejected by the Senate, and therefore it cannot, in the nature of things, be put upon the Calendar, for it has gone beyond the jurisdiction of the Senate.

Now I ask, if this invariable practice is to be overturned for the particular benefit of this claimant, in what condition will it leave the Senate and the business of the Senate? Is it possible after a bill has been discussed and indefinitely postponed, that that is equivalent to its lying on the table that it may be called up at any time by any Senator, and so the business of the Senate perpetuated, and there be no end to discussion? It is not customary in the Senate to move for the rejection of a bill; but it is customary, with a view of killing it, to move its indefinite postponement.

Now, sir, I wish to refer to the authorities that were cited yesterday by the Senator from Kentucky; and I say his authorities, according to the argument of the Senator from Indiana, prove the correctness of the position which I have assumed. All those authorities are to the effect that the indefinite postponement of a bill puts off its consideration beyond the end of the session, or at any rate prevents any further consideration of the bill at that session. When those authorities were written every bill that was pending during the session expired with the termination of the session, so that those authorities are equivalent to saying that the indefinite postponement of a bill destroys its existence, because when those authorities were written the business of each session expired with that session. Now, the Senator from Indiana says that the twenty-first joint rule makes both sessions one. If it does, then according to those authorities this bill which has been indefinitely postponed cannot be reconsidered at the same session, and therefore the authorities which he cites are adverse to the position which he assumes.

Mr. HENDRICKS. I think the Senator does not correctly represent my colleague. My colleague said the effect of the twenty-first joint rule was for the first time to continue the business from one session to another, and that it did not become dead by the adjournment. That is his position, and therefore the motion to postpone indefinitely is not a motion that destroys the measure.

Mr. WILLIAMS. I understand the position; and the argument which I make upon that position is entirely proper and legitimate. The authority is:

"If they wish to suppress a bill for the whole of that session, they postpone it indefinitely. This quashes the proposition for that session."

That ruling was made when the business expired with the end of the session. It is equiv-

alent to saying that when a bill is indefinitely postponed it cannot be reconsidered during that session; and if this joint rule makes these two sessions one as to that business, then the meaning of this authority is that this bill, when it has been once indefinitely postponed, cannot be reconsidered during the entire session made one by this joint rule. If the authority means anything it means that. All that this authority proves, that the indefinite postponement of a bill defeats it, is equivalent to a paradox, for it kills it for that session; and if Congress has adopted a rule by which one session is dovetailed into another, then it is one session as to this bill, and it cannot be reconsidered.

Sir, I think this proceeding is most extraordinary for other reasons. I call the attention of the Senate to the twentieth rule, which says:

"But no motion for the reconsideration of any vote shall be in order after the bill, resolution, message, amendment, or motion upon which the vote was taken shall have gone out of the possession of the Senate, announcing their decision."

It is acknowledged that this bill has been indefinitely postponed, and has been returned to the House of Representatives with the papers, and the House has been notified that the bill has been rejected by the Senate; and here is a rule which absolutely provides that no bill shall be reconsidered by the Senate after it has gone beyond its control or possession. Now, sir, how can the Senate proceed? What motion is made? To take up a bill for the purpose of considering it before the Senate, when the bill has been rejected, and is in the other House, in the possession of the other House, under a notice of rejection from the Senate. Can this Senate proceed to act upon a bill in that condition when the rule is imperative that no action can be taken when a bill is beyond the control of the body? Moreover, the twentieth rule provides—

"Nor shall any motion for reconsideration be in order unless made on the same day on which the vote was taken, or within the two next days of actual session of the Senate thereafter."

Now, five months have elapsed since action upon this bill. How can it be reconsidered? Does the Senator suppose he can take up this bill and refer it to a committee without reconsidering the vote upon its indefinite postponement? If there was any person with that intention at the time this bill was indefinitely postponed the motion to reconsider that vote under this rule must have been made within two days. This is an absolute rule; and unless a motion is made to reconsider a vote within two days that vote is conclusive upon the bill under this rule.

Mr. MORTON. This is not a motion to reconsider at all.

Mr. WILLIAMS. Not a motion to reconsider?

Mr. MORTON. Certainly not.

Mr. WILLIAMS. I know it is not a motion to reconsider in form; but if the bill were here no action could be taken upon it by the Senate. Will the Senate, after a bill has been rejected, entertain a motion in regard to it? Suppose that a vote had been taken upon the passage of the bill and the Senator, five months after the bill had been rejected in that way, had proposed to take it up and refer it to a committee, would it not be a good answer to say that that bill had been rejected by the Senate and the vote had never been reconsidered? This vote of indefinite postponement had some effect on the bill. It had some other effect than laying it on the table. That is very certain. And if it had the effect which has always been attached to it by the practice of the Senate no action can be taken without a reconsideration of the vote indefinitely postponing it; and the Senate will not proceed in this way to do a vain thing, to take up this bill or to consider it for one moment when it is positively certain under this rule that no action can be taken on it; there can be no reconsideration.

The twenty-first joint rule is the only rule upon which any proceeding of this nature can

be based, and that rule only relates to business that remains undetermined in either House. I think the invariable usage and practice of the Senate has grown into a rule on this subject, and I hope that no sympathy will induce the Senate to overturn a practice so well settled, and which tends so much to promote the business of the Senate. I have nothing to say about McGarrahan or about his claim at this time. If it ever becomes necessary to discuss that I may have something to say on that subject; but I consider it foreign to this discussion. Under this invariable practice, and in view of the fact that the bill is now in the possession of the House of Representatives, that this vote of indefinite postponement has been regarded as a rejection, and that no motion to reconsider would be in order at this time, even if the bill was before the Senate, it seems to me extraordinary that an effort should be made to subvert the settled practice of the Senate. Mr. McGarrahan can introduce another bill—there is no objection to that—and have the question considered in the Senate again.

Mr. FESSENDEN. Is there not this objection: it is perfectly well understood that if this bill is finally disposed of the Commissioner of the General Land Office will then issue his patents to other parties, and that will close the matter. Is not that the whole secret?

Mr. WILLIAMS. I do not know that that is the case.

Mr. FESSENDEN. I am so informed.

Mr. WILLIAMS. I presume the Senator has much information derived from Mr. McGarrahan that is not in the possession of myself or others, but be that as it may, I suppose that if a bill was introduced and was pending here the Commissioner might be induced to withhold any patent in reference to these lands until the bill pending could be determined. I do not know anything about the proceedings before the Commissioner one way or the other.

Mr. FESSENDEN. Here is a letter laid on the table addressed by Senators to the Commissioner, requesting patents to be issued. Has the Senator seen it?

Mr. WILLIAMS. I have not seen it, and know nothing about it.

Mr. STEWART. I know something about it, and I shall have a word to say about it. Since this paper has been alluded to I wish to call the attention of the Senate to it. It is presented here, I suppose, by Mr. McGarrahan with the intention of making it appear that he has been unfairly dealt with in this transaction. It is a request by three Senators, myself among the number, after the disposition of this matter, that the laws of Congress might go into effect, and that the miners owning this land might proceed to have their patents. For now about two years the act of 1866, which permitted miners on the mineral lands to obtain patents, has been suspended without authority of law by the request of Mr. McGarrahan, and at the suggestion of members of Congress they have been kept out of their rights under the law.

Mr. EDMUNDS. Who are the adverse claiming parties?

Mr. STEWART. There are several mining companies; the principal one is the New Idria Mining Company.

Mr. EDMUNDS. A corporation?

Mr. STEWART. That is, a corporation located originally under the mining rules and under the mineral land laws would be entitled to a patent. Mr. McGarrahan has for about two years and more prevented those people from proceeding under the laws to acquire the rights that the law give. The Department has obeyed the request of committees of Congress and members of Congress to suspend action until Mr. McGarrahan could have an opportunity to have his claim determined by Congress. There was no authority of law for this suspension; and it was a great hardship to the other parties. When the bill was indefinitely postponed, believing that that was the end of it, and knowing that it ought to be the end of it,

I requested that these parties might have their rights under the law.

Now, Mr. McGarrahan's claim is simply this: in 1844 one Vincente Gomez, a clerk in the department of California, applied for a grant, but no grant was issued, and no possession was taken under the application. A confirmation was applied for to the board of land commissioners, and they rejected it.

Mr. POMEROY. I hope the Senator will not go into the merits of the claim.

Mr. STEWART. I simply wish to make a brief statement.

Mr. POMEROY. There is no question before the Senate as to the merits of the case.

Mr. STEWART. I think it necessary to make a few remarks in justification of my course, and I will detain the Senate but a moment. The claim was rejected by the land commission, and it was subsequently confirmed in a manner which, in the estimation of the Supreme Court, threw great discredit upon the judiciary. A man by the name of Pacificus Ord had acquired one half the interest in the claim, and he was attorney for the claim. He was, in the mean time, appointed district attorney for the United States. He appointed Mr. Hartman to appear for the other side, and then went into court and consented to a decree, saying that the United States had no objection to the confirmation of the claim.

Mr. DAVIS. Will the honorable Senator allow me to ask him a question?

Mr. STEWART. Wait until I get through.

Mr. DAVIS. What has all the Senator is now saying to do with the question before the Senate?

Mr. STEWART. I refuse to be interrupted.

Mr. FESSENDEN. I call the Senator to order.

The PRESIDENT *pro tempore*. The Senator cannot be interrupted without his consent.

Mr. FESSENDEN. I make the point of order that it is not in order to argue the merits of the case on a mere question of order.

Mr. STEWART. I am not proposing to argue the merits of the question.

Mr. FESSENDEN. I do not know what the Senator proposes to do; but he is doing it. He is talking of the merits of the question, and of nothing else.

Mr. CONNESS. I only rise, sir, to say that the honorable Senator from Maine discussed the merits of this case yesterday in discussing the question of order.

Mr. FESSENDEN. Not at all; I made no allusion to the merits.

Mr. CONNESS. I beg the Senator's pardon; I will read, if necessary, from the Globe.

Mr. FESSENDEN. I wish the Senator would. I have read it myself. I said that I had no opinion about the merits one way or other.

The PRESIDENT *pro tempore*. The Senator from Nevada is entitled to the floor, and will proceed.

Mr. STEWART. I only wish to show the reason for my conduct which is exhibited here to the Senate. The claim went before the Supreme Court, and they rejected it in about as severe an opinion as you will find in the records of that court, on the ground of the fraudulent proceeding that had been had. In the mean time some distance from the pretended location mines were discovered and parties went on in good faith to develop those mines. When they were about to acquire the title, as they were entitled to do under the laws of Congress, Mr. McGarrahan asked on his own survey that Congress should grant him this land. While the case was being examined, at the request of committees of Congress the proceedings were suspended in the Department; but when the thing was over, as I supposed, I requested that those parties should have their rights under existing laws, and I contend that I had as much right to do that as other members of Congress had to ask that persons having rights under existing laws should be prevented from asserting those rights until Mr. McGarrahan could

work a claim through Congress which had been repudiated as fraudulent by the Supreme Court of the United States. I say the matter has been held up entirely too long, and I believe it was the duty of the Department to issue a patent before this to the other parties complying with the law; but it is still withheld, and this motion now comes up. So far as I am concerned, I would as lief this motion should prevail as have a new bill introduced, except for one reason—that I want the case examined in the other House again. I believe the committee in the other House were misled as to material facts in the case. The committee in this House has examined it, and, as I am informed by the chairman, gave the claimant five long sessions in which to consider it.

The PRESIDENT *pro tempore*. The morning hour having expired, the unfinished business of yesterday comes before the Senate.

Mr. MORTON. I move to lay aside the unfinished business informally, for the purpose of having this question of order settled. The Senator from Oregon and the Senator from Nevada have spoken out the morning hour. As I do not wish to trouble the Senate with this matter again, I should be glad to have the unfinished business laid aside informally for a short time until it can be settled.

The PRESIDENT *pro tempore*. That can be done by unanimous consent.

Mr. POMEROY. I will make no objection if it can be done informally.

Mr. CONNESS. I object.

The PRESIDENT *pro tempore*. Objection being made, it will require a motion to test the sense of the Senate.

Mr. MORTON. I move, then, that the unfinished business be laid aside informally until this question be disposed of.

The PRESIDENT *pro tempore*. It cannot be done informally except by unanimous consent.

Mr. DOOLITTLE. As I am entitled to the floor on the unfinished business, I desire to say that personally I have no objection to laying it aside, but that bill is in the hands of the Committee on the Pacific Railroad, and although I happen to have the floor I have no right to pre-judge the rights of that committee to the consideration of the bill by the Senate. If it lies over informally by unanimous consent, so that it does not lose its place, I shall make no objection.

The PRESIDENT *pro tempore*. Is there any objection to proceeding informally with the question which has been before the Senate?

Mr. CONNESS. I object to proceeding informally.

The PRESIDENT *pro tempore*. That being the case, the question is on the motion that the order of the day be postponed for the purpose of proceeding with this matter.

Mr. DOOLITTLE. I have not yielded the floor for such a motion. I have the floor on the regular order.

Mr. EDMUNDS. I rise to a point of order. I state this question of order for the consideration of the Chair: we are now engaged in the morning hour with a question of order; it does not relate to the merits of any proposition before the Senate, but it relates to the rights of the Senate itself as a privileged question; and therefore I suggest to the Chair that that privileged question will override any matter of business that comes up at one o'clock, and hence that it does not need any motion or consent that we proceed with the consideration of this question of order. It is not a question on the merits of anything, and must be proceeded with until the Senate itself shall decide to lay it aside.

The PRESIDENT *pro tempore*. The Chair is not aware that that has any priority over any other business. The unfinished business supersedes everything else at one o'clock, unless it be some privileged motion; but the Chair does not recognize this question of order as a privileged question.

Mr. POMEROY. The question before the Senate is not on a motion to take up or to pro-

ceed to the consideration of a bill, but it is an appeal from the decision of the Chair on a question of order.

Mr. HENDRICKS. No; the Chair submits the question to the Senate.

Mr. EDMUNDS. That is the same thing.

Mr. POMEROY. The Chair submitted to the Senate the question whether the motion of the Senator from Indiana [Mr. MORTON] could be entertained. It is not a question on the taking up of a bill. If it was it would be superseded by the expiration of the morning hour. The question before the Senate is the question which the Chair has submitted to the Senate, whether they will sustain the point of order.

Mr. HENDRICKS. With the consent of my colleague, I will move that the prior order be postponed for one hour for the consideration of this question; and I will, in connection with that motion, appeal to the Senator from Wisconsin to postpone his speech for that length of time—say, not exceeding one hour.

Mr. DOOLITTLE. If the regular order can lie over informally for one hour I have no objection.

Mr. HENDRICKS. My motion will have that effect, if the Senator will listen to it. My motion is that the regular order be postponed for not exceeding one hour, and that the further consideration of this question of order be proceeded with.

The PRESIDENT *pro tempore*. It is the opinion of the Chair that the point of order made on the motion of the Senator from Indiana [Mr. MORTON] has no priority over other business, but is superseded at this time by the unfinished business of yesterday. Now the motion is to postpone the unfinished business for one hour.

Mr. HENDRICKS. Not exceeding one hour.

Mr. HOWARD. I hope the Senate will not do that. I did not understand the Senator from Wisconsin to have yielded the floor to such a motion.

Mr. DOOLITTLE. I yielded with the understanding that the regular business before the Senate is postponed informally for one hour.

Mr. CONNESS. That has been objected to.

Mr. DOOLITTLE. I did not yield for the purpose of allowing a motion to be made to displace the pending order. I feel that on that subject I ought to consult those who have charge of the bill, the Pacific Railroad Committee.

Mr. HOWARD. It is quite manifest that no such informal postponement can be agreed to, and I hope therefore the unfinished business will be proceeded with.

Mr. SHERMAN. I gave notice yesterday of my intention to move to-day to take up the currency and debt bill. The Senator from Wisconsin declines to give me the floor now for that purpose; and I give notice that I shall make the motion as soon as I can get the floor.

The PRESIDENT *pro tempore*. The Chair understood the Senator from Wisconsin to yield the floor for the purpose of considering the motion to postpone for one hour the order of the day.

Mr. DOOLITTLE. I have not yielded for any motion to postpone. I have expressed my willingness to yield, provided the unfinished business was laid aside informally by unanimous consent.

The PRESIDENT *pro tempore*. That cannot be done, because objection is made; and it requires unanimous consent.

Mr. HENDRICKS. I ask the Senator from Wisconsin to yield the floor to me that I may make this motion: that the further consideration of the pending order be suspended or postponed, not exceeding one hour, that the Senate may proceed with the consideration of the question which has been before it. That will allow the Senator to make his speech after awhile.

Mr. DOOLITTLE. If it is unanimously understood that I take the floor at the end of the hour on the regular order I have no objection; but beyond that I cannot yield.

Mr. HENDRICKS. That is the effect of it.

Mr. POMEROY. As soon as this question of order is disposed of, or at the end of the hour, the Senator will be entitled to the floor.

The PRESIDENT *pro tempore*. Does the Senator from Wisconsin yield the floor for the purpose mentioned?

Mr. DOOLITTLE. I do, with that understanding.

Mr. CONNESS. With what understanding? Let us understand the question.

The PRESIDENT *pro tempore*. With the understanding that the Senator from Wisconsin resumes the floor at the end of the hour.

Mr. CONNESS. That is an informal laying over of the regular order, is it not? To that I object.

The PRESIDENT *pro tempore*. The Chair can only decide questions as they come up. The Senator from Wisconsin yields for the motion of the Senator from Indiana, [Mr. HENDRICKS.] The question is on that motion.

Mr. DOOLITTLE. I understood the Senator from California to object.

Mr. CONNESS. I did.

Mr. DOOLITTLE. I think the effect of the motion will be to displace the standing order unless it is done by unanimous consent, and therefore I will go on.

The PRESIDENT *pro tempore*. The Senator from Wisconsin does not yield the floor. Senate bill No. 256 is now before the body.

Mr. DOOLITTLE. I would be glad to yield if I could do so without prejudicing the bill of which the Committee on the Pacific Railroad has charge.

Mr. HENDRICKS. Will the Senator allow me to ask the Chair one question? I wish to inquire of the Chair whether, if the Senate adopt a resolution postponing the present order not exceeding one hour for the further investigation of the question that has been before the Senate, there is any doubt that upon the disposal of this present business the Senator from Wisconsin will have the floor on the railroad bill? Is there any doubt, as a question of order, on that matter? I think it is right that the Chair should disembarass us about it.

The PRESIDENT *pro tempore*. The Chair is not very dexterous in these questions of order, and can hardly dispose of them as they arise, and therefore is not disposed to anticipate them. Still there is no objection to stating what is the view of the Chair on the point now suggested. If the Senate should now postpone the regular order for one hour the Chair would regard it as the understanding that the unfinished business should resume its place after that hour was ended. Believing that to be the sense of the Senate, the Chair would endeavor to enforce it.

Mr. HENDRICKS. Then I will ask the Senator from Wisconsin to yield to me that I may move that the Senate postpone the present order not exceeding one hour, until the Senate shall dispose of the question of order now pending, and that upon the disposal of that question the regular business in order shall be at once resumed.

Mr. DOOLITTLE. I was of the impression that that understanding to which the Chair has referred must be the unanimous understanding of the Senate. If the Chair is of a different opinion, if the vote of the Senate is sufficient to postpone it for a single hour, of course I have no personal objection to it.

The PRESIDENT *pro tempore*. The ruling of the Chair would be of no consequence; the whole matter is under the control of the Senate; but what has been indicated would be the view of the Chair under the circumstances stated.

Mr. DOOLITTLE. With that understanding, the Chair having intimated his opinion on that question as to what would be the result, I am willing to yield.

Mr. SHERMAN. What is the understanding?

Mr. DOOLITTLE. That if we postpone for one hour the pending bill, on which I now have the floor, at the end of the hour it will be

resumed, and I shall then be entitled to the floor.

Mr. HENDRICKS. Part of my motion is that as soon as the business which has just been displaced is disposed of by the Senate the consideration of the business now regularly before the Senate shall be at once resumed, on which the Senator from Wisconsin has the floor.

Mr. DOOLITTLE. With that understanding I shall yield to allow the Senator to make the motion, for I have no personal wish to prevent it.

The PRESIDENT *pro tempore*. The motion now is, that the prior order be superseded for not exceeding one hour, and that then the unfinished business shall be resumed again.

Mr. SHERMAN. I want it distinctly understood that whenever I can get the floor, and it is in order—it is not now, for the Senator from Wisconsin still holds the floor—I wish to take the sense of the Senate as to whether they will consume more time in discussing a private bill, or will go to the consideration of public business.

The PRESIDENT *pro tempore*. That will be under the control of the Senate, like everything else.

Mr. DOOLITTLE. I will then go on and say what little I have to say on the pending bill.

CENTRAL BRANCH PACIFIC RAILROAD.

The PRESIDENT *pro tempore*. The Senator from Wisconsin does not yield the floor, and the bill (S. No. 256) relating to the Central Branch Union Pacific Railroad Company is now before the Senate, the question being on the amendment of the Senator from Oregon, [Mr. CORBETT.]

Mr. DOOLITTLE. Mr. President, it is not my purpose to occupy the attention of the Senate beyond a very few minutes, because I believe that the friends of the measure before the Senate expect that after a very little more discussion they will be able to come to a vote, and what is desired is to have this question, which has been discussed in the Senate at the last session, and once or twice during the present session, come to a vote, take the sense of the Senate on it, let it be disposed of, and be out of the way of all other business. We agreed when we entered on the construction of the Pacific railroad in its imperative necessity, its necessity to bind the East and West together, and for the purpose of making absolutely sure the construction of the road we gave to the company much larger bounties and subsidies than we should probably be willing to do now or should have done then if we had known then what we know. And it is very likely that we consented to the building of more branches to the Pacific railroad than we should have consented to if we had known how easy the road at last was to be constructed. But for the purpose of making its construction sure the policy adopted by Congress was to combine and concentrate the railroad interests of this country upon a single line, and the great struggle in this body, I well remember, was to determine the point from which the main line should begin.

Those who were interested in the railroads from Chicago desired that point to be as far north as possible. Those who were interested in the railroads going from St. Louis were interested in carrying the line further south. They could agree upon the points of departure where these branches were to begin; but they could not agree, and Congress could not agree, upon the point where all these branches should be brought together; and what did they do? To resolve the question they left that point to be determined by the President of the United States, because Congress could not determine it themselves. Before that point was determined by the President it is true the roads reaching from St. Louis were looking to a more southerly connection; they were looking up the Smoky Hill; they were looking in a direction directly west toward Denver, in Colorado; and that explains very much of what was referred

to by the honorable Senator from New York, [Mr. CONKLING,] that there was a time when these roads were looking to a direct westerly direction. But after the President had fixed the point, then under the law the maps were to be filed, and they were filed; and when those maps were filed in pursuance of the law they fixed the general line of the Pacific railroad and for the branches of the Pacific railroad, so that those branches when the maps were filed were fixed, and if they were not fixed by law they were fixed under the law, and without a new law no company and no person had any power to change the general line.

Now, what was done? When the President fixed the point on the one hundredth meridian at which these roads should concentrate this eastern division located its road up the Republican fork and filed its map, and by its location under the law that was the route which was fixed and became the legal route, binding upon the Government, binding upon the parties, and that route could not be changed unless Congress should interfere and by law permit the road to be diverged.

What further was provided? And we come now precisely to the point in this case, and on which I desire to say a few words, and it is all I wish to say. Sir, do you believe that Congress in passing a law would not make any provision whereby one branch, like the central branch, starting from Atchison and going directly west, was to connect with another branch, and thus go on its lines to the one hundredth meridian in case this eastern division should not build? No, sir. Congress made two provisions—that in order to get this Atchison branch in connection with the main trunk of the Pacific road it might do one of two things: first, it might be consolidated with the eastern division, and they go on and build together from the point of junction to the one hundredth meridian; but it provided, secondly, that in case the eastern division should not build, then the central branch itself should take up the line and make toward the point of junction and go on and build to the one hundredth meridian, to the point which was established by the President. I wish to call the attention of the Senate to the language of the statute on that subject, and that is all the point to which I wish to direct their attention, because I could add nothing, if I should undertake it, to the clear statement which was made by the honorable Senator from Indiana [Mr. MORTON] and the honorable Senator from Maine [Mr. FESSENDEN] as to the general facts of this case, and I do not desire to take up the time of the Senate in attempting it. But to this one point I desire to call the attention of the Senate:

"And in case any company authorized thereto shall not enter into such consolidated organization, such company, upon the completion of its road as hereinbefore provided, shall be entitled to, and is hereby authorized to continue and extend the same under the circumstances, and in accordance with the provisions of this section, and to have all the benefits thereof, as fully and completely as are herein provided touching such consolidated organization."

Under the law as it stands the opinion of the best lawyers has been given that if the company should go on and build their line upon the road, they might, by law, call upon the Secretary of the Interior, and by *mandamus* compel him to issue the bonds of the Government. Such has been the opinion of many good lawyers under the act as it stands. But, sir, to avoid any uncertainty about it, the company desire that Congress should declare, and in the bill which is now pending before the Senate they ask permission to unite with the main trunk of the railroad, for it is now the main trunk, from Omaha to the one hundredth meridian at a point some forty or fifty miles east of the one hundredth meridian, which would make the distance some forty or fifty miles shorter than it would be if they should continue the whole length of their line to the one hundredth meridian. Therefore, if the construction given to the law is correct, the bill now pending before Congress is a bill to authorize this central branch to make its connection

with the Pacific railroad at a point forty or fifty or sixty miles further east than the one hundredth meridian, and thus save the Government the subsidies in bonds and lands on from forty to sixty miles.

Mr. President, I desired simply to call the attention of the Senate to this point, not to occupy its time. I accidentally was upon the floor when the Senate adjourned yesterday, not for the purpose of taking up its time, but of calling attention to that single point, in the hope that the Senate might dispose of the question which has been discussed at considerable length at the last session and at the present session; and without any disposition on my part to occupy the time of the Senate, or stand in the way of any business of the Senate, I desire, if possible, to bring this matter, as far as I am concerned at least, to a termination.

Mr. HARLAN. Mr. President, I desire to say a few words on this subject before the vote is taken. Some Senators who have expressed themselves favorable to the passage of this bill have stated that if it were a new question they would vote against it. Well, sir, if it were a new question and an isolated proposition to grant bonds of the Government of the United States to aid in the construction of one hundred and fifty miles of railroad lying anywhere out in the plains, I suppose that no member of this body would cast a vote in its favor; but it is because it is not a new proposition, because the proposed improvement does not stand isolated and alone, but is a part of the primary plan for the Union Pacific railroad originally provided for by law, that it commands the support of members of the Senate. I judge that no one would at this time vote for a subsidy in bonds to aid in the construction of a local line of road, whether lying in the State of Kansas or elsewhere. The real question, I suppose, is, whether this is a necessary part of the railroad plan provided by Congress in 1862 and in 1864; and whether the company referred to in this bill has acquired rights, legal or equitable, that obligates Congress to grant them the relief that is proposed in the bill. In opposition to the suggestion that they have these rights, it has been stated by the Senator from Wisconsin [Mr. HOWE] and the Senator from New York [Mr. CONKLING] that in their opinion this company never had a right under the law to make a connection with the eastern division railroad, so called.

Mr. CONKLING. Oh, no! I hope the Senator will not cite me for any such proposition as that. My proposition was that they had a right to a connection which must have been east of the meridian of Fort Riley; that no stretch or construction of their power could carry them to a connection north and west of that point.

Mr. HARLAN. I am happy to hear the Senator's explanation, but it would not have been needed had he waited until my sentence was concluded. What I began to say was that the Senator from New York [Mr. CONKLING] denied that this company had the right to form a connection with the eastern division road in the valley of the Republican river on the line of road which they adopted. I am right now, I believe, and I remember the Senator cited in support of his position a passage from the Globe indicating that some member of this body, in 1862 or 1864, when this question was pending, moved to strike out one hundred miles and insert fifty miles, and that the two Senators from Kansas then occupying seats on this floor said that fifty miles was sufficient to give them a connection at Topeka, or some other point named by the honorable Senator, but he neglected to state that although that motion was made, and although it was sustained by the two Senators then representing the State of Kansas, the Senate voted down the proposition. The Senate voted that fifty miles was not enough to make the connection where the Senate intended the connection should be made, and retained the one hundred mile clause as it now stands in both the laws of 1862 and 1864. So that

the only legal or logical inference that can be drawn from the citation of facts made by that Senator is that the Senate believed that an eligible connection could not be made short of one hundred miles, and that it probably could be made within that limit.

But, Mr. President, the first material question to be settled is, did Congress intend that this "central branch" should have a connection with and be a part of the Union Pacific railroad? This, I think, is clearly settled by the statutes. No one denies or can deny that it is one of the branches provided for in both the acts of 1862 and 1864; and the text of these laws will show that Congress intended that all the branches should be connected directly or indirectly with the trunk line. I read first from the twelfth section of the act of 1862, which provides:

"The track upon the entire line of railroad and branches shall be of uniform width, to be determined by the President of the United States, so that when completed cars can be run from the Missouri river to the Pacific coast."

I read again from section seventeen of the same act, where forfeitures are provided:

"Provided, That if said roads are not completed so as to form a continuous line of railroad, ready for use, from the Missouri river to the navigable waters of the Sacramento river, in California, by the 1st day of July, 1876, the whole of all said railroads before mentioned and to be constructed under the provisions of this act, together with all their furniture, fixtures, rolling-stock, machine shops, lands, tenements, and hereditaments, and property of every kind and character, shall be forfeited to and be taken possession of by the United States."

You will perceive, Mr. President, that it was contemplated that each of these branches and the trunk line should be constructed as one uniform road, furnishing a connection from each point named on the Missouri river, by each branch and the trunk line, to the navigable waters of the Pacific; and it was provided that if any of these companies failed to fulfill its part of the engagement—that is, to build the sections which it obligated itself to construct—the whole of its property should be forfeited. This provision was incorporated in the amended act of 1864. The first part of the fifteenth section of that act reads as follows:

"That the several companies authorized to construct the aforesaid roads are hereby required to operate and use said roads and telegraph for all purposes of communication, travel, and transportation, so far as the public and the Government are concerned, as one continuous line."

In order that this might be made more secure, if possible, the following provision was incorporated in the law of 1862. I read now from the ninth section of that act:

"And said railroad through Kansas shall be so located between the mouth of the Kansas river as aforesaid and the aforesaid point on the one hundredth meridian of longitude, that these several railroads from Missouri and Iowa herein authorized to connect with the same can make connection within the limits prescribed in this act, provided the same can be done without deviating from the general direction of the whole line to the Pacific coast, the route in Kansas west of the meridian of Fort Riley to the aforesaid point on the one hundredth meridian of longitude to be subject to the approval of the President of the United States, and to be determined by him on actual survey. And said Kansas company may proceed to build said railroad to the aforesaid point on the one hundredth meridian of longitude west from Greenwich, in the Territory of Nebraska."

That settles the question whether it was contemplated at that time that the road might go by the Smoky Hill river, which lies entirely in the State of Kansas. Reading these two clauses in connection shows plainly that the intention was that the President of the United States should so control the location of these branches as to enable each one to form its junction within the limits indicated in the law. The specific direction of the statutes that these branches and the trunk line should all connect—the penalty annexed of forfeiture of their whole property if they failed to connect in such a way as to be used as one through road from the Missouri to the Pacific—and the authority with which the President is clothed to compel a connection, seems to me to preclude all cavil as to the right of this central branch to a connection with the trunk line.

This being settled by the language of the

law itself, I come to the next pertinent question to this discussion; and that is, how was this connection intended to be secured? The statute settles this also by providing that this central branch road shall be so constructed as to connect with the Union Pacific, eastern division road, and by the use of the last-named road connect with the trunk road on the one hundredth meridian, at a point to be fixed by the President of the United States, between the southern border of the valley of the Republican river and the northern border of the valley of the Platte river. But this part of the line of the eastern division road has not been built. It is insisted, however, by honorable Senators in this discussion that this central branch can nevertheless secure the contemplated connection by building thirty-five miles over to the line of the Union Pacific railroad, eastern division. But the Senator neglected to state that that is itself a road ending out on the plains, and has no connection whatever with the Union Pacific railroad, and cannot have without building at least four hundred miles of road, as I think, judging from the appearance of the map. If this central branch were to construct the proposed thirty-five miles and connect with the eastern division road on its new line as now located, and follow it to its present terminus, it would then be further from an available connection with the trunk line than its present terminus in the valley of the Republican river. Not being able to secure the contemplated connection with the trunk road by diverging over to the line of the eastern division road as at present located, how shall this connection be secured? The statute settles this question also.

The law provides, as recited by the Senator from Wisconsin, [Mr. DOOLITTLE,] that if any company authorized to build any part of this trunk road or the branches should fail to do so any other company complying with its contract might proceed to build that omitted section and enjoy the same privileges granted to the company failing to construct. That is the condition in which this company finds itself situated to-day.

To form a through line from Atchison to the navigable waters of the Sacramento river four companies are each authorized to build different sections of the line. This central branch company was authorized to construct one hundred miles; the eastern division, the section lying between the west end of this one hundred miles and the one hundredth meridian, a distance of something over two hundred miles to the trunk road; the Union Pacific railroad, a number of miles undetermined, stretching out toward California; and a California company, an unnamed number of miles eastward, to form a junction with the Union Pacific Railroad Company's line. These four companies were authorized to build different parts of this through line, including this branch. It was provided that any one of them, the others failing, might build the whole work. Three of them are building in good faith. The trunk line, it is believed, will soon be completed. This central branch road has built its proportion of the line. There is a link left out. Now they claim that under the law they have a right to proceed and build that omitted link, to give them the contemplated connection with the Union Pacific railroad. This company make this claim because the law says so; it says that if any company shall fail to build the part assigned to it for construction any other company authorized to build any part of the whole work and completing its part within the time stipulated in the law may proceed to construct the omitted section. The law also provided that if they fail to so build and connect, so as to secure a through road, they shall forfeit their whole interest to the United States.

But the eastern division company did not construct the omitted links in this line up the Republican river, because Congress in 1866 passed a law authorizing the eastern division railroad company to change the location of its

route, and it did thus change its route, and build up the valley of the Smoky Hill river. I think Senators cannot avoid coming to the conclusion that if that bill had not passed this company would have had the right, the eastern division company failing, to put in this link of road. I am at a loss to perceive how the passage of that act could affect the rights of the central branch company. The change of location from the Republican to the Smoky Hill river was not their act; it was the act of another corporation, but a change which could not have occurred without the concurrence of Congress. This action of that company was beyond the control of the central branch company, as was this congressional legislation. All they could do they did do. They protested against the passage of the law, proceeded with their work until their one hundred miles were completed, and then appealed to Congress for justice.

But the Senator from New York [Mr. CONKLING] concluded his able and exhaustive argument yesterday by informing the Senate and the country that this company was, at least, entitled to no sympathy; whatever might be the rights of the company under the law they were not entitled to sympathy, for they had already received enormous grants. He read from a newspaper advertisement, in which it was stated that they derived, or were to derive, from the national Government one million two hundred and eighty thousand acres of land lying on each side of this one hundred miles of road. The Senator omitted to state that the public lands had at the time of the passage of the law been so far exhausted that there was not within the limits of the grant, subject to its provisions, to exceed the amount of about two hundred and twenty-five thousand acres. He left the Senate to infer that they were entitled to receive and would receive the whole amount of one million two hundred and eighty thousand acres of land, when, in fact, the law conveys to them less than a quarter of a million. He also read an advertisement from which, it seemed to me, he desired the inference to be drawn that this company had derived enormous sums of money from the sale of Indian lands acquired under a treaty from the Kickapoo Indians. I do not know personally what the facts are in that case, and can only state the representations made to me by the gentlemen who are connected with this enterprise. They say that they were entitled to one hundred and twenty-three thousand acres of land from the Kickapoo Indians, under the treaty referred to, by paying those Indians \$1 25 an acre—more than the original worth of the land if the railroad had not been constructed; and if those lands are now worth, as I have no doubt they are, much more than \$1 25 per acre, it is an accretion of value growing out of the investment of their own money in this improvement; an accretion of value, however, which accrues equally to the lands of the United States and of the citizens of Kansas lying within the vicinity of the line of the road.

The Senator from New York insists that they had ample notice that the location of the eastern division road would be changed from the Republican river over to the Smoky Hill river, and that if they invested money they did it with a full knowledge of the contemplated change of route, and are therefore not entitled to relief. The law providing for the change was enacted, I believe, on the 3d day of July, 1866. And the gentlemen engaged in this work represent to me that their books show that previous to that date they had paid in on stock out of the pockets of the stockholders \$600,000 in cash, and that they had sold their first-mortgage bonds to the amount of about three hundred thousand dollars, the whole of which had been expended in the construction of the road. They invested the greater part of this large amount after the time had expired during which the eastern division company had the legal right to change their location.

The Senator stated, however, that it was but a few days after the passage of that law—the

act of July 3, 1866—they presented to the Government as complete their first section of twenty miles of road. He cited the fact correctly, but the inference, it seemed to me, might be drawn from his mode of stating it, that they had not put any money into this enterprise worth mentioning before July 3, 1866, when the fact, as I understand it from other sources than that of the company itself, was, that they had before that period nearly completed twenty miles and had forty other miles well under headway, twenty of them almost ready to be presented to the Government for acceptance. And at this time, as I have been told, this company has paid in the whole of its stock at par, has expended in the construction of the road something like one million dollars, and has exhausted in the same way the bonds derived from the national Government, amounting to \$1,600,000, and perhaps an equal amount of their first-mortgage bonds; so that at this time they have invested the whole of their stock, counting it at par, as I understand, and the money derived from the sale of the Government bonds.

That reminds me that the Senator from New York seemed to wish it to be inferred that the right to use this large amount of Government and first-mortgage bonds was proof positive of the great wealth acquired by the company from this enterprise, when in fact they are merely evidence of the company's indebtedness. Under the law the company is bound to pay the Government bonds, principal and interest, at maturity, and, of course, both the interest and principal of its own bonds. Suppose these bonds had been issued and drawn from the Treasury and locked up in the company's safe, what advantage would they be to the company? If I draw my own note bearing interest, payable by myself, and put that note in my pocket, although it may be negotiable paper, does it enhance the value of my assets? It affects me neither the one way nor the other until I part with the paper; but when I part with the paper for a consideration, it is evidence of a debt owed by me to another. So with this company; if they have drawn and sold \$1,600,000 of Government bonds, and have issued and sold \$1,600,000 of first-mortgage bonds, being \$3,200,000 in the aggregate, it is merely evidence that the company is in debt to the amount of \$3,200,000, which they are obligated to pay, interest and principal, at maturity. To arrive at the actual value of this work you must first foot up the assets of the company; then foot up the debts of the company, and subtract the smaller from the greater, and you will then perceive whether the work is of any real value to the holders as at present situated. Add to the value of their lands the value of the road and fixtures and rolling-stock; then subtract the aggregate amount of their debts, including both Government and first-mortgage bonds, and you will have the sum total of the company's wealth. And this nominal value might prove to be worthless. For it is a kind of property, except the lands, which rapidly deteriorates with use and time. Its value will depend on the income over and above the expenses and repairs. And the gentlemen representing this company tell me that the road does not yield more than enough to keep up the running expenses. But they believe that if they shall be permitted to proceed to build the omitted section in the line, so as to give them the connection they were entitled to under the laws of 1862 and 1864, it will make the whole property of real value. I suppose that in the decision of this question the votes of Senators must turn on their opinion of the vested rights of this company. If the enactment of the law offering this company the right to construct the one hundred miles and the additional privilege to build the additional link leading up to the trunk line at the one hundredth meridian, if the eastern division should fail to build it, and the acceptance of this proposition by this central branch company is in the nature of a contract, it must be carried out in good faith.

It may be to the interest of the Government pecuniarily to break faith with its citizens; it may be that the essence of this contract can be avoided by a close and narrow construction of its own statutes; but the original intention is plain. I do not know how other Senators may view that subject. I have not thought, however, it ever was an advantage in the long run either to an individual or to a Government to break faith; and hence, I have not thought that the proposition to avoid the payment of the national debt in whole or in part was either creditable or wise. I know the honorable Senator from Vermont, [Mr. EDMUNDS,] who has opposed the passage of this bill earnestly—and I have no doubt honestly—takes a different view of the obligation of the Government to keep faith with other contracting parties.

Mr. EDMUNDS. If the Senator alludes to me, I beg leave to correct him. I am for keeping the Government faith with this company just as much as with everybody else. I only differ with the Senator as to what the Government faith is; and I am willing to speak frankly on this subject, as I hope he is on the subject of the public debt, one way or the other.

Mr. HARLAN. Certainly; I have no doubt of that. No one ever dreamed of accusing the Senator from Vermont of want of frankness; and I have always been and always shall be equally frank on the subject to which he refers. I was about to remark that there were those a few months since who thought the laws authorizing the sale of Government bonds could be so construed as to authorize the Government to pay them in greenbacks; that is, in its own paper, without interest, and thus avoid the payment of the interest. This always seemed to me very much like repudiating the interest. Afterward, the President of the United States, in a grave paper sent to Congress at the beginning of the session, proposed to pay the interest for a few years, but thought the law might be so construed, or at least the equities of the case might justify, at the end of a given number of years, the repudiation of the principal. Now, Mr. President, it may be that a narrow, lawyer-like construction of these statutes would justify the conclusion to which the honorable Senator comes. He may find by a close analysis of these statutes, (though I am unable to agree with him,) that the Government is not technically and legally bound to grant the relief sought by this company in the passage of this bill; but there can be no question of the original intention of Congress when the laws were passed. I suppose that what is meant by keeping faith is to carry out a contract as originally intended between the two contracting parties, and that neither is at liberty to seek to evade the real meaning of the contract by a technical construction of phrases. In this case the original purpose was to authorize this company to build one hundred miles of road, and at the end of this one hundred miles to form a connection with the eastern division road, giving them a connection with the main trunk line at the one hundredth meridian, with the distinct agreement on the part of the Government that if the eastern division company failed to build that link this company might put it in on the same terms proposed to the eastern division company.

The eastern division company has failed to build the road where it would afford this connection. This company is therefore in precisely the dilemma contemplated by Congress when the laws of 1862 and 1864 were enacted; and they now merely ask that this Government shall keep faith with its contractors—keep faith with its private citizens, with those who have invested their private funds to build a great work in the success of which the Government was supposed to be greatly interested. Looking at this subject as I do I cannot vote otherwise than in favor of this bill.

Mr. PATTERSON, of New Hampshire. Mr. President, in 1866, when the proposition was introduced into the House of Representatives to authorize the Union Pacific road, eastern

division, to refile its map and to change the location of its road, I opposed it, and I opposed it because the persons who had invested in the Hannibal and St. Joseph road, which is now called the Central Branch Pacific railroad, complained that if this map was refilled and the location of the road changed they would be left in the wilderness and would suffer in their interests. Now they come here and claim that the law, as originally passed, gives them a right, the route of that road having been changed, to make a connection with the main trunk of the Union Pacific railroad. It looks to me like an afterthought.

By the ninth section of the act of July 1, 1862, the Union Pacific railroad, eastern division, is authorized to run its line from the mouth of the Kansas river, by way of Topeka and Lawrence, to the one hundredth meridian. By the thirteenth section of the same act the Hannibal and St. Joseph company is authorized to build its road for a hundred miles westward to unite with this Union Pacific, eastern division, or to go north and form a connection with the main trunk of the Union Pacific railroad; and it is stipulated expressly in the act that in no case shall they receive land grants and subsidies for more than one hundred miles:

"But in no event shall lands or bonds be given to said company, as herein directed, to aid in the construction of their said road for a greater distance than one hundred miles."

In a memorial which has been presented to the Senate on this subject it is claimed that whenever any one of these branches should fail to make connection the other branches were entitled to go forward and build the road so as to make a connection with the main trunk of the road. Now, sir, I can find nothing in the law itself authorizing any such construction. In the twelfth section of the act of July 2, 1864, I find this:

"And if the Union Pacific Railroad Company shall not be proceeding in good faith to build the said railroad through the Territories when the Leavenworth, Pawnee, and Western Railroad Company, now known as the Union Pacific Railroad Company, eastern division, shall have completed their road to the one hundredth degree of longitude, then the last-named company may proceed to make said road westward until it meets and connects with the Central Pacific Railroad Company on the same line."

That is, if the main trunk of the Union Pacific railroad fails to proceed with the road through the Territories, then this Union Pacific, eastern division, may continue the road. There is not a word in that section which authorizes the Hannibal and St. Joseph road to take up and continue the road if the Union Pacific, eastern division, should fail to make the connection.

Mr. HARLAN. If the Senator will allow me—I know he intends to be exactly right—the privilege claimed is not found in the twelfth section, but in the sixteenth section.

Mr. PATTERSON, of New Hampshire. Very well; I will refer to the sixteenth section. I know they put great stress upon the construction given to that sixteenth section by their paid counsel, Judge Curtis. But, sir, is there anything in the sixteenth section of this act that will justify the construction which their paid counsel puts upon it? Let me read it. This sixteenth section authorizes a combination or consolidation of these various railroad companies, and it goes on to say:

"And in case, upon the completion by such consolidated organization of the roads, or either of them, of the companies so consolidated, any other of the road or roads of either of the other companies authorized as aforesaid (and forming, or intended or necessary to form, a portion of a continuous line from each of the several points on the Missouri river, hereinafter designated, to the Pacific coast) shall not have constructed the number of miles of its said road within the time herein required, such consolidated organization is hereby authorized to continue the construction of its road and telegraph in the general direction and route upon which such incomplete or unconstructed road is hereinbefore authorized to be built, until such continuation of the road of such consolidated organization shall reach the constructed road and telegraph of said other company, and at such point to connect and unite therewith."

It is simply this, nothing more and nothing less: that several of these companies may consolidate into one company, and then, if any

one of the companies failing or refusing to enter into this consolidation shall not complete its road, the consolidated companies may go forward and complete that road.

Mr. DOOLITTLE. My honorable friend does not pay attention to another clause, which provides that if one of the companies will not consolidate then the other company may go and do the same thing. That is the point in it.

Mr. PATTERSON, of New Hampshire. Will the gentleman point it out?

Mr. DOOLITTLE. Yes, sir. It is on page 363 of the Statutes, just above the middle of it:

"And in case any company authorized thereto—"

What? To enter into the consolidation—

"shall not enter into such consolidated organization, such company, upon the completion of its road as hereinbefore provided, shall be entitled to, and is hereby authorized to continue and extend the same under the circumstances and in accordance with the provisions of this section, and to have all the benefits thereof as fully and completely as are herein provided touching such consolidated organization."

Mr. PATTERSON, of New Hampshire. They are to have all the privileges which the original law allows them. Now, then, it rests with the gentleman to prove that the original law authorized the Hannibal and St. Joseph company to continue the road, if the eastern division should fail to make the connection.

Mr. DOOLITTLE. Mr. President, the eastern division was authorized to go up and have lands and bonds all the way to the one hundredth meridian. The central branch was to go out one hundred miles, expecting to connect there with the eastern division, and then this law comes in and provides that if the eastern division turns off down toward New Mexico the central branch may take up the line of march and go to the one hundredth meridian. That is the substance of it.

Mr. PATTERSON, of New Hampshire. I do not so understand it. Furthermore, if that was the interpretation, why does not this company accept of that condition? I have no objection to their making a connection with the main branch. I only object to their coming here and asking a land grant and a subsidy of \$16,000 a mile for the continuation of this road, when the original law said they should receive the subsidy and the land grant for only one hundred miles, and they have got the full amount specified.

Mr. DOOLITTLE. I will answer the honorable Senator that question. He asks, why do they not go on under the law? That involves a law suit which would take at least two or three years to determine. They must first apply to the Secretary of the Interior, and if he refuses to give them the lands and bonds they must then apply to the supreme court of the District of Columbia for a *mandamus* to compel it to be done. The litigation will go on there between the parties interested, which will delay the thing for a year or two. There may then be an appeal from that decision to the Supreme Court of the United States; and we know that when a case goes on the docket of that court it must stay there two years in its natural order before it can be reached; and here are three or four years gone before the thing can come to a determination in the courts.

Mr. PATTERSON, of New Hampshire. Mr. President, that is not the point. The point is not whether this Hannibal and St. Joseph road or central branch shall make connection with the main trunk. It is whether they shall receive this land grant and this subsidy for making that connection.

Mr. DOOLITTLE. They claim, and I understand their counsel has given them to believe, that under the law as it stands, and to which I have referred, they are legally authorized to do it; but what they ask is that they may be permitted to connect with the main line sixty miles nearer, to avoid a litigation of four or five years, so far as they are concerned, and to avoid, so far as the Government is concerned, should the litigation be decided in favor of the company, the payment of bonds and lands for about sixty miles further than they will be granted under the pending bill. So it is econ-

omy to the Government, and avoids litigation to the company.

Mr. PATTERSON, of New Hampshire. Then we are to understand from the gentleman that this company come here to ask that the privileges which they have by the law now be taken from them. Is that what they are here for, to have land grants and subsidies taken from them which the original law allows them?

Mr. DOOLITTLE. They ask leave, instead of going to the one hundredth meridian, to join the main road at Fort Kearny, which is sixty miles nearer, and, as a matter of course, the Government will not be required to grant them lands and bonds for the sixty miles between Fort Kearny and the one hundredth meridian. They want to go on and get the connection. The very thing for which they ever went into this operation was to be a branch of the Pacific railroad. How can they be a branch of the Pacific railroad and not touch the Pacific railroad?

Mr. PATTERSON, of New Hampshire. I hope the Senator will allow me to finish my remarks. By the original law of 1862 the Union Pacific, eastern division, was authorized to file its map and locate its road at any time within three years, and it could change the filing of its map or the location of its road at any time within that period. By the thirteenth section of that law the Hannibal and St. Joseph Company is authorized to build its road from the Missouri river one hundred miles westward and make connection either with the main branch of the Union Pacific or with the eastern division of the Union Pacific. The time having expired within which the eastern division could refile its map and change the direction of its road, that company came to Congress and asked permission to change the direction of its road from the Republican to the Smoky Hill route, and that privilege was granted; and now this company comes here and asks permission to continue its road one hundred and fifty miles and to have a land grant made to it and subsidies of \$16,000 a mile granted to it to build that road, while the original law said explicitly that it should have only the subsidy and the land grant for one hundred miles. The law was explicit in that matter. What they want is to enlarge this outpouring of money from the public Treasury for their benefit.

Mr. President, the other day we refused to give \$7,000 to a lady who came here and claimed it, when it had been taken from her by the authority of the United States Government. There was no question that her property had been taken. Here is, at best, a doubtful claim. In my mind there is but little doubt about it; but in the minds of some there is a doubt. We are asked to pay out of the public Treasury, when it is burdened and our people are weighed down by taxation, \$2,400,000, and to burden the industry of this country to that extent, and to put off the day of the payment of our public indebtedness. Sir, I think our duty to our constituents requires us to look well to the foundations of this claim. I believe there is nothing whatever in the law requiring us to make this payment, and I am confident, indeed I know, that at the time the subject came into the House of Representatives that was the understanding of the parties who deemed themselves injured by the change of the direction of the Union Pacific, eastern division; and I voted with them, because some of them are my friends, and I should be sorry in any way to injure their interests or to do them harm. They understood that the change of direction cut them off from any right of connection, with subsidies and land grants, with the main branch of the Union Pacific; and now, sir, though I should be glad to accommodate them, my sense of duty to my constituents and the country leads me to vote against this claim.

Mr. POMEROY. Mr. President, I shall not spend any time in making an argument on this bill, because I suppose it does not need it, and if it did sufficient argument has been already made. But some questions of fact have been

brought into the discussion, in which I have been referred to, that I desire briefly to correct. The Senator from New York, [Mr. CONKLING,] in his argument yesterday, stated that it was designed in 1862, when the original law was passed, and that I supported such an amendment to limit the extent of this branch to fifty miles. That was so; but the Senate thought differently, and voted the amendment down.

Mr. CONKLING. I did not state any such thing. I would not interrupt the Senator if he did not misstate my position. I did not refer to any such amendment; I referred simply to the amendment inserting the words "via Atchison."

Mr. POMEROY. The Senator referred—I have his words before me—to the amendment offered by Mr. Clark, limiting the subsidy to fifty miles, and that was supported, he said, by the Senators from Kansas, Mr. Lane and Mr. POMEROY. The Senator from Iowa, [Mr. HURLAN,] in his remarks this morning, has alluded to that subject and given the history of it as everybody understands it. The then Senator from California, Mr. McDougall, sitting beside me, opposed the motion to limit it to one hundred miles, and the Senate sustained it by a vote of 22 for it and 17 against it; so that, whatever might have been the choice of the Senators from Kansas on the passage of that bill, it was overruled by the Senate, and the distance was left at one hundred miles.

Now, sir, as a question has arisen between the Senator from New York and myself in regard to the distance from Atchison to the Republican valley at Clifton, in a straight line, I beg leave to call the attention of the Senate to the official facts from the map used by the Senator himself. This map is official; one of the surveyed maps made by Mr. Ream, who was then a clerk in the surveyor general's office. The first standard parallel, which he ran himself, or assisted in running, starts from Atchison and runs directly west, and strikes this town of Clifton on the Republican river, within half a section. It is just nineteen townships from Atchison to Clifton on the Republican river. Six times nineteen are one hundred and fourteen miles. I said in my remarks a year ago that it would not exceed fifteen miles beyond the distance of one hundred miles, and the Senator from New York says it is over fifty. The misunderstanding between the Senator and myself grows out of this fact: I was speaking of the distance in a straight line, and the Senator was speaking of the meandering course of a railroad. With his view of the matter the Senator from New York is clearly right. But when I was speaking of the distance I meant the distance in a straight line, and that is one hundred and fourteen miles, or, perhaps, one hundred and fifteen miles. So that the statement which I made a year ago was not only substantially, but accurately correct with the view which I then had in speaking of the distance from Atchison to the Republican river in a straight line, as it was intended when this bill passed Congress, after they voted down the amendment to limit it to fifty miles, and extended it to one hundred. From that time it has been the intention of the parties connected with this road that the connection should be in the Republican valley, at or near Clifton, which is exactly one hundred and fourteen or one hundred and fifteen miles from Atchison; but it was put in "one hundred miles," because the valley of the Republican is a very wide valley, and that was practically near enough for a connection, because the railroads do not follow the banks of the river. It is timber there. They are always in the valley, on what is called the second bottom, as near the bluffs as they can go. That valley is some seven miles wide, so that practically the connection, as the bill originally stood, was within the distance allowed by law, and there would have been no complaint.

The Senator from New York says further—I read from the Globe of to-day—

"Their western terminus now is Irving."

The fact is it is Waterville, some eight or ten miles from Irving up the Blue:

"If Senators will take the trouble to consult the map, they will see that a valley runs from Irving to Manhattan."

There is the valley of the Blue from Irving to Manhattan, but instead of being west, it is east of south. The road is already built up to the meridian of Fort Riley, which is seventeen miles further west than Manhattan:

"I understood it to be stated in this Chamber at the last session—I have not looked at the report of debates, and therefore I will not make the allegation—but I understood it to be stated that it was over sixty miles from the existing western terminus of the eastern division to Manhattan or Junction City. I could not then deny. I felt hardly at liberty to doubt, that statement. Now, having passed over the ground, I am able to doubt it, and prudently to say to the Senate that thirty-five miles of railroad from the western existing terminus will give the claimants a connection, at Junction City, at Fort Riley, at Manhattan, as they please, less than thirty-five miles at Manhattan and thirty-five miles at Junction City."

If the Senator has passed over that ground from the western terminus of this road since the subject was up in debate before, it is a mystery to me. I was living there all summer, and I did not hear of the Senator's going over this ground. I heard of his going up the Kansas valley, forty or fifty miles from this road, on the car, at the rate of twenty or thirty miles an hour; but that he could have passed over this ground, forty miles distant from that road, and hence knows from experience that the distance is greater than was represented, is not only new but surprising to me. I have the map before me, and the distance in a straight line from the terminus of this road to Fort Riley is exactly forty-two miles. There is no traveled road and no railroad that can be made within forty-two miles. I think perhaps a railroad might be made within fifty miles. Forty-two miles is the exact distance in a straight line. My own opinion is that by making an exact right angle fifty miles would reach the valley of the Kansas and make a connection with the eastern division of the Union Pacific railroad. But to do that there must be an exact right angle, because the road is now built to an exact parallel with Fort Riley west. It would not be for the public interest to build the road in that way; it would be ruinous to the road; it would be a measure that no one understanding either railroads or the country could recommend. I have never known a railroad going west to make an exact right angle and turn south.

I do not care to pursue this subject. These are merely technical inaccuracies. I have no feeling about it, but I wanted to show that the remarks which I had previously made were substantially correct. The proposed grant of subsidy to this railroad is based precisely on this ground: it is believed that this company have equitable if not legal rights. I remember the argument of the Senator from Maryland, (Mr. Johnson,) now abroad, at great length on this subject at the last session, in which I thought he made a clear statement that their rights were perfect in the law, and he said in so many words that he was surprised that the Secretary of the Interior did not so regard it. My own opinion in regard to that would not be valuable, but that their equities are strong, commanding, equal to law itself, is controlling with me. I would just as lief have a good case of equity before the people of this country as to have a law. Some men say that our bonds are not in the law required to be paid in gold; but those who hold them believe they have an equitable requirement, because that was the understanding, that the parties who negotiated them let them take them with that understanding; and I say now I would as lief have an understanding, fair and honest, before the American people as to have a law.

I know a State in this Union that ran its indebtedness beyond what the Constitution allowed. The constitution said their State indebtedness should never exceed so much, and yet the Legislature, by appropriation, did exceed it in building their State capitol. A party

undertook to repudiate it, but when the question was submitted to the people, they said good faith required that they should live up to those contracts although they were against law, and the party that tried to repudiate those obligations went into oblivion. I say now that the American people will be just to good faith, to what was the understanding between the parties at the time the contract was made. Technicalities and legal quibbles will not be sustained by the people of any State in this Union. All I have to say is that it is believed in my State that good faith toward these parties, under the law, and considering the manner in which they have constructed this road, entitles them to a connection at the point where they desire to make it.

Let me say, also, that no criticism has ever been made about this road. You have had reports that other roads were not made correctly. The parties building this road have not been subject to criticism on that point. They never lost a bridge or a culvert. Their road is of such a character that no one has ever questioned it. That accounts for the fact that they spent \$32,000 a mile upon it, as their sworn statements show. But, sir, being anxious for a vote, I will not pursue the argument further.

Mr. MORGAN. Mr. President, this is a bill to give to a railroad corporation, established for individual profit and gain, the bonds of the United States Government, bearing six per cent. interest, for \$16,000 for each mile of railroad constructed, and to the extent of one hundred and fifty miles, making altogether the sum of \$2,400,000; and this in addition to its very liberal grant of land. One hundred and fifty miles is an extent as great as can be constructed during the present year, but if Congress shall make this grant there is nothing to prevent the company from obtaining a similar subsidy next year, or in any following year until the road shall reach the Pacific; for as long as Congress will give, railroad corporations will apply, as it is much more convenient and agreeable to wealthy shareholders for the public Treasury to furnish the money to construct their roads than to advance it from their own private fortunes. In view of the present condition of our finances and the heavy taxation required to meet the current expenses of the Government and the interest on the public debt, Congress ought not, in my opinion, to entertain a proposition of this kind. An individual loaded with debt which he finds himself troubled in meeting will naturally put off all expenditures save those of absolute necessity until his indebtedness falls within his ability. Why should not the representatives of the people do likewise? I cannot vote for this bill, nor can I vote for any like measure, nor indeed for any measure that takes money from the Treasury, unless in pursuance of an existing law, or unless required for the credit or for the honor of the Government.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Oregon, [Mr. CORBETT.]

Mr. HOWARD. I hope the amendment of the honorable Senator from Oregon will be rejected, not so much because I object seriously to the principle embraced in it, but because it is wanting in analogy to the measure itself and to the whole system of Pacific railroad legislation now existing upon our statute-books.

I support the present bill, Mr. President, because I religiously believe that justice and equity require its passage, for in my opinion it is only carrying out fairly the assurances of the Government given to this company in previous legislation. Of this I cannot entertain a doubt. I vote for the bill upon the same principle that if I were a chancellor I would decide a case in equity in favor of the party asking relief. In brief, I vote for it because I honestly believe that we have held out by our legislation assurances to this company which we are bound in honor and in justice to keep good and in full faith. To leave them in their present condi-

tion is to withdraw from them those assurances and the benefits which they had a right under the statute to claim at our hands, as I believe.

The honorable Senator from New York yesterday, in the elaborate argument which he presented to the Senate, with all the grace and gravity of which he is so eminently a master, told the Senate and the country that one ground upon which this bill was supported was:

"That the corporation for which the subsidy is proposed acquired by act of Congress the right to build a railroad where one has been built, and by so building—

That is, building exactly between the two termini of the present finished road—

"to reach and enjoy a connection with the main trunk railroad to the Pacific ocean."

But the honorable Senator stating, as he endeavored to do, the proposition clearly and conclusively, characterizes it as follows; that is, I understand the honorable Senator as denying that our legislation gave to the Hannibal and St. Joseph Railroad Company, in other words, the present central branch, a right to form a connection with the Kansas road, that is, the eastern division. If I misunderstood the honorable Senator, he will have the goodness to correct me.

Mr. CONKLING. I would not venture to interrupt the Senator but by his invitation. He did entirely misunderstand me, and I can state in a word, if he wishes me to do so, what my position was.

Mr. HOWARD. Very well; if I misunderstood the Senator, then I stand corrected.

Mr. CONKLING. Precisely what I stated was this: that the amendment "via Atchison" was placed in the bill upon the declarations at the time, all around, that its purpose was to direct and restrain the course of the road, so that it should make its connection with the eastern division, but make it east of the meridian of Fort Riley, and Topeka was the place there referred to.

Mr. HOWARD. Mr. President, it is of very little use, as the experience of the honorable Senator will demonstrate, to refer to the debates in a legislative body for the purpose of giving a construction to the acts which it passes. There is no source of information or enlightenment so deceptive, so uncertain, as legislative debates. I therefore discard entirely all interpretation arising from the debates in the body, and should always, as I do now, feel myself bound only by the enacted statutes and by the proper legal construction to be given to them.

Now, sir, the central branch indubitably, by the very language of the statute, had an undoubted right to form a connection with the eastern division, whether the distance of one hundred miles along which it received its cash subsidies and lands reached that connection or not. They had a right to form a connection, and it is because they have been practically deprived of the enjoyment and benefit of that right that this bill has been brought before the Senate. The thirteenth section of the act of 1862 declares:

"That the Hannibal and St. Joseph Railroad Company of Missouri may extend its road from St. Joseph via Atchison, to connect and unite with the road through Kansas."

That has never been repealed, and stands as the law to-day. It has that right. It was given the company by the act of incorporation of the Pacific Railroad Company of 1862. At that time, as is well known, what is now called the Eastern Division of the Pacific Railroad Company had projected its route from a point on the Missouri river near Leavenworth, up the Republican river, the Republican fork, so-called. If gentlemen will make inquiry in the Department of the Interior they will discover a copy of the original map of the company. When the act of 1862, therefore, was passed it was passed in reference to that projected line up the Republican fork. In proof of this let me cite for the attention of Senators the ninth section of the act of 1862. Its language is:

"And in case the general route or line of road from the Missouri river to the Rocky mountains should be

so located as to require a departure northwardly from the proposed line of said Kansas railroad before it reaches the meridian of longitude aforesaid," &c.

Showing that Congress at that time were cognizant of the fact that there was a projected line of road in existence known as the line of what is now the Eastern Division of the Pacific Railroad Company, and that that line, according to its map, ran up the Republican fork. It was with that line that this charter in its thirteenth section authorized the central branch to connect itself. That right, by subsequent legislation, by the act of 1866, has been practically and for all beneficial purposes taken away from this company, although by the sixteenth section of the act of 1864, amendatory of the original charter of 1862, it is declared that—

"In case any company authorized thereto shall not enter into such consolidated organization, such company, upon the completion of its road as hereinbefore provided, shall be entitled to, and is hereby authorized to continue and extend the same under the circumstances, and in accordance with the provisions of this section, and to have all the benefits thereof, as fully and completely as are herein"—

That is, in this act, and not, as inferred by the honorable Senator from New Hampshire, in the act of 1862—

"herein provided touching such consolidated organization."

Whether the opinion of the Secretary of the Interior in withholding from the central branch its lands and bonds upon the passage of the act of the 3d of July, 1866, was correct or incorrect, I shall not stand here to argue. It is sufficient for me to be convinced that here was a *bona fide* assurance held out to the central branch that it should have the privilege of forming a connection with the eastern division, and thus a connection with the main stem of the Union Pacific Railroad Company from Omaha westward to the Pacific ocean. As this company has been deprived of this privilege, I propose to make the damage to them good so far as I reasonably can, and I think the present bill is a reasonable approach to such an indemnification.

Mr. DAVIS. Mr. President, I have felt desirous to receive light on this subject from others, and I will state in a few words the light as it strikes my mind that I have received upon it. According to my reading of the act of July 1, 1862, the eastern division of the Union Pacific railroad was to be located between the southern margin of the Republican fork and the northern margin of the Plattefork, in the now State of Nebraska. I admit that there is something in the act of 1862 which gives a pledge to all concerned that the general line of the eastern division of the Pacific railroad shall be located between the southern margin of the Republican fork and the northern margin of the Platte river, situated in the State of Nebraska.

The gentlemen who advocate this bill here concede that there is no legal obligation upon Congress to pass it, but, in the language of the honorable Senator from Michigan and others, they contend that there is a strong equity that binds the Senate morally to pass the measure now under consideration. I have not reached that conclusion, for reasons which I will briefly state. As I understand the Senator from Michigan and the Senator from Kansas, if the eastern division of the Union Pacific railroad had been located along the Republican fork, it would have fulfilled any pledge, express or implied, that was given by the act of 1862 to the company who are interested in the present measure or any other company or individual. If that be true what cause of complaint in justice or equity have the company who are interested in the pending measure? Their cause of complaint is simply this, according to their own showing: the act of 1862, they say, located the line of the eastern division of the Union Pacific railroad in the valley of the Republican fork—

Mr. HOWARD. The act of 1862 recognized that location as one already established by the company.

Mr. DAVIS. That is my proposition, and

it is the reading of the law of 1862, as I understand it, and I have just read it. Then, if there is a departure from the line upon the Republican fork, and the present central branch company located their road with a view to a union with the line running along the Republican fork, and they have been balked or defeated in carrying out that intention, to that extent they have an equitable claim upon Congress, and to no other extent whatever. I understand that there are two branches of the eastern line of the Pacific railroad located. One is called the Omaha branch; that is, the northern branch; and the other is now called the Smoky Hill branch.

This central branch, as it is termed, is an intervening branch, whose object was when its charter was passed to unite with the more southern branch, or that branch which they expected to pass up the valley of the Republican fork. The complaint of this corporation and their friends on this floor is, that they were defeated or balked in their purpose of uniting their road with the line of the eastern division that was to run along the valley of the Republican fork, and that they were defeated by the line of that company being changed from the Republican fork to the Smoky Hill fork. I think those are the facts and premises that will enable the Senate to comprehend the full equity and all the equity of the company which is now making complaint. Their original object was to get to the eastern division of the Union Pacific railroad that would pass along the valley of the Republican fork. By the action of the directory and of the power that controlled that road, the intimation from the law and from their surveys that they intended to locate their road along the Republican fork has been modified by a change of the road to the Smoky Hill fork and to its fixed location along the valley of that fork.

Now, what do I understand to be the object of the present bill, and of the present directory of what is called the central branch line? They want to change their original purpose of uniting with the Republican fork road, and to unite with the Omaha branch; and they say that the transfer of the route from the Republican fork to the Smoky Hill fork gives to them an equity upon Congress to enable them to unite with the Omaha branch, although they did not contemplate any such union originally. I say that no such equity as this arises upon the facts; no such equity as this arises upon the legislation which the honorable gentlemen have presented to the Senate as having been heretofore adopted by Congress. On the contrary, the whole of the equity they have, all that they have a pretext to claim, is to give them aid to reach the road that they expected to run up the Republican fork along its line up the Smoky Hill fork. I concede to gentlemen on their own facts, their own premises, their own principles of legislation, that they have a right to an equity, growing out of the fact that this legislation was not consummated in the location of the roads, as the present company expected it would be by the transfer of the line from the Republican fork to the Smoky Hill fork. Concede all that to be true, and that an equity arises in favor of the central branch company upon that state of fact, the utmost limit of that equity is to enable this company to reach the southern branch, which they expected to run up the Republican fork at its new location in the Smoky Hill fork.

Mr. DOOLITTLE. If the honorable Senator will allow me to interrupt him for a moment, I think that in the statement which he makes of this matter there are two very material omissions: first, the purpose of the central branch was not to run any railroad up in the direction of the Smoky Hill fork, which does not go to the main line of the Pacific railroad at all. It goes off to New Mexico. That is the way it points. But the original purpose was to unite with the Union Pacific railroad upon the one hundredth meridian, and the mode of union was by connecting with the road

which located its line up to the one hundredth meridian at the point fixed by the President. Their purpose was to go on the Pacific railroad and be a branch of the Pacific railroad, not to be a branch of a railroad running up the Smoky Hill, which is no part of the Pacific railroad at all, but a new railroad—a railroad which is running directly west.

Mr. DAVIS. I do not understand the facts to be as stated by the honorable Senator from Wisconsin.

Mr. DOOLITTLE. The map shows it, I think, very clearly.

Mr. CONKLING. On the contrary, if the honorable Senator from Kentucky will pardon me for a moment, the eastern division Pacific railway runs now to the town of Sheridan, and perhaps it has reached twelve miles beyond, to Fort Wallace. That, as the map shows, and as everybody who has passed over the road knows, is in the direction by the best route of attaining a union with the Union Pacific railroad.

Mr. DOOLITTLE. At what point?

Mr. CONKLING. If the Senator will restrain his impatience I will endeavor to inform him at what point.

Mr. DOOLITTLE. I am not impatient.

Mr. CONKLING. Let me make my statement. The papers on file in the Interior Department show that the eastern division selected this route on which they are located in preference to the other because of more timber and fuel, but especially because it was one hundred and thirty-four miles shorter to reach the very destination of which we are speaking. The Senator from Wisconsin asks, where will it attain the Union Pacific railroad? I will endeavor to tell him where. It is proceeding up the Smoky Hill fork. It has reached Sheridan, and perhaps Fort Wallace. Its route is to Cheyenne Wells, as fixed by a bill which has passed this body. From there the route is down the valley of the Cherry creek to Denver, and Denver is about one hundred miles from the City of Cheyenne, which is one of the stations on the Union Pacific railroad; and Denver is made a point under the act of 1866, and not only so, but under other acts and under various actions taken by all these parties in interest.

Now, sir, subsidy or no subsidy, from the City of Denver to the City of Cheyenne a road is to be built as certain as destiny and progress in that region; so that the only link to be supplied to-day is between Fort Wallace and Denver. That is not a long road; and it is the shortest space of country which can be traversed either between Fort Riley or any point west of Fort Riley, and the best possible connection with the Union Pacific railroad, which the honorable Senator from Kentucky denominates the Omaha branch. Then there has been no diversion even if the eastern division should be able at some future time to make Santa Fé, and proceeding on to unite with a road which has a charter far below San Francisco on the other side, because nevertheless iron would be laid, and continuous iron as it is bound to be, from Sheridan to Denver and thence to Cheyenne.

Mr. DOOLITTLE. From Denver to a connection? Will the honorable Senator now give us the route? From Denver where are you going to strike the Pacific railroad?

Mr. CONKLING. Which one; the Union road?

Mr. DOOLITTLE. Yes, sir.

Mr. CONKLING. Has the Senator ever been there?

Mr. DOOLITTLE. I have been at Denver.

Mr. CONKLING. Then if the Senator has been there he is familiar with the stage route from Denver to Cheyenne, which is driven, as he knows, now in a good deal less than twenty-four hours.

Mr. DOOLITTLE. Cheyenne is this side of Denver. I am talking about going beyond Denver.

Mr. CONKLING. I am surprised that the honorable Senator should say that Cheyenne

is this side of Denver. If he will look at the time-table of the Union Pacific Railroad Company he will find that Cheyenne is on its route, a town of twenty-seven thousand inhabitants, which, like Jonah's gourd, sprang up almost in a night.

Mr. DOOLITTLE. I supposed the Senator was referring to Cheyenne Wells, a point to which the eastern division road is to go, as the Senator says.

Mr. CONKLING. Does the Senator ask me the route from Cheyenne Wells to Denver?

Mr. DOOLITTLE. I can very well see that there may be a line from Denver to Cheyenne. Cheyenne is a point on the Union Pacific railroad; but what is the distance, and in what direction is it?

Mr. CONKLING. Why, sir, it is a route which runs from Denver to Burlington, taking the first considerable place, and right on northwest by a route which nature has graded not only for stage-coaches but for railroads, to the City of Cheyenne. I passed over a large part of the way in the night, although a very bright moonlight night, in a stage-coach, and the horses went on and ran a considerable part of the way. The prairie rolled a little at times, but I believe only twice to any extent; and we passed one river where there was a slight descent in reaching the bridge by which we passed it, a remarkable level belt of country, over which Wells, Fargo & Co. drive their stages twice every twenty-four hours. That is the route.

Mr. DOOLITTLE. I only asked the honorable Senator the direction. How many miles north of Denver is Cheyenne?

Mr. CONKLING. I believe the surveys will show that the best route for a railroad between those termini would be about one hundred and nine or one hundred and ten miles in length. I think that is the distance as it was stated to me by the drivers of the coaches and by the residents there.

Mr. DOOLITTLE. In what direction—north, south, east, or west?

Mr. CONKLING. In a northwest direction.

Mr. DAVIS. I think it is about time for me to claim the floor again.

The PRESIDENT *pro tempore*. The Senator from Kentucky is entitled to the floor.

Mr. DAVIS. Mr. President, the interpellation between the honorable Senators has satisfied me that I was right in the conception that the change of the route of the eastern division railroad from the Republican fork to the Smoky Hill fork was simply a change of the location of a short section of the Union Pacific railroad east, and was not intended to reach a new and a distant southwestern terminus at all. If I understand the project of the Union Pacific railroad it is this: there are two divisions, one west coming from the Pacific ocean or its waters east, and the other proceeding from the Missouri river west to unite with the western branch. I do not understand that the change to the Smoky Hill route has at all altered the purpose of the managers of those two joint roads in forming a union between the eastern and the western divisions. On the contrary I understand that the change from the Republican fork to the Smoky Hill valley will lessen the distance one hundred and thirty-five miles, and that in addition to that it furnishes much more of timber to apply to the use of ties in constructing the road, and goes through a coal region that will enable it to get the fuel to propel the engines.

Now, Mr. President, if we are to consider equities here we must consider the equities in all of their bearings. If what is now termed the central branch company have been diverted from their purpose of uniting with a road that was to run up the Republican fork, they have received some equivalents, and what are those equivalents? First, they get upon a common line, between the Pacific and the Atlantic waters, of this railroad that is one hundred and thirty-five miles shorter than the line which was held out to them and which they say they have been disappointed in not having reached by

reason of the change of route to the Smoky Hill fork. Then it furnishes the main line with the necessary timber to construct it in the formation of ties, and it furnishes an indefinite supply of coal for the purpose of propelling the engines along the common road, and of course along all the branch roads that may unite with it.

Then, Mr. President, I think that the equivalents which the present company are to receive in a distance shortened one hundred and thirty-five miles, in the material for supplying the ties to construct the road, and in the fuel for the running of the engines, ought to compensate them, and more than compensate them, for the additional distance they will have to run their road to unite with the eastern division of the Pacific railroad along the Smoky Hill line. But if I am mistaken in that, what would be the consequence? The honorable Senator from New York, who has investigated this subject so thoroughly and who understands it so well, says that there are two or three points along the Smoky Hill route where this Central Branch railroad may unite with it within a distance of thirty-five miles. Then what is all this pother and complaint on the part of the present central branch company? That the change to the Smoky Hill route has given them an addition of at the utmost thirty-five miles to unite with that route; and uniting with that route they will have one hundred and thirty-five miles less of railroad to run either east or west, and they will have the facilities of timber to construct the road and coal to propel their engines. The utmost that could be claimed by that company upon the most latitudinous construction of their equity arising under the legislation and the location of these two branches would be this: that Congress ought to give them an equivalent to enable them to reach the Smoky Hill line of road within the distance of thirty-five miles. The equity they ask in the form of this bill is enormously greater than that. Are they entitled to any such equity? I maintain not; and I meet gentlemen upon their own facts and their own principles of equity growing out of those facts. Congress never held out to the present central branch company any inducements or facilities for uniting with the Omaha branch. That is not the representation. That is not their complaint. Their complaint is, that the road on the Republican fork was transferred by the directory of the eastern division a little further south, and that instead of being allowed to unite with the eastern division in the valley of the Republican fork, they have been thrown over into the Smoky Hill valley. If they were disposed to ask nothing but equity, and even liberal equity, all they could ask would be some aid from Congress to enable them to reach that road in the Smoky Hill valley, to which it has been transferred. The present bill, though, being for entirely different purposes, to unite with a different road, and at an enormously great cost, it does not commend itself to my mind on any equity whatever, and I therefore shall vote against it.

Mr. CRAGIN. I desire to say just a word or two in reply to the Senator from Kentucky. The Senator from Kentucky, and the Senator from New York also, have argued this question as though the central branch might with perfect propriety and without any great inconvenience unite with the eastern division in its route up the Smoky Hill fork. Now those Senators ought to know, and I presume do know, that it is no purpose of the eastern division to ever unite with the Union Pacific railroad. When they came here and got permission to turn their route from the Republican fork up the Smoky Hill fork, it was for the purpose, and the only purpose, of making theirs an independent line to the Pacific ocean. They meant to go through New Mexico. They had General Palmer, now the Governor of Illinois, surveying through New Mexico and making reports upon the subject. It is not the purpose to-day of the eastern division ever to unite with the Union Pacific, if they can avoid it. It

is true that in all human probability there will be a railroad built through Colorado from Cheyenne Wells to Cheyenne at some time, by private corporations, and the Union Pacific may in that way be connected with the eastern division; but the eastern division proper mean, if it is possible, to continue their line as an independent line through to California, and that is the reason the central branch have no wish to connect with them. They wish to connect with the Union Pacific road, which they had a right to do under the original legislation. They do not wish to be put on to the eastern division now, which is aiming through New Mexico, and to await the events which must transpire before that road can be built. There is where the trouble is, and the only trouble.

Mr. DAVIS. Does the honorable Senator state that the eastern division of the Pacific railroad as located along the Smoky Hill fork does not contemplate a union with the western division of the Pacific railroad?

Mr. CRAGIN. I state that the eastern division company wish theirs to be an independent road, and mean to have it so if possible. I know that fact.

Mr. DAVIS. My understanding is that Denver and the City of Cheyenne are in the line of these roads, and that the Smoky Hill branch contemplates a union that will take them both to the cities of Denver and Cheyenne. According to my understanding that is one of the great objects of the men who manage the eastern division of the Pacific railroad. I have no doubt that those objects will be secured by a line of railroad connecting the section that runs through the Smoky Hill valley on to Denver, and on to the City of Cheyenne. If that be so, all this central branch company, as it is termed, desire—all it can ask in good faith—is to have the privilege of uniting on that line of railroad.

Mr. CRAGIN. I understand I was mistaken in saying that the General Palmer who made the surveys to which I referred is now Governor of Illinois. I had an impression that he was the same person, but I now understand it was General Palmer of St. Louis.

I will say but a word further. When the eastern division company came here in 1866 and got permission to turn their line up the Smoky Hill fork, they did not want any condition put upon the bill that they should unite at all with the Union Pacific railroad; but the chairman of the Pacific Railroad Committee, seeing or mistrusting what they were aiming at in that bill, secured the insertion of a provision that they should unite with the Union Pacific railroad at a point not more than fifty miles west of the meridian of Denver. They accepted that, because they could not get the bill without it, meaning at the same time never to make any union there, but to go on through New Mexico as an independent line. I know from talking with the officers of that road that that is their purpose now, if they can get Congress to aid them. If they should fail in that, ultimately they may be compelled to unite at Cheyenne through Colorado; but they do not mean to do it.

Mr. COLE. Mr. President, I have been precluded from earlier offering any remarks on this bill by the fact of my having been paired with the Senator from Minnesota, [Mr. RAMEY;] but his recent return removes that disability, and I am, therefore, at liberty to offer a few words in relation to it for the consideration of the Senate.

It seems to me that this bill will in no sense facilitate the great object the Government had in view in offering subsidies to railroad companies. The great aim was to facilitate communication between the Atlantic and Pacific oceans. This bill will not contribute, so far as I can see, to this great end; and there is, therefore, as much propriety, or nearly as much, in granting a subsidy to any road within any other State than Kansas or Nebraska as in granting aid to this road.

When the bill for the construction of a Pacific railroad was first considered there was great

contention as to where the terminus at this end should be; and it finally resulted in recognizing some four separate termini for that great road on the eastern end. The Sioux City branch was one claiming assistance from the General Government. The Omaha claimed assistance; the Hannibal and St. Joseph road, of which this road is the successor, claimed assistance; and the Kansas road proper claimed assistance. In order that this great measure might pass Congress, in order to allay opposition, these four separate branches were subsidized by the General Government. It was, however, as I am informed, for I was not a member of Congress at that time, a pretty clear understanding that this Hannibal and St. Joseph road should receive but one hundred miles of subsidy for so much aid as it might give to this grand scheme for a Pacific railroad. This much was conceded to it with an understanding, as I supposed, that it should join either of the great branches of the work, either the Union Pacific railroad or the railroad known as the eastern division or Kansas branch. We are now told that their plans have been in some measure thwarted by the permission given by Congress to the railroad known as the eastern division to change the line that they originally selected from one which was to connect with the Union Pacific railroad at this side of the one hundredth meridian of west longitude, and run up the Smoky Hill fork; and this claim is put upon the ground that the Government is to regard itself as the insurer of this Hannibal and St. Joseph road or its successors against any loss from such action of Congress. They may have an equitable claim for some assistance; and I recognize an equitable claim before Congress as equal to any other; but see to what extent we are insuring them. We are asked now not to enable them to join one or the other of these roads at the nearest point, but to accord them \$2,400,000 more of bonds. It is better, in my judgment, that we should take off their hands the whole concern, pay them all their expenditures of every nature whatsoever, and let the road go to destruction; if it must, rather than we should pay this enormously large additional sum to the \$1,600,000 which have already been paid.

Mr. President, I do not know where the nearest point of connection of this road is to one of the others, nor do I care how many miles of railroad will be required to make such connection. It is sufficient for me to know that they have received this large aid, which to me seems more like a gratuity, at the outset, of \$1,600,000—more like a concession to a railroad company within a State than so much donation to facilitate the construction of a road to the Pacific.

I am quite willing, Mr. President, to vote for any measure that will facilitate communication across this continent; and I am not content with one line of railroad across. We are happily approaching the time when one grand road will be completed, but that, I am sure, will be found insufficient. I at the same time believe every effort put forth by the Government, and every reasonable expenditure that the Government chooses to make to facilitate communication between the two oceans, will be a judicious and wise expenditure; but I cannot say that the bill now before the Congress will tend in that direction at all, or is more than aiding a railroad within a State.

The PRESIDING OFFICER, (Mr. MORRILL, of Vermont, in the chair.) The question is on the amendment proposed by the Senator from Oregon, [Mr. CORBETT.]

Mr. CONKLING. Before the immediate point passes from the attention of the Senate which was suggested by the Senator from New Hampshire, [Mr. CRAGIN.] I wish to state one fact. I understood him to confront the Senator from Kentucky by saying that the eastern division did not intend to go to the Union Pacific road, but to make an independent route of its own southerly to the Pacific ocean. It is of no consequence what corporation owns

the road or the links of road which establish a continuous track by which the claimants can go to the Union Pacific railroad. The eastern division has now gone to Sheridan or Fort Wallace. A railroad company is organized (and that fact has been overlooked by the Senator from Wisconsin who interrogated me) to construct a road from Denver to Cheyenne. Not only so, the road is graded all the way, and as I am told since this debate arose by a very excellent authority, a railroad man and a man of science, who has recently been there and knows all about it, one half the ties are already out and the road is to be completed in a very short time from the City of Cheyenne to the City of Denver. In addition to that, a bill has been passed by the Senate, which I hold in my hand, turning over to the Denver and Pacific Railroad Company the lands lying along their route. Thus we have the assurance of a road and its recognition by the Senate and aid extended to it. Now, the only remaining link to-day to be supplied is between Denver and Fort Wallace. That is a short line, and, as every Senator knows who is familiar with the topography of the country, a naturally graded one. The Smoky Hill river runs until it becomes invisible, is lost in the sands, but still they will tell you the current is running under the sands. It runs until you reach that depression caused by the valley of Cherry creek; so that there is a natural grade from Fort Wallace to the City of Denver, with no cuts, no tunnels, no impediments interposed by nature beyond the necessity of bridging a few trivial streams.

Now, Mr. President, it will not do for any Senator to vote for this bill and excuse himself by saying that the eastern division is trying to go to the Pacific ocean. Let the eastern division go where it pleases; the iron is on the ground to Fort Wallace; the iron is to be on the ground from Denver City to Cheyenne City; and that is one of the stations where the Union Pacific railroad runs daily now with its trains. Thus the only link to be supplied is between Fort Wallace and Denver—a link certain to be supplied although the eastern division Pacific railway should be dissolved as an organization to-day. Thus the Senator from Kentucky is quite right in saying that the central branch have their connection simply transplanted from one fork of the Kaw river to the other fork, on which fork it becomes one hundred and thirty-four miles less in distance in order to attain Denver.

Confessedly, according to this sworn map, and every other map, as they have laid their road, one hundred miles from St. Joseph would not have carried them within sixty-five miles of a connection on the Republican fork. As they have counted their one hundred miles, starting from Atchison, and thus gaining twenty-one miles, still forty-five miles of distance at least, as the railroad runs, is left as an interval between their present western terminus and that point on the Republican fork where they say they wished to touch the eastern division. The committee reporting this bill states in the report that it is over fifty miles in a straight line. I think that is an exaggeration. A straight line would reach it before; but taking the curvatures necessary to this road, and shown in the projected route of the road, forty-five miles would not cover the space to be traversed between their present western terminus and the road-bed which they say should have been occupied by the eastern division on the Republican fork.

Now, then, take the statement of the honorable Senator from Kansas, that it is forty-two miles from the present existing terminus to Fort Riley, and then they gain unquestionably in distance if without any subsidy or aid whatever they turn their road southerly and make the present connection. The forty-five or fifty miles (be the distance what it may) which now exist between the terminus and the Republican fork, they must have traversed themselves at their own expense originally. When, by going a less distance, bearing more to the south, they find a connection, is not their equity more

than answered by the superiority of the route and its greater brevity? If not, why not? No Senator has vouchsafed an answer, I believe, to that inquiry.

Mr. President, one single further suggestion. The honorable Senator from Iowa and the honorable Senator from Kansas, inadvertently, no doubt, but ingeniously if it had been intentional, attributed to me a reference in the Globe to a vote upon the proposition to substitute fifty miles for one hundred miles in the bill giving the right of extension to the Hannibal and St. Joseph Railroad Company. I did not refer at all to that amendment. I referred to the vote taken and the debate had upon an amendment of two words only, although very significant words, "via Atchison." I have the bound volume of the Globe here to produce if the Senator doubts it. I say upon that amendment arose the question whether these claimants should be permitted to proceed westerly as they have done—they have proceeded north-westerly in truth—or whether they should be restricted to a direction far southerly of west so as to make their union with the eastern division east of the meridian of Fort Riley. That was the amendment to which I referred; that was the amendment to which the then Senator from Kansas, Mr. Lane, spoke when he said "This means Topeka, and I am willing to vote for it in that way;" and upon that remark, with that explanation, the vote was taken, the vote being two to one, and both Senators from Kansas supporting that amendment.

The fifty-mile amendment was an entirely different thing, and arose in this way: if the one hundred miles were to be counted from St. Joseph it was not too far in round numbers. If, however, the Platte county road which was twenty-one miles in length between St. Joseph and Atchison was to be adopted, and the one hundred miles started at the southern end of that road, to wit, twenty-one miles from St. Joseph, then of course the distance would be different. Mr. Clark stated that his purpose was to move an amendment, making it fifty miles from Atchison, which would have been seventy-one miles in all. In place of that amendment prevailing the language was left to stand as we find it, "one hundred miles from St. Joseph, Missouri," which would have allowed them, going to Topeka, a subsidy of seventy-one or seventy-two or seventy-three miles—without being precise—but "one hundred miles" was left in as being abundantly large in round numbers to enable them to go from St. Joseph to the proposed connection with the eastern division.

Now, my point is—and there is no answer to it, I submit, upon the record and the language of the law by any interpretation whatever—that they were to find a connection within one hundred miles from St. Joseph, and all sense and reason and geography show us that that connection within one hundred miles was impossible by more than sixty miles if it was to be sought by the route and direction which they took. *Ergo*, it follows, not only in equity, but in law, strictly, honestly, substantially, and not technically, that these beneficiaries should have gone where they were permitted to go with their one hundred miles in some direction which would have enabled them, within the one hundred miles, to gain the connection which was allotted to them. In place of that they chose to turn their progress far toward the north pole, not to run southwest, nor even west, but north of west, so that the expiration of the one hundred miles, even counted from Atchison, left them an unironed and unspanned interval which the Committee on the Pacific Railroad think was over fifty miles in a direct line.

That is the proposition; and I submit with great deference it is a proposition which has not been answered in this debate, which cannot be answered from the record or the language of the law. Therefore, I concur with the honorable Senator from Kentucky in his conclusion; and I go further, and say that if they build a road the distance stated by the honorable Senator from Kansas, from their

present western termination to Junction City, Fort Riley, Manhattan, wherever he pleases to make the connection, that distance will be less by a number of miles than the construction of roads originally necessary to enable themselves to gain the connection which they insist they have lost.

Mr. HOWARD. Mr. President, the honorable Senator from New York affirms that the central branch was bound to form its connection with the eastern division within the limit of one hundred miles, and insists that this objection, as he calls it, has not been and cannot be answered. I do not propose to answer that objection myself merely, but I shall read from the statute itself, and let the Senate judge whether the statute be or be not an answer to that question. Section thirteen of the act of 1862, so often referred to, answers it. It declares—

"That the Hannibal and St. Joseph Railroad Company of Missouri may extend its road from St. Joseph via Atchison, to connect and unite the road through Kansas."

Without prescribing any limit whatever within which that connection may be formed, it gives it the right to form the connection absolutely and without limitation. At the same time it proceeds and declares "that in no event shall lands or bonds be given to said company as herein directed to aid in the construction of their said road for a greater distance than one hundred miles." The subsidy extended exactly one hundred miles—that distance, no more, no less. But the same statute in the same breath declares that this branch, now known as the central branch, shall have the right to form a connection with the eastern division or Kansas branch.

I think, sir, the statute has answered the gentleman's objection; I will not assume to answer it. At the same time I must be allowed to express my surprise at so broad a declaration in the very teeth of the statute.

A word further, sir. The Senator says to this company, "Why not proceed and form your connection with the eastern division by diverting your line to the southwest and forming the connection about forty miles to the south, and pursue your traffic with the eastern division on its route out to Cheyenne Wells?" This, sir, is very cold comfort to the complaining company. Sir, when the act of 1862 was passed, as the Senator from New York knows, or may know if he will examine the facts, the eastern division had already mapped its route to the northwest up the Republican fork. That fact is recognized in the statute itself, in the ninth section, as I have stated before; recognized by Congress as the route up which the eastern division was to pass. As early as June, 1865, the eastern division filed a map of its route, and the lands upon it were withdrawn from market by direction of the Secretary of the Interior. I hold in my hand a memorandum which I took from the books of the Department of the Interior on the subject, in which it is said:

"The Union Pacific Railroad Company, eastern division, June 30, 1865, filed in the Interior Department a map defining the general route of its road from a point on the line dividing the States of Kansas and Missouri to Fort Riley, and from thence up the Republican to the one hundredth meridian."

That was the status of legislation and of action upon this subject at the time of the passage of the act of 3d July, 1866, allowing the eastern division to deflect to the southwest and go up the Smoky Hill fork. It was with reference to this map already laid down and filed in the office of the Interior Department that the present company mentioned in this bill, the central branch company, proceeded to build its line of road and to invest its money. It was under the expectation and the assurance of the Government that it should form a connection with the main stem of the Union Pacific railroad up the valley of the Republican fork, and not up the valley of the Smoky Hill. There, sir, is the gist of this whole question, that we have taken by our legislation from this company the right which they previously

possessed of forming a connection with the eastern division on its way up the Republican fork, and thence to a junction with the main stem of the Omaha branch. That right has been rendered entirely valueless to them by allowing the eastern division to pass up the Smoky Hill fork.

On the 4th of March, 1866, the eastern division again filed a map showing the definite location of its road. It was filed by the company in the office of the Secretary of the Interior, and the lands along its entire length were withdrawn from market. That was as early as the 4th of March, 1866, nearly a year after the filing of the first map which I have mentioned.

The filing of these maps, the legislation which took place here with reference to the status of these lines at the time, furnish the ground of equity for which this company now contends. They had a right to go up the Republican fork to form a connection with the eastern division on that route, and it was never contemplated until the legislation of July 3, 1866, that the eastern division would be permitted to deflect its line off in the direction of the Smoky Hill fork. There is the disappointment to this company; there is our failure to keep the assurance which we had given to this company in our previous legislation.

The honorable Senator makes an allusion to the report of the committee on this subject as to the distance between the present terminus of the completed line of the central branch and the old line of the eastern division on its way up the Republican. The language of the report, which the Senator did not see fit to read, is as follows:

"From the point where the central branch now terminates to the old route of the eastern division on the Republican fork is in a direct line about fifty miles; but the central branch company have not filed a map of their route over this intervening space."

How the honorable Senator has ascertained that that distance instead, of being about fifty miles, as the committee state in their report, is over sixty miles, is more than I am able to answer. Perhaps he has visited even that locality, and by the help of chain-men and ax-men and other assistants, such as surveyors have in the woods, he has taken the pains to run out the exact distance of that interval.

Mr. CONKLING. I made no such statement as the Senator puts in my mouth, I beg to say to him. I stated that if the one hundred miles had begun at St. Joseph, as the law said, in place of Atchison, it would have been over sixty miles. That was my statement; not that it was that distance, counting from Atchison.

Mr. HOWARD. I understood the Senator to say that the distance from the terminus of the present completed line of this road, a geographical point easily ascertained, to the whole route of the eastern division up the Republican fork was sixty miles, or more than sixty miles. Now, sir, I do not know, nor did the committee who made this report know, what that exact distance was. We arrived at it by counting the townships upon the maps of the public surveys as well as we could. I understand, however, from persons who pretend to know accurately, that that distance falls far short of fifty miles; that it is not more than ten or twelve miles. How accurate my information may be I do not know. It is not material, however, to this question. Be it greater or smaller, it was the right of the company to pass over this intervening space from the end of its hundred miles of subsidy and construct its road so as to connect with the route of the eastern division on its way up the Republican fork. That right, by our legislation, as I have often remarked, has been taken away. The company no longer enjoys this privilege under the law, as decided by the Secretary of the Interior; and it is to make the law such as it was manifestly intended to be by the act of 1864, that is, to give this central branch company the right to construct the unconstructed line of another branch, that this bill is now brought before Congress.

I hope, Mr. President, Senators will pardon

me for the suggestion, but I really hope that we shall now come to a vote on this bill. I think it has been discussed sufficiently to enable every Senator to understand its merits.

The *PRESIDENT pro tempore*. The question is on the amendment of the Senator from Oregon, [Mr. CORBETT.]

Mr. CORBETT. Mr. President—

Mr. EDMUNDS. If the Senator from Oregon will pardon me a moment, I wish to ask my honorable friend from Michigan a question for information. I should like to inquire from him, as chairman of the committee, who can inform us undoubtedly, at what date it was that this central branch company under whatever name it may then have operated first filed its map and location for this line of road?

Mr. HOWARD. I am not able to state with precision at what time.

Mr. EDMUNDS. Do not the papers you have show?

Mr. SHERMAN. I think it was the 4th of March, 1866.

Mr. EDMUNDS. Do I understand my friend from Michigan that that is specifically the time; in the spring of 1866—March, 1866?

Mr. HOWARD. I think so, sir.

Mr. EDMUNDS. It is a matter possibly of considerable consequence.

Mr. HOWARD. It might have been earlier; it is not material, however.

Mr. EDMUNDS. If I understand it, then, the first step of this company was taken in March, 1866; just about the time the bill was introduced to make the change of the other line.

Mr. HARLAN. I have in my hand a copy of a map of the general location of the Atchison and Pike's Peak railroad, now called the Central Branch Union Pacific railroad, filed in the Department of the Interior January 27, 1868.

Mr. EDMUNDS. That you speak of as the general location.

Mr. HARLAN. Yes; the first filing.

Mr. HOWARD. Showing their intention.

Mr. CORBETT. Mr. President, in offering the amendment that I proposed I was in hopes that I might meet with a corresponding disposition on the part of the advocates of this bill, and that so we should meet half way. I was desirous that we should not increase our debt to this extent of two and a half million dollars, or thereabouts.

My proposition was to allow interest upon \$10,000 a mile for the term of thirty years; that the Government might pay this interest for that term, but not the principal. That, of course, does not increase our debt, but increases the revenue we must raise annually to pay the interest. But, Mr. President, those who advocate this bill are not disposed to accept my amendment. From the conversations I have had with those who advocate the bill I am satisfied that they are determined to vote to this road \$10,000 a mile in Government bonds, besides its large grant of land, and also to allow the company to mortgage the road for \$10,000 a mile more, making \$32,000 a mile. It seems to me that this is asking more of Congress than we should be willing to vote.

It is my opinion that it was the duty of those representing this road here to protest against the divergence of the eastern division at the time that was allowed, in such a manner that the Senate should understand that if that divergence was allowed this branch would claim a subsidy for one hundred and fifty miles additional to enable it to connect with the Omaha branch. If they had so stated to the Senate at that time I do not believe the Senate would have voted to allow that divergence to be made.

But, sir, it appears that a connection can be made by the central branch with the other road, which will ultimately connect with the Union Pacific road at Cheyenne, and that a subsidy for thirty-five or forty miles would be sufficient for that purpose. If that other road is going through to the Pacific coast independently, as gentlemen suggest, then this branch would have that connection and also a con-

nection with the Union Pacific by the proposed road from Denver to Cheyenne. So they would have two advantages in making a connection with the eastern division in that event, whereas according to this bill they will have only the advantage of making a connection with the Union Pacific. Certainly, then, if we allow subsidy for a distance sufficient to enable this branch to reach the eastern division we cannot materially damage this company.

Mr. President, I am disposed to vote for anything within reason to assist this company to a connection, but I am not willing to vote it a subsidy for one hundred and fifty miles more of road. I believe that it is necessary to guard our national debt, and I do not mean, if we can possibly avoid it, to issue more bonds of the Government. I would prefer to give a guarantee for the interest of such an amount as we think we can afford to allow, and not issue bonds as a gratuity to these companies.

There is a proposition before the Senate to make a connection with the eastern division, and an amendment to that bill has been submitted by one of the Senators from Kansas, [Mr. ROSS.] I am informed that the people of Kansas desire such a connection. If that is the case I do not know why it would not be cheaper for us to give a subsidy for thirty-five or forty miles than it would for one hundred and fifty miles. It seems to me that in the present condition of our Treasury it would be wiser to do what I have suggested, but as gentlemen have not met me in the same spirit in which I offered my amendment guaranteeing the interest on the bonds of the company for one hundred and fifty miles, and as since I have heard the able arguments of the Senator from New York and the Senator from Kentucky I am satisfied that we are not legally or morally bound to extend the amount of aid asked for this road, I propose to withdraw my amendment.

The *PRESIDENT pro tempore*. The amendment is withdrawn.

Mr. CONKLING. I move to amend the bill by striking out all after the enacting clause and inserting the following:

That nothing contained in the act of Congress approved July 3, 1866, relating to the Union Pacific railway, eastern division, shall deprive the Central Branch Union Pacific Railroad Company, assignee of the Hannibal and St. Joseph Railroad Company, of its right to continue its road and telegraph line westerly from the termination of the one hundred miles mentioned in the act of Congress incorporating the Union Pacific Railroad Company, approved July 1, 1862, to a connection with the Union Pacific Railroad Company, eastern division, as one of the branches thereof; but said Central Branch Union Pacific Railroad Company shall continue its road from the termination of the one hundred miles aforesaid, or from a point between said termination and where said road crosses the Big Blue river, to a connection with the Union Pacific railroad at or near Fort Riley, in the State of Kansas, upon the same terms and conditions, in all respects, as are now provided by law for the construction of the Union Pacific railway, eastern division: *Provided*, That no subsidy in United States bonds shall be allowed to said central branch company for any greater length of road than forty miles from the termination of the one hundred miles on which bonds are already authorized to be issued on said line of railroad.

Mr. MORTON. I will say just a word. I have listened here for two days to the discussion of this question. I have heard much about the place where this road was to connect with the eastern division, whether fifty or one hundred miles from the starting point, and much about the direction in which it should run. I think I have heard very much that tends to confuse the understanding of the Senate on that subject which does not at all touch the main proposition. The simple fact is that this road was started to connect with one of two branches of the main stem; that is, to connect with the branch starting from Kansas City to run northwest, or to connect with the branch from Omaha, both of which were to unite not further west than the one hundredth meridian. It started upon that understanding, and originated by the same law that authorized the branch from Kansas City to connect with the Omaha branch at that point. After that the branch starting from Kansas City, thus to connect with the Omaha branch, was diverted to

the southwest, and it will never make that connection; and this central branch is thus left out in the Indian country without any connections at all.

Mr. EDMUNDS. May I ask the Senator why he says that the eastern division will never make that connection? Does not the law require it?

Mr. MORTON. No, sir; it will never make that connection, because Congress has authorized it to go in another direction.

Mr. EDMUNDS. Where does Congress by law now require the eastern division to terminate?

Mr. MORTON. I do not know that it requires it to terminate anywhere; but it has authorized it certainly to run in another direction, and it cannot from the point to which it has now been built make that connection, and is not expected to make it.

Mr. EDMUNDS. Does not the statute require it to connect with the regular Pacific railroad not more than fifty or one hundred miles west of Denver?

Mr. MORTON. I would say to the Senator that I know enough about the purposes of that company to know that it does not expect to make that connection.

Mr. EDMUNDS. I am speaking of the law.

Mr. MORTON. I know of no law that requires them to do it. If there be such a law, I have not heard it read in this debate.

Mr. POMEROY. There is a law to that effect. Their purpose, however, is to go by way of Santa Fé to Mexico.

Mr. EDMUNDS. The great question, then, is whether the purpose of a company or the law shall prevail.

Mr. MORTON. The whole question may be stated very briefly. If a road were started to be built from here to the city of Philadelphia, there would be just as much propriety after it had been completed one hundred miles to require it to be built to Pittsburgh. The Senator from New York says the central branch can form a connection with the eastern division at such a distance; but they did not commence building with a view to going in that direction. They do not want to go to New Mexico; that was not the original purpose; but they started to go to another point, and they have been prevented from doing so.

Mr. POMEROY. With regard to this amendment I wish to say in a single word that forty-two miles from their present terminus in an exact right angle, going directly the way they do not propose to go or want to go, will make the connection, but that connection would be ruinous to the road.

Mr. CONKLING. Do they not want to go to the Union Pacific road?

Mr. POMEROY. They do not want to go to a connection at Fort Riley, where forty-two miles would leave them. The Senator says that is one hundred and sixty miles nearer to Denver, but Denver is not on the Union Pacific railroad at all.

Mr. CONKLING. Do they not want to go to Denver?

Mr. POMEROY. No, sir; they want a connection with the Union Pacific railroad. Denver has not got that connection. Denver is not on that line. If there be a company authorized by act of Congress to go to Cheyenne Wells they can make a connection with it in forty-two miles by a right angle exactly.

Mr. HOWARD. Going exactly south.

Mr. POMEROY. Certainly; but that is a proposition suicidal. No one proposes that. This company would not take a subsidy that would enable them to build a road they do not want, and that would not be of value to them when built.

Mr. EDMUNDS. The Senator from Indiana tells us, evading the law a little, that he knows enough about the purposes of the eastern division company to know that they do not mean to connect with the Union Pacific. Now, I should be glad to have the Senator inform us whether he expects to have legislation con-

ducted upon the statutes of the United States or upon the mere purposes of a company in violation of the law. The act of 1866, which is claimed to be the equitable foundation for this bill, and which it is attempted to make the Senate understand to be an authority to the eastern division to continue to go southwest and to terminate nowhere, as the Senator from Indiana says, declares this:

"That said company"—

Referring to the eastern division—

"shall connect their line of railroad and telegraph with the Union Pacific railroad, but not at a point more than fifty miles westwardly from the meridian of Denver, in Colorado."

The law therefore has spoken under which this eastern division company is now receiving its bonds as far as the law has given them to it, that it shall connect with the Union Pacific railroad at a point not more than fifty miles west of the meridian of Denver. Now, are we to legislate upon the presumption that that company is greater than we are; that it can set at defiance the laws of the United States, under which it receives its grants of money and land, and to build up a kind of imaginary equity in favor of this claim upon the theory that we cannot by law enforce obedience to our own statutes? I should be glad to hear from the Senator from Indiana upon that point. The law declares, in language which is not open to misconstruction, that this eastern division is still a branch of the great Union Pacific railroad, and it declares that instead of diverging in one direction, on account of typographical difficulties, to the northward to reach that connection, it may bend to the southward to reach it, and names the point within which it must reach it or forfeit all the franchises, the lands, and grants, we have given to it, which, I take it, the Senator from Indiana will agree, will be the legal consequence if that road fails in obedience to the act of Congress to make that connection.

What then, sir? Then we have merely the fact that these two roads are still branches of that great line, one having a right to connect with the other, and that instead of the eastern division line being a line indefinitely to the southwest, going nowhere and connecting with nothing, we have had merely a temporary and local divergence, on account of obstacles, to reach a common point after all.

Mr. MORTON. Mr. President, the position taken by the Senator from Vermont occurs to me as an afterthought in this discussion. The discussion of the last session, and the early part of this discussion was not conducted upon the expectation that the branch starting from Kansas would unite with the Omaha branch at any point. I have seen the maps of the eastern division. I have seen their projected route, and I know it leads down through New Mexico, and does not contemplate a union with the Omaha branch at all. I am aware of the statute referred to; but I am speaking of the purpose of that company, and if I mistake not they have their bill prepared; and the divergence that has already been made has been made with a view of getting a southern route; and it is urged upon the ground that the northern route cannot be successful, that it will ever be impeded by snow, and that the great route must be the southern route. Sir, this discussion was conducted at the last session upon this supposition, and now, for the first time, I understand that a new diversion has been made.

Mr. RAMSEY. I want to ask the Senator from Indiana whether he has not mistaken the northern for the central route? He means that the central route is interrupted by snow.

Mr. MORTON. No, sir; I spoke of the eastern division running down through New Mexico. I understand the northern route is to start from St. Paul; but that is as yet on paper.

Mr. EDMUNDS. This brings us to a singular position of affairs. The honorable Senator from Indiana confesses, if I correctly understand him, that the law under which this

eastern division company is operating requires it to connect with the Union Pacific railroad substantially at Denver, or not more than fifty miles west of it. Of course we are all aware that Denver is a little way to the south of the line of the Union Pacific, but for practical and general purposes, and "for short," as the saying is, it is sufficient to say at Denver.

Mr. SHERMAN. Denver is not south of the line of this road.

Mr. EDMUNDS. I understand that; I am speaking of the main line of the Union Pacific, with which this by law is to connect. In the neighborhood of Denver, therefore, the eastern division—which is the cause of all these gentlemen's woe—is bound to connect with the Union Pacific, and its right to every dollar of bonds that it has received, its right to every acre of lands that has been granted to it, its right to every franchise that the act of Congress has breathed into it, rests upon the fact that it complies with the requisitions of this charter that is contained in the statute, and when it fails to comply with that charter, its rights are forfeited to the United States. Nobody questions that.

Now, then, the Senator from Indiana says that we are to give this money to this central branch on account of a suspected or contemplated illegal violation of law by the eastern division company, or on account of the fear that he has in advance that the company will persuade Congress to give it some other privilege to go in some other direction. Mr. President, is not that leaping a little before the Senator comes to the stile? It seems to me that it is. We find here in the very act that is complained of, and which is the entire foundation of this argument, such as it is, in favor of giving this company anything, the express and unequivocal requirement that this divergence shall not be a complete divergence; that it shall only be a variation of the line, reaching at last to the same common point that was contemplated in the original act, except that it reaches it by way of what is called the Smoky Hill fork instead of the Republican fork. It is still a branch of the Union Pacific railroad, reaching it by a distance not greater than would have been required if it had gone to the north of the Smoky Hill instead of to the south. And then, according to the statement of the Senator from Indiana—and he has put it fairly—we are to give this money upon the mere apprehension that we shall be wheedled or persuaded or argued into some future legislation which may be of detriment to this company. As the law stands now the eastern division is to go where it was to go in the first place, except that it is to take a little different line of route to reach the point that it was to reach before.

My friend says that this is an afterthought. Suppose it is, sir; a good many afterthoughts are better than forethoughts, I will remind my friend. The question is, is it right upon the law? But permit me to say that it is not an afterthought. This same fact was called to the attention of the Senate in the debate last year, unless my recollection is very much in error about it. Now, I ask the attention of candid Senators to the statute which is the subject of this complaint.

Mr. CONKLING. I ask the Senator to allow me to remind him of one fact. Not only is he right in saying that the attention of the Senate was drawn last year to the very connection proposed, but the bill which was adopted by the Senate in reference to the eastern division, fixing and extending its route, was advocated in the Senate, and passed in the Senate, because of the argument that it would furnish and insure more perfectly the very connection which this amendment now proposes.

Mr. EDMUNDS. I dare say that the honorable Senator from New York is correct, though I have not looked back at the debates. It is sufficient for me at this present time to say that the very act of which these people complain as authorizing a divergence from them which would not enable them by connecting

with the eastern division line to reach the Union Pacific at all, absolutely and unequivocally requires the eastern division to connect with the Union Pacific railroad at a point as near by the route they have gone as it would have connected had it gone up the Republican fork.

Mr. MORTON. Mr. President, it is possible—I shall not question the statement of the Senator from New York on that point—that this law was alluded to in the discussion of last session; but it did not constitute the force of the point of his argument then, and I am correct in the statement that it is now brought into this discussion as an afterthought. When the equity in favor of this bill cannot be overcome in any other way, and it is overwhelming upon the facts of the case, that is brought in as an afterthought and as the only answer which can be made, and a technical one at that, to the equity in favor of this bill. Why, Mr. President, the purpose of that eastern division to divert their road and run down through New Mexico and find a southern route to the Pacific is so notorious and so well understood that I am astonished to hear it controverted on this floor. They have presented the merits of their route to me, as I doubt not they have to every Senator upon this floor, and I understand from their own officers, attorneys, and representatives where they intend to build their road; and now I am told at the very close of this discussion that this road, after all, is to connect with the branch running west from Omaha, and this is to make but a slight diversion or angle not at all material to the company. Sir, it is an afterthought.

Mr. CONKLING. The Senator from Indiana is no more astonished, to use his expression, than others are astonished at the position that he takes now, and I ask attention to it for a moment in connection with this amendment. He says the amendment would give the claimants no assurance of a connection with the Union Pacific railroad. Why? Because the eastern division mean to go somewhere else. It is the same eastern division originally bound by law to go to the Union Pacific road. It is bound by the same law in the same terms now which bound it then. How does the Senator find that the insecurity is any greater now of its reaching the Union Pacific road than it would be had the law been left to apply to the route which it at first proposed.

Again, sir, the Senator says he is astonished that anybody should now argue as an afterthought that in fact such a connection can be made. Does that honorable Senator know that a railroad is now graded all the way from Denver to Cheyenne, and half the ties down, which is certain to be completed? Does he know that by the legislation of the Senate the route of the eastern division road has been extended to Cheyenne Wells, which leaves a gap no greater than there is between the western termination of the claimants' road and the Republican valley? If he does, we may well be astounded at him for saying, whether an afterthought or not, that this is not a fair and tangible proposition.

One other suggestion, sir. The honorable Senator from Kansas says it would be suicidal to turn a right angle and go down to Fort Riley. Why? Is the local trade there, where there are nothing but buffalo and antelope, valuable? Are they going to lose local travel by going here rather than there to traverse forty miles? Everybody knows better than that. Settlements follow the railroad route. But when they have turned their right angle and gone forty-two miles they are then confessedly one hundred and thirty-four miles nearer their prayed-for destination than they would be by the other route. Their passengers then reach the grand trunk to the Pacific by riding one hundred and thirty-four miles less than they would have done going up the Republican fork. Then what difference, I should like to know, does it make in an unsettled country where settlement is to follow the railroad whether the angle they turn is a right angle or an oblique angle, whether they go a little more or a little

less to the south? It makes no difference, I submit, sir; and therefore I offer this amendment in the spirit of the argument made by the honorable Senator from Ohio, and made by myself at the last session as the only argument upon which we voted for the Cheyenne Wells bill; I offer it in accordance with the argument which I had the honor to submit yesterday to the Senate, that this was the true remedy, if remedy was needed; and I hope that Senators will vote upon it irrespective of the allegation that it is an afterthought coming out at the conclusion of the debate. It was a forethought of mine when I first investigated this subject, and a forethought of other Senators, as the debates of the last session will show.

Mr. FOWLER. I should like to ask the honorable Senator from New York one question. Do I understand him to say that the Denver route down the Smoky Hill fork from Kansas City is one hundred and thirty-four miles less than would be a road from Kansas City up the Republican fork to the one hundredth meridian?

Mr. CONKLING. Kansas City was never a point on this road, and therefore I say nothing about it. Precisely what I say is this—

Mr. HENDRICKS. Kansas City is the terminus.

Mr. CONKLING. No, sir; I beg the honorable Senator's pardon. Kansas City is not a point on the claimants' road. Now let me repeat, in answer to the honorable Senator from Tennessee, that the papers on file in the Department of the Interior show that commencing at Fort Riley or Junction City and proceeding to Denver, on a connection with the Union road, it is one hundred and thirty-four miles shorter to proceed by way of the Smoky Hill route than by way of the Republican route, and that the Senator will find assigned by the president of the Eastern Division Railway Company as the great reason which led them in February, 1866, to file their map transplanting, if I may so say, their route from the Republican fork to the Smoky Hill fork. The presence of timber and fuel had something to do with it; but the great fact was that it abbreviated the distance by one hundred and thirty-four miles between Fort Riley and the western destination of the road.

Mr. HOWARD. What is the western destination of the road?

Mr. CONKLING. It is for this purpose Denver, or a connection with the Union Pacific road, not more than fifty miles west of the meridian of Denver, the propositions being precisely the same in reference to this distance.

Mr. ANTHONY. I move that the Senate do now adjourn.

The motion was agreed to; there being on a division—ayes 27, noes 23; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, January 26, 1869.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BARNES.

The Journal of yesterday was read and approved.

SPECIE PAYMENTS.

Mr. LYNCH. I now call up my motion to reconsider the vote by which House bill No. 1364, to provide for the gradual resumption of specie payments, was recommitted to the Committee on Banking and Currency.

The question was upon the motion to reconsider.

Mr. LYNCH. I ask unanimous consent of the House that this subject shall be postponed until after the morning hour of to-day, with the understanding that at the expiration of the morning hour I shall be entitled to the floor to call up again this motion to reconsider. I do this in order not to interfere with the morning hour.

No objection was made; and the motion to postpone was accordingly agreed to.

DIRECT TAXES IN SOUTHERN STATES.

Mr. HEATON, by unanimous consent, introduced a bill (H. R. No. 1800) to amend the eighth section of an act entitled "An act to provide increased revenue from imports, to pay the interest on the public debt, and for other purposes," approved August 5, 1861; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

Mr. ALLISON moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WAGON-ROADS TO INDIAN RESERVATIONS.

On motion of Mr. FARNSWORTH, the Committee on the Post Office and Post Roads, by unanimous consent, were discharged from the further consideration of the memorial of the Legislature of the State of Minnesota in relation to the survey and construction of two wagon-roads to Indian reservations on the north shore of Lake Superior; and the same was referred to the Committee on Roads and Canals.

MEMPHIS AND EL PASO RAILROAD.

On motion of Mr. FARNSWORTH, the Committee on the Post Office and Post Roads, by unanimous consent, were discharged from the further consideration of House bill No. 1014, to aid the Memphis, El Paso, and Pacific Railroad Company of Texas in the construction of a railroad and line of telegraph from the Mississippi river to the Pacific ocean, and to secure to the Government of the United States the use of the same for postal, military, and other purposes; and the same was referred to the Committee on the Pacific Railroad.

Mr. WASHBURNE, of Illinois, moved to reconsider the votes last taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

IOWA WAR CLAIMS.

Mr. GARFIELD. I rise to what may be considered a correction of the Journal. An entry was made on the Journal several weeks ago to the effect that on motion of the gentleman from Illinois [Mr. WASHBURNE] the bill in relation to the war claims of the State of Iowa was referred to the Committee on Military Affairs. The fact was, as I think every gentleman will admit, that the bill was referred to the Committee on Appropriations. I ask unanimous consent that that change be now made.

No objection was made; and the reference of the bill was made accordingly.

ORDER OF BUSINESS.

The SPEAKER. The morning hour has now commenced, and the first business in order is the call of committees for reports, commencing with the Committee on Invalid Pensions.

PENSION LAWS.

Mr. PERHAM, from the Committee on Invalid Pensions, reported a bill (H. R. No. 1882) relating to the operations of the pension laws, and for other purposes, with a recommendation that the same do pass.

The bill was read at length. The first section provides that hereafter no claim of a widow for a pension or bounty on account of the service and death of her husband shall be allowed, nor shall payment of such pension heretofore allowed be continued in any case when the widow is a non-resident of the United States, and has for five consecutive years immediately preceding his death lived separate and apart from him, and without receiving from him any support.

The second section provides that upon the presentation of satisfactory evidence to the Commissioner of Pensions any female pensioner is living a life of prostitution, or is cohabiting with, or living with, or being supported by any man as his wife or mistress, to

whom she is not lawfully married, he shall immediately notify such pensioner or her agent of the charge or charges preferred against her, by furnishing her or her agent a copy of the charge or charges, and the evidence upon which the same is founded; and unless such pensioner shall within — months thereafter produce satisfactory rebutting evidence her name shall be dropped from the pension-roll.

The third section provides that nothing in section five of an act entitled "An act supplementary to the several acts relating to pensions," approved June 6, 1866, and section six of an act entitled "An act relating to pensions," approved July 27, 1863, shall be so construed as to entitle an invalid pensioner to a pension from March 3, 1865, to June 6, 1866, who was during said time employed in the service of the Government, as mentioned in section one of an act entitled "An act supplementary to the several acts relating to pensions," approved March 3, 1865.

The fourth section provides that in all cases upon the death of any person to whom a pension has been granted, and in every case when any person shall die while an application for a pension is pending, all arrears due such person at the time of his death shall be paid only to such person or persons as would have been entitled to a pension had such deceased person been killed while in service and in the line of duty, or to such person as the deceased may be indebted to for care and expense during his last sickness, including burial expenses; provided that such arrears, if due a female pensioner, shall be paid only to the children of such deceased, or the person to whom the deceased may be indebted as aforesaid.

The fifth section provides that no pension claim now on file, or hereafter filed, unless prosecuted to a successful issue within three years from the date of such filing, shall be allowed without satisfactory record evidence to establish the same; and when so allowed it shall commence from the date of completing the proof.

The sixth section provides that if any person entitled to a pension shall, by affidavit or otherwise, having guilty knowledge thereof, aid in procuring or attempting to procure any fraudulent claim upon the Government, or knowingly aid in the preparation of any fraudulent paper, or present or cause to be presented such fraudulent paper, to procure the allowance or payment of any such claim, his or her right to such pension shall be forfeited; provided that the forfeiture of the pension shall be only for the lifetime of the original claimant, and shall not affect the right of those who are by law entitled to succeed to the pension to apply therefor from the date of his death; and no person guilty of the offense specified in this section shall be recognized as an attorney in the prosecution of a claim for pension.

The seventh section provides that whenever it shall be discovered that any amount of arrears of pay, bounty, or pension has been overpaid any claimant, either by error or by reason of any concealment or misstatement of matter of fact on the part of such claimant, it shall be lawful for the Second Auditor, Second Comptroller, or Commissioner of Pensions to withhold from such claimant the amount of overpayment from any claim pending before either of said officers, and to turn the same into the Treasury of the United States by certificate of deposit to the credit of the appropriation from which the amount was paid.

The eighth section provides that the joint resolution in reference to the collection and payment of moneys due colored soldiers, sailors, and marines, or their heirs, approved March 30, 1867, shall be amended so as to read as follows:

That all checks, Treasury certificates, and pension warrants hereafter issued in settlement of claims for arrears of pay, bounty, prize money, pension, or other moneys due to the colored soldiers, sailors, or marines, or their legal representatives, residing, or who may have resided, in any State in which slavery existed in the year 1860, shall be made payable to the Commissioner of the Freedmen's Bureau, who shall be held responsible for the safe custody and faithful disburse-

ment of the funds hereby intrusted to him; and whenever the claimant shall be properly identified, and his account is ready for settlement, the amount shall be paid him in current funds and not in checks; and it shall be the duty of said Commissioner, and the officers and agents of his bureau, to facilitate, as far as possible, the discovery, identification, and payment of claimants, and to pay attorneys such fees as are now prescribed by law; but in no case shall any allowance be made for advances or loans claimed by any attorney.

The ninth section provides that all moneys held or disbursed under this act shall be held and disbursed under the same rules and regulations governing other disbursing officers.

The tenth section provides that hereafter all applications for pay, bounty, pension, prize-money, or other moneys in behalf of colored claimants, with the evidence necessary to the correct settlement of the claim, shall be rendered direct to the office of the Commissioner of the Freedmen's Bureau for preliminary examination; that the correctness of the application, and that the party claiming is the proper claimant, shall then be certified to, when the papers shall be forwarded to the bureau to which they pertain for examination and settlement of the claim; and no claim shall be settled upon any application now pending in any bureau filed by attorneys; but the attorneys filing them shall be required to present new applications and submit them to the Commissioner of the Freedmen's Bureau, to be examined and disposed of by him the same as original applications, under such rules and regulations as he may prescribe.

The eleventh section provides that all officers and agents disbursing money or certifying the correctness of claims under this act shall give bond to the Treasury Department in such sum as the Second Auditor, Second Comptroller, and Commissioner of Pensions may direct for the faithful performance of their trust, and for the reimbursement of money paid upon claims certified by them which may be ascertained to have been paid to any party not entitled thereto; provided that the Secretary of the Treasury, upon the recommendation of the Second Auditor, Second Comptroller, Commissioner of Pensions, and Solicitor of the Treasury may grant relief upon the bonds in such cases as are deemed by them equitable and just.

The twelfth section provides that all uncalled for moneys shall be disposed of as provided in the act approved March 2, 1867, entitled "An act to regulate the disposition of an irregular fund in the custody of the Freedmen's Bureau;" and that the officers and agents giving bonds, as provided in the preceding section of this act, shall be allowed such additional compensation, to be paid from the uncalled for funds, as the Commissioner of the Freedmen's Bureau, the Secretary of War, and the Secretary of the Treasury may fix and establish.

The thirteenth section provides that sections twelve and thirteen of an act entitled "An act supplementary to an act entitled 'An act to grant pensions,' approved July 14, 1862," approved July 4, 1864," be, and the same are hereby, amended and reenacted, as follows:

That the fees of agents and attorneys for writing out and causing to be executed the papers necessary to establish an original or a suspended or rejected claim for pension and other allowance before the Pension Office (under the act of July 14, 1862, and all subsequent acts granting pensions supplementary thereto and amendatory thereof) shall not exceed the following rates: for making out and causing to be duly executed a declaration by the applicant, with necessary affidavits, and forwarding the same to the Pension Office, with the requisite correspondence, ten dollars; which sum shall be received by such agent or attorney in full for all services in obtaining such pension, and shall not be demanded or received, in whole or in part, until the certificate for such pension shall be obtained.

It further provides that the sixth and seventh sections of an act entitled "An act to grant pensions," approved July 14, 1862, shall be repealed.

The fourteenth section provides that any agent or attorney who shall directly or indirectly demand or receive any greater compensation for his services than is prescribed in the preceding section, or who shall contract or agree to prosecute an original or a suspended or rejected claim for a pension, bounty, or

other allowance, on the condition that he shall receive a per cent. upon the amount of such claim, or who shall wrongfully withhold from a pensioner or other claimant the whole or any part of the pension or claim allowed and due to such pensioner or claimant, shall be deemed guilty of a high misdemeanor, and upon conviction thereof shall, for every such offense, be fined not exceeding \$300, or imprisoned at hard labor not exceeding two years, or both, according to the circumstances and aggravations of the offense.

The fifteenth section provides that section two of an act entitled "An act supplementary to the several acts relating to pensions," approved June 6, 1866, be, and the same is hereby, repealed, and the following shall stand in lieu thereof:

That any pledge, mortgage, sale, assignment, or transfer of any right, claim, or interest in any pension not included in the fee prescribed in the preceding sections, which has been or may hereafter be granted, shall be void and of no effect; and any person acting as attorney to receive and receipt for money not included in such fee for and in behalf of any person entitled to a pension shall, before receiving said money, take and subscribe an oath, to be filed with the pension agent, and by him to be transmitted, with the vouchers now required by law, to the proper accounting officer of the Treasury, that he has no interest in said money, not included in the fee prescribed in the preceding sections, by any pledge, mortgage, sale, assignment, or transfer, and that he does not know or believe that the same has been so disposed of to any person; and any person who shall falsely take the said oath shall be guilty of perjury, and, on conviction, shall be liable to the pains and penalties of perjury.

The sixteenth section provides that all acts and parts of acts inconsistent with the foregoing provisions of this act be, and the same are hereby, repealed.

Mr. PERHAM. The Committee on Invalid Pensions have instructed me to report sundry amendments to this bill, which I ask may now be considered.

The first amendment reported from the committee was in the first section, to insert the word "pay" after the word "pension" where it first occurs.

The amendment was agreed to.

The next amendment was to insert after the word "pension," where it occurs the second time in the first section, the words "pay or bounty."

The amendment was agreed to.

The next amendment was to fill the blank in the second section with the word "six."

The amendment was agreed to.

The next amendment was to insert after the word "killed," in the fourth section, the words "or died of wounds received or disease contracted."

The amendment was agreed to.

The next amendment was to strike out all after the enacting clause of section five of the bill, and to insert in lieu thereof the following:

That no pension claim now on file or hereafter filed, whether arising under a special enactment or a general law, shall, unless prosecuted to a successful issue within five years from the date of such filing, be allowed without satisfactory record evidence to establish the same: nor when so allowed after five years shall it commence at a date earlier than that of completing the proofs necessary to establish the same.

Mr. ALLISON. I ask the chairman of the committee what is the object of this particular section? It seems to be intended to cut off the applicant from securing his pension unless he prosecutes his claim to a successful issue within a certain time. Now, I do not know why a man really entitled to a pension should be cut off in five years, either by a regulation of the Pension Bureau or by a statutory provision.

Mr. PERHAM. The gentleman from Iowa [Mr. ALLISON] will observe that by the amendment just offered on behalf of the committee the time is extended from three years to five years. If the application is not completed within that time it is not to be allowed unless record evidence shall be produced. There is scarcely an instance in which an honest claim cannot be supported by record evidence.

Mr. ALLISON. I know a great many instances in which widows and minor children of men who perished in rebel prisons are liter-

ally unable to procure the kind of proof that is now required by the Commissioner of Pensions. There can be no record evidence, for instance, of the death of a man in one of those prisons. Therefore I do not think it right to cut off this class of applicants by a limitation of even five years.

Mr. PERHAM. Mr. Speaker, the law now allows five years within which to file the application; and this amendment provides that applicants may have five years more within which to complete their testimony, thus giving altogether ten years for the prosecution of the claim. In the opinion of the committee this is a sufficient time.

Mr. ALLISON. I should like to hear again the proposed substitute for section five.

The Clerk again read the amendment.

Mr. SHANKS. I would like the chairman of the committee to explain why, in the opinion of the committee, it is necessary to establish this proposed limitation?

Mr. PERHAM. The experience of the Pension Bureau shows, what any one might expect, that a very large number of spurious claims come in when a long lapse of time has intervened since the circumstances upon which the claim is founded. People, perhaps, who would be unwilling to certify to a particular claim when the facts were fresh in their memory, may, after a certain time has elapsed, and after opportunity to do so, make statements that they would not make when the facts were fresher in their memories. I believe the Government has found it necessary to enforce with regard to all claims against it some limitation as to the time within which such claims may be filed and granted.

Mr. ALLISON. I see that the proposed amendment applies to claims already on file. Now, if a claim has been on file four years this will give the claimant only one year in which to complete his application, failing to do which he is absolutely cut off. Such a provision might not be objectionable with reference to applications hereafter to be filed, because every person who may be entitled to a pension for which he has not made application would thus have full notice that we intend to establish a statute of limitations with reference to the filing of such applications; but I think such a provision should not apply with reference to applications now on file in the office of the Commissioner of Pensions.

Mr. SCHENCK. I trust the gentleman from Maine [Mr. PERHAM] will allow me to make a single remark. I can understand how in a certain class of cases a limitation might possibly be required—though I doubt the propriety of such a requirement—as to the time within which the application may be filed. But we have here an entirely different proposition. It is proposed to require that applications shall be prosecuted to a successful issue within a limited time after they are filed; that is, after they have gone into the hands of the department. Thus the question whether the applicant shall ever succeed in his claim is to depend entirely upon the ability of the department to baffle him until the expiration of the time fixed in this limitation. The moment a man files his claim he ceases to have any control over it himself; and under this provision the department has the power in any case to defeat the claim, because it depends upon the department whether the claim shall be allowed within a given time. The success of the claimant after he has filed his claim does not depend upon himself. When he shall file his claim he may depend upon himself; and if the proposed limitation had reference to the time within which claims shall be filed there might be some reason in it; but it does not depend upon the claimant whether his claim shall be successfully prosecuted. No matter what testimony he produces, the department is to decide in his favor before the prosecution of the claim can be successful, so that the moment he files his claim he puts himself within the statute of limitation and he has no longer any control, the whole thing depending upon those who are

standing, with clubs apparently, defending the Treasury against these claims.

Mr. PERHAM. There would be force in that objection if the pension department had the amount of business it had some three or four years ago. The committee is informed that they are now disposing quite promptly of all the cases that come before them, and we are of opinion that we must place some reliance in that department, the same as in all other Departments of the Government. It will be understood that this bill limits the time to five years, making the entire limit ten years from the time the right to a pension accrues. If Congress finds that this is abused by the department it would be very easy to extend the time hereafter. I yield now to the gentleman from Missouri.

Mr. BENJAMIN. Mr. Speaker, I desire the House should understand the practice as it is now under the law. We have provided that in all cases where the application is filed within five years the pension, if granted, shall date back to the disability or the death of the party.

Mr. MUGEN. I desire to ask the gentleman if the law is not this: that if the application is not made within eighteen months it does not date from the time of the application?

Mr. BENJAMIN. The law is, as I have stated, five years, and not eighteen months. If the application is filed within five years of the date of the disability or death of the party the pension, if granted, commences at the date of the disability or death. Now, then, as the law stands, if the party files his application four years and a half after the date of the disability it may run along for twenty years or more and he may then come in and complete the proof, which may be gathered in one way or another by hunting throughout the country, and establish the claim, and then the pension commences from the date of the disability, going back twenty-four years. It becomes necessary, therefore, in order to guard against frauds of this character, that some limit should be made, and that we should say to these parties, "You must exercise, at least, reasonable diligence in obtaining the proof sufficient to establish your claim. You may have your lifetime to do it in, if it is record evidence, but if it depends upon parol evidence, which may be gotten there, and anywhere by shrewd and unscrupulous pension agents, you must bring it in within five years." Record evidence cannot well be forged, but in regard to parol evidence the pension department have made representation to the committee that fully satisfies us that there should be some limit within which it should be filed in order to establish a claim.

Now, I admit that there is some force in the argument of the gentleman from Iowa [Mr. ALLISON] in the case of claims that are now pending, and I would have no objection myself to striking out that class of claims now pending. There may be some claims standing four and a half years in which the party might not get the evidence within the next year. The amendment may be amended by striking out that class. But in regard to claims that come in hereafter I do ask the House to fix some limit. If not, you never can have any decrease of the amount of business at the Pension Office. It is in fact increasing all the time. Pension claim agents are perambulating the country in every direction and hunting up many specious and fraudulent claims, and the Government is not represented at all in the gathering of the testimony. It is an *ex parte* affair. The Committee on Pensions have no means of ascertaining as to the credibility of the witnesses, nor has the pension department. Hence it becomes necessary that some limit should be fixed. We have fixed it in the bill at five years, which, as the chairman of the committee has stated, makes the furthest limit of completing the proof ten years after the date of the death or disability, from which time the pension is to accrue.

Mr. INGERSOLL. I desire to ask a question with reference to the second section. As I

understand it, it is an insult to the widows, or female pensioners, as they are termed.

Mr. BENJAMIN. I believe that is not under consideration now.

Mr. INGERSOLL. I am directing my remarks to the chairman of the committee, with his consent.

Mr. PERHAM. As this is another subject, I will answer the gentleman's question at the proper time. I wish to dispose of this question now.

Mr. INGERSOLL. Will you allow me, when the proper time comes, to address you on it?

Mr. PERHAM. I will. I yield now to the gentleman from Wisconsin.

Mr. PAINE. I send to the Clerk's desk a substitute for the fifth section, as an amendment to the amendment of the committee, which I ask to have read, and then I wish to say a few words upon it.

The Clerk read as follows:

That no proofs in any pension claim hereafter filed shall be presented after the expiration of five years from the date of the filing of this claim.

Mr. PAINE. I recognize the propriety of the position that is taken by gentlemen on the Committee on Pensions, that all possible diligence should be required of claimants for pensions; but I also recognize the force of what was said by the gentleman from Ohio, [Mr. SCHENCK,] that we ought not to permit the Pension Office, by its own neglect, by its own failure to expedite the business which has been intrusted to it, to prevent any claimant from obtaining his pension. It seems to me that the plan which I propose will avoid both of these difficulties. It will render it impossible for the Pension Office, if the claimant is at all vigilant, to prevent his recovering his claim, because we give the claimant five years from the filing of his claim to present his proofs, and on the other hand it cuts off the possibility of any abuse on his part of this right, because we require him to present all the proofs he may have within five years. It may be said that this may operate as a hardship upon the claimant because he may not know what proofs will be required in his particular case. He may suppose that the proofs which he presents at the first application, or subsequently, if he presents supplementary proofs, are sufficient, and yet the department may not be satisfied with them. But nevertheless we must fix some limit, and if we require him to exercise a sound discretion as to the entire proof which he shall present at his peril, as we do by this amendment, it seems to me that we shall inflict no unnecessary hardship upon any one, and at the same time shall allow the claimant the fullest liberty he can expect to enjoy in the preparation and presentation of his proofs.

Mr. PERHAM. I now demand the previous question on the amendment and the amendment to the amendment.

Mr. PAINE. I would like to understand if my amendment is pending?

The SPEAKER. It is.

The previous question was seconded and the main question ordered.

Mr. NIBLACK. I move to lay the bill and amendments upon the table. I think the bill ought not to pass.

The question was put; and the House refused to lay the bill on the table—ayes twenty-seven, noes not counted.

The question recurred on the amendment to the amendment proposed by Mr. PAINE; and being put, the amendment was agreed to.

The amendment reported by the Committee on Invalid Pensions, as amended, was then agreed to.

Mr. PERHAM moved to reconsider the vote by which the amendment, as amended, was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The next amendment reported by the committee was to insert in line two of section six, after the word "pension," the words "or bounty;" after the words "guilty of" in line

twelve of the same section to insert the words "doing" or committing;" after the word "attorney" in line fourteen to insert "or agent," and to strike out in line fourteen the words "a claim for pension" and insert in lieu thereof the words "any claim against the Government;" so that the section will read:

SEC. 6. *And be it further enacted*, That if any person entitled to a pension or bounty shall, by affidavit or otherwise, having guilty knowledge thereof, aid in procuring or attempting to procure any fraudulent claim upon the Government; or knowingly aid in the preparation of any fraudulent paper, or present or cause to be presented such fraudulent paper, to procure the allowance or payment of any such claim, his or her right to such pension shall be forfeited: *Provided*, That the forfeiture of the pension shall be only for the lifetime of the original claimant, and shall not affect the right of those who are by law entitled to succeed to the pension to apply therefor from the date of his death: and no person guilty of doing or committing the offense specified in this section shall be recognized as an attorney or agent in the prosecution of any claim against the Government.

The amendment was agreed to.

The next amendment of the committee was to strike out in line four of section eight the word "thirty" and to insert in lieu thereof "twenty-nine;" so as to correct the date of the approval of an act.

The amendment was agreed to.

The next amendment reported from the committee was in section thirteen, to insert after the words "Pension Office," where they first occur, the words "for procuring a pension by special act of Congress."

The amendment was agreed to.

The next amendment was to strike out of section thirteen the following words inclosed in parentheses:

Under the act of July 14, 1862, and all subsequent acts granting pensions supplementary thereto and amendatory thereof.

The amendment was agreed to.

The next amendment was to add to the bill the following section:

SEC. — *And be it further enacted*, That section four of an act entitled "An act supplementary to an act entitled 'An act to grant pensions,' approved July 14, 1862," approved July 4, 1864, be, and the same is hereby, so amended as to empower the clerks detailed by the Commissioner of Pensions, in accordance with said section, to investigate any violation of the pension laws by any of the agents or employees of the Government, or attorneys, claim agents, examining surgeons, or claimants; and for such purpose to examine persons, books, papers, accounts, and premises, to administer oaths, to summon any person to produce books and papers, or to appear and testify under oath, and to compel a compliance with such summons in the same manner as United States commissioners may do.

The amendment was agreed to.

The last amendment reported from the committee was to add to the bill the following section:

SEC. — *And be it further enacted*, That section nine of an act entitled "An act supplementary to an act entitled 'An act to grant pensions,' approved July 14, 1862," approved July 4, 1864, be amended and re-enacted so as to read as follows: that those persons not enlisted soldiers in the Army, who volunteered for the time being to serve with any regularly organized military or naval force of the United States, or where persons otherwise volunteered and rendered service in any engagement with rebels or Indians since the 4th day of March, 1861, shall, if they have been disabled in consequence of wounds, or from disease contracted in such service, be entitled to the same benefits of the pension laws as those who have been regularly mustered into the United States service; and the widows or other dependents of any such persons as may have been killed or died from disease contracted in such temporary service aforesaid shall be entitled to pensions in the same manner as they would have been had such persons been regularly mustered: *Provided*, That no claim under this section shall be valid unless presented and prosecuted to a successful issue before July 4, 1872. All such claims shall be adjudicated under such special rules and regulations as the Commissioner of Pensions may prescribe most effectually to guard against fraud.

The question was upon agreeing to the amendment.

Mr. NIBLACK. Is it now in order to move that this bill be recommitted to the Committee on Invalid Pensions?

The SPEAKER. It is not, unless the gentleman from Maine, [Mr. PERHAM,] who is entitled to the floor, shall yield for that purpose.

Mr. NIBLACK. I appeal to the gentleman from Maine [Mr. PERHAM] to consent that I

may enter a motion to recommit this bill with instructions to the committee to make the second section apply to male pensioners as well as to female pensioners.

Mr. PERHAM. When that section shall be reached it will be subject to discussion and amendment. At the proper time I will be willing to yield to any gentleman to ask any question in relation to any section of this bill. The Committee on Invalid Pensions believe that every section of this bill is proper and necessary.

I desire to say further, however, that I am acting under the instruction of the committee. Believing as they do that this bill should pass at an early day, I cannot yield to allow material amendments to be offered to it. If members are anxious to offer other amendments, the only way for them to do so is to vote down the call for the previous question.

The SPEAKER. The only matter now before the House is the additional section proposed by the committee.

Mr. INGERSOLL. Will the gentleman from Maine [Mr. PERHAM] yield to me for a moment?

Mr. PERHAM. I will yield for a question. Mr. INGERSOLL. Then I desire to know the purpose of reporting this second section.

The SPEAKER. The second section is not now before the House. The debate must be confined to the last section offered as an amendment from the committee.

Mr. INGERSOLL. I intend to move an amendment to the last section whenever I can get an opportunity to do so.

Mr. SCHENCK. Mr. Speaker, whatever may have been the understanding of the Chair, it was distinctly understood here, being so announced by the gentleman from Maine, [Mr. PERHAM,] that his first object was to get through with the amendments reported from the committee. We did not suppose that there would then be a refusal to allow the offering of other amendments.

The SPEAKER. The Chair will state to the gentleman from Ohio [Mr. SCHENCK] that he entirely misconceives the position of this bill. The last amendment reported by the committee being a new section is still pending.

Mr. INGERSOLL. I want to offer an amendment to that section.

The SPEAKER. The amendments reported by the committee have not yet been disposed of. The bill will not be open to general amendment until all the amendments reported by the committee have been acted on.

Mr. SCHENCK. That I did not understand.

Mr. PERHAM. I demand the previous question upon the pending amendment.

Mr. SCHENCK. I understood the gentleman to indicate that he would yield to me to ask a question.

The SPEAKER. Does the gentleman from Maine [Mr. PERHAM] withdraw the demand for the previous question?

Mr. PERHAM. I do not.

Mr. INGERSOLL. I desire to move an amendment to this last section, to extend the limitation from 1872 to 1875. Will the gentleman from Maine yield for that purpose?

Mr. PERHAM. No, sir.

Mr. INGERSOLL. Then I hope the House will vote down the demand for the previous question.

On seconding the demand for the previous question, there were—ayes 41, noes 41; no quorum voting.

The SPEAKER, under the rule, ordered tellers; and appointed Mr. PERHAM and Mr. INGERSOLL.

The House divided; and the tellers reported—ayes 60, noes 65.

So the previous question was not seconded. Mr. INGERSOLL obtained the floor.

The SPEAKER. The morning hour has expired, and the pending bill goes over until the next morning hour.

BRIDGES ACROSS THE OHIO.

Mr. WILSON, of Ohio, by unanimous con-

sent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Roads and Canals, for the purpose of acquiring information on the subject of bridge building over the Ohio river, are hereby authorized to send for persons and papers.

ORDER OF BUSINESS.

Mr. LYNCH. I now call up the motion to reconsider the vote by which the bill (H. R. No. 1864) to provide for the gradual resumption of specie payments was recommitted to the Committee on Banking and Currency.

Mr. ALLISON. I move to go to business on the Speaker's table.

The SPEAKER. The gentleman from Iowa [Mr. ALLISON] rises to a privileged motion, and moves to proceed to business on the Speaker's table.

Mr. LYNCH. I rise to a question of order. On obtaining the floor this morning I asked unanimous consent that the business of the morning hour might proceed, and that I should have the floor upon this bill immediately after the morning hour, without interruption by any privileged motion. The House gave unanimous consent to that arrangement; and after the House has given its unanimous consent that I should go on without being interrupted by any privileged motion, I ask the Chair whether it is in order to make a privileged motion such as that made by the gentleman from Iowa, [Mr. ALLISON?]

The SPEAKER. If the House had granted unanimous consent that the gentleman from Maine [Mr. LYNCH] should resume the floor at the expiration of the morning hour, and that he should not be interrupted by any privileged motion, the gentleman could not be taken from the floor by any such motion.

Mr. LYNCH. That was my proposition.

The SPEAKER. That may have been, and doubtless was, the proposition which the gentleman intended to submit to the House; but he will find when he examines the Globe that it was not the proposition as he actually stated it.

Mr. WASHBURN, of Illinois. The Chair is correct. I listened carefully to the proposition which the gentleman made.

The SPEAKER. The Chair does not of course challenge the recollection of any gentleman upon the floor in reference to a matter of this kind; but upon a question affecting the business of the House he must follow his own recollection unless the matter can be settled by a reference to the record. In this case the Chair will ask the Clerk to read the notes of the official reporters. The Chair has not referred to those notes, and does not know how they read, but has no doubt they will sustain his recollection, for he listened very carefully to the proposition submitted by the gentleman from Maine.

The Clerk read as follows:

"The question was upon the motion to reconsider. Mr. LYNCH. I ask unanimous consent of the House that this subject shall be postponed until after the morning hour of to-day, with the understanding that at the expiration of the morning hour I shall be entitled to the floor to call up this motion to reconsider. I do this in order not to interfere with the morning hour."

"No objection was made; and the motion to postpone was accordingly agreed to."

The SPEAKER. The Chair does not doubt the intention of the gentleman from Maine to state what he did; but as a confirmation of the recollection of the Chair, he resorted to the record of the official organ of the House. The motion of the gentleman from Iowa [Mr. ALLISON] is privileged. The Clerk will read the rule.

The Clerk read as follows:

"It is an invariable practice, too, to permit a member upon the expiration of the morning hour to take the floor, even though another may be occupying it, to make the motion to proceed to business on the Speaker's table."

The SPEAKER. That motion takes a member from the floor for the time being, and pending it a motion can be made to adjourn.

Mr. WILSON, of Iowa. I suggest that good faith to the gentleman from Maine, who consented to postpone his motion in order that

the committees might be called for reports, should allow him to take the floor now.

Mr. PIKE. Let the motion to proceed to business on the Speaker's table be made after my colleague makes his speech.

Mr. WILSON, of Iowa. If the motion to proceed to business on the Speaker's table is voted down will not the gentleman from Maine then be entitled to the floor?

The SPEAKER. He will.

Mr. FARNSWORTH. Then let us vote it down.

Mr. WASHBURN, of Illinois. Then I will make a motion.

The SPEAKER. A privileged motion?

Mr. WASHBURN, of Illinois. Yes, sir.

Mr. GARFIELD. I rise to a question of order. The House should know that the gentleman from Illinois, who wishes to make a privileged motion, has been trying for four or five minutes to state what he intends to do, and has not been permitted.

Mr. FARNSWORTH. I object to debate.

Mr. WASHBURN, of Illinois. I desire to make my motion, and to say—

The SPEAKER. The motion to proceed to business on the Speaker's table is not debatable.

Mr. ALLISON. I withdraw my motion to say a word in justification of myself.

The SPEAKER. Does the gentleman from Illinois [Mr. FARNSWORTH] withdraw his objection?

Mr. FARNSWORTH. Yes, sir.

Mr. ALLISON. I was not present when the arrangement was made in regard to giving the gentleman from Maine the floor, and had no knowledge whatever on the subject when I made my motion. I do not desire to interfere with the gentleman. I give him notice, however, that I want his bill postponed after he has made his remarks, unless he convinces me that it ought to pass immediately.

Mr. WASHBURN, of Illinois. One word. If the gentleman will make his speech, and then move to postpone the further consideration of his bill so that the House may go into Committee of the Whole, I will make no objection.

Mr. LYNCH. I make no arrangement whatever.

Mr. WASHBURN, of Illinois. Then I move to go to business on the Speaker's table, and pending that motion I make another motion.

The SPEAKER. The Chair is informed that nine gentlemen desire to speak on this bill. How many more there are he does not know. What is the second motion of the gentleman from Illinois?

Mr. WASHBURN, of Illinois. That the House resolve itself into Committee of the Whole on the legislative appropriation bill; and with the consent of the House I desire to say a word.

The SPEAKER. Is there objection?

Mr. LYNCH and Mr. BARNES objected.

Mr. FARNSWORTH. Can a member be taken from the floor for the purpose of moving that the rules be suspended?

The SPEAKER. He can, if it is preceded by a motion to go to the business on the Speaker's table, after the morning hour. The Congressional Globe is full of precedents of that kind. And pending that motion the House can either adjourn or go into Committee of the Whole.

The question being put on the motion to suspend the rules, and that the House resolve itself into the Committee of the Whole on the special order, there were—ayes 20, noes 111.

Mr. WASHBURN, of Illinois. I demand the yeas and nays.

The yeas and nays were refused—ayes 16, noes 111.

Mr. WASHBURN, of Illinois. Tellers on ordering the yeas and nays.

Tellers were refused—ayes nineteen; not one fifth of the last vote.

So the motion was disagreed to.

The question recurred on the motion of Mr. WASHBURN, of Illinois, to proceed to business on the Speaker's table; and it was disagreed to—ayes 18, noes 108.

SURVEY OF INDIAN RESERVATIONS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of Indian Affairs, submitting estimates of appropriations required for surveying Indian reservations; which was referred to the Committee on Appropriations.

BATTLE OF WASHITA RIVER.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a report of General W. B. Hazen, as to the hostile character of the band of Indians lately attacked and defeated by General Custer on the Washita river; which was referred to the Committee on Military Affairs, and ordered to be printed.

EXCHANGE OF PACIFIC RAILROAD BONDS.

The SPEAKER also laid before the House a letter from the Comptroller of the Currency, transmitting, in compliance with the resolution of the House of the 18th instant, various statements relative to the exchange of Pacific railroad bonds.

Mr. GARFIELD: I hope that communication will be printed. We all want to see it.

Mr. BUTLER, of Massachusetts. I move that it be referred to the Committee on Banking and Currency, and printed.

The motion was agreed to.

REVISION OF UNITED STATES STATUTES.

The SPEAKER also laid before the House the report of the commissioners to revise the statutes of the United States; which was referred to the Committee on Revision of Laws of the United States, and ordered to be printed.

MESSAGE FROM THE PRESIDENT.

A message from the President, by Mr. WILLIAM G. MOORE, his Private Secretary, informed the House that he had approved and signed bills of the following titles:

An act (H. R. No. 1598) to relieve from disabilities A. W. Best and Samuel F. Phillips, of North Carolina;

An act (H. R. No. 1261) amendatory of an act entitled "An act relating to habeas corpus, and regulating judicial proceedings in certain cases;" and

An act (H. R. No. 1558) to amend an act entitled "An act to prescribe the mode of obtaining evidence in cases of contested elections," approved February 19, 1851.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HAMLIN, one of its clerks, informed the House that the Senate had adopted a concurrent resolution providing for the appointment at the beginning of the next session of Congress of a joint committee on the reorganization of the civil service.

The message further announced that the Senate insisted upon its amendment, disagreed to by the House; to the joint resolution (H. R. No. 403) providing for the disposition of certain papers relating to military claims accruing in the department of the West, agreed to the conference asked on the disagreeing votes of the two Houses thereon, and had ordered that Mr. TRUMBULL, Mr. STEWART, and Mr. MCCREERY be the conferees on the part of the Senate.

RESUMPTION OF SPECIE PAYMENTS.

The House then proceeded to the consideration of the motion of Mr. LYNCH, to reconsider the vote by which the bill (H. R. No. 1364) to provide for the gradual resumption of specie payments was recommitted to the Committee on Banking and Currency, and upon which Mr. LYNCH was entitled to the floor.

Mr. LYNCH. I ask for the reading of the bill.

The SPEAKER. The Chair will state to the gentleman from Maine that his hour has now commenced, and that if the bill is read the time taken up by the reading will come out of his hour.

Mr. LYNCH. Well, I desire to offer some amendments to the bill.

The SPEAKER. The motion to reconsider

is all that is now pending. The bill is not before the House. The gentleman can give notice of his amendments.

Mr. LYNCH. Then I give notice that at the proper time I will offer the amendments which I send to the Clerk's desk and ask to have read.

The Clerk read the proposed amendments, as follows:

Insert after "date," in line twelve, as follows: "And all notes of national banks so received at the Treasury and not paid out to those willing to receive them shall, under such regulations as the Secretary shall prescribe, be redeemed by the banks issuing the same in United States legal-tender notes, and the last-named notes when received at the Treasury shall be destroyed, and in their stead notes authorized by this act shall be issued as hereinbefore provided."

Strike out the words "or in other lawful money," lines sixteen and seventeen, and "payable in coin." Strike out the words "if in other lawful money not exceeding seven and three tenths per cent. per annum," in lines eighteen and nineteen.

The following is the bill:

A bill to provide for the gradual resumption of specie payments.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That on and after the 1st day of July, 1869, the United States notes now outstanding shall, when received in the course of ordinary transactions at the Treasury of the United States, be destroyed under the direction of the Secretary of the Treasury, and in lieu thereof the Secretary of the Treasury is hereby authorized and directed to issue new United States notes of the same denominations as those in lieu of which they are issued, payable in coin on demand, at the Treasury of the United States, at and after one year from date; and all notes of national banks so received at the Treasury and not paid out to parties willing to receive the same, shall, under such regulations as the Secretary shall prescribe, be redeemed by the banks issuing the same in United States legal-tender notes, and the last-named notes when received at the Treasury shall be destroyed, and in their stead notes authorized by this act shall be issued as hereinbefore provided. The whole amount of the new notes authorized by this section shall not exceed the amount of United States notes now outstanding, exclusive of fractional currency.

SEC. 2. And be it further enacted, That notes authorized by this act shall be legal tender for the redemption of national bank notes, and for all other purposes, by and to all parties, except by the United States, in payment of other such notes as have already matured, or in payment of the interest on the public debt where such interest is now, or hereafter may be, payable according to law in coin; and also except before maturity in payment to the United States for duties on imports. And in case of the receipt at the Treasury before or after maturity, or the redemption at and after maturity, of any of the notes authorized by this act, the Secretary of the Treasury is hereby authorized and directed to re-issue the notes so received or redeemed, or to issue an equal amount and no more of other like notes, payable as hereinbefore provided, on demand, at and after one year from date, except as provided for in section three of this act.

SEC. 3. And be it further enacted, That the Secretary of the Treasury is hereby authorized, after the payment in specie herein provided for shall have actually commenced, at his discretion, to issue the notes hereby authorized for periods of less than one year, but not less than three months. He shall also issue new notes of like denominations, in lieu of any notes herein authorized which shall have been redeemed; and he is also authorized to purchase at any time coin requisite to enable him to redeem such notes; and in payment therefor he may, at his discretion, issue to an amount not exceeding fifty million dollars bonds of the United States in such form as he may prescribe, of denominations not less than fifty dollars, payable at any period not more than forty years from date of issue, redeemable at the pleasure of the Government at or after five years from such date, and the interest on such bonds shall be payable semi-annually in coin, at the rate, if payable in coin, of not exceeding six per cent. per annum; and the rate and character of interest shall be expressed on all such bonds: Provided, That no such bonds shall be issued at less than par in lawful money of the United States.

SEC. 4. And be it further enacted, That an accurate account shall be kept by the Treasurer of the United States of the amount and denominations of all the United States notes received into the Treasury of the United States and destroyed; and he shall also keep an accurate account of the amount and denominations of notes issued under authority of this act. The United States notes authorized by this act shall be in such form as the Secretary of the Treasury may direct, and shall bear the written or engraved signatures of the Treasurer of the United States and the Register of the Treasury, and also, as evidence of lawful issue, the imprint copy of the seal of the Treasury Department, which imprint shall be made under the direction of the Secretary, after said notes shall be received from the engravers and before they are issued.

SEC. 5. And be it further enacted, That from and after the passage of this act no gold or silver belonging to the United States shall be sold or paid out from the Treasury, except in payment of lawfully authorized gold certificates, or in payment of interest on the public debt, where the same is, according to law, payable in coin, or as authorized in this act,

or otherwise, expressly by law. But the exchange of bullion for coin with the United States mints is not hereby made unlawful.

Mr. LYNCH. If the privileged motions and privileged members have all been settled, I will go on with the consideration of the bill.

Mr. SPEAKER, among all the conflicting theories in regard to our financial affairs, and the means to be adopted for their improvement, there is a very general agreement upon one point, namely, that it is desirable at the earliest day practicable to place our currency upon a specie basis. I know there is a class of financiers that contend that a specie standard is wholly unnecessary, and that a paper currency, based upon the faith of the Government, is a better currency than gold and silver, or paper convertible into gold and silver. But this class is not numerous, and I will not stop to discuss the abstract question which they raise. Whether they are right or wrong is of little practical moment in dealing with the question to-day. It is enough to know that the specie standard is the standard of every civilized nation, and as one of the families of nations our interest is to conform to that standard. I shall therefore assume in discussing this question that we are ultimately to return to specie payments; to base our currency on that which the world recognizes, and has adopted, as the true standard of value, gold and silver.

I think there is a very general agreement upon another point, which is that the currency of a country is the foundation upon which it must build its financial structure, and that upon this foundation we must reconstruct our financial policy.

With this general agreement in regard to the ends to be attained, there is an endless diversity of opinion as to the means which should be adopted in order to reach that end. Some contend that we should do nothing directly toward hastening a resumption, but that by a proper adjustment of the tariff and a rigid economy in the administration of the Government the balance of trade will be turned in our favor, and the desired result be thus brought about in due season, and without any disturbance in business. I agree with this view only so far as it assumes the impracticability of effecting a resumption of specie payments by any mere arbitrary enactment that it shall take place at any fixed day in the future.

If we had no commerce with other nations, and if all transactions among ourselves were settled when made; if there were no time contracts for the future payment of money, we might adopt this course and patiently bide the result. But such are not the conditions; money is the subject of contracts for future payment, as well as a medium of exchange, and contracts for the future cannot be made with confidence so long as our currency is of fluctuating and uncertain value. Again, we have an immense debt upon which, owing to the unfavorable circumstances under which it was contracted, we are paying a high rate of interest. Of this debt we have the option to pay—

At any time.....	\$514,780,590
After October 31, 1869.....	129,444,100
After June 30, 1870.....	332,928,950
After October 31, 1870.....	197,794,250
After June 30, 1872.....	365,248,250
After June 30, 1873.....	17,648,950

Making a total of.....\$1,557,814,900 which we have the option of paying at the present time and during the next three years.

In order to avail ourselves of this option we must negotiate a new loan at a lower rate of interest; and to do this we must improve our credit, the depreciation of which is measured by the depreciation of our currency. Our bonds have appreciated and depreciated with our currency, and will continue to do so. Having made our paper currency the national standard of value, the world will measure our credit by that standard, and there is no escape from it. When we make our currency redeemable in coin it will be at par with coin, and our bonds will then be measured by a specie instead of by a paper standard.

Appreciate our currency to a par with gold,

and we can begin to pay that portion of the five twenty bonds now outstanding which has become redeemable at our option, and to issue new bonds at a low rate of interest. The current rate of interest in England and France is at the present time three per cent.; which is considerably higher than it has averaged for the past eighteen months. With our currency on a specie basis we could undoubtedly negotiate a loan at four per cent., which would enable us immediately to reduce our annual interest more than ten million dollars, continuing to retire the five-twenty bonds as they become redeemable, and thus effect, within three years, an annual reduction of our interest of more than thirty million dollars. It is therefore obviously desirable that some steps be taken, some measures enacted, calculated to facilitate a resumption of specie payments.

Before proceeding to a consideration of these various plans proposed and urged upon Congress for its adoption for the purpose of bringing about this result, let us examine carefully the task we have to perform and the resources at our command with which to accomplish the work.

The books of the Treasury January 1, 1869, showed our demand liabilities to be as follows:

Outstanding United States notes.....	\$356,021,073
Fractional currency.....	84,215,715

National bank notes.....	890,236,788
	290,806,565
	690,043,353

In addition to which we have to provide for on demand, matured debt not presented for payment..... \$7,463,503
Three percent. certificates payable on demand..... 55,865,000

Making a total of.....	\$753,371,850
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to be directly or indirectly provided for on resumption of specie payments by the Government and the banks.

Our present means of meeting these demands are as follows:

According to the debt statement of January 1, 1869, we had coin in the Treasury.....	\$98,763,368
Less amount deposited on gold certificates 13,063,092	

Net amount of coin in the Treasury..... \$85,700,276
being something less than twelve per cent. of our demand liabilities. Our paper currency measured by the gold standard, is now at a discount of about twenty-five per cent. The resumption of specie payments means the extinguishment of this margin between specie and our paper by an appreciation of the paper currency to a par with gold. How this is to be accomplished is the problem to be solved.

The plans which have been from time to time urged upon the attention of Congress for the accomplishment of this object are:

1. A contraction of the currency, to be continued until all the legal-tender notes shall be retired, leaving the entire circulating medium of the country to the national banks.

2. A repeal of the legal-tender acts and an immediate resumption of specie payments by the Government and banks.

3. Providing for the purchase of the United States legal-tender notes by the Secretary of the Treasury at a fixed rate of discount in gold, reducing the discount one per cent. each month until the purchase is made at par. The notes thus purchased to be reissued and continued in circulation.

4. An enactment by Congress that specie payments shall be resumed by the Government at some fixed day in the future, to be followed at a later day by a like resumption on the part of the national banks, and by a repeal of the legal-tender act, resumption to be provided for by retaining in the Treasury all the surplus of coin after paying the interest on the public debt, and by compelling the banks to retain the specie received as interest on their bonds, with which to maintain their circulation upon a specie basis.

The plan of resuming specie payments by a contraction of the currency passed from a theory into an experiment with the commencement of the financial administration of the present Secretary of the Treasury, who adopted

it as the leading measure of his financial policy, and urged it upon Congress in his first annual report. The objects sought to be accomplished by this policy were twofold:

First. The regulation of the business of the country, the reduction of the price of labor and of merchandise, and the prevention of speculating by the business community by creating a scarcity of currency.

Second. The appreciation of the paper currency by reduction of its volume until it reached par with gold; thus effecting a return to specie payments.

This policy of the Secretary was supported by Congress and the press of the country almost unanimously, only a few feeble dissenting voices being heard in the general chorus of approval. But notwithstanding all the adventitious aids afforded to this policy by laws of Congress, a favorable public sentiment and the support of distinguished financial writers, the laws of trade asserted themselves and refused to yield either to the theories of financiers or congressional legislation.

The effects of its adoption were to disturb business, create distrust, increase fluctuations in gold and merchandise and thereby stimulate speculation, and to depreciate, instead of appreciate, the paper currency. The premium on gold rose from twenty-eight to sixty, and on the repeal of the law authorizing contraction stood at thirty-five per cent. premium. The fact that under the most favorable circumstances for a fair trial this contraction policy proved a complete and disastrous failure ought to be a sufficient answer to any argument urged in favor of its re-adoption. And were it not that the policy is still adhered to and persistently urged upon the attention of Congress, officially, semi-officially, and unofficially, I should not stop here to examine the arguments adduced in its support.

The foundation of the whole argument in its favor is the assumption that we have an excess of currency in circulation over the legitimate demands of the business of the country; which excess is attempted to be established, first, by a comparison of the assumed circulation of 1860 with that of to-day, and second, by assuming that the percentage of premium on gold is the measure of that excess.

A letter favoring a contraction of the currency has recently been addressed by a distinguished financier of Massachusetts, Hon. George Walker, to the Special Commissioner of the Revenue, and appended by him to his official report.

I find in it the following estimate of the amount of currency in circulation in 1860:

Gold and silver in the country.....	\$200,000,000
Less in banks and Treasury.....	91,000,000
Leaving in circulation.....	109,000,000
Bank notes.....	207,000,000

Total.....	\$316,000,000
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Or a circulation of \$11 09 *per capita*. This is upon a gold basis and upon the lowest estimate of gold in the United States in 1860. Taking the amount of gold at the same date as estimated by Hon. J. S. MORRILL, whose figures in this case I consider much more reliable, as they were not made for the purpose of sustaining a pet theory, and the circulation was in 1860 as follows:

Gold and silver in the United States.....	\$275,000,000
Less in banks and Treasury.....	91,000,000
	184,000,000
Bank notes.....	207,000,000

Total.....	\$391,000,000
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A circulation of \$14 48 *per capita*.
The present circulation estimated upon the same basis as that of 1860 by Mr. Walker is as follows:

National bank notes.....	\$299,806,565
United States notes.....	358,921,073
Fractional currency.....	33,875,268
	638,702,906

Less in banks as reserve October 1, 1868.....	\$171,133,197
Currency in Treasury.....	18,253,916
	189,422,143
Total circulation.....	\$500,280,763

If we discount the depreciation of the paper currency to place it on the same basis as the circulation of 1860 we should have the following result:

Present circulation.....	\$500,280,763
Less twenty-five per cent.....	125,070,191
	\$375,210,572

As our present population is in round numbers about thirty-seven millions this statement gives us a circulation of about \$10 15 *per capita*, being \$1 34 less than the lowest and \$1 33 less than the highest amount according to these two estimates in 1860.

I think it must be apparent from this statement, which leaves entirely out of the account the increased wealth and business of the country as well as the large increase of currency required for the increased receipts and disbursements of the Government, which are now about five times what they were in 1860, that we have relatively, if not actually, less currency in circulation now than we had in 1860.

In making a comparison of the amount of currency in circulation at the present time with the amount prior to the war we should not lose sight of a very important distinction which exists between the currency introduced by the Government (the legal-tender notes) and the bank circulation. The bank circulation represents loans to the business community, for which the banks hold a corresponding amount of individual and corporate promises to pay. An increase of this circulation, therefore, represents an increase of credits. An inflation of this currency means an inflation of credits, and when such inflation exists there is danger of a financial collapse. The currency introduced by the Government, on the other hand, is not based upon individual credits, but represents the indebtedness of the Government to the holder, to the community in which such currency circulates. An increase of this currency does not therefore represent an increase of individual and corporate credits, and not necessarily an increase of Government indebtedness, as it may be only a change of the form of the obligation of indebtedness. A contraction of this currency shows no decrease of Government indebtedness in case the currency retired is funded into bonds. It is only a change in the form of that which represents the indebtedness. Keeping in mind this distinction, it will readily be seen that the fact that the banks of the country prior to the war could only keep in circulation \$207,000,000 in paper currency is no evidence that this amount was all that was needed or could be profitably used in production and the exchange of productions. It is only an evidence that the ability of the banks to loan, and of the business community to borrow and pay, was exhausted at this point. The ability of the banks to loan was limited to the amount of loanable capital under their control. The ability of the business community to borrow was limited to the security which they could furnish for payment at maturity of their obligations.

The disbursements of the Government during the war more than doubled the available capital of the people by drawing upon the indefinite future resources of the country. These disbursements were distributed through all parts of the country, and were readily absorbed in the development of its resources. The following comparison of bank loans and deposits at periods before and since the war, show the wonderful increase of individual wealth and comparative decrease of individual indebtedness resulting from the increase of national indebtedness:

	Bank Loans.	Deposits.
1837.....	\$525,115,000	\$137,397,000
1856.....	634,183,000	212,706,000
1857.....	684,456,000	230,353,000
1858.....	583,185,000	185,937,000
1860.....	601,315,000	253,892,000
1861.....	603,314,000	344,159,000
1867.....	608,211,500	537,199,994

These figures show that previous to the war the banks loaned to the general business community three times the amount which they

borrowed from them; while since the war the amounts have nearly balanced each other, and that notwithstanding the great increase of business and of population. During the last ten years the amount of bank loans have decreased more than seventy-six million dollars, and since the commencement of the war more than eighty-three millions. The decrease of individual indebtedness in the transaction of general business is doubtless, could it be ascertained, no less striking. Add to all this the large amount of Government securities held by the people, and we gain some idea of the increase of individual wealth since the commencement of the war.

The value of a sufficient amount of currency in a new country like our own, rich in undeveloped resources, is not generally appreciated. Those favoring contraction have generally regarded currency only in its relations to a fixed amount of business, and drawing analogies from old countries where production has reached its maximum, have limited its uses to an exchange of productions, leaving entirely out of the account its value as a producing power. I cannot better express my own idea of the advantages derived from the currency furnished to the country as one of the results of the war than by quoting the following extracts from a letter from the present Secretary of the Treasury, addressed to Thomas Campbell, esq.:

TREASURY DEPARTMENT, March 28, 1865.

No country can prosper for any considerable time where money commands so high a rate of interest as it does in California, and nothing would tend more directly to reduce that rate of interest than the introduction of a sound paper circulating medium.

Paper money has been found to be a necessity in all commercial countries, and especially in the United States; and what is true elsewhere must be true in California. With her splendid climate, her fertile soil, and her inexhaustible mines, her wealth and population ought to have been more rapidly increased than they have been for some years past. With her great advantages, what has prevented her from receiving a constant flow of emigration from the other States? What has prevented her from being a commercial and manufacturing State? What is now repressing the enterprise of her enterprising people, but the fact that money is dear, and credit, to a great extent, ignored?

California needs a well-regulated credit system; she needs a paper circulation to quicken enterprise and give impetus to business; she needs a lower rate of interest; she needs to be cured of the mania for an exclusive metallic currency; in a word, she needs, in addition to the recognition of the United States notes as a currency, a sound banking system—such as is provided for by the national currency act—and she will linger in the career of greatness and prosperity until these needs are supplied.

I am, very truly, yours,

H. McCULLOCH.

The wonderful effect produced by the introduction and employment of the paper currency issued by the Government in stimulating production and developing and increasing the national wealth has been seen and felt by all, and has been epitomized by the Special Commissioner of Revenue in his last annual report, as follows:

"Speaking generally, however, in the first instance the Commissioner asserts that all the available data tend to establish the following conclusions, namely, that within the last five years more cotton spindles have been put in operation, more iron furnaces erected, more iron smelted, more bars rolled, more steel made, more coal and copper mined, more lumber sawed and hewn, more houses and shops constructed, more manufactories of different kinds started, and more petroleum collected, refined, and exported, than during any equal period in the history of the country; and that this increase has been greater both as regards quality and quantity, and greater than the legitimate increase to be expected from the normal increase of wealth and population."

The Commissioner goes on to give the annual progress of railroad extensions during and subsequent to the war, as shown by the following table:

	Miles.
1860.....	1846
1861.....	621
1862.....	864
1863.....	1650
1864.....	738
1865.....	1277
1866.....	1832
1867.....	2227
1868, estimated.....	2590

"It will be thus seen that since and including the

year 1865, the year of the termination of the war, nearly eight thousand miles of railroad have been constructed in the United States, and that the present ratio of increase is more than double the average railroad history prior to 1860, namely, eleven hundred and fifty-six miles."

After presenting this grand array of facts and figures indicative of national development, the Commissioner, apparently wholly unconscious of the agency by which this development was mainly wrought, goes on to descant upon the "effects of the war in checking national development," as follows:

"What would have been the condition of progress during the decade from 1860 to 1870, had not the war intervened, is a question that cannot be definitely answered; but that many branches of production would have experienced a development limited only by the amount of capital and skilled labor cannot be doubted."

Limited only by the amount of capital, &c.

It has been, as I have endeavored to show, this want of available capital prior to the war that prevented the rapid development of the resources of the country. It has been the supply of that want, as one of the results of the war, that has stimulated production to such a wonderful extent that, notwithstanding all the destruction and waste of an exhausting war, the production of the country has been relatively greater during the past than in any previous decade in our history.

How much the growth and material prosperity of the country has been retarded by the policy of the Secretary of the Treasury in contracting and in deprecating the currency can scarcely be estimated. Whatever may be said of the fictitious character of this currency, the national wealth which it developed, the iron, the coal, the copper, the mills and the railroads to which the Commissioner has called our attention are real, tangible, substantial.

I think very little reliance can be placed on any calculation as to the actual amount of currency in circulation prior to the war, and much less upon any estimates of the amount required with which to transact the business of the country at any given period. Our growth and progress are so rapid, and our condition and circumstances so changeable as to render all such calculations fallacious.

I know of no better criterion of the relation which the amount of currency bears to the business of a country than the rate of interest paid for its use. There are times in all countries when even with an excess of money for the transaction of legitimate business, the rate of interest is high. But this results from a demand for purposes of speculation, which demand is as real during its existence as if it were for regular and legitimate business.

In England and France the rate of interest is uniformly low, the exceptions being rare and occasioned by a speculative demand. In this country the rate of interest on money is uniformly high, and fully as high on an average since as before the war. The exceptions are at seasons when a temporary depression of business lessens the demand for money.

The same difference in regard to the supply and demand for money which is observable between Europe and our own country exists between different States of the Union. In the old States where capital has accumulated and is adequate to the business to be transacted the rate of interest is moderate. In the new States there is a lack, while there is a great demand for money to develop the resources of such States, and the rate of interest is consequently high.

Mr. Walker, in the letter to the Commissioner of Revenue to which I have referred, in comparing the people of the United States with the people of France, says:

"The people of this country earn money and save it; and they know how to invest it so as not to lose interest; real estate, the public funds, loans on mortgages, corporate shares, and deposits in savings banks absorb the savings of the people and prevent them from being locked up in money. They do not, perhaps, reason about it, but they instinctively know that money in the pocket-book is idle capital, and in a country where all must work for a living we do not encourage idleness even in money."

I submit whether a people that know so well the value of money and the best means for its profitable employment are not capable of determining for themselves the amount necessary for the transaction of their own business without any immediate supervision of the Government? whether it is necessary to fix by arbitrary law a certain amount as just, sufficient, and safe for the business of the country. Is not the fact that the rate of interest is uniformly high among a people who know so well how profitably to employ money conclusive evidence that the amount in circulation among them is not in excess of what they need for the transaction of their business.

That the premium on gold does not measure the excess of currency in circulation above the needs of business is conclusively shown by the fact that that premium fell from one hundred and eighty to twenty-six per cent., with an increase of the currency of nearly three hundred million dollars, and rose from twenty-six to thirty-five during a period in which the currency was reduced about two hundred million dollars.

Mr. Speaker, I have taken up considerable time in the discussing of the policy of a contraction of the currency because I believe its adoption has inflicted incalculable injury upon the country, and because I believe the continued agitation of the retraction of the policy is also prejudicial to all our material interests. Believing this, I am anxious to see some other policy adopted for reaching specie payments. Some policy calculated to inspire that confidence which appreciates instead of creating that distrust which depreciates our currency.

The plan of forcing an immediate resumption of specie payments by repealing the legal-tender act and enacting by law that specie payments shall take place immediately, or at some day in the immediate future, say July 4, 1869, is, for the United States Government, the great debtor, to solemnly enact that there shall be an immediate settlement of all demands in specie when its own monthly financial statements show that it cannot pay ten cents on the dollar of its demand liabilities in the required coin.

The Government could not comply with the provisions of such a law, and such compliance on its part is a condition-precedent to its enforcement upon the general public. I presume this measure has been introduced for the purpose of evincing the earnest desire of its author for a return to specie payments, rather than with a view to its adoption. The plan for buying in the notes of the Government at a discount might be practicable if the rate at which gold should rule each month could be fixed and determined by law. That neither the laws of Congress nor the Secretary of the Treasury can fix the price of gold has already been demonstrated.

It is difficult to see how the monthly purchase of an unlimited amount of United States notes at a fixed rate of discount each month could effect a continued reduction of the premium on gold to the rate fixed by the Government, any more than sales of gold by the Treasury could effect the object. I think it very certain that the present amount of gold in the Treasury could be drawn out in a very short time by a combination of speculators. A margin of five million dollars would be sufficient for the purpose. The bill introduced for carrying out this plan proposes a reissue of the notes, but as the currency receipts are now in excess of the currency disbursements, for what would the notes be reissued?

But, admitting the entire practicability of the plan, there are two very serious, and to my mind insuperable objections to its adoption. First, the Government having made its paper money legal tender, that is in law the equivalent of gold and silver; it is now proposed by another law to depreciate this money, to strip it of its legal-tender character, and buy it up at a discount with the gold and silver of which it is the legal equivalent. And second, such a law, providing for buying in United

States notes at a discount is on the part of the Government a proclamation of national bankruptcy and a proposition to compound with its creditors.

The Government having promised to pay dollars cannot honorably pay less, because necessity does not compel it to ask for a discount. There is no contract either expressed or implied that the United States notes shall be paid on demand; but there is an express contract for the payment of the full amount promised on the face of each note, and an implied contract that this promise shall be redeemed so soon as the promisor has the ability to do so. There could be no justification for a great solvent nation adopting the pitiful make shift of buying in its own notes at a discount. Having issued paper money and made it legal tender, it should now adopt such measures as will make that money in fact what it has made it in law—the equivalent of coin. The fact that the laws of trade have fixed a value on the money of the United States below the legal standard is no reason why the Government itself should adopt and conform to that value; and to do so would be to make merchandise of its own money.

The fourth plan proposed is a carefully considered and comprehensive measure, providing not only for a resumption by the Government, but reaching forward and embracing in its scope a resumption by the national banks also. This plan has been introduced and advocated by one of the ablest statesmen of the country in a speech which shows a clear comprehension of our present financial condition and of the conditions necessary to be induced before specie payments are practicable. The author of the measure admits the impracticability of resuming specie payments until through some means the premium on gold has been extinguished by a gradual appreciation of the paper currency, and to bring about this result has provided that the surplus gold in the Treasury, after payment of its specie obligations, shall be retained and constitute a fund to meet the demand for redemption of the notes at the date fixed by law; and that after the 1st day of July, 1870, the national banks shall reserve and hold in their vaults all the coin they may receive for interest on the bonds held by the Government for security of their circulation.

It is assumed that the knowledge on the part of the public that the Government will resume on a certain day, and that it is accumulating gold for the purpose of maintaining such resumption, will inspire confidence, appreciate the paper currency, and secure success. This measure, like all others providing for the resumption of specie payments, depends for its success upon the measure of confidence which its enactment establishes in the public mind in regard to the redemption of the currency on the day fixed for its redemption.

If the public should have full confidence that the promised resumption would take place as provided the immediate effect would be to appreciate the paper currency steadily until it reached par on the day fixed for resumption. Would such be the effect of the passage of this bill? I think not; for the reason that the provision for locking up so large a percentage of the specie of the country for so long a period would tend to increase instead of diminish its premium, and for the additional reason that the simple enactment that specie payments shall take place on any fixed day in the future is only a good resolution made to-day that may be reconsidered and repealed to-morrow. And the public know that any law providing for a resumption of specie payments on any fixed day in the future will be repealed if, as the day approaches, our financial condition is such that the obligations assumed cannot be performed. There is an implied proviso in any such law which would be expressed by the words "if practicable."

As I have already said, the success of any plan for the resumption of specie payments depends entirely on the confidence of our creditors in our ability to pay our obligations in coin

at the time promised. As soon as we can show that all reasonable demands upon the Treasury can be met in specie that confidence is secured. The people have never doubted and never will doubt the good faith of the Government, nor its actual and ultimate solvency. And whenever any plan shall be adopted whereby the actual payment in coin of our obligations can be gradually and safely approached, and our promises made not only secure by our plighted faith and confirmed by an exhibition of our resources but also placed beyond the possibility of temporary or permanent repeal or suspension, we shall have taken the only sure step toward the settlement of our financial difficulties.

And this brings me to the bill before the House. Does it possess the necessary elements of success? Let us examine its provisions. They are, *first*, to destroy all United States legal-tender notes received into the Treasury in the course of ordinary transactions, and to issue a like amount of United States notes, redeemable in coin on demand at and after one year from the date of issue. *Second*, to cause all national bank notes received at the Treasury to be redeemed by the bank issuing the same in United States legal-tender notes, which legal-tender notes shall in like manner be destroyed, and coin notes, payable in one year, issued in their stead. In other words, all the paper currency issued after July 1, 1869, from the Treasury of the United States is to be in notes payable in one year from the date of issue in coin. *Third*, to make these notes legal tender for the redemption of national bank notes, and for all other purposes for which United States notes are now legal tender.

Further, as a matter of subordinate detail, it is provided that the Secretary of the Treasury may, on receiving any of said coin notes into the Treasury before maturity, instead of reissuing them, issue an equal amount of new notes payable a full year from date; and also that the Secretary may at his discretion, after the maturity of the notes first issued, issue the coin notes in exchange for the present United States notes at a less time than one year, but not on a less time than three months. The Secretary is also authorized, in case it may be necessary, in order to maintain the redemption of the coin notes after maturity, to purchase coin to the amount of \$50,000,000. To state more in detail, the bill provides for a gradual resumption of specie payments by the conversion of the outstanding United States notes into notes payable in coin in one year from date of issue, the conversion into coin notes being made as the currency disbursements of the Treasury require.

Under its operation, if it become a law, all United States legal-tender notes received into the Treasury of the United States, in the ordinary course of business, after July 1, 1869, will be destroyed; and all national bank notes so received will be changed with the banks issuing the same for United States notes, which notes will also be destroyed, and in lieu thereof a like amount of United States notes issued payable in coin on demand at the Treasury of the United States after one year from date of issue. The new notes will be legal tender for the redemption by the banks of their circulating notes, and for all other purposes except for the payment of duties on imports before maturity, and the interest on the public debt where such interest is payable in coin. That is, they are legal tender in general, but must themselves be paid in coin at maturity by the United States.

Taking the estimated currency disbursements of the Treasury for the next fiscal year, say about one hundred and eighty million dollars, as a basis of calculation, and the conversion from the present irredeemable United States notes into notes redeemable in coin in one year from date would be at the rate of about fifteen million dollars per month, or half a million dollars per day. That is, during the month of July, 1869, there would be paid out from the United States Treasury \$15,000,000,

in notes payable in one year from date of issue, on demand, in coin, at the Treasury, to be followed by a like amount each month during the year; which would make the total amount thus converted during the fiscal year ending June 30, 1870, \$180,000,000; being about one half the amount of United States notes now outstanding.

The same amount, providing the currency expenditures of the Treasury continue the same, would be converted into coin notes during the next fiscal year. That is, one half the present volume of United States notes would be convertible into notes payable in coin in one year from the date of their issue, during the fiscal year ending June 30, 1870, and the other half would be thus converted during the fiscal year ending June 30, 1871. This gradual substitution of coin notes payable on a day certain for legal-tender notes, never actually payable on their face, is the first measure proposed by this bill. It is the means of preparing for and of making, not only practicable and sure but gradual and easy, the resumption of specie payments. This is to be the first step under this bill to be taken toward the return to a specie currency.

The next step relates to the payment of these coin notes. This process is to commence one year after the date of their first issue. On that day the \$500,000 in coin notes, issued a year before, will become redeemable, and if presented at the Treasury must be paid. As payment can only be demanded at the same rate as of the original issue, say \$500,000 daily, the time in which they can be presented for redemption will be extended through the period of two years, from July 1, 1869, to July 1, 1872.

These notes thus become an intermediate currency between the present irredeemable legal-tender notes and gold, and serve two very important purposes, which seem to me essential to a healthy return to specie payments; first, they postpone the actual day of payment to the several times when the Government can undoubtedly make and maintain it; second, they give in the mean time the highest possible assurance that it will be made. Not merely the declaration of a statute that it shall be made, but the assurance of a contract with and a direct promise to each holder of these notes borne on the face of the note itself, that they will be so paid.

I have thus presented the two main features of this plan, namely, first, the issue for two years of notes payable in coin in one year from the date of their issue; and second, provision for the payment in coin one year later, extending through a like period of two years, or provision for the redemption in specie of the United States notes now outstanding within the three years ending July 1, 1872. The bill makes no other provision for the redemption by the national banks of their notes than is required by the present law; that is, a redemption in legal-tender notes, for the reason that I do not consider it practicable for both the Government and the banks to resume at the same time, and to undertake to provide for both might prevent resumption by either. Appreciate the United States notes to a par with gold, and a way will be opened for the banks to follow and redeem their notes in specie. The measures necessary to secure this result can be adopted after the Government has placed its currency, which underlies the bank currency, upon a specie basis. Once placed the Government currency on this specie basis and establish public confidence in its permanence, and we have practically added so much to the specie of the country, and thus furnished a medium for the redemption of the national bank notes.

With so large an amount of paper in circulation, every dollar of which is profitably employed and none of which can be retired without seriously deranging business, checking production and impairing the revenues of the Government; with this paper at a discount of twenty-five per cent. in specie, it is the part of wisdom to make haste slowly. The main

point is to begin to resume, not merely to resolve that we will do so at some future day, but to commence at once, and however slow the progress, each step will not only carry us nearer to the goal, but will impart that strength and that confidence which will enable us to reach it.

Provision is also made for keeping the currency which this bill proposes to create in circulation until further legislation by Congress. There is no contraction of the currency by its operation.

The Secretary of the Treasury is authorized to reissue these coin notes after they have been received into the Treasury before maturity in payment of public dues, or to issue in their stead the same amount of like notes on time. This discretionary power, although not an important feature of the plan, may be found necessary to be used, and no valid objection to its use exists, as notes received in payment of public dues are actually paid or redeemed by the United States. A like discretionary authority to issue notes on a shorter time than one year, but on not less than three months, is to enable the Secretary to hasten the time for resuming, if he finds it practicable to do so, after the maturity of the notes first issued.

Having thus stated the general provisions of the bill, it is proper to consider what will be its general effect:

First, can these coin notes be paid according to their tenor? and second, what will be the effect upon the currency of issuing them?

Let us now see what means the Secretary will have, at the maturity of these notes, with which to redeem them:

The amount of coin in the Treasury January 1, 1869,
was..... \$98,763,368
Deduct coin certificates..... 13,063,092

Leaving a net balance of..... 85,700,276
To which add estimated receipts in coin
over expenditures to end of the fiscal
year ending June 30, 1870..... 59,000,000

Which will give amount in Treasury on
maturity of the first coin notes issued... 144,700,276
Allowing the same excess in receipts of
coin over expenditures for the year end-
ing June 30, 1871..... 32,000,000

And we have..... \$176,700,276

with which to redeem the \$180,000,000 falling due during that year, and this without any purchase of coin by the Secretary. There can be no doubt of the ability of the Secretary of the Treasury to maintain redemption after commencing, as he would, without any purchase of coin, have during the first year after specie payments actually commenced nearly one hundred per cent. in specie of the whole amount of coin notes redeemable with which to redeem whatever notes might be presented. And maintaining redemption through the first year would undoubtedly bring the whole volume of the currency to a par with gold. Indeed, I believe the first monthly redemption would have this effect; for a demonstration of the ability of the Government to redeem would so establish public confidence as to settle the whole question.

Deeming these resources of the Government amply sufficient to maintain the redemption of these coin notes as they mature and are presented for redemption, I now pass to the second question: What will be the effect of their issue? This is, in substance, to ask whether the community in general will estimate the resources of the Government for the payment of these notes as I have estimated them. Will their issue inspire general confidence in their promise to pay? Upon this point I propose to take, first, the testimony given by an opponent of the bill, the gentleman from Indiana, [Mr. COBURN,] who, in a speech made in this House last week, expressed himself upon it as follows:

"Will the issuing of Treasury notes payable in twelve months in gold, in lieu of the greenbacks and bank notes taken for taxes and dues to the Government, have any tendency toward the resumption of specie payments? This proposition has been made in all seriousness by a decided opponent of contraction, and is put forth as a measure in aid of that view. To my mind it is the strongest measure of contraction yet proposed, amounting to nearly a half million a day—in fine, to the entire amount of the revenue raised in paper; for this paper is at once retired,

and in its stead is issued a currency which calls for gold in twelve months, and which at once is worth more than twenty-five per cent. premium; a currency which would be locked up as soon as issued, and only see daylight when put up for sale by bankers or at the end of twelve months, when presented at the Treasury.

"Who that holds such a note will give it in exchange for a greenback and throw away his twenty-five per cent.? Who will pay it out? Who so infatuated as to yield up such a golden advantage? In one year \$180,000,000 of our currency would be safely locked up, and the whole greenback circulation would be effectually retired at the end of two years."

These objections of the gentleman from Indiana—who represents a class of objectors—are full of expressions of the confidence which is to be reposed in the notes which this bill proposes to issue. They are, that these notes will "be locked up as soon as issued"—"safely locked up"—not paid out, but hoarded for the "golden advantage" which they will afford to their possessor, "put up for sale by brokers," "bearing a premium of twenty-five per cent." Whatever may be the actual operation, there is no mistake as to what these objectors assume will be the effect upon the public mind of the issue of the proposed gold notes; they assume and object that the notes will be at par, or nearly at par, with gold; and I ask the attention of the House to this point. The objection is a most forcible statement of the public confidence which will be reposed in these coin notes, for there would be no such appreciation of these notes toward a par with gold unless the public had full confidence that the redemption would take place at the time promised; and the percentage of appreciation would be the exact measure of that confidence.

The gentleman from Indiana, therefore, concedes that the bill would effect the very object for which it is intended, namely: the extinguishment of the premium on gold by an appreciation of the paper currency. Accepting the gentleman's statement of the credit which these notes will win as correct, let us consider the effect of that credit upon the currency. Will it produce that contraction which the gentleman apprehends? I think, if at all, only temporarily. For as all the legal-tender notes are in process of conversion, and all national bank notes are redeemable in legal-tender notes, the one issue cannot be appreciated without drawing up with it the whole paper currency of the country. The confidence which these coin notes would inspire would express itself not so much in the form of a premium on those notes above the value of the present national currency, as in a reduction of the premium on gold. I cannot better express my ideas of the effect which the issuing of these coin notes would have in reducing the premium on gold than by quoting the following extract from a speech made by me in introducing the bill, in March last:

"With the steady conversion of the greenbacks into notes redeemable in specie at a specified time, and with the certainty of the ability of the Government to redeem them as promised, the whole volume of the currency would begin to appreciate. The hoarded specie would come out to realize the premium, which would every day be reduced, and at no distant day be entirely extinguished. The notes, payable in specie as they approached maturity, would probably be temporarily hoarded, but only to liberate the same amount in specie. As fast as they matured and became redeemable in coin they would remain in circulation as specie; being received for payment of duties on imports and convertible into coin at the will of the holder, they would be received in payment for interest on the public debt and for all other purposes for which coin is now required. Whenever any amount of these notes was actually redeemed the same amount of coin would be liberated from the Treasury, where it now lies dormant, and become useful to the community. Once placed this paper currency of the Government upon a specie basis, and establish public confidence in its permanence, and we have practically added \$350,000,000 of specie to the amount now in circulation, and thus furnished a medium for the redemption of national bank notes."

All arguments which I have seen urged against the bill start from the same point as those of the gentleman from Indiana, namely, that the notes are immediately to appreciate; and some of them include another objection which the gentleman did not name: that this appreciation would create a difference between this issue and other notes in circulation, and inure to the advantage of the creditors of the

Government. As I have already said, I believe the appreciation would be expressed in the reduction of the premium on gold, rather than by any premium on this particular issue. But admitting the force of the argument which conceded the practicability of appreciating the legal-tender notes by making them payable at a day certain, and thus extinguishing the premium on gold, let us see whether these apprehended evils and inconveniences are of so serious a character as to counterbalance the advantages which would result from a resumption of specie payments.

First. Whatever advantages might accrue to the public creditor by receiving payment in the new notes would involve no loss to the Government, as the notes are not to be finally retired at maturity. The Government loses nothing by appreciating its paper; it puts nothing into it except public faith, public confidence, and secures to itself whatever advantages result from the appreciation; not only in the appreciation of its bonds, but in all purchases which it makes. An increased value is thus given to every dollar received into the Treasury as well as to every dollar paid out. The coin notes paid out of the Treasury would pass directly from the hands of those to whom they are first paid, as they have not the ability to hold them—generally requiring all their receipts to pay their current expenses—and enter directly into circulation at whatever appreciation public confidence might fix upon them; and this appreciation would, of course, effect a corresponding reduction of the premium on gold.

Second. The immediate effect of converting the legal-tender notes might be to retire the new issue from circulation; but this would be done mostly by the banks, into which they would naturally run, and which would substitute them for the legal-tender notes, now held as a reserve. This reserve amounts to about one hundred and seventy-two million dollars, and would nearly absorb the amount issued the first year. This retirement of the converted notes would effect no contraction of the currency, as it would liberate a like amount of legal-tender notes now held as a reserve, and send them into circulation to supply the place of the coin notes withdrawn. To a large extent those hoarded in private hands would take the place of specie, which would come out and reduce the premium on gold. The contraction, if any, which would take place would be temporary and voluntary on the part of the business community in whose hands the notes would be held; and such temporary contraction of the currency is one of the conditions necessary to be brought about during the transition from an irredeemable to a redeemable currency. The advantage of this mode of contraction is, that it is voluntary, self-imposed, and self-adjusting, and controlled by the natural laws of trade; and that the amount retired is at all times within the reach of business, and can be called forth whenever its exigencies demand it.

In this regard the coin notes would not be unlike the compound-interest notes, which were held to a considerable extent by the banks as a part of their reserve, and which went, as these coin notes would go, to make up that part of the currency which is laid by in small sums by all classes, and which in the aggregate constitutes no inconsiderable percentage of the circulation. Individuals as well as banks keep a reserve, but keep it to be used when required. The last dollar paid out would undoubtedly be the one which in the estimation of the holder was the most valuable, but that last dollar would come out, and be made available as currency either at par with other paper or at an intermediate premium between that paper and gold, whenever the demands of business required it.

Third. An intermediate currency between the present paper currency and gold would, at most, be but a temporary inconvenience to which business would soon adjust itself. A large part of it would, as I have shown, take the place of other paper now out of active circulation; and such a currency would be a valuable agency by

which to span the chasm now existing between paper and specie.

It is objected that a return to specie payments will disturb the relation between debtor and creditor; but this objection applies to any mode of reaching specie payments, whether such resumption be facilitated by legislation or comes of itself without any such help. By the plan I propose there could be but little disturbance, because there is no sudden or permanent contraction of the currency, and it would not decrease the ability of the debtor to pay by appreciating the currency without retiring it; by improving its quality without reducing its quantity. Resumption by this method would, in the end, increase rather than diminish the volume of currency by liberating and utilizing the specie which now lies dormant, being, like merchandise, only moved by the agency of the paper currency. Under the operation of this bill all the advantages of an arbitrary contraction of the currency would be secured without any of the evils attending such contraction. Most of the objections urged against resumption by the mode proposed in this bill lie with equal force against any method of resumption, while many of the objections to all other proposed modes are obviated by this. The alternatives presented, then, are: to remain as we are until time shall effect a cure, or to adopt some measure which like this will take us step by step toward the desired goal.

Mr. Speaker, there is no royal road to the payment of our debt; and those who pretend that we can carry the burdens imposed upon us by the contest for national existence through which we have successfully passed, without inconvenience and labor, do but flatter and delude. It must cost us something to return to specie payments. But I believe that by adopting careful and wise measures the task we have to perform will be so toned and proportioned to our gradually increasing strength that it will be accomplished naturally and easily, and will be in itself a means of national development and financial health and strength. The chasm between our currency and specie must be bridged; it cannot be leaped. We must, first, promise to resume; second, show that we are able to perform our promise; and third, arrange so that the transition from paper to gold, from an irredeemable to a redeemable currency, shall be gentle and gradual, and thus avoid any sudden revulsion and consequent panic. This done, we shall have fixed our currency on a firm and enduring basis, and brought our public debt into normal and healthy relations with the trade and commerce of the country.

Mr. BARNES obtained the floor.

Mr. INGERSOLL. I desire to inquire if some arrangement cannot be made so that the speeches on this bill, instead of being each an hour long, shall be limited to thirty minutes each, so as to accommodate a greater number of gentlemen than will be the case if the present arrangement is adhered to.

The SPEAKER *pro tempore*, (Mr. BECK.) That can be done only by unanimous consent.

Mr. INGERSOLL. I ask unanimous consent for that purpose.

Mr. WASHBURN, of Illinois. I object.

Mr. INGERSOLL. Very well. Then I ask the gentleman from New York [Mr. BARNES] to yield to allow me to offer a substitute for this bill.

Mr. BARNES. I cannot yield the floor for that purpose.

The SPEAKER *pro tempore*. On the motion to reconsider, which is now pending, an amendment can be entertained only by unanimous consent.

Mr. SCOFIELD. I call for the regular order.

Mr. INGERSOLL. I give notice that as soon as I can obtain the floor for the purpose I will move a substitute for this bill.

The SPEAKER *pro tempore*. The regular order having been called for, the gentleman from New York [Mr. BARNES] will proceed with his remarks.

Mr. BARNES. Mr. Speaker, the interests of the country demand the earliest possible return to the specie standard of the world. The declaration to that effect by the bill now before the House, reported by my distinguished colleague upon the Committee of Banking and Currency, will meet with universal assent. I voted to send this bill to the House, as I should any bill calculated to elicit intelligent debate upon this vitally important subject. But the first question which you and which the country at large will ask is, is it through the provisions of this bill that this much desired result will be produced? All civilized nations acknowledge gold and silver as the standard of their interchanges. Ours is not an exception unless we have the power to exclude ourselves from intercourse and trade with other nations of the world. Recently we have been unable to sustain ourselves in the great national clearing-house. All have suffered from the national dishonor, and we are paying forty per cent. penalty in the enhanced price of the articles we consume. We all realize the necessity of reestablishing our financial relations, so that the measure of our property may have a uniform standard day by day. We cannot pay for twenty ounces to the pound forever. We cannot forever pay a hundred and forty cents for that which we consume and receive, but a hundred cents for that which we sell. The varying price of gold upsets everything.

The importer now pays \$100,000 for a cargo of tea which he must sell for currency; then reconvert his currency into gold to purchase more tea. The measure of his success or failure is the fluctuation in the value of the money which he is compelled to take for his merchandise, and not the price which he obtains for it. The holder of a Government bond receives his six dollars gold interest upon the coupon, and when he sells the gold at twenty or fifty per cent. premium he realizes the sensible difference of thirty per cent. in his income. The farmer upon the Mississippi, the ship builder in Maine, and the cotton planter in the South starts his products for Europe, and finds his prices shrink thirty or forty per cent. through depreciation of our home currency.

The laborer who produces the wealth of the country mortgages the toil of his hands and receives a currency with which he cannot purchase an article of use without paying this tax, thus largely reducing the price of his labor. Thus business becomes gambling, capital and talent are absorbed in makeshifts, speculation, and rascality. The nation pays its debts temporarily by exporting bonds in place of flour. New tariffs must be added to collect the gold to meet interest. The price of imported commodities rises in proportion, thereby creating new taxes to be paid by the people. Here necessarily arises a growing conflict between classes of individuals and between sections of the country, involving perhaps the integrity of our national obligations. A capitalist whose fortune is in bonds is interested in maintaining a high premium upon gold. Those who have no bonds, and pay this premium in the taxes imposed upon what they consume, have a reverse interest. In time of great depression and distress this antagonism will be carried to the ballot-box, the result of which, with unrestricted franchise, where the poor so far outnumber the rich, can easily be foretold. A return to specie payment, then, not only becomes a commercial but a political necessity. A preponderating majority of our people desire to return without unnecessary delay. Will desire and resolution accomplish this result? It was the desire of banks, individuals, and the nation not to abandon the specie standard, and they resolved and legislated to this end; yet they did abandon specie, in obedience to natural laws and in defiance of their resolutions and their legislation, just as we have continued under a suspension of specie since the cause was removed, and just as we are likely to continue for a long time to come.

This bill, however, again attempts to resolve

us into a condition of things much to be desired, but wholly against natural laws. The man who has been landed in the top of a tree by an accident with a balloon must climb or be helped down; he cannot jump to the ground with a whole neck. This bill in substance declares that—

"The United States shall change its present demand notes into new demand notes payable in gold, and that national banks shall possess themselves of these new issues in the place of those now held by them."

Upon these issues the Government and the banks must pay coin upon demand, and the demand would certainly be made for every dollar if there was a profit of a fraction of one per cent. in the exchange. The method by which the bill reaches this end is more circuitous than I have recited, but quite the same in result. I would submit to my friend that it would be a much easier and less expensive operation to restamp the bills now out, "payable in coin after certain dates." The results would be precisely the same as by the course here proposed. Nothing practical can be gained by these successive new issues. If merely reprinting our notes a few times in different phraseology will bring about specie payment I am distinctly in favor of the measure. I have entertained the idea that it was quite a different task.

Honorable gentlemen upon this floor, and many intelligent men throughout the country, seem to think there is something potential in the word government; that a government can manage its finances upon principles different from those which apply to individuals. There can be no greater error. A landed proprietor has become involved, and fails to pay the bills contracted for the improvement of his estate. At first his creditors accept his notes without discount. His second year's crops, however, prove deficient; his expenditures have increased, and he has to provide for accumulated interest. He adds interest to the principal, and is compelled to negotiate a new loan at a large shave. The third year shows the result of his improvident management to be the same as the first, and his credits are gone. Waking up to a sense of his condition he adopts a policy. He says to his creditors, "I have paid out my due bills for three years; on the 1st of next January I resolve to pay money." Is it the resolution made or the condition and circumstances of the maker at which the creditors look?

Of what use is it for this Government to resolve and reresolve that on some particular day it will pay gold? when no measures are adopted to secure the gold with which to pay. Why, then, the Government and the banks owe \$1,264,098,976 of demand obligations with but \$348,634,883 to pay with, or \$915,464,093 demand obligations after their assets are exhausted. The landed proprietor may resolve that he will plant more acres; that he will garner the crops without loss, and will cut off useless expenditures, and thereby increase his resources, restore confidence, and enhance his credit. When a portion of his deferred obligations have been redeemed his future solvency will be immediately assumed. But his mere resolution to pay on a certain day will amount to nothing. Creditors are as good judges of what it takes to pay as is the debtor, whether it be an individual or a Government. Our Government may show by wise legislation that its national domain is to be cultivated by willing hands; that its expenditures will be lessened; that its revenue will be collected; that its currency will remain stable at its present volume; that its circulating demand notes will be the first class of obligations which it will pay; invite gold into circulation by removing the ban upon gold contracts, hold the surplus gold which it may receive until gold and legal tenders approximate in value, and then the holders of its obligations will realize themselves secure, the Government credit will appreciate, and the premium upon gold will rapidly decline.

Then all will desire to sell and none to buy.

Exportation of produce would take the place of bonds and evidences of indebtedness, and the sixty-odd millions of gold shipped the last year would pass into bank reserve, making it a matter of arithmetic how long it would take to accumulate the means with which to liquidate our demand debts. Now, there are no indices pointing to such a day, or legislation tending in this direction. Gold is driven from circulation by being outlawed as money, and very little is in the hands of the people; while what little surplus the Government obtains is sold, so that it has several millions less to-day than it had three years ago. Does this look like a return to specie payment? We are further off in legislative principle, in commercial usage, and in the amount of standard reserve than we were at the end of the war.

I say, Mr. Speaker, that it is not within the power of the printing press to fund our demand obligations into coin notes, and then keep faith on the bond. This brings us to the whole length and breadth of this important matter. My own opinions, previously expressed upon this floor, are strengthened and confirmed by the development of time. Three years ago our honorable Secretary told us that we could resume payments in specie by contracting our currency, seemingly forgetting that we have to raise \$126,000,000 in gold from imports wherewith to pay the interest upon our bonds, and that imports and gold revenue would cease by telegraphic orders the very day that we again seriously commence to destroy our currency. Congress, too, was going to make greenbacks equal to gold by merely declaring that they should be. But the Secretary abandoned his destruction policy after two months' trial, warned by the wrecks of individual enterprise and the credit of the Government, which a few days more would have heaped together in irretrievable ruin and hopeless bankruptcy.

The resolutions of Congress advanced the premium upon gold from thirty to fifty per cent., and here we are stuck fast on an ascending grade with machinery impaired and the water getting lower and lower in the boiler. Yet we are periodically instructed that to reach the summit of the hill our finance engineer must put out a part of the fires, and that Congress shall again resolve that at a specific time the train and cargo shall be at the desired resting place. Is this sense, or is it nonsense?

But gentlemen ask, are we ever to return to specie payment without legislation of some kind? I say, no; but by legislation of a different character from any heretofore proposed in this House. We want but little legislation, and that of a nature to prevent us from doing more harm. We must first chock the engine where it is, then enlarge its wheels, increase its fire chambers and steam capacity, and soon we shall see it moving of its own accord—increasing in speed as its momentum overcomes inertia.

It is wrong for me to say that we have made no progress in the right direction. The arguments of the distinguished Senator from Indiana, recently made in the other House of Congress, would not have been listened to thirty months ago, except to secure him the title of defamer of the public credit. Think of it, Mr. Speaker. The war ended in April, 1865, but in January, 1869, four years thereafter, the Senator informs us that in two years and a half more, by July, 1871, we may be able to pay specie on a single class of our obligations. Financiers who in 1865 informed us that we could not resume specie for five years were the subjects of political ostracism and defamation. England, France, Prussia, Russia, and Austria have all traveled the same road which we are traveling, and the history of their struggle is the history which we are again writing afresh. Some of those countries reached the desired end in a quarter of a century; others reached it by utter repudiation, while others, as in the case of Austria, have never reached it to this day. The Corps Legislatif of France first enacted that the French *assignats* were as good as gold. It was next made a felony on the part of a citi-

zen to receive them at less than their face, and finally a capital offense; yet the end of *assignats* was the paper-mill, and specie payment was only attained by repudiating the whole thing and starting anew.

The Senator must not congratulate himself that he has solved the problem or found the panacea. He goes too far in one direction and not far enough in another; in what particular I will endeavor to show further on. No person can correctly discuss the difficulties of our financial position who does not pay particular attention to the national banks. The country may be assured upon one point; the Government never can and does not seriously intend to return to specie payment while these banks sustain their present positions. The Government cannot afford the results of forced measures; the banks will not allow it. These banks are now a part of the financial superstructure of the nation, and must be so considered whether we will or not. The wealth of the United States is about twenty-one billion dollars. It is represented by less than seven hundred million dollars of currency, of which the national banks furnish three sevenths, or \$300,000,000. Annihilate this circulation without substitution is death. Whatever change is made must be made by the assent of the banks, and they certainly are not necessitated to accept a disadvantageous arrangement. Their interest being adverse to the Government interest must always be taken into our reckoning.

These banks have issued \$300,000,000 of currency, the security for which is Government bonds worth in gold at the market price but \$244,200,000, showing a deficit of \$55,800,000. Now, this deficit, and a respectable twenty per cent. margin beside, must be made good in some way before we can consider the banks as at all separate from the Government, or before there is any use of thinking of specie payment. Here, then, we come to the initial starting point on our road of investigation. I must not be understood as saying that there is but this one difficulty. There are several, and they must be considered together. I must argue this question tersely and concisely to be correctly understood by the country, and must answer those general opinions which form the staple of the public arguments.

First, then, in reply to the opinion that the currency is too large and must be contracted:

On the first of October last our currency stood:

United States legal-tender notes.....	\$356,021,073 00
Fractional currency.....	82,933,614 17
National bank notes.....	300,000,000 00
Estimate fifteen dollars gold <i>per capita</i> for one million people in California and Texas.....	15,000,000 00
	703,954,687 17
Deduct legal reserve.....	172,257,000 00
	\$531,497,687 17

which, for thirty-eight million people, is \$13 97 *per capita*.

This, I admit, is a greater circulation than was required before the war, and may be greater than under some circumstances would be beneficial. But circumstances affecting currency do not now exist as they then did. A new order of things in this, as well as in other respects, has been created. We have passed through one of those real changes sometimes occurring which produce permanent effects and which can never be obliterated. The discovery of gold in California in 1848, and in Australia a little later, added a permanent increase to the circulating medium of the world; affecting the relative price of every article of property, from a paper of pins to a cotton plantation. Property changed hands at the new prices, and debts were created at those prices, and unless that indebtedness could be wiped out values never could and never will return to those current prior to those periods.

Here was a real, positive, perpetual change to be recognized hereafter in the values of commodities throughout all time. So now we have again made a *done file*, absolute change in our condition which can never be obliterated while

time lasts. The values of all species of property expanded with the expansion of our currency through four years of memorable and intense speculation, until new debts, many of them owing abroad, have been created, a mounting to the terrific sum of \$6,000,000,000—at least one quarter the total assets of the nation. This ponderous load cannot be floated or carried upon the same financial superstructure that a quarter of this indebtedness could have been. It certainly never can be paid in gold. It rests upon confidence. It requires nimble circulation, immense resources, and expanding population to keep this confidence secure. Bring the property of the country, as I shall hereafter show, down to the standard of the gold which we have or may forever be able to obtain, leaving this load of indebtedness at its face, and all the convulsions which have ever overtaken the human race since the dawn of civilization would dwarf in proportion and pale in insignificance compared to the shock which would paralyze the institutions of man by such a course. We have already tried contraction twice and have reached that point where the currency underlies indebtedness, and we cannot pursue it further without shattering the financial elements which surround us. We must wait the rising tide of accumulating forces to overtake us in our stranded position and float us off into safe waters. This need not take an interminable time. Our country is rich, fertile, and versatile in its resources. It increases in population at the rate of three per cent. per annum and in wealth at double this ratio, and it can, within five to ten years, overcome all the obstacles which now surround us, serious as they are.

Before the war (1860) our currency stood:

Gold (estimated).....	\$200,000,000
Bank notes.....	207,000,000
	407,000,000
Less in Treasury.....	91,000,000
	\$316,000,000

which, for thirty-one million people, was \$10 20 *per capita*.

Aside from the effects of the debts we have created, the financial habits of the people have been greatly changed. At that date commercial transactions were mostly upon long time; now they are principally for cash or upon short time. Then currency could not be used without loss beyond the State in which it was issued, and all debts at a distance were paid by bills of exchange; now both Treasury and national bank notes form a constant source of remittance through express companies and otherwise. Then in large sections of the country the people carried but little currency about them; now the amount in the hands of the masses is very considerable. Then our country was confined to States bordering the Mississippi; now an immense scattered population carry our currency into the teeming valleys and mountain passes of new Territories. Then four millions of slave population required no currency; now they are the depositors and dispensers of their own earnings, and a large additional currency is required for these people. Then our population was thirty-one millions; now it is thirty-eight millions, making it necessary to furnish currency for some seven millions more people. Then all articles exchanged by the people which come through the custom-house required but about one half the currency which will forever hereafter be required. Then the volume of the general business of the country was not one quarter it now is. The New York clearing-house shows the average business per day in that city to have been—

In 1856.....	\$22,000,000
In 1857.....	27,000,000
In 1858.....	15,000,000
In 1859.....	21,000,000
In 1860.....	23,000,000
In 1865.....	34,000,000
In 1866.....	33,000,000
In 1867.....	33,000,000
In 1868.....	34,000,000

These facts are ample to prove that we require a much larger *per capita* circulation than we did ten years ago.

Let us see how this compares with other countries. In 1864, upon the same basis, France had—

Gold.....	\$700,000,000
Bank notes.....	252,000,000
	952,000,000
Less Treasury reserve.....	250,000,000
	\$697,000,000

which is, for thirty-eight million people, \$18 34 *per capita*.

—England had—

Gold.....	\$400,000,000
Bank notes.....	196,000,000
	596,000,000
Less Treasury reserve.....	151,000,000
	\$465,000,000

which is, for thirty million people, \$15 50 *per capita*.

To recapitulate—

England's circulation <i>per capita</i> is.....	\$15 50
France's circulation <i>per capita</i> is.....	18 34
United States.....	13 97

Will any one deny that the people of the United States require less proportionate currency than do the people of England and France? I understand that civilization tends to the utilization of credit and to a reduction in the *pro rata* of circulation. I realize that population is not an exact basis for comparison; yet I contend that our frontier population, our freedmen, &c., offset the poorer classes of England and France, while the liberality and extravagance of the American middle classes render a larger amount of ready money necessary than of any other nation. I therefore arrive at the positive conclusion that our circulation is not too large. The great consideration is how to change the character, not the amount, of our circulating medium from an irredeemable paper basis to a redeemable gold basis without inaugurating that period of suffering and depression which involves citizen and Government alike.

But circumstances exist demonstrating that we must accept the present currency as at the proper amount, and that we cannot contract its volume without the most disastrous results. The indebtedness of the General Government, States, municipalities, corporations, and individuals is believed to be about seven thousand million dollars. The total property of the country is assessed at \$21,000,000,000. Our currency, including the bank reserve, is about seven hundred millions. Here we find that we have about one third as much indebtedness as we have property, and less than three per cent. of circulation to represent it all. The contraction of the currency will disturb the value of property, but it will not lessen our debts. A man to-day has \$20,000 worth of property and owes \$10,000. The currency is arbitrarily reduced, property depreciates, his debt becomes due, money is not obtainable, his property is sold to pay it, and the whole is absorbed to pay a debt of half the amount.

If all debts were equally distributed and were owing among ourselves it would not work unmitigated evil to reduce the value of our property by destroying the currency upon which it rests. But this is always impossible. Now, if we permanently retire \$100,000,000, one seventh of our currency, we reduce the value of our property \$3,000,000,000; but the debts are still \$8,000,000,000. If we cut our currency down one half, or \$350,000,000, it reduces our property to about ten thousand million dollars. Still our debts are \$8,000,000,000, or we might safely say that our debts exceed our assets, and neither the Government, States, corporations, or individuals could collect or pay anything. All would become bankrupt together. With confidence gone it is just as hard for currency to represent half the present values as it is to sustain them where they are. There is absolutely no limit to the decline in values which panic and want of confidence will produce. One hundred dollars would shrink to two dollars, \$1,000 to twenty, to reach the point where currency would represent property dollar for dollar. The total value of our property at

assessment prices is two to three per cent. money and ninety-seven to ninety-eight per cent. confidence.

The foregoing are the reasons why currency cannot again be contracted. Values and indebtedness have accommodated themselves to the existing amount, and the margin for contingencies capable of being retired has already been withdrawn. The debtor side of the account is now fixed and unchangeable except as we can pay off our indebtedness. Until we can discover some way to do this we must find some other method to remedy our mistakes than by destroying our circulating medium. What amount would you have destroyed? One hundred millions, two, or four? Why a part, and not the whole? Supposing the amount we now use was gold instead of paper. Would we feel that we had too much of it? Why, sir, the slight contraction of loans by the national banks four times a year, to make a respectable showing in their quarterly returns, stagnates business, creates great depression in values, and doubles the rates of interest in all the commercial centers.

The mere temporary locking up of only twelve millions of currency in New York for twenty days in November last sent a paralytic chill throughout the length and breadth of the land. It caused a decline of four per cent. on Government bonds in two days; it stopped vessels from loading produce on the line of the lakes, reduced the price of wheat twenty-five cents a bushel, of cotton three cents per pound; it failed forty-five firms in a single western city, almost annihilated credit, raised the rate of interest to one quarter and a half per cent. a day, ninety to one hundred and eighty per cent. per annum in the city of New York, and would have broken several national banks had not other institutions been able to help them. This, Mr. Speaker, is an example of what a forced reduction of the currency will produce. Yet this locking up was known to be but a stock jobbing affair, and was devoid of fear or panic. It shows us how near the edge of a precipice we are treading.

If I have now shown that by reason of a largely increased indebtedness, created for property at the high prices which an inflated currency produced, we can never return to the *per capita* of circulating medium which we required in 1860, or to that required in 1848, and that now our circulation is not too large, I am safe in assuring the commercial community that a return to specie payment will never again be attempted by the Government by a contraction of the currency; notwithstanding the Secretary says, "this is the only way in which it can be done," and notwithstanding the Comptroller of the Currency says, "Congress can, whenever it pleases, restore the credit of the nation by directing the payment of \$338,000,000, promises to pay," meaning the retiring of the \$338,000,000 legal tenders.

I say that the Government will not, in the light of past experience, again attempt any such suicide. Retiring currency now means pinching the merchants and destruction of trade. Imports stopped, cessation of gold revenue follows, and then, gentlemen, what becomes of the interest on the national debt? Do you mean to repudiate these pledges of the nation's honor? If so, try this experiment: exhaust your \$60,000,000 now in the Treasury and you will convert a present fear into a future certainty. You increased your indebtedness \$3,000,000 a month for the past twelve months, or \$35,625,102 for the year; your customs revenue fell off \$12,000,000 in gold, and your internal revenue \$75,000,000 in currency. Do not now show to the world your inability to provide interest upon the bonds which you have been selling in Europe in place of wheat and cotton. I believe all this can be avoided in a simple, concise, and easy manner, although the honorable Secretary's apprehensions are excited when he says:

"A nation that owes largely must have its own people for creditors. If it does not the debt will be a dead weight upon its industry, and will be quite likely to force it into bankruptcy."

As to the time when this nation can resume specie payment no man can say. With short crops in Europe and exceedingly favorable circumstances at home, it may be within four years. Under other circumstances not extremely adverse, it is more likely to be ten years; under circumstances and legislation such as at present exist, never. England struggled for twenty-six years in her efforts to resume specie payment, and passed on the average a bill each two years endeavoring to effect the object.

After a generation of men had passed away Parliament recognized the fact that the Government could not exist if it destroyed the people; and it was on the fourteenth legislative enactment, after intense financial suffering, depression of industry, and a general impoverishment of the people, that we find England in 1823 again paying gold, although she had actually increased her paper circulation from \$53,650,000 in 1796, the year before suspension, to \$91,960,000 when she resumed, showing the remarkable fact in contradiction of all we now hear said, that she resumed paying specie on \$38,310,000 more paper currency than she had the year before she suspended; an actual increase of seventy per cent. of circulation, while her population increased but fifty per cent., being a *per capita* increase of twenty-five per cent. in circulation!

Obstinately the laws of nature will have their own way. Whenever England undertook to deprive the people of circulation the people could not pay taxes, though England's condition at that time was more favorable than is ours now, for she owed her debt at home, and the interest which she disbursed was allowed to remain among her people.

We are certainly not making progress at present. Aside from the mere funding of a portion of our floating debt we are not in as good condition as we were thirty months ago. Our demand indebtedness is contracted to be paid in gold some time, and yet the surplus gold received by the Government is sold like so much old iron and the proceeds taken to pay our current expenses. Within the last four quarters the Secretary sold \$32,409,550, and in so doing reduced the balance on hand \$6,147,147. Had no gold been sold we should have accumulated \$26,262,402 66, a little nucleus around which confidence would have commenced to cluster.

The Government owes of demand obligations.....	\$409,151,898
Less cash in Treasury.....	113,873,019
	295,278,879

The banks liabilities are.....	\$854,947,078
Less gold.....	\$11,749,444
Less legal reserve	
Included in Government demand obligations.....	223,012,420
	234,761,864
	610,185,214

Total demand obligations..... \$915,464,093

If the financial condition of the country was in a usual normal state about three hundred million dollars of gold would float this amount of demand indebtedness. But while there is a fraction of one per cent. difference between the price of currency and gold, it will require dollar for dollar to do it. It will not answer to pay a portion of these obligations and then fail on the remainder. With gold exhausted and this confession of weakness existing the premium would again run up to a fearful point. The country requires that prices should be steady as well as moderate. The effort must be fundamentally right, sustained by practical principles calculated to give confidence to capitalists. It will not answer to depreciate the price of gold to ten per cent. upon any fallacious basis, and then invite \$100,000,000 of our European bonds back upon us at 90 in gold which originally cost the holders 50. A mistake on our part will surely produce this result. We cannot, therefore, at this time name any day when we can commence to pay specie.

If our bonds were worth 100 in gold, thereby insuring the solvency of the national bank circulation, we could view this subject differently; but with the circulating medium of the country full of panic and the most sensitive of its assets we must advance cautiously. With our twenty year bonds, upon which half our circulating medium is based, selling at 72, or eighteen per cent. less than enough to redeem one of these bills, we must make all the conditions sure before fixing a period when we will resume specie payments.

It is within the power of the banks to remove the greatest difficulty which besets the nation, and they can well afford to exercise this power. They have been paying the investors as no class of institutions ever did pay capital. Although fifty-five of these banks have refused to answer a resolution of this House, giving the amount of their earnings, yet we find they have been dividing an average of full fifteen per cent., and have on hand an extra five and a half per cent. for each year of their existence in the shape of an undivided sinking fund. In four years they have accumulated the enormous sinking fund of \$114,091,594. A portion of this amount, \$36,995,761, is called undivided earnings. These banks have an inadequate security of \$55,200,000 to make good their circulation. If they will consent to an arrangement with the Government by which this sinking fund can be pledged as additional security for their circulation they need not imperil its final control by themselves, and will create a confidence which no other act can do. But they will not do this. Their interest is adverse to the interest of the Government. They now convert the gold received for interest upon their bonds at a profit of from seven to eight million dollars annually, which they would not receive if gold was par. Several beneficial changes can and ought to be made in the banking system; but I look upon it as not likely to be done, and I pass this point to state what the Government can and ought to do.

1. Legalize gold contracts.
 2. Prohibit the sale of gold.
 3. Compel the banks to retain the gold received as interest upon bonds to use as legal reserve in place of legal tenders, the Government destroying the amount of legal tenders which the gold will cancel at the current premium.
 4. Compel the national banks to deposit additional security for their circulation.
 5. Devote the surplus of its gold beyond \$30,000,000 to retiring legal tenders as above indicated.
 6. Fix the volume of currency as it now exists, that it shall not be increased or decreased except by gold substitution, dollar for dollar.
 7. Declare that its legal-tender notes shall be the first class of obligations which it will pay.
 8. Fund a portion of our five-twenty bonds now held in Europe into a five per cent. gold bond, principal and interest payable in London. The effect of this legislation would be—
- First.* Gold would be invited from its hiding places—would flow from abroad into our banks and clearing-houses as money, and not into storehouses as merchandise.
- Second.* The Government must retain gold to be enabled to pay gold.
- Third.* The national banks would then assist rather than retard a return to specie payment.
- Fourth.* The currency of the country would be made perfectly secure and would be divested of all panic feature, the principal disturbing element and fear of business men at the present time.
- Fifth.* Demand obligations, Treasury notes being destroyed as rapidly as the same is replaced by gold at the current premium of gold at the date—it not only lessens their amount and enhances the value of the remainder, but it gradually puts gold in circulation and does not change the amount of our circulating medium in any way.
- Sixth.* The country would then know definitely the policy of the Government as to the

volume of its circulation, thereby stimulating proper investment and regulating interest, which is now impossible.

Seventh. Declaring that these demand notes shall be the first class of obligations to be paid by the Government their value would be increased and the premium upon gold proportionately reduced.

Eighth. Some eight hundred million dollars of our bonds are supposed to be owned abroad. In panic time they can be so used as to draw the entire gold from the country. A bond, principal and interest payable abroad, would tend to prevent this result.

All of the above tend to one general result, as the tilling of the soil, the sowing of seed, and garnering the crops tend to enriching the husbandman. This is all the legislation which is now admissible respecting specie payments. A mere declaration upon the subject amounts to nothing. The evidences of our ability to collect in and pay out gold is the declaration which tends to confidence. Let these changes be made—holders of gold see demonstrated to a certainty that the premium must decline, the profit in holding gold ceases, and all become sellers.

Our legal-tender currency should be dispensed with as rapidly as we can replace it with something better, but no faster. The public evidently estimate that it will require from six to eight years to redeem these notes, the thirty-five per cent. discount at which they now stand being represented by interest at five per cent. for seven years. Three years ago the time was supposed to be nearer. The discount, as shown in the price of gold, was correspondingly less. Let it be demonstrated that they can be paid sooner than this and the premium upon gold will decline in proportion. It is impossible to suppose that if a note payable at a fixed date and drawing six per cent. interest is selling at 72, that an irredeemable note drawing no interest will sell for more, barring the advantage the latter has in being circulating medium.

By the course here indicated and sustained by fair legislation, by encouragement of production in the southern States, the collection of the revenue and an economical administration of affairs, we shall place ourselves in a position to fund our long obligations at lower interest, to pay our demand obligations within reasonable time, and to so reduce the premium upon gold as to start our ships upon the stocks, put the wheels of commerce in motion, give impetus to all kinds of enterprise, and again sail out upon the sea of future prosperity without that shock, shrinkage, bankruptcy, and distress which any violent measures will surely produce.

The Government can accumulate about twenty-five million dollars of gold per annum under its present tariff. With the premium of gold largely reduced we shall ship enough produce to Europe to enable the people to retain from twenty five to fifty million dollars more, which is now shipped abroad. This will give us a sinking fund of, say, \$50,000,000 per annum, which in four years will have annihilated \$200,000,000 of these demands. The \$200,000,000 is still retained with demands reduced from \$900,000,000 to \$700,000,000. In six years our demands will be but \$600,000,000, nearly all mercantile credit, and \$300,000,000 of coin to float it. More than enough. This is something like the manner and something like the time in which this problem is to be worked out.

As to exact accumulations, they will vary as to time from many seen and unseen causes. The general principles of this plan cannot fail. They offer to the creditor all the security in available form which the nation can collect together, not only security as to the correct appropriation of what it has, but the additional security that it will not impoverish the people and cut off revenue by taking from them their circulating medium and leaving their debts like ghostly skeletons leaning against their doors.

Mr. SMITH. Mr. Speaker, in the recent

terrible conflict, in which the life of the nation was threatened and assailed by treason and rebellion, the contest was carried on and the victory won at a fearful cost. No toil was counted too great, no hardship too severe, no sorrow too keen—all were nobly endured. The richest blood and the costliest treasure were freely offered in untold and uncounted measure that freedom might triumph—that the Republic might live. And the sacrifice, though costly and rare, was not in vain; for the unity and integrity of the Republic were triumphantly maintained and secured.

The experiences of the war, sad and bitter as they often were, and the magnitude and rapidity of the operations of the Government in providing for and conducting the gigantic contest, aroused and stimulated the capacities and energies of the people to a wonderful degree. The necessities and emergencies of the military service not only discovered and developed the latent and dormant capabilities and resources of the country, crowding and stimulating every branch of productive industry, bringing every laborer and every artisan into contributive activity, but they stimulated inventive genius, developed enterprise, enlarged trade, created new industries, opened new markets, and infused new life and unwonted vigor into every department of business and every branch of industry.

The welcome but somewhat abrupt close of the war found this enlarged capacity and quickened energy of the people ready and eager to undertake new enterprises, to open new territory and develop new industries, seeking and asking only the protecting and fostering care of the Government, and that it should furnish them with a currency or circulating medium stable and uniform, in which to transact their business and conduct their enterprises. The questions of how a paper currency should be supplied that should be adequate in volume to the business requirements of the country—uniform in its value, and convertible into gold—the accepted standard of money value—and how and when and at what rate of interest the public debt should be funded or paid, were then, as they are now, urgent questions affecting intimately and vitally the growth and development of the country and the material interests and prosperity of the whole people. But the strange infatuation which induced the leaders of public sentiment in the rebellious States, under the instigation and encouragement of a recreant Executive, to reject the offered terms of restoration to the Union and to the rights and privileges of representation, and the unfortunate antagonism which thereupon arose between the legislative, and executive branches of the Government, brought the question of reconstruction into such prominence as, with its attendant incidents, to absorb the attention of Congress and to a considerable degree the thoughts of the people.

Following close upon reconstruction and related measures and proceedings, and intimately connected with them, came the recent presidential election, with its earnest and thorough discussions and exciting issues. From these causes principally the solution and adjustment of the great questions of debt and currency have thus far been deferred. But happily reconstruction is substantially accomplished. Most of the lately rebellious States have organized State governments in conformity with the Federal Constitution, are restored to the rights and responsibilities of representation, and are now contributing in no small degree to the revenues of the General Government. Happily, too, the recent presidential election has removed one obstacle and embarrassment to a present consideration and an honest and honorable adjustment of these questions. It was thought and urged by some and feared by others that the people, especially the laboring classes, in view of the magnitude of the national debt and the burden of taxation necessary to be borne to meet the interest upon it and provide for its ultimate and complete payment, might be persuaded, or possibly deceived, under cover of

some legal quibble or cunning evasion, into declaring in favor of the partial or entire repudiation of their own debt—a debt incurred by themselves in the defense of the high and sacred cause of human liberty and for the preservation and perpetuation of free government.

To the lasting praise of the American nation, and in full vindication and proof of the right and the ability of the people to govern themselves, the loyal and true-hearted masses, rejecting the temptation and scorning the subterfuge, pronounced most emphatically in favor of paying to the uttermost every national obligation with no violation or evasion of the spirit of the laws under which the debt was incurred. In this connection permit me briefly to quote from a letter recently received from a brave and gallant soldier of my own State, one who periled his life and his all for the unity and honor of the nation, as illustrative of the views and sentiments of the grand army of those who dared and suffered that the nation might live. He writes: "Permit me to urge you to use your utmost endeavors to prevent the least taint of repudiation of any kind, direct or indirect, greenback or any other form, from attaching to our national credit. Those of us who served in the Army served for the *reputation* as well as the *life* of the nation; for the latter is worth nothing without the former." That is the sentiment that actuated and governed the true soldiers of the Republic, and it is the sentiment that now moves and controls the loyal masses of the people. The whole debt must be fully and honestly paid according to the full spirit in which it was contracted.

With the problem of reconstruction practically solved; with order and tranquility assured through all our borders by the election of a President pledged to peace, and in the light of a fresh and emphatic verdict of the people in favor of the full payment of every national obligation, we are brought to a new consideration of those great questions pressing for solution. As no sound or permanent adjustment of the national debt as to its time, mode, and rate, of payment can be reached until we determine in what and by what it is to be measured or valued, the question of currency, its proper volume and real value, precedes and underlies that of debt, and will therefore be principally considered.

It is an admitted fact that the highest and best form for a circulating medium or material for exchange of values which the study and experience of the world has yet produced is bills of credit or paper money resting upon such a basis and reserve fund of gold or real money as inspires and commands confidence in its value and convertibility.

But it must be conceded that while we have a large and, perhaps for the present, adequate volume of paper money, and while in many of its qualities and functions it is the best and most desirable currency the country has ever had, yet by reason of the large admixture of legal-tender notes forced into and held in circulation by the Government at an arbitrary and unreal standard of value, the whole volume is, in its vital and essential quality of value, as measured by the only real and accepted standard of gold or coin money, greatly depreciated and debased. Indeed, but for the hope and expectation that by the power which first undervalued the currency and still holds it depreciated the cause of its depreciation would be removed, and a real coin value and convertibility imparted to it, it would continue to decrease in value and soon become utterly worthless; and the longer the hope is deferred and the expectation disappointed the greater will the depreciation be. It is even more than probable that if the Government do not at an early day adopt some sound and comprehensive plan which shall relieve or take off the depression which it has forced upon the currency further and material depreciation will take place, or, in common parlance, the premium on gold will be higher. With a further decline in the value of the currency must come great fluctuations in merchandise, de-

pression in trade, stagnation in all branches of manufacturing industry, reduced time or no employment for labor, and ending possibly in financial disaster and general bankruptcy.

We have spoken of the Government as having occasioned the existing depreciation in the currency, as responsible for its continuance, and as the only power that can furnish relief and bring it to a real and coin value. Let us consider briefly how this is. The first outbreak of civil war necessitated vast expenditures of money in organizing, arming, and equipping a large army. With no considerable balance in the Treasury the Government appealed to the banks for assistance, and the associated banks of New York, Boston, and Philadelphia promptly and generously met the emergency and loaned it \$150,000,000.

But the rising proportions and threatening aspect of the conflict soon forced the conviction that no arrangement with the banks could safely be so extended and enlarged as to meet the necessities of the public service, which had already reached more than a million dollars a day, and both the Government and all the banks were driven to a suspension of specie payments as early as December, 1861.

To carry on the immense operations of the war resort was then had to loans. But as the supply of gold and silver was entirely inadequate to the payment of the loans authorized, and inasmuch as the notes of the existing banks were too insecure and too unequal in value, especially since relieved from all obligation of payment in specie, the necessity arose of making the large and immediate issue of \$150,000,000 of United States notes and of forcing upon them the quality of legal tender. These legal-tender notes so issued were then regarded only as a temporary loan, and a forced circulation was given them to meet a great emergency of national danger. Nothing else occasioned them, and nothing else justified them. And in proof that they were not intended to form a permanent currency, but were acknowledged as a debt which the United States were obligated and proposed some time to pay, it was provided that they should be convertible at the option of the holder into an equal amount of bonds of the United States bearing interest at the rate of six per cent. per annum in coin, payable semi-annually, and redeemable at the pleasure of the United States after five years, and payable twenty years from the date thereof.

In less than six months from the date of the first issue of legal-tender notes a second of like amount was found necessary. These, too, were acknowledged as a debt, and carried the privilege of conversion at the option of the holder into the same six per cent. coin interest bonds, known as the five-twenties, with the pleasant and encouraging proviso that the Secretary of the Treasury might, in his discretion, pay them in coin instead of exchanging them for the bonds named. But the expenditures for the military and naval service still increased rapidly and formidably, and in about eight months more another and pressing demand for money was made, and a third issue of legal tenders was authorized; but owing to the uncertain duration and issue of the conflict, and the possible requirement of a yet further issue of notes, the privilege of exchange was withheld. It was even thought necessary to substantially repeal the provision for conversion accorded to the first two issues, by limiting the right of exchange within a short and impracticable period.

A fearful and prolonged assault upon the nation's life, and the desperate straits to which the Government was reduced to provide the power and means to resist and overthrow it, were alone the occasion and justification of not only imposing a great debt upon the country, but of so undervaluing and depreciating a very considerable portion of it as that thereby the whole debt was depreciated and the whole currency made unstable and irredeemable in real money. It is because of these forced loans so necessitated, because of the new and

debased paper standard by which they are measured, because they are long overdue and bear no interest, and because the Government neglects and therefore practically refuses to provide for their conversion or payment, that we encounter the existing difficulties and embarrassments in relation to funding the national debt and lowering the rate of interest upon it, and also that the country is suffering the great and uncertain losses to trade and industry incident to an unreliable and irredeemable paper currency.

In this view of our condition the vital questions concerning the important subjects of finance and currency seem to be these: how and when shall the Government pay or withdraw their long overdue notes, which have been forced into circulation to the great injury and detriment of the whole currency and consequent weakening and depreciation of all the Government securities? and how, during and by this retirement of legal-tender notes—by payment or funding shall the country, without shock or material disturbance to its business, its enterprise, or its industrial pursuits, be supplied with a currency adequate in volume to its wants and necessities, properly located and distributed to meet the requirements of business in all portions of the Union, even and uniform in value, and therefore current in all parts of the land, and based upon coin, the only true and accepted standard for the issue of paper money? If these questions can be answered, these problems solved, and a measure adopted which shall accomplish or look surely to the accomplishment of these ends, it will, I think, meet most, if not all, the difficulties pertaining to debt and currency that governmental action can now remove. All else must be left to the labor and the skill, the activity and the enterprise of the people, guarded and stimulated by that protection of rights and fostering of interests which it is the object, as it is the first duty, of a free Government to secure to its citizens.

I shall venture, then, to suggest and briefly to discuss a plan which seems to me better calculated to accomplish the ends proposed—more simple in form, more feasible in its provisions, and with promise of earlier fulfillment than some, at least, of the plans already submitted. Before proceeding, however, to do this, I wish to make brief allusion and consider some objections to the bill of the honorable gentleman from Maine, [Mr. LYNCH], entitled "A bill to provide for the gradual resumption of specie payments," now before the House as a special order, and also to the bill recently introduced in the Senate by the distinguished Senator from Indiana [Mr. MORTON] entitled "A bill to provide for the redemption in coin of the United States notes and fractional currency and requiring the national banks to redeem their notes in coin." Both these bills assume the necessity of the withdrawal of the legal-tender notes as a prerequisite and essential condition to restoring and establishing the credit of the Government. They insist upon the payment, near or remote, of its overdue and protested notes, in order thereby to restore the currency and the obligations of the Government to the true constitutional and real standard of coin value. In so far as they recognize this prime and urgent necessity they command assent.

But in the proposed measure and mode of accomplishing this end they are objectionable if not inadmissible. For though they both provide, in differing modes and at different times, for beginning the payment of the legal-tender notes in coin, they neither of them provide, nor can they assure from the probable coin resources of the Government, full coin payment for the entire amount of the notes at the dates named for their redemption. The coin resources of the Government consist in duties upon imports. These are not and cannot wisely be made sufficient, in excess of existing coin obligations, to meet the contingency of a presentation upon the days named of nearly the entire amount of legal-tender notes.

It is true that in the arguments of both the

honorable gentlemen referred to they assume and reason that upon declaration of purpose to pay, strengthened by preparation for actual partial payment, the confidence of the holders of a part of the notes will become so strong and abiding in the purpose and ability of the Government to pay all the notes that this undefined and unascertainable portion of note holders will not present them for payment. Now, granting for the moment that so improbable a circumstance should occur as that doubt and a desire to realize should actuate an uncertain but smaller portion to demand payment, and that "public confidence" should inspire the other and larger portion to defer the presentation of their notes for redemption, it must yet be remembered that the unpaid portion will still be constantly threatening the Treasury, and liable, upon any sudden revolution in trade or artificial stringency in the money market, to demand redemption at an unexpected and perhaps unguarded moment, and thereby force a protest upon the Treasury and dishonor and terrible disaster upon the country.

It must not be forgotten that the American Government has come through great tribulation and sorrow, through fearful suffering and cost, to its present rank as a first-class Power among the nations of the earth. Neither should it be forgotten that during our great struggle for national unity and integrity powerful leaders in powerful Governments, jealous of the rising power of the young Republic, and fearful of the reflex influence of successful and strengthened free government upon decaying monarchical and imperial Governments, not only desired and predicted our failure, but conspired at our downfall and conspired for our dissolution. They winked at and permitted the fitting out of piratical cruisers to cripple and scatter our commerce and destroy our blockades of rebellious ports; and they forced a monarchy upon a neighboring but feeble republic, that they might both furnish supplies to rebels and overawe us by its pretentious pomp and power.

But the Republic still lives, stronger and grander in its power and prestige than ever before. Its power is acknowledged, and it fears no armed force from within or from without. Its faith and its credit must now be strengthened and established. They are dear to the people and must not be put in jeopardy. Our weak and assailable point is the national credit, and its weakness consists not in the aggregate of the national indebtedness, large as it is—for in comparison with our resources, with our domain continental in area and rich in its capacity and destiny of growth and development, and with all our wealth of industry and skill and enterprise the debt is trifling and insignificant—but our present weakness and danger lies in the largeness of our overdue and demand debt, which, whenever the Government promises and returns to real payment, is wholly due and presentable. And it may well be feared that if when the day arrives in which we shall have promised to redeem we have not made full and adequate provision for complete payment we may find that foreign and designing hatred and jealousy, strengthened with foreign capital and aided possibly by unpatriotic and selfish speculators and stock-gamblers in our own country, may not only drain our Treasury of the insufficient coin we have stored, but thereby force us to national protest; that thus they may at least glory in and fatten upon our financial disaster.

It must be remembered, too, that we have a large time debt outstanding represented by Government bonds, which respond quickly and sensitively to everything that touches or affects the ability, the faith, or the credit of the Government. Now, it would be an easy and not untempting thing for either foreign or home capital, moved only by a sordid desire for gain, to combine at any favorable moment for the purchasing and presenting of "greenbacks" when the coin supplies in the Treasury might be insufficient to redeem them, and with the cry of

"greenbacks protested," "resumption of specie payments a failure," run down the market value of Government bonds at a rapid and fearful rate, that they might, by buying them in at a greatly reduced price, reap a rich harvest from our folly and disgrace. We, all of us, I think, witnessed too many instances during the war of the power and willingness of unpatriotic and shameless men to "operate," as it is mildly termed, in public securities, to the great embarrassment and loss of the Government to risk any such contingency. We cannot safely trust them. But the honorable gentlemen referred to, notwithstanding their apparent confidence in the argument of "public confidence," and justly apprehensive that if one portion of the holders of legal-tenders or coin notes might wish to realize gold the other portion might be of the same mind, and thus the Treasury be unable to meet the united demand, have each aimed to guard the Treasury against such a probable emergency.

The one, [Mr. LYNCH,] provides that the Secretary of the Treasury may—

"Purchase at any time coin requisite to enable him to redeem such [coin] notes, and in payment therefor he may at his discretion issue, to an amount not exceeding \$50,000,000, bonds of the United States in such form as he may prescribe, payable in not more than forty years and redeemable after five years, with interest payable semi-annually in coin at a rate not more than six per cent. per annum, or if payable in currency at a rate not exceeding seven and three tenths per cent. per annum."

The other, [Senator MORTON,] requires first, in the second section of his bill—

"That on and after the 1st day of July, 1871, the Treasurer of the United States shall pay in coin at the Treasury of the United States, at Washington, in the District of Columbia, and at such other points as may be designated by the Secretary of the Treasury, all United States notes and fractional currency that may be presented for redemption."

And then provides—

"That the Secretary of the Treasury shall have power to negotiate and sell bonds of the United States, to be due in thirty years and redeemable by the Government at its pleasure after ten years, bearing interest at the rate of [—] per cent., principal and interest payable in gold, to such an amount as may be necessary to carry into operation the provisions of the second section of the act."

Now, objection lies first and mainly, I think, to the manner in which the coin necessary for the purposes named is to be obtained. For, according to the views already submitted, if the United States notes in the one case, or the coin notes, which are to be their substitutes, in the other case, are to be paid in coin under the specific pledge and promise of the Government at any fixed time, near or remote, then, we hold that nothing short of a full and adequate supply for the redemption of all the notes at the times named should be provided for and secured. But we do object most decidedly to the mode in which in both bills this end is sought to be accomplished. We protest most earnestly against conferring upon any Secretary of the Treasury, whoever he may be or however wise and pure he may be, any such wide discretion, such unlimited power. Sir, the day for secrecy and for unbounded powers in the control and management of the financial operations of the Government is passed, and the people want no more of it. The exigencies of a vast and uncertain war may have necessitated and justified such power and discretion, though it is at least questionable if more certainty and publicity in regard to the required or contemplated movements and operations of the Treasury might not have left us in a less difficult and embarrassing condition than we now find ourselves.

Fortunately, however, those trying times are past, and the people are entitled and demand to know definitely what the financial measures and Treasury operations of the Government are to be. If gold is to be purchased they want to know what for, when, and to what amount. If a loan is to be negotiated they have a right to know when, and at what rate, and to what extent, and to the privilege of taking it upon equal terms. Now, the bill of the honorable gentleman from Maine, in forgetfulness of this right and privilege of the people, authorizes the Secretary of the Treas-

ury to purchase, without limitation of time, place, or rate, the coin requisite in his judgment, of course, to enable him to redeem the proposed coin notes. He is unrestrained as to the amount he may purchase, the rate he may pay for it, and the time when the purchase may be made. The amount may be excessive, the rate exorbitant, the time ill-timed and disastrous, for there is no limitation. He is then authorized to issue, "in his discretion," in payment of the gold so purchased, bonds of the United States to an amount not exceeding \$50,000,000, and at a rate of coin interest not exceeding six per cent., or of currency interest not exceeding seven and three tenths per cent. per annum.

Here, too, the amount, within the limit of \$50,000,000, is both unknown and unfixed, and the time and mode of the negotiations and the commissions, if any, that may be allowed are all left to the judgment and discretion of the Secretary of the Treasury. Such powers are too great and too unreserved, and are in our view alike objectionable and inadmissible. But the Senator from Indiana, with even less thought for guarding the rights and privileges of the people, confers upon the Secretary of the Treasury an unrestrained and consequently far more objectionable power and discretion; for no restriction is placed upon the amount of the bonds he may, according to his private judgment, negotiate and sell, except the utmost limit of United States notes and fractional currency outstanding—no provision is made to restrain him as to the manner of sale, whether by public bid or secret negotiation; he is not even limited to a par value sale. From aught that appears in the bill he may sell them in any way he likes, in such amounts or parcels as he likes, at any time he likes, at any rate he likes. No "military necessity" now exists, and certainly no financial necessity can justify or require the granting of such full war powers.

Another serious if not fatal objection to the bills referred to is that they both not only involve, if they do not necessitate, an undefined and undeterminable contraction of the currency, but they neither of them provide a remedy for such a disaster. While they both contemplate and aim to provide for the payment of the legal tender notes as a prerequisite to the resumption of specie payments, they both fail or neglect to provide for a substitute paper currency.

The bill before the House provides for calling in the United States notes and issuing in their stead coin notes, payable on demand after one year from date, which may be reissued for periods of less than one year, but not less than three months. When this time of extension has fully expired, and the coin notes are really due, it is contemplated that some portion of them at least will demand payment; and authority is therefore conferred upon the Secretary of the Treasury to use any unappropriated coin on hand, and to purchase \$50,000,000 more, with which to redeem the notes so expected to be presented.

Now, without stopping to inquire what is to become of the remaining coin notes which the gold on hand and to be purchased will not redeem, or to consider whether the coin notes will acquire such a gold value as to induce their withdrawal from circulation and the hoarding of them for a gold premium, it is manifest that the volume of paper money will be reduced to the extent that the coin on hand and purchased will retire coin notes. How is this loss or reduction in volume of paper currency to be supplied? The Senate bill referred to first provides for the payment in coin at a time fixed of all United States notes that may be presented for payment; next provides by an issue of bonds for procuring coin sufficient to pay the entire amount of such notes; and then, in section six, declares:

"That the Secretary of the Treasury may cause so many of the United States notes that may be redeemed under the provisions of this act to be canceled as may in his judgment be necessary to the proper limitation of the currency."

It is not enough that the Secretary is to be invested with an unlimited power and discretion in the negotiation and sale of more than three hundred millions of gold bonds; but by the section just quoted he is to determine according to his simple will and judgment the great question of what shall be the volume of currency necessary and desirable to carry forward the grand and far-reaching enterprises—the rising and rapidly expanding industries of the American people—and with autocratic sway to govern and control the vast aggregate of the business of the whole country. The enlightened experience and clear judgment of the people have pronounced decidedly against any contraction of the currency, and Congress, in conformity with this decision, has emphatically forbidden any further reduction of the volume of legal tenders. It is acknowledged, too, that nothing is more necessary or vital to the present business wants of the country than steadiness and sufficiency in the volume of the paper currency. Have the people reversed their judgment, and is Congress now prepared to refer the decision of so important a question, the determination of so essential a requirement, to the erring and possibly biased, if not corrupted judgment of any one man? The American people will not consent; this Congress cannot presume to confer such power and authority upon any man.

The remaining objection to the bill now referred to is that no provision is made for a substitute paper currency in place of the amount, partial or entire, of the notes that may demand redemption. With partial redemption under the "public-confidence" theory, the amount of gold thus paid out will be at once absorbed and sink back into an article of merchandise, and the currency thus be reduced in its volume that much. With full redemption of all United States notes and fractional currency we shall have only gold and silver in place of this now large amount of paper currency. And gold and silver, with the modern and approved modes and mediums of effecting exchanges cannot and will not, to any considerable degree, come into use as a circulating medium. And hence, with the perfected operation of this bill, we should have enormous contraction of currency and consequent commercial distress and financial ruin.

Introductory allusion has been made to the time and occasion of issuing the demand-note loans, to the necessity of forcing the notes into circulation at a fictitious and debased standard of value, and to the fact that they were considered by the Government that issued them and the people that received them only as a temporary loan, to be converted at the option of the holders into a time and coin interest-bearing security. Brief advertence has also been given to two measures proposing the retirement or payment of these notes for the purpose only of stating some objections to the mode and measure by which the ends proposed are sought to be accomplished. For in so far as they assume and recognize an unstable and irredeemable currency as the cause of the depreciated condition of the Government securities and of our financial embarrassments, and the payment or retirement of the legal-tender notes as a condition precedent to a uniform and convertible paper currency, and hence to restored and assured Government credit and a sound financial condition to the country, they have my hearty assent.

In view, then, of the recognized necessity of the payment or withdrawal of the legal-tender notes in order to secure the great and important ends named, and in view also of the fact already determined by the people and ratified by Congress, that the business interests and requirements of the country cannot, at present certainly, safely permit any contraction or diminution of the volume of paper money, I venture now to suggest and briefly discuss the following plan:

1. Authorize an issue of United States registered bonds to the amount of \$600,000,000, or

so much thereof as may be necessary for the purposes contemplated, to be free from taxation, either national, State, or municipal, payable in fifty years from date, with interest at the rate of four per cent. per annum, payable semi-annually, and both principal and interest payable in coin, as a basis for securing the circulating notes of national banks.

2. Authorize an increased issue of notes for circulation to national banks of \$200,000,000, and require the Secretary of the Treasury to distribute this increase in such States, Territories, and sections of the country as are now destitute of, or insufficiently supplied with, banking facilities and accommodations.

3. Provide that when banking associations forming under the increase of circulating notes authorized shall have organized under the provisions of the national currency act, and shall have paid into the Treasury of the United States the amount of their capital stock, ninety per cent. of which shall be paid in lawful money, the Secretary of the Treasury shall thereupon issue to such associations bonds of the issue hereby provided for; and that upon the transfer and delivery of such bonds to the Treasurer of the United States, to be by him held in trust for the purposes named in said currency act, the Comptroller of the Currency shall, upon certification of such transfer and delivery, issue to such associations circulating notes to an amount not exceeding ninety per cent. of the amount of said bonds at par.

4. As fast as circulating notes are issued to new banking associations require the Secretary of the Treasury to cause to be canceled and destroyed an amount of legal-tender notes equal to the amount of circulating notes issued.

5. If the existing national banks shall desire to continue their organization and to accept the four per cent. bonds authorized in place of their bonds then on deposit, they shall signify such desire and purpose to the Secretary of the Treasury within sixty days from the passage of the act; and thereupon the Secretary of the Treasury shall issue the four per cent. bonds proposed, in equal par value amount to the bonds to be surrendered, and deposit the same with the Treasurer of the United States in trust for said banks in lieu of the bonds surrendered. And if any of the existing national banks shall, by a vote of its shareholders owning two thirds of its stock, decide not to accept the bonds proposed in exchange for their bonds held as security for its circulating notes, such bank shall within two months from the passage of the act so notify the Secretary of the Treasury, and within four months return its circulating notes to the Treasurer of the United States. And thereupon the bonds belonging to such association shall be delivered up to it under the provisions of the national currency act. In the event of the closing up or surrender of any bank, provide that a new one with like capital may be organized, giving preference to an association in the same or near locality with the one closed or surrendered.

6. Require every national banking association to have at all times on hand, in gold or in lawful money of the United States, at least twenty-five per cent. of the aggregate amount of its notes in circulation.

7. Prohibit all further sales of gold, in order that the Government may strengthen and prepare itself for the payment of the remainder of its demand notes not retired by this mode. And when the coin balance shall be adequate, or if deemed desirable coin sufficient shall be provided from a coin loan authorized for the purpose, let the Government substitute gold for the lawful money reserves of the banks, thus furnishing to them a sound specie basis for the issue and redemption of their circulating notes.

The prominent features of the proposition submitted are: the withdrawal from the currency of a large amount of legal-tender notes and funding them in a long bond at a low rate of interest, thus initiating at least a lower and more reasonable rate of interest upon our

Government securities; the substitution therefor of national bank notes—a currency certainly of equal convenience and value—without disturbance to or variation of the volume of the circulating medium; and, what is not of least importance, furnishing for and distributing to large and important sections of the country the banking conveniences and profits, facilities and accommodations which are now possessed and enjoyed by only favored portions.

Many theories, and vagaries even, have been from time to time advanced as to the nature and purpose of the legal-tenders, and as to whether they constituted a debt of the Government which should ever be paid, and if so how and when. Some have held that they were a cheap currency, costing the Government not much beside paper and ink, and should therefore be multiplied and made to pay the national debt, apparently supposing that the substitution of a demand promise for a time obligation to pay discharged the debt, or else perhaps thinking that if the people could be induced to repudiate the interest they might become so debauched as to deny the principal. Others have thought that they formed so desirable a currency that the loan should be further forced and the Government furnish the whole paper circulation, thus erecting the Treasury, the true office of which is the reception and disbursements of the revenues, into a huge Government bank, and thereby in effect constituting the Secretary of the Treasury the money autocrat of the country. Far away be the day when the American people shall establish an institution and confer a power so dangerous to, if not subversive of, a free Government.

But from the brief review already taken of the necessities for and the conditions of the legal-tender issues, it is clear, we think, that they were regarded and treated as forced but temporary loans which the Government were bound some time to pay, and that it was both expected and intended that they should be either paid in coin, true money, or converted into coin interest-bearing bonds. And if they were so issued and taken as temporary loans is not the Government bound in honor and all good faith to redeem its pledge, and either make present payment or renew the promise to pay, and that at a time fixed and with interest, as a consideration for its use? But present payment being manifestly impossible, and from a variety of circumstances even undesirable, is there any better, or in the present condition of the finances of the country any other way than to begin now to convert or fund these legal-tender notes into coin interest and coin principal-paying bonds, as herein proposed, in harmony with the spirit and provisions of the acts under which they were issued? It is true that the bonds into which they were originally exchangeable carried six per cent. interest payable in coin, while those now proposed for conversion carry but four per cent. interest.

But at the time the notes in question were issued the Government was in dire straits by reason of the gigantic operations of the war; the contest for the supremacy of the Government was being fiercely carried on, and its duration and issue were both uncertain and a war-risk rate of interest was being paid for money. Now peace is restored, the perpetuity of the Government is assured, and no one can doubt its ultimate ability to pay and discharge every obligation. The bonds proposed are to be issued upon long time—fifty years; and the permanence and stability of the loan justly enhances its value. They are also to be free from taxation, national, State, or municipal. Would not these considerations, in connection with the largely reduced cost of living and the greatly improved financial condition and prospects of the country render the bonds now proposed as valuable and desirable in the estimation of capital as a twenty years' bond at six per cent. could have been in the dark and terrible days of uncertain civil conflict? But they are not offered to capital as a simple in-

vestment alone, but carry with them all the advantages and profits attaching to circulation and general banking. In this view surely they will be regarded by the people and accepted by capital as meeting fully the obligation and spirit of the acts under which the legal-tender notes were issued.

In considering the second feature of the plan suggested, namely, an increase of \$200,000,000 of circulating notes to national bank associations, it is not proposed to discuss the propriety or expediency of creating or establishing banks, but rather by reference to some well-known but important facts in relation to the cessation of their establishment, the advantages they possess, and their adaptability to the business wants of an active, enterprising, and growing people, to show the desirableness of a further increase of circulating notes. Whatever may have been the theories or arguments by which the State bank system, so called, was preferred or sustained; whatever may have been the strength and soundness of some, if not many, of the State banks, or however acceptable and satisfactory they may have been to the communities in which they were located, the exigencies of the war soon demonstrated that a currency so insufficient, so heterogeneous, so unequal, and so unsafe as that furnished by the State banks, especially after the suspension of specie payments into which they were driven in the early days of the war, was unreliable and would be ruinous both to the Government and the people.

The attention of the Government and its financial agents was therefore early directed to devising a system of banking which should have uniformity of security, uniformity of general regulations and accountability, and which should furnish a national currency uniform in value and convertibility. Such a measure was matured and recommended by the Secretary of the Treasury as early as December, 1861, but was not finally approved by Congress till February, 1863. The business enterprise and capital of the country quickly saw and appreciated the advantages of such a system of currency, and banking associations were rapidly organized. It was received with such favor that soon a considerable number of the States signified their approval of the law by the passage of enabling acts; then the existing State banks were compelled, by a heavy tax laid upon their circulation, either to adopt the system or stop banking, and in a brief time thereafter the entire amount of circulating notes authorized by law was taken up, and pressing calls were then and are still made for more. The system has since grown so rapidly in favor with the business community and in the confidence of the people, and has now become so interwoven with and incorporated into all their transactions and enterprises, as well as into the financial operations of the Government, that it must be considered as firmly established and permanently fixed. The leading characteristic of the national bank currency, and which perhaps forms its chief advantage over all previous systems of banking, is that it gives uniformity to the circulating medium.

As the circulation is the common servant of all, performing all their exchanges, affecting the values of property, the profits of business, the wages of labor, and the cost of living, it is a matter of great interest and moment to all, rich and poor alike, that it is both sound and uniform. These qualities, safety and uniformity, are combined in the national currency. It is safe because it is fully and amply secured by a pledge of Federal bonds of a value ten per cent. greater than the notes issued by a first and paramount lien through the Government on the remaining assets of the banks; by the personal liability of the stockholders to an amount equal to the capital; and lastly, by the obligation of the Government to redeem the notes on failure of any bank to redeem its issues at its counter. The national bank notes, bearing upon their face the pledge of full security, and stamped with the impress of the national

guarantee, are entitled to and assured of uniform value in every part of the land. They are good and safe to the holder, not alone at the bank or store or shop in the place where he may reside, but equally safe and good in any city or town to which he may desire to travel or in which he may choose to sojourn. The country now has \$300,000,000 of these national bank notes. Why should not the whole paper currency be of this one type and uniform standard?

But we pass to consider the third feature in the plan suggested, the furnishing for and distributing to large and important sections of the country the banking facilities and accommodations now enjoyed by only favored portions. The banking associations now issuing the national currency are located with great partiality and great injustice. By reference to the last report of the Comptroller of the Currency it will be seen that of the \$300,000,000 of circulating notes authorized, the six New England States have \$104,549,234, more than one third of the whole amount. New York has \$68,853,726, New Jersey \$9,397,985, and Pennsylvania \$38,772,102, making an aggregate for the nine States named of \$221,572,047, thus leaving for all the other States and the Territories the almost insignificant amount of \$78,427,953 of circulating notes.

Now, sir, I certainly admire and commend the generous patriotism, the keen business sagacity, and the pecuniary resources and strength which inspired and enabled New England capital and enterprise to rally promptly to aid the Government in initiating a new and uniform banking system for the country. I take a just pride in New England's devotion to freedom; in her steadfastness in every time of national difficulty and danger; in her costly offerings for the unity and integrity of the Republic, and in the foresight with which she secured so generous a share of the national currency with which to protect her industries, to stimulate her enterprises, and to augment her wealth and power. But while New England and the other States named have been fairly supplied and their wants measurably met, why should like advantages and facilities for growth and development be longer so largely withheld from other States—from the rich and prosperous middle States, with their quickened enterprise and teeming industries; or from the growing empire States of the West and Northwest, with their exhaustless store of mineral treasures and their boundless capacity for production; or from the garden States of the South, destined soon, under the stimulus of free labor and supplied capital, to excel all former wealth and greatness?

Has not the opportune time arrived when the Government can safely commence to redeem its stipulated pledge to exchange a necessary, but confessedly temporary demand loan for an interest-bearing time loan—equal by reason of its long but fixed time of payment and its exemption from taxation to the convertible loan at first provided—to substitute for the demand notes thus withdrawn an equal amount of safe and uniform national currency; and in its distribution or allotment to furnish to all sections of the country those money accommodations and banking facilities which shall protect local interests, encourage local enterprise, assist home industry, and stimulate home production, and thereby insure stable growth and development?

The plan suggested, if put in operation, would fund \$200,000,000 of the legal-tender notes into fifty-year bonds at four per cent. per annum; it would substitute for the demand notes so withdrawn an equal amount of national bank currency secured by the bonds so issued, leaving, according to the last report of the Secretary of the Treasury, about one hundred and fifty-six millions of United States notes outstanding, which would be ample for the lawful money reserves which the banks are required to keep on hand. It would furnish \$200,000,000 of circulating notes for new na-

tional banks, and locate the banks in sections now inadequately supplied, so that local interests should be protected and promoted.

It would require existing national banks to either exchange the five and six per cent. bonds now belonging to them on deposit to secure their circulation for four per cent. fifty-year bonds, or, if they refuse to exchange, to return their circulating notes and surrender their charter and take their bonds, and thus give new capital from the same or near locality opportunity to organize under the new bonds—a privilege which in most localities would be quickly improved. The remaining amount of legal-tender notes may be redeemed in gold whenever the coin balance in the Treasury, either from accumulation or from proceeds of a loan authorized for the purpose, shall be adequate for full payment, and thus the banks be supplied with a coin in place of lawful money reserve as a safe and sound basis for the redemption of their bills.

Should the business wants of the country then require more paper currency—which is altogether probable—let more national banks be authorized upon a similar security, or, what perhaps would more justly determine the question of volume and more surely adapt the supply to the demand, let a general banking law be passed. The future condition and wants of the country can however best determine these questions. Certain it is that our present business and financial condition will admit of no contraction or diminution of the currency. Contraction, and consequent stagnation and retrogression, will not be tolerated. But growth, progress, enlargement, are now the watchwords and signals of the American people. Notwithstanding the losses and burdens of the war the people are neither discouraged nor disheartened, but, on the contrary, are hopeful, buoyant, and confident. They have come through storm and tempest, through conflict and suffering, to a new plane of national greatness and power. The blight and curse of slavery are removed, and the goddess of liberty no longer sits in garments defiled with the blot and stain of human bondage, but, enrobed in a new and spotless mantle, more beautiful in its shining emblems of unity and freedom than royal purple or kingly attire, she beckons the nation onward to new triumphs and grander achievements.

The swelling tide of emigration still sweeps westward subduing plains, opening mines, planting towns, and building cities almost with the swiftness of thought and the magic of a dream. The vast and far-reaching enterprises that seek to open new territory, to develop new resources, and unfold new wealth are being urged with unwonted skill and carried forward with resistless energy. Rocky barriers will soon be removed, the mountains be overtopped, and great highways will be opened for international transit and traffic. China and the Indies will then speed to us their rich argosies of tropical wealth and luxury, Europe and Asia shall meet and sit down with us, and American enterprise shall control the commerce, and American principles shape the destinies of the world.

At the conclusion of his remarks, Mr. SMITH yielded the remainder of his time to

Mr. SCOTFIELD, who said: How much time will there be for me?

The SPEAKER. There are eight minutes left of the hour of the gentleman from Vermont, [Mr. SMITH.]

Mr. LYNCH. Will the gentleman from Pennsylvania [Mr. SCOTFIELD] yield for a motion to adjourn?

Mr. SCOTFIELD. I will yield for that purpose if it be the desire of members.

Mr. LYNCH. I move that the House now adjourn.

Mr. WASHBURN, of Illinois. I object, CHARLOTTE CRANE.

Pending the motion to adjourn, Leave was granted to Mr. STEWART to with-

draw from the files of the House the papers in the case of the claim of Charlotte Crane, not having copies on file to be presented to the Senate.

TREATY-MAKING POWER.

Mr. LAWRENCE, of Ohio, by unanimous consent, obtained leave to print in the Globe some remarks he had prepared on the treaty-making power and the Cherokee neutral lands in Kansas. [See Appendix.]

ORDER OF BUSINESS.

Mr. BROOKS. I call for the regular order. The SPEAKER. The question recurs upon the motion to adjourn.

The question was taken; and upon a division there were—ayes 29, noes 27.

Before the result of the vote was announced, Mr. WASHBURN, of Illinois, called for the yeas and nays.

Upon a division there were—ayes 16, noes 36. So (one fifth voting in the affirmative) the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 45, nays 30, not voting 147; as follows:

YEAS—Messrs. Ames, Beck, Blaine, Blair, Brooks, Broomall, Buckley, Cake, Corley, Covode, Dockery, Donnelly, Driggs, Ferriss, Gove, Griswold, Chester D. Hubbard, Richard D. Hubbard, Ingersoll, Alexander H. Jones, Knott, Lufkin, Lush, Lynch, Morrell, McCarthy, McCormick, McKee, Mercer, Merrill, Niblack, Pike, Raum, Schenck, Scofield, Stewart, Taber, Tift, Van Aernam, Van Aiken, Ward, Whittemore, Windom, Woodbridge, and Young—45.

NAYS—Messrs. Allison, James M. Ashley, Benton, Boies, Boyden, Churchill, Cobb, Farnsworth, Getz, Hooper, Jenckes, Ketcham, William Lawrence, Mallory, Miller, Mungen, Perham, Pierce, Price, Robertson, Sawyer, Shanks, Spaulding, Starkweather, Stevens, Stover, Taffe, Twichell, Elihu B. Washburne, and Thomas Williams—30.

NOT VOTING—Messrs. Adams, Anderson, Archer, Arnell, Delos R. Ashley, Axtell, Bailey, Baker, Baldwin, Banks, Barnes, Barnum, Beaman, Beatty, Benjamin, Bingham, Blackburn, Boutwell, Bowen, Boyer, Bromwell, Buckland, Burr, Benjamin F. Butler, Roderick R. Butler, Callis, Cary, Chanler, Reader W. Clarke, Sidney Clarke, Clift, Coburn, Cook, Cornell, Cullom, Dawes, Delano, Dewesse, Dickey, Dixon, Dodge, Eckley, Edwards, Eggleston, Ela, Eldridge, Thomas D. Eliot, James T. Elliott, Ferry, Fields, Fox, French, Garfield, Glossbrenner, Golladay, Goss, Gravely, Grover, Haight, Halsey, Hamilton, Harding, Haughey, Hawkins, Heaton, Higby, Hill, Holman, Hopkins, Hotchkiss, Asahel W. Hubbard, Hubbard, Humphrey, Hunter, Johnson, Thomas L. Jones, Judd, Julian, Kelley, Kellogg, Kelsey, Kerr, Kitchen, Koonitz, George V. Lawrence, Lincoln, Loan, Logan, Loughridge, Marshall, Marvin, McCullough, Moore, Moorhead, Morrissey, Mullins, Myers, Newcomb, Newsham, Nicholson, Norris, Nunn, O'Neill, Orth, Paine, Peters, Pettis, Phelps, Pile, Plants, Poland, Poisley, Pomeroy, Prince, Pruyn, Randall, Robinson, Root, Ross, Selye, Shellabarger, Sitgreaves, Smith, Stokes, Stone, Sypher, Taylor, Thomas, John Trimble, Lawrence S. Trimble, Trowbridge, Upson, Bart Van Horn, Robert T. Van Horn, Van Trump, Van Wyck, Vidal, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Wood, and Woodward—147.

So the motion was agreed to; and accordingly (at four o'clock and forty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of Mrs. A. Lincoln, for a pension.

By Mr. AMES: The petition of Albert French and others, that Congress protect all engaged in navigation from illegal exactions.

By Mr. BEAMAN: The petition of C. Campbell and 41 others, citizens of Wayne county, Michigan, praying for the passage of the civil service bill, new tax bill, &c.

Also, the petition of Scotten, Smith & Co. and others, protesting against any change in the present internal revenue tax law so far as it regards tobacco.

Also, the petition of William E. Edwards and others, asking for a reduction of the duties on petroleum oil to fifty cents per barrel, or to make the duty *ad valorem*.

By Mr. CHURCHILL: The memorial of Alvin Osborn and others, shingle manufacturers, of Oswego, New York, asking for in-

creased duty upon shingles of foreign manufacture, in consequence of the Canadian export duty upon shingle timber.

By Mr. COVODE: A petition of certain distillers in Fayette and Westmoreland counties, Pennsylvania, for a modification of the internal revenue laws.

By Mr. CULLOM: A petition signed by numerous citizens of Tazewell county, Illinois, asking the passage of JENCKES's civil service bill, and several other bills therein mentioned.

By Mr. DRIGGS: The petition of F. Crawford and 50 others, citizens of Tuscola county, Michigan, asking the establishment of a new post route in said county.

By Mr. EGGLESTON: The memorial of Augustus W. Ballard, late additional paymaster United States Army, praying to be reimbursed in the sum of \$540, being the amount taken from his safe in the city of Washington on the 14th day of March, 1865.

By Mr. FARNSWORTH: The petition of George W. White, of Travis county, Texas, for the removal of disabilities.

By Mr. HIGBY: The petition of John Straterson, for relief for loss of mail matter by the overland mail to California.

Also, the petition of White & Bauer, for relief for loss of mail matter by the overland mail to California.

By Mr. HOOPER, of Massachusetts: The petition of J. D. and M. Williams and others, merchants and dealers in distilled spirits in the city of Boston, for the amendment or modification of the internal revenue law in relation to distilled spirits.

By Mr. JENCKES: A resolution of the Board of Trade of the city of Providence, Rhode Island, recommending measures for the mitigation of the evils of maritime warfare.

By Mr. JUDD: The petition of Mrs. Webster, asking a pension.

By Mr. JULIAN: A petition of 52 citizens of New York, praying Congress to establish the right of women to vote by constitutional amendment.

By Mr. KELLEY: A memorial of the representatives of the religious society of Friends in Pennsylvania, New Jersey, and Delaware, respecting the Indians.

By Mr. O'NEILL: The petition of Francis Ehrenberg, formerly of the one hundred and third regiment New York volunteer infantry, asking for a pension.

By Mr. TABER: The petition of Captain Joseph Boyles, of Port Jefferson, New York, and 22 others, masters of vessels, for protection against the arbitrary and illegal exactions of State and municipal authorities against masters and owners of vessels.

By Mr. VAN HORN, of New York: The petition of John C. Lemon, late colonel of the tenth New York cavalry, asking reimbursement for expenses incurred, and compensation for services rendered.

IN SENATE.

WEDNESDAY, January 27, 1869.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. WILSON, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting a report from the Secretary of State, with accompanying documents, in relation to the gold medal presented to Mr. George Peabody, pursuant to the resolution of Congress of March 16, 1867; which was ordered to lie on the table, and be printed.

He also laid before the Senate a message from the President of the United States, transmitting for the consideration of Congress, in conformity with the requirements of the sixth section of the act of the 22d of June, 1860, a copy of certain regulations for the consular courts in China prohibiting steamers sailing

under the flag of the United States from using or passing through the Straw Shoe channel on the river Yangtze, decreed by S. Wells Williams, chargé d'affaires, on the 1st of June, and promulgated by George F. Seward, consul general at Shanghai, on the 25th of July, 1868, with the assent of five of the United States consuls in China; which, on motion of Mr. SUMNER, was referred to the Committee on Foreign Relations, and ordered to be printed.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented the memorial of the Legislative Assembly of Montana Territory, in favor of an appropriation for a national road from Fort Benton to the navigable waters of the Columbia river; which was referred to the Committee on Commerce.

He also presented resolutions of the Legislature of Kansas, in favor of the passage of a law authorizing all persons who have taken less than one hundred and sixty acre homesteads under the provisions of the laws of the United States to extend their privileges so as to permit them to claim, take, prove up, and hold enough more to make their homesteads one hundred and sixty acres; which was referred to the Committee on Public Lands.

Mr. WILSON presented the petition of John M. Drowrey, praying the removal of the political disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

He also presented a petition of citizens of Ohio, praying the repeal of the act granting a charter to the Masonic Hall Association in the District of Columbia; which was referred to the Committee on the District of Columbia.

Mr. CHANDLER presented a petition of citizens of Michigan, praying that women be granted the right of suffrage; which was referred to the Committee on the Judiciary.

Mr. SUMNER presented a petition of citizens of Massachusetts, praying that women be granted the right of suffrage; which was referred to the Committee on the Judiciary.

Mr. HOWE. I have been requested to present a petition from John James Flournoy, of Jackson county, Georgia, asking for a variety of relief. The principal seems to be that an able phrenologist be appointed to craniolegally examine all candidates for revenue appointments to see whether reverence, benevolence, conscientiousness, causality, and comparison be the leading protuberances. He thinks it would have a tendency to check the frauds under which the Government is now suffering in that department of the service. [Laughter.] I move its reference to the Committee on Retrenchment.

The PRESIDENT *pro tempore*. It will be so referred.

Mr. EDMUNDS. I wish my friend from Wisconsin, who has made a very proper reference of that petition, would attend the meetings of the committee as a standard of comparison. [Laughter.]

Mr. HOWE also presented a petition of citizens of Wisconsin, praying that women be granted the right of suffrage; which was referred to the Committee on the Judiciary.

Mr. FERRY presented two petitions of citizens of Connecticut, praying the establishment of a mail route from Stamford, Connecticut, to Poundridge, New York; which were referred to the Committee on Post Offices and Post Roads.

Mr. POMEROY. I present a petition from citizens of Kansas, praying that in any change or amendment to the Constitution that may be proposed either to extend or regulate suffrage there shall be no distinction between men and women. This petition is headed by Dr. Updegraff, a distinguished citizen of my State, and very numerous signed. I move its reference to the Committee on the Judiciary.

The motion was agreed to.

Mr. POMEROY also presented a petition of citizens of Vermont, praying that women be granted the right of suffrage; which was referred to the Committee on the Judiciary.

Mr. WILLEY presented the petition of Alexander H. Faltz, praying to be relieved from political disabilities; which was referred to the Committee on the Judiciary.

Mr. ABBOTT presented a petition of the Chamber of Commerce of Wilmington, North Carolina, praying an appropriation for the improvement of the navigation of Cape Fear river; which was referred to the Committee on Commerce.

Mr. SAWYER presented the petition of L. S. Payne, praying that compensation be granted to the Sisters of Mercy in Charleston, South Carolina, for taking care of sick and wounded soldiers during the late war; which was referred to the Committee on Claims.

Mr. WHYTE presented a petition of T. B. Parton, of Virginia, praying the removal of the political disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

Mr. NYE presented the petition of Thomas Dickerson, praying the intervention of Congress to protect all persons engaged in navigation from illegal exactions from the various tonnage tax laws imposed by States, cities, and sea-port towns; which was referred to the Committee on Commerce.

He also presented the petition of captains and owners of vessels plying between Providence, Rhode Island, and Alexandria, Virginia, and Washington and Georgetown, District of Columbia, praying the intervention of Congress to protect all persons engaged in navigation from illegal exactions from the various tonnage tax laws imposed by States, cities, and sea-port towns; which was referred to the Committee on Commerce.

He also presented the petition of citizens of the Territory of Dakota, praying that women be granted the right of suffrage; which was referred to the Committee on the Judiciary.

Mr. PATTERSON, of Tennessee, presented the petitions of John S. Copenhaver and William C. Sexton, of Marion, Smyth county, Virginia, praying a removal of the political disabilities imposed on them by acts of Congress; which were referred to the Committee on the Judiciary.

He also presented a petition of citizens of Texas, praying the removal of the political disabilities imposed on certain persons in that State; which was referred to the Committee on the Judiciary.

Mr. THAYER presented the petition of Emily Hayne, widow of Paul H. Hayne, of Augusta, Georgia, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. MORTON. Yesterday the petition of Phebe and Sylvia Ann Wood was referred to the Committee on Claims. I desire to have its reference changed, and to have it referred to the Committee on Agriculture.

The PRESIDENT *pro tempore*. That change will be made if there be no objection.

Mr. EDMUNDS. I have had sent to me, I do not know from what source, what purports to be, and I dare say is, a petition from sundry citizens of Vermont, asking for equal suffrage between men and women. I have not the pleasure to know any of these persons, but presume the petition is genuine, and I therefore present it and move its reference to the Committee on the Judiciary.

The motion was agreed to.

Mr. MORRILL, of Maine, presented a petition of citizens of Maine, praying that women be granted the right of suffrage; which was referred to the Committee on the Judiciary.

Mr. HARLAN presented the memorial of Washington G. Irwin, praying compensation for services rendered as commander of company E, forty-third regiment Ohio volunteers, from January 1 to April 5, 1865; which was referred to the Committee on Claims.

He also presented the memorial of S. L. Glasgow and others, citizens of Wayne county, Iowa, praying that a pension be granted to Mrs. Sarah E. Haines, widow of George H. Haines, late a private in company K, eighteenth regi-

ment Missouri infantry; which was referred to the Committee on Pensions.

Mr. ANTHONY presented a petition of citizens of Rhode Island, praying that women be granted the right of suffrage; which was referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the bill (S. No. 641) in addition to the several acts providing for suppressing insurrections against the Government of the United States, reported it back, and moved its indefinite postponement; which was agreed to.

He also, from the same committee, to whom was referred the joint resolution (S. R. No. 189) proposing an amendment to the Constitution of the United States, reported it back, and moved its indefinite postponement; which was agreed to.

He also, from the same committee, to whom were referred the following message, letter, and petitions, asked to be discharged from their further consideration; which was agreed to:

A message of the President of the United States, recommending certain amendments to the Constitution of the United States;

A letter from the president of the constitutional convention of Texas, communicating the report of the special committee on lawlessness and violence in that State;

Two petitions of members of the bar of Mississippi, praying that the place of holding the United States courts be changed to Vicksburg;

The petition of Simeon Putnam, of Chelsea, Massachusetts, praying that the Constitution be so amended as to make the President and Vice President to be elected by a direct vote of the people; and

A petition of citizens of North Carolina, praying that provision be made for the payment of claims of loyal citizens.

He also, from the same committee, to whom was referred the resolution of Mr. MORTON to pay the Senators from North Carolina, South Carolina, Florida, Alabama, Arkansas, and Louisiana compensation from the commencement of the Fortieth Congress, reported it back, and moved its indefinite postponement; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 677) to punish the crime of holding office in violation of the fourteenth article of the Constitution, reported it with an amendment.

Mr. TRUMBULL. The same committee, to whom was referred the bill (S. No. 777) to enforce certain provisions of the fourteenth amendment to the Constitution of the United States, have instructed me to report it back and recommend its indefinite postponement. The subject of this bill is covered by the other bill which the committee have reported with an amendment. I move that this bill be indefinitely postponed.

The motion was agreed to.

Mr. SUMNER. I desire to inquire of the Senator whether he has reported from the committee any bill relating to Georgia?

Mr. TRUMBULL. No, sir; not specially. We have reported a bill relating to Georgia and all other States where any persons are holding or attempting to hold office contrary to the Constitution of the United States, to make it a punishable offense. It applies to Georgia, but not more to Georgia than to any other State.

Mr. SUMNER. May I ask the Senator whether that is all the committee propose to report applicable to Georgia?

Mr. TRUMBULL. It is all that the committee have agreed upon and are ready to report at this time. We have several bills before the committee relating specially to Georgia, upon which the committee have not yet arrived at a definite conclusion.

Mr. MORRILL, of Maine, from the Committee on Appropriations, to whom was referred the bill (H. R. No. 1599) making appropriations for the naval service for the year

ending June 30, 1870, reported it with amendments.

He also, from the same committee, to whom was referred the joint resolution (S. R. No. 195) requiring the Commissioner of the General Land Office to transfer certain moneys, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 824) relative to the refining of gold and silver bullion at the Mint of the United States and branches, asked to be discharged from its further consideration, and that it be referred to the Committee on Finance; which was agreed to.

He also, from the same committee, to whom was referred the petition of the harbor commissioners of Massachusetts, praying an appropriation for the completion of the works in Boston harbor and Cape Cod harbor, asked to be discharged from its further consideration, and that it be referred to the Committee on Commerce; which was agreed to.

Mr. VICKERS, from the Committee on the District of Columbia, to whom was referred the joint resolution (H. R. No. 258) to change the name of Four-and-a-half street, in the city of Washington, to "Lincoln avenue," reported adversely.

Mr. DAVIS, from the Committee on Claims, to whom was referred the petition of Henry Failing, praying that the Secretary of the Treasury be authorized to issue to him a bond in lieu of an Oregon war bond destroyed by the burning of the steamer Golden Gate on the 27th of July, 1862, reported adversely thereon.

Mr. CORBETT. I ask leave of the Senate to take up a little bill, No. 679, merely providing for the extension of time for the completion of a military road.

Mr. GRIMES. Let us go on with the morning business.

Mr. CORBETT. It will take no time.

Mr. GRIMES. I object.

The PRESIDENT *pro tempore*. Objection being made, it cannot be taken up at this time.

Mr. CORBETT. I am willing to give way for any morning business.

BILLS INTRODUCED.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 838) to prevent the collection of illegal imposts under color of State authority; which was read twice by its title, and referred to the Committee on Commerce.

Mr. NYE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 839) to extend the boundaries of the States of Nevada, Minnesota, and Nebraska, and the Territories of Colorado, Montana, and Wyoming; which was read twice by its title, referred to the Committee on Territories, and ordered to be printed.

Mr. HENDERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 840) to enable the Cherokee, Creek, Seminole, Choctaw, and Chickasaw people to become citizens of the United States; which was read twice by its title, referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 841) to revive the grant of lands to aid in the construction of a railroad from Selma to Gadsden, in the State of Alabama, and to confirm the same to the Selma, Rome, and Dalton Railroad Company; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. WILLEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 842) to repeal the sixteenth section of an act in addition to an act to promote the progress of the useful arts, approved March 2, 1868; which was read twice by its title, and referred to the Committee on Patents, (with a petition of John Titus, of Philadelphia, on the subject,) and ordered to be printed.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 843) to designate the place of confinement

for persons convicted of offenses against the laws of the United States and sentenced to imprisonment in certain States; which was read twice by its title, and referred to the Committee on the Judiciary, (with a letter of A. Pillsbury, superintendent of the Albany penitentiary, on the subject,) and ordered to be printed.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 207) authorizing Lieutenant Commander W. A. Kirkland, United States Navy, to accept a gold medal from the emperor of France; which was read twice by its title, referred to the Committee on Foreign Relations, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 208) authorizing Commander Charles H. Baldwin, United States Navy, to accept a gold medal from the king of the Netherlands; which was read twice by its title, referred to the Committee on Foreign Relations, and ordered to be printed.

JOHN L. DAVIS.

Mr. HENDRICKS. I move to take up for consideration House bill No. 1158, for the relief of an officer of the Navy.

The motion was agreed to; and the bill (H. R. No. 1158) for the relief of Commander John L. Davis was considered as in Committee of the Whole. It is a direction to the proper accounting officer of the Treasury to pay to Commander John L. Davis \$271 91.

The bill was reported to the Senate.

Mr. EDMUNDS. The bill does not state for what this payment is to be made. I should like to have it explained by the Senator from Indiana.

Mr. HENDRICKS. There is a report, which the Secretary will be able to find in a moment, which explains the matter. This bill only directs the payment of between two and three hundred dollars compensation that is due to this officer for service in a particular grade. The same compensation has been allowed to others who served with him at the time. There is no question about it; but there is a technicality that prevents his payment at the Department under the act of 1847. I suppose there is no objection to the bill. It is reported by the Committee on Naval Affairs.

The bill was ordered to a third reading, read the third time, and passed.

MILITARY ROAD IN OREGON.

Mr. CORBETT. I move to take up Senate bill No. 679 for consideration.

The motion was agreed to; and the bill (S. No. 679) to amend an act entitled "An act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State," was considered as in Committee of the Whole. The bill contains a preamble reciting that by an act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State, approved July 2, 1864, the time designated for the completion of the road expires on the 2d day of July, 1869, and proposes to extend the time to the 2d day of July, 1872.

Mr. HENDRICKS. I desire to ask the Senator from Oregon what is the prospect of this road, whether anything has been done upon it? The bill making the original grant, I suppose, came from the Committee on Public Lands, and I do not know whether that committee has considered this bill or not.

Mr. CORBETT. I will state, for the information of the Senate that this bill has been considered by the Committee on Public Lands, and reported favorably upon the following state of facts: this road was commenced as soon as the State designated the company to whom the lands should go for the purpose of making the road. The company have completed the road through the Cascade range of mountains about one hundred miles through the most difficult portion of the country, on which they

have expended about one hundred thousand dollars over and above anything they could get from the land, and they are now commencing its construction through another portion of country.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

LITTLE ROCK ISLAND.

Mr. HARLAN. I move that the Senate take up for consideration House bill No. 394, confirming the title to Little Rock Island in the Mississippi river. It is a short bill, and will occupy but a few moments.

The motion was agreed to; and the bill (H. R. No. 394) confirming title to Little Rock Island in the Mississippi river was considered as in Committee of the Whole. It is recited that according to the official plat of the survey of the public land returned to the General Land Office by the surveyor general a certain island in the Mississippi river known as Little Rock Island, situate opposite the city of Clinton, in the State of Iowa, was surveyed and platted as being within the district of lands subject to entry and sale at the Government land office at Dubuque, in the Territory of Iowa; that the island was entered by Jonathan L. Pearce, jr., at the land office at Dubuque, as appears by cash certificate No. 3326, and was subsequently granted by the United States to him by letters-patent dated the 1st day of January, 1846, in which the patent is described as being "Little Rock Island, in the Mississippi river, in township eighty-one north, of range seven east, of the fifth principal meridian, in the district of lands subject to sale at Dubuque, Iowa Territory, containing thirty-nine acres and four hundredths of an acre;" and that the island is situated east of the main channel of the Mississippi river, in the State of Illinois, in the district of lands subject to sale at Springfield, in said Illinois. Hence the bill proceeds to ratify and confirm the title to the island to Jonathan L. Pearce, jr., and his grantees, fully, in like manner and effect, and in all respects to the same intent and purpose as if the laws of the United States respecting the survey, entry, and sale of the public land had been fully and in every respect complied with and observed.

Mr. DOOLITTLE. I would inquire of the honorable Senator from Iowa whether there is any adverse claim in Illinois?

Mr. HARLAN. I think not. I think there is none whatever. The only point is to correct the recital in the deed. The land is recited in the deed to lie in Iowa, when, in point of fact, it lies in Illinois, the main channel of the Mississippi river being on the west side of the island. That is the whole difficulty in the case, as I understand. The bill has been reported from the Committee on Public Lands.

Mr. HENDRICKS. I should like to ask the Senator from Iowa if this matter has been examined by the Committee on Public Lands?

Mr. HARLAN. It is so stated in the bill.

Mr. HENDRICKS. I had the impression that there was an old controversy about the lands on that island, different parties claiming it. I do not know that this bill relates to that at all. If there be such a controversy I should regret very much to see Congress settle it without a full understanding of it. If the only question be as to the regularity of the entry at the one office instead of the other, of course there can be no objection to the bill; but if there be a controversy between different parties about this land this would be a hasty disposition of it, I should think.

Mr. HARLAN. I have never heard of any controversy whatever. If any exists I know not of it. The chief object of having the title settled now consists in the fact that a bridge is located, in part, on this island. I suppose the island is of but very little value in itself; but the bridge across the Mississippi river lies partly on this island, and the owners of the bridge, of course, desire to have a perfect title. The chairman of the Committee on Public

Lands ought to know if there is any controversy over it. I have heard of none and know of none.

Mr. GRIMES. Personally, I know nothing about this matter. My whole information is derived from the parties who have written to me recently about it. I have never heard that there was any controversy in regard to it. The bill has been on the table, I think, since the last session, and I should suppose it would be known to the adverse party, if there was one, that an effort was being made here to confirm the title. The Senate can see at once what the difficulty is. The Government have already patented this land, but in the patent they have recited the exact description, except that they place it in Iowa instead of putting it in Illinois. The main channel turns out to be on the west of the island, and therefore the island is in Illinois.

Mr. TRUMBULL. I think that safety would require that we should annex a provision to the bill that it shall not interfere with any rights which have been acquired by any other person from the United States.

Mr. HARLAN. I have no objection to that.

Mr. TRUMBULL. It can do no harm, at any rate.

Mr. HARLAN. If the Senator will suggest the appropriate amendment I have no objection whatever to it.

Mr. TRUMBULL. I suggest that it be amended by adding the following:

Provided, That this act shall not be construed to deprive any other person of any right or title to said land acquired from the United States.

The amendment was agreed.

The bill was reported to the Senate as amended; and the amendment was concurred in. It was ordered that the amendment be engrossed and the bill read a third time. The bill was read the third time, and passed.

WILLIAM M'GARRAHAN.

Mr. MORTON. There was a question of order left undisposed of yesterday at the expiration of the morning hour which I am anxious to have settled, and for the purpose of having that question disposed of I move to take up House bill No. 65 for the relief of William McGarrahan.

Mr. CONNESS. I object to that form of motion. The bill cannot be taken up. That is the question that is before the Senate exactly.

The PRESIDENT *pro tempore*. That is the question. The Chair was about to state the question. The motion is to take up the bill for the purpose of reference, and the question is whether it is in order—the bill having been postponed indefinitely at the last session, and notice conveyed to the House of Representatives to that effect—to take up the bill now for the purpose of reference.

Mr. HENDRICKS. The question is now before the Senate, I believe.

The PRESIDENT *pro tempore*. The question is before the Senate.

Mr. HENDRICKS. I suppose, sir, upon the question of order under the practice of the Senate it is hardly necessary to add anything to what has already been said. Yesterday morning, however, the Senator from Nevada [Mr. STEWART] felt authorized, with a view to influence the judgment of Senators upon the proposition who hold that the bill may be taken up, to refer to its history at the last session of Congress, supposing, as I think, on his part, that that reference to the history of the measure would prejudice it somewhat in the judgment of Senators. Now, Mr. President, I will ask the attention of Senators very briefly to the history of the bill at the last session. I understand that in the month of July the Committee on Private Land Claims made an adverse report. Upon that report being made to the Senate, its contents and the merits of this claim did not become known to the Senate. Of course we are not expected to read the elaborate report of a committee upon a private claim until that claim is called up. Practi-

cally it is impossible. While that report was pending before the Senate it seems that the attention of the distinguished Senator from Michigan [Mr. HOWARD] was called to the bill, and governed by public considerations as well as by what he considered a proper regard to the rights of Mr. McGarrahan, that Senator addressed a letter to the Commissioner of the General Land Office. That letter is dated on the 15th of July last, and in that letter he appeals to the Commissioner to allow the case to stand until Congress may take further action upon it, and the Senator informs the Commissioner of the General Land Office that Mr. McGarrahan expects to present additional evidence in support of his claim before the Senate. This statement was made to the Commissioner with a view of obtaining from him a postponement of any executive action. The answer of the Commissioner to the Senator from Michigan is as follows:

"I had the honor just now to receive your communication of present date, advising me that upon the assurance of W. McGarrahan, esq., that further proofs would be exhibited tending to establish his claim to the tract of land embraced by the 'Panoche Grande' survey in California, the chairman of the Committee on Private Land Claims has assented to postponement of further action during the present session.

"Such being the case the local land officers in California will be instructed still further to suspend action on claims falling within the survey in question until the matter shall be finally disposed of by Congress."

That assurance was made by the Commissioner of the General Land Office upon the communication from the Senator from Michigan. That Senator in his letter said:

"I further told him"—

That is, Mr. McGarrahan—

"I thought there would be no further action on the report at this session, and Mr. WILLIAMS, chairman of the committee, assented to this."

Mr. McGarrahan in the middle of July was assured that no further action would be taken on this claim, so far as the chairman who made the report could give that assurance. The Commissioner of the General Land Office decided to postpone any executive action upon it. On Saturday night, the 25th of the month, when the business of the session was about coming to a close, the bill was called up in the Senate, perhaps in the absence of the chairman who made the report, who gave the assurance that there would be no further action. I take it it was in his absence, for he would have stated at once that he had given this assurance if he had been present when the Senator from Nevada called the bill up. On the 25th of the month it was called up by the Senator from Nevada furthest from me, [Mr. NYE.] There a proposition was made to read the report. That Senator said he would like to have the report read; but the Senator from California, [Mr. CONNESS,] who now very earnestly opposes the action of the Senate which will allow the rest of us to know something about this case, stated that the report was a lengthy one, and another Senator from California said that it would take a long time to read it. Mr. STEWART then said:

"The report recommends that the bill be indefinitely postponed. I therefore move, in accordance with the report of the committee, that the bill be indefinitely postponed."

"The motion was agreed to."

Then, sir, upon the suggestion that it was a lengthy report, it was not read. The debate did not inform even the thin Senate then present what were the merits of the claim. As I understand the fact to have been, the bill was called up in the evening and indefinitely postponed; and this is the history of the case which the Senator from Nevada now thinks ought to prejudice the Senate against a further investigation of it. On the next Monday, the 27th, the two Senators from Nevada and the Senator from California addressed the Commissioner of the General Land Office a letter, asking him to proceed at once to defeat the purpose of Mr. McGarrahan, under the assurance given by the chairman of the committee and the Senator from Michigan that he should have a further hearing if he presented additional evidence to

the Senate. These three Senators unite in a letter to the Commissioner, asking him to proceed at once and to secure the title to the parties who claim in opposition and hostility to Mr. McGarrahan.

Mr. President, I am unable to perceive that this history of the transaction should induce any Senator to cast a vote which will make that a final action of the Senate which took place under circumstances that made it impossible for the Senate to know the merits of the case. Shall it now be held that the Senate adjudged upon the merits of the case when the record shows that it was a matter of fact that the Senate did not consider the merits? No Senator, perhaps, except the chairman who made the report and those associated with him upon the committee, and the gentlemen who seem to take a special interest in it, knew anything of the merits of this case, I presume. I believe I had never heard of it, nor do I undertake now to speak upon the merits. I do not know what the merits are. It is enough for me to know that a private citizen asks the ear of the Senate of the United States; and I do not care whether it relates to leagues of land in California in hostility to a rich mining company or whether it relates to but a dollar in money I am in favor of that construction of our rules which shall be liberal toward him and give him an opportunity to be heard. I am not in favor of that strict ruling which shall hold a technical motion to be a disposal of the merits of the case, when, in fact, the Senate did not consider the merits. It had no opportunity to consider the merits. McGarrahan now asks that he shall be heard, and it is claimed by the three distinguished Senators who addressed this letter to the Commissioner of the General Land Office that because the Senate indefinitely postponed at a late hour of the night on the 25th of July last the Senate cannot touch it. A technical rule is brought to bear upon the Senate to close up investigation against a citizen. It is enough for the Senate to see that this man is opposed by a mining company out there. He asks to be heard in the Senate. He has been heard by a committee. That committee has expressed its opinion adversely to him. It may be right. The presumption is that the report of the committee is right; but it is not conclusive upon the Senate. I say that when a citizen asks to be heard the Senate itself should hear him.

And now, sir, is the Senate technically estopped? No, sir. The parliamentary law is that an indefinite postponement simply is a declaration by the body that it will not act upon that bill again during that session; and that is all of it. That session has passed and gone; and we have a rule of this body that a bill that has not been finally disposed of upon its merits shall live over and may be considered now; and it is right, sir, and I think that these Senators cannot maintain their argument in favor of a technical estoppel on the part of the Senate against hearing the plea of the citizen in regard to his land.

Mr. STEWART. Mr. President, inasmuch as the Senator from Indiana has now based his claim to overthrow a rule of the Senate as old as the Government on the merits of this case, it becomes material and important to know on what the Senate did act. Now, we have a right to light on the subject, and we are entitled to have the report of the committee read, and furthermore we are entitled to know whether Mr. McGarrahan and his friends have a dispensing power so that they can go to the Departments, as they have for the last two years, and say that men who have acquired rights under the laws of their country shall be denied those rights. We are entitled to know whether, after having been three times driven from the Supreme Court and his claim branded as an infamous fraud, and adverse rights having grown up under the laws of the country, those rights can be trifled with at the request of Mr. McGarrahan.

I say it was the duty of the Senators representing that portion of the country to urge the

disposition of this case so that the laws might be enforced; so that those men might have their rights. They were preëmptors under the law. They had acted under the law. The laws had been suspended for over a year at the time that this occurred, and Mr. McGarrahan assumed that they might be further suspended. I was anxious that the case should be brought up at the last session. Mr. McGarrahan wanted it postponed so that these men could be kept out of their property still longer.

In order to show that this case has been investigated, and that the Senate may know something of it, I ask the Clerk to read the report of the committee. Let us get some idea of it and see whether it is proper to forever suspend the laws that have been passed in this body and in the other after mature discussion; for if Mr. McGarrahan has any rights he has them under the law, as I shall go on to show; that was passed for him and all others similarly situated. We provided in the law for the disposition of such cases after many days of discussion. Those were the cases that the Supreme Court had rejected—Spanish land grants. The rights of the parties were all provided for, and they were turned over to those rights. Men have invested their money under those considerations. He was aware of the law, and his claim had been rejected. This Congress has fixed a mode of procedure. Now, he asks, after that mode of procedure has been fixed, that the property of others shall be taken and given to him, that he shall be allowed to buy it at \$1 25 an acre, and he asks that others shall be kept out of their rights until he can get a bill through Congress. That they might have a chance to assert their rights, that they might have a chance to enjoy the rights they had under the law, it was the duty of Senators who were familiar with the case to hasten its final determination; and now that the committee have investigated it I call for the reading of the report.

Mr. BUCKALEW. I understand that in this case there was a report made in the House of Representatives from the Judiciary Committee, headed by Mr. WILSON, of Iowa, in favor of this claim. There is also a report from the Senate committee, as the Senator states, unfavorable to the claim, which in the former debate was stated to be of some length. I suggest to the Senator from Nevada that it is scarcely worth while for us to occupy time in the reading of these reports at present. The decision of this question of order will determine whether we are to proceed with the investigation of this case upon the merits, and he can see that if we enter upon the merits by considering one report, necessarily we shall be compelled to have the other read.

Mr. STEWART. Nobody would think of upsetting this rule, which has been in operation since the foundation of the Government, except to reach some meritorious case; and it is alleged by the Senator from Indiana that this is such a meritorious case that technical rules should not intervene.

Mr. HENDRICKS. An argument is never strengthened by misunderstanding the position occupied by an opponent. I said that before the Senate the presumption now stood in favor of the adverse report of the committee. I even went that far. Instead of basing my argument upon the merit of the claim itself, I simply based it upon the merit of the claim that the party be heard.

The PRESIDENT *pro tempore*. The Senator from Nevada asks that the report be read, and that question ought to be settled first.

Mr. MORTON. I rise to a question of order on that.

Mr. STEWART. I have not got through with my reply to the Senator from Indiana, [Mr. HENDRICKS.]

The PRESIDENT *pro tempore*. The rule is that when the reading of a paper is called for, and it is objected to, it is to be decided by the Senate without debate.

Mr. HOWARD. I hope it will not be read. It throws no light upon the subject at all.

Mr. CONNESS. I understand the Senator from Nevada calls for the reading of the report as a part of his remarks on this occasion. If he has a right to make a speech on the merits of the question—and the merits of the question seem to be open—he has a right to incorporate in that speech what matter he pleases, and ask the Clerk, as a matter of courtesy or favor, to read that part of his remarks.

Mr. MORTON. Mr. President—

Mr. CONNESS. I have got the floor, and cannot be disturbed at present except by the Chair.

Mr. President, when the fog clears away from this action a little more, when it shall be my time to take the floor, I shall wish to say a few words to the Senate, especially upon the remarks submitted by the honorable Senator from Indiana [Mr. HENDRICKS] this morning, and some remarks that fell from the honorable Senator from Maine [Mr. FESSENDEN] yesterday. There has been a personal direction given to this question and this debate; and I wish those Senators and all others to understand that I am here, for one, to defend all the action that I have taken in connection with this case against all persons whatsoever. The imputations that are worked into this debate cannot go unnoticed, and when I shall be entitled to the floor I shall address myself to that part of the subject.

The PRESIDENT *pro tempore*. The question is on the reading of the paper.

Mr. STEWART. I propose to go on with my remarks, and use that report, if the Clerk will furnish it to me, as a part of my remarks. If there is any objection to his reading it I will read it myself. I want to use it as an argument to show that McGarrahan's case has been considered by the Senate.

The PRESIDENT *pro tempore*. The Chair does not consider that a discussion of the merits of the case is in order in discussing this question of order. The merits cannot be material. The question is whether it is in order to take up the bill for reference; that is all.

Mr. POMEROY. I ask leave to read the rule. It is the last part of Rule 11:

"And motions to take up or proceed to the consideration of any question shall be determined without debate upon the merits of the question proposed to be considered."

The PRESIDENT *pro tempore*. The Chair is aware of that rule. The merits of a question are not open on a motion to take up, but that is not exactly the question here now. The question is whether it is in order to take up the bill or to make the motion to take it up.

Mr. STEWART. I am aware of that rule; and it was enforced against me the other day, and I submitted to it when enforced against me. Other Senators continually allude to the fact that Mr. McGarrahan has not had a hearing before the Senate, that his case has not been investigated. Here was a report that was printed and on the tables of Senators and they had the opportunity to see it, and the bill was called up in the usual way. The gentlemen calling it up were under no obligations or no promise, express or implied, to delay the matter, and thus tie up the property of other men and dispense with the execution of the laws of the country. On the contrary, they were under an obligation to their constituents and to the country to see that the laws were enforced. They were not bound to stand by and see men kept out of their rights under the laws until Mr. McGarrahan could see whether he could get a bill through that would give him their property; but the allegation is that it was not sufficiently considered in the Senate.

Mr. HOWARD. Mr. President, I am obliged to call for the order of the day. It is past one o'clock.

ORDER OF BUSINESS.

The PRESIDENT *pro tempore*. The morning hour having expired, the unfinished business of yesterday is now the order of the day, being the bill (S. No. 256) relating to the Central Branch Union Pacific Railroad Company.

Mr. SHERMAN. Mr. President, I now again submit the motion I did on Monday, that

this bill and all prior orders be postponed with a view to take up the bill in regard to the public debt and the currency. It is very manifest, I think, that this railroad bill cannot pass without considerable further debate; and since Monday it has become very manifest that this bill, if it is to pass the Senate, cannot be acted on by the House of Representatives at this session. We are consuming very valuable time. I desire to submit some observations to the Senate on the bill to which I allude, a bill of a public character; and I hope, therefore, the Senate will allow it to be taken up. I do not think it will injure the interests of these parties or do any damage whatever.

The PRESIDENT *pro tempore*. It is moved and seconded that the present order and all prior orders be postponed for the purpose of taking up the bill mentioned by the Senator from Ohio.

Mr. MORTON. I think the Senate would do right in allowing the regular order of business to be postponed long enough to settle the question of order which has been discussed. So far, however, as the motion made by the Senator from Ohio is concerned, while I shall vote for the railroad bill, I think it due to the Senator from Ohio, as chairman of the Committee on Finance, that the bill mentioned by him should be taken up, at least long enough to allow him to make his speech. I am anxious to hear what he has to say in favor of the bill, and I know the country is. I think it is due to him as a matter of courtesy that the bill should be taken up at least long enough to let him make his speech, and then I am in favor of resuming the consideration of the railroad bill and continuing it until it is settled. But I will now say to Senators that I shall call up the question of order to-morrow and ask the Senate to give its attention to it long enough for its settlement.

Mr. POMEROY. When we adjourned last night I thought the Senate was about ready to vote on the central branch bill; but the adjournment was carried under an apprehension created by the remarks of the Senator from New York, that there was a nearer route than the one this company propose to make by one hundred and thirty-four miles. I am now prepared to prove from official sources that it is over two hundred miles further, and I challenge contradiction.

Mr. CONKLING. I will say to the Senator that when that bill comes up I shall be prepared to prove that my statement was inside of the distance.

Mr. POMEROY. All I say is that I want an opportunity to make that correction, and then I shall be ready to vote. I do not want any delay.

Mr. CORBETT. I am in favor of the motion made by the Senator from Ohio. He gave notice some ten days ago that he would move on Monday last to take up the finance bill. He gave way for the regular order of business that this railroad bill might be discussed. He has been prepared to address the Senate for the past two days. I think it is due to him, due to the country, due to the important questions involved in his bill, that it should be taken up and disposed of. If we are going to pass a bill of that importance during this session we certainly should take it up and discuss it and dispose of it as soon as possible, or else it cannot be reached in the House of Representatives. I do not believe that even if the railroad bill now pending should be passed by the Senate it could secure favorable action from the other House at this session. I am, then, in favor of taking up the bill indicated by the Senator from Ohio.

Mr. HOWARD. Mr. President, I need hardly assure the honorable Senator from Ohio that I would most willingly extend to him every courtesy in my power. I am as anxious as he is to take up for consideration the bill to which he has referred to furnish him an opportunity to address the Senate on that subject. But, sir, we have proceeded so far in the discussion of the present bill, and I think we are so near a final vote upon it, that I cannot yield,

and I call upon the friends of the bill to stand by it and finish it to-day. Let us finish it; dispose of it one way or the other; either pass it or defeat it, and let the company that is concerned and the public be at rest in regard to our action upon it. I ask the friends of the bill to stand by it at this moment.

Mr. SHERMAN. I made the same appeal on Saturday last on behalf of a much more important measure, a measure that I am sure met the assent of a large majority of the Senate; but the appeal was made in vain; the Senate postponed the air-line bill and took up the central branch bill. It has been debated for three days with a reasonable certainty that it cannot pass during the present Congress, and that it must be debated again at the next Congress. I trust, therefore, that without consuming any more time on this motion the Senate will proceed to public business.

Mr. ANTHONY. I think it is due to the public interests and to the Senator from Ohio that the bill to which he calls our attention should be taken up. There is no possibility that we shall finish the bill under discussion to-day. The friends of the bill are talking upon it and will continue to talk upon it, and are preventing its passage and will continue to do so. I think we had better take up the bill of the Senator from Ohio.

The PRESIDENT *pro tempore*. The question is upon the motion of the Senator from Ohio.

Mr. HOWARD called for the yeas and nays; and they were ordered.

Mr. POMEROY. If the Senator from Ohio merely desires to appeal to the courtesy of the Senate to allow him to make a speech I shall not object.

Mr. SHERMAN. I never yet appealed to the courtesy of the Senate to allow me to take up its time in making a speech. I desire to take up this bill because it is a matter of overriding public importance; and as the organ of the Committee on Finance I propose to express my views in regard to it.

Mr. POMEROY. If it is proposed to take up the bill for action now I cannot consent.

Mr. SHERMAN. I do not suppose the Senate will take a vote on the currency bill to-day.

Mr. SUMNER. The measure now pending, as I understand it, is one of positive equity. I heard the Senator from Ohio himself, at the beginning of the debate last session, admit that it was a case of equity. Such is its character. Now it has been under discussion for nearly a year; we are just arriving at a vote; it is about being taken; in the natural course of things it will be taken to-day; and yet the Senator from Ohio, who has admitted it to be a case of equity, interferes with another motion which at a proper time he knows I am ready to sustain, the effect of which is to defeat the pending proposition. If this pending proposition is once put aside at this stage those who are interested lose all the benefit of the year's discussion. It has been explained to the Senate; it is now understood; and all that I ask, as one who has supported it from the beginning, is an opportunity to vote upon it.

Mr. CORBETT. Mr. President, it seems to me that this is a question of courtesy. It is whether we shall extend to the Senator from Ohio the courtesy we have been in the habit of extending to any gentleman of the Senate who is prepared to address the body on a certain measure which he has given notice of his intention to call up at a certain time. The Senator from Ohio gave notice that he would call up his bill on Monday last; he has already given way for two days; he is prepared to address the Senate; and he asks to have the bill taken up this morning for the purpose of addressing the Senate upon it.

Mr. FESSENDEN. I desire to ask the Senator from Ohio whether, in case his bill is taken up, he wishes to do anything more with it to-day than submit his remarks, and is then willing to let it go over?

Mr. SHERMAN. I hope its consideration

will be continued to-morrow, but I have no objection to testing the sense of the Senate on continuing it. I do not expect any final action to-day.

Mr. FESSENDEN. Why not, then, pass over informally the pending bill, to enable the Senator from Ohio to submit his remarks on his bill?

Mr. SHERMAN. I do not think that is the better way. Any Senator can move to take up the railroad bill after I get through.

Mr. FESSENDEN. There is a difficulty about that. I suggest to the Senator whether it would not be well to let the pending bill be laid aside informally until he submits his remarks?

Mr. SHERMAN. I would rather make the usual general motion. The Senate, as a matter of course, can do as they see proper about the order of business after we have progressed somewhat with the bill.

Mr. STEWART. I want it understood that to-morrow I shall insist upon the special order, the constitutional amendment in regard to suffrage.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Ohio, to postpone the pending and all other prior orders for the purpose of taking up the bill mentioned by him.

Mr. DOOLITTLE. I simply desire to say one word in reply to my honorable friend from Oregon. I do not understand this to be an appeal to the courtesy of the Senate. If the Senator from Ohio had desired the special order to lie over informally, or any one had asked that it might lie over informally in order that he might make a speech on another bill, that would be an appeal to courtesy; but when a motion is made to displace the pending bill by another I do not think it is an appeal to courtesy.

The question being taken by yeas and nays, resulted—yeas 32, nays 26; as follows:

YEAS—Messrs. Abbott, Anthony, Cattell, Cole, Conkling, Conness, Corbett, Davis, Dixon, Edmunds, Frelinghuysen, Grimes, Harris, Henderson, Howe, McCreery, Morgan, Morrill of Vermont, Morton, Osborn, Patterson of New Hampshire, Patterson of Tennessee, Pool, Robertson, Sherman, Stewart, Wade, Warner, Whyte, Willey, Williams, and Wilson—32.

NAYS—Messrs. Buckalew, Cameron, Chandler, Cragin, Doolittle, Drake, Ferry, Fessenden, Fowler, Harlan, Hendricks, Howard, Kellogg, McDonald, Morrill of Maine, Nye, Pomeroy, Ramsey, Rice, Ross, Sawyer, Sumner, Thayer, Van Winkle, Vickers, and Welch—26.

ABSENT—Messrs. Bayard, Norton, Saulsbury, Spencer, Sprague, Tipton, Trumbull, and Yates—8.

So the motion was agreed to.

PUBLIC DEBT AND CURRENCY.

The PRESIDENT *pro tempore*. The pending and former orders having been postponed, the question now is on the motion of the Senator from Ohio, to take up the bill (S. No. 793) in relation to the public debt and the currency. The motion was agreed to.

Mr. SHERMAN. Mr. President—

Mr. DAVIS. Will the honorable Senator allow me to make a suggestion? I propose to recommend this bill to the Committee on Finance with positive instructions to bring in a particular bill. I suggest to the honorable Senator that my proposition be read with a view to his having it before him in connection with the bill on which he proposes to speak.

The PRESIDENT *pro tempore*. The motion of the Senator from Kentucky will be read if there be no objection.

The Chief Clerk read the proposed motion, which was to recommit the bill to the Committee on Finance, with instructions to strike out all after the enacting clause of the bill and in lieu of the matter so stricken out to report a bill embodying the substance of the following propositions:

1. Gold and silver coin is the measure of par established by the world and adopted by the Constitution of the United States for all property, values, debts, and other pecuniary liabilities; and the Government of the United States having on the sale of the bonds which constitute the bulk of the national debt received greatly less, when measured by the par of gold and silver coin, than their nominal amount, said bonds should be discharged by the payment in

coin of their value by that par at the dates they were respectively sold by the Government, and the future interest upon said bonds should be reduced to five per cent. per annum on their value as aforesaid, payable in coin.

2. That all other debts and pecuniary liabilities created or incurred since the issue of legal-tender notes, and which do not express to be payable in gold or silver coin, were contemplated and intended by the parties to be met and paid in currency; and on the general resumption of specie payments, such debts and liabilities should be discharged by the payment in gold and silver coin of their value by that par when they become due and payable.

3. That the annual expenditures of the Government should be reduced within the following general scale: for the civil service, \$45,000,000; pensions and Indians, \$30,000,000; Department of War, \$25,000,000; Navy Department, \$20,000,000; contingencies and miscellaneous, \$10,000,000; and interest on the public debt, \$50,000,000; and the whole surplus of the revenue should be faithfully applied to the extinguishment of the public debt.

4. The taxes which are now so grievous a burden upon the people of the United States should be reduced at least \$100,000,000 annually of their aggregate amount, and a day within three years should be named for the general resumption of specie payments.

Mr. SHERMAN. Mr. President, I suppose it is expected of me to state in general terms the reasons that induced the Committee on Finance to report this measure, and also to state why other measures of a financial character referred to the committee have not received its sanction.

And in the first place it is but right to recall the embarrassments of the committee, not only from the intrinsic difficulties of the subjects referred to us, but from the great diversity of opinion that exists in all parts of the country as to the proper measures to be adopted. I appeal to no party to sustain this measure, yet we must all recognize the difficulty of harmonizing the great diversities of opinion that exist on financial measures except by a partial surrender of individual opinion and something like a party support of any measure that may be agreed upon.

In order to consider this measure properly we must have a clear perception of what is sought to be accomplished. The object we have in view is to appreciate our currency to the standard of gold as rapidly as the public interest will allow. Our present currency or "lawful money" consists of notes of the United States, and these are a legal tender in payment of all debts. Based upon them, and of equal value with them, is a subsidiary currency of notes of national banks, and these are redeemable in United States notes, and are receivable in payment of taxes. We have also a form of demand notes, convertible at the will of the holder into lawful money, called three per cent. certificates. We have also a fractional paper currency which is convertible into lawful money on demand. These four species of notes compose the paper currency of the country, and the amount of each is stated as follows:

United States notes.....	\$356,021,673
National bank notes.....	299,806,565
Three per cent. certificates.....	55,865,000
Fractional currency.....	34,215,716
In all.....	\$745,908,353

All this currency is by law at par. By law it is either made the standard of value or may at pleasure be converted into the standard of value. It is the legal measure of all commodities and of all debts, except for duties on imported goods and interest of the public debt. But in truth and in fact it is not at par in the standard money of the world. One dollar of it has only the same purchasing power as seventy-four cents in gold. Gold, which is real money, not the representative of money, but money itself, of intrinsic value; recognized as such by every man in all civilized countries and in all ages of the world—gold is demonetized by the law, cannot be collected in the courts, and, like cotton or wheat, is treated as a commodity whose value is measured by what we call "lawful money."

Now, it seems to me that the first step in our investigation should be to abandon the attempt to reason from a false standard. We must, to begin with, recognize the immutable law of currency; and that is, there is but one

par, and that par is gold. Since the earliest records of humanity gold and silver have been employed as the equivalent for effecting exchanges. From Solon to our day innumerable attempts have been made to substitute something else as money, but in spite of all gold and silver have maintained their exclusive dominion as the money of mankind.

The gold in the shield of Achilles, the shekels that bought the field at Machpelah, the pieces of silver the price of the blood of our Saviour, will be current coin when the completed history of nations now rising into greatness will be folded away among the records of time.

No nation can permanently adopt a standard of value that will not be controlled and regulated by the standard of gold. No degree of isolation, no expedient of legislation, can save any nation which maintains any intercourse with foreign nations from the operation of this supreme law. Like the tides of the ocean or the movements of the planets, it is beyond our jurisdiction. This higher law of the standard of values will sooner or later govern and regulate all prices, even of commodities that do not enter into foreign exchanges. It is utterly idle for a commercial people like the United States, with a foreign commerce of \$800,000,000 annually, with citizens trading in every port of the world, and receiving annually four hundred thousand immigrants, to escape from the operation of this primary law of trade. Different nations have tried various expedients to evade it, and have always failed. For centuries gold and silver coins were clipped and alloyed, but it only took more of them to buy a certain commodity. In modern times paper money or credit has been substituted for real money. Laws compelled the people to take them as money. As long as this money did not exceed the amount of real money in the country it operated well. It promoted exchanges and gave great activity to enterprises, and its nominal value was the same as its real value. But when the paper money was increased or the gold exported, the paper money depreciated; it had less purchasable power, prices rose, and either the paper money became demonetized, was rejected and repudiated, or the false standard was advanced in value to the gold standard.

The most successful attempt to substitute paper money for real money took place in Great Britain in 1797. The Bank of England, then having in circulation \$55,000,000 of notes, was forbidden by an act of Parliament to pay its notes in coin, and they were, in effect, made a legal tender. By 1810 the amount of them was gradually increased to \$110,000,000. It was observed that though gold was demonetized and its export prohibited, yet that its market value had risen near twenty per cent., or from £46 14s. 6d. to £56 for a pound of gold. An eminent writer on political economy called attention to this fact as conclusive evidence of the depreciation of the paper currency. A committee of the House of Commons, of whom were several of the most eminent statesmen and financiers of England, gave the subject a careful examination, and the result was the famous "bullion report." A majority of this committee agreed that in spite of the act of Parliament gold was still the true standard of value, and, measured by this standard, the currency was depreciated by an excess of Bank of England notes. They say—

"That no safe, certain, and constantly adequate provision against an excess of paper currency, either occasional or permanent, can be formed, except in the convertibility of all such paper into specie."

Still, driven by the pressure of war, the bank issued more notes, and their depreciation continued until the close of the war. The bank slowly entered upon the hard task of appreciating its notes to the gold standard.

During our brief national history we have made several efforts to substitute paper money for real money. Continental money was a revolutionary effort to coin paper into money. General Spinner has had occasion recently to inform some Rip Van Winkle, who wished con-

continental money redeemed in lawful money, that provision had been made to redeem it at the rate of one dollar in coin for one hundred dollars continental money, but even this poor privilege expired in 1793.

During the war of 1812 the United States undertook to treat State bank bills as lawful money. They soon became depreciated, and when the war was over and it became necessary to appreciate them to the gold standard, notes, banks, and debtors were swept into general bankruptcy, and the people commenced again upon the solid basis of gold and silver coin.

So, during our civil war, both the United States and the rebels undertook to make paper not merely the representative of money, but real money. The paper money of the rebels followed the course of continental money and French *assignats*. Ours, carefully limited in amount, supported by heavy taxes and by great resources, is still called lawful money; but, after all, its value is daily measured by the gold standard. It is only the substitute of money to be paid at a future day, and is not real money.

Even silver, long the standard of value among civilized nations, is now demonetized in some of them from the impossibility of maintaining a double standard. It was found by experience that the market value of these two precious metals varied as the production of one or the other increased in amount, thus creating confusion and compelling alterations in the coinage. The result is that silver in Great Britain and the United States is a legal tender for but small amounts, while gold is the universal standard of value. Even the stamp fixed by a Government in the process of coining does not make it money or change its value. It only certifies to its weight and fineness as a matter of convenience and not as an addition of value. Indeed the mechanical process of coining has frequently reduced the market value of the gold by making it necessary to receive it when exported.

Let us, then, recognize as an axiom that nothing but coin is the real money before we undertake to deal with our currency. And Senators may think I consume too much time in dealing with an apparent truism, but it will be found that the denial of this truism, both in Congress and among the people, is the cause of most of the confusion in the public mind as to our currency. It affects our minds as it affected the Englishman in 1810. When told that the Bank of England note was depreciated he said: "Is not this pound note worth twenty shillings, and you tell me it is only worth sixteen?" Or like the reasoning of the learned priests in the time of Galileo, who saw the sun moving around the four corners of the earth and knew that Galileo was an imposter. So we call our paper money par, and having made a god with our own hands compare all other gods by it. We must, then, abandon the false standard, set up again the true standard, and compare again our money, our productions, our wealth, and our resources by the true standard, or we will allow ourselves to be led by false premises into the most erroneous conclusions.

And yet this does not impugn the wisdom of a paper currency founded upon the credit of a nation, or of it being made in times of great public danger a legal tender in payment of debts. Such paper money has exercised a powerful influence in ancient as well as modern history. It saved Rome in her fierce conflict with Hannibal. It enabled Great Britain to maintain her wars against Napoleon. Without paper money, and, as I believe, without making it a legal tender, we could not have mustered and maintained our immense armies during the recent war. Gold was banished by the war. The quantity was too small for the vast expenditure required by the war. We had then no legal paper representative of value. The State bank notes were wisely excluded from national circulation. We then cautiously issued our legal-tender notes, carefully limiting their amount, and only increasing the amount when we could not borrow them back at a rea-

sonable rate of interest. We called them lawful money, and as a measure of the highest necessity compelled our citizens to receive them as such, but after all they were only a forced substitute for money, the promise to pay money, and not real money. Though they were made the legal standard of value their own value was daily fixed in gold in the open market in New York. We watched their depreciation as the dark days of the war came on, and tried to arrest it. We utterly failed. The effort was patriotic, but it was impossible. England did the same in her wars. She passed laws forbidding the purchase and sale or exportation of gold, but, like ours, her efforts were abortive. I am not ashamed to confess my part in all the efforts made during the war to maintain our paper money as the true standard of value, and I confess it was impossible. Every intelligent business man watched daily the gold barometer, which with unerring certainty fixed the value of our greenbacks, of our public credit and bonds, as it did the value of our cotton and corn.

A distinction between the standard of value and the actual agent of exchange must always be kept in view. One must be gold, and the other ought to be paper money convertible into gold.

Such paper currency, with proper measures to meet panics or extreme drains of specie, is proven by all experience to be the best possible currency that has yet been devised by man. An unmixed coin currency cannot exist in a commercial country, for necessity will compel merchants will devise, and the people will use some representative of money whether it be banker's bills of exchange, certificates of deposit, or bank or Government paper money. And one unbending, unrelaxing rule that compels payment in coin at all times, during panics, distress, or war, as well as in peace, will periodically produce disaster and bankruptcy. The requisites of a good currency are—

1. That it be a paper currency.
2. That it be amply secured either by the credit of a nation or by unquestioned collaterals.
3. That except in extreme cases of panic it be convertible into coin.
4. That provisions be made for a suspension of the right to demand coin during such panics.

And the only legislative question that can arise on these points are whether the paper money should be issued by the nation or by corporators, and what relief shall be provided in case of a necessary suspension of specie payments. As to the first question, both England and the United States have settled upon a bank currency secured by the public credit. As to the second, they have tried various devices, as the raising of the rate of interest, a temporary suspension of payments, making the paper a legal tender; but all these expedients are merely temporary to bridge over a war, a panic, a period of starvation, or an unnatural adverse balance of trade. They are remedies in sickness to be discarded the moment that health comes again. Whatever theorists may suggest, however sugar-coated the remedy may be, there is but one test of a healthy paper currency, and that is its convertibility into gold coin.

If, then, gold only is the true standard of money, why shall we not commence our financial measures by restoring it to its place as a legal standard of money? Why not allow our citizens to base their future contracts on gold? Why not enforce these contracts in the courts as legal and valid? There are difficulties in applying a new standard to existing contracts made upon a different standard; but this difficulty does not apply to future contracts. We wish to restore specie payments, and yet we forbid all men from dealing in specie. Such contracts are put upon the same legal footing as gaming contracts. It would seem that if we are at all sincere in wishing specie payments we should not only promote specie contracts, but should encourage them.

Contracts, to a vast amount, are now from necessity made upon the gold basis. All our for-

eign commerce, exports and imports, amounting annually to over eight hundred million dollars, are based upon gold. The price of all public securities is fixed by the gold standard of London and Frankfurt. The sale of all imported goods by the importer to the jobber is by the gold standard. The daily transactions in gold in New York often amount to \$100,000,000. On the Pacific slope gold is the only standard of value. We cannot alter this if we would. Why not recognize the fact, legalize these contracts, and conform our measures to the gradual adjustment of existing contracts, including paper money, to the standard of gold.

And, sir, let us also recognize the general principle that it is wiser and more in accordance with the spirit of our Government to leave this adjustment to the voluntary contracts of the people rather than undertake it by arbitrary rules of law. If our people are left free they can do this without injury to debtor or creditor, without confiscation of property, and without any change in the intrinsic value of property.

For these reasons the Committee on Finance regard the first section of this bill, which legalizes gold contracts, as an indispensable preliminary to any plan for appreciating our currency to gold. This section has twice received the sanction of the Senate, and its primary importance has generally been admitted in popular discussions.

The objections to this section are stated by the Senator from Indiana, [Mr. MORRIS,] as follows:

"The means he suggests for returning to specie payments are twofold. The first is to legalize specific contracts to be executed in coin. I voted for a bill for that purpose last session without much consideration, and have since become satisfied it was an error. The unwary would be enticed into such contracts by the crafty, and those in straightened circumstances or under heavy pressure would be forced into them. No man can safely make a contract, to be executed in coin, while the currency is depreciated and the financial condition of the country is fluctuating. Such contracts, where not brought about by coercion and fraud, would be in the nature of gold gambling—the one party trusting that gold would be at a large premium when the contract was due, and the other that it would command little or none. It could hardly be distinguished from a contract for the delivery of gold at a future time."

This whole objection is based upon the theory that contracts cannot be safely left to the free assent of the parties thereto; that the parties cannot be trusted to make their own contracts lest the creditor oppress the debtor. Sir, the time is not likely to come in our day when the crafty will not have the advantage of the unwary. If we were legislating to protect the unwary we should not for a day permit the existence of inconvertible paper money. Mr. Webster said that—

"Of all the contrivances for cheating the laboring classes of mankind none has been more effectual than that which deludes them with paper money."

The chief reason is that such paper money is so fluctuating that none but the intelligent and crafty can estimate its fluctuations, while the unwary assume that it is equivalent to gold. If we, then, legislate to protect the unwary we should require all contracts to be on the gold basis, but experience shows that the true basis of contracts is the assent of the parties. We can leave the interest of parties to regulate equivalents, and we can protect a gold contract against usury and fraud much more easily than a contract payable in currency.

The Senator from Indiana proposes to add to the burden of existing contracts an annual interest equivalent to twelve per cent. by requiring gold payment in two and a half years. If the parties were left to adjust this matter by contract they are not likely to adopt a more severe measure to the debtor than his. If it is unsafe to allow parties to make a contract in coin, how can they be allowed to make contracts in currency to be appreciated in coin in two and a half years? If coin contracts are brought about by coercion and fraud the courts will not enforce them, and if gold is required as a consideration for payment of a currency contract it is usurious and will not

be enforced. Practically, any law requiring a resumption of specie payments is a law adding to the amount of a currency debt the full depreciation of the currency, unless you either scale the debt or allow the parties to adjust the matter between themselves. The former proposition is indefensible, and the latter is the only way by which the creditor and debtor may by mutual agreement adjust a currency contract by equivalent coin. All contracts to pay money are contracts for the delivery of gold, and a contract in currency is only a contract to pay an indefinite amount of gold, depending upon the uncertain depreciation of the currency at the time of the payment. Why may not the parties fix for themselves the amount of gold to be paid rather than leave it to be fixed by the bulls and bears? When contracts are authorized in gold all the provisions of the municipal law which protect contracts from fraud, usury, or coercion apply to them as well as to contracts in currency. And the reason why such contracts were ever forbidden was because public policy demanded for a time the suspension of specie payments, while now the very fact that we are providing for specie payments is conclusive in favor of the policy of specie contracts in the future.

Not only ought specie contracts to be allowed, but they ought to be encouraged. Every such contract smooths the way to a general resumption. If they become general gold now hoarded will be let loose. This will produce an expansion of the currency. When during specie payments we estimate the aggregate of currency, we add the amount of specie to the amount of convertible paper money. So when specie payments are suspended if specie can be made to perform some of the functions of currency it adds so much to the volume of the currency, and as specie contracts become general the process of resumption is complete.

Again, while specie is the best standard of currency, it is not the most convenient for transportation, even from hand to hand. To obviate this, commercial paper, bills of exchange, drafts, and certificates of deposit have been devised for distant exchanges, and paper money convertible into coin has been used for exchanges from hand to hand. When you authorize contracts in gold and make demands for gold you at once unlock for daily use the coin now hoarded in private hands. You can then provide the most important agency of modern times—a convertible paper currency, always equal in value to gold, its true representative, easy to guard, conceal, and transport. It is only by restoring gold contracts that you can safely avail yourself of all the multiplied uses of paper money. Then, and not until then, you can issue paper money based upon gold. The gold now lying idle in the Treasury may then be utilized, made to produce an interest by the issue of coin notes based upon it, and thus enter into actual circulation and gradually be made to perform all the uses of money now performed by a depreciated currency. This is the basis of the fourth section of the bill, which utilizes the gold by the issue of gold notes based upon it, and their application to the purchase of bonds and the reduction of interest.

And the right to make contracts in gold may now safely and properly be extended to banks organized under the national banking system. Upon a deposit of bonds existing banks or new banks may be authorized to issue gold notes equal to sixty-five per cent. of the value of United States bonds deposited to secure their circulation. Their payment will be in coin, but in all other respects they may be subject to the general provisions and limitations of the banking act. Many of the banks, especially in commercial cities, will gladly avail themselves of such a provision to withdraw their present circulation and substitute gold notes convertible on demand into coin. With such a provision and on such a basis the system may be free, and thus all the embarrassing questions about the inequality of the distribution of banking circulation will be avoided. A right conferred

upon all, without limit as to amount and upon regulations applicable to all, would at once secure to the South and West new banking facilities, and would rapidly tend to substitute coin or its equivalent for legal-tender notes, and without the severe process of contraction. The objection made, that this would create two currencies of unequal values, applies as well to the present state of the currency, for we have now two currencies of unequal value—gold and legal tenders.

If we are sincere in wishing specie payments we must not only multiply the demands for coin; we must encourage coin contracts, issue coin notes, both by the United States and by the banks, and thus without contraction dispense with the use of the inferior and depreciated currency.

The superior value of coin notes, their use in commercial cities, their convenience in the gold-producing States, will soon give them higher credit, and secure them in every part of the country. I am confident that under such a system the national banks will, if allowed, and before specie payments are resumed, substitute coin notes for their present circulation, and that, too, without diminishing the aggregate of circulation. Many of them have now reserves and profits enough to make the requisite deposit of additional bonds; and the gold certificates now issued from the Treasury might be used for their coin reserves without creating new demands for coin.

There is but one other consideration I wish to urge in favor of the sections of this bill relating to gold contracts and gold notes, and that grows out of the doubt that rests upon the validity of the legal-tender act. We must not forget that currency contracts depend not upon the agreement of parties, but entirely upon the validity of that act. This has always been doubted, and is now contested before the Supreme Court. I remember very well the discussions in the Senate when this act passed. Its validity was then denied by Judge Collamer and other able jurists, and it was only maintained by myself and other Senators from the imperative necessity of supporting armies then in the field. This necessity has long since ceased. There can be no pretense that as to future contracts by the United States or by individuals there is any necessity that the public credit should any longer take the place of real money. The legal-tender act is only material as it affects existing contracts. Is it wise to continue a measure only justified by a grave public necessity now when the necessity has passed? It may be that the Supreme Court will deny the validity of the legal-tender act, or limit its operation to existing contracts made since its passage. It may subject currency contracts to enforcement in coin. Is it not wiser to bridge over this uncertainty by authorizing the adjustment of this matter between the creditor and debtor?

Again, sir, the law as it now stands is productive of gross injustice. You require nearly one half of your taxes to be paid in gold, and yet you will not enforce a contract by which the merchant buys the gold for you. Cargoes of tea, coffee, and merchandise can only be bought in gold, and yet if property is delivered upon a promise to pay gold it cannot be enforced. Gross and palpable injustice may be done in a multitude of transactions necessarily based upon gold by appealing to the legal-tender act. I conclude, then, this branch of the subject by the earnest opinion that it was a good policy three years ago, and it is good policy now, to allow all parties to stipulate the time when, the amount, and the medium of payment, subject to the general laws of fraud, usury, and force. Free trade in domestic productions, liberty to contract and be contracted with, has never been restrained before. Let us restore these rights; and having also provided a paper representative of the coin in the Treasury of the United States and a bank currency convertible into gold and founded upon the highest securities, let us now deal with the much more difficult question—

the appreciation of the present currency to the standard of gold.

If this question affected alone the Government of the United States we might resume specie payments very soon; sooner even than the Senator from Massachusetts [Mr. SUMNER] proposes. By funding a portion of the United States notes, by requiring the banks to maintain their full reserves in legal tenders, by withdrawing the three per cent. certificates, and by the use of the gold in the Treasury, we could resume at once. This process might increase the bonded indebtedness of the United States \$100,000,000 and the interest \$5,000,000; but our revenues are ample in gold to pay the increased interest, and the actual saving in the current expense of the Government by the reduction of prices to the gold standard would be double and perhaps quadruple the increased interest. The body of our expenditure being the interest of the public debt, is now payable in gold, and its burden is not increased by specie payments, while the saving in expenditure and the probable saving by the funding of the debt at a lower interest would largely exceed any interest we would have to pay on notes withdrawn from circulation.

And if the burden of resumption fell alone upon the national banks the task would be an easy one. Their securities, deposited with the Treasurer of the United States, are now nearly equal in gold to the amount of their circulation. A call under the banking act of ten per cent. additional security could be easily met by the great body of them, and thus enable them to resume whenever the United States is prepared to resume. Their profits in the past have been large. Those not now strong enough to perform the great object of their organization, namely, to furnish a uniform currency convertible into gold, may well give way to other banks ready to take their places.

But redemption by the banks means redemption by all their debtors; by the merchants, manufacturers, and traders of the country. And we are therefore compelled to deal with this question, not as affects the United States and the banks merely, but as it affects all the people of the United States. How will the appreciation of the currency affect their interests? Suppose it accomplished, how will it affect different individuals? A person entirely out of debt but possessed of property of productive value would not be affected by the change. His property would be of less nominal value, but it would be of the same intrinsic value. Its producing capacity is undiminished. It will buy the same food, clothing, and necessities of life. The relative value of commodities to each other is not affected by the currency used, but by supply and demand.

If the currency is depreciated it will take more of it to purchase the article. If it is appreciated it will take less; but the appreciation or depreciation of the currency does not affect the price of other commodities in their relation to each other. This can only be affected by the demand for them, by the supply of them, and ultimately by the cost of producing them.

So a man without property and not in debt, but who depends upon his labor for his support, is not in the end affected merely by an appreciation in the currency. His wages may be less, but what he receives of the appreciated currency has the same purchasing power as the higher wages received before. The change does affect him for a time, for land and labor are the last commodities to feel a change in the currency. The immediate effect of a depreciation in the currency is injurious to him, for his food and clothing rise more quickly than his labor, but appreciation of the currency is immediately beneficial to him for the reason that his labor does not fall in price so quickly as food and clothing. The value of labor, however, may be disastrously affected by the mode of appreciation. If it is brought about by a sudden contraction the result will be a suspension of work, of enterprises, and consequently a reduction in the price of labor.

Persons of fixed salaries and incomes are benefited by an appreciation of the currency to the full extent of the appreciation. Their incomes have increased purchasing power, and they are enabled to extend their purchases, supply new wants, and add to their capital. The opposite effect during the war, when the currency was being depreciated, carried distress and want and poverty into many comfortable homes. It fell with severe effect upon preachers and widows and old men, who saw the purchasing power of their annuities melt away, and a condition of independence changed to poverty and want. They will, by an appreciation of the currency, be restored to their own again.

Merchants, dealers, traders, and bankers will be affected by an appreciation of the currency precisely as their debts and credits bear to each other. If they owe more than they can promptly collect on debts due to them they must lose to the full extent of the appreciation, and they must make this loss good by a sale of a part of their property at reduced prices or by contracting new debts to be paid in an appreciated currency. As a general rule, any appreciation of the currency is injurious to all these classes, for they are generally in debt, and even where enough is due them to pay with yet the delay in payment or the failure of their debtors almost always embarrasses them. Commercial and banking usage compels promptness, so that a merchant or a banker, however prudent he may be, is often compelled to sacrifice his assets to meet a sudden appreciation of the currency.

But the distress caused by an appreciation of the currency falls mainly on the debtor class; others suffer only by reason of his inability to pay. What does specie payments mean to a debtor? It means the payment of \$185 where he has agreed to pay \$100, or, which is the same thing, the payment of \$100 where he has agreed to pay seventy-four dollars. Where he has purchased property and paid one fourth of it, it means the loss of the property; it means the addition of one fourth to all currency debts in the United States. A measure to require a debtor now to pay his debt in gold or currency equivalent to gold requires him to pay one hundred and thirty-five bushels of wheat when he agreed to pay one hundred, and if this appreciation is extended through a period of three years it requires him to pay an interest of twelve per cent. in addition to the rate he has agreed to pay. When we consider the enormous indebtedness of a new country like ours, where capital is scarce, and where credit has been substituted in the place of capital, it presents a difficulty that may well cause us to pause. We may see that the chasm must be crossed, but it will make us wary of our footsteps. Good faith and public policy demand that we appreciate our currency to gold, but in the process we must be careful that bankruptcy, distress, and want do not fall upon our fellow-citizens who have based their obligations upon your broken promises. The debtors of this country include the active, enterprising, energetic men in all the various employments of life. It is a serious proposition to change their contracts so as in effect to require them to pay one third more than they agreed to pay. They have not paused in their business to study questions of political economy. They have based their operations upon this money, which you have declared to be lawful money. You may change its relative value, but in doing so you should give them a reasonable opportunity to change their contracts so as to adapt them to the new standards of value you may prescribe for them.

Before discussing the measure proposed by the committee, which Senators may consider not specific enough or not rapid enough, let us look to history for lights to guide us in a most difficult and dangerous passage.

The appreciation of the currency is a far more distressing operation than Senators may suppose. Our own and other nations have gone through this process before, and always with the sorest distress. Sometimes they have repudiated the depreciated currency, and, from

the necessity of the case, fallen back upon barter and gold. Such as I have already stated was the case with the continental money, with the French *assignats*, and with confederate scrip. All these revolutionary movements were accompanied with the utter destruction of credit and trade. We have also to guide us several examples of the appreciation of a debased currency.

At the revolution of 1688, in England, the silver coin, then a legal tender, had become so depreciated by wear and by clipping as to be worth only seventy-five per cent. of the mint standard, and this was practically the only currency. It became necessary to appreciate this currency to the mint standard. As all prices and obligations of debt had become adjusted to the lowered value of the existing coin, it was proposed to reduce the mint standard to the current standard, or to issue new shillings at one and one fourth shillings. This was opposed by Isaac Newton and John Locke, the two "foremost men of all the world," who contended that if the loss of recoinage was thrown upon the mint it would not affect the individuals at all. This view was strongly opposed by practical merchants, but new shillings were issued and exchanged for the old shillings at par. As between the mint and the holder of the old shillings this was all right; but the effect was immediately disastrous upon all prices. It took one third more commodities to get the new shillings, but the old number of shillings was required to pay a debt. Merchants, traders, and debtors were ruined. The Bank of England, then in its infancy, only escaped failure by issuing its notes payable in installments. A rival bank was utterly wrecked. Small capitalists found themselves ruined, and laborers and artisans deprived of employment. Hence the unpopularity of William the Third, and the prevalence of general discontent during his reign.

A similar condition of currency to our own existed in Great Britain after the general peace of 1815. For eighteen years the notes of the Bank of England were practically a legal tender, and upon them, as upon our greenbacks, was based a currency issued by the country banks. Though the aggregate of all this paper circulation never amounted to \$250,000,000, yet it at times depreciated from twenty to thirty per cent. below par. When the war was over measures were slowly adopted for the appreciation of this currency to the gold standard. These measures resulted in a reduction of the paper currency from \$231,000,000 in 1815 to \$152,000,000 in 1821. Commercial paper, discounted at the Bank of England, fell from \$75,000,000 in 1815 to \$13,000,000 in 1821. It is only necessary to appeal to the histories of the time to show the disastrous effect. The productive value of capital was increased fifty per cent. A thousand dollars in 1821 would buy more than eighteen hundred dollars in 1815. Small traders, debtors, and laborers were reduced to the sorest distress. The loss to them was far greater than the actual depreciation of the currency, for all confidence and trust were lost. The only compensation to Great Britain was the rapid fall in the rate of interest from the abundance of idle capital, and her ability to reduce the interest of her public debt within a short period to three per cent.

If Senators wish other examples of the severe process of passing from a depreciated currency to a gold currency, or to a paper currency convertible into gold, let them read the story of the times after the Revolution and after the war of 1812 and after the revolutions of 1837, all of which were periods of transition from a depreciated paper currency to a convertible paper currency. Sir, it is not possible to take this voyage without sore distress. To every person except a capitalist out of debt or to the salaried officer or annuitant it is a period of loss, danger, lassitude of trade, fall of wages, suspension of enterprise, bankruptcy, or disaster. To every railroad it is an addition of at least one third to the burden of the debt; and more than that, deduction from the value of its stock.

To every bank it means the necessity of paying \$150 for one hundred of its notes and deposits, except so far as the bank may transfer this to its debtors. It means the ruin of all dealers whose debts are twice their capital though one third less than their property. It means the fall of all agricultural productions without any very great reduction of taxes. To attempt this task suddenly, by a surprise upon our people, by at once paralyzing their industry, by arresting them in the midst of lawful business and applying a new standard of value to their property without any reduction of their debt or giving them an opportunity to compound with their creditors or distribute their loss, would be an act of folly without example in evil in modern times.

It is sometimes said that we did this in the passage of the legal-tender act; that we inflicted the same loss on the creditor that we now deprecate for the debtor. This is not true. The effect of the legal-tender act was undoubtedly to depreciate our notes, but the process was very slow and gradual. For more than a year it scarcely operated as a depreciation, and during all the time the capital paid off by depreciated notes was invested in bonds, bank stocks, railroads, and manufacturing pursuits created by the war, which yielded as much in gold as the capital produced before the war. Capital lost nothing by the war even when paid in greenbacks, for the demands for capital during the war made ample amends for the loss by the depreciation in greenbacks. It is estimated that the interest-bearing capital of this country now is, upon the gold basis, more than double the capital in 1860. And if it be true that appreciation now will only work the same injury to the debtor that depreciation did to the creditor we would not be justified in peace in inflicting the same injuries justified by war; and the creditor, who is usually the holder of property, is better able to bear the loss of a portion of the money due him than the debtor is to bear an addition to his burden. Our power over the creditor is unlimited. We may levy taxes upon him to any amount, but we have no power to vary a contract or add to the burden of an existing debt.

The question then remains, what mode of appreciation of the value of greenbacks will operate the least injuriously to all the varied business interests of our constituents? and upon this point your committee, after the most careful consideration, came to the conclusion that the only and best plan was to allow them to be funded at the pleasure of the holder into interest-bearing bonds of the United States.

In designating the bond we have selected that now familiar to the people, the ten-forty bond. The market value of this bond is now but slightly above that of the legal tenders, so that the process of appreciation of the notes will be slow and will only advance with the improving credit of the country. It is a bond bearing as low a rate of interest as we are likely to negotiate, and yet of such intrinsic value that we may hope to see it at par with gold within a short period. It enables us after ten years to take advantage of the money market to still further reduce the interest. Its credit is supported by a permanent appropriation from an ample fund sufficient without further act of Congress to pay off every dollar of the debt in twenty-five years.

Again, sir, this provision of the bill is right when tested by the moral sense. When for sufficient reasons we cannot pay the note in coin we are bound to give to the holder our note with interest. Such from the beginning was the policy of the Government. When the notes were first issued under the act of February 25, 1862, they were convertible at will into bonds. We, with a questionable device, by the act of March 3, 1863, took away that right, and should now restore it. During the war a greenback would purchase an equal amount of bonds of any character offered in the market. It paid at par for the five-twenties, the ten-forties, and the seven-thirties. It is now less valuable than these bonds only because it is dishonored

paper, which though due is unpaid, and is only valuable as a forced currency, which you compel your citizens to take in payment of their debts, but refuse to take for your own bonds except at a discount. You give the bond the benefit of the improving credit of the country, but you deny this to the note. The simplest and plainest rule of equity requires you if you cannot pay this note to give in exchange for it a bond bearing interest. And here, sir, a difficulty presents itself that forms the basis of all, or nearly all, the division in the committee as to this measure. What shall be done with the United States notes received into the Treasury in the process of funding? The Senator from Vermont [Mr. MORRILL] will contend that they shall be retired as they are received. The Senator from New Jersey [Mr. CATTELL] will insist that they must not be retired, but must be reissued. The Senator from Oregon [Mr. WILLIAMS] wishes to limit the funding of greenbacks to a specific sum each month, and amendments are pending for these purposes. No doubt similar differences as to details will occur in the Senate. My own conviction is, that the notes and ten-forty bonds should be convertible and reconvertible within certain limits until both rise to the par of gold. Such a provision was reported at the last session and is still approved by the committee, but the opposition to it by those who widely differed from each other as to its effect, some insisting that it would produce contraction and others expansion, caused it to be defeated. The proposition in this bill to substitute coin notes for legal-tender notes as the latter are retired by voluntary conversion into bonds is an attempt of the Committee on Finance, in deference to the vote of the Senate at the last session, to effect the same object, namely, to guard against a too rapid contraction of the currency. I must, however, insist upon my conviction that the true way to guard against both undue expansion and contraction while specie payments are suspended is to allow the public creditor, whether noteholder or bondholder, to freely exchange one for the other without any limitation except that the aggregate of circulation should not exceed the United States notes now outstanding; and this aggregate may be gradually reduced as specie payments are resumed. If the Senate shall agree with this opinion by adopting the amendment of the Senator from New Jersey, [Mr. CATTELL], then some changes will have to be made in the fourth section. If, however, the Senate still opposes this mutuality of conversion, then the substitution of coin notes should precede the cancellation of the greenbacks, or a reserve of legal tenders should be maintained by the Secretary of the Treasury, to be issued at his discretion.

Such, sir, are the general provisions of this bill. It seeks to substitute gradually, by the voluntary action of the people, coin contracts, coin notes, and convertible bank bills for currency contracts and irredeemable and inconvertible paper money. It seeks to secure to the public creditor the prompt payment of his interest in coin, and to the people the like payment in coin of the depreciated notes held by them. If the process is too slow it is because the danger of a more rapid process is too great. Let no man deal with this question with the hasty impulse of first impressions, for he will only illustrate his own folly. Let no man be too confident of his own opinions until he has examined those of others, and he will then find that many have traveled this path before him; but no man yet has found an easy road to the resumption of specie payments.

It now remains for me very briefly to state why other propositions submitted to the committee have not been approved. Your patience will not allow me to examine any of the multitude of suggestions that have been made in the public prints, though many of them are worthy of careful study. I will only allude to some propositions that have been referred to the committee. The suggestion of the President to pay the interest for sixteen years if the creditor would surrender the principal has

already been disposed of. The plan of the Secretary of the Treasury to contract the currency until we reach the specie basis has already been incidentally referred to. The proposition of the Senator from Massachusetts, [Mr. SUMNER], though not formally referred to the committee, yet having the sanction of his great name, was carefully considered, and so much of it as was approved was embodied in the bill reported; but its principal feature, the repeal of the legal-tender act after the 1st of July next, is far too sudden, and will, if I am correct in the views already expressed, be disastrous to the great body of the active business men of the country.

The plan of the Senator from Indiana, [Mr. MORTON], supported by an able speech, was carefully considered by the committee. It rests upon two leading ideas:

1. The accumulation of gold in the Treasury; and
2. The fixing a specific day for the resumption of specie payments.

Now, in most of his speech I heartily concur. All that he says of the necessity of resuming specie payments, of the effect of contraction, and the unjust discrimination that now exists between the note-holder and the bondholder—all this meets my hearty assent. It is the remedy he suggests we have to deal with. Would not the effect of his measure be that the Government would hoard the gold and the people the greenbacks, and thus make the contraction he fears? What more profitable investment could any man make than to take this dollar, now having a purchasable power of seventy-four cents in gold, locking it in his safe with a certainty that in two years it must be worth one dollar in gold, or an annual advance of seventeen and a half per cent? Would not every bank sharply contract its currency and hoard greenbacks as the best investment it could make? What prudent man would dare build a house or factory, a railroad or a barn, with the certain fact before him that the greenbacks he puts into his improvement will be worth thirty-five per cent. more in two years than his improvement then is worth? Why not hold his money for two years until his building will cost him one third less? When the day comes every man, as the sailors say, will be close-reefed; all enterprise will be suspended; every bank will have contracted its currency to the lowest limit, and the debtor, compelled to meet in coin a debt contracted in currency, will find the coin hoarded in the Treasury, no representative of coin in circulation, his property shrunk not only to the extent of the appreciation of the currency, but still more by the artificial scarcity made by the hoarders of gold.

All the historical precedents show that fixing the day for resumption inevitably led to a contraction of the currency by the banks, so that when the day came the actual scarcity of currency prevented a demand for coin; and this process of contraction both in England and the United States produced the sorest distress; and this distress was only relieved in England by the Parliament requiring the loan of exchequer bills and new issues by the Bank of England. At the beginning of our Government the Continental bonds were a species of currency, and as a part of the funding system of Alexander Hamilton he provided for a new paper currency convertible into coin to be issued by the Bank of the United States, and without which he declared his funding system would be a failure. So, sir, after the war of 1812 the sore distress caused by the failure of the State banks was only relieved by a new paper currency issued by the second Bank of the United States, which Mr. Madison, yielding his constitutional objections, approved. We, therefore, think that the general objects sought for by the Senator from Indiana [Mr. MORTON] can be better attained by legalizing specie contracts; by utilizing the coin in the Treasury; by the gradual substitution of coin, United States notes, and bank bills for the present currency, rather than accumulating gold and fixing a day for resumption.

And now, sir, a multitude of collateral topics present themselves—questions affecting the construction of contracts, questions affecting the public debt, of funding, of the reduction of the rate of interest, questions of taxation and protection, of banking and the distribution of bank circulation. All these have been considered, and no doubt will be presented to the Senate; but we have not embraced them in this bill, for the manifest reason that by attempting too much we are likely to defeat any measure tending to the resumption of specie payments.

This primary duty accomplished will solve many of these questions and prepare the way for other measures. I submit to Senators who favor this bill whether it is not wiser to leave to time, to the progress of events, and to the next Congress to deal with other matters not vital to this measure. It is only in this way that, with the confused and scattered opinions in the public mind, we can hope to accomplish anything. All these questions will be resolved wisely if we are content to follow the example set by Mr. Lincoln and by Congress during the war to make haste slowly.

Sir, you and I and many of our associates have been here during all the great events of our civil war. We have seen Senators from their places openly proclaim in safety their intended infamy and perjury. We have seen our only Army broken and demolished filling the streets of this city, and the rebel flag floating within sight of the Dome of the Capitol. We have seen a vast section of our country filled with armed men, bold, defiant, and confident, engaged in fierce war for the overthrow of our Government. We were deserted by nearly all the Governments of Christian Europe. We have seen four hundred thousand of our countrymen slain in battle or falling by disease. We have met defection and doubt at home, and suffered disaster again and again. But all this has passed away. The long-vacant seats are nearly all filled, and new States then in wilderness are now represented here. Our flag floats in undisputed authority over every part of our territory. All the questions of debate that have risen from time to time in this Senate Chamber have been so decided that authority has been vindicated and liberty been made universal. We are soon to see the great hero of the war clothed with the executive authority of the nation, and bearing with him into his high office the hearty good-will of nearly all the people of the United States. But one thing more is to be accomplished, and that is to place our public credit on a firm, enduring foundation, so that the world may say that this Republic is not wanting either in valor or honor. We may then give way to those who are rapidly treading in our footsteps with a consciousness of having performed our full duty to our country.

Mr. McCREERY. Mr. President, it is my purpose to direct the attention of this body to the consideration of our financial affairs. It might be more agreeable to the Senate to postpone my remarks until a later period in the session; but facts and figures, projects and counter-projects, estimates and speculations will accumulate until it would confound the wisdom of Solomon to tell what we are owing, and exhaust a dozen such treasuries as his to discharge the debt.

Finance is the engrossing topic of the day. It addresses itself to the anxieties, the hopes, and the fears of all classes and conditions of men. Bondholders and bankers, lawyers and doctors, farmers and mechanics, are deeply and vitally interested in its solution. Nor is that all. Many millions of our bonds and other securities have crossed the waters, and England is merry at the prospect of a rich tribute to be drawn yearly from the sweat and toil of American citizens. How long it will take her to acquire the lion's share cannot be determined with mathematical certainty, but from the start she has taken the period will be short, probably not longer than Washington and his army were engaged in achieving our independence. [Laughter.]

Considering the amount involved and the different nationalities concerned, you could hardly overestimate the importance of the question. It should be coolly, calmly, and thoroughly considered. Great toleration and forbearance should be observed in the discussion. High authority has declared that the subject is "mysterious" in some of its relations. There are gentlemen in this Chamber who do not understand "mysteries," and those who do should deal tenderly with their ignorance in that regard. There are very few men who can see very far into the future. The great mass of mankind cannot even tell what a day or an hour will bring forth. A leading lawyer of Kentucky said that he admitted the foreknowledge of God as a general proposition, and with only one exception, that he did not believe that God Himself could tell in advance how a county court would decide a case. [Laughter.] Skepticism shall never induce me to place a limitation upon the attributes of the Almighty; but I will state that no power short of Omniscience can disclose what the Radical party will do between this and the 1st day of July, 1871, nor what will be the financial condition of the country at that period. [Renewed laughter.] Various opinions are entertained by thoughtful and intelligent men, and proscription, fierce and vindictive as it may be, will fail to harmonize action or sentiment upon the subject.

The President of the United States in his last annual message, remembering his early struggles, sympathizing with those who are now encountering even greater difficulties, and desiring that a time should come when poverty should lift up its head and rejoice, and when labor should be emancipated from the thralldom of capital, ventured to give utterance to an idea which had been floating unexpressed in his brain for more than a year. Even if it were heresy, the generous impulse which prompted it should have been a shield to protect it from assault. But hardly had the words fallen from the lips of the reader when Senators sprang to their feet and proceeded in angry phrase to denounce and condemn it. But the theme was changed. A wail for the dead fell in sad and mournful accents upon the ear; eulogies of Stevens followed the censures of Johnson, and twenty funeral orations, pouring forth a long tribute to the genius of the departed, silenced for a season the thunders that had been playing around the head of the living statesman.

I do hope that no gentleman will take exception to what I am about to say. We have had discord and dissension enough. If there be one among us whose warlike spirit prompts him to deeds of chivalry, let him go to Turkey or to Greece and fight it out on that line, bearing with him the glad tidings that "all is quiet on the Potomac." [Laughter.] Approving and indorsing the sentiment put forth by the veteran who is ere long to preside over our destinies, and animated by the same pacific disposition, I say now, henceforth and forever, "Let us have peace." [Great laughter.] The country, without respect to race or color, would be more prosperous and happy if we could only have peace. As it would be an endless undertaking to attempt a reference to all that has been said or written upon the financial question, I shall confine my remarks to a very brief review of some of the positions taken by the distinguished Senator from Indiana, [Mr. MORRIS,] and shall rely for my facts entirely upon the reports of the Treasurer and the Secretary of the Treasury.

These gentlemen, however widely they may differ in other respects, concur in the utter detestation, scorn, and contempt which they entertain toward repudiation. Language would fail to express the horror which would seize upon their souls at the bare thought that the Government would ever dishonor the very smallest of its engagements or repudiate any of its obligations. A spotless virgin would not more instinctively fly from the vile presence of a seducer than they would shrink from the contaminating influence of a man so lost to shame as to breathe a suspicion against the

national honor. [Laughter.] Such a crime would sink him so low in their estimation that repentance and remorse could never raise him from the depths of his degradation.

It is a fact that good morals and good character depend upon the observance of good faith in all transactions, public and private. It is equally true that profession and practice are not always traveling companions in this world. Repudiation, hideous as it may appear, is not such a stranger in this land as to startle us by its novelty. Instances occur very early and very late in our history. The patriots of the Revolution, without an effort at redemption, abandoned the paper currency which had been paid to the farmers who fed and the soldiers who fought. The last act of repudiation is of recent date, and consisted in appropriating a large amount of private property to public use without any compensation to the owners. The Constitution provides that—

"No person shall be deprived of property without due process of law; nor shall private property be taken for public use without just compensation."

In pursuance of this provision Congress passed a law allowing loyal owners \$300 each for the slaves enlisted in the war. Commissioners were appointed to hear and determine the claims, but before a dollar was paid the law was suspended and the debt virtually repudiated. The law itself was a very feeble attempt to meet the requirements of the Constitution, as just compensation implies the full value of the property. Men were stripped of their earnings, widows of their dowry, orphans of their inheritance, and the soldier who had followed the flag from the beginning to the end of the war had to submit quietly to the repudiation of his claim.

The constitutional provision to which I have adverted was in full force at the time when the act was done. The Constitution was the supreme law of the land, or, as Mr. Webster has forcibly expressed it, it was the bond, and the sole bond, of our Union. No civil officer could enter upon the discharge of his duties until he had taken a solemn oath to support it. In view of these facts I would ask any honest man to lay his hand upon his heart and say if the people of Kentucky have been rightfully deprived of the property which they held under the double guarantee of Constitution and of law? I do not ask him to decide it by the Declaration of Independence, nor by the star-spangled banner, nor by the higher law, [laughter,] but by the sacred compact which our fathers formed for our government, by the charter which secures our liberties, by the Constitution which was intended to protect our property.

Lest a returning sense of justice should induce some legislative body to make some reparation for the wrong inflicted upon a loyal community, the fourth section of the fourteenth amendment provides that neither the United States nor any State shall ever pay for the loss or emancipation of any slave, but that such obligation shall be held illegal and void. This clause is retroactive and nullifies the force of existing obligations, and how far it would receive the sanction of our highest judicial tribunal is a matter which is yet to be tested. However, if danger should be apprehended from that quarter, following the precedent set in the McCord case, the jurisdiction could be repealed by an act of Congress declaring that the Supreme Court should take cognizance of no case involving a constitutional question. [Laughter.]

The Secretary of the Treasury, in his report, alludes incidentally to the inequality of the burden of taxation, and doubtless realizes its utterly exhaustive influence upon those sections where no bonds are held and where none of the interest is distributed. But he forgot to notice the hardship, the oppression, and the wrong involved in the act of depriving whole communities of one half of their estates without process of law and without compensation, and then taxing the remainder to pay the interest on claims which rest upon no more solid foundation than their own. Has the Govern-

ment kept faith with its own citizens? A dominant party may defy the Constitution, trample upon the rights of the weak, and sport with their misfortunes; but the fires of fanaticism cannot always burn, the passions of men will grow cool, and the day will come when justice and public faith, beneficent as the Constitution and broad as the Union, will prevail.

If gentlemen really desire to constitute themselves the peculiar friends and guardians of the public faith, if they wish to preserve it pure and unspotted, they should pursue a course of impartial justice toward all the creditors of the United States. In discharging their high trust let no preferences, partialities, or prejudices warp their judgment or control their action; and above all, let them do nothing in violation of the Constitution. The public indebtedness, large as it is, is going for the most part to our own citizens, and in view of their equal rights, pay all or pay none; or if they can only pay a part let them refer the matter to a master commissioner for a *pro rata* distribution of the assets among all the creditors in exact proportion to their several demands. Whatever may be the hardship of such a measure it will fall upon all alike, and those who have been drawing the gold will have less reason to complain than those who never received a cent. A discrimination among American citizens is in flagrant violation of the fundamental principles of our free institutions and a fraud upon the equal rights of the people. Our Government was established to secure the rights and to perpetuate the liberties of the people, and not as an engine of oppression and torture to degrade and enslave them.

The condition of the country in a financial point of view is alarming; and most of the remedies prescribed appear to be temporary in their character. Many of them propose, in certain contingencies, to issue more bonds, as if the bonds already in existence were not absorbing the means and consuming the substance of the people. That relief which comes from increasing the burden will not meet my approbation. The desperate situation of our affairs is rendered perfectly manifest by the conflicting and contradictory measures advocated by statesmen of great capacity and of enlarged experience. Scarcely any two agree, and yet each one has the utmost confidence in the wisdom and policy of his own scheme.

The speech of the distinguished Senator from Indiana in support of his proposition was an effort of great vigor, and as an intellectual display would compare favorably with anything that has been lately delivered in this Chamber. He began his voyage amid the convulsions of revolution, circumnavigated the globe, visiting England, Germany, France, and Spain, and, more fortunate than Captain Cook, he entered the ports of redemption and reconstruction with flying streamers, under cloudless skies, and impelled by pleasant breezes. [Great laughter.] He came overland from California, developing a sufficiency of gold in that State and the Territories to pay our debts and put us on the high road to prosperity, and after all he returns to us with courage on his brow and a constitution invigorated by the toils and dangers through which he has passed. [Renewed laughter.] If his discoveries should prove of little value to the currency or the country we can at least rejoice at the restoration of his health. Whatever may be thought of the speech in other respects, it will be the unanimous verdict of candid men that it is the most cheering and hopeful presentation of our financial affairs that will be made during the present generation.

The Secretary of the Treasury, with the amplest means of information, seems to be puzzled and bewildered by the difficulties of the situation. He shows very clearly that Webster and himself were alike inimical to a depreciated currency, and by extending his researches he might have discovered that other men entertained similar opinions on that subject. [Laughter.] He recommends that Congress shall pass a law legalizing gold contracts, and I can see no very particular objection to that proposi-

tion. If persons desire to pay and to receive good money I would make it lawful for them to do so. In his opinion it is of the highest importance that the tax-paying voters should be encouraged by the fact that the debt is in the progress of rapid extinguishment. I would like to oblige the Secretary very much, but I cannot encourage tax-payers by any such assurance. I do not believe that the public debt of the United States ever can be paid, and the facts upon which this judgment is based are drawn chiefly from the report of the Secretary of the Treasury.

The Treasurer, who is a gentleman of the olden time, and who speaks about what he thinks, has indulged in some tolerably plain talk upon this financial question. The lower grades of the fractional currency authorized by Congress are most offensive and disgusting to his sight, taste, and smell. [Laughter.] He calls it "an almost worthless, irredeemable, poisonous, and stinking copper and nickel-token currency." He waxed warm as the argument proceeds, until he challenges the world to show as mean a Government as ours, [laughter,] and declares that an individual guilty of such practices would be branded as a twopenny thief and consigned to a house of correction. The Government is accused of fraud and open repudiation; but of all his charges there are none so damaging and disparaging, so unwarrantable and unjust, as the comparison to a twopenny thief. [Laughter.] This effort to degrade the Government by intimating that its operations are confined to a retail business is a surprising misconception; but as it was prompted by sudden excitement, and is evidently not the result of deliberate malice, we may hope that time and reflection will induce the author to modify or retract the aspersion. [Laughter.]

Depreciated paper is the object of assault on all sides, and those who forced it upon the country are now its deadliest foes. A speedy resumption of specie payments, with or without the means, is advocated as a sure defense against all the dangers that surround us. That redundancy of currency of which we hear so much may exist in the region where the bondholders live, but in the agricultural districts there is no such complaint. In my section the people are neither given to idleness nor to luxury. They have never had the wealth to indulge the one nor to support the other; and a man who enjoyed both would not be a very respectable member of society. Intelligent labor is industriously applied to a fruitful soil, but still money is so scarce that any contraction of the currency would operate most injuriously upon the agricultural and mechanical interests.

Let it not be said that I am or have been the friend of paper money, or of any of the overgrown monopolies that have fed and fattened upon public plunder until they defy the constituted authorities of Government. The resumption of specie payments, if we were ready to resume, it is admitted on all hands would be attended by a great enhancement of the value of paper money. A dollar in gold, instead of being worth a dollar and thirty-five cents, would be exchanged at par, or the premium of thirty-five per cent. of gold over greenbacks would no longer exist. So that a man holding \$100,000 in greenbacks would have it suddenly raised to the value of \$135,000 in that currency. But the people of the United States are not all bankers and bondholders. The great majority of them derive no profit from the one or the other, and the interests of this class, numbering twenty to one, are entitled to some consideration at the hands of Congress in its efforts to solve the financial question. The debtor is entitled to fully as much sympathy as the money-lender. The laborer between the plow-handles and the mechanic in his shop are, under our system of government, the equals of any other citizens of the Republic. It is their energy and their productive industry which upholds and sustains the fabric of American civilization. Knock out this support, and the Gov-

ernment with its bonds and its currency would be involved in a common ruin. The claims of labor and the welfare of the laborer are matters which must engage the attention of statesmen if the sunlight of prosperity is ever to shine upon us again. Politicians may plot and plan, bankers may discount and accommodate, demagogues may delude and deceive, but the truth will come at last that the hard hands and strong arms of labor must work the deliverance.

Has any person seen a farmer or mechanic who complains of a redundancy of money? The complaints that have reached my ear are precisely the reverse. If they are in debt do they desire the privilege of paying one third more than they contracted, and are they particularly clamorous for a reduction of their wages? Are they feverish in their anxiety to see \$400,000,000 of Government bonds sold in England for gold to redeem the greenback currency, and then to see the tax-gatherers collecting in the same gold to ship across the waters in payment of the interest on the bonds? According to my theory the burden rests upon their shoulders, and their tongues must make the call before I will ever vote for a bond for any purpose whatever.

The southern States embrace a population of eight or ten millions, and unless their very existence is to be ignored some consideration should be bestowed upon the measure, as it is likely to affect their interests. Are they ready for specie payments, and do they desire that all values shall be reduced to the standard of gold and silver? Almost every newspaper that comes from that quarter informs us that some finely improved estate has been disposed of at sheriff's sale for two dollars per acre, and as the unfortunate owners have been bereft of all else they would hardly favor a project which would sacrifice their lands at \$1 25.

Of the situation of the southern people I know little from actual observation. Since the war I have been no further south than Gordonsville, in Virginia. Manassas, which has risen from the ashes, reminds us of the opening scene in the civil strife. I passed Cedar mountain, or Slaughter's mountain, as the people of the country call it, in whose shades Stonewall Jackson marshaled his forces, and from whose summit swept the charge that never failed of victory. I crossed the Rapidan, where Grant and Lee, the great masters of military science, for seven long months confronted each other from opposing banks. Ditches and earthworks may be seen on all sides, but where are the farms, the orchards, and the gardens, the corn, the fruit, and the flowers? These rich valleys, like western prairies, spread out before you. No fence obstructs the view, and no sound breaks the solemn silence that reigns around. There remain, however, some evidences of a banished civilization. Now and then a single chimney, like a monumental column, points you to the past. It bears no lettered scroll; but still it speaks of happiness and home. Its warmth has been a comfort to age, and sparkling eyes and ruddy faces have reflected its light. But the scene was changed. The thunder cloud of war drew near and more near until its angry flashes gave fearful warning of approaching doom. The mother kneels at the family altar, invokes the blessing of Elijah's God, and goes forth with her children a fugitive in the land. Everything that will burn is given to the flames, and the chimney stands as a landmark, a starting point for the surveyor in his work of reestablishing metes and boundary lines.

Other portions of Virginia may have suffered less, but I honestly believe that the people of that State are not prepared for specie payments, and that any great contraction of the currency would involve them in ruin. They could endure a gentle inflation, but they will scarcely survive a further contraction. I know not how others may feel, but as for my single self I confess to a weakness for the old Commonwealth of Virginia. If she has sinned in the sight of heaven, heaven and earth have witnessed the terrible retribution. When we speak of Virginia the long

past rises before us, and we are associated with the heroes, the statesmen, and the philosophers of other days. The sword of her Washington hangs in the Patent Office, and there, too, is his camp and his camp furniture, even down to his pewter plates, held as the sacred memorials of a patriotism which endured all things for his country's sake. Jefferson and the Declaration, and Madison and the Constitution, the eloquence of Henry, the learning of Marshall, all protest against the divorce which severs the bonds of union and degrades Virginia from her position of equality in the family of States. Dismembered and divided, spurned and insulted, suffering and bleeding, the frail and tottering remnant of her former self, if we cannot alleviate let us do nothing to increase the calamities which overwhelm her already. Neither the vicissitudes through which she has passed nor the furnace of affliction in which she walks at present have ever been able to extort from her one word of complaint or reproach. If it is believed that she can be driven or persuaded to a profession of the Radical creed, it is a mistake; she will live and die in the faith which has been handed down from the fathers.

It is assumed that gold will come to this country when it is needed. In my opinion it will be needed a long time before it will come. When our exports and sales in foreign countries shall exceed our imports that excess will be paid to us in gold.

Another assumption is that greenbacks will enhance in value as soon as an act of Congress shall fix a day for the resumption of specie payments. The ability of a debtor to meet his obligations is of more consequence in the eyes of creditors than any promises or pledges he may make upon that subject. If he is in doubtful or failing circumstances it is certainly prudent to name a distant day, and this precaution has been observed in the measure which has been proposed to the Senate.

But the great question is, can the Government meet its liabilities? The report of the Secretary of the Treasury shows that for the last three years and seven months the average annual expenditure in payment of interest and other demands has been \$508,646,661 68, and that during that time the public debt, instead of being diminished, has been increased by the addition of \$160,174,475 48. In three years and seven months almost two thousand million dollars have been expended, and the debt is larger than it was at the close of the war. The Secretary says that if it had not been for the Pacific railroad, the purchase of Alaska, and other estimates which he believes to be substantially correct, the debt would have been smaller. But such contingencies are as likely to happen in the future as in the past, and the fact stands as stated. While the debt has been thus rapidly increasing the resources of the Government for its liquidation have been more rapidly declining, as the tables will show:

The receipts from internal revenue for the year 1866 were.....	\$309,226,813 42
The receipts from internal revenue for 1867 were.....	260,027,537 43
The receipts from internal revenue for 1868 were.....	191,087,589 41
The estimated receipts for 1869 are.....	146,209,014 00

The receipts from customs for the last three years have been as follows:

For the year 1866.....	\$179,046,651 58
For the year 1867.....	176,417,810 88
For the year 1868.....	164,464,599 56

This statement, which is taken from the report of the Secretary of the Treasury, points rather to deficiency bills than to the payment of the public debt. But the most alarming feature connected with our multiplied embarrassments is that our precious metals and our gold-bearing bonds are leaving us and going to Europe. California and the Territories in the last twenty years have produced in gold and silver upwards of \$1,800,000,000, and of this amount \$1,100,000,000 have departed from our shores.

Nor is that all; more than six hundred million dollars of our gold-bearing bonds are now in the hands of European capitalists, and

besides this they hold in State stocks and other securities more than two hundred million dollars; and the Secretary says that we are even now increasing our debt to Europe at the rate of sixty or seventy million dollars per annum in the form of gold-bearing bonds. When Europe shall hold all our bonds the gold product of California and all the Territories will be insufficient to pay the interest. Our purchases abroad are made mostly in gold-bearing bonds, and if this shall cease the receipts from customs must cease with it, and the tax gatherer must hunt for currency where it is scarce, and for gold where there is none, to support the Government and to pay the debt. Borrowing from one man to pay another is the contrivance of a bankrupt, and the adoption of such measures on our part would only develop the utter hopelessness of our situation. In addition to the burdens already enumerated our commercial marine has been sold to foreigners, and the cost of our transportation goes into their pockets.

The Secretary ascribes the great reduction in the amount derived from internal revenue to inefficient collection and to a reduction of taxes. This may be partially true at the present time, but it will not be long before still a further reduction will be attributed to the exhaustion of the people. Their capacities are truly wonderful, but wonderful as they are, human energy and human endurance have a limit. Five hundred millions of dollars is a large sum to be drawn yearly from the labor of the country in the shape of taxation. Is there any system of labor upon earth that could stand such a drain? Our largest river would cease to flow and his bed would become dry and parched if the clouds did not bear back the volume of water he discharges into the Gulf. But here is a financial gulf into which pours a golden stream, but from its metallic surface arises no moisture, no vapor, no rain to cheer and to bless the sources of its supply. How long can it continue to flow? How long will thirty million people be content to pour the golden fruits of their unrequited toil into the bosom of this gulf which, like the Dead sea, has no outlet? Ireland has groaned under a similar infliction until the "greenest isle of the ocean" has lost its verdure, and until penury and want are the only inheritance of her children. The great law of self-preservation forces them to leave her borders in search of the means of subsistence, and whither will they fly when American, like Irish labor, is made tributary to the capital and the power of other countries? When Europe shall hold our bonds the effort to discharge them must end in exhausting the means of payment. It would be useless to attempt to stop the current that is sweeping our gold and gold securities to Europe. Many of our citizens have become suddenly and vastly enriched by speculation, speculation, and speculation. The simplicity of American manners and of republican institutions palls upon their pampered tastes; titles, crowns, and courts flit before their imaginations, and they will exchange their bonds or their gold for an opportunity of beholding with their own eyes the pomp and pride and pageantry of a genuine aristocracy.

In speaking of restoring the tax on manufactures, abolished in March last, the Secretary says:

"The objections to the restoration of this tax are that it would indicate vacillation on the part of Congress."

I hope that I have been reasonably consistent in life; but I am willing to vacillate a little in that direction. [Laughter.] He proceeds:

"It is also apparent that if restored it would fail to be permanent, by reason of the persistent and united hostility of a class of citizens influential and powerful, and whose influence and power are rapidly increasing."

This is one of the most fearful declarations that ever proceeded from any of the Departments of our Government. And is it true that the President and his Cabinet have become the agents and the servants of a privileged class, and that Congress, forgetful of its solemn duties

to the sovereign people, protects the rich in order that the scourge may be applied with more fatal effect to the productive industry of the country? From the decision of the Secretary I appeal to the grand inquest of the nation upon the distinct issue that wealth and influence are not good grounds for the exemption of any portion of our citizens from their just and equal proportion in all the responsibilities of government. Neither policy nor wisdom nor justice demands an exemption in favor of those who are most able to pay.

In the plan of resumption proposed by the able Senator from Indiana his own misgivings as to the result are shadowed forth. Why does he allow six months' additional time to the national banks? The moment that a *bona fide* resumption takes place on the part of the Government the banks will be able to resume. There is nothing in their business nor in their situation that commends them in an especial manner to the fostering care of Congress. They are sixteen hundred or more in number, with a capital of \$400,000,000, upon which they draw from Government a yearly interest of \$24,000,000. This sum is paid to them with the privilege of fleecing the people out of \$50,000,000 more. They are probably as well to do as any institutions in the country. But the provision was not intended entirely for their benefit. They are required to hold an amount of greenbacks equal to their circulation; and by postponing the day of their resumption they are relied on as safety-valves to withhold the greenbacks from presentation for payment. These banks are generally conducted by men of sagacity and foresight in financial affairs. Knowing that gold under any circumstances would be as good as greenbacks, it is fair to presume that each bank would have a trusty agent in Washington on the 1st day of July, 1871, and all of them would be instructed to be convenient to the Treasury Department when the hour of resumption should arrive; and when it did come, without the sound of a drum or the note of a bugle, they would move to the onset,

"Firm-paced and slow, a scurried front they form,
Still as the breeze, but dreadful as the storm."

[Great laughter.]

If the Secretary should desire to render impartial justice to his customers it will require a force of sixteen hundred money counters to meet the demand. Let him appoint that number and the sun of that day will set upon an empty Treasury. [Laughter.]

Mr. MORTON. I voted to displace the railroad bill before the Senate this morning for the purpose of giving the chairman of the Committee on Finance and the Senator from Kentucky an opportunity of making their speeches. I now move to postpone the present bill with a view to again bring the railroad bill before the Senate.

Mr. SHERMAN. I hope, now that this bill is before us, that we shall go on with its consideration. It is a question of general moment.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Indiana, to postpone the further consideration of the bill for the purpose of taking up the Central Branch railroad bill.

Mr. SHERMAN. On that question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. SHERMAN. I trust we shall go on with the bill now before us. Let me say, we all know, as matter of history, that there is no prospect of this railroad bill becoming a law if it should pass the Senate. It will lead to a long debate. Already a new mine of discussion has been opened between the Senator from Kansas [Mr. POMEROY] and the Senator from New York, [Mr. CONKLING.] If we pass the bill we make no progress with it, because we are already officially advised of the action of the House upon a bill which we have recently sent to them. What is the use, therefore, in prolonging the discussion upon the railroad bill and delaying the Senate with it? I hope that the bill now before us may be proceeded

with. Let us go as far as we can with it to-day, and I trust we can get a vote before long.

Mr. HOWARD. The bill of the Senator from Ohio has been taken up, and he has had an opportunity to express himself freely upon it. I understood heretofore that that was the main object which the Senator had in view at the present time. And now, sir, I hope we shall resume the consideration of the railroad bill. I think we can come to a vote upon it to-day before we adjourn; I trust so; and I ask the friends of the bill to stand by it.

Mr. SUMNER. There is no reason why we should not have a vote right off.

Mr. NYE. I do not know upon what authority the honorable Senator from Ohio speaks when he tells us that there is no prospect of this bill becoming a law if it passes the Senate. I do not know what information he has on that subject that other Senators have not.

Mr. SHERMAN. The House of Representatives have passed a resolution declaring that they will grant no more subsidies. They have even defeated or referred a bill which we had passed extending slightly the subsidy to the eastern division.

Mr. NYE. I suggest to the honorable Senator from Ohio that that is no reason why this body should not do its duty. If these people are in the right they should have the relief they ask, and if the House of Representatives refuse it to them it does not relieve us from our responsibility. I hope, therefore, that that argument will not prevail.

The question being taken by yeas and nays, resulted—yeas 29, nays 25; as follows:

YEAS—Messrs. Abbott, Buckalew, Chandler, Cragin, Doolittle, Drake, Ferry, Fessenden, Fowler, Grimes, Harlan, Hendricks, Howard, McDonald, Morrill of Maine, Morton, Norton, Nye, Pomeroy, Ramsey, Rice, Ross, Sawyer, Sumner, Thayer, Van Winkle, Vickers, Welch, and Wilson—29.

NAYS—Messrs. Anthony, Cattell, Cole, Conkling, Corbett, Davis, Dixon, Edmunds, Frelinghuysen, Harris, Henderson, Howe, McCreery, Morgan, Morrill of Tennessee, Patterson of New Hampshire, Patterson of Tennessee, Pool, Sherman, Trumbull, Wade, Warner, Whyte, Wiley, and Williams—25.

ABSENT—Messrs. Bayard, Cameron, Conness, Kellogg, Osborn, Robertson, Saulsbury, Spencer, Sprague, Stewart, Tipton, and Yates—12.

So the motion to postpone was agreed to.

CENTRAL BRANCH PACIFIC RAILROAD.

The PRESIDENT *pro tempore*. The question now is on taking up the railroad bill, so called.

The motion was agreed to; and the Senate resumed the consideration of the bill (S. No. 256) relating to the Central Branch Union Pacific Railroad Company, the pending question being on the amendment proposed by Mr. CONKLING.

Mr. POMEROY. I said this morning that I should occupy the time of the Senate on this bill just long enough to make what I thought necessary, a correction in regard to distances. So far as I am concerned I shall be as brief as possible, because I hope the vote will be taken on the bill to-day. I make my statement from the Railroad Guide so far as it relates to the Union Pacific Railroad Company, and from the Railroad Guide so far as it relates to the Union Pacific railroad, eastern division, so far as their roads are built; and from the actual survey from the quartermaster's department for the rest of the route. In the quartermaster's department the measurement was made by Lieutenant R. M. Brown, of the United States corps of engineers.

It was understood when we adjourned yesterday, from a remark made by the Senator from New York, [Mr. CONKLING,] that this road could make a connection with the Union Pacific nearer at Cheyenne by about one hundred and thirty miles than by the other route. The Senator said, however, that it was one hundred and thirty miles or more nearer to Denver, and that this company could prosecute its work by a subsidy of forty miles and be on a nearer connection. That is the only point I desire to speak upon, and I shall occupy but a moment.

The distance from the end of this road to Fort Kearny by the bill is one hundred and

fifty miles; and by the survey more than that. By the Railroad Guide, from Fort Kearny to Cheyenne is three hundred and twenty-five miles, making four hundred and seventy-five miles to Cheyenne, the point on the Union Pacific railroad to which reference has been had. From the present terminus of this road to Fort Riley is forty-two miles in a straight line; fifty miles we will say will be the route if the road is built that way to join the eastern division by making a direct right angle. It is then just eighty-five miles and a fraction to Fort Harker, and four hundred and twenty miles from Fort Harker to Denver, and one hundred and six miles from Denver to Cheyenne—one hundred and nine the Senator from New York said, but by referring to their survey I see it is one hundred and six—making six hundred and seventy-six miles by the Smoky Hill, eastern division, route, and four hundred and seventy-five by the other route. The difference in favor of the route by the Union Pacific is two hundred and twelve miles. My statement is made from the Railroad Guide, so far as it relates to the Union Pacific Railroad Company and so far as it relates to the Union Pacific railroad, eastern division, excepting from Fort Harker to Denver, which was surveyed under the direction of the War Department by Lieutenant R. M. Brown, of the United States corps of engineers. So that instead of the eastern division route being shorter, it is in the neighborhood of at least two hundred miles longer; it will not vary much from that. That is the only statement I wanted to make.

Mr. CONKLING. Mr. President, there are a number of remarkable features about this bill. One is, that its friends take it up semi-occasionally with an announcement that it is not necessary to debate it and that they wish to have a vote taken upon it, and forthwith all its fathers proceed to cover it with new recommendations to the Senate.

Now, sir, I beg to say that I had not the slightest idea of uttering one word upon this measure at this session of Congress, although I expected a vote to be taken upon it. I had removed beyond my immediate reach the papers that I had last year in reference to it, and had dismissed it substantially from my mind; and when it was taken up, if a vote had been permitted upon it, as we were told the desire was to obtain a vote, I certainly should never have broken the silence of the Senate. It was only by calling back to mind discarded data and half-forgotten things that I was able to submit any observations on the subject. I should not now rise to say one word about it but for the fact, first, that a statement which I made is apparently contradicted by the Senator, and second, that the Senator is about to leave the Senate vote to under a total misapprehension, as I think I shall be able to show, of the point which professedly he controverts.

What was my statement yesterday? Did any Senator suppose I meant that you might not start from Fort Riley and by a new route cross directly to some point on the Union Pacific railroad without going as far as any of the old proposed routes? Nobody understood me to say that; and yet the Senator comes in here now with a contradiction, which is, that if you start from Fort Riley, for example, or from Irving, and go across to Fort Kearny, or some other point between Cheyenne and Omaha, you can reach that by a less number of miles than you would have to traverse to go to Denver or Cheyenne. Is there any such issue as that here? Has any man been bold enough to defy all geography and the points of the compass by affirming anything to the contrary of that? I have not.

What was my allegation? The equity, which can never be repeated too often, attaching to this bill, is that the central branch were deprived of a certain connection. My statement was, that that lost connection was one hundred and thirty-four miles longer than the same connection transplanted to the valley of the Smoky Hill. That is putting it a little stronger than I put it, because I read from the state-

ment which fixed Denver as the point; but I am willing now to assume that I put it as strong as that in terms, as that was the result of my statement.

Was that true or not? Having now before me, as I had not yesterday, the surveys and the maps, I reiterate my statement, and I affirm that the perfected surveys show that one hundred and forty-seven miles, not one hundred and thirty-four, is at least the ascertained difference between the old proposed route, which they complain of having lost, and that connection which will be given under the amendment lying on the table. We all know that when this legislation took place the Union Pacific railroad was not built at all. Nobody knew precisely where it was to go; but, as all the legislation proves, everybody understood that that road was to go to Denver. The eastern division was to go to Denver. Does anybody doubt that? Here are both of their surveys surveying the Republican route and the Smoky Hill route. To reach what point? Fort Kearny? Some place back towards Omaha, based upon information that nobody could have, because it did not exist, of where the Union Pacific railroad was to go? No, sir; but everybody understanding that Denver or the immediate vicinity of Denver was the point of destination.

Afterward, it was understood that the Union road was to go up the Platte valley. Well, when the Platte valley has passed the point which has been named by the Senator it forks, and one fork goes to Denver—and Denver is in that valley, as the Senator knows—and another fork bears further to the north; and when the Union road came to progress that far, years afterward, it took the right hand in place of the left hand fork of the Platte river. And now the proposition must be gravely urged by the Senator that the equity is to be extended to furnishing to these claimants a connection which they never dreamed of, and which nobody ever supposed there would be an object in making.

Therefore, we come back to what was the distance which they expected to traverse. What was the distance they would have traversed had the Republican route been adhered to, and what is the difference between that and the distance to be traversed now by the Smoky Hill route? Is not that the question? Manifestly that is the question, the only question that could be addressed to a chancellor, to take the illustration of the Senator from Michigan. Now, how is that? Here is the report, and here are two of its statements:

"The entire length of the line by the Smoky Hill from Fort Riley to Denver is four hundred and sixty-six and six-tenths miles."

"The distance from Fort Riley to Denver by way of the Republican and Platte rivers is six hundred miles."

The difference between those two statements is one hundred and thirty-four miles, and that is the statement that I made. The perfected survey afterward shows that the difference is greater than that, and that it is, in truth, one hundred and forty-seven miles—one hundred and forty-seven miles according to the survey upon which the Government insists in reference to subsidies; several miles more according to the survey upon which these parties in interest insist. But I take now the survey approved by the Government and strongest against my proposition, and that shows a net difference of one hundred and forty-seven miles between the lost connection and the connection which can now be had via the Smoky Hill.

Upon facts like these I cannot consent, even at the hazard of prolonging this debate, to sit down allowing the Senator from Kansas to assume premises which I never have stated; to assume a state of case on my part which I never thought of, and which never would have been relevant or material here, and then propose an apparent contradiction, the effect of which, if it has any at all, must be to mislead the Senate.

Since offering the amendment last night, at the suggestion of other Senators I have modified it by striking out all restriction as to the point where the junction with the Smoky Hill

route may be made. That is to avoid a right angle, as suggested by the Senator from Indiana. Let them go where they please. According to this amendment, giving them a subsidy of forty miles, adding that to the interval of fifty miles which, confessedly, they would have been compelled to build at all events, they can deflect very gently and slightly and touch the Smoky Hill route so as to make a very slight curvature in their own course. That will carry them on to Denver and from there to Cheyenne. And I go further now, and say to the Senator that this survey shows that going to Cheyenne all the way, passing through Denver, the route would not be longer than it would if they built an independent road themselves by any known route to Cheyenne.

But, sir, do not let us be misled on this point by supposing that the question is whether some new and heretofore uncontrived route can be devised to strike the Union railroad where nobody ever intended to strike it or knew it would lie. Do not let us be misled by supposing that the question is whether that can be done in a shorter number of miles than the miles of which we are speaking. It is enough for me to know that by a slight gift—a gift of \$640,000 in place of \$2,400,000—we can make these parties completely whole, and more than that. Let us understand the facts aright, and then adopting the view which leads Senators to see an equity, let us find out whether in order to put these parties in *statu quo*, Senators will vote \$2,400,000 in place of \$640,000. That is the proposition.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from New York as modified.

Mr. CONKLING. Let it be read as modified.

The Chief Clerk read the amendment as modified; which was to strike out all of the bill after the enacting clause, and to insert:

That nothing contained in the act of Congress approved July 3, 1866, relating to the Union Pacific railway, eastern division, shall deprive the Central Branch Union Pacific Railroad Company, assignee of the Hannibal and St. Joseph Railroad Company, of its right to continue its road and telegraph line westerly from the termination of the one hundred miles mentioned in the act of Congress incorporating the Union Pacific Railroad Company, approved July 1, 1862, to a connection with the Union Pacific Railroad Company, eastern division, as one of the branches thereof; but said Central Branch Union Pacific Railroad Company shall continue its road from the termination of the one hundred miles aforesaid, or from a point between said termination and where said road crosses the Big Blue river, to a connection with the Union Pacific railway, eastern division, upon the same terms and conditions, in all respects, as are now provided by law for the construction of the Union Pacific railway, eastern division: *Provided*, That no subsidy in United States bonds shall be allowed to said central branch company for any greater length of road than forty miles from the termination of the one hundred miles on which bonds are already authorized to be issued on said line of railroad.

Mr. CONKLING. The yeas and nays were ordered yesterday on that amendment.

The question being taken by yeas and nays, resulted—yeas 23, nays 29; as follows:

YEAS—Messrs. Anthony, Conkling, Corbett, Davis, Dixon, Edmunds, Frelinghuysen, Harris, Howe, Morgan, Morrill of Vermont, Patterson of New Hampshire, Patterson of Tennessee, Pool, Robertson, Sherman, Stewart, Vickers, Wade, Warner, Whyte, Willey, and Williams—23.

NAYS—Messrs. Abbott, Buckalew, Cragin, Doolittle, Drake, Ferry, Fessenden, Fowler, Harlan, Henderson, Hendricks, Howard, McCreery, McDonald, Morrill of Maine, Morton, Norton, Nye, Pomeroy, Ramsey, Rice, Ross, Sawyer, Sumner, Thayer, Trumbull, Van Winkle, Welch, and Wilson—29.

ABSENT—Messrs. Bayard, Cameron, Cattell, Chandler, Cole, Conness, Grimes, Kellogg, Osborn, Saulsbury, Spencer, Sprague, Tipton, and Yates—14.

So the amendment was rejected.

Mr. PATTERSON, of New Hampshire. I move to amend the bill by adding the following:

Nor shall such subsidy exceed in its aggregate amount the sum of \$1,200,000.

I ask for the yeas and nays on the amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 25, nays 27; as follows:

YEAS—Messrs. Anthony, Buckalew, Cole, Conkling, Corbett, Davis, Dixon, Edmunds, Frelinghuysen, Harris, Howe, Morgan, Morrill of Vermont, Patterson of New Hampshire, Patterson of Tennessee, Pool, Rob-

ertson, Sherman, Stewart, Trumbull, Vickers, Wade, Warner, Whyte, and Williams—25.

YEAS—Messrs. Abbott, Cragin, Doolittle, Drake, Ferry, Fessenden, Fowler, Harlan, Hendricks, Howard, McCreery, McDonald, Morrill of Maine, Morton, Norton, Nye, Osborn, Pomeroy, Ramsey, Rice, Ross, Sawyer, Sumner, Thayer, Van Winkle, Welch, and Wilson—27.

ABSENT—Messrs. Bayard, Cameron, Cattell, Chandler, Conness, Grimes, Henderson, Kellogg, Saulsbury, Spencer, Sprague, Tipton, Willey, and Yates—14.

So the amendment was rejected.

Mr. MORRILL, of Vermont. The proposition to reduce the subsidy one half having failed, it is obviously useless to offer an amendment that no subsidy shall be granted; and thereupon I shall abandon my purpose in that regard. But as I believe it is the policy of Congress hereafter to issue no more bonds bearing six per cent. interest, I propose to move that the bonds issued for this subsidy shall bear no higher rate of interest than five per cent. I therefore move to insert after the proviso at the end of the bill the following words:

Nor shall the bonds issued for such subsidy bear any higher rate of interest than five per cent. per annum.

Mr. POMEROY. I suppose the Senator means five per cent. in coin. That is better than the present bonds, on which the interest is six per cent. in currency.

Mr. MORRILL, of Vermont. They would be subject to the present law, as to the manner of granting the subsidy, unless this road should evade it, as I believe the other roads do, by paying interest in coin.

Mr. ANTHONY. Is it not best to provide against such an evasion by saying "in currency?"

Mr. MORRILL, of Vermont. I have no objection. I will modify the amendment by inserting "in lawful money."

Mr. HOWARD. I hope that amendment will not prevail. If the Government should resume specie payments would the honorable Senator require this company to receive its interest in currency?

Mr. MORRILL, of Vermont. I have said "lawful money," and when we resume specie payments coin will be lawful money. I ask for the yeas and nays on this question.

The yeas and nays were ordered; and being taken, resulted—yeas 34, nays 17; as follows:

YEAS—Messrs. Anthony, Buckalew, Cameron, Conkling, Cragin, Davis, Dixon, Drake, Edmunds, Ferry, Fessenden, Frelinghuysen, Harlan, Harris, Henderson, Howe, McCreery, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Patterson of New Hampshire, Patterson of Tennessee, Pool, Robertson, Ross, Sherman, Stewart, Trumbull, Vickers, Warner, Whyte, Willey, and Williams—34.

NAYS—Messrs. Abbott, Corbett, Doolittle, Fowler, Hendricks, Howard, McDonald, Nye, Osborn, Pomeroy, Ramsey, Sawyer, Sumner, Thayer, Van Winkle, Welch, and Wilson—17.

ABSENT—Messrs. Bayard, Cattell, Chandler, Cole, Conness, Grimes, Kellogg, Norton, Rice, Saulsbury, Spencer, Sprague, Tipton, Wade, and Yates—15.

So the amendment was agreed to.

Mr. PATTERSON, of New Hampshire. Before the vote is taken on the bill I should like to ask the members of the committee if one hundred and fifty miles will bring this road to a junction with the main branch? I will ask the Senator from Ohio, who is on the committee, or the chairman, how that is?

Mr. HOWARD. It will, very nearly. That, however, is not material at all. They can have a subsidy only for one hundred and fifty miles.

Mr. PATTERSON, of New Hampshire. Will the gentleman state how nearly?

Mr. HOWARD. I presume if the company should go directly northward—

Mr. PATTERSON, of New Hampshire. But what is the distance to the one hundredth meridian, where they must go?

Mr. HOWARD. They are not required to form a junction on the one hundredth meridian by this bill. They can form a junction this side of it.

The bill was ordered to be engrossed for a third reading; and it was read the third time.

Mr. EDMUNDS. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 26, nays 23; as follows:

YEAS—Messrs. Abbott, Cragin, Doolittle, Drake, Ferry, Fessenden, Fowler, Harlan, Hendricks, Howard, McDonald, Morrill of Maine, Morton, Norton, Nye, Osborn, Pomeroy, Ramsey, Rice, Ross, Sawyer, Sumner, Thayer, Van Winkle, Welch, and Wilson—26.

NAYS—Messrs. Anthony, Buckalew, Cole, Conkling, Conness, Davis, Dixon, Edmunds, Frelinghuysen, Harris, Henderson, Howe, McCreery, Morgan, Morrill of Vermont, Patterson of New Hampshire, Patterson of Tennessee, Pool, Robertson, Sherman, Stewart, Trumbull, Vickers, Wade, Warner, Whyte, Willey, and Williams—23.

ABSENT—Messrs. Bayard, Cameron, Cattell, Chandler, Corbett, Grimes, Kellogg, Saulsbury, Spencer, Sprague, Tipton, and Yates—12.

So the bill was rejected.

ORDER OF BUSINESS.

Mr. MORTON. I move now to take up the currency bill, which was displaced by the railroad bill.

Mr. STEWART. I hope that will not be done, because we have a special order for to-morrow, and I do not wish it to be supplanted. I move, therefore, that the Senate do now adjourn.

Mr. MORTON. I hope we shall take up the currency bill.

Mr. STEWART. I move that the Senate adjourn.

The question being put, there were, on a division—ayes 25, noes 27.

Mr. STEWART. On my motion I ask for the yeas and nays.

Mr. SHERMAN. I do not wish to have any debate on the question of taking up the bill, but let us vote on it, and let the Senate determine what they will take up.

Mr. STEWART. My motion determines it just as well. If we adjourn now the constitutional amendment will be the special order for to-morrow.

Mr. CONNESS. This is not a debatable question.

Mr. STEWART. If we adjourn now the constitutional amendment will be the special order for to-morrow. If we do not adjourn now, but take up the financial bill, that will be the unfinished business, and it will have precedence of the special order to-morrow.

Mr. SHERMAN. My friend will see that he gains nothing by this course.

The PRESIDENT *pro tempore*. A motion to adjourn is not a debatable question. On this motion the yeas and nays are called for.

Mr. CONKLING. If the Senator will withdraw his motion I will move that the Senate proceed to the consideration of executive business.

Mr. MORTON. Is that in order pending my motion?

The PRESIDENT *pro tempore*. Is the motion to adjourn withdrawn?

Mr. STEWART. Yes, sir; for the purpose indicated by the Senator from New York.

The PRESIDENT *pro tempore*. The yeas and nays not having been ordered, the Senator from Nevada may withdraw his motion.

Mr. CONKLING. I move that the Senate proceed to the consideration of executive business.

Mr. SHERMAN. If we adjourn now or go into executive session the Senate will have to determine to-morrow whether they will take up the currency bill or the constitutional amendment. I think we had better settle that to-night, and not waste time on it to-morrow.

Mr. CAMERON. I renew the motion to adjourn.

The question being put, there were on a division—ayes 24, noes 24.

Mr. CAMERON. I call for the yeas and nays. The yeas and nays were ordered.

Mr. SHERMAN. If the Senator from Pennsylvania will withdraw his motion I will move an executive session.

Mr. CAMERON. I do not want to go into executive session.

The question being taken by yeas and nays, resulted—yeas 26, nays 23; as follows:

YEAS—Messrs. Cameron, Conness, Cragin, Dixon,

Doolittle, Drake, Edmunds, Fowler, Frelinghuysen, Henderson, Howard, McCreery, Norton, Nye, Patterson of Tennessee, Pomeroy, Ramsey, Sawyer, Stewart, Sumner, Thayer, Trumbull, Van Winkle, Wade, Welch, and Wilson—26.

NAYS—Messrs. Abbott, Anthony, Buckalew, Cole, Corbett, Davis, Fessenden, Harlan, Harris, Hendricks, Howe, McDonald, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Osborn, Patterson of New Hampshire, Pool, Rice, Robertson, Ross, Sherman, Vickers, Warner, Whyte, Willey, and Williams—23.

ABSENT—Messrs. Bayard, Cattell, Chandler, Conkling, Ferry, Grimes, Kellogg, Saulsbury, Spencer, Sprague, Tipton, and Yates—12.

So the Senate refused to adjourn.

Mr. MORTON. Now, I insist on my motion to take up the currency bill. I desire to have that question settled.

Mr. STEWART. I have submitted a motion, which is pending, that the Senate proceed to the consideration of executive business.

Mr. MORTON. I submit that that motion is not in order.

Mr. EDMUNDS. The rules expressly say that it is in order at any time.

Mr. TRUMBULL. I suggest to the Senator from Nevada to let the vote be taken. We have had a square vote on adjourning which seems to test it; and if the Senate is disposed to take up the other bill we save time by doing it now.

Mr. STEWART. I do not think it is a fair way to put aside the special order, because nothing is going to be done with the other bill.

Mr. SHERMAN. The Senator can test the question in a full Senate to-morrow at one o'clock, by a motion.

Mr. TRUMBULL. We have had one test vote, and after we have had that we may as well have a square vote now on taking up the currency bill.

Mr. STEWART. By taking it up now you cut off the special order for to-morrow.

Mr. CAMERON. I believe there was some misunderstanding when the vote was taken on the last motion to adjourn. I therefore now again move that the Senate adjourn.

The motion was agreed to—ayes twenty-nine, noes not counted; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, January 27, 1869.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

The SPEAKER. The first business in order is the unfinished business pending at the adjournment yesterday, being the motion to reconsider the vote by which the bill (H. R. No. 1364) to provide for the gradual resumption of specie payments was recommitted to the Committee on Banking and Currency. The gentleman from Pennsylvania [Mr. SCOTFIELD] is entitled to the floor.

CONTRACT FOR POSTAGE STAMPS.

Mr. WASHBURNE, of Illinois. I ask unanimous consent that the Committee on Appropriations be discharged from the further consideration of the matter referred to them touching the contract of the Post Office Department for stamps; and that the subject be referred to the Committee on Printing, with authority to investigate it, and to send for persons and papers, provided this shall involve no expense to the Government.

Mr. MAYNARD. I would like to inquire whether we have authority to send for persons to be examined as witnesses without paying them?

The SPEAKER. The House has authority to instruct its committees as it sees fit. If a committee finds itself unable to act it can report that fact to the House.

Mr. MAYNARD. I do not object to this investigation; but there is another question involved.

Mr. CHANLER. I am obliged to object to all this. We on this side of the House cannot hear what is going on.

The SPEAKER. The gentleman from Illinois [Mr. WASHBURN] asks consent that the Committee on Appropriations be discharged from the further consideration of some question, and that the subject be referred to the Committee on Printing, with authority to investigate and to send for persons and papers, provided this shall involve no expense.

Mr. CHANLER. I object; because we do not know what is the subject proposed to be investigated.

TRADE WITH CANADA, ETC.

Mr. BUTLER, of Massachusetts. I ask unanimous consent to submit the following resolution:

Resolved, That the Secretary of the Treasury be directed to communicate to the House a statement of the effects of the repeal of the treaty of reciprocity upon the trade of the United States with the Dominion of Canada and the other provinces of British North America, and any information at his command as to the present condition of such provinces, and the relations between them, and the state of the American and British fisheries on or near the Gulf of St. Lawrence.

Mr. McCARTHY. I object.

RESUMPTION OF SPECIE PAYMENTS.

Mr. McKEE. I call for the regular order.

The SPEAKER. The regular order is the consideration of the unfinished business pending at the adjournment yesterday, being the motion to reconsider the vote by which the bill (H. R. No. 1364) to provide for the gradual resumption of specie payments was recommended to the Committee on Banking and Currency. The gentleman from Pennsylvania [Mr. SCOFIELD] is entitled to the floor for eight minutes.

Mr. SCOFIELD. I ask the House to add seventeen minutes to my time, that I may have twenty-five minutes in all.

The SPEAKER. If there be no objection the gentleman from Pennsylvania will be allowed twenty-five minutes in which to make his remarks.

There was no objection.

Mr. SCOFIELD. Mr. Speaker, what shall we have for money in this country? I do not mean just now while we are in a pinch, but in the future when we become masters of the financial situation. Shall it be exclusively metallic? I suppose not. There were at one time a few advocates of hard money in the country, but I know of none now. If not metallic it must be paper. Then what kind of paper? Shall we revive State banking? I hope not. Its complexity, panics, failures, frauds, and counterfeits condemn it, and the Constitution, properly construed, forbids it. We are left, then, to a choice between United States notes, something like our greenbacks, and bank notes something like our national currency. Before we choose between them each system should be amended, or considered as amended, so as to be what we would want it to be in case of its exclusive adoption.

First. Banking should be free to all. Each bank should undertake to redeem its notes in coin upon demand, and give security for the undertaking. This would probably be a sufficient limitation as to the amount of currency.

Second. A plan should be contrived by which the Government would save as much or nearly as much, less the expense, as if the notes were issued by the Treasury, instead of the banks. It is said that this is the case now. Perhaps it is; but it should be put in the form of reduced interest upon the bonds instead of taxes, so that we can all see exactly what is saved. Otherwise wants of trade may be overlooked in the straits of the Treasury. With these, and perhaps other modifications of the national banking system, let us see which of the two kinds of paper is most desirable. The Treasury could have no choice, because the Government would save or make as much on the one kind of paper as the other. The billholder could have no choice, because his security in each case would be exactly the same, except that in the one case the responsibility of the corporation would be added to that of the

Government—an addition, perhaps, too trifling for consideration. Which, then, is best for trade? Trade needs stability in prices. To make prices stable the amount of currency and the amount of trade should always bear the same relation to each other. If the amount of trade varies during the year, or from year to year, the amount of currency should vary also. Otherwise prices would go up and down from mere excess or lack of currency. This want of trade has never been perfectly met by any system. It probably never will be. But the currency furnished by a free-banking system will supply it more nearly than any other. It is capable of expanding as trade expands and contracting as trade contracts. Not so with a Treasury currency; that must expand and contract as laws are made or repealed by Congress. Congress cannot always guess what trade wants, nor be willing to respond to those wants if it could. The necessities of the Treasury, the preparation for an election, or a change of the administration would generally dictate the increase or decrease of currency. Legislation thus controlled by political reasons must necessarily be arbitrary and unreasonable. No business man would feel safe while Congress was in session. A line or two of law might wipe out half his securities or double his liabilities. Free banking, on the other hand, is self-regulating, or rather it is regulated by the demands of business. Its notes will be plenty when trade is brisk and scarce when trade is dull, and thus prices will be kept stable.

It has been supposed that this flexibility could be imparted to the Treasury currency by allowing the notes to be converted into bonds and the bonds into notes at the pleasure of the holder. The effect of this scheme would be very different, I apprehend, from its purpose. The notes and bonds, being convertible into each other, would always be of exactly the same value. Except in the convenience of handling one would be as good a medium of exchange as the other. The result would be that nearly all the notes would be converted into bonds for the sake of the interest, and the bonds used in all large transactions in place of the notes. Substantially, the bonds would all become currency. It would make a great inflation of currency, and the Government would be paying interest on nearly the whole of it.

The gentleman from Massachusetts [Mr. BUTLER] has given us the details of a plan based upon this principle. It provides that the holder of any portion of the bonds bearing six per cent. interest in coin may exchange the same for currency at the rate of ninety per cent. of its par value, and while the bonds are so deposited and exchanged receive yearly interest thereon at the rate of two and thirty-five hundredths per cent. A man having \$1,000 could purchase with it a bond of the same amount, and at once deposit it and get back \$900 of his money. He would thus be out of pocket only \$100, but he would annually draw from the Treasury as interest on his bond, at the rate of two and thirty-five hundredths per cent., \$23.50.

The gentleman says there are \$1,750,000,000 of these convertible bonds. This large interest would cause them all to be converted, and we would thus have \$1,575,000,000 of currency beside the \$350,000,000 which the gentleman proposes to issue in advance in the place of the greenbacks. If the whole \$1,750,000,000 were deposited, and ninety per cent. of their par value returned in currency, the bondholders would be out of pocket \$175,000,000, and would receive from the Government as interest \$41,125,000. The interest upon their money actually invested would be twenty-three and fifty hundredths per cent. The bondholder would make a good deal of money by the operation, and the Government would save some interest, but the country would be afflicted with \$1,925,000,000 of irredeemable paper. If you thus make it an object to convert the bonds, all will be converted, and we will have a destructive flood of paper. If holding the bonds

pays best the notes will be converted and the bonds used as currency. The inflation will be nearly as disastrous as in the other case, while the Government must carry a heavier load of interest than ever before.

To avoid this objection it has been proposed to make only a limited amount of bonds and notes convertible. Within this limit the effect would be the same, with this additional disadvantage: all who desired to reduce the amount of currency, either for speculation or to approximate specie payments, would convert the notes and hold the bonds. They could afford to do this, because they would receive a fair interest upon the money, while they were at the same time securing what they would consider a more important end, to wit, a contraction of currency and fall of prices.

When, then, we shall settle down to a specie-paying paper currency, I am inclined to give the preference to a system of national banking free to all, and paying into the Treasury as much money as the Government could save by issuing its own notes. No other system could make the bill-holder more secure, earn more for the Treasury, nor so well supply the wants of trade.

This system cannot be adopted until after we resume specie payments; and this leads me to inquire how and when resumption shall begin. To answer this question I will ask another: how much paper will our share of the world's gold and silver keep afloat? Before the war, under the old system of State banking, we were able to carry about two hundred million dollars. We can carry much more now, both because the world has more specie now than it had then, and because we would require less specie, owing to our improved system of banking and securities, to float the same amount of paper. It is hard to say how much paper we could keep out, but I will suppose \$500,000,000. This is a rough guess, designed as an illustration rather than as a statement of fact. On this supposition the \$700,000,000 of paper now out would diminish after resumption to \$500,000,000, or to such other sum as would be shown by experience to be our maximum. Specie payments, then, involves a contraction of the currency.

Whether this contraction should take place in advance, in preparation for, or follow as the effect of resumption, I do not care just here to consider. I am only asserting that we will have considerably less paper when we have specie payments than we have now. The effect of this contraction must be a fall in prices. Whenever we are prepared to submit to this and take the consequences we can find ways enough to bring it about. Many plans have been proposed, all feasible, though perhaps not all equally good. One is to resume at once, in the belief that gold will come into the Treasury as fast as it will be drawn out. The New York Tribune advocates this way. Possibly this plan would succeed. Possibly the Treasury would receive as much gold as it would be required to pay out; but if we did continue to pay specie, I am quite sure we would soon reduce the amount of currency, prices would fall, and the debtor class suffer.

Another plan is to fix a time of resumption; and save up enough gold to make it certain that we will be able to meet all demands. This, I think, is Senator MORTON's plan. This would be pretty sure to enable us to continue specie payments once begun; but it would not, as is supposed, enable us to float our present amount of paper. If we thus secured more gold than would ordinarily stay in this country, it would flow back to its accustomed pools as soon as it was put upon tap, and we would soon be left with as much paper currency as our proper share of the world's gold would float, and no more. Low prices would follow as before. Another plan is to reduce the paper currency to an amount which we might suppose could be kept afloat, and then resume. This is Secretary McCulloch's plan. The plan is good enough, but the effect would be pre-

cisely the same, a contracted currency and low prices. Another plan is to buy in or redeem the currency, beginning at about its present value in gold and rising monthly in price until we shall finally redeem it at its face. In the meanwhile we would pay out the notes as at present. This plan was introduced by the gentleman from Ohio, [Mr. GARFIELD,] and is as good as any. It avoids the danger of compulsory suspension involved in the Tribune's plan, the expense of hoarding involved in Senator MORRIS's plan, and the uncertainty as to the amount to be retired involved in the Secretary's plan. It is as gradual as any, and has this advantage over them all, that it foretells to the people exactly how fast prices will fall.

But while this plan is as unobjectionable as any, it does not avoid the great fault (if fault it should be called) of them all, to wit, an ultimate contraction of the currency. It is because all these plans involve this result that all are rejected. We are seeking for a plan that will keep afloat our \$700,000,000 of paper, and still redeem it in gold upon demand. We will seek in vain. It is not in the power of legislation. All the plans proposed, and all that can be proposed, are only different roads to the same goal. Some may be shorter than others, some more agreeable than others; but travel which we will come to contraction and low prices at last. If low prices is the effect of resumption, when can we encounter them with the least injury? Most certainly when the people are least in debt. If nobody was in debt, nobody would be hurt by the change. To prepare for resumption, then, the people should endeavor to pay their debts while prices are still high. If Congress should take no steps toward resumption the Supreme Court may. The argument over the constitutionality of "legal tenders" has ceased, and the court is deliberating. Nobody, I presume, not even the court itself, knows what the decision will be. The uncertainty of a jury verdict has passed into a proverb, but I would as leave bet on the jury as the judge. Who can guess to what conclusion a mind educated in belligerent logic and professional subtlety, tempted at least—perhaps swayed—by personal ambition, may come? It is quite probable, however, the court may search out some theory by which to sustain the action of Congress, prompted by the terrible necessities of the war; but it is not so certain that it will attempt to clothe Congress in all future time with plenary power over all contracts, past, present, and future, and regardless of their terms and stipulations, to satisfy them with anything valuable or invaluable, paper, wood, leather, or anything else that this body in its ingenuity can invent and call money. While this uncertainty hangs over the question it behoves the people everywhere to take advantage of the high prices and liquidate their debts. Out of debt out of danger.

You see, Mr. Speaker, I am neither advocating nor opposing these multitudinous plans of resumption. My object in rising at this time was to prove to the House that there can be no permanent resumption without contraction, and that all feasible plans of resumption lead directly or indirectly to that result.

I think we had better not act upon any plan this short session. Standing still is a step toward resumption—a very short step, I will admit; but still it is something. Every year adds to the world's stock of gold and silver. Every year, by the increase of our population, makes our share of it larger. We can therefore float more paper on a specie basis next year than this. This furnishes a small excuse for waiting, but I have a better one—my constituents desire it.

Mr. INGERSOLL obtained the floor.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that the Senate had passed a joint resolution (S. R. No. 206) relating to the mileage of Charles Westmoreland; in which the concurrence of the House was requested.

CONSULAR COURTS IN CHINA.

The SPEAKER, by unanimous consent laid before the House a message from the President of the United States; which was read, as follows:

To the Senate and House of Representatives:

I transmit for the consideration of Congress, in conformity with the requirements of the sixth section of the act of the 22d of June, 1860, a copy of certain regulations for the consular courts in China, prohibiting steamers sailing under the flag of the United States from using or passing through the Straw Shoe channel in the river Yangtse, decreed by S. Wells Williams, chargé d'affaires, on the 1st of June, and promulgated by George F. Seward, consul general at Shanghai, on the 25th of July, 1863, with the assent of five of the United States consuls in China, G. H. Colton Sulter dissenting. His objections to the regulations are set forth in the accompanying copy of a communication of the 10th of October last, inclosed in Consul General Seward's dispatch of the 14th of the same month to the Secretary of State, a copy of which is also transmitted.

ANDREW JOHNSON.

WASHINGTON, January 26, 1869.

Mr. CULLOM. I move that this message, with the accompanying papers, be referred to the Committee on Foreign Affairs, and ordered to be printed.

The motion was agreed to.

PEABODY MEDAL.

The SPEAKER also, by unanimous consent, laid before the House the following message from the President of the United States; which, with the accompanying papers, was laid on the table, and ordered to be printed:

To the Senate and House of Representatives:

I transmit to Congress a report from the Secretary of State, with accompanying documents, in relation to the gold medal presented to Mr. George Peabody, pursuant to the resolution of Congress of March 16, 1867.

ANDREW JOHNSON.

WASHINGTON, D. C., January 26, 1869.

BUILDINGS LEASED BY NAVY DEPARTMENT.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Navy, in answer to House resolution of the 28d instant, relative to buildings occupied by that Department under lease, &c.; which was referred to the Committee on Appropriations, and ordered to be printed.

TREASURY BUILDINGS.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting, in answer to a resolution of the House of the 23d instant, a report by the general superintendent of the Treasury buildings of buildings held and occupied by that Department under lease, &c.; which was referred to the Committee on Appropriations, and ordered to be printed.

MINT AT CARSON CITY.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting, in reply to a resolution of the House of the 13th instant, reports relative to costs of the mint at Carson City, Nevada, &c.; which was referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

WITHDRAWAL OF PAPERS.

On motion of Mr. WASHBURN, of Massachusetts, by unanimous consent, leave was granted to withdraw from the files of the House the papers in the case of Charles C. Neill and N. D. McKenzie, leaving copies on file.

EVENING SESSIONS.

Mr. SCHENCK. I have a proposition to make to the House for the purpose of facilitating business and at the same time giving gentlemen an opportunity to be heard on the subject of finance and currency, now under discussion. The series of speeches upon this subject may be as well delivered in the evening. It is a very interesting subject, we all admit, but if it can be disposed of in that way we can proceed with the regular current business that is pressing upon the House. I ask unanimous consent, therefore, that there be evening sessions hereafter, for debate only, until further order

of the House, beginning with this evening at half past seven o'clock, with the understanding that no business shall be transacted.

No objection being made, it was ordered accordingly.

ORDER OF BUSINESS.

Mr. SCHENCK. I now ask that the subject immediately before the House may be disposed of with the understanding that gentlemen who are to speak upon it can deliver their speeches in the evening.

The SPEAKER. Does the gentleman from Illinois yield for that purpose?

Mr. INGERSOLL. I do so in consideration of the pressure of public business.

Mr. SCHENCK. I move that the bill before the House be referred to the Committee of Ways and Means. That will not prevent this same discussion going on.

Mr. LYNCH. I object to that reference. The bill has been recommitted to the Committee on Banking and Currency, and if the House refuses to sustain the motion now pending, to reconsider the recommitment, it will be left with that committee which has already considered the subject, and where it properly belongs.

Mr. SCHENCK. I move to lay the motion to reconsider on the table.

Mr. INGERSOLL. I have the floor on the pending subject and I object to any action being taken now on the motion of the gentleman from Ohio, but his motion may be entered and remain undisposed of during the evening session.

The SPEAKER. It will require unanimous consent, as the pending motion is to reconsider the vote by which the bill was recommitted.

Mr. FARNSWORTH. I would inquire whether a motion to postpone the motion to reconsider may not be made this evening?

The SPEAKER. It can.

Mr. FARNSWORTH. Then I suggest that the gentleman make that motion.

Mr. SCHENCK. I desire to get the bill now before the House out of the way. I do not wish to make any disposition of it.

Mr. ALLISON. I demand the regular order.

The SPEAKER. The motion to reconsider is not yet disposed of. The House has ordered an evening session to-night for general debate.

Mr. FARNSWORTH. I ask my colleague to yield for a suggestion.

Mr. INGERSOLL. What is it?

Mr. FARNSWORTH. It is that you yield for a motion to postpone the further consideration of this motion till the evening session.

Mr. INGERSOLL. I am willing this question shall pass over till the evening session with the motion of the gentleman from Maine pending. Would that be in order?

The SPEAKER. It would.

Mr. INGERSOLL. No vote would be taken, of course, till a further order of the House.

Mr. WASHBURN, of Illinois. Will my colleague yield to me for a moment?

Mr. INGERSOLL. I will for a moment.

Mr. WASHBURN, of Illinois. I desire to say a word in regard to the business of the House, for the House has got to come to some understanding with itself in relation to the public business. It is a matter quite indifferent to me. The indications were yesterday that the House is not disposed to go to the public business at all. I desire to say that there are but thirty-one working days of this Congress left, and if we take out the day for counting the votes for President and Vice President there are but thirty working days which we have for the transaction of the public business. There are six of the most important of the appropriation bills which have not yet been acted upon by the House. The Committee on Appropriations have endeavored to do their duty faithfully. They remained here during the recess and gave their attention to the preparation of the appropriation bills. And now I say the House has got to come to some understanding with itself whether or not it will do the public business, whether it will make the appropriations necessary to carry on the Government, or whether it will refuse to do so. It is for this

side of the House to determine whether we shall devote ourselves to the discussion and passage of all sorts of schemes and refuse to do the public business and compel an extra session of Congress, to run up to July next, and break down our incoming administration and sink it deeper than ever plummet sounded.

Mr. LYNCH. I desire to ask the gentleman a question.

Mr. INGERSOLL. I will yield for that purpose.

Mr. LYNCH. I desire to ask the chairman of the Committee on Appropriations this question: whether he considers a bill relating to the currency and finances of the country reported by one of the standing committees of this House, the appropriate committee, "public business" or not? He has told us about the interruption of public business; I ask him whether he does not consider a finance measure reported by the proper committee of this House "public business?"

Mr. WASHBURN, of Illinois. By public business I meant the appropriation bills necessary to carry on the Government.

Mr. SCHENCK. I demand the regular order of business.

The SPEAKER. Then the gentleman from Illinois [Mr. INGERSOLL] must proceed or surrender the floor.

Mr. FARNSWORTH. I ask my colleague to yield for a motion to postpone the consideration of this subject until this evening.

Mr. INGERSOLL. I have no objection, provided this subject can receive the attention which its importance merits and demands, that we shall discuss these financial propositions in the evenings and devote the day sessions to what my colleague [Mr. WASHBURN] calls "public business."

Mr. FARNSWORTH. My colleague will have the floor, I understand, this evening.

Mr. INGERSOLL. I am ready to do that; but I ask the Chair if it would be in order that the discussion of this bill shall go over until evening on the motion to reconsider, and let the matter stand so until the further order of the House?

The SPEAKER. The Chair will state the condition of the business now pending before the House and that which is pressing, apart from the appropriation bills. The House understands their condition, as it has been stated by the chairman of the Committee on Appropriations. This bill is before the House as the unfinished business and on the motion to reconsider, both of which are privileged, and it will remain before the House until the motion to reconsider is in some manner disposed of. If the motion should be postponed until the evening session it could be debated during the evening session, but no action could be taken upon it, and if the House should adjourn with it pending at the close of the evening session it would come up again to-morrow morning as soon as the Journal was read.

As soon as this bill shall have been disposed of by postponement, if that shall be the course adopted, the constitutional amendment and the bill in regard to suffrage would come up on a motion to reconsider by the gentleman from Massachusetts, [Mr. BOUTWELL,] and, unless otherwise disposed of, will be debated until the close of the afternoon session of to-day. If this finance bill shall come up to-night upon the pending motion to reconsider, and the House shall adjourn upon it, then it will come up again to-morrow morning, immediately after the reading of the Journal, in preference to the constitutional amendment.

When those two questions, the one in regard to suffrage, the other in regard to specie payments, shall have been disposed of, then there will be a contested-election case from the State of Georgia, which the gentleman from Massachusetts, [Mr. DAWES,] the chairman of the Committee of Elections, has notified the Chair he will call up on the first favorable opportunity. The Reconstruction Committee have also notified the Chair that they have important

business to bring before the House for its consideration. There are also several motions to reconsider pending, liable to be called up at any time when there is no other business before the House. There is also a territorial bill, reported from the Committee on the Territories by the gentleman from Ohio, [Mr. ASHLEY,] which has been postponed until to-morrow after the morning hour.

The House will therefore see that a great variety of business is pressing upon them for consideration and action. The gentleman from Ohio [Mr. SCHENCK] has also given notice of two bills reported from the Committee of Ways and Means, which are now pending in the Committee of the Whole, and which the gentleman from Ohio desires to reach at an early day.

Mr. INGERSOLL. I yield now to the gentleman from Ohio [Mr. SCHENCK] to make a statement.

Mr. SCHENCK. My desire was to have evening sessions for general debate upon important subjects. It is probable that measures of currency and finance would attract most of the attention of members.

Gentlemen will see by the explanation of the Chair that for the purpose I have indicated it is important that this bill should be got out of the way for the present, either by laying on the table the motion to reconsider the recommendation or in some other manner. As the Speaker has explained, if we postpone this bill until this evening for discussion it will be the subject under consideration at the time of adjournment, for the order of the House is that no business shall be transacted during the evening session. In that case to-morrow morning we would have "Monsieur Tonson come again," and this subject would come up again immediately after the reading of the Journal; and so each morning in succession this bill will come up as unfinished business before the morning hour and immediately after the reading of the Journal.

I therefore ask the gentleman from Maine, [Mr. LYNCH,] who introduced this bill, whether he will not consent, now that he has made his speech upon it and there has been some discussion upon it, to let the bill remain with the Committee on Banking and Currency, to which it has been recommended, or allow it to be otherwise disposed of until some future time?

Mr. LYNCH. In answer I wish to disabuse the gentleman from Ohio [Mr. SCHENCK] of an idea which he seems to entertain, that this bill was reported for the purpose of allowing me an opportunity to make a speech upon it.

Mr. SCHENCK. I have no doubt the gentleman wants action on his bill.

Mr. LYNCH. I have no desire to have this discussion continue for any great length of time. After one or two speeches shall have been made upon this bill I intend to move the previous question, perhaps speaking myself for five minutes to close the debate. I have no disposition to consume the time of this House by unnecessary debate upon questions of this kind, but I am anxious that the consideration of public business may be facilitated. The objection to the bill now under consideration is not that it is unimportant, but that it has not been reported by some privileged member on this floor, or from some privileged committee. But I will call the previous question after a little further discussion.

Mr. INGERSOLL. I am willing to move that the motion to reconsider now pending be laid upon the table if the House will do so with the understanding that the evening sessions shall be for general debate, upon any question without the transaction of any business.

The SPEAKER. That has already been ordered by general consent.

Mr. INGERSOLL. I move that the motion to reconsider the recommendation of this bill be laid upon the table. And I hope that will be regarded as a test question.

The SPEAKER. The effect of laying upon the table the motion to reconsider will be to leave the bill with the Committee on Banking

and Currency. The Chair will state to the gentleman from Illinois [Mr. INGERSOLL] that under the circumstances he will be recognized as entitled to the floor this evening.

The question was upon the motion to lay on the table the motion to reconsider.

Mr. BUTLER, of Massachusetts. In order that this may be made a test question I call for the yeas and nays upon it.

The question was taken upon ordering the yeas and nays; and there were—ayes nine.

Before the noes were counted, Mr. BUTLER, of Massachusetts. I call for tellers on the yeas and nays.

Tellers were not ordered; and accordingly the yeas and nays were not ordered.

Mr. BUTLER, of Massachusetts. I call for tellers on laying on the table the motion to reconsider.

Tellers were not ordered.

The motion to lay on the table the motion to reconsider was agreed to.

SUFFRAGE.

The SPEAKER. The next business in order is the consideration of the motion of the gentleman from Massachusetts, [Mr. BOUTWELL,] to reconsider the vote by which the bill (H. R. No. 1667) to secure equal privileges and immunities to citizens of the United States and enforce the provisions of article fourteen of the amendments to the Constitution, and the joint resolution (H. R. No. 402) proposing an amendment to the Constitution of the United States, were recommended to the Committee on the Judiciary. On this question the gentleman from Illinois [Mr. CULLOM] is entitled to the floor.

Mr. CULLOM. Mr. Speaker, I appreciate as much as any other gentleman the importance of the public business before the House; and if any arrangement can be adopted by which this subject can also be postponed it will suit me perfectly well. I shall not make any motion with that view; but I yield to the chairman of the Judiciary Committee [Mr. BOUTWELL] that he may indicate his wish in regard to the matter.

Mr. BOUTWELL. As the understanding of the House on last Monday was that when this question should again come up I would move or give way for a motion that its consideration be postponed till after the morning hour, I feel bound to submit that motion.

Mr. BINGHAM. Before the question is put on that motion I desire to ask that an amendment which I design to offer as a substitute for the proposed constitutional amendment be ordered to be printed.

There being no objection, the amendment was ordered to be printed. It is as follows:

Insert in lieu of section one of the article proposed to be added to the Constitution the following:

No State shall make or enforce any law which shall abridge or deny to any male citizen of the United States, of sound mind, and over twenty-one years of age, the equal exercise of the elective franchise at all elections in the State wherein he shall have actually resided for a period of one year next preceding such election, except such of said citizens as shall hereafter engage in rebellion or insurrection, or who may have been or shall be duly convicted of treason or other crime of the grade of felony at common law.

Mr. WARD. I ask that an amendment which I propose to offer be also printed.

There being no objection, the amendment was ordered to be printed. It is as follows:

In lieu of section one of the article proposed to be added to the Constitution insert the following:

No State shall make or enforce any law which shall deny to any male citizen of the United States over twenty-one years of age, who has been such citizen for three months, the free exercise of the elective franchise in the State of his residence, except as punishment for treason or other crime of the grade of felony at common law, whereof the person shall have been duly convicted. But this article shall not affect persons now disfranchised for participation in rebellion, nor prevent the execution of such proper registration and naturalization laws as may be needed to protect the people in a just exercise of the elective franchise, nor to affect such qualifications of electors as to time of residence as may be imposed by law for a period of one year or less.

Mr. SHELLABARGER. I ask to have printed an amendment which I desire to offer.

There being no objection, the amendment was ordered to be printed. It is as follows:

Insert in lieu of section one of the proposed new article of the Constitution the following:

No State shall make or enforce any law which shall deny or abridge to any male citizen of the United States of the age of twenty-one years or over, and who is of sound mind, an equal vote at all elections in the State in which he shall have such actual residence as shall be prescribed by law, except to such as have engaged, or may hereafter engage in insurrection or rebellion against the United States, and to such as shall be duly convicted of treason, felony, or other infamous crime.

Mr. WASHBURNE, of Illinois. I hope that after the morning hour the gentleman from Massachusetts [Mr. BOUTWELL] will permit his motion to reconsider to be postponed, that we may go into Committee of the Whole on the legislative appropriation bill. That bill ought to be passed as early as possible and sent to the Senate.

Mr. BOUTWELL. If my present motion to postpone till after the morning hour should prevail, we can meanwhile consult as to what disposition shall be made of the subject after the expiration of the morning hour.

Mr. MAYNARD. I give notice that whenever I may have the opportunity I shall offer as a substitute for the bill reported by the gentleman from Massachusetts [Mr. BOUTWELL] a bill of the same general purport introduced by me some time since, and which was then printed.

Mr. BOUTWELL. I move that the further consideration of the motion to reconsider be postponed till after the morning hour, with the understanding that the gentleman from Illinois [Mr. CULLOM] shall then be entitled to the floor if the House should resume the consideration of this subject.

The motion was agreed to.

PENSION LAWS.

The SPEAKER. The morning hour has now commenced, and the first business in order is the consideration of the bill pending at the expiration of the morning hour yesterday, being the bill (H. R. No. 1682) relating to the operations of the pension laws, and for other purposes. The last amendment reported from the Committee on Invalid Pensions is still pending. The House refused to second the demand for the previous question; and the gentleman from Illinois [Mr. INGERSOLL] had risen to move an amendment to the pending amendment, and is now entitled to the floor.

Mr. PERHAM. I ask the gentleman from Illinois to yield a moment for an explanation. I desire to say that the amendment under consideration at the expiration of the morning hour yesterday was presented by mistake. I hold in my hand the amendment which was intended to be offered. I ask that by unanimous consent this be considered as pending in lieu of that offered yesterday.

There was no objection.

The SPEAKER. The amendment which has just been substituted for that offered yesterday, and which is now pending, will be read.

The Clerk read as follows:

Add the following as a new section:

And be it further enacted, That section nine of an act entitled "An act supplementary to an act entitled 'An act to grant pensions,' approved July 14, 1862," approved July 4, 1864, be amended and reenacted so as to read as follows: that those persons, not enlisted soldiers in the Army, who volunteered for the time being to serve with any regularly organized military or naval force of the United States, or where persons otherwise volunteered and rendered service in any engagement with rebels or Indians since the 4th day of March, 1861, shall, if they have been disabled in consequence of wounds received in battle in such temporary service, or who were captured or disabled from disease contracted in rebel prisons, be entitled to the same benefits of the pension laws as those who have been regularly mustered into the United States service; and the widows or other dependents of any such persons as may have been killed in the temporary service aforesaid, or died in rebel prisons, shall be entitled to pensions in the same manner as they would have been had such persons been regularly mustered: *Provided*, That no claim under this section shall be valid unless presented and prosecuted to a successful issue within three years from and after the passage of this act. All such claims shall be adjudicated under such special rules and regulations as the Commissioner of Pensions may prescribe most effectually to guard against fraud.

Mr. PAINE. I desire to amend the amendment by moving the following as an additional proviso:

Provided further, That no pension shall hereafter be paid to any person, or to the widow, heirs, or legal representatives of any person who shall have engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof, unless such person shall thereafter perform meritorious service in the Army, Navy, or Marine corps of the United States.

Mr. PERHAM. That is a subject to which the attention of the committee has not been called. I do not know that there is any objection to it. I see none.

Mr. BENJAMIN. I ask the gentleman how he proposes to ascertain the fact of the performance of meritorious service? It will not appear on the rolls at the Department nor upon any record that is accessible to the Pension Bureau. It seems to me it would be very difficult to carry the proposed amendment into practice, and it would be liable to very grave objection on account of its opening the door to fraud.

Mr. PAINE. I propose to leave it to the claimant, who, having served in the rebel army, shall apply for a pension from the United States, to prove that he has performed meritorious service in the Army, Navy, or Marine corps. Of course, he will have to make that proof under such regulations as may be prescribed by the Pension Bureau or Department of the Interior.

The objection the gentleman makes goes not to the amendment in its general scope and purport, but to the mere question of proof. Of course, in this bill we cannot prescribe detailed rules which shall be followed in preparing the evidence. But if we allow in any case a pension to a man who has been engaged in the rebellion we ought to require him to prove affirmatively, in order to clear himself from the disability imposed upon him by this amendment, that he has rendered meritorious service in our Army, Navy, or Marine corps. He may do it in various ways. If he has no record proof of any kind to show the fact, then the Department may allow him to give parole proof under proper regulations. But it seems to me to be perfectly intolerable that those who have engaged in the rebellion or who have given aid and comfort to the rebel cause should be allowed to receive pensions which may have been granted to them heretofore for the war of 1812 or other wars under laws that have been heretofore in force. I think they should be cut off unless they have atoned for the offense in the manner indicated in my amendment.

Now, it is true that a large number of those who engaged in the rebellion afterward joined our Army. I would have the disability removed as to them. But I would not permit a man who has engaged in rebellion, and who was drawing a pension from the United States before the rebellion, to come up here and present his demand, as they are doing every day, and get his pension.

Mr. BENJAMIN. I desire the gentleman to answer this question: why would he make any distinction in the law in regard to this particular class of pensions that does not apply to all pensions? The law provides that all individuals applying for a pension must take the oath prescribed in the law, that they have not taken up arms against the Government or given aid and comfort to its enemies. Even the widows who apply have to make that affidavit. Now, then, this is a peculiar class of pensioners that we are providing for by this amendment—those who volunteered to serve in particular cases. Now, the question is why should we make special rules for them in this regard that do not apply to all?

Mr. PAINE. This amendment of mine does not propose to make any special provision for them. Although I have been obliged, on account of the condition of the bill, to introduce this amendment as a proviso to the amendment of the chairman of the committee, yet the language is not limited; it does not apply to this class of cases in particular, but it applies to all

claimants for pensions, whether for the war of 1812, the war of the rebellion, or any other war. My special object in this case is to cut off those who have heretofore been receiving pensions from the Government under laws that were enacted before the rebellion, whose pensions have been suspended during the rebellion on account of their participation therein, but who will hereafter, unless we enact this law, come to our Treasury and receive their pensions.

Mr. PERHAM resumed the floor.

Mr. GARFIELD. Will the gentleman allow me to say a word in regard to this particular subject?

Mr. PERHAM. Yes, sir.

Mr. GARFIELD. The gentleman from Wisconsin has a good purpose in his mind, I have no doubt; but I desire to state to him and to the House that there is one class of persons that his amendment will hit that I am quite sure he does not mean to hit. Several regiments—perhaps enough to make a dozen regiments—of our soldiers who were in Libby and Andersonville and other prisons made an engagement with themselves that they would enlist into the rebel army for the sake of getting out of prison and saving their lives, and that they would desert and come back to our Army on the first occasion. I say, then, enough to fill many regiments have done it, and have come straight to our lines and gone again into the ranks where they belonged before. We have several applications before the Committee on Military Affairs to wipe out disabilities that have been incurred in that manner. Now, if this law were passed, according to the suggestion of the gentleman from Wisconsin it would debar every one of those persons; and he ought not to do that.

Mr. PERHAM. I think, from what has already been said, it is evident that a proposition like this requires very careful consideration, or we may legislate to do what we do not desire to do. I think the better way would be for the gentleman from Wisconsin to allow the amendment to be referred to the Committee on Invalid Pensions. The committee will examine it and mature a proposition, and if necessary we can send it to the Senate to be inserted in the bill.

Mr. PAINE. Allow me to make a single remark?

Mr. PERHAM. I will hear the gentleman explain if he will be brief.

Mr. PAINE. I want to say that precisely the case suggested by the gentleman from Ohio [Mr. GARFIELD] is provided for in my amendment; for the provision is that if they shall have rendered meritorious services in our Army they shall be exempt from the operation of the amendment.

Now, I admit that this might more properly have been introduced into this bill as a separate section; that it is not properly an amendment to this section, and if I could get it in the bill as a separate section I would be willing to withdraw it here and offer it on another occasion. But I utterly refuse to have it referred to the committee. Why, the gentleman from Maine himself expressed to me his approbation of the amendment, and nobody can have any objection to its principle. If it needs any modification in detail let it be modified, but I must insist upon having a vote in the House on the principle involved, either at this point or at some other stage of the bill.

Mr. PERHAM. I think the course I have suggested is the better one. Let the amendment be withdrawn now, and let it be more carefully considered, and if necessary it can be adopted hereafter.

Mr. LOGAN. Will the gentleman yield to me for a question?

Mr. PERHAM. Certainly.

Mr. LOGAN. I wish to ask the gentleman if the amendment he has proposed applies to persons who were summoned by provost marshals to assist in the arrest of deserters, for instance, and were wounded or killed in that service?

Mr. PERHAM. There is another provision of law which applies to cases of that kind; this does not.

Mr. LOGAN. There is no provision applicable to those cases, for I have had a case pending for a year past where a man's arms were shot off while engaged in the service to which I have referred, and yet he has been refused a pension.

Mr. PERHAM. This provision does not refer to that subject at all; but the cases referred to by the gentleman are provided for by another portion of this bill.

Mr. LOGAN. I am pretty certain that they are not covered by this bill or by any law.

Mr. PERHAM. I now call the previous question on the amendment of the committee and the pending amendment to the amendment.

Mr. HARDING. I wish to ask the gentleman from Maine [Mr. PERHAM] if the provision now before the House applying to prisoners at Andersonville extends to all prisoners at all the other prisons of the confederacy? And does it also include all persons confined there for want of fidelity to the southern confederacy, or is it limited to enlisted men?

Mr. PERHAM. Perhaps I had better explain the object of this section. The law as it now is provides that any person not an enlisted man who volunteered and served in any regularly organized body of men in the service of the United States, and who was killed in the service or received wounds in the service, shall be embraced within the provisions of the pension laws. The amendment of the committee proposes to extend that provision to such persons who, while acting in such temporary service, may have been captured and sent to rebel prisons, and there died, or contracted disease of which they afterward died.

Mr. HARDING. What kind of organization and what kind of volunteering? By what means is it to be ascertained that they did volunteer?

Mr. PERHAM. They must have volunteered and served in some regularly organized force of the United States.

Mr. HARDING. Would not all camp-followers who volunteered in any battle come under this provision?

Mr. PERHAM. It is desired by some members that the time named within which these applicants shall complete their testimony shall be extended from three to five years. I have no objection to that, and will modify the amendment accordingly.

The SPEAKER. The amendment having been reported from a committee it cannot now be modified except by unanimous consent.

Mr. PERHAM. I ask unanimous consent for the purpose.

No objection was made; and the amendment of the committee was modified accordingly.

Mr. PERHAM. I now call the previous question on the amendment and amendment to the amendment.

Mr. HARDING. I hope the gentleman will not call the previous question, for I want to be heard upon this subject.

Mr. MYERS. Will the gentleman yield to me to offer an amendment?

Mr. PERHAM. I will hear it read.

The SPEAKER. There are now pending an amendment and an amendment to the amendment. No other amendment can now be entertained except by unanimous consent.

The question recurred upon seconding the call for the previous question.

Mr. HARDING. Is it in order now to move that the pending amendment and the amendment to the amendment be laid on the table?

The SPEAKER. That motion will be in order.

Mr. HARDING. Then I make that motion.

The SPEAKER. The effect of the motion, if it shall be agreed to, will be to carry the bill on the table also. Does the gentleman insist upon his motion?

Mr. HARDING. I should like to be heard.

The SPEAKER. Debate is not in order.

Mr. HARDING. Then I insist upon my motion.

Mr. PERHAM. I desire to say—

Mr. CHANLER. I object to debate.

The SPEAKER. Debate is not in order.

The question recurred upon the motion of Mr. HARDING; and being taken, upon a division there were—ayes 27, noes 84.

So the motion to lay on the table was not agreed to.

The question recurred upon seconding the call for the previous question upon the amendment of the Committee on Invalid Pensions and the amendment pending thereto.

The previous question was seconded and the main question ordered.

The first question was upon the amendment of Mr. PAINE to the amendment of the committee.

Mr. PAINE. I modify my amendment to read as follows:

Provided further, That no pension shall hereafter be paid in any case to any person, or to the widow, heirs, or legal representatives of any person, who shall have engaged in insurrection or rebellion against the United States or given aid and comfort to the enemies thereof, unless such person shall have thereafter served in the Army, Navy, or Marine corps of the United States.

Mr. WILSON, of Iowa. I ask unanimous consent to make a suggestion. If that amendment should be adopted it ought to be inserted just before the last clause of the amendment of the committee.

Mr. PAINE. The gentleman misunderstands the scope of my amendment—

The SPEAKER. The gentleman from Wisconsin [Mr. PAINE] desires unanimous consent to make a statement. Is there objection?

Mr. HARDING. I object.

The question being taken on the amendment of Mr. PAINE to the amendment reported from the Committee on Invalid Pensions, it was agreed to; there being—ayes 64, noes 55.

The amendment, as amended, was agreed to.

Mr. PERHAM. I wish to say that I desire to yield for the offering of all proper amendments; but I hope gentlemen will remember that we have but little time for the consideration of this bill. The committee has an immense amount of business yet to present.

Mr. INGERSOLL. Is it in order now, Mr. Speaker, for me to debate the amendment I proposed yesterday to strike out the second section?

The SPEAKER. If the gentleman from Maine, [Mr. PERHAM], the chairman of the committee, does not claim the floor the Chair will award it to the gentleman from Ohio, [Mr. SCHENCK.]

Mr. INGERSOLL. I understand that the chairman of the committee is willing to yield to me.

Mr. CHANLER. I rise to a point of order. I understand that the gentleman from Ohio [Mr. SCHENCK] has the floor by the sanction of the Chair, if the gentleman from Maine does not claim it; and unless the gentleman from Maine yields to him or goes on himself I must object.

The SPEAKER. The Chair stated that the gentleman from Ohio [Mr. SCHENCK] would be recognized if the chairman of the committee did not claim the floor. The bill being now before the House for the first time as amended the chairman of the committee is by the usage entitled to the floor if he claims it.

Mr. CHANLER. I do not object to his having the floor; but I do object to his yielding it unless he yields to the gentleman from Ohio.

Mr. SCHENCK. Will the Speaker permit me to make an inquiry? The gentleman from Maine, the chairman of the committee, not claiming the floor, I expected to get it for the purpose of moving an amendment; and I thought I was recognized by the Chair.

The SPEAKER. The Chair stated that he would award the floor to the gentleman from Ohio if the chairman of the committee did not claim it. The Chair could not tell whether the chairman claimed it or not, as he has been

standing during the greater part of the time since the morning hour commenced. The Chair now understands that he claims the floor, and he is therefore entitled to it.

Mr. PERHAM. I intended to claim it, and I thought I did.

Mr. LOGAN. I desire to move to amend by adding to the section last adopted the following:

Provided, That this section shall apply to all persons who may have been disabled in the performance of duty under the authority of the Government of the United States in aiding in the arrest of deserters from the Army of the United States.

Mr. BENJAMIN. I rise to a point of order. I submit that as the section has already been adopted it is not now open to amendment.

The SPEAKER. The Chair overrules the point of order. When a provision has been incorporated in a bill by a vote of the House it cannot be struck out except by striking out additional matter; but new matter may be added. The gentleman will find, by referring to page 9 of the Digest, the statement that an amendment which has been inserted may be added to.

Mr. BENJAMIN. Is a section which has been adopted in lieu of another section open to amendment?

The SPEAKER. It can be added to, according to a specific rule in the Digest.

Mr. PERHAM. I have no objection to allowing a vote upon the amendment of the gentleman from Illinois, [Mr. LOGAN.]

Mr. LOGAN. I demand the previous question upon the amendment.

The previous question was seconded and the main question ordered.

On agreeing to the amendment, there were—ayes 48, noes 34; no quorum voting.

Tellers were ordered; and Messrs. LOGAN and BEATTY were appointed.

The House divided; and the tellers reported—ayes 58, noes 53.

The SPEAKER. The Chair votes in the affirmative to make a quorum, and the amendment is—

Mr. BENTON. I demand the yeas and nays.

The SPEAKER. The gentleman is in time. The yeas and nays were refused.

Mr. BENTON. I ask for tellers.

Tellers were refused.

So the amendment was agreed to.

Mr. PERHAM. I yield to the gentleman from Ohio, who desires to offer an amendment.

Mr. SCHENCK. I move to strike out the second and third sections of the bill. I have also another amendment which I would like to offer.

Mr. INGERSOLL. I desire to perfect the second section before the motion is made to strike out.

The SPEAKER. That would be in order, but the gentleman from Ohio is entitled to the floor.

Mr. SCHENCK. I yield to the gentleman from Indiana, [Mr. WASHBURN], to offer an amendment.

Mr. WASHBURN, of Indiana. I move to strike out the third section, and insert in lieu thereof the following:

And be it further enacted, That no invalid pensioner who may have been employed in the service of the Government subsequent to March 3, 1865, and prior to June 6, 1866, shall be deprived of a pension during any part of that time by reason of such service.

Mr. NIBLACK. I desire to make a suggestion to the gentleman from Ohio. Before the vote is taken on striking out the second section, I ask the gentleman if he will yield to me to inquire of the chairman of the committee why it is that the committee makes this discrimination between male and female pensioners in the second section of the bill?

Mr. SCHENCK. That has nothing to do with the pending proposition to strike out these two sections. It may be made hereafter.

Mr. INGERSOLL. I want to move an amendment to perfect the second section.

The SPEAKER. Does the gentleman yield for that purpose?

Mr. SCHENCK. I do.

Mr. INGERSOLL. I desire to submit a few remarks upon my amendment.

Mr. SCHENCK. I object to the remarks.

Mr. INGERSOLL. Would it not be in order for me to advocate the adoption of the amendment now?

The SPEAKER. It would if the Chair could award the floor to the gentleman; but he cannot do that without the consent of the gentleman from Ohio.

Mr. SCHENCK. I know how anxious the committee is to get this through, and therefore I propose to condense as much as possible the little I have to say on this motion. I ask gentlemen to look at this second section. It provides—

That upon the presentation of satisfactory evidence to the Commissioner of Pensions that any female pensioner is living a life of prostitution, or is cohabiting with or living with or being supported by any man as his wife or mistress to whom she is not lawfully married, he shall immediately notify such pensioner or her agent of the charge or charges preferred against her by furnishing her or her agent a copy of the charge or charges and the evidence upon which the same is founded; and unless such pensioner shall within six months thereafter produce satisfactory rebutting evidence, her name shall be dropped from the pension-roll.

That is, the Commissioner of Pensions, in his office in this city, upon anybody's charge, made maliciously or otherwise, supported by proof which may be true or otherwise, shall determine the question of the virtue of a female pensioner. A question which is, of course, judicial in its character and which might require months to be settled in a court of law, is to be decided in this summary way, and that, too, by reversing the rule of evidence and calling upon every soldier's widow to prove her innocence and good character. It is the most monstrous, disgraceful proposition that I have ever seen incorporated in any bill presented to this House. I think, I am sure, that the honorable gentlemen constituting the committee must have been sleeping over the subject when they adopted this provision, and that if they had looked at the whole scope of it they would not have reported anything of that kind. But if they differ from me on that question I ask the judgment of the House upon my motion to strike out that section which gives to the Commissioner of Pensions that extraordinary supervisory power, for all time to come, over the morals of all the widows of soldiers who have been crippled or killed while in service. I do not think this needs any further comment.

Now, a word in regard to the third section; and if gentlemen wish a separate vote they can call for a division. I have moved to strike out all that part of the bill embodied in these two sections of the bill. The third section is for the purpose of withholding pensions for a short period of time from a certain class of pensioners who have been employed in the service of the Government who would otherwise get them. I think the history of that matter is that we withheld pensions from those employed by the Government until we got ashamed of that policy and repealed the law. But it is still proposed to apply the old system of withholding pensions to a certain class of pensioners in public employment. Sir, I am against the whole policy of withholding a man's pension because we have employed him as a clerk or otherwise. What does this propose? Here are two men clerks at \$1,200 or \$1,800 a year; the one has never been crippled in the service of the Government, draws no pension, and gets his \$1,200 or \$1,800; the other performs the same services and gets his \$1,200 or \$1,800; but in addition to that he has a pension. For what? For something outside of what the other does. He gets paid for what he does, and, in addition to payment for what he does, he asks also to have continued to him the payment which the bounty of the Government has provided for his sufferings in the cause of the country, for his crippled condition, for the additional expense that he is put to to live on account of his crippled condition. And we say by this bill, "No; we will put you on precisely the same footing as any other man who

never was in the military service or suffered in it."

Now, I say that was all wrong in policy. I am glad the Government has changed its policy in that regard, and I do not see why these men should be made an exception to the better policy which we have established, and that is to pay each man employed by the Government like every other man, whether he be crippled or not, and then if the man be crippled, to pay him for that in addition, because it is for something which he has suffered and undergone and is entitled to be paid for in addition to what he receives for his services.

Mr. INGERSOLL. With a view of expressing my unqualified disapproval of the second section of this bill before the motion to strike out the section is put to the House, I move to insert after the word "any," in line three, the words "male or;" so that it will read:

SEC. 2. And be it further enacted, That upon the presentation of satisfactory evidence to the Commissioner of Pensions that any male or female pensioner is living a life of prostitution, or is cohabiting with, or living with, or being supported by any man as his wife or mistress, to whom she is not lawfully married, he shall immediately notify such pensioner or her agent of the charge or charges preferred against her, by furnishing her or her agent a copy of the charge or charges, and the evidence upon which the same is founded; and unless such pensioner shall within — months thereafter produce satisfactory rebutting evidence, her name shall be dropped from the pension-roll.

That will make it include both sexes. I prefer, however, that the section shall be stricken out, and I shall vote to strike it out. As I said yesterday, I believe it would be a disgrace to the statute-book and to the people of this country if Congress should enact it. I remember reading of a law which was in force several thousand years ago which provided that a woman convicted of adultery should be stoned to death, while the male wretch who was the author of her distress went scot-free; that was a barbarous law, and this is no less barbarous except that the punishment is less in this case than it was in that. The principle is the same.

Now, Mr. Speaker, I do not believe that a male prostitute should be regarded with any higher favor than a female prostitute. Include them both or neither. But I prefer that the Committee on Pensions shall not be made an investigating committee to investigate the moral conduct of any of our citizens, much less the widows of our soldiers. This is unbecoming the age in which we live. It is an outrage upon the widows of brave men who now lie in graves marked with head-boards "Unknown," men who died that the country might live.

Sir, I must confess that I am amazed at this evidence of modern barbarism. Is it proposed as a measure of economy? Does this committee propose to reduce the expenditures of the Government by the degrading process provided by this section? It could never have emanated from any portion of the country other than the cold and frigid regions of Maine. [Laughter.] I shall vote to strike it out.

Mr. PERHAM. Allow me to make a statement. The morning hour will soon expire. I am desirous that amendments may be offered, but without debate at this time. If gentlemen will just forego their speeches and offer their amendments without discussion, and allow me to call the previous question before the expiration of the morning hour, I will then yield a portion of my time. I am willing to yield now for amendments without speeches.

Mr. CHANLER. I object to that arrangement; I want this matter discussed.

Mr. ARNELL. Is it now in order to move that this bill be recommitted to the Committee on Invalid Pensions?

The SPEAKER. Not while the gentleman from Maine [Mr. PERHAM] claims the floor.

Mr. PERHAM. I do not yield for any such motion.

Mr. FARNSWORTH. I desire to ask the gentleman from Maine what he means by the fourth section of this bill. Does he mean to change the course of the descent of property? As I understand the section it provides that the

arrears of pensions due any person at the time of his death shall not be paid to his legal representatives.

Mr. PERHAM. I will explain the object of that section after the previous question shall have been seconded.

Mr. FARNSWORTH. I desire to move to strike out the fourth section of this bill.

The SPEAKER. That motion is not now in order.

Mr. PERHAM. I would be willing to allow other amendments to be offered to this bill if there was no objection to it. But objection being made it is out of my power to allow other amendments to be offered. I now call the previous question on the bill and pending amendments.

Mr. ARNELL. I move that the bill and pending amendments be laid on the table.

The question was taken; and upon a division there were—ayes 61, noes 62.

Before the result of the vote was announced, Mr. ARNELL called for tellers.

Tellers were ordered; and Mr. ARNELL and Mr. PERHAM were appointed.

The House again divided; and the tellers reported that there were—ayes 47, noes 67.

Before the result of the vote by tellers was announced,

Mr. ARNELL called for the yeas and nays on the motion to lay the bill and pending amendments on the table.

The question was taken upon ordering the yeas and nays; and there were sixteen in the affirmative, (not one fifth of the last vote.)

Before the result of the vote was announced, Mr. ARNELL called for tellers on ordering

the yeas and nays.

The question was taken upon ordering tellers; and there were seventeen in the affirmative.

So (the affirmative not being one fifth of a quorum) tellers upon the yeas and nays were not ordered.

Accordingly the yeas and nays were not ordered.

The motion to lay the bill and pending amendments on the table was accordingly not agreed to.

The question recurred upon seconding the previous question upon the bill and pending amendments; and being taken, upon a division there were—ayes 58, noes 56.

Before the result of the vote was announced, Mr. ALLISON called for tellers.

The question was taken upon ordering tellers; and there were twenty-five in the affirmative.

So (the affirmative being one fifth of a quorum) tellers were ordered; and Mr. ALLISON and Mr. BURR were appointed.

The House again divided; and the tellers reported that there were—ayes 55, noes 63.

So the previous question was not seconded.

The SPEAKER. The morning hour has expired, and the bill goes over to the next morning hour of public bill day.

SUFFRAGE.

The SPEAKER. The House now resumes the consideration of the motion of the gentleman from Massachusetts [Mr. BOUTWELL] to reconsider the vote by which the bill (H. R. No. 1667) to secure equal privileges and immunities to citizens of the United States, and to enforce the provisions of article fourteen of the amendments to the Constitution, and the joint resolution (H. R. No. 402) proposing an amendment to the Constitution of the United States, were recommitted to the Committee on the Judiciary. The subject was postponed until after the morning hour of to-day, and upon it the gentleman from Illinois, [Mr. CULLOM,] is entitled to the floor.

Mr. CULLOM. The gentleman from Wisconsin, [Mr. ELDRIDGE,] who is a member of the Committee on the Judiciary, desires to address the House to-day upon this subject, as there will be important business before that committee to-morrow. I have consented to yield him now the hour to which I am entitled if I can be allowed to take the floor again

immediately after he shall have concluded his remarks.

Mr. BOUTWELL. I wish to make a suggestion to the House. I desire to ask unanimous consent that after the close of the remarks of the gentleman from Wisconsin [Mr. ELDRIDGE] the further consideration of this subject shall be postponed until to-morrow evening, which I understand will be satisfactory to the gentleman from Illinois, [Mr. CULLOM.] To-morrow evening let the debate be confined to this subject, and then, if I understand the rules of the House, if the adjournment shall take place while this subject shall be under consideration, it will come up on Friday morning immediately after the reading of the Journal. That will give the gentleman from Illinois [Mr. WASHBURN] an opportunity to press the consideration of the appropriation bills to-day and to-morrow.

The SPEAKER. If this subject shall be postponed until to-morrow evening, and then comes up on Friday morning as unfinished business, it will not be till after the expiration of the morning hour, as that will be private bill day, unless the House shall by vote set aside the morning hour of that day.

Mr. DAWES. I do not desire to interfere with the business of the House, but I wish to state that there are four election cases undisposed of which it is not only proper but important to have brought up before the House at a very early day, and I do not feel it my duty to permit unanimous consent to any arrangement of our business unless the House will also, by unanimous consent, assign some time for the consideration of these cases.

The SPEAKER. The Chair will state that immediately after the reading of the Journal on any morning, when there is not unfinished business coming over from the preceding day, privileged reports or motions to reconsider may be called up before the morning hour begins.

Mr. DAWES. I am aware of that; but I have watched very faithfully for such an opportunity, and it has not arisen very lately.

The SPEAKER. That is owing to the fact that on several days recently there has been unfinished business coming over from the day preceding. The question is now on the motion of the gentleman from Massachusetts, [Mr. BOUTWELL,] that at the conclusion of the remarks of the gentleman from Wisconsin [Mr. ELDRIDGE] the further consideration of the motion to reconsider be postponed till to-morrow evening, when debate only shall be in order, the question going over till Friday morning.

On the motion there were—ayes 65, noes 24; no quorum voting.

The SPEAKER, under the rule, ordered tellers; and appointed Mr. BOUTWELL and Mr. BROOKS.

The House divided; and the tellers reported—ayes eighty-one, noes not counted.

So the motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HAMLIN, one of its clerks, announced that the Senate had passed, without amendment, a bill (H. R. No. 1158) for the relief of Commander John L. Davis.

The message also announced that the Senate had passed, with an amendment, in which the concurrence of the House was requested, a bill (H. R. No. 894) confirming title to Little Rock Island, in the Mississippi river.

The message further announced that the Senate had passed a bill of the following title, in which the concurrence of the House was requested:

An act (S. No. 679) to amend an act entitled "An act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State."

PAY OF A CONTESTANT.

Mr. STOVER, by unanimous consent, reported from the Committee of Elections the

following resolution; which was read, considered, and agreed to:

Resolved, That there be paid out of the contingent fund of the House to William F. Switzer the compensation of a Representative in Congress for one year, in full, for time spent and expenses incurred in contesting the right of GEORGE W. ANDERSON to a seat in this House from the ninth congressional district of Missouri.

Mr. STOVER moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REMOVAL OF POLITICAL DISABILITIES.

Mr. STOKES, by unanimous consent, introduced a bill (H. R. No. 1801) for the relief of the political disabilities of Hiram Crabtree and others, of the county of Jackson, State of Tennessee; which was read a first and second time, and referred to the Committee on Reconstruction.

MAIL ROUTE IN TENNESSEE.

Mr. STOKES also, by unanimous consent, introduced a bill (H. R. No. 1802) establishing a mail route from Altamont to Tracy City, in the State of Tennessee; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

SUFFRAGE—AGAIN.

Mr. ELDRIDGE. Mr. Speaker, the decree may have been pronounced, the fiat may have gone forth commanding another invasion of the jurisdiction and rights of the States by the Federal authorities. Partisan statesmen, with wisdom superior to the framers of the Constitution, may probably have discovered another opportunity to increase and prolong their party power by another usurpation, by another encroachment of the Federal Government upon the proper rights of the States. If so, I have not the vanity to suppose that anything I can say will cause them to hesitate or consider. Party ends must be accomplished, party purposes must be carried out even though it should revolutionize the Government, overthrow the Constitution, and destroy the Republic.

The time was when the suggestion of grave doubts of constitutional warrant would cause the advocates of a pending measure to hesitate, to reflect; when want of constitutional power would insure defeat; when even unquestioned powers which had been long unused were approached with reserve and exercised only after much deliberation and careful debate. Innovation and reform, however specious and desirable, were rejected at once and finally unless clearly sanctioned by constitutional authority. That no error might be committed, that the provisions of the Constitution might be comprehended in all the fullness of their import, resort was freely had to the opinions of its framers, the debates upon its consideration and adoption, and the contemporaneous history of the country and the times. It was no disparagement to the statesman or his argument that it was based upon the Constitution. It was the highest authority, both in its powers and limitations. It was truly considered not only the bond of our Union and the grant of all the powers that could be rightfully exercised by the Federal Government, but it was the palladium of American liberty.

I will not stop now to point out the changes that have taken place in this respect, or to give the different views of modern Solons upon it. My friends on this side of the House will not soon forget the manifestations of scorn and contempt with which their arguments, based upon the Constitution, have been met by the majority. We shall remember long the charges of disloyalty to our country, of treason to our Government, and of sympathy with its enemies, based only upon the fact that we would not join them in violating and disregarding its provisions.

But, sir, I shall not be driven from the line of my duty; I shall not shrink from the like argument upon this or any other measure be-

cause of any such attacks from those who condemn and despise our Constitution of Government.

I shall not attempt to analyze this bill or to examine its provisions in detail. The main feature and purpose of the bill are to take from the States the right to determine the qualification of voters. It provides—

That no State shall abridge or deny the right of any citizen of the United States to vote for electors of President and Vice President of the United States, or for Representatives in Congress, or for members of the Legislature of the State in which he may reside, by reason of race, color, or previous condition of slavery; and any provisions in the laws or constitution of any State inconsistent with this section are hereby declared null and void.

Thus it is proposed by this bill to invade the jurisdiction of State authority and subject all the States of the Union to Federal control. This long-conceded right of the States to determine for themselves who of their citizens shall exercise the right of suffrage within their respective jurisdictions is now for the first time to be taken away by act of Congress from all the States of this Union. It would seem that the exercise of this power by the States, almost unquestioned ever since and before the adoption of the Constitution, for more than eighty years, would cause gentlemen to hesitate before taking such a step. Is not the argument that the Federal Government, the people, and all the States have acquiesced so long in the exercise of this power by the several States almost conclusive? No two of the States have adopted provisions by which the same and all the same class or classes of their citizens vote. Some even have not confined the right to citizens at all. Aliens having declared their intentions only are in several of the States permitted to exercise the right of suffrage. There can scarcely be said to be any uniformity. The laws on the subject are as variant and diversified as the climate and the productions of the States themselves. And yet the right and power of the several States to determine this question of the qualification of voters can hardly be said to have been doubted. I do not ignore the fact that some one or more honorable gentlemen on this floor and in the other branch of Congress, together with some pseudo-commentators upon the Constitution, blinded, as I think, by the heated passions of fanaticism and war, have professed to believe and have declared that Congress has the constitutional power necessary to pass this bill. But the conclusions of these gentlemen are, I apprehend, more from the desire that a Congress composed of their friends should intervene and control the suffrage of the States in the interest of the party to which they are attached than from any settled conviction of constitutional warrant. Their views and opinions are confused, and they seem uncertain upon what provision of the Constitution to rest them. They base them more upon what they consider the necessity of the times, the wants of the nation, and the will of the people, as expressed through the party to which they adhere, than upon any express or implied grant of power to the Federal Government in and by the Constitution itself. The Constitution declares that—

"The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."—*Constitution*, art. 1, sec. 2, clause 1.

This, as I believe, is the only provision of the Constitution in any manner dictating or prescribing the qualifications of electors. "And the electors of each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature." Can any candid, fair-minded man pretend that this provision is a grant of power to Congress to intervene and prescribe the qualification of electors of the most numerous branch of the State Legislature? Is it not all that Congress can do to insist or require that the same body or class or classes of persons who are allowed

to vote or qualified as electors of the most numerous branch of the State Legislature shall be the electors of members of the House of Representatives? And are they not to be the same persons who are by the State laws declared qualified electors of the most numerous branch of the Legislature of the State? It seems to me nothing can be clearer. No language can make it more explicit. All is left to the State except only that the persons the State designates as its electors of the most numerous branch of its Legislature shall be the constitutional electors of the House of Representatives. The Constitution provides that the State may determine the persons who shall be electors of members of the House of Representatives by its act of determining who shall be the electors of its most numerous legislative branch. This right of the State to determine the qualification of the electors of the members of its Legislature is older than the Constitution. The State derived the power from the people of the State before the Constitution was adopted. The power, therefore, remains in the State until it is taken away. There is nothing in the Constitution, nothing in the provision quoted certainly, granting the power to the Federal Government or prohibiting it to the State.

In No. 52 of the *Federalist*, the authorship of which is claimed by both Hamilton and Madison, the following language is used with reference to this subject and the provision of the Constitution referred to:

"To have reduced the different qualifications in the different States to one uniform rule would probably have been as dissatisfactory to some of the States as it would have been difficult to the Convention. The provision made by the Convention appears, therefore, to be the best that lay within their option. It must be satisfactory to every State, because it is conformable to the standard already established or which may be established by the State itself. It will be safe to the United States, because being fixed by the State constitutions it is not alterable by the State governments; and it cannot be feared that the people of the States will alter this part of their constitutions in such manner as to abridge the rights secured to them by the Federal Constitution."

It appears thus clearly by the opinion of these most distinguished statesmen, written in advocacy of the Constitution at a time when no passion or partisan prejudice influenced their judgment or clouded their understandings, that it was the intention of the framers to leave the qualification of electors as established or to be established by the State itself. And this provision they declare "was the best within the option of the Convention."

Judge Curtis, in his *History of the Constitution*, shows that what was then feared most was universal suffrage in its most unrestricted sense, or that foreigners might be admitted. And he uses the following language:

"The adoption of this principle avoided the necessity of disfranchising any portion of the people of a State by a system of qualifications unknown to their laws. As the States were the best judges of the circumstances and temper of their own people it was certainly best to conciliate them to the support of the new Constitution by this concession."—*Curtis's History of the Constitution*, vol. 2, p. 200.

Further along, in the same connection, Mr. Curtis says:

"Accordingly, although very strenuous efforts were made to introduce into the Constitution of the United States particular theories with regard to popular suffrage, some of the members being in favor of one restriction and some of another, the rule which referred the right in each State to its domestic law was sustained by a large majority of the Convention."—*Page 202.*

In this view all the commentators that I have been able to consult agree. It was a reference of the whole question to the domestic law—to the law of the State. The House of Representatives was to be composed of members chosen every two years by the people of the several States, the requisite qualifications of the electors of whom were expressly referred to the law established by the State itself. And this provision was sustained by a large majority of the Convention. The advocates of this bill must therefore look to some other provision of the Constitution for the power to pass it. There is no grant here to the Federal Government. It only authorizes the same electors to elect

members of the House of Representatives who by the laws of the State are qualified electors of the most numerous branch of the State Legislature. This is what was intended, and all that can be claimed for it.

Can authority for this bill be found under article one, section four, clause one of the Constitution?

"The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators."

The times, places, and manner of holding the elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof. The times, places, and manner; "but the Congress may at any time make or alter such regulations." What regulations may Congress make or alter? Clearly, the times, places, and manner, and nothing else: the times when and the places where the elections shall take place. This is clear and unmistakable. And is there any more room for doubt as to the import of the term "manner?" It seems to me not. It cannot relate to the qualification of the electors. This is left where it was at the adoption of the Constitution—with the States themselves. Manner must relate to the manner of conducting the election, whether by ballot or *viva voce*, to the mode or manner in which the elector shall signify his choice, shall express his will. This was the opinion of Mr. Justice Story, in his able and most exhaustive commentary on the Constitution, where we should almost suppose he had these bills under consideration. He says:

"What would be said of a clause introduced into the national Constitution to regulate the State elections of the members of the State Legislatures? It would be deemed a most unwarrantable transfer of power, indicating a premeditated design to destroy the State governments. It would be deemed so flagrant a violation of principle as to require no comment."—*Story on the Constitution*, sec. 819.

This bill proposes to regulate the State elections of members of the State Legislature; precisely what Story says would indicate an unmistakable design to destroy the State governments. Again Justice Story says:

"Nor can it be said with correctness that Congress can in any way alter the rights or qualifications of voters."—*Ibid.*, section 820.

Mr. Story seems to have adopted very nearly the language of Hamilton on the same subject in No. 59 of the *Federalist*, where he most emphatically condemns the idea even of introducing such an article into the Constitution. He says:

"Suppose an article had been introduced into the Constitution empowering the United States to regulate the elections for the particular States, would any man have hesitated to condemn it, both as an unwarrantable transposition of power and as a premeditated engine for the destruction of the State governments?"

In those days no man would have hesitated to condemn it. The Constitution could never have been adopted if it had contained the grant of power to Congress to determine the qualification of voters for officers of the States. Such a work is left for these days of revolution and usurpation—to the mad fanatics who for partisan ends would destroy our Republic of States. These authorities not only show that the power to regulate the qualification of electors is not granted to the Federal Government, but that it ought not to be possessed by it.

Mr. Story says:

"It would be a most unwarrantable transfer of power, indicating a premeditated design to destroy the State government."

Mr. Hamilton calls it—

"An unwarrantable transposition of power," * a premeditated engine for the destruction of the State governments."

Sir, for myself I most heartily indorse and believe this. This measure originated in hostility to the States, and most certainly menaces their existence. Every step in the direction of this bill and joint resolution is a step toward centralization and consolidation. It evinces a premeditated design upon the life of the States—a design to concentrate all the powers of government in the Federal head. And with this

scheme consummated, and the others contemplated by the party in power, there will be very little left of the States; the rights, powers, and all the vast interest confided to them by the people will be crushed and destroyed under the advancing foot of empire. The States cannot long stand against the grasping and growing power of the Federal Government.

Mr. Speaker, after the most careful examination and inquiry, I venture the assertion that no friend or advocate of the Constitution at the time of its adoption by the Convention and ratification by the States can be found to have claimed even that the power to prescribe the qualification of voters in the States was conferred upon the Federal Government. It is true that the opponents of the Constitution argued against it on the ground that it might be so construed; that Congress—some future Congress—might undertake to exercise the power of determining what persons should exercise the right of suffrage. The gentleman from Massachusetts [Mr. BOWEN] admits, as I understood him, that this was the charge made against the Constitution by its opponents. Patrick Henry was one of them. He made every argument which his great genius could suggest to stir up hostility to it. But who but the gentleman from Massachusetts would argue a constitutional grant of power against the plain letter of the instrument on the suggestions of those opposed to it and seeking to defeat its adoption merely because those suggestions were undenied by its friends? The gentleman, however, is mistaken when he says that the friends of the Constitution did not deny that this power was conferred upon the United States Government, or that the friends did not deny this construction of those who were opposed to it. It was not only denied in the discussions in the Convention, but it was deliberately denied by Hamilton and Madison in the passage already quoted from the *Federalist*. What denial can be more explicit than this?

"The provision made by the Convention appears therefore to be the best that lay within their option. It must be satisfactory to every State, because it is conformable to the standard already established or which may be established by the State itself."

And again, (No. 60 of the *Federalist*,) Mr. Hamilton makes the most emphatic denial, and refers to another previous occasion when he had done so. He says:

"The truth is, that there is no method of securing to the rich the preference apprehended, but by prescribing qualifications of property either for those who may elect or be elected. But this forms no part of the power to be conferred upon the national Government. Its authority would be expressly restricted to the regulation of the times, the places, and the manner of elections. The qualifications of the persons who may choose or be chosen, as has been remarked upon another occasion, are defined and fixed in the Constitution, and are unalterable by the Legislature [of the Union]."

By reference to the fifth volume of Eliot's *Debates* it will be seen that the denials and statements in the debates were no less clear and definite. First by—

"Mr. WILSON. This part of the report was well considered by the committee, and he did not think it could be changed for the better. It was difficult to form any uniform rule of qualifications for all the States. Unnecessary innovations, he thought, too, should be avoided."

"Mr. ELLSWORTH thought the qualifications of the electors stood on the proper footing. The right of suffrage was a tender point, and strongly guarded by most of the State constitutions. The people will not readily subscribe to the national Constitution if it should subject them to be disfranchised. The States are the best judges of the circumstances and temper of their own people."

"Mr. MADISON. The right of suffrage is certainly one of the fundamental articles of republican government, and ought not to be left to be regulated by the Legislature [of the Union]."

Mr. George Nicholas, in his opening speech in the Virginia convention, (vol. 3 Eliot's *Debates*, p. 42,) made these remarks, showing his construction of it:

"As the qualifications of electors are different in the different States, no particular qualifications, uniform through the States, would have been politic, as it would have caused a great inequality in the electors, resulting from the situation and circumstances of the respective States. Uniformity of qualifica-

tions would greatly affect the yeomanry in the States, as it would either exclude from this inherent right some who are entitled to it by the laws of some States at present, or be extended so universally as to defeat the admirable end of the institution of representation."

In view of these emphatic and distinct avowals of the members of the Convention, how is it possible for the honorable gentleman from Massachusetts to claim that the construction put upon the Constitution by Patrick Henry and others who opposed it was not denied? And will gentlemen still contend that the power exists in the Federal Government to regulate the qualification of electors in the States by the silence and acquiescence of the friends of the Constitution? The passage quoted from the debates and attributed to Mr. Madison can have very little weight when compared with his more deliberate and solemn written declarations. In my judgment, the evidence that the power to regulate the qualification of voters was left with the States, and that the Convention so intended from its language, from the declaration of the members, from the concurrent history, from all respectable commentators, is conclusive and overwhelming. Any other conclusion will do violence to the plain letter of the Constitution, and be a falsification of the history and debates upon it.

The argument that if this power is with the States, and not subject to the ultimate control and regulation of the national Government, the States have it in their power to refuse to act upon the question, and thereby fail or neglect to send Representatives to Congress and thus destroy the Government, has very little force. Congress having the power to regulate the time, place, and manner of holding the elections, has all the power that was thought necessary, all that is necessary. This being done, the persons qualified to vote for members of the most numerous branch of the State Legislature can and will meet and elect Representatives. It can make no difference that the electors are determined by the State. Electors qualified to elect and having the right to vote for members of the State Legislature exist, and must always exist so long as the State itself, as such, exists; and Congress can require them to meet at the time and place and cast their ballots in the manner it may see fit to designate.

Mr. BOUTWELL. As the gentleman has appealed to me, he will permit me to say a word. He has declared that I was in error in affirming that the debates show no denial by the friends of the Constitution of the position taken by Patrick Henry. I desire to say that I was familiar with the quotations which the gentleman has cited, and which, taken by themselves, do certainly imply that the authors of those remarks did not understand the power for which I contend as being vested in the General Government; but I believe it will be found that in all those cases they were discussing the question of primary jurisdiction, not that of ultimate jurisdiction, for which I have contended.

Mr. ELDRIDGE. I cannot yield further; the gentleman has already occupied a couple of hours on this question.

But the gentleman from Massachusetts, my colleague on the committee, made one other argument which I cannot fail to notice. He claimed, as I understood him, that the power of Congress to make or alter such regulations as the State might prescribe, was coextensive with the power granted to the State, and that if the Congress could not regulate the qualifications of electors the States did not possess the power to prescribe them. This is a fundamental error—I had almost said blunder. It is basing the argument upon the most fatal heresy of these times—the heresy out of which the evils have grown that threaten the very life of the Republic of States. It reverses the entire order and system of our Government. The gentleman must have forgotten that the Federal Government is a Government of delegated powers—

"That the powers not delegated to the United

States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people."—Tenth Amendment of Constitution.

The power to determine the qualifications of electors was, in the States, conferred, as we have before stated, by the people of the States, in most if not all of them imbedded in their constitutions when the Federal Constitution was formed and adopted. And that power has never been delegated to the General Government, and has not been prohibited to the States. It rests, therefore, where the people of the States placed it; in the States themselves. Sir, the powers and rights and liberties of the States and people do not come down from Congress or the Federal Government. There are some powers with which Congress has not been entrusted. Congress cannot determine just how much of liberty the people shall enjoy, just how they shall speak and move and breathe. All the powers of the Federal Government come up from the States and people, and it never had and never can have the rightful authority to exercise any power not granted in and by the Constitution. The exercise of any other is rank usurpation.

I do not suppose it is seriously believed, or will be seriously contended, that the passage of this bill is warranted under the clause of the Constitution, "The United States shall guaranty to every State in this Union a republican form of government." For Congress to intervene under the pretense that the States to which the bill is to apply have not now a republican form of government is to decide that there are no States now in the Union that have a republican form; for the bill applies alike to all the States. It is to decide that there never have been any States of this Union that have had a republican form. If there be any State that has a republican form, that State ought to be excepted from its operation. I am not aware of any one who has the hardihood to claim that the original States were not republican in form, and if they were, that settles the question of the power of Congress to interfere with them under this provision.

The United States is not to guaranty any particular form of republican government. The States certainly have the right to select or choose for themselves the form, only so that it is republican. All are not by the Constitution required to be Massachusetts. Ohio's form may at least suit her people better, and the United States has no power to dictate or guaranty the one or the other as a choice of particular republican forms.

If it were claimed that no State is republican in form that does not allow all its citizens to vote, then we should have no republican States, because no one of the States does allow all its citizens to exercise this privilege. It will not be claimed, I suppose, that the State has not a republican form of government for the reason only that it denies to its negro citizens what it also denies to our citizens' wives and daughters. And if citizenship alone confers the right to vote, and a State is not republican that denies the right to an uneducated, half-civilized colored man, how much more is the State not republican in form that denies the educated, cultivated, and refined woman the right. But, sir, citizenship does not necessarily carry with it the right to vote or hold office under our system. Nor can the denial to a citizen of the right to vote by a State destroy the republican form of its government. It was not so understood at the adoption of the Constitution, and has never been so claimed by any sane man. That the question of who shall exercise the right of suffrage is a delicate and most important question I admit. That the power of determining it ought to be dispassionately and wisely exercised is equally true. On its being so used depends greatly the welfare and happiness of the body-politic and the permanence and endurance of our republican Government and institutions. But that this power rests in the States, and ought to rest there, I have no doubt. That the rights and liberties of the people are safer with this power

in the control of the States than in the control of the Federal Government I certainly believe.

And, sir, without meaning any disrespect to the gentleman from Massachusetts, [Mr. BOUTWELL,] I must say that it seems to me that his bill and resolution for the amendment of the Constitution, and his "cumulative remedies," as he styled them, for the evils which exist in his judgment with reference to the persons who ought to exercise the right of suffrage, is a *felo de se*. If the power exists in the Federal Government to pass this bill, whether under any one or all the provisions referred to, then I admit that Congress has the right to control the whole question of suffrage and the qualification of electors for all officers, State and national. There can be no reason for its entering the State and determining the qualification of those who are to elect the officers named in the bill that will not apply to every officer of the State so far as the question of power is concerned. The electors of President and Vice President are not named in section four of the first article. The power claimed, therefore, under the word "manner" in this section can no more apply to them than to the Governor of the State or any other State officer. So that if it covers electors it may as well cover, and does as necessarily cover, all that is contemplated by the amendment proposed by the joint resolution. The amendment is, then, worse than useless. If it be necessary for the purpose it contemplates it must be a most pregnant admission that the bill is unconstitutional.

I submit, however, without stopping to consider it at any length, that so far as the election of electors of President and Vice President is concerned, the bill is in direct violation of clause two, section one, article two of the Constitution, which provides:

"Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors," &c.

If "manner" be the broad term contended for by the gentleman the whole subject belongs to the State, under this provision:

"Each State shall appoint, in such manner as the Legislature thereof may direct," &c.

And yet by this bill the whole power with reference to the electors is to be substantially taken away from the State Legislature. If "manner," in the clause previously referred to, allows the United States to prescribe the qualification of electors, I submit the same construction should be given to it in this, and that therefore Congress has no power by this bill to take it away or prescribe qualifications different from those the State may determine.

Sir, I do not think the gentleman from Massachusetts gave a proper consideration to the fourteenth amendment, as it is called. I will not consider the question of whether this amendment is a part of the Constitution; for myself I do not believe it is. The gentleman treated it as though he thought otherwise. I will remark, however, that if it was properly ratified and adopted I know of no palliation of the guilt of those gentlemen who have denied the representation of those States without whose action it never could have become and never can be considered as a part of the Constitution. The gentleman denied that there is in this amendment any recognition of the right of the States to determine the question of suffrage or who should exercise it. It seems to me nothing could be plainer. Section two provides—

"Representation shall be apportioned among the several States according to their respective numbers, &c. But when the right to vote at any election * * * is denied to any of the male inhabitants of such State, &c., the basis of representation therein shall be reduced," &c.

"But when the right to vote at any election is denied or abridged in such State;" can there be any doubt or mistake that this language recognizes and expressly admits the power to be in the State to abridge or deny the right to some of its inhabitants to vote, subject only to have the basis of its representation reduced thereby? What other meaning can be attached to or construction put upon it? Was the gentleman candid

when he denied it? It is too plain to admit of demonstration. It was understood to concede this power in the States at the time it was considered in this House, as every gentleman then on this floor must bear me witness. The gentleman says it was only a punitive provision, in case the States should violate its duty and be otherwise beyond the reach of Congress. This is an absurdity. I assert it was intended as a fundamental provision of this Government, and devised for the very purpose of compelling the States, wherein the power to determine the qualification of voters was conceded to rest, to grant suffrage to negroes. It was understood to be optional with the State to grant this right of suffrage to its negroes or have its representation in Congress proportionately diminished. Hon. Thaddeus Stevens, the late leader of the Republican party in this House, urged this view of the matter with peculiar emphasis. He thought the love of power and the desire for representation in the House of Representatives would be sufficient guarantee that the right of suffrage would not be long withheld from the colored men of the States. The power of the States to regulate and determine the qualification of voters was not questioned, except perhaps by one member on this floor, and no gentleman can truthfully deny the fact.

And, sir, I assert that no man who voted for that amendment can consistently contend that the power to determine the qualifications of voters in the States does not exist in the State itself. And no lawyer can doubt that the amendment does distinctly recognize the power to be in the States. The gentleman argues that the State might refuse to obey a law of Congress regulating or prescribing the qualification of voters, and that this section was intended to punish the State for such refusal. How is this possible, I asked the gentleman, and he failed to answer. If Congress has the constitutional power to enact a law, and does so, declaring who shall vote in a State, any act of the State Legislature in conflict with it would be no law; it would be absolutely null and void. The act of Congress in pursuance of the Constitution is the supreme law, and must necessarily annul the act of the State. The question, therefore, recurs, how can the State incur the penalty? And the answer must be, it is impossible. The law of Congress executes itself by destroying and blotting out the act of the State and leaving the citizen free to exercise the right conferred upon him by the law of Congress. This is too plain for argument; and I will not pursue it.

But right or wrong, constitutional or unconstitutional, whether for the best interest of the Republic or jeopardizing in an untried and doubtful experiment the happiness and prosperity of the whole people, the measure must be passed into a law. And the gentleman makes his final appeal upon party grounds—an appeal—I say it without intending disrespect toward him—unworthy of himself, unworthy the discussion of grave constitutional questions, and unworthy to be heeded by the honorable gentlemen of this House. It is an appeal not without influence upon the selfish and unprincipled partisan, upon the political gamester who postpones his country to his party. He tells us that the passage of this bill will add one hundred and fifty thousand voters to his party—seventeen hundred in Connecticut, ten thousand in New York, five thousand in New Jersey, fourteen thousand in Pennsylvania, seven thousand in Ohio, twenty-four thousand in Missouri, forty-five thousand in Kentucky, four thousand in Delaware, and thirty-five thousand in Maryland, and he wishes to know if the service of these men who are ready to do battle with his party at the ballot-box are to be declined. Was ever before such an appeal made by statesman to a great political party just coming victoriously out from a great political contest? Is it a confession that the course of the party is to be such in its administration that this vast accession of recruits will be necessary to preserve its power? Is it a confession in advance that it is to be dis-

carded by those who fought and helped it to win its last great victory, and that its future success and power must depend upon the negro vote? The gentleman felt the reproach of his appeal in support of his bill, and boasted that he was a plain-spoken, as he showed he was a bold man in braving criticism upon this part of his speech. I confess I thought him bold, not so much in daring the criticism of this side of the House, as in presuming so unworthy an appeal to gentlemen on that.

Mr. Speaker, the gentleman from Massachusetts started out by telling us this is "the last of the series of great measures growing out of the rebellion and necessary for the reorganization and pacification of the country" with which the Republican party has been charged. I think I express the universal sentiment of the people of the country when I say that I thank God and the Republican party that this is the last. But I would like to have gentlemen inform this House and the country how the party became charged with this measure and by what authority they undertake to "reorganize the country;" how the rebellion has invested the Republican party in Congress with the authority to go into the States of Pennsylvania and Ohio and the other northern States with its bills of reorganization? I expected it to do so; I did not suppose it would be satisfied with reorganizing the southern States. I am not disappointed, but where did the party obtain its power, its commission, its charge to reorganize the States that did not rebel? It was not by the election of General Grant, for he was elected upon no such platform. One of the planks of the platform laid down by the convention that nominated him laid down the same doctrine that I have endeavored to maintain—

"That the question of suffrage in all the loyal States properly belongs to the people of those States."

The Republican party was charged, if charged at all, by this resolution to let the loyal States alone—to let the people of those States regulate the question of suffrage for themselves. The convention unanimously declared that "the question of suffrage in all the loyal States properly belongs to the people of those States," and thereby virtually that Congress had nothing to do with it. What has caused the party to change front? If the question properly belonged to those States during the elections of last fall, what have the States done since to deprive themselves of the right? If the question did not properly belong to Congress then how has it become invested with the propriety now of disposing of it in those States?

Mr. Speaker, if it be possible that the Republican party can commit itself to anything, it is in its support of the so-called fourteenth amendment, and in and by its action in national convention, committed solemnly to the doctrine that the people of the several States have properly the right to control the question of suffrage in their respective States. And, in my judgment, the Republican members of this House cannot force this measure upon the country at this time without covering their party with another dishonor, without a shameful violation of party pledges and party faith. Was this declaration of principle the honest sentiment of the party at the time it was incorporated in the platform, or was the placing it there an intended premeditated fraud to induce support of the candidates and to be ignored and disregarded when the victory should be achieved? How many States would the party have carried upon the measure now being urged? With the provisions of this bill in the platform where would have been Pennsylvania and Ohio and Indiana? It alone would have defeated your candidates for President and Vice President with all their great personal popularity.

The gentleman from Massachusetts affected some sympathy with foreigners, and intimated that this measure was in the interest of the white man as well as the black, and that it would be a protection of the Irishman, the German, and the Scandinavian. These crocodile tears for the white foreigner will be duly

appreciated by us all, and especially by the foreigner, when the gentleman shall have made his speech and cast his vote on the bill being prepared by his party friends to prevent, obstruct, or embarrass naturalization.

The gentleman seemed to deplore his inability to present the principles involved in these great measures except in what he called "a party aspect." It is some satisfaction to know that gentlemen are not utterly insensible of the low plain upon which these schemes are urged and advocated. Party aspect, indeed! These measures have their origin and support in the most intense partyism. Party, party! It is the infernal spirit of party that has controlled, sunk, and degraded so much of the legislation of Congress during and since the war. It was the fell spirit of party against which the almost dying words of Washington warned his countrymen. Party! What crimes have not since that day been committed in its name and by its relentless demand! Party has kept the dissevered fragments of the Union asunder ever since the war ended. Insatiate party has destroyed the republican character of ten States of the Republic and established over them despotisms that would put to shame the most frightful and grinding despotisms of any age or any country. Party has persistently for the last four years sought to subvert or change the form of our government, both State and Federal. It is at the demand of party that Congress has assaulted the executive and judiciary, and endeavored to usurp the powers belonging to these coordinate Departments or force the President and the judges to bow down and do its bidding. It is at the demand of party and in its interest alone that power is sought to be taken from the intelligent and cultivated white man and given to the ignorant, uneducated, and servile negro. It is the inexorable demand of party that is bringing the white and black races in this country in fatal antagonism and conflict, which must end in the utter extermination of the weaker race or in the degradation of the other. It is party that is keeping alive the animosities, the malignant and bitter passions engendered by the war, and preventing that forgiveness, reconciliation, and harmony dictated and enjoined by the spirit of Christian charity.

Mr. Speaker, I am consoled at my want of preparation and failure to discuss this measure fully and in all its bearings by the fact that there are able gentlemen on this side of the House who will present the objections to it more fully and ably than I could have hoped to. I wish this measure coming from the Judiciary Committee might have been presented and advocated by my distinguished colleague on the committee upon high legal and constitutional grounds only. I wish that party and party considerations might have been ignored in its discussion. The subject is of too much importance, the changes proposed in our system of government vastly too great and far-reaching in their effects, to be carried upon party grounds or for party ends. Parties, at the longest, do not live long. They are changing and evanescent; they pass away and others take their places; they serve their purpose and are gone. It is doubtful if they do not more evil than good. Our Constitution we hope may live forever. Its blessings have been manifold and showered upon us without stint or measure. Let no partisan parricide lift his hand against it. "Conscience" should "make cowards" of you all. The ghost of the slain Constitution "will not down at your bidding."

Peace, reconciliation, unreserved submission and obedience to the written Constitution, liberty, prosperity, happiness, "on one side;" strife, malignity, party license regulated by no law, anarchy, despotism, "on the other."

Mr. MUNGEN asked and obtained leave to have printed, as a part of the debates, a speech upon the pending question. [See Appendix.]

INDIANS ON UPPER MISSISSIPPI.

The SPEAKER, by unanimous consent, laid before the House a communication from the

Secretary of the Interior, transmitting a letter from the Commissioner of Indian Affairs, with accompanying papers, relative to the suffering and starving condition of the Indians on the Upper Mississippi; which was referred to the Committee on Appropriations.

HOMESTEAD LAW.

The SPEAKER also, by unanimous consent, laid before the House a concurrent resolution of the Legislature of Kansas relative to the homestead law; which was referred to the Committee on the Public Lands.

ENROLLED BILL SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 1158) for the relief of Commander John L. Davis.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. WASHBURN, of Illinois. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union upon the special order.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. SCHENCK in the chair), and resumed the consideration of the special order, being House bill No. 1672, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1870.

The CHAIRMAN. When the House was last in Committee of the Whole an amendment offered by the gentleman from Indiana [Mr. JULIAN] was withdrawn by consent, and the committee then rose.

Mr. JULIAN. I renew the amendment to insert in line one hundred and seven "clerk to Committee on the Public Lands, \$2,160."

Mr. WASHBURN, of Illinois. I distinctly understood that the gentleman withdrew his amendment as the House was dividing.

The CHAIRMAN. Then the amendment is pending without the necessity of offering it again.

Mr. JULIAN. Mr. Chairman—

Mr. WASHBURN, of Illinois. I suppose the committee ought to pass on the amendment.

The CHAIRMAN. Had the gentleman from Indiana spoken on his amendment?

Mr. JULIAN. I have; I withdraw it.

Mr. WASHBURN, of Illinois. I object, because the committee was dividing when it rose.

Mr. JULIAN. I have a right at any time to withdraw it.

The CHAIRMAN. The Chair overrules the point of order. No decision had been made by the Chair. The language of the rule is that an amendment may be withdrawn at any time before a decision is made.

Mr. JULIAN. I now renew the amendment. If the House will listen to me a moment I think I can satisfy every member present that the amendment which I have offered ought to be made. The clerk of the Committee on the Public Lands for the past seven years has been one of the four permanent clerks of standing committees of this House. He was made such by a resolution passed in the year 1862, which is as follows:

"Resolved, That the Committee on the Public Lands be authorized to employ a clerk for said committee, who shall in addition to his usual duties be charged with the care, preservation and continuation of the series of land maps ordered for the use of the said committee by the resolution of the House of Representatives of May 4, 1848, at the same compensation heretofore allowed the draughtsman upon the said maps."

It thus appears that by a resolution of this House, which is unrescinded, that this clerk is made a permanent one, with a fixed salary, and he stands precisely on the same footing as the clerk of the Committee on Appropriations, of Ways and Means, and of Claims, all of

whom hold their positions by like resolutions of the House. Yet the gentleman from Illinois has prevailed on his committee to report the bill omitting any appropriation for the compensation of this clerk, as contemplated and provided for by the resolution I have read. Now, I submit to the House and to the gentleman from Illinois that no reason can be assigned why this appropriation should be withheld as to this clerk while the other three clerks I have named are untouched. The gentleman from Illinois the other day stated that the clerk of the Committee on the Public Lands did not do an amount of business that would warrant his being paid as permanent clerk. I submit very respectfully to him that I know, as chairman of that committee, much more about the business of this clerk than he can know, not being a member of the committee. I should consider it a palpable assumption on my part to say that the clerk of the Committee on Appropriations does not render any service worthy of compensation; and it is equally an assumption on his part to say that the clerk of the Committee on the Public Lands should not have compensation for a like reason. The gentleman knows nothing about the labors of the clerk of the Committee on the Public Lands, and can make no pretense that he does.

That, then, is the situation. If the gentleman wishes to economize I agree with him in the general necessity for it; if the difference between the pay of a permanent clerk and his *per diem* during the sessions of Congress is a matter of sufficient importance to kindle his zeal for economy and retrenchment I submit that he might with great propriety have omitted any appropriation for the clerk of his own committee. We might then have believed him sincere; for the clerk of the Committee on Appropriations has no better right to be paid as a permanent clerk than that of the Committee on the Public Lands. The gentleman from Illinois knows this.

The gentleman said the other day that the clerk of the Committee on the Public Lands does not remain here the whole of the year. But neither does the clerk of the Committee on Appropriations, or of Claims. If, therefore, the gentleman desires to economize, and wishes to be thought either honest or consistent, he will move an amendment to strike out the appropriation for the pay of clerk of the Committee on Appropriations, and thereby show that he is governed by a spirit of fair play and fair dealing. Let him do even-handed justice between these committees; but I protest against this invidious attack, this perfectly gratuitous fling that is made upon the clerk of the Committee on the Public Lands, whose business for several years past has been steadily increasing, and whose guardianship over the public domain should commend him to the respectful and decent treatment of the gentleman from Illinois.

[Here the hammer fell.]

Mr. WASHBURN, of Illinois. One word in reply to the gentleman from Indiana in regard to this clerkship. I will repeat what I said when this bill was last up, that there is no law which requires us to make an appropriation for this clerk. He simply holds his position by virtue of a resolution of this House.

Mr. JULIAN. Let me ask the gentleman from Illinois whether he does not hold his position exactly as the clerk of the Committee on Appropriations?

Mr. WASHBURN, of Illinois. Exactly as the clerk of the Committee on Appropriations, exactly as the clerk of the Committee on Claims, and exactly as the clerk of the Committee of Ways and Means; and if the House determines to strike out any of those clerks I have nothing to say. What I stated was that there was no reason why this clerk of the Committee on the Public Lands should be made a permanent clerk more than a dozen other clerks. And I will ask the attention of the House and the country in regard to some facts, and to what we have built up in this House in regard to clerkships and messengers. If our constituents could know of this extravagance

I believe they would come down here and run us into the Potomac. [Laughter.] How much does it cost to run this House? How many clerks are there under the Clerk of the House of Representatives? How many do you suppose, without including the two which we added with a perfect howl the last time the Committee of the Whole was in session? Fifty clerks, sir. How much do we pay them a year? Eighty thousand dollars. Eighty thousand dollars for clerks! How much do we pay for Capitol police? There was a howl got up here that Andrew Johnson was to take possession of the Capitol.

Mr. MAYNARD. I rise to a point of order. I make the point that it is not in order to charge the House or any member of it in his place with howling.

The CHAIRMAN. The Chair thinks that it is consistent with the fact, although it is not in order. [Laughter.]

Mr. WASHBURN, of Illinois. I say that a howl was got up—I do not say in this House—that we were going to be attacked by Andrew Johnson, and we at once raised a little brigade of police. How much do you think they cost? Sixty-five thousand dollars a year, or about two hundred dollars a day. Then, for the Sergeant-at-Arms, \$6,000; for the House post office, \$20,000; laborers, \$16,000; folding-room, \$60,000; and for the Doorkeeper, \$44,000.

Mr. JULIAN. I rise to a question of order.

Mr. WASHBURN, of Illinois. I propose to give you figures for all that I say. [Laughter.]

Mr. JULIAN. The gentleman is not debating the amendment under consideration.

Mr. WASHBURN, of Illinois. I am confining myself a little too closely to the question under debate for my friend from Indiana. We are, in all, taking \$335,000 out of the pockets of the people for the purposes I have specified. We are taxing the people \$335,000 a year to run this House of Representatives. I say, sir, that there is no justification for it. My excellent friend there drew \$1,440 a year under a House resolution, and under another House resolution it has been increased to \$2,160. He is never here acting as a clerk more than ten months in a year. He discharges his duties well while the House is in session, but when the House is not in session he has nothing to do but draw his pay all the same. We have also provided for another office in the Library of the House in addition to those I have indicated. And, Mr. Chairman, we have done all this in the face of our protestation as a party; in the face of the resolutions of the Chicago convention; in the face of all our declarations on the stump that we were going to put a stop to all unnecessary appropriations and place the administration of the Government upon an economical foundation. I ask gentlemen if this is the way we are going to accomplish this object? Is this the way that we propose to go on adding clerk upon clerk and office upon office and thereby increasing the expenditures of the Government, now that we have got into power? We have gone on as the good feelings and wishes of members desired until we have increased the expenditures for this House alone, as I have already stated, up to the sum of \$335,000 a year. I desire the reporter of the Associated Press to take notice of these figures and to put them in print, so that the people may see them. [Laughter.]

[Here the hammer fell.]

Mr. JULIAN. I wish to say one word in reply to the gentleman from Illinois.

The CHAIRMAN. It is not in order unless the gentleman moves an amendment to the amendment. The Chair cannot entertain any but a substantial amendment.

Mr. JULIAN. I move to strike out the words "and sixty."

Mr. MAYNARD. I hope the gentleman from Indiana will allow me to ask him a question.

Mr. JULIAN. Certainly.

Mr. MAYNARD. Some time ago, under the organization of the House, there was connected with the Clerk's office what was called a land-map department, and under the Clerk there were employed a number of gentlemen who were called land-map clerks. My impression is that that department was abolished some years ago, and that the duty of preparing these land maps was devolved upon the clerk of the Committee on the Public Lands. My recollection is rather indistinct on that point, and I should like to have some information from the gentleman from Indiana as to how the matter really stands at this time.

Mr. JULIAN. I will answer the gentleman from Tennessee. The gentleman is correctly informed on the subject. This clerk, in addition to his ordinary duties as a clerk, has charge of the land maps, and by resolution of the House has to carry forward on them all surveys and sales of the public lands as they progress, and is allowed a room in which the maps are to be kept and the work done; but as no room could be found in this Capitol for that purpose this part of his business has necessarily been suspended for the present. I wish now to say in reply to the gentleman from Illinois, that while he discusses generally the question of our national extravagance and indulges in a great deal of cheap general declamation, as usual, he entirely evades any answer to what I have stated. I said that there was no reason for striking out the appropriation for this committee clerk that would not apply with equal force to the appropriation for the three other committee clerks which is included in this bill. He has conceded that they all stand upon the same basis, and that there is no reason for making any one of them a permanent clerk that does not apply to the clerk of the Committee on the Public Lands. I have already stated, of my own knowledge, that the business referred to this committee is daily increasing and is of such a character as to require a permanent clerk. I place this statement against that of the gentleman from Illinois, who knows nothing about it. If, as the gentleman argues, he is not to be so employed, why does he not move to strike out the appropriation in this bill for the three other permanent clerks? Does he not show his regard for the Treasury to be counterfeit? Why should he ask an appropriation for his own clerk, the clerk of the Committee on Appropriations, and refuse an appropriation for the clerk of the Committee on the Public Lands? If he really so loves economy he should not include in this appropriation bill his own clerk and omit all provision for the clerk of the Committee on the Public Lands, for I am quite sure that the Committee on Appropriations does no more work than the Committee on the Public Lands.

Mr. Chairman, I only ask this House for fair play and even-handed justice. If they strike out any appropriations for these clerks they should strike them all out, and not make a gratuitous discrimination against one whose labors are as important and faithful as those of any other.

Mr. WELKER. Suppose your amendment is not adopted, how much will your clerk get, under the rule?

Mr. JULIAN. He will get during the session whatever this House sees fit to pay him by the day.

Mr. WELKER. So your amendment actually increases his compensation?

Mr. JULIAN. My amendment puts him where he has been for seven years at a fixed salary.

Mr. WELKER. Does it increase his compensation?

Mr. JULIAN. No, sir; it leaves it exactly at what it has been ever since he became a permanent clerk. It neither increases nor reduces his pay.

Mr. INGERSOLL. I wish to make a suggestion to the chairman of the Committee on Appropriations to include in the motion to strike out these three other clerks, so as to put all the committees of the House on a par.

Mr. JULIAN. I desire to have a vote first on my amendment.

Mr. WASHBURN, of Illinois. I do not desire to occupy the attention of the House for any length of time on this subject. The reason why the other three clerks have been put in this bill is because they have been permanent clerks from time immemorial. I refer to the clerk of the Committee of Claims and the clerk of the Committee of Ways and Means, and the clerk of the Committee on Appropriations, who has been a permanent clerk ever since that committee was established. But, sir, I have no interest in any one of these clerks. If the gentleman from Indiana does not want any of them to remain as permanent clerks let him move to strike them all out. I certainly shall interpose no objection. But I do declare, as I have declared already, that this permanent clerk for the Committee on the Public Lands is not necessary, and that this House will not be justified in making any such appropriation.

Mr. JULIAN. I say, as chairman of the Committee on the Public Lands, that this permanent clerk is necessary, and the gentleman from Illinois only displays his customary audacity of mere assertion when he denies it.

The CHAIRMAN. The time for debate on the amendment to the amendment has expired.

Mr. JULIAN. I withdraw the amendment to the amendment.

The question then recurred on Mr. JULIAN's amendment.

The committee divided; and there were—ayes 50, noes 46; no quorum voting.

The CHAIRMAN, under the rule, ordered tellers; and appointed Mr. WASHBURN, of Illinois, and Mr. JULIAN.

The committee again divided; and the tellers reported—ayes 62, noes 60.

So the amendment was agreed to.

Mr. WASHBURN, of Illinois. I give notice that we shall have the yeas and nays in the House on it. [Laughter.]

Mr. SPALDING. I desire to offer an amendment, to come in at the close of the section, and I hope no member will raise a point of order on it.

The Clerk read as follows:

Provided, That after the 30th day of June, A. D. 1870, the employees of Congress shall no longer be entitled to receive an additional compensation of twenty per cent. on their salaries or other pay respectively, but said percentage shall thenceforth cease and be determined, any law or usage to the contrary notwithstanding.

Mr. RANDALL. I make the point of order that that is independent legislation, and is therefore not in order to this bill.

The CHAIRMAN. This being provided by law, it is not competent to repeal it in an appropriation bill, and the amendment is therefore not in order.

Mr. RANDALL. I offer the following amendment, to which I am sure there will be no objection:

Add at the end of line one hundred and twenty-six the following:

Provided, That of the twelve assistant clerks, the two designated as reading clerks of the House of Representatives shall receive an annual salary, beginning with the present Congress, of \$2,592.

Mr. WASHBURN, of Illinois. I make the point that that is not in order, as it changes the existing law.

Mr. RANDALL. No more than the appropriation does in the first part of the section.

The CHAIRMAN. The Clerk will read from the rule.

The Clerk read as follows:

"No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress, and for the contingencies for carrying on the several Departments of the Government. [It has been decided that under this rule it is not in order to propose an amendment to a general appropriation bill which changes an existing law. But it was also decided that the latter branch of the rule not only permitted amendments increasing salaries, but was framed for that very purpose.]"

The CHAIRMAN. Under the last provis-

ion of the rule just read the Chair overrules the point of order.

Mr. RANDALL. I desire to say in reference to this amendment that the capacity and intelligence required to fulfill the duties of this position entitle the gentlemen to the amount of pay asked for.

Mr. WASHBURN, of Illinois. I suppose that it is not possible for me to prevent these salaries being raised, but I wish to call the attention of the House and the country to the fact that this proposition to raise salaries comes from a Democratic member.

Mr. RANDALL. It is not inconsistent with Democracy to pay a man what he is worth.

Mr. WASHBURN, of Illinois. It is utterly idle for any gentleman to attempt to keep down the salaries of any one of these officers, or to prevent new offices being created. I give notice if the amendment is adopted that we will have the yeas and nays on it in the House, so that the country may see who voted for it, and who voted against it.

Mr. RANDALL. I wish to reply to the gentleman from Illinois on the subject of extravagance.

The CHAIRMAN. Further discussion is not in order.

The committee divided; and there were—ayes 83, noes 44; no quorum voting.

Mr. MAYNARD. I would inquire how much these efficient and laborious officers get now?

Mr. WASHBURN, of Illinois. Twenty-one hundred and sixty dollars each.

The CHAIRMAN, under the rule, ordered tellers; and appointed Mr. WASHBURN, of Illinois, and Mr. RANDALL.

The committee again divided; and the tellers reported—ayes 58, noes 57.

So the amendment was agreed to.

Mr. WASHBURN, of Illinois. I give notice that we shall have the yeas and nays on it in the House.

Mr. FARNSWORTH. I move to strike out the words "two stenographers, \$4,380 each." Mr. Chairman, I understand this is an appropriation for the next year, the appropriation having already been made for this year; and it seems to me that we should give the next House of Representatives an opportunity to provide for their own stenographers, and not in this way to provide for them in advance. And, sir, I should like to have some information on the subject, as to how this practice grew up of appointing stenographers from the committees as officers of the House. I should like to know who they are, and whether they are competent for the discharge of their duties.

Mr. BROOMALL. Mr. Chairman, I think I can give the gentleman from Illinois at least a part of the information which he desires. Prior to about three years ago—I speak from recollection—stenographers were appointed for the committees when needed, and were paid the compensation usually allowed for such services, and the result was that enormous bills were run up to be paid out of the contingent fund of the House under the direction of the Committee on Accounts. This was looked upon as a great grievance. It was complained of, not in the House, but among the committees authorizing the work to be done, as well as by the Committee on Accounts. A proposition was then made by one of these stenographers for the committees to do all business of that kind for a given sum, and a resolution was accordingly passed requiring that to be done. By a subsequent resolution an assistant stenographer was allowed and the compensation was doubled.

Now, sir, I do not look upon this plan as the best one which could be devised, but it is cheaper than the one which had existed previously. These stenographers frequently have six or eight other stenographers employed whom they have to pay out of their own salaries. Sometimes they have none employed. It is for them an uncertain compensation. Some sessions they get but little more than what they have to pay out. If a better plan can be devised

I will say, as a member of the Committee on Accounts, that I should like to see it adopted, but until some other better plan is devised I cannot consent to striking out this appropriation, for the present plan is a great deal better than the former one.

Mr. FARNSWORTH. I will ask the gentleman from Pennsylvania whether one of these stenographers is not also employed by the Associated Press?

Mr. BROOMALL. That I believe is the case during the sessions of the House when these stenographers have usually nothing to do. The sessions of the committees are generally held before the House meets, and I believe that during the session of the House one of them is employed as a reporter for the Associated Press. I do not know that it has ever interfered with the discharge of his duties as one of the stenographers for the committees. I have myself been on several investigating committees and have been in the habit of observing how these men performed their duties, and I have never seen any cause of complaint. As I have already said, these men do not receive this compensation for their own services, but out of it are compelled to pay other stenographers, employing sometimes as many as eight or ten to assist them.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. FARNSWORTH. I will move to amend the amendment so as to provide for only one stenographer. Now, Mr. Chairman, by this bill we are providing in advance for the payment of nearly nine thousand dollars during the next year to these stenographers for the committees of the House on the contingency that their services may be required by committees which may be ordered by the next Congress. It seems to me that is poor economy. If it be true that the services of these stenographers are valuable, and it has come out that they are not employed all the year and that one of them while drawing his salary is also drawing a salary from the Associated Press, it seems to me that if their services are valuable and the committees of the House cannot get along without them it will be time enough to make this provision when they are needed, and when, perhaps, they can be employed at a much less rate.

Mr. BROOMALL. I will say, in answer to the gentleman from Illinois, that the Committee on Accounts had this matter before them, and at one time, about the commencement of the Fortieth Congress, intended reporting a resolution reducing the number of stenographers for committees from two to one, but after full examination they found that it would be utterly impossible for any one stenographer for this compensation to do the work and to pay the stenographers he was compelled to employ to assist him in reporting the committees then in operation. The resolution for that reason was abandoned, but I do not know that I have any particular objection to the experiment being again tried. I think, however, that we shall fail in making any reduction of this appropriation; and I believe that the House had better leave it alone as it is. I have a decided objection to returning to the old system. My judgment is that neither the amendment to the amendment nor the amendment of the gentleman from Illinois ought to be adopted.

Mr. VAN WYCK. Before the gentleman from Pennsylvania leaves the floor I would ask him to be kind enough to tell me what duties are discharged by the two superintending stenographers who are paid this large sum of money? Do they themselves perform the physical labor before the committees of the House?

Mr. BROOMALL. They perform the duties themselves as far as it is possible for them to do it, but when five or six committees are in session at the same time, some in New Orleans and some in New York, they, of course, cannot do all the work themselves, but are compelled to employ others, whom they pay out of their own pockets. As I have already said,

they have frequently as high as six or eight stenographers assisting them.

Mr. VAN WYCK. I am merely trying to get information on the subject. I wish to know what duties these two stenographers themselves discharged and how much time they actually devote to the committees of the House. It has been stated that one of them is the reporter for the Associated Press. If so, does his duty as reporter for the Associated Press take up his time so as to prevent his discharging his duties as one of the reporters for the committees? I should like to know about that.

Mr. BROOMALL. All I know is, and I have reason to know it, that the duties which he performs for the Associated Press do not interfere with his duties as one of the stenographers for the committees of the House. His duties as a reporter for the Associated Press are during the sessions of the House, while his duties as stenographer for the committees are generally when the House is not in session.

Mr. SPALDING. I should like to know from the gentleman from Pennsylvania how we are protected against the claims of the subordinates whom these gentlemen employ?

Mr. BROOMALL. The resolution appointing these stenographers specially stipulated that this work should be done by these stenographers for the amount here appropriated.

Mr. FARNSWORTH. I withdraw the amendment to the amendment.

Mr. WASHBURN, of Illinois. I renew the amendment; and I do so, Mr. Chairman, for the purpose of bearing testimony to the truth of what the gentleman from Pennsylvania has stated. On the old system, at the rate charged by the stenographers who were employed to do the work that had to be done, it cost us an enormous amount of money, and the present system was resorted to for the purpose of saving expense, and the expense saved by paying these men salaries has been very great. I have no feeling about the matter. I do not care whether the committee keep the appropriation in or strike it out, but I will say that if they strike it out and employ reporters as they employed them before it will cost twice as much as we now pay these two stenographers. For this appropriation they have to report for all of the committees. If they cannot do it themselves they have to hire assistants and pay for them out of their salaries. I have been told by the principal stenographer, Mr. Smith, that the amount they have already paid out will leave but little compensation for themselves.

As to the reporter of the Associated Press, I believe that he discharges his duties fully as one of the stenographers of the committees of the House and writes out his notes after the adjournment of the House. When the House is in session he reports for the Associated Press, and when the House is not in session he writes out his notes of the proceedings before the committees. There is some advantage in having the stenographers for the committees the official officers of this House. There is then some responsibility attached to them. My own judgment is that the present is the correct system. It has already saved us a great deal of money, and it will continue to save us a good deal in the future.

Mr. FARNSWORTH. I wish to add but one word.

The CHAIRMAN. Does the gentleman rise to oppose the amendment?

Mr. FARNSWORTH. I do. I am in favor of the original amendment, and opposed to the amendment to the amendment.

Now, it is evident to me, Mr. Chairman, as it must be to every member of the House, that some one is cheated according to the argument of my colleague. Either the House is cheated or the stenographers are cheated. According to his argument they labor too much for the pay they get. If they do not get compensation sufficient then they are cheated, and that is not fair. If they do not perform enough for their pay then the House is cheated, and that is not fair. It seems to me that we ought

to pay these stenographers for their services as they are needed. If a committee is authorized to take testimony let them employ a stenographer and let him be under the direction of the committee, and if he does not perform his duties according to the wishes of the committee then he may be discharged and another one appointed in his place. I hope the amendment will be adopted.

Mr. WASHBURN, of Illinois. I withdraw the amendment to the amendment.

Mr. FARNSWORTH's amendment was disagreed to.

Mr. McKEE. I move to strike out the following words:

For clerk to Committee of Ways and Means, \$2,592; clerk to Committee on Appropriations, \$2,592; clerk to Committee on Claims, \$2,180.

Mr. Chairman, I think that the suggestion of the gentleman from Illinois is correct, that none of these clerks should be provided for permanently. They do not remain here after the adjournment of Congress, and I do not see any reason why we should pay them for the time they perform no duties for the House. The question has been already fully discussed, and I trust there will be no objection to the amendment.

Mr. WASHBURN, of Illinois. The gentleman from Kentucky ought to include the amendment adopted on motion of the gentleman from Indiana, for which, I believe, he voted.

Mr. McKEE. I will also include that. Mr. JULIAN. That cannot be included, as it was inserted in another place in the bill.

The committee divided; and there were—ayes 8, noes 37; no quorum voting.

The CHAIRMAN, under the rule, ordered tellers; and appointed Mr. WASHBURN, of Illinois, and Mr. McKEE.

The committee again divided; and the tellers reported—ayes 22, noes 65; no quorum voting.

The CHAIRMAN, under the rule, ordered a call of the House; and the roll having been called, the following members failed to answer to their names:

Messrs. Adams, Anderson, Axtell, Baldwin, Banks, Beaman, Beck, Benton, Bingham, Blackburn, Bowen, Boyden, Boyer, Buckland, Burr, Roderick, R. Butler, Cake, Callis, Chanler, Churchill, Reader W. Clarke, Clift, Cornell, Dickey, Dixon, Eekley, Edwards, James T. Elliott, Farnsworth, Glossbrenner, Gove, Gravely, Haight, Hamilton, Hawkins, Hill, Holman, Asabel W. Hubbard, Hubard, Hunter, Johnson, Alexander H. Jones, Thomas L. Jones, Kollogg, Kerr, Knott, William Lawrence, Lincoln, Logan, Loughridge, Mallory, McCullough, Moorhead, Morrissey, Newcomb, Newsham, Nicholson, Norris, Nunn, Piko, Plants, Pomeroy, Ross, Sitgreaves, Smith, Stokes, Taylor, Thomas, Tift, John Trimble, Lawrence S. Trimble, Twichell, Upson, Van Aernum, Vidal, Ward, Cadwalader C. Washburn, John T. Wilson, and Young—144.

The committee then rose; and (Mr. PETERS having taken the chair as Speaker *pro tempore*) Mr. SCHENCK reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly House bill No. 1672, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1870; and finding itself without a quorum, had caused the roll to be called and had directed him to report the names of the absentees to the House.

The SPEAKER *pro tempore*. A quorum having appeared, the committee will resume its session.

The committee accordingly resumed its session, (Mr. SCHENCK in the chair.)

Mr. McKEE. I suggest that my amendment be allowed to pass, so that we may have a vote on it in the House.

Mr. WASHBURN, of Illinois. After the gentleman has attempted to break up the committee I am astonished he should ask that.

The committee again divided; and the tellers reported—ayes 15, noes 101.

So Mr. McKEE's amendment was disagreed to.

Mr. MAYNARD. I move in line one hundred and thirty-six, to insert the word "furniture" after the word "repairs;" so that the

bill will then read "for fuel and lights, including plumbing, gas-fitting, repairs, and materials, \$15,000."

Mr. Chairman, I do that for this reason: it will be seen by looking at the next item that \$10,000 is appropriated for furniture and repairs. Then in the one hundred and forty-first line we have \$35,000 for miscellaneous items. This is a very loose mode, as I conceive, of appropriating money. In the estimates we have so much for boxes, furniture, and repairs. We have provided for boxes in a previous item. Whether this is to cover up anything I cannot say, but I should like to have some explanation of it. This mode of having two different appropriations for repairs, and then a third one for miscellaneous items, gives a latitude and a scope which I am unwilling to indulge in. I have been endeavoring to get the letter addressed to the Speaker by the Clerk, at the commencement of this session. I learn at the document room that it is not printed. I have his letter at the commencement of the last session, and I find he reports an unexpended balance of \$106,139 92. I desired to get his letter addressed to the Speaker at the commencement of this session for the purpose of inquiring into the expenses for repairs in the Speaker's room. I have understood that they are very great; that the Government has been charged enormous sums each for the curtains that are put up there, and extravagant sums for chairs, together with other items.

Now, it will be recollected that in the Thirty-Fifth Congress, when that room was first fitted up, the expense proved so extravagant an item of charge as to excite the general attention and amazement of the whole country. I hoped to have had an opportunity of comparing the expenses for the present refitting with the cost of the original furnishing, but as I have not the means at hand I am not able to do so. I shall limit myself, therefore, to proposing such amendments to this bill as will prevent any disposition of appropriations in that fashion hereafter. I will remark, however, that the "Speaker's room" is not in fact a room for the Speaker. The Speaker's room is in fact a very humble and unpretending apartment in the lower story of the building. The "Speaker's room," so called, is simply a general museum for curious persons, who pass through the rear of this House. I trust the chairman of the Committee on Appropriations will see this matter as it strikes my mind, and let the bill be modified accordingly.

Mr. BUTLER, of Massachusetts. The word "repairs," in line one hundred and thirty-six, means repairs of the gas-fittings and plumbing work, and the water-works about the Capitol. The item reads: "For fuel and lights, including plumbing, gas-fittings, repairs, and materials, \$15,000." That is, repairs necessary for roofs, and in the plumbing and gas-fitting. The next line is for furniture and repairs thereof; so that the two lines treat of two different subjects.

Mr. MAYNARD. If the gentleman will incorporate that as an amendment so that it will read "repairs thereof," I will accept it.

Mr. BUTLER, of Massachusetts. But that is not the line to which the gentleman moves his amendment. This item is for various matters about the building. Occasionally there is a burst of the plumbing works, and it requires a large amount of repairs.

Mr. MAYNARD. Well, let there be one appropriation sufficient to cover the items of repairs, and not two or three separate items.

Mr. BUTLER, of Massachusetts. We could not do that. We might as well apportion our breakfasts, so much for sugar, so much for milk, and so much for coffee.

The question was taken on Mr. MAYNARD's amendment; and it was disagreed to.

The Clerk read the next paragraph, as follows:

For furniture and repairs, \$10,000.

Mr. WASHBURNE, of Illinois. I move to strike out that item. I have a letter on the

subject from the Clerk of the House. He has looked at the amount of funds which he has on hand, and considers that he has sufficient without this appropriation; and I may say that I think the Clerk has in the management of this part of the repairs, managed it very economically and properly, and very honestly.

Mr. WELKER. I want to ask the chairman of the Committee on Appropriations how much was expended for furniture of the House of Representatives during the last year? I have been informed that about sixty thousand dollars have been expended in buying new furniture for the House of Representatives for the last year. I have also been informed that the year before \$50,000 were expended for furniture, and that in 1865-66 about forty thousand dollars were expended. Now I want, for the information of the country as well as of the Committee of the Whole, to ascertain either from the chairman of the Committee on Accounts or the chairman of the Committee on Appropriations, whether those statements are anywhere near correct in relation to the expenditures for this purpose.

Mr. SPALDING. I ask my friend if he believes those reports?

Mr. WELKER. I have been informed that the figures came from the clerk of the Committee on Accounts.

Mr. BROOMALL. That is a mistake.

Mr. WELKER. I want to hear what it is. I do not pretend to indorse these charges as embracing the correct figures. But that is what I have heard stated, what I have seen alluded to; and I want the chairman of the Committee on Accounts, [Mr. BROOMALL,] or the chairman of the Committee on Appropriations, [Mr. WASHBURNE, of Illinois,] to give us the correct amounts in these respects, so that the correction may go out to the country.

Mr. ELDRIDGE. I move that the committee now rise.

Mr. WASHBURNE, of Illinois. I hope that the gentleman from Wisconsin, who has had an hour for speaking to-day, will allow us to go on a little longer.

Mr. ELDRIDGE. I do not speak for myself, but for others. There is to be a session to-night.

Mr. SPALDING. Has a session been ordered for this evening?

The CHAIRMAN. A session was ordered by the House this morning.

Mr. WASHBURNE, of Illinois. I hope that the committee will not now rise, but that we may go on until five o'clock. It is not quite half past four yet.

The question was upon the motion that the committee rise; and upon a division there were—ayes 38, noes 53.

The CHAIRMAN. No quorum has voted.

Mr. WASHBURNE, of Illinois. It does not require a quorum to decide the motion that the committee rise.

The CHAIRMAN. The vote has disclosed the fact that no quorum has voted, and the rules require the chairman to take notice of that fact and to appoint tellers.

Tellers were accordingly ordered; and Mr. WASHBURNE of Illinois, and Mr. ELDRIDGE were appointed.

The question recurred upon the motion of Mr. ELDRIDGE that the committee rise.

Mr. ELDRIDGE. I withdraw that motion. The question recurred upon the motion of Mr. WASHBURNE, of Illinois, to strike out the clause "for furniture and repairs, \$10,000."

Mr. BROOMALL. Before the question is taken upon striking out the clause just read I move to perfect it by striking out the last word.

The CHAIRMAN. The gentleman will indicate the word he proposes to strike out, and confine his remarks strictly to the word to be stricken out.

Mr. BROOMALL. I move to reduce the appropriation from \$10,000 to \$8,000, for the purpose of answering the gentleman from Ohio, [Mr. WELKER,] and giving him the information he seems to be in search of. He is

mistaken in stating that the amounts expended for repairs for the last two years has been respectively \$60,000 and \$50,000. The amount appropriated for that purpose last year was \$50,000; of which there remains now on hand unexpended \$30,000, so that the entire amount expended last year for this purpose was a little less than twenty thousand dollars. I have not been able in the brief time allowed me since the question was asked to get the exact amount that was expended for this purpose year before last, but I have no doubt it was about the same as the amount expended last year. I admit that there is a difficulty connected with the manner in which the furniture for the House is provided; a difficulty which the Committee on Accounts have now under consideration, and which they hope to have remedied before the close of the session. But the reports to which the gentleman has alluded are very great exaggerations. There is so little truth in them that when they come to be sifted we become almost ashamed of having examined them.

Mr. WELKER. Will the gentleman give the amounts?

Mr. BROOMALL. I have given the amount of the appropriation.

Mr. WELKER. I do not mean the appropriation.

Mr. BROOMALL. And I have given the amount remaining unexpended of the appropriation, showing that the entire amount expended for this purpose during the last session was a little short of twenty thousand dollars.

Mr. WELKER. Will the gentleman from Pennsylvania [Mr. BROOMALL] inform us about how much of that appropriation was expended for the object alluded to by the gentleman from Tennessee [Mr. MAYNARD]—the purchase of furniture, &c., for the Speaker's room?

Mr. BROOMALL. I do not remember how much; a very considerable portion of it.

Mr. WELKER. About four thousand dollars?

Mr. BROOMALL. In fact there was very little expenditure of that kind during the last recess, except what was made for the Speaker's room.

Mr. WELKER. About how much?

Mr. BROOMALL. I do not remember; but nearly all that was expended for the purpose.

Mr. WELKER. I have understood that it was about three thousand six hundred dollars.

Mr. BROOMALL. I was mistaken. There was about three thousand five hundred dollars expended for the Speaker's room.

Mr. WELKER. I want to ask the gentleman another question. My friend from Tennessee [Mr. MAYNARD] has alluded to the character of the curtains in the Speaker's room.

I am afraid his remarks may be misunderstood, and that it will go out to the country that we have been extravagant with respect to that matter. I would therefore be glad if the gentleman from Pennsylvania [Mr. BROOMALL] would explain what kind of curtains those are.

Mr. BROOMALL. They are expensive curtains.

Mr. WELKER. How much did they cost?

Mr. BROOMALL. The Committee on Accounts had nothing to do with ordering them.

Mr. WELKER. But you have something to do with paying for them.

Mr. BROOMALL. Just as we have to do with paying all other debts of the kind contracted by the proper authorities.

Mr. WASHBURNE, of Illinois. I call for a vote on the amendment.

Mr. BROOMALL. I withdraw my amendment to the amendment.

Mr. MAYNARD. I move as an amendment to the amendment to insert after the word "repairs" the word "thereof."

The amendment to the amendment was agreed to.

The question recurring on the amendment, as amended, it was adopted.

The Clerk read as follows:

For miscellaneous items, \$35,000.

Mr. McKEE. Mr. Chairman, I move to amend by striking out the paragraph just read. I make this motion chiefly for the purpose of getting some information. In this bill we have specific appropriations for almost every conceivable purpose; and then, after all these things have been provided for, we have this item, "For miscellaneous items, \$35,000." In looking over the appropriation bills passed by preceding Congresses, I find it to be true, as stated by the gentleman from Illinois [Mr. WASHBURN] in a previous discussion, that the items of this character embraced in this bill are much smaller than those heretofore included in bills of this kind. But it appears to me that the making of appropriations of this kind heretofore for miscellaneous expenses has been one of the chief causes why we have been required at every session to pass deficiency bills to cover these sums of money expended under this head of "miscellaneous items." I find that in a deficiency bill passed during the Thirty-Ninth Congress the sum of \$40,000 was appropriated under the head of "miscellaneous expenses" for the House of Representatives alone. These things will continue just so long as we go on making appropriations for "miscellaneous items," with no knowledge on the part of any person as to the purposes for which the money is to be expended. For this reason I have moved to strike out this line. I think that when we appropriate money it is due to ourselves and the country that it should be known what the money is to be appropriated for.

Mr. BURR. Inasmuch as we are to have a session to-night, I move that the committee now rise.

Mr. WASHBURN, of Illinois. I appeal to my colleague [Mr. BURR] to withdraw that motion, and let us run on for fifteen or twenty minutes longer.

Mr. BURR. I cannot consent to withdraw the motion. We have already remained here fifteen or twenty minutes later than the usual hour of adjournment.

Mr. WASHBURN, of Illinois. I hope that the committee will not agree to rise.

On the motion of Mr. BURR there were—ayes 22, noes 68; no quorum voting.

Mr. WASHBURN, of Illinois. The committee has refused to rise. A quorum is not necessary upon such a question as this.

The CHAIRMAN. The gentleman from Illinois is mistaken as to the rule. The Chair is compelled to order tellers if the motion to rise is insisted upon.

Mr. BURR. I have learned from my colleague to be persistent; and I insist upon my motion.

The CHAIRMAN ordered tellers; and appointed Mr. BURR and Mr. COVODE.

The committee divided; and the tellers reported—ayes 50, noes 66.

So the committee refused to rise.

The question recurred on the amendment of Mr. McKEE.

Mr. WASHBURN, of Illinois. I have only a word to say in reply to the observations of the gentleman from Kentucky, [Mr. McKEE.] These "miscellaneous items" include all the miscellaneous expenses connected with the House—the mileage and *per diem* of witnesses, the pay of contestants, and various other matters, every item of which is reported and printed among the expenditures of the House, and can be referred to by the gentleman from Kentucky if he desires to make the examination. This appropriation is right; and we ought not to strike it out.

The question was then taken on Mr. McKEE's amendment; and it was disagreed to.

The Clerk then read as follows:

For newspapers and stationery for two hundred and thirty-three members and Delegates, at \$125 each per annum, \$29,125.

Mr. PHELPS. I move to strike that out. It is the same motion, Mr. Chairman, which I made at the last session, and I believe the session before that. I make it for two reasons.

In the first place, it will save no very considerable sum of money, for the expenditure of which heretofore no very good reason can be shown; and in the second place, it will prove to the country that this House really means economy by beginning to reduce its own expenses. It will give strong proof to the country that we are ourselves in earnest when we have shown the moral courage of being able to apply the knife of retrenchment to our own expenditures, and, in my judgment, if this amendment be adopted it will lead indirectly to the saving of a greater amount of money than is indicated in this item.

It may be said that it has been the inviolable custom to appropriate money for this purpose. To that I reply that we ought relentlessly to refuse all appropriations that are not absolutely necessary. If we intend to resist the constant assaults upon the Treasury we must begin at home, and it is for that reason I move the amendment.

Mr. WASHBURN, of Illinois. This appropriation has been inserted here to carry out the law passed at the last session of Congress, giving each member and Delegate \$125 for newspapers and stationery.

Mr. PHELPS. I ask the gentleman from Illinois whether there are not a great many provisions by law which he has disregarded in these appropriation bills? Are there not laws requiring appropriations which he has refused to make?

Mr. WASHBURN, of Illinois. No, sir.

Mr. ROBINSON. I wish to ask the chairman a question.

The CHAIRMAN. The gentleman must move an amendment.

Mr. ROBINSON. I move to reduce the appropriation one half, and I do it for the purpose of asking a question. I will ask the chairman of the Committee on Appropriations whether this sum is not a large increase upon former appropriations for the same purposes?

Mr. WASHBURN, of Illinois. No, sir; but on the contrary it is a very large decrease.

Mr. ROBINSON. I withdraw my amendment to the amendment.

Mr. MAYNARD. I move to reduce the appropriation to \$20,000. The paragraph reads "for newspapers and stationery for two hundred and thirty-three members and Delegates, at \$125 each per annum, \$29,125." I see immediately following it, in line one hundred and forty-nine, there is an appropriation of \$10,000 for stationery, in reference to which I think the House should have some explanation.

Mr. WASHBURN, of Illinois. That is for stationery for the committees.

Mr. MAYNARD. I wish to ask the gentleman another question. Many of the members, indeed, I may say most of them, drew money in commutation of their stationery, and furnish themselves with stationery, such as they wish, wherever they choose. Now, is it not the duty of the Clerk under this appropriation to make contracts and invest this money in stationery? If half of it only is drawn by members, is not the other half left to be distributed to those who may come along?

Mr. WASHBURN, of Illinois. That is a matter for the Clerk of the House and for those who may come along.

Mr. MAYNARD. What becomes of the stationery which is not issued?

Mr. WASHBURN, of Illinois. I do not know why the gentleman should ask me this question, as I am not the keeper of the stationery.

Mr. BROOMALL. Every dollar of it is accounted for.

Mr. MAYNARD. The gentleman from Illinois is chairman of the Committee on Appropriations, and it is his duty to explain these items as we go along.

Mr. WASHBURN, of Illinois. I have no further answer to make.

Mr. MAYNARD. If the gentleman does not understand the subject I shall make no further inquiry of him.

Mr. PHELPS. I give notice that if my amendment is adopted I will ask to go back and move to strike out a similar appropriation for the Senate.

Mr. MAYNARD. I withdraw the amendment to the amendment.

Mr. WASHBURN, of Illinois, moved that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. SCHENCK stated that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly House bill No. 1872, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1870, and had come to no resolution thereon.

And then, on motion of Mr. SCHENCK, (at ten minutes to five o'clock p. m.,) the House took a recess until half past seven p. m.

EVENING SESSION.

The House reassembled at half past seven o'clock p. m., pursuant to order, Mr. BROOMALL in the chair as Speaker *pro tempore*.

The SPEAKER *pro tempore*. By order of the House the evening session will be devoted to general debate only. The gentleman from Illinois [Mr. INGERSOLL] is entitled to the floor.

Mr. INGERSOLL addressed the House. [See Appendix.]

RECONSTRUCTION.

Mr. CULLOM. Mr. Speaker, the first gun of the rebellion was fired on the 12th of April, 1861; the last one of its organized armies in the spring of 1865. The struggle between the Government and its enemies was long, expensive, and sanguinary. The triumph of the nation, defended by the glorious Army of the Union, was complete. The rebellion destroyed State governments, impoverished the people of the States where it existed, and resulted in the destruction of the great evil of the nation, the institution of slavery. This condition of things in the rebel States created the necessity for the work of reconstruction. This work did not consist alone in getting the States back into the enjoyment of representation in Congress; that would have been an easy task. Reconstruction consisted in feeding the starving, clothing the naked, protecting the weak, and finally the establishment of civil governments which should be republican in form, and a guarantee of protection to all the people. The first work in the business of reconstruction was to feed and clothe the dependent within the jurisdiction of the Government. Hence, on the 3d day of March, 1865, Congress passed an act, which was approved by the late President, to establish a bureau for the relief of freedmen and refugees. Its purpose was declared by its title. It was dictated by the spirit of civilization, and has been continued in force by a humane Congress and sustained by a liberal people in defiance of the opposition of an ambitious Executive. It may be called the first act of reconstruction, and was sanctioned by President Lincoln.

After provision was made to prevent starvation and suffering, the next duty of the Government was to protect the people in "their civil rights, and furnish the means of their vindication." Hence, on the 9th of April, 1866, the act known as the civil rights bill became a law notwithstanding the veto of the then acting President. That law remains upon the statute-books, and its enactment was the first grand move since the Declaration of Independence recognizing the just principle of the equality of all men before the law.

It is an evidence of the quickened conscience of the people wrought by the fiery ordeal of war. The country began to feel not only that the rebellious States needed reconstruction, but that the whole country needed it; that justice demanded that constitutions should be amended, that laws should be enacted secur-

ing to all the people in the land an equality of civil rights. Under the influence of slavery the people had become indifferent to the existing inequality of civil rights, and it required war to arouse them to a sense of duty. After the civil-rights bill came the fourteenth amendment to the Constitution. It contained the substantive principle of the civil rights bill with other provisions. And while it was designed as a measure of reconstruction of the South specially, yet like the law it had its bearing upon the whole country. It was an important amendment to the Constitution, and gives greater character and stability to the Government, in that it declares specifically who shall be American citizens that they shall be entitled to the equal protection of the laws; that the Federal debt shall be inviolate; that the debt incurred in aid of the rebellion shall never be paid either by the United States or any State, and that men who had taken an oath to support the Constitution and then engaged in insurrection and rebellion should never hold office either in the Federal Government or any State unless by the consent of two thirds of the Congress of the United States.

But, Mr. Speaker, it did not answer as a basis of reconstruction. While, as I say, some of its provisions are of great value, a portion of the amendment should never have been adopted, if, as is alleged by some, it recognizes the right of each State to abridge or deny to any portion of its people without cause the exercise of the elective franchise. A State has the right to disfranchise its felons, but it has no right to disfranchise its citizens on account of race, color, or previous condition of slavery.

The amendment was the best that could be done, but I would be much better satisfied with it if it were clearer on that point. To-day, sir, we are at work to patch up the work which we failed at that time to do correctly, as we should. These are days of progress, when the people are learning more perfectly that governments are for all the people and not for a favored few; and it may be that we shall fail again in doing our whole duty, and that in a few more years the country will again be engaged in perfecting or giving more breadth and vitality to what we are attempting to do now. Governments derive their just powers from the consent of the governed; and resting upon this great doctrine in theory we have no right to antagonize it in practice. He who is subject to law, helps to uphold it, and performs all the duties of a citizen, should have the right to a voice in its affairs. It is not republican to deny nor to stand by and allow it to be done. There is no half-way ground; the rich, the poor, the man of science, the uneducated, whether favored by fortune or depending upon honest toil—all classes in the State of sound mind and not felons, without regard to condition, race, or color should be given the ballot. The people of the South rejected the constitutional amendment not because of its real faults, but because under executive encouragement they were induced to believe that they would be restored to the right of representation in the Government as States without giving any evidence of disposition to support the country whatever. Reconstruction up to this time had been of a general character, and while each step taken seemed to be necessary and proper yet the work was scarcely begun.

On the 2d of March, 1867, Congress, by a law passed over the President's veto, declared the State governments of the rebel States only provisional, gave military protection to all the people, and clothed all the male citizens of those States—except felons and those rendered ineligible to hold office under the fourteenth amendment—without regard to race, color, or previous condition, with the right to vote, with the right to proceed in the work of establishing civil government. By this Congress struck the foundation-stone upon which republican governments must be built, if built to stand. By the passage of this act and the acts supplementary thereto the work of reconstruction

proper began with directness of purpose, and soon resulted in the restoration of all the States but three to their former practical relations with the Government. Three States have failed to make constitutions satisfactory to themselves, and they remain unrepresented in the councils of the nation. The policy of reconstruction may be considered settled, though the work is not all done; yet no man now is so idle as to dream that any other policy will be adopted. The President's policy has twice been repudiated by the people, and congressional action twice sustained. We may rejoice not only that we believe we are right, but in the fact that the great people at our backs, with a patriotism and intelligence unsurpassed by any people in any other country, have sustained us. Why have we been sustained? Not because everything we have done here has been done exactly right, for I am free to confess that I believe we have made mistakes—and, sir, in the storm of excitement and dizzy whirl of revolution who could avoid it—we have made mistakes, but yet we have been sustained because the people believed, what was true, that the action of Congress was in favor of loyalty as against treason, in favor of justice and against oppression. They and we have been upon the side of humanity, and the policy which we have insisted upon has tended to the elevation of the human race and to promote the ends of justice.

Mr. Speaker, the country has passed through four exciting political campaigns within the last few years. The first, the campaign of 1860, involved the question of the extension or non-extension of slavery, in which the people declared that it should go no further. The second, in 1864, proved that the people of the nation could carry on a war upon its own soil with a million of men in the field and could conduct a presidential campaign, hold an election without disturbance or difficulty, and sustain the cause of the country. The third, that the congressional policy in dealing with the conquered people of the South was more acceptable to the people than the policy of the Executive, and that they are jealous of executive power when thrown in opposition to the will of the representative branch of the Government. The fourth, the election of November last, proved that the loyal people who made the sacrifice to save the country are determined that they will not relinquish their guardianship and allow the nation to pass into the hands either of its open enemies or their sympathizers. The last contest is but recently over. The Democratic party, clinging to its old name, its old leaders, and worse than all its modern principles, challenged battle at the polls. The Union party did not hesitate, but with their great leader, the military hero of the country, the man who had been sustained by the people while he led their army to victory in the field, they were ready for the contest. The Union cause was triumphant, and General Grant was elected by nearly a half million majority of the popular vote of the country.

Mr. Speaker, the gentleman from Pennsylvania, [Mr. Boyer,] who last addressed the House when in committee, would have us and the country believe that our success has been due to the personal popularity of our standard-bearer and to the mistakes of the Democratic party. Sir, our standard-bearer had, and to-day has great personal popularity in the country. I shall not allow one word that I may utter to gainsay it. Why had he the confidence of the loyal people? Because, sir, he believed in the principles and policy of the great Republican party of the country, and had put down a rebellion inaugurated by the southern wing of the Democratic party because Union and liberty had triumphed at the polls in 1860. The gentleman from Pennsylvania says "that public confidence turned to Grant as the unexpected representative of a triumphant Union, and the Republican party was saved through him alone. Had he been the candidate of the Opposition, whom could radicalism have elected over him?" Sir, what opposition does the gentleman mean? Does he mean the so-called

Democratic party? If so, he has no right to put the case. Sir, there never has been a time since the first gun was fired upon Sumter that General Grant would have consented to be the candidate of the Democratic party for the Presidency or any thing else. There is no party, sir, in this country which has been more thoroughly convinced of this statement than the Democratic party itself. While the great chieftain, after the close of the war, was content to go forward in the discharge of his military duty, continuing as best he could to serve the country which he had saved by the sword, Democratic politicians, from the Chief Executive of the nation down to the smallest schemer in the party and up to the greatest, were planning to devise ways and means to induce him to say something or do something that might be construed into opposition to Republican principles and the Republican party and in favor of the Democratic party and its policy. A journey to the tomb of the dead was improvised, and the chief officers of the Army and the Navy were invited to accompany "their Commander-in-Chief," and Democratic politicians and the press were proclaiming to the country that General Grant favored the policy of the President and was opposed to Congress. But, sir, it all availed nothing. True to principle, true to patriotism and the flag, whenever his official duty required him to speak or act he spoke and acted for the country, and in harmony with the Republican party. In this, sir, is much of his strength to-day; honest, earnest, patriotic, he could not be swerved from his purpose by all the machinations of a party struggling to rise above the waves of public condemnation.

Sir, the gentleman again says that it was the misfortune of his party to expose itself to misrepresentation. I quote substantially his language. How was his party misrepresented or misunderstood? The country believed that while the war progressed a part of the party sympathized with the rebellion, and the balance of it, that portion of the party south of Mason and Dixon's line, the country knew to be in the rebellion. The loyal people who had been for the country during the war saw no special evidence of a change in the disposition of its members either of the northern or southern wing of the party. Their national convention assembled, and its delegates from the North were the same men, and the candidates were the same men, who had led the party during the long struggle. Upon reading the Democratic organ, the New York World, we had a history, a biographical sketch, of the lives and characters and services of the delegates from the South. Mr. Speaker, is it fair to suppose that a party in such times and to such a convention would send such delegates as would honestly represent its sentiments? Who were there from the South? Sir, let the New York World of July 4, 1868, answer:

"The delegates.—Personal description of the members of the convention.—Their record of service to the nation.—The men upon whom the Republic relies for salvation."

This, sir, is the heading, after which follows the "personal description of the members of the convention."

"Hon. John A. Winston, ex-Governor, colonel ninety-first Alabama infantry, confederate States army. James H. Clanton, chairman Democratic State executive committee, general of cavalry confederate States service. R. G. Scott, jr., was in confederate congress. J. T. Holtzlan, always a Democrat, entered confederate States service as captain, fought through every battle in the West, and rose to the rank of brigadier general. W. C. Oatis, always a Democrat, colonel Alabama infantry. M. J. Bulger, captain confederate States. J. B. Vance, in United States Congress in 1861, then a confederate colonel, then Governor of the State. J. L. Clingman, United States Senator in 1861, brigadier general in confederate States service. W. L. Cox, always a Democrat, was brigadier general in confederate States service. John F. Hoke, always a Democrat, State adjutant general North Carolina during the war. Charles P. Ransom, brigadier general confederate States service. D. M. Carter, colonel and military judge corps court of Stonewall Jackson's command. W. J. Green, major confederate States service. J. M. Leach, member of the United States Congress, afterward confederate States congress. William M. Lowe, colonel confederate States. James L. Sheffield, colonel of Alabama troops, confederate States. E. C. Budnot, brigadier general confederate States. General Wade Hampton, one

of the most prominent cavalry generals of the confederate service; and (in the language of the World,) fills the place left vacant by Calhoun in the hearts of the white people. M. L. Bonham, ex-member United States Congress, brigadier general confederate States. General J. B. Kishard, major general confederate States. Colonel M. W. Gary, commanded Hampton legion.

So, Mr. Chairman, I might go on and give you the "personal description" of hundreds of the members of that convention. But, sir, I think I have gone far enough to show that the disposition and purposes of such a body of men could not well be misapprehended or misunderstood. The people did understand them; they have understood the *animus* and purposes of the party ever since the struggle with rebellion began, and the result has been that it has been kept in the minority. But the gentleman says that the iron-clad oath has long ago become but a spike upon which to impale conservatives. Sir, the test-oath which has been prescribed by law, and which is required to be taken before men can enter this Hall and take their seats as members of this House, is a grand check upon the designs of wicked men who failed to destroy the Government in the field or otherwise in aid of the rebellion, and failing come here to renew their efforts in the forum. Sir, if keeping out that class of men makes it the "spike upon which conservatives are impaled," then, sir, it is a valuable spike, and I hope it may be driven stronger, and clenched, if you please, so that it may remain there for years to come. But the gentleman from Pennsylvania has seen fit to refer to the Representatives from the southern States; and he says: "that there are Representatives from southern States with seats on this floor in full fellowship and communion with the Radical majority from whose bodies the Union bullets have never been extracted, and who bear upon their persons the scars and wounds received in their desperate endeavors to capture or destroy this very Capitol, where, as loyal men, they now sit in judgment."

Mr. Speaker, I have not the honor of an intimate acquaintance with many of these gentlemen; but, sir, I believe the Representatives from the reconstructed States are generally now ardent supporters of the Union; and, sir, many of them are not only Union men now, but were Union soldiers during the war, and others were steady supporters of the Union all through the contest. Whether there are Representatives from the South on this floor "from whose bodies the Union bullets have never been extracted," I am not able to say; but, sir, if there are men here with seats on this floor "from whose bodies the Union bullets have never been extracted," it is my sincere hope, sir, that as they bear them they will more and more appreciate the power of a free Government and of that flag of our country under which the Union soldiers fought with them when the bullets were received. If such gentlemen are upon this floor, sir, I am informed that one of them at least is a steady supporter of the gentleman's party. They did not all capture the Capitol with Radical ballots.

But, Mr. Speaker, I must pass on. The crises of the nation is passed. Many have been the dark and gloomy hours within the last eight years. The nation for long years was a grand theater of war. Military power during the war was the controlling power, as the tread of armies almost shook the continent on which we dwell. Sorrow and bitterness have mingled together as the people grappled with each other while the struggle of the Army of the Union and the army of rebellion went on. But, sir, since victory perched upon the banners of the patriot Army and peace has been restored the nation begins to emerge into the light of day. Her people may now all enjoy the fresh and invigorating air of liberty, and her course will henceforth be onward, and I trust there may be no new obstacle in the way as America marches on in her proud and mighty career. The time has come when men may act free of excitement, prejudice, or passion; when they may reason together and unite in building up a mighty nation with liberty and just laws as

its chief foundation. I am for peace. I shall unite my voice with the voice of the millions of the Republic as they take up the almost magic words of the President-elect, "let us have peace." But, sir, let us not forget our duty, and that now is the time to strike at every element of wrong and oppression in the land that is in reach of governmental action, and that we can more easily eradicate any evil that may have crept into our system of Government now than we ever could before, or than we can in the future after the waves of revolution have all passed away. In the work of perfecting our system of Government and providing for it the proper legislation I desire to know no section nor party, and to be stripped of all prejudice. I shall remember with a keen sense the suffering and mourning that have filled the land, and shall never forget the cause; but the work of rebuilding a shattered Republic must not be done with malice, but with sorrow for the past; and with profit by its lessons we must seek to establish a just Government and trust to the future for its success.

And, sir, in the work of reconstruction, and in our efforts to establish the Government upon just principles, a constitutional amendment regulating the question of suffrage throughout the land should be passed and sent to the States for their consideration without delay. Nothing but a Constitution guarantying impartial laws and impartial liberty will satisfy the demands of justice or the people and place the Government on a sure foundation. An amendment declaring the immunities of citizens, and guarantying a republican form of government by securing the elective franchise to citizens deprived of it by reason of race or color or previous condition, if sent to the States without unreasonable delay, may be acted upon by the State Legislatures of the Union, which are now or will very soon be, in session, and it will be but a short time before the Government will be substantially just in giving civil and political rights to all its citizens. If in less than a century from the adoption of the Declaration of Independence this nation guaranties by constitutional provision perfect civil and political rights to all its citizens we may justly be proud, and believe that our trials and sufferings may not have been all in vain.

I am for the constitutional amendment reported by the gentleman from Massachusetts from the Reconstruction Committee and now before the House for consideration. I am not sure but it may be improved. The language should be such as to cover the case and not require amending again when in a short time some other injustice grows up among the people not based upon the question of race, color, or previous condition of slavery. I am getting tired of that expression. May there not be need of making the amendment broader? There are to-day many people in the country who have amassed fortunes, who are living in luxury, who look down with scorn upon the poor. They believe the poor man has no right to impose taxes upon them for schools, railroads, or anything else. They do not believe the poor man ought to vote. Some of the States now have property qualifications, and a colored man cannot vote unless he happens to own a certain amount of property. Again, there is a large portion of the educated people of the country who believe that they are the people who are peculiarly fitted to do all the voting, and that the unlettered man ought not to have the right to vote; they are willing to let the man who cannot read do the fighting, but desire his exclusion from the ballot. This is all wrong; and in my judgment this proposed amendment ought to be broader and more comprehensive, so that we may not be called upon soon again to support another.

Men may say there is no danger from these causes. There may not be at present, though I do not admit it; but if there is not we should look to possibilities in the future as we seek to amend the great Magna Charta of the country. As the country gets older and riches accumulate in families from generation to generation

it will become less and less interested in the condition of the people, and aristocracy, backed up by wealth, will seek to make the poor subservient to its demands, and then the oppressed will cry out for protection, and ask that it shall be guarantied by the Constitution. Already, sir, the monopolies of the country are becoming the chief rulers of the land. Capital thrown together and fostered and aided by legislation, State and national, in the shape of railroad charters, organizing companies, and allowing consolidations, and aided by enormous land grants and money subsidies, are ruling the country from one end of it to the other, and the galleries and lobbies of every Legislature, State and national, are thronged with men seeking to procure an advantage over the mass of the people by legislation, adding to their already overgrown fortunes. The people have these things to fear. These monopolies are to be used in the future as mighty engines to oppress the people who remain at home pursuing an honest avocation scarcely imagining what oppressions may be in store for them in the future. I hope the committee who reported this amendment will take it back, by consent of the House, and make it broad enough to protect the people in the future against oppressive legislation either on account of race, color, or previous condition, or by capital, or any other element that may seek to oppress any portion of the people of the land.

But, Mr. Speaker, I must go on. In a few more days the Government will pass into the hands of a new administration. It will be a happy change for the country. The President-elect is the man for the work before him. Under his administration, with a Congress in harmony with him in sentiment, a new era will dawn upon the country; the laws will be enforced impartially; confidence in and respect for the laws will be restored. There is no man in the land, North or South, who does not believe to-day that General Grant will deal justly by all the people. The present Executive has not the confidence, I will not say respect, of anybody, North or South. The loyal people do not regard him as in favor of the Union or any policy calculated to save it; the southern people, while they have thus far been able by craftiness to use him, have no faith in his stability of purpose, or that in fact he cares anything about them. He is in the way of peace and harmony. There are to-day few people in the land who are not waiting anxiously for a change of administration. While the Democrats of the North supported their chosen candidate for the Presidency with an earnest zeal, and to-day would prefer his election to that of General Grant, yet there are few of them who do not prefer the latter to the present incumbent of the White House. With a clear head, a heart full of kindness, with a purpose resolute and determined, General Grant will soon enter upon the discharge of his high trust, and during his administration we shall have a Government regenerated. He will demand of the people in all parts of the country fidelity to the flag and obedience to law. He will exact of his subordinates in the civil service of the Government economy and an honest and faithful performance of duty. Integrity and economy will be the crowning characteristics of his administration.

And, sir, is it not well, in view of the recklessness and corruptions that seem to have enveloped the country of late, that we are to have an Executive having close regard for the financial interests of the people and nation? The crying evil of the times is extravagance and corruption among public officers. Officeholders and people have forgotten the rules of economy. We seem not to know how to retrench, yet it must be done. At the close of the rebellion our nation found itself with an accumulated debt of nearly three thousand million dollars, all but about sixty-four million dollars the result of the war. With this mighty load resting upon the people the most rigid economy is demanded in every Department. Every officeholder should be held to

the most rigid accountability. We must preach it and practice it right here. It is hard to get down to low-water mark after floating upon the high waves and flush tide during the progress of the war. From an expense of two or three millions per day during the war it seems almost useless to get back to the days of small things and spend but a few thousand; but, sir, if the Government did not owe a dollar it would be our duty to retrench; and with our present debt upon us is not the obligation as strong as an obligation could be made? The debt is to be paid, and paid according to the letter and spirit of the law which authorized it. Notwithstanding there are men who would be gratified to have the debt repudiated and the nation disgraced, yet the great mass of the honest people of the country are for paying the debt according to contract.

There has been some confusion in the minds of a portion of the people upon the subject of the payment of the public debt. Men differ upon the question whether five-twenty bonds are legally payable in greenbacks or gold. The people differ upon the question of time when the Government can resume specie payment. They differ in relation to the proper course to be pursued in regard to the national banks; but when the question is asked: shall the nation pay its indebtedness in good faith? few there are who dare to intimate open repudiation. Repudiation will not soon take place in this country. The honor of the nation is yet held too sacred. The debt will be paid, every dollar of it, and that, too, in money that the world recognizes as such. No man need quibble on that point. Whatever may be the technical right of the Government in relation to the five-twenty bonds they will be paid in the specie of the country. They will not be paid until the Government is able to pay them in specie. They will not be payable until long after the question of greenbacks will have faded out of sight. Greenbacks will soon be as good as gold, and when that time comes the question whether the bonds are payable in gold or greenbacks, forced upon the public without rhyme or reason, except to raise a smoke with which to blind the people upon other more important issues, will be of no consequence whatever. The business of this Congress, in my judgment, ought to be to adopt a course or policy which will appreciate greenbacks and do away with the difference between specie and paper. When that is done the other question will settle itself.

How are we going to do it? Not by introducing and discussing pet financial schemes as numerous and various as the members of this body, or by setting times for the resumption of specie payment. It may do some good to fix a time for specie payment if the time is far enough in the future; but my opinion is that men who are supposed to be financially wise are worrying themselves more upon that subject than is profitable either to them or the country. There seems to be a sort of monomania prevailing among politicians in the country to invent some sort of mysterious financial scheme. Bills for the resumption by the Government of specie payment may be considered the hobby on which men seem to desire to ride; those seeking popular favor had better be careful lest in their excitement they are not thrown hard enough to require some doctoring to get them on their feet again. Financial legislation often proves worthless, and oftener, when directly affecting the business of the people, proves injurious.

Why should there be such an anxiety at this moment for the resumption of specie payment? The West, I am sure, is not anxious about a hasty return. They would be glad if we could get back at once, if we could do so without greater depression in business and prices, but all admit that a sudden resumption would result in a sudden fall of prices, and a sudden fall in prices would financially ruin tens of thousands of the best and most enterprising men in the land. The less we say or do, in my judgment, about resumption at present the better for the

country. We do not know what is best to be done, whether to undertake to resume in two years or five. Let us cease talking about resumption and turn our attention to retrenchment and economy. Let us cut down expense and restore confidence among the people. Let us delay action upon the question of resumption until General Grant assumes direction of affairs; and then, sir, when the Government has inaugurated a thorough system of economy and the people regain their confidence in the Government and get to work, as they will, it will be time enough to take up the question of resumption of specie payment. We can then act with some assurance, at least, that our action will not break down the business of the country. It is easy for us to sit here and urge immediate resumption, but it must be remembered that every resolution and bill and speech introduced or delivered in Congress have their effect upon the business of the people, which by such action is kept in a continued unsettled condition. Every day we hear business men say that they do not know whether to quit business or go ahead, whether to continue quiet, keeping their money in their pockets or banks, or to engage in business, because they say they are expecting that Congress will do something with the finances that will entirely change the existing condition of things. They are afraid of Congress on this subject.

Then, sir, I repeat again that our present duty is to economize and retrench, and to insist that the country shall have peace upon the financial questions as well as all others. I do not believe that any man knows whether we have a greater circulating medium in the country than is needed, or if we have how much. We have a broad expanse of country; its needs are increasing; we have near forty million people, and by a proper encouragement of industry will soon have a business far in excess of anything heretofore known. The southern portion of the country is opening up a field for labor and enterprise and wealth which never would have been developed under the influence of slavery. New Territories are rapidly filling up with an enterprising people, and are demanding the attention of the Government; great lines of railroads are stretching from one end of the continent to the other for thousands of miles in length; foreign emigration is filling up the country at the rate of three hundred and fifty thousand persons per annum, and with all we are becoming as by magic a mighty empire of free and industrious people.

Then let us wait until the influence of the next administration is felt upon the country. When that time comes we can tell at least with some certainty, I hope, whether the Government can afford to resume specie payment then, or in one, two, or five years thereafter. We cannot afford to cripple the enterprise and business of the country by improper legislation. Who is anxious for immediate action in favor of specie payment? Importers desire it because they could then make a greater profit on the goods which they buy abroad and bring to this country to sell. Men who have their capital largely in Government bonds desire it because the mooted question as to what they are finally to receive in payment would be set at rest. Men with large capital, who are holding it waiting for a chance to invest it in a manner to insure large profits, desire it because if they desire to invest it in real estate, store-houses, fine lands, or town lots, they are sure upon a sudden resumption of getting whatever they desire at half price. But, sir, there are other people in this country just as worthy as either of these classes, and they number as twenty to one, in my judgment, who would be injuriously affected by hasty action upon this financial question. Then, sir, let us make haste slowly, and in whatever we do bear in mind that there are people in the country who have rights, and are not coming here lobbying either for resumption of specie payment, railroad subsidies, protective tariffs, or anything else. They are pursuing their honest avocations, and expect us to protect them in their rights.

But, Mr. Speaker, I shall not continue my remarks longer. The difficulties and trials through which our nation has passed have been great and numerous since she gained her national independence. Though less than a century in years we are to-day among the foremost nations of the earth. Our watchword is now onward. Our progress in all that makes a nation great will in the future be far greater than in the days that are passed. As legislators, having in keeping the prosperity and honor of the nation, let us be careful to do nothing that will hinder, but labor to do everything that will encourage the development of our country's resources, that will stimulate industry and add to the comfort and enjoyment of the mass of the people, that will encourage science, art, and invention, that will conduce to good order in society, and that will make this a Government of power in the world, based upon enlightened constitutional liberty.

SUFFRAGE.

Mr. KERR. Mr. Speaker, in my judgment, this measure has never been surpassed in importance by any enactments in our entire legislative history. In intrinsic interest, in far-reaching consequences, if it become a law, it would be difficult to conceive a proposition more momentous. Besides, in reference to the fourteenth amendment of the Constitution, it is an initial measure, and for the first time makes it our imperative duty to consider that amendment, and before we make it the basis of legislation to determine, under the sanction of our oath to support the Constitution, what are its true intent and meaning.

Mr. Speaker, I have come to its consideration with a profound desire to attain such conclusions as shall at once most truly "support" the instrument and preserve her liberties and promote the highest welfare of the people. Yet, on every material point, I find most of my conclusions to be precisely antipodal to those of the gentleman from Massachusetts, [Mr. BOUTWELL.] Our several reasons and arguments must answer for our different judgments. I only pray that they shall be fairly and dispassionately considered and weighed by all. I shall then cheerfully abide the result. The most important part of the bill, and that which presents the great questions of power contained in it, reads as follows in its title and first section:

A bill to secure equal privileges and immunities to citizens of the United States, and to enforce the provisions of article fourteen of the amendments to the Constitution.

That no State shall abridge or deny the right of any citizen of the United States to vote for electors of President and Vice President of the United States, or for Representatives in Congress, or for members of the Legislature of the State in which he may reside, by reason of race, color, or previous condition of slavery; and any provisions in the laws or constitution of any State inconsistent with this section are hereby declared to be null and void.

The title of the bill and the text of this section clearly indicate, and the gentleman's argument declares, that this bill rests for support, in part at least, on the first paragraph of the first section of the fourteenth amendment. I read it:

"All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State wherein they reside."

What does this mean?

It is no grant of power.

It gives no new power to Congress.

It takes no pre-existing power from the States.

It declares who shall be citizens of the United States.

But the fact that certain persons are citizens, and the number of them, and the definition of citizenship or of its constituent elements, were just the same before the ratification of that section that they are now neither is now more certain or better settled than it was before.

The thirteenth amendment had made all persons of color citizens of the United States, if they were not hitherto. Then the body of citizens is no way materially changed by this

amendment. "On this point I do not wish to stand without great and worthy authority." I therefore give you the opinion of the great chancellor:

"Citizens, under our Constitution and laws, mean free inhabitants born within the United States or naturalized under the laws of Congress. If a slave born in the United States be manumitted or otherwise lawfully discharged from bondage, or if a black man be born within the United States and born free, he becomes thenceforward a citizen; but under such disabilities as the laws of the States respectively may deem it expedient to prescribe to free persons of color."—2 Kent, 259; *Hobbs vs. Fong*, 6 Watts, 553; *The State vs. Claiborne*, Meigs, 331; *Opinions of Attorneys General*, vol. 1, 382.

If gentlemen prefer a later, a more partisan, but yet most respectable authority, I will also cite the able advice of the late Republican Attorney General Bates to Secretary of the Treasury Chase in 1862. In answer to the question, who are citizens of the United States? he says:

"The phrase 'a citizen of the United States,' without addition or qualification, means neither more nor less than a member of the nation. And all such are politically and legally equal. The child in the cradle and its father in the Senate are equally citizens of the United States. And it needs no argument to prove" * * * "that every citizen of the United States is a citizen of the particular State in which he is domiciled."

It does not deny, annul, or modify the power of the States to make citizens of the States. States may confer State citizenship and suffrage. They have always done it. It has become the settled law of the Union. They have given suffrage to persons not citizens of the United States. They have repeatedly both enlarged and abridged the number of electors. They have done this in Indiana, Pennsylvania, Tennessee, and almost all the other States. Their right was never denied, and has been either tacitly or expressly approved by all departments of the Government. On this point, too, I am able to sustain my position by the judgment of the same great chancellor:

"These civil privileges conferred upon aliens by State authority, are dictated by a just and liberal policy, but they must be taken to be strictly local; and until a foreigner is duly naturalized according to the act of Congress he is not entitled in any other State to any other privileges than those which the laws of that State allow to aliens."—2 Kent, 70; 6 *California R.*, 250; 2 *Curtis's History of Constitution*, 200; *Notes on Citizenship*.

And further, by the judicial opinions of a majority of the justices of the Supreme Court, to which I ask the attention of the House:

"We must not confound the rights of citizenship which a State may confer within its own limits and the rights of citizenship as a member of the Union. It may have all the rights and privileges of the citizen of a State, and yet not be entitled to the rights and privileges of a citizen of any other State. Nor have the States surrendered the power and privilege of conferring the rights and privileges of citizens by adopting the Constitution of the United States. Each State may still confer them upon an alien or any one it thinks proper, or upon any class or description of persons; yet he would not be a citizen in the sense in which the word is used in the Constitution of the United States, nor entitled to sue as such in one of its courts, nor to the privileges and immunities of a citizen in the other States. A State cannot make a man a member of the community of the United States by making him a member of its own."—*Scott vs. Sandford*, 19 Howard, 405.

Neither does the paragraph under consideration define citizen, or the constituent elements of citizenship of the United States or of the States. It leaves both where it found them—to rest upon the common law and the laws of the several States. These words are nowhere precisely defined in the Constitution, laws, or judicial decisions of our country; but in the uniform practice of the country, in many learned commentaries, and numberless judicial decisions touching the subject more or less directly, they have been so nearly defined as to remove all doubt as to their substantial meaning.

American citizenship does not depend upon or coexist with the legal capacity to hold office and the right of suffrage. The majority of persons in every community in our country, every one of whom are citizens as really and absolutely as the others, are denied the right either to hold office or vote. The Constitution nowhere declares who may vote or hold office, except as to a few offices.

As voting and holding office are not essential to citizenship, so the deprivation of either by law is not a deprivation of citizenship; no more so in the case of a negro than of a white woman or child. I therefore hold that the first paragraph in question is merely declaratory in a more specific and authoritative form of what was law before. It gives no support, in my judgment, to the extraordinary propositions contained in this bill. It is manifestly intended only to remove all doubt, if any existed, upon the fact that nativity and naturalization confer, in the language of Justice Story, a general citizenship of the United States and give the country jurisdiction over them, and give rise to the correlative obligations of allegiance and protection; and also to declare all such persons citizens alike of the States wherein they reside. The latter citizenship must also be held to be of that same general character. It is not more specific or certain or better defined, and amounts in law to just what it did before this enactment. Ever since the organization of the Union, and just as much before as since this amendment, any citizen of the United States who voluntarily removed to and became a permanent resident of any State that instant, and by virtue of that act and fact, became also a citizen of that State. But such citizenship alone never gave a right to vote or hold office, and it does not now. There must be some added or acquired qualification under the provisions of the State constitution and laws, which can only be acquired after the residence begins, and generally results from its continuance for a prescribed period. Otherwise, and on the theory of the gentleman from Massachusetts, all such persons, the moment their State residence begins, become full-fledged citizens with the right to vote and hold office.

But the more important part of that section declares:

"No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States."

This is a limitation on the powers of the States. It needs no legislation to enforce it. It is better enforced by itself, and judicially. But what do the important words "privileges or immunities" mean? They are historic, and have often received judicial and legislative definition and construction. They had their origin in the fourth article of the Articles of Confederation, which reads:

"The better to secure and perpetuate mutual friendship and intercourse among the people of the different States in this Union, the free inhabitants of each of these States—paupers, vagabonds, and fugitives from justice excepted—shall be entitled to all privileges and immunities of free citizens in the several States."

The purpose and intent of this provision are clear and free from ambiguity, and afford an infallible key to unlock the more mysterious meaning of section two, article four, of the Constitution, which was intended to perpetuate the provisions in the Articles of Confederation, and reads:

"The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States."

In the draft of this section it is to be lamented that certainty and perspicuity of intention were sacrificed for the sake of brevity.

The language of the fourteenth amendment seems to have been intended to give Congress the power to enforce the provisions of this section; but the expression "privileges or immunities of citizens of the United States" appears to be restrictive of the object and intent of the words in the section, "privileges and immunities of citizens in the several States."

But for the purposes of this argument, as that view is most favorable to the friends of this bill, I will assume that the two forms of expression are exact equivalents.

I then proceed to inquire what do they mean?

In their derivation and legally and judicially accepted signification they give no countenance to the assumptions of the friends of this bill. The word "privilege" is defined by Worcester

to mean "an exemption or immunity from some general duty or burden; a right peculiar to some individual or body; a peculiar advantage or benefit." And the descriptive word "peculiar" means "belonging to only one, not common to many." The term "exemption" has an even more limited signification, being by the same great lexicographer defined to be "freedom or exemption from serving in an office or from performing duties required of others." It is most erroneous to suppose that the words *rights*, *privileges*, and *immunities* are synonymous. They are not. The word *rights* is generic, embracing all that may be lawfully claimed, and it is affirmative, but the others are, in their most exact and legal definitions, both restrictive and negative. The gentleman from Massachusetts justly and logically maintains that whatever rights, privileges, and immunities attach to and inhere in the citizen or citizens of the United States must belong to all alike. They must belong equally to man and woman, to adult and infant, to sane and insane, to black and white. But this just and invulnerable position is most fatal to the claim that the right of suffrage is one of the constituent elements of citizenship, because if it is it also must belong alike to all. But the truth is, and it is within the observation of all men, and is established by the uniform practice of every State in the Union, and is sustained by an unbroken line of judicial decisions, that no person ever did exercise the right of suffrage in virtue of the naked, unassisted fact of citizenship. But in every instance the right depends, and the franchise of suffrage is exercised, upon some additional fact and cumulative qualification prescribed by the laws of the State, which may as perfectly exist without as with citizenship, (Bates on Citizenship.) The word citizenship has not in any of its elements or meanings under the Federal Constitution, nor have the words "privileges and immunities," in any of their just interpretations, anything to do with or any power to set aside or disregard any of the distinctions, requirements, or rights based upon domicile or residence in the respective States. Even the infamous and revolutionary measures of reconstruction in the South recognize and do not attempt to disregard this universal truth. But now and in this bill, and by the gentleman from Massachusetts, for the first time in our history, these fundamental truths are all to be ignored or reversed.

This section does not require that the laws and usages of one State shall be permitted to prescribe qualifications for citizens to be aimed and exercised in other States in contravention to their local policy. (2 Kent, 71; 19 How. R., 405.)

I understand its primary object to be to secure equal privileges and immunities to the citizens of each State while temporarily sojourning in any other State; and its secondary and only other purpose is to prevent any State from discriminating in its laws in favor of or against the citizens of any other State merely because they are the citizens of such other State, or, in other words, for mere sectional reasons. For example, Massachusetts cannot form any tacit or express alliance or friendship with Maine which shall require or justify Massachusetts in giving to the citizens of Maine who shall settle in Massachusetts any privileges and immunities it does not equally give to the same class of citizens from any other State.

Our ancestors had formed a sisterhood of States, equal in dignity, rights, and powers, and they merely intended by this provision to prevent any combinations arising out of mutual interests or animosities between certain States from taking the form of legislative discriminations against the citizens of other States. Texas cannot, because it dislikes Yankees, withhold from the citizens of New England any privileges and immunities it accords to the citizens of the same class from Louisiana. But Texas can deny to the paupers, vagabonds, or fugitives from justice of New England privileges and immunities which it

denies, on grounds of local public policy, to the same classes from other States, and which it denies on the same grounds to persons of the same classes within its own limits, although such persons in New England have been invested with greater rights.

This interpretation is reasonable, practical, and free from the dangerous and centralizing tendencies of the one claimed in this bill. It is consistent with the full enjoyment by the States respectively of the sacred and natural right of local self-government and self-protection. It will enable the States to protect the body-politic against the dangers and demoralizations which would inevitably result from the other theory.

In this view I am fully sustained by that distinguished jurist whom I have before quoted. He says:

"The article in the Constitution of the United States declaring that citizens of each State were entitled to all the privileges and immunities of citizens in the several States applies only to natural-born or duly naturalized citizens; and if they remove from one State to another they are entitled to the privileges that persons of the same description are entitled to in the State to which the removal is made, and to none other. The privileges thus conferred are local, and necessarily territorial in their nature."—2 Kent, 71.

To the same effect is the opinion of Justice Story:

"The intention of this clause was to confer on them, if one may so say, a general citizenship, and to communicate all the privileges and immunities which the citizens of the same State would be entitled to under the like circumstances."—Story's Commentaries on the Constitution, sec. 1806.

Now, if my construction of this constitutional provision is incorrect, and the one claimed by the friends of this bill is correct, then it follows that aliens made citizens by the States are entitled to all the privileges of citizens in any other States to which they may remove, because they were citizens in the State they removed from. But the contrary is both the law and the practice throughout the Union. Such a citizen removing to another State is then entitled only to such privileges as are accorded by the laws of that State to persons of the same class.

Directly pertinent to this inquiry also are the citations already made by me from Mr. Kent. Therefore, if negroes remove from Massachusetts, or coolies from California, to Ohio or Indiana they are entitled there to enjoy the same privileges and immunities which are accorded by those States respectively to negroes or coolies from any other State, "but to none other." They cannot import into those States the laws of Massachusetts or California. The right to exclude them or to limit them in political rights and privileges is fundamental and necessary to the existence and safety of the State. It antedates all constitutions. It is original in the State.

Next, hear the views of Justice Washington:

"The inquiry is, what are the privileges and immunities of citizens in the several States? We feel no hesitation in confining these expressions to those privileges and immunities which are in their nature fundamental; which belong of right to the citizens of all free Governments; and which have at all times been enjoyed by the citizens of the several States which compose this Union, from the time of their becoming free, independent, and sovereign. What these fundamental principles are it would perhaps be more tedious than difficult to enumerate. They may, however, be all comprehended under the following general heads: protection by the Government; the enjoyment of life and liberty, with the right to acquire and possess property of every kind and to pursue and obtain happiness and safety; subject, nevertheless, to such restraints as the Government may justly prescribe for the general good of the whole. The right of a citizen of one State to pass through or to reside in any other State for purposes of trade, agriculture, professional pursuits, or otherwise; to claim the benefit of the writ of *habeas corpus*; to institute and maintain actions of any kind in the courts of the State; to take, hold, and dispose of property, either real or personal; and an exemption from higher taxes or impositions than are paid by the other citizens of the State, may be mentioned as some of the particular privileges and immunities of citizens, which are clearly embraced by the general description of privileges deemed to be fundamental; to which may be added the elective franchise, as regulated and established by the laws or constitution of the State in which it is to be exercised."—*Coryell vs. Coryell*, 4 Washington's Circuit Court Reports, page 380.

The gentleman from Massachusetts cited at great length and indorsed the decision of the

court of appeals of Kentucky in *Amy vs. Smith*, (Littell's Reports.) I will waste but little time on that authority. In most of its reasoning it is in entire harmony with my views and the authorities I am using. So far as it is not, and especially in its attempt to define citizenship, it is not supported by a single respectable authority in the judicial records of the country. It has therefore no intrinsic value.

But I give the gentleman, as a full offset to that case, the case of *Abbott vs. Bayley*, 6 Pick. R., p. 92, from the supreme court of his own State; and I read the material part of the decision in that case. The court says:

"The privileges and immunities secured to the people of each State in every other State can be applied only in case of removal from one State into another. By such removal they become citizens of the adopted State without naturalization, and have a right to sue and be sued as citizens; and yet this privilege is qualified and not absolute, for they cannot enjoy the right of suffrage or of eligibility to office without such term of residence as shall be prescribed by the constitution and laws of the State into which they shall remove. They shall have the privileges and immunities of citizens; that is, they shall not be deemed aliens, but may take and hold real estate; and may, according to the laws of such State, eventually enjoy the full rights of citizenship without the necessity of being naturalized."

I now refer at some length to the views of the judges in the passenger cases, 7 Howard, 466, which bear directly upon and illustrate this subject. After referring to the cases of *Holmes vs. Jennison*, 14 Peters, 540; *Groves vs. Slaughter*, 15 Peters, 449; and *Prigg vs. The Commonwealth of Pennsylvania*, 16 Peters, 539, Chief Justice Taney remarks:

"If these cases are to stand, the right of the State is undoubted. And it is equally clear that if it may remove from among its citizens any person or description of persons whom it regards as injurious to their welfare, it follows that it may meet them at the threshold and prevent them from entering; for it will hardly be said that the United States may permit them to enter and compel the State to receive them, and that the State may immediately afterward expel them. There could be no reason of policy or humanity for compelling the States, by the power of Congress, to imbibe the poison, and then leaving them to find a remedy for it by their own exertions and at their own expense. Certainly no such distinction can be found in the Constitution, and such a division of power would be an inconsistency, not to say an absurdity, for which I presume no one will contend. If the State has the power to determine whether the persons objected to shall remain in the State in association with its citizens it must, as an incident inseparably connected with it, have the right also to determine who shall enter. Indeed, in the case of *Groves vs. Slaughter*, the Mississippi constitution prohibited the entry of the objectionable persons, and the opinions of the court throughout treat the exercise of this power as being the same with that of expelling them after they have entered.

Neither can this be a concurrent power, and whether it belongs to the General or to the State Government the sovereignty which possesses the right must in its exercise be altogether independent of the other. If the United States have the power, then any legislation by the State in conflict with a treaty or act of Congress would be void. And if the States possess it, then any act on the subject by the General Government in conflict with the State law would also be void and this court bound to disrespect it. It must be paramount and absolute in the sovereignty which possesses it. A concurrent and equal power in the United States and the States as to who should and who should not be permitted to reside in a State would be a direct conflict of powers, repugnant to each other, continually thwarting and defeating its exercise by either, and could result in nothing but discord and confusion.

Again, if the State has the right to exclude from its borders any person or persons whom it may regard as dangerous to the safety of its citizens it must necessarily have the right to decide when and toward whom this power is to be exercised. It is in its nature a discretionary power, to be exercised according to the judgment of the party that possesses it. And it must, therefore, rest with the State to determine whether any particular class or description of persons are likely to produce discontent or insurrection in its territory, or to taint the morals of its citizens, or to bring among them contagious diseases or the evils and burdens of numerous pauper population. For if the General Government can in any respect or by any form of legislation control or restrain a State in the exercise of this power, or decide whether it has been exercised with proper discretion and toward proper persons and on proper occasions, then the real and substantial power would be in Congress and not in the States. In the cases decided in this court and hereinbefore referred to the power of determining who is or is not dangerous to the interest and wellbeing of the people of the State has been uniformly admitted to reside in the State.

I think it, therefore, to be very clear, both upon principle and the authority of adjudged cases, that the several States have a right to remove from among their people and to prevent from entering the State any person or class or description of persons whom it may deem dangerous or injurious to

the interests and welfare of its citizens; and that the State has the exclusive right to determine, in its sound discretion, whether the danger does or does not exist, free from the control of the General Government."

Mr. Justice Grier, in the same case, (page 47,) said:

"It must be borne in mind (what has sometimes been forgotten) that the controversy in this case is not with regard to the right claimed by the State of Massachusetts in the second section of this act, to repel from her shores lunatics, idiots, criminals, or paupers, which any foreign country, or even one of her sister States, might endeavor to thrust upon her; nor the right of any State, whose domestic security might be endangered by the admission of free negroes, to exclude them from her borders. This right of the States has its foundation in the sacred law of self-defense, which no power granted to Congress can restrain or annul. It is admitted by all that those powers which relate to merely municipal legislation, or what may be more properly called internal police, are not surrendered or restrained; and that it is as competent and necessary for a State to provide precautionary measures against the moral pestilence of paupers, vagabonds, and convicts, as it is to guard against the physical pestilence which may arise from unsound and infectious articles imported."

Justice Story, in delivering the opinion of the Supreme Court of the United States in the case of *Priggs vs. The Commonwealth of Pennsylvania*, 16 Peters, page 625, says:

"To guard, however, against any possible misconception of our views, it is proper to state that we are by no means to be understood in any manner whatever to doubt or to interfere with the police power belonging to the States in virtue of their general sovereignty. That police power extends over all subjects within the territorial limits of the States, and has never been conceded to the United States."

Now, let it be remembered that in all these authorities it is assumed that the privileges and immunities referred to as attainable in the States are required to be attained if at all according to the laws or constitutions of the States, and never in defiance of them.

In 1855, in *Conner vs. Elliott*, 18 Howard, 591, the Supreme Court of the United States further decided, in reference to this clause, that it does not entitle a native-born female citizen of Louisiana, who removed to Mississippi, and there married and lived, to take the interest in her husband's real estate in Louisiana on his death to which the laws of that State entitle a widow who resided there at the time of her husband's death. The State of Louisiana gave to widows who were citizens of one State just the same advantages under its laws which it gave to those of another, and no more could be rightfully demanded.

But it is claimed there is some support for this bill and the claim of congressional power in another provision of the Constitution. The Constitution declares that—

"The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."—*Constitution*, art. 1, sec. 2, clause 1.

At the time this provision in the Constitution on the subject of the qualifications of electors in the different States was under the consideration of the Constitutional Convention, we all know that there existed in the States a very great diversity of provisions and regulations upon this subject of suffrage. They differed both in extent and principle. In some of the States the suffrage was extended upon principles of great liberality to almost all men of competent age, while in other States it was extended upon principles of less liberality, and in some States it was limited by lingering principles of the feudal system, which still prevailed in the laws of descent and the transmission of property in some of the States.

In was in view of these diversities that the Constitutional Convention approached the consideration of this question. And we are told by Mr. Story, in his excellent Commentaries on that sacred charter of our liberty, that for obvious reasons it would have been improper to leave that subject open for the occasional regulation of Congress, even as to the qualification of electors for Representatives to its own body; and therefore it was settled in the Constitution itself, and placed forever beyond the control of Congress. (Story's Commentaries on the Constitution, sec. 588.)

Now, who determines those qualifications in the respective States? I say that the people of the several States themselves determine those qualifications, and no other power on earth is authorized to interfere. The language of the Constitution is clear and emphatic. It is too plain to require interpretation. It establishes a rule which, in the nature of our Government, cannot be uniform. It is to be fixed by each State for itself. And upon this point I desire to invite attention for a moment to a few authorities, and they are authorities of great weight and distinction in the constitutional history of our country; authorities entitled to the very highest consideration at the hands of their posterity. And first, Alexander Hamilton, one of the earliest and greatest expounders of our Federal Constitution, who may be ranked as equal with our great statesmen of the earlier school. What does he say? In No. 52 of the *Federalist* he uses this language:

"To have reduced the different qualifications in the different States to one uniform rule would probably have been as dissatisfactory to some of the States as it would have been difficult to the Convention. The provision made by the Convention appears, therefore, to be the best that lay within their option. *It must be satisfactory to every State, because it is conformable to the standard already established or which may be established by the State itself.* It will be safe to the United States, because, being fixed by the State constitutions, it is not alterable by the State governments; and it cannot be feared that the people of the States will alter this part of their constitutions in such manner as to abridge the rights secured to them by the Federal Constitution."

And in this connection I beg leave to invite the attention of the House to a fact, perhaps forgotten by some, that this number of the *Federalist* may be quoted with equal propriety as expressing the deliberate opinion and judgment of Mr. Hamilton and Mr. Madison; because, in every list of the numbers of that work ever furnished by Mr. Madison himself he claimed that he, and not Mr. Hamilton, was the author of No. 52; and Mr. Hamilton, in some of his lists, claimed that he was its author, and not Mr. Madison. But the claim that is made by both of those distinguished statesmen for the paternity of this number of the *Federalist* is enough to establish the fact that each of them approved, indorsed, and adopted as his own the opinions expressed in it. I therefore quote it now as expressing the equally deliberate judgment of Mr. Madison himself upon this subject.*

And in this connection I will briefly invite attention to another authority. I quote now from the History of the Constitution, by Mr. Curtis. I read it for the purpose of showing what were the intentions, as he understands them, of the framers of this particular part of the Constitution. He says:

"The committee of detail, after a review of all these considerations, presented a scheme that was well adapted to meet the difficulties of the case. They proposed that the same persons who, by the laws of the several States, were admitted to vote for members of the most numerous branch of their own Legislatures, should have the right to vote for the Representatives of Congress. The adoption of this principle avoided the necessity of disfranchising any portion of the people of a State by a system of qualifications unknown to their laws. As the States were the best judges of the circumstances and temper of their own people, it was certainly best to conciliate them to the support of the new constitution by this concession. It was possible, indeed, but not very probable, that they might admit foreigners to the right of voting without the previous qualification of citizenship. It was possible, too, that they might establish universal suffrage in its most unrestricted sense. But against all these evils there existed one great security, namely, that the mischiefs of an absolutely free suffrage would be felt most severely by themselves in their own domestic concerns; and against the special danger to be apprehended from the indiscriminate admission of foreigners to the right of voting, another feature of the proposed plan gave the national Legislature power to withhold from persons of foreign birth the privileges of general citizenship, although a State might confer upon them the power of voting without previous naturalization."

I will read no more of that authority, but simply add that in a somewhat lengthy review of this subject Mr. Curtis fully sustains the expressed opinions of Mr. Madison and Mr. Hamilton, and the positions I now maintain.

*No. 52 of the *Federalist* was first published in the *Packet*, of New York city, on February 12, 1788.

I think it will be generally conceded by most men in this country that if this great power which is claimed by the gentleman exists at all, it cannot be found to rest upon this provision of the Constitution, but must find its abiding place in another clause of the Constitution, (Art. 1, sec. 4, clause 1,) which I will now read to the House. It is as follows:

"The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the places of choosing Senators."

Now, I invite attention to the obvious fact that this provision of the Constitution is limited by its own terms to certain objects. What are they? First, to the "times." Times of what? The times of holding the elections. Second, to the "places." The places for what? The places for holding the elections. Third, to the "manner." Here I invite attention to the obvious meaning of that word taken in connection with the context. The manner of what? Is it the manner of determining the qualifications of electors? That would be absurd. If it was intended to confer that power, an absolute and apt term would have been used to grant it. No, sir; it relates solely to the manner of holding elections, not the manner of determining who shall vote or who shall not vote. Such is the construction placed upon this provision by Mr. Justice Story, whose examination of the history of the Constitution was perhaps more thorough and exhaustive than that of any other jurist or statesman in our country. He disposes of the monstrous idea that Congress may regulate elections in the States, or that such purpose was ever cherished by the framers of the Constitution, in the following manner:

"What would be said of a clause introduced into the national Constitution to regulate the State elections of the members of the State Legislatures? It would be deemed a most unwarrantable transfer of power, indicating a premeditated design to destroy the State governments. It would be deemed so flagrant a violation of principle as to require no comment."—*Story on the Constitution*, sec. 819.

Then, confining the power of Congress, under the provision in question, to the mere regulation of the times, places, and manner of holding elections, he approves it as demanded by possible emergencies that may arise in the history of the Union, and adds:

"There is no pretense to say that the power in the national Government can be used so as to exclude any State from its share in the representation in Congress. Nor can it be said with correctness that Congress can in any way alter the rights or qualifications of voters. The most that can be urged with any show of argument is, that the power might, in a given case, be employed in such a manner as to promote the election of some favorite candidate or favorite class of men in exclusion of others, by confining the places of election to particular districts, and rendering it impracticable for the citizens at large to partake in the choice."—*Ibid.*, sec. 820.

Mr. Hamilton is equally emphatic in his mode of disposing of the theory that would tolerate the interference of Congress in the regulation of elections in the States for State officers. In No. 59 of the *Federalist*, he says:

"Suppose an article had been introduced into the Constitution, empowering the United States to regulate the elections for the particular States, would any man have hesitated to condemn it, both as an unwarrantable transposition of power and as a premeditated engine for the destruction of the State governments?"

In the next number of the *Federalist*, speaking more at length on the subject of the propriety of allowing Congress to regulate the times, places, and manner of holding elections for Representatives in Congress, and of the alleged danger that Congress might so regulate them as to favor certain classes in the States, he further says:

"The truth is, that there is no method of securing to the rich the preference apprehended but by prescribing qualifications of property either for those who may elect or be elected. But this forms no part of the power to be conferred upon the national Government. Its authority would be expressly restricted to the regulation of the times, the places, and the manner of elections. The qualifications of the persons who may choose to be chosen, as has been remarked upon another occasion, are defined and fixed in the Constitution; and are unalterable by the Legislature" [of the Union.]

These views in reference to the history and just interpretation of that provision are substantially concurred in by Mr. Duer, in his Lectures on Constitutional Jurisprudence, and by Mr. Curtis, in the work to which I have already referred, the History of the Constitution.

Now, I desire very briefly to direct the attention of the House to some additional testimony on this subject, derived from the proceedings of the Convention itself, as reported by James Madison. I propose from them to show that the interpretation for which I contend is the only true one, the only one of which the provision is fairly susceptible, and the only one which ever for a single instant entered the minds or controlled the action of the framers of the Constitution.

I invite attention now to what is called the fifth volume of Eliot's Debates. It is really the debates of the Constitutional Convention, prepared by Mr. Madison. While the subject was under discussion, on the 24th day of July, 1787, the following proceedings were had:

"Mr. GOUVERNEUR MORRIS moved to strike out the last member of the section beginning with the words 'qualifications of electors,' in order that some other provision might be substituted which would restrain the right of suffrage to freeholders."

"Mr. FITZSIMMONS seconded the motion."

"Mr. WYLLIAMSON was opposed to it."

He was followed by Mr. Wilson, afterward one of the justices of the Supreme Court, appointed by Washington:

"Mr. WILSON. This part of the report was well considered by the committee, and he did not think it could be changed for the better. It was difficult to form any uniform rule of qualifications for all the States. Unnecessary innovations, he thought, too, should be avoided. It would be very hard and disagreeable for the same persons, at the same time, to vote for representatives in the State Legislature, and to be excluded from a vote for those in the national Legislature."

"Mr. GOUVERNEUR MORRIS. Such a hardship would be neither great nor novel. The people are accustomed to it, and not dissatisfied with it, in several of the States. In some, the qualifications are different for the choice of Governor and of the representatives; in others, for different houses of the Legislature. Another objection to the clause as it stands is, that it makes the qualifications of the national Legislature depend on the will of the States, which he thought not proper."

Then we have Mr. Ellsworth, afterward the second Chief Justice of the Supreme Court of the United States:

"Mr. ELLSWORTH thought the qualifications of the electors stood on the most proper footing. The right of suffrage was a tender point, and strongly guarded by most of the State constitutions. The people will not readily subscribe to the national Constitution, if it should subject them to be disfranchised. The States are the best judges of the circumstances and temper of their own people."

Some remarks were made by Colonel Mason, who was a distinguished member of the Convention from Virginia. After several other distinguished members had expressed their views and all in entire harmony with the views of Story and Hamilton, which I have quoted, James Madison, as reported by himself, used the following language:

"The right of suffrage is certainly one of the fundamental articles of republican government, and ought not to be left to be regulated by the Legislature" [of the Union.]

The illustrious Dr. Franklin, a member of the Convention, in some characteristic remarks, opposed the motion of Mr. Morris, and gave the weight of his great influence to retain the provision as reported by the committee and as explained in the preceding discussion. In the same connection I refer to the remarks of George Nicholas in the convention of Virginia. They are to be found in the third volume of Eliot's Debates, page 41:

"I will consider it first, then, as to the qualifications of the electors. The best writers on government agree that in a republic those laws which fix the right of suffrage are fundamental; if, therefore, by the proposed plan it is left uncertain in whom the right of suffrage is to rest, or if it has placed that right in improper hands, I shall admit that it is a radical defect; but in this plan there is a fixed rule for determining the qualifications of electors, and that rule the most judicious that could possibly have been devised, because it refers to a criterion which cannot be changed. A qualification that gives a right to elect representatives for the State Legislatures gives also by this constitution a right to choose Representatives for the General Government. As the qualifications of electors are different in the different States, no particular qualifications, uniform

through the States, would have been politic, as it would have caused a great inequality in the electors, resulting from the situation and circumstances of the respective States. Uniformity of qualifications would greatly affect the yeomanry in the States, as it would either exclude from this inherent rightsome who are entitled to it by the laws of some States at present, or be extended so universally as to defeat the admirable end of the institution of representation."

On a subsequent day, when the same provision was under consideration, Mr. Madison again expressed his views. I should not be disposed to refer to him again, but the honorable gentleman from Massachusetts, [Mr. BOWWELL,] in his remarks the other day, quoted in defense of his own theory the remarks of Mr. Madison on the latter occasion. In order to show the entire consistency of those views with Mr. Madison's more deliberately expressed opinion in the *Federalist*, I will incorporate a part of them into my argument.

Mr. Madison reports himself as saying:

"The necessity of a General Government supposes that the State Legislatures will sometimes fail or refuse to consult the common interest at the expense of their local convenience or prejudices. The policy of referring the appointment of the House of Representatives to the people, and not to the Legislatures of the States, supposes that the result will be somewhat influenced by the mode. This view of the question seems to decide that the Legislatures of the States ought not to have the uncontrolled right of regulating the times, places, and manner of holding elections. These were words of great latitude. It was impossible to foresee all the abuses that might be made of the discretionary power."

Now, I invite attention at this point to the obvious construction that was put by Mr. Madison upon these words, "the times, the places, and the manner of holding elections." And it is clearly inferable, from what he says, that he understood these things to relate, not to the qualifications of electors, but to various circumstances connected with the holding of elections, not embracing the qualifications of electors at all. He says further:

"Whether the electors should vote by ballot or *viva voce*, should assemble at this place or that place, should be divided into districts or all meet at one place, should all vote for all the Representatives, or all in a district vote for a member allotted to the district; these and many other points would depend on the Legislatures and might materially affect the appointments. Whenever the State Legislatures had a favorite measure to carry they would take care so to mold their regulations as to favor the candidates they wished to succeed.

Besides, the inequality of representation in the Legislatures of particular States would produce a like inequality in their representation in the national Legislature, and it was presumable that the counties, having the power in the former case, would secure it to themselves in the latter.

"What danger would there be in giving a controlling power to the national Legislature? Of whom was it to consist? First, of a Senate, to be chosen by the State Legislatures. If the latter, therefore, could be trusted their Representatives could not be dangerous. Secondly, of Representatives elected by the same people who elect the State Legislatures. Surely, then, if confidence is due to the latter it must be due to the former. It seems as improper in principle, though it might be less inconvenient in practice, to give to the State Legislatures this great authority over the election of the Representatives of the people in the General Legislature, as it would be to give to the latter a like power over the election of their Representatives in the State Legislature."

It should be borne in mind that the qualifications of electors for members of Congress and State officers were, at the time of the formation of our Constitution, fixed in every State in the constitution of the State, and were not subject to control or modification by the State Legislatures. All the State Legislatures could do could only consist in laws regulating the times, places, and manner of holding the elections. Lest they should in any contingency, or for any purpose or causes, fail to regulate these matters with reference to the election of Congressmen, it was thought necessary to give to Congress the power to regulate them, so that it might prevent an entire failure of representation from any State. It is, therefore, no doubt competent for Congress to prescribe by law when the congressional elections shall be held in all the States, and at what places they shall be held, and in what manner they shall be held; that is, whether the people of a whole State shall all vote for the number of Congressmen to which that State is entitled, or the State be divided into districts, and the people of each district vote for one member only, or whether

they shall vote by the secret ballot or *viva voce*. But Congress has no power to prescribe by law who shall vote or what shall constitute the qualifications of a voter for a member of Congress. Nor has it any power to dictate when or where or how elections shall be held for officers of the State government, or who shall vote at them.

Now, I have cited or referred to every known expression of opinion on this subject by any American statesman, publicist, or jurist of distinction, and shown that they all, with a unanimity almost unparalleled, concur in the same interpretation of the power of Congress under the provision in question. The practice of the Government, without a single example to the contrary, sustains the same construction. Such an extent of power on this subject over the States as is now claimed for Congress, if it had been asserted by any party prior to our late most deplorable rebellion, would have convulsed the nation to its extremest boundaries with excitement and apprehension. It would have been more than sufficient, if avowed in the constitutional Convention, to have defeated forever the adoption of the Constitution by the people of the States. It will be sufficient now, if conceded to exist, to subvert the great principle of local self-government, which is the chief bulwark of our liberties.

Against the array of authorities to which I have referred in vindication of this great principle, against the absorbing power of Congress, what authority is produced? Not one clear, direct, or unequivocal authority in the whole range of American statesmanship or history can be found to the contrary. The honorable gentleman from Massachusetts, [Mr. BUTLER,] with the aid of his great legal and general learning, can sustain his position by nothing better than the following from 3 Elliot's Debates, page 344, which is attributed to Mr. Madison:

"With respect to the other point it was thought that the regulation of the time, place, and manner of electing Representatives should be uniform throughout the continent. Some States might regulate the elections on principles of equality and others might regulate them otherwise. This diversity would be obviously unjust. Elections are regulated now unequally in some States, particularly in South Carolina, with respect to Charleston, which has a representation of thirty members. Should the people of any State by any means be deprived of the right of suffrage, it was judged proper that it should be remedied by the General Government. It was found impossible to fix the time, place, and manner of the election of Representatives in the Constitution. It was found necessary to leave the regulation of this, in the first place, to the State governments, as being best acquainted with the situation of the people subject to the control of the General Government, in order to enable it to produce uniformity and prevent its own dissolution. And considering the State government and General Government as distinct bodies, acting in different and independent capacities for the people, it was thought the particular regulations should be submitted to the former and the general regulations to the latter. Were they exclusively under the control of the State governments the General Government might easily be dissolved. But if they be regulated properly by the State Legislatures the congressional control will very probably never be exercised. The power appears to me satisfactory and as unlikely to be abused as any part of the Constitution."

This language is said to have been used by Mr. Madison, in the Virginia convention of 1788 for the ratification of the Constitution of the United States, at a time when the provision in question was under consideration in that body.

But let it be remembered that this extract is not the language of Mr. Madison, was not reported by him, and has never had his approval. It is merely an attempt by some one to give the substance of what he said on the occasion referred to. It was not taken down by an official reporter. In the language of Mr. Elliott himself, "it was collected and revised from contemporaneous publications," long years after it was spoken, perhaps from some loose newspaper report made at the time, and was published, I believe, in 1827. It bears intrinsic evidence of inexactness and want of authenticity. It makes Mr. Madison, whose

* This extract was attributed to James Madison, under date of June 14, 1788, in the Virginia convention.

ideas when expressed by himself are always in words most carefully and fitly chosen, say that "it was thought that the regulation of the time, place, and manner of electing Representatives should be uniform throughout the continent." Every expression in it is consistent with the prevailing idea through all the proceedings of the convention, that Congress should have no power to fix qualifications of voters in the States, either for State officers or for Representatives in Congress. It might regulate the mode of holding the elections for Representatives, so as to prevent a failure of representation. As to this mode of holding elections, as Mr. Madison said, some States might regulate it on principles of equality, and others, by various regulations as to the times and places where the elections should be held, might make them affect unequally the people of certain sections of a State, and be therefore unjust. But Congress, having no motive to so regulate these times and places as to make them bear unequally on different sections in a State, could properly be intrusted with their control as to congressional elections. But with all its manifest looseness and inexactness of form, every sentence in this extract is readily reconcilable with the more deliberate and self-written judgments of Mr. Madison and all the other fathers and sages to whom I have referred. I unhesitatingly affirm, therefore, that it wholly fails to justify in any degree the structure erected upon it by the honorable gentleman. On the contrary, taken in connection with all I have shown, it stamps the whole theory of the honorable gentleman as most dangerous and revolutionary.

But the gentleman from Massachusetts, with great emphasis, refers to certain general expressions in the writings of Madison, Hamilton, and others, to the effect, using the words of Hamilton when referring to this very provision, that "its propriety rests upon the evidence of this plain proposition: that every Government ought to contain in itself the means of its own preservation." Upon the authority of this and like expressions he attempts to array the fathers in support of this revolutionary bill. The attempt, in my judgment, involves a most unfair if not intentional perversion of the sentiments of those great men. This wicked perversion is made impressively manifest by placing in juxtaposition the more specific declarations of opinion by the same great statesmen, Mr. Hamilton, on this subject in the same and succeeding numbers of the *Federalist*. He says:

"Suppose an article had been introduced into the Constitution empowering the United States to regulate the elections for the particular States, would any man have hesitated to condemn it, both as an unwarrantable transposition of power and as a premeditated engine for the destruction of the State governments?"—No. 58.

And in the next number, written on the same subject, in replying to the enemies of the Constitution, who had alleged against it that Congress might so regulate elections as to favor or prefer the rich over the poor, he says:

"The truth is, there is no method of securing to the rich the preference apprehended but by prescribing qualifications of property either for those who may elect or be elected. But this forms no part of the power to be conferred upon the national Government. Its authority would be expressly restricted to the regulation of the times, the places, and the manner of elections. The qualifications of the persons who may choose or be chosen, as has been remarked upon another occasion, are defined and fixed in the Constitution, and are unalterable by the Legislature" [of the Union.]

Could language be more explicit and unambiguous? What becomes of the gentleman's repeated declaration that the friends of the adoption of the Constitution had never denied the construction placed upon the provision referred to by its enemies? The truth is, Mr. Speaker, it was always denied by them. It was strained and exaggerated by the opponents of the Constitution, in order to alarm the people and defeat its ratification, and it is now entitled to no consideration whatever.

Then, what do those expressions mean? They manifestly and only mean that the States might fail to provide for elections at all, or might so organize the States into districts and

election precincts as to defeat the will of the majority and give excessive and unfair representation to minorities in this House, precisely what the Radical party have been doing to an unprecedented and most disgraceful extent in all the States of the Union in which they have had political control for the last few years. The friends of the adoption of the Constitution favored and defended this power of *regulation of the times, places, and manner of holding elections* for members of Congress, on the ground that Congress, in order to secure equal representation of the people in this House, might enact such regulations on these *subjects* as to prevent the perpetration of just such political frauds, the great fraud of "gerrymandering," and like devices of unscrupulous partisans.

But it is also urged that there are citizens of the United States in Kentucky and Maryland and other States (negroes) who might become President of the United States and yet cannot vote. The only requisites for eligibility to the Presidency are citizenship of the United States, age, and residence. Sex is no disqualification in terms. It is, therefore, equally true that there are in Massachusetts and the other States millions of white women, and in Rhode Island and under the infamous laws of Missouri and in other States thousands of white men, all equally citizens of the United States, who are eligible, upon the theory of the gentleman from Massachusetts, to the Presidency, and yet cannot vote. But these facts give Congress no new power, and do not change the Constitution.

And if the theory of the gentleman is tenable that citizenship of the United States confers the right of suffrage, then every ex-rebel in the South is wrongfully denied that right, and in violation of the Constitution, because they are all *citizens* under the express and most explicit language of the fourteenth amendment, and any one of them having the required age and period of residence may be elected President, and especially if he is not embraced in the disqualification to hold office contained in the third section of that amendment, and yet he cannot vote. Again, if citizenship alone entitles to suffrage, and Congress has power to secure it to all, then every disfranchised man in Missouri, West Virginia, Tennessee, and the other States of the South, is entitled to it and Congress ought to enable them to enjoy it, for they are all citizens of the United States, and cannot vote. Again, on the same theory the vilest criminal behind prison bars in the country is entitled to vote, because he is a citizen of the United States, and if he have the prescribed age and residence might be elected President, but yet he cannot vote. There is no power on earth that can *decitizenize* a citizen of the United States except himself, by voluntary expatriation. It cannot be done as a punishment for crime. The vilest criminal is entitled, by reason of his citizenship, to demand the protection of the law to a certain extent.

But, another of the startling propositions announced by the gentleman from Massachusetts and embodied in this bill asserts that there are now in this Union *no States* whose governments are republican in form, and that it has therefore become now the duty of the United States "to guaranty to every State in this Union a republican form of government," and that in the execution of this guarantee Congress has power to form, dictate to, and force upon the States such local constitutions as in its own discretion, tempered judgment, or partisan will shall meet this guarantee. The mere statement of this proposition makes its revolting and despotic character alarmingly apparent.

This provision supplies no justification whatever for the monstrous policy of these measures. It gives Congress no shadow of right to dictate constitutions to States of this Union. Every contemporaneous interpretation of it is utterly inconsistent with any such idea. Our forefathers never tolerated by any act of theirs any such invasion by Congress of the primary

and inalienable right of self-government in the people. In its true intent and spirit this provision is rather designed to prohibit just such changes in the local governments as the pending measures contemplate. Hamilton says, "this guarantee could only operate against changes to be effected by *violence*," and that it is "as much directed against the usurpation of *rulers* as against the ferments and outrages of faction and sedition in the community." Mr. Madison says:

"The authority extends no further than to a guarantee of a republican form of government which supposes a *preexisting* government of the form which is to be guaranteed. As long, therefore, as the existing republican forms are continued by the States they are guaranteed by the Federal Government. Whenever the State may choose to substitute other republican forms they have a right to do so, and to claim the Federal guarantee for the latter."

In these views Judge Story fully concurs.

If this power exists then our Government (Federal) is a perfected despotism, and Congress is our dictator and despot. If Congress can declare certain State regulations now existing to be anti-republican, and compel the acceptance by the States of such substitutes as it may dictate on the subject of suffrage, it may to-morrow adjudge the latter or others to be anti-republican, and prescribe new organic laws to the States; and if the judgment of Congress is the only test of republican institutions they are liable to change in all the States as often as from any cause that judgment changes; and they would be subject to most material alterations as often as the ascendancy of political parties in Congress changes. These changes in any case, on this theory, can only be limited by the varying will of Congress. They may, therefore, embrace in their operation all the laws of descent, of contracts, of marriage, of trial and punishment for crime, and for choosing judges or organizing a judiciary, and almost all others in any State. Thus the boasted and cherished right of local self-government in this country becomes a myth, a delusion, and a cruel fraud; a fraud, because no State foreseeing such a result would ever have become a party to such a union or would ever have consented thus to commit State suicide. In the language of Mr. Hamilton, any such proposition would have been regarded by every one "as a premeditated engine for the destruction of the State governments."

The second section of the fourteenth amendment, in the most direct and conclusive terms, recognizes and reaffirms the original and undelimited right of the States to control the suffrage. It would have been a signal and unprecedented act of stultification for any Congress to propose or any people to ratify such a section, if, at the same time, they claimed or believed the supreme power to regulate suffrage to be in Congress. It involves the absurdity of a solemn constitutional declaration that if the States enact a *void* law on the subject of suffrage the representation of their people in Congress shall be reduced, although Congress can instantly supply a perfect remedy, and totally annul the State law and give suffrage, in fact, to whom it pleases. Such a construction appears to me to be weak, foolish, and offensive to the just dignity of all legislation, and especially to the solemnity of any constitutional enactment. You would deny representation, a right of the utmost intrinsic value, to the very classes whom the States should vainly attempt but wholly fail to deprive of suffrage.

But the gentleman from Massachusetts has discovered that this denial of representation was intended to be "a mere political penalty for doing what the first section declares shall not be done." A penalty against whom? How is it to be enforced? A State withholds suffrage from its citizens of African descent; Congress then at once interposes and confers that suffrage. It is then in fact enjoyed by those citizens. Can Congress then reduce such a State's representation in this House? Certainly not. Must Congress, then, stand by and permit the wrongs, against which it might afford instant remedy, to be done and suffered in

order to enable it to inflict the penalty? Did the people intend such absurdities in the enactment of this section? No, Mr. Speaker, they merely recognized an existing right and power in the respective States, and then presented to them increased representation as an inducement to increased liberality in the regulation of suffrage. That is all. That is consistent with the rights of the States and with just and rational interpretation. It is consistent with the solemn declaration of the Republican party in the Chicago convention, that "the question of suffrage in all the loyal States properly belongs to the people of those States." It is also consistent with the ten thousand times repeated declarations of that party and of all its leading men and organs to the same effect. This construction is necessary now to protect them against the charge and guilt of insincerity and false professions in the past, and a wicked and premeditated purpose thereby to deceive the people, and upon false pretenses to secure and retain political power in the country. If they were honest in the past, the present movement involves a very miraculous conversion or the most disgraceful infidelity to solemn pledges and declarations of principles. It appears to me, Mr. Speaker, that the proposed new amendment which accompanies this bill is justly subject to the same charge of bad faith, and therefore, as well as for its inherent viciousness, ought not to be proposed to the States.

Over a year ago a bill almost identical in legal effect and nearly so in terms was introduced in this House by the gentleman from Pennsylvania, [Mr. BROOMALL,] and discussed by him, and briefly by myself. I then (March 18, 1868) thought it my duty, together with other views, to say:

"Mr. Speaker, the gentleman who last addressed the House on this bill [Mr. KELLEY] assumes that it is not now a partisan question whether suffrage should be extended to all the States of this Union by act of Congress. I believe myself it is not. From what we have heard here to-day I am prepared to agree with him that it is not now a party question on that side of the House whether this bill shall pass or not. But I infer from what he said, and I believe it to be true, that the moment the majority of this House feel that they have the power to enact a bill of this kind they will do it just as certainly as that God lives. It is to-day the settled purpose of the party to introduce and pass a bill of this kind just as soon as possible."

I see no reason now, Mr. Speaker, to change this opinion. On the contrary, it gathers daily confirmation from passing events. It may be that this bill did not have its origin in partisan motives, but I think very few candid observers will attribute it to any other or higher origin. The maintenance of power by the Republican party seems to be the chief aim of this bill.

The fourth section of the bill purports to be designed to enforce the third section of the fourteenth amendment, which disqualifies certain persons to hold office, and it declares that any person who takes office contrary to that section shall be held guilty of a misdemeanor, and on conviction shall be imprisoned at hard labor for two years. This penal section in the gentleman's bill inspires in my mind emotions of disgust and horror. It carries my mind back to ages of barbarism, and recalls the truculent and merciless persecutions, proscriptions, and punishments inflicted by successful chiefs upon their subjugated enemies. It is unworthy of this age, and would be an eternal shame to our country. Better instantly remove all disabilities from every ex-rebel in the country. Practice mercy, not vengeance. Do justice without this indiscriminate cruelty. If you will not do these things, then at least leave the third section of the fourteenth amendment of the Constitution to execute itself by the sufficient aid of the Federal judiciary. It needs no more. Common humanity and decent justice forbid that you shall refuse this much.

PUBLIC REVENUES.

Mr. NIBLACK. Mr. Speaker, the public revenues constitute an important branch of the financial system of our Government, and hence, while discussing the finances, and the means deemed necessary to improve their condition, I trust it will not be regarded as inappropriate

in me to turn aside for a brief period and consider some of the measures to which we are accustomed to resort to raise revenue.

Being a member of the Committee of Ways and Means, which has that subject especially in charge, I feel it my duty to submit some observations at this time on the tariff, from which a large portion of our revenues are derived, and touching some amendments which have been proposed to the existing tariff laws. I am the more inclined to regard this as my duty, because I am unable to agree with the committee in some of the recommendations which it has made to the House in regard to these proposed amendments, and because of my evident disagreement with a majority of that committee on the general policy which Congress ought to pursue in levying duties on imports into the United States. In what I have to say on this occasion, I shall endeavor briefly to consider the power which Congress possesses over the general subject of taxation, and then to indicate some of the rules which, in my judgment, ought to be observed in the exercise of such powers as may be conceded to Congress in the imposition of these duties.

When, sir, the war of the Revolution had closed and the independence of the American colonies was fully established, one of the first great cares of the eminent statesmen of that day was to provide some more efficient system of revenue for the reduction of the then existing and comparatively very large public debt, and to secure the means necessary to carry on successfully the new Government. Experience had already shown that the Articles of Confederation were insufficient for that purpose, and one of the strongest reasons for abandoning the Confederation under those articles and adopting in their stead the present Constitution of the United States was the urgent, and, indeed, imperative necessity for some new system of revenue. Instead, then, of each State having in its own way to raise its proportionate amount of the revenue demanded by the Congress, as under the Confederation, it was provided in the Constitution which brought the new Government into existence (art. 1, sec. 8) that—

"The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States."

Looking, then, sir, to the contemporaneous history of this provision of the Constitution, why was the Congress authorized "to lay and collect taxes, duties, imposts, and excises?" Simply, I affirm, as a means of raising revenue to carry on and uphold the credit of the Government, and for no other purpose. Alexander Hamilton, whose great talents and commanding influence contributed so much to the adoption of the Constitution, in a series of articles which he contributed to the *Federalist*, in favor of this provision conferring upon Congress such plenary power of taxation, never intimated that anything aside from raising revenue was for a moment contemplated by it. I refer to this circumstance because his great name has since been invoked, and oftentimes successfully, in favor of a different construction of the power thus conferred on Congress. To me, sir, it is perfectly plain that the legitimate and only legitimate purpose of all taxation is the production of revenue. That any other construction should ever have been insisted on under our Constitution and our form of government is to me most remarkable. "Duties," "imposts," and "excises," each but represent a form of taxation, and are embraced within the general definition of taxes. The words "taxes," "duties," "imposts," and "excises" have plain and well-defined meanings in the English language, and those meanings, I am quite assured, clearly vindicate the construction I have given to the taxing power thus conferred upon this Government.

Mr. Hamilton, in arguing this question of revenue under the Constitution, in the columns of the *Federalist*, insisted that a large portion of the means of the Government would, in the very nature of things, be raised by duties

on imports, because taxes collected in this way were indirect and less perceptible than any other, and because it would be to the interest, as it would be clearly in accordance with the genius of this great country, to build up extended commercial relations with the other nations of the world, and to thus bring a great mass and variety of property within the range of impost duties. In speaking of the advantages to the Union on commerce and its tendency to promote the interests of revenue, he says:

"A prosperous commerce is now perceived and acknowledged by all enlightened statesmen to be the most useful as well as the most productive source of national wealth, and has accordingly become a primary object of their political cares. By multiplying the means of gratification; by promoting the introduction and circulation of the precious metals, those darling objects of human avarice and enterprise, it serves to vivify and invigorate all the channels of industry, and to make them flow with greater activity and copiousness. The assiduous merchant, the laborious husbandman, the active mechanic and the industrious manufacturer—all orders of men, look forward with eager expectation and growing alacrity to this pleasing reward of their toils. The often agitated question between agriculture and commerce has, from indubitable experience, received a decision which has silenced the rivalships that once subsisted between them, and has proved, to the entire satisfaction of their friends, that their interests are intimately blended and interwoven. It has been found in various countries that in proportion as commerce has flourished land has risen in value. And how could it have happened otherwise? Could that which procures a freer vent for the products of the earth, which furnishes new incitements to the cultivators of land, which is the most powerful instrument in increasing the quantity of money in a State—could that, in fine, which is the faithful handmaid of labor and industry in every shape fail to augment the value of that article which is the prolific parent of far the greatest part of the objects upon which they are exerted? It is astonishing that so simple a truth should ever have had an adversary; and it is one among a multitude of proofs how apt a spirit of ill-informed jealousy or of too great abstraction and refinement is to lead men astray from the plainest paths of reason and conviction."

Mr. Hamilton, at the time he penned this beautiful tribute to the beneficent influence of commerce on the growth and prosperity of a nation could not certainly have had it in his mind that under the pretext of imposing taxes, ostensibly for revenue, unlimited restrictions and burdens might be imposed on this commerce. Much less that under this pretext all foreign commerce might be practically swept down and destroyed. Further on, however, in arguing to show that the Government ought not to be restricted to duties on imports alone, Mr. Hamilton says:

"Exorbitant duties on imported articles serve to beget a general spirit of smuggling; which is always prejudicial to the fair trader, and eventually to the revenue itself; they tend to render other classes of the community tributary, in an improper degree, to the manufacturing classes, to whom they give a premature monopoly of the markets. They sometimes force industry out of its most natural channels into others in which it flows with less advantages."—*Federalist*, No. 35.

It would be hard to give a better description of the evils of excessive duties on imports in the same number of words; and on this occasion, as on all others known to me, when arguing from a financial stand-point in favor of accepting the Constitution in lieu of the Articles of Confederation, he seemed to speak in the interests of revenue alone.

I concede, Mr. Speaker, that after the Constitution was adopted and the new Government fully inaugurated under it Mr. Hamilton became the advocate of a protective system of duties on imports—a system by which duties are imposed on certain commodities, not with a view to the revenue which may be derived from them, but expressly for the purpose of raising the price of these commodities, that the American manufacturer of them may have his profits thereby increased. In this he was governed, doubtless solely, by a conviction that such a system was demanded by the undeveloped condition of the manufacturing interests of the country, and that the highest considerations of expediency justified such a policy. Once convinced of its expediency under a most liberal and indeed latitudinarian construction of the Constitution, which he was among the first, if not the very first, to adopt, he seemed to have had no difficulty in

bringing himself and his numerous friends and special admirers everywhere to the conclusion that Congress might assess taxes, not for revenue merely, but for the sole purpose of fostering, protecting, and building up home manufactures.

Mr. Hamilton is regarded, and justly so I concede, as the father of this protective system of tariff duties which has either held sway or high carnival so long in American politics; and having been the first Secretary of the Treasury under the Government, and having left the impress of his genius so strongly marked on our financial affairs in very many other respects, all serve as my apology for referring to him so frequently as I do to-day. After having given, however, the most careful attention to what he has said and written on the power and duties of the Government in regard to taxation, I have come to the conclusion—ay, indeed, arrived at the conviction—that this idea of assessing taxes for protection and not for revenue was an after-thought, and formed no part of the purposes for which our Constitution was really constructed. Neither in letter or in spirit could I ever regard such a practice as in harmony with that instrument.

Protection by the agency of a tariff means simply when practically considered, as I have already intimated, the imposition of duties beyond the demands of the revenues by which the price of similar articles in the hands of the home manufacturer is increased at the expense of the consumer without any corresponding benefit to him, by which money is voted out of the pockets of one man into the coffers of another without any adequate consideration. It is a bonus to the manufacturer simply the better to enable him to carry on his business and to increase his profits; a bonus granted to him at the expense of every consumer of his commodities; a bonus for the enrichment of the few at the expense of the many. The Government has the right to take from me, under a fair system of taxation, whatever proportion of my means it needs for the purposes of revenue, but has no right, either in justice or in morals, to take from me a portion of my property or my hard earnings and to transfer it to the pockets of my neighbor merely to enrich him or to assist and promote him in his business pursuits.

In treating upon this subject, in connection with the regulation of commerce, Mr. Herbert Spencer, in his *Social Statics*, says:

"Of bounties must here be said especially what was said in the last chapter of factitious advantages generally; namely, that a Government cannot give them without indirectly reversing its function. Not being requisite for the due maintenance of the citizen's rights, the taking away of his property for the purpose of encouraging certain branches of production would be wrong, even were collateral benefit given in exchange; and as, instead of affording him collateral benefits, the commercial derangements consequent upon it put additional limits to the exercise of his faculties, such a measure is doubly wrong."

Sir, disguise, palliate, or apologize for it as we may, this system of protection when carried to its ulterior results is but a form of legalized robbery. It is one of those chronic errors transplanted if not inherited from the now tottering systems of European politics which must sooner or later yield to the enlightening influences of more liberal and less selfish views of public affairs. In this country it is emphatically a plant of foreign origin, cultivated and kept alive by the hot-house of legislation and other artificial contrivances. It is a relic of that class legislation which has been so long the curse and scourge of mankind. I concede very frankly that many of the greatest and most patriotic of our public men in this country have at some time in their lives, and to a greater or lesser extent, advocated protection to home industry, as it is usually termed, by means of tariff duties. Mr. Clay spoke often and eloquently in favor of what was in his day termed the American system, which favored a moderate scale of protective duties on foreign goods, but he did not advocate this system as the permanent policy of the Government, but only as a temporary measure to operate during the infancy of our manufactures.

But, sir, the time has past when the arguments so nicely drawn and so plausibly stated, as they were by Mr. Clay even, have any applicability. The plea of infancy can no longer avail the capital interested in manufacturing in this country. The manufacturing interest—I mean more particularly that portion of it which is represented by accumulated capital—is now a full-grown interest. It is now a master and controlling interest in all our public affairs. In some localities, at least, it can dictate terms to and overshadow all other interests. It can make and unmake public men. It is able to keep its committees and paid agents here at the capital to urge its claim to perpetual consideration, often in numbers and sufficient force to obstruct in no small degree the ingress and egress of Senators and Representatives to and from their respective Halls of legislation. Under a stable and well-adjusted system of finances and a just and equal measure of taxation it is able to compete with similar enterprises everywhere within its own markets.

If it ever did exist, Mr. Speaker, when the manufacturing interests of this country could properly solicit the special protection and peculiar favor of Congress, that time has now gone by and ought never to be recalled. These interests ought now to be content with equal and just laws. If with these they cannot prosper, then let the capital employed in them seek other investments. Opportunities for such other investments are everywhere offered and promise the most liberal returns. I take great pleasure in stating that a large proportion of the enterprising men of this country who are interested in American manufactures ask no special favors from the Government. They only desire equal and just laws fairly administered. To this much they are entitled in common with all other American citizens, in whatever pursuit they are engaged. If with this our manufactures can increase and multiply no one will be more delighted than I will be. If with this they fail it is no fault of Congress or of the Government. It will be from some inherent difficulty in the business itself or from a want of skillful management of its affairs.

It is the right of every free man to buy his goods in the cheapest market and to sell his commodities for the best price he can obtain. This right, however, he holds in subordination to the right of his Government to regulate the interchange of commodities between his and other nations. Whatever regulations are made by his Government, nevertheless in derogation of his right, ought to be for the benefit of all its citizens collectively, and not for a class of them only. He holds this right, too, in subordination to the power of his Government to lay "taxes, duties, imports, and excises" for the purposes of revenue on such commodities as may be produced within or imported into it. Subject, however, to these demands of his Government, the free citizen is entitled to a free interchange of his commodities everywhere within the shadow of the flag that protects him. This free interchange of commodities, subject only to the real necessities of the Government, constitutes legitimate free trade. In this sense I am a free trader now and always. In this sense I believe that a large majority of the American people now are and henceforth will be in favor of free trade. Richard Cobden says:

"Free trade is the international common law of the Almighty."

I accept his definition and denounce all unequal and unnecessary shackles on commerce as a violation of this great "common law."

Adam Smith, in his "Wealth of Nations," lays down four maxims by which nations ought to be governed in the assessment and collection of taxes. His first maxim is comprised in the following words:

"The subjects of every State ought to contribute to the support of the Government as nearly as possible in proportion to their respective abilities; that is, in proportion to the revenue which they respectively enjoy under the protection of the State. In the observation or neglect of this maxim consists what is called the equality or inequality of taxation."—Book 5, chap. 2.

In his fourth maxim he says:

"Every tax ought to be so contrived as both to take out and to keep out of the pockets of the people as little as possible over and above what it brings into the public treasury of the State."

These views have been generally concurred in by subsequent writers, and may be said to have become classical. In terse phrases they, in my judgment, shadow forth the true theory of taxation, and are just as applicable to duties on imports as any other form of raising revenue.

I do not pretend, Mr. Speaker, that a uniform or *pro rata* tax on every commodity or upon every species of property is either practicable or desirable in any system of taxation. Some kinds of property will bear taxation more readily than other kinds will. Some kinds of property, in the very nature of things, are more productive than other property. Taxes, too, as a general rule, ought to bear more lightly on the necessary articles for living than on the luxuries of life. What I do contend for is that taxation in every form should be so adjusted as to demand from each citizen, as nearly as practicable, an equality of sacrifice in submitting to its burdens and inconveniences. To accomplish this is often a delicate and sometimes perhaps an impossible task, but as a rule of taxation I know of nothing better or of anything more reasonable.

The idea that some sort of equality ought to be observed in levying taxes seems to have been in the minds of the eminent men who framed our Constitution. The provision in regard to taxation, which I have quoted, has annexed to it the very important limitation or restriction, "but all duties, imposts, and excises shall be uniform throughout the United States." This obligation of uniformity of burdens suggests at once impartiality in imposing them, and in this connection equality of sacrifice is the highest type of impartiality.

And now, Mr. Speaker, let us for a few moments consider the present exigencies of the Government with regard to its revenues. Never did any successful or legitimate Government have greater cause for anxiety on that subject than we have at the present time. Our public debt on the 1st January, 1869, is computed at \$2,540,707,201 25, being an increase of our indebtedness of \$32,581,551 15 during the last year. In addition to this we have a very considerable floating and unadjusted debt impending over us, the extent of which we cannot now well compute, but a portion of which will in some form or other, I have no doubt, be eventually recognized by the Government. Mr. DELANO, then chairman of the Committee of Claims during the last Congress, estimated this floating debt at many hundred millions of dollars. It is then, sir, absolutely staggering and bewildering when we are brought to realize the weight and magnitude of this immense debt. In my judgment there is no other public question which really does afford, or at least ought to afford, so much cause of solicitude. It is true, sir, that many of the States of the Union are devastated and paralyzed and are sadly in need of reinvigorated governments and of wholesome laws. It is true, sir, also, that the iron heel of military power rests on the necks of the people of some of the States, displacing practically all civil government and defying, as it seems to me, the plainest principles of constitutional liberty. It is equally true, sir, that we have not now that Union of the States in harmony with the Constitution which was bequeathed to us by the heroic men who constructed our Government. But the indomitable energy of our people, assisted by wise legislation and the healing influences of time can, and I trust will, at no distant day remove these obstacles and repair these wrongs. Our public debt, however, cannot be so easily disposed of. Like an incubus upon the breast, like a mountain in the pathway, like a pall over the canopy of the heavens, it will remain to depress, to obstruct, and to darken our progress for many long and weary years. The amount of money involved in it is not the only object of soli-

citude to me. To meet it as those who contracted it say it must be met, we have greatly to advance upon our original and simple form of administering our Government. Immense annual sums of money must be assessed and collected. A corps of revenue officers, equal in number to a respectable army in time of peace, must be constantly employed and supported by the Government. Spies and informers will swarm over the land like the locusts of Egypt, assisting to eat out the substance of the people. To collect the amount of taxes absolutely demanded harsh and unusual laws must be enacted. To evade high taxes and these harsh laws for their collection has become, and I fear will continue to be, the daily vocation of men in whose integrity society has been accustomed to confide. To make these evasions safe and profitable at least an occasional public officer must be corrupted and his connivance and assistance secured. Evaders of heavy and burdensome taxes can afford often to pay high premiums for such connivance and assistance. Through this ordeal of temptation all will not go unscathed. I would like to believe otherwise, but it is useless to attempt to deceive ourselves in so grave a matter as this. On this subject we have had already some mortifying experiences. When the officer and citizen thus conspire to defraud the Government the work for the time at least goes merrily on. To repress these evasions new and more stringent laws will from time to time be enacted, and in the conflict the rights of the honest citizen is lost sight of and his highest interests very often disregarded. Our form of government is illy adapted, I fear, to the exercise of so much concentrated and arbitrary power as is necessary for the enforcement of such a system as I have attempted to describe. To make it efficient new ideas have to be inculcated in the minds of our people, and with these new ideas may come a change in the nature of the Government itself. The Secretary of the Treasury in his late report to Congress has well said that—

"The ability of the United States to maintain their integrity against insurrection as well as against a foreign enemy can no longer be doubted. The question of their ability, under democratic institutions, to sustain a large national debt is still to be decided."

I have faith to believe that we will triumph in this new ordeal to which the Secretary alludes; but, sir, it is not the part of wisdom to rest too securely in such a crisis. I confess I cannot contemplate the situation without some apprehensions and many anxieties.

If, then, our public debt is justly a cause of so much solicitude what ought to be our policy in regard to it? I answer unhesitatingly, Mr. Speaker, let us reduce it and get rid of it as speedily as possible. This we did with the debt of the revolutionary war, and all of it recognized by the Government has long since been paid.

Our policy has never been to fund our indebtedness and to make it perpetual. This has been a favorite policy with other nations, but not with us. It is not in accordance with the genius of our people. A perpetual public debt is but an indefinite mortgage on the wealth, muscle, and productive energies of the nation that owes it, and that savors too much of servitude to meet with much favor in the American mind. To meet our present indebtedness, then, we need large revenues and an overflowing Treasury. In any system of taxation, therefore, to which we may resort revenue ought to be the first and paramount consideration. How often have we been reminded within the last few years that everything must yield to the exigencies of the Government? That obligation never rested more heavily upon us than it now does in regard to our financial affairs. The special interests of classes and individuals merely ought to yield at once and unconditionally to the general good of the whole. May we not without severity be permitted to doubt the patriotism, if not the loyalty, of any man who, in the present emergency, insists on special protection and

lucrative immunities to his business at the expense of the public revenues of the country? Whatever may be his intentions, Mr. Speaker, his conduct is indefensible in the interests of patriotism.

In view, then, sir, of the considerations which I have presented, it does seem to me that there ought to be no practical difficulty, at all events, in determining the present duty of Congress while laying duties on imports. All taxes on foreign articles which are at the same time manufactured in this country, whether so intended or not, operate to a greater or less extent as a measure of protection to the home manufacturers of those articles. Duties, then, imposed primarily in the interests of revenue on this class of articles afford what is known as incidental protection to the American manufacturer. The high rates of duty which the demands of the Treasury now make necessary will afford incidentally an amount of protection with which any reasonable manufacturer ought to be satisfied.

In this connection I beg leave to quote further from the late report of the Secretary of the Treasury. In speaking of the tariff he says:

"There will be in the future, as there have been in the past, widely different opinions upon this long-vested and very important subject; but the indications are decided that the more enlightened sentiment of the country demands that the tariff shall hereafter be a tariff for revenue and not for protection, and that the revenues to be derived from it shall be no larger than, in connection with those received from other sources, will be required for the economical administration of the Government, the maintenance of the public faith, and the gradual extinguishment of the public debt. While the country is not at present, and may not be for many years to come, prepared for the abrogation of all restrictions upon foreign commerce, it is unquestionably prepared for a revenue tariff. The public debt is an incumbrance upon the property of the nation, and the taxes, the necessity for which it creates, by whatever mode and from whatever sources collected, are at last a charge upon the consumers. Taxes should not, therefore, be increased, nor will the taxpayers permit them to be permanently increased, for the benefit of any interest or section. Fortunately, or unfortunately, as the question may be regarded from different stand-points, the necessities of the Government will be such for many years, that large revenues must be derived from customs, so that a strictly revenue tariff must incidentally benefit our home manufactures."

This is a very concise statement of the question as now presented to us, and I very cordially concur with the views thus expressed by the Secretary. According to the estimates of the Secretary \$300,000,000 annually will be required for at least many years to come to carry on the Government, to maintain the national credit, and for the gradual extinguishment of the public debt.

In the name of heaven, Mr. Speaker, will not that afford taxation enough? Or must we go beyond that and levy additional burdens for the benefit of a comparatively small class of men only and the advancement of certain local and sectional interests? The bare suggestion of such a policy carries with it an exposure of its enormity.

In referring to the present tariff system the Secretary further says:

"It is obvious that a revision of it is required not only to relieve it of incongruities and obscurity and to harmonize it with excise taxes and with our agricultural and commercial interests, but also to adapt it to the very decided change which must take place in the business of the country upon the restoration of the specie standard. Large revenues are now derived from customs, because a redundant currency produces extravagance, which stimulates importations. If the currency were convertible and business were regular and healthy, the tariff would be severely protective, if not in many instances prohibitory. Indeed, of some valuable articles it is prohibitory already."

Mr. David A. Wells, Special Commissioner of Revenue, in referring to some of the peculiarities of the present tariff rates in his recent very able and interesting report to the Secretary of the Treasury, says:

"Another characteristic feature of the existing tariff is that it attempts indiscriminate or universal protection, an idea which, if fully carried out, would render all protection a nullity; and to the extent to which it is carried out does more for foreign, as compared with domestic industry, than almost any other agency."

Again, he says:

"The rate of duty imposed by the existing tariff on

the invoice value in gold of the dutiable goods imported into the United States has averaged for the last three fiscal years about forty-eight per cent. If to these rates freights, insurance, and commissions, which in themselves constitute a natural and unavoidable tariff, be added, the average of duties will be still further increased to the extent of from ten to fifteen per cent."

Again, in speaking of some of the prohibitory features of existing rates, he says:

"Some forms of bar-iron, and of liquors, cigars, oats, butter, potatoes, cattle on the hoof, and fine wools, are examples of articles on which duties are imposed under the present tariff, sufficient wholly or in a great degree to check importations."

Again, he says the present is—

"A tariff based upon small issues rather than upon any great national principle; a tariff which is unjust and unequal, which needlessly enhances prices, which takes far more indirectly from the people than is received into the Treasury, which renders an exchange of domestic for foreign commodities nearly impossible, which necessitates the continual exportation of obligations of national indebtedness and of the precious metals, and which, while professing to protect American industry, really in many cases discriminates against it."

He adduces many facts to sustain these conclusions, but I have only time to refer to a very few of them. Take, for instance, the article of salt. In 1841 it came in free of duty; in 1842 a duty of eight cents per pound in bulk was imposed; in 1846 this was changed to twenty per cent. *ad valorem*, or about two cents per bushel; in 1857 it was reduced to fifteen per cent., or about one cent and a half per bushel; in March, 1861, it was increased to four cents per bushel; in August, 1861, to twelve cents, and in July, 1862, to eighteen cents per one hundred pounds. As salt ranges from fifty-six to eighty-five pounds to the bushel, this is equivalent to from one hundred to one hundred and seventy per cent. *ad valorem*, an average higher than any duty imposed on any other article so indispensable and of such general consumption. The duty on salt, then, is on an average more than the prime cost of the article, and consequently more than doubles the price of it in the hands of the consumer. It is therefore not only highly protective, but exorbitant. Its effect is, of course, to enable the home manufacturer of that commodity to sell it for much more than he could if competition were free.

This protection, I am assured, however, does not operate to the advantage of all the home manufacturers alike, but, owing to location and other adventitious circumstances, perhaps not foreseen or appreciated by Congress, results mainly to the benefit of the Onondaga Salt Company of the State of New York.

Then, again, take as another instance the article of pig-iron. The existing duty on it is now nine dollars per ton in gold, equivalent to twelve dollars in currency. The average expenditure necessary to produce a ton of pig-iron at the present time is estimated to range from twenty-four to twenty-six dollars. The selling price for the past year has ranged from thirty-seven to forty-two dollars. Scarcely any well-established business in the country affords such a margin for profits.

This results in a great degree from the protection this article receives from the imposition of this high duty upon it. Every rolling-mill and every other manufacturer of iron commodities is made tributary to this pig-iron interest. Every consumer of iron, from the mill-wheel to the plowshare, from the rail to the tenpinny nail, and from the boiler-plate to the grubbing-hoe, contributes to the profits the manufacturer of pig iron is thus enabled to realize.

Then, again, Mr. Speaker, take as another illustration the article of quinine. It now pays a duty of forty-five per cent. in gold, equal to about sixty per cent. in currency. This high rate of duty was imposed, as was alleged, because of a duty of twenty per cent. on cinchona bark, from which it is manufactured, and because of the then high tax on whisky, which is used in its manufacture. Quinine, however, is an article of almost universal consumption as a medicine. The poor and the unfortunate are perhaps much the largest consumers of it. This duty upon it, then, in my judgment, is an exorbitant and unreasonable one also, and

ought to be greatly reduced, if not entirely repealed.

I will take as another illustration the article of steel. It is a commodity in daily and almost universal use by artisans, laborers, and mechanics of nearly every name and degree. Steel in ingots, bars, coils, sheets, and steel wire, when not valued at not over seven cents per pound, pay two and a quarter cents per pound; when valued at above seven cents, and not above eleven cents, three cents per pound; when valued at above eleven cents, three and a half cents per pound, and in addition thereto ten per cent. *ad valorem*, all payable in gold, as all duties on imports have to be paid. Penknives, jackknives, and pocket-knives pay a duty of fifty per cent. *ad valorem*. Other tools manufactured from steel pay a similarly high duty. All manufactures of steel, or of which steel shall be a component part, not otherwise provided for, are chargeable with a duty of forty-five per cent. *ad valorem*, equal to about sixty per cent. in currency. These duties on steel and steel commodities when analyzed and computed in currency, as they all have eventually to be when thrown upon the market, will be found, with possibly rare exceptions, to range extravagantly high and to operate as a peculiar burden on the laboring men of the country.

Now, Mr. Speaker, we might well suppose that the manufacturers of salt, pig iron, quinine, and steel would be quite satisfied with the duties imposed on these articles and with the protection thus afforded; but I regret to have to say that such is not their condition. We have a bill now before us, and its consideration urged upon us, in which we are asked to increase the duty on salt to twenty-four cents on each one hundred pounds when in bulk and on all rock salt, and to thirty cents per one hundred pounds on salt in bags or sacks. We are not asked in this bill to levy additional duties directly on pig-iron, but we are requested by it to increase the tariff on other forms of iron by which that interest will be greatly promoted and its profits still increased. Neither is it proposed to directly increase the duty on quinine in the bill now before us, but the manufacture of that article has been already cheapened by a reduction of the tax on distilled spirits, which is, I believe, an indispensable agent in the process, and it is proposed in this bill to admit cinchona bark, from which it is extracted, free of duty, and thus to still further cheapen the manufacture of it. This reduction, then, of the cost of quinine in the hands of the manufacturer affords to him really additional protection in the manufacture of it, and benefits him as much as if correspondingly increased duties should be placed upon it.

We are also asked in this same bill to assess an additional duty of one cent and a half per pound on all kinds of steel, and on all machinery composed in whole or in part of steel fifty-five per cent. *ad valorem*, equal to about seventy-four per cent. in currency. Sir, I regard these demands as a bold experiment on the patience and credulity of the American people, and I trust their rejection will be so decided and emphatic as to preclude all idea of a renewal of them, in our day at least. I might present many other objections to the proposed amendments to the existing tariff laws; but, sir, my time is too short to allow me to do so to-day.

As another evidence of the severity of the present rates of duty on many leading articles of general consumption I shall ask the attention of the House to two or three other items, and I shall then dismiss that branch of the subject. Every pound of tea is taxed at twenty-five cents in gold; every pound of sugar at from three to five cents per pound, according to its quality; every pound of coffee at five cents—both also in gold. By adding about thirty-four per cent. we get the amounts in currency. These three articles yield an aggregate revenue to the Government of near fifty million dollars in gold. This is certainly a pretty severe tax upon mere articles of food, and

which are now, next to bread, perhaps, ranked among the commonest necessities of life. We, then, who are not wedded to high tariffs and to high taxes of all kinds would feel inclined to think that in readjusting the present tariff rates some relief to the consumers of these most important commodities of tea, sugar, and coffee, which are consumed by the poor as well as the rich, would have been, at least, proposed; but such is not the case. When any material change is suggested it is rather to increase the rates, except in a few instances in which cheap raw material is needed by the manufacturer.

This demand for an increase of duty on certain manufactured articles comes with a peculiarly bad grace from the home manufacturers of those articles just at this time. Some years since, during the greatest exigencies of the late civil war, when internal taxes were resorted to by Congress, these manufacturers, with others perhaps, vehemently insisted that their proportion of these internal taxes would destroy their business unless increased duties were levied on foreign articles with which they had to compete, by which additional protection might be afforded them. These increased duties were promptly levied by Congress and this additional protection freely conceded. During the last session of this Congress these manufacturers appealed to us to be relieved of these internal taxes, alleging as a reason that as the exigencies of the Government were no longer so great the industrial interests of this class ought to be the first to be exempted. Congress again heeded their appeal, and less than a year since relieved the great mass of these manufacturers from internal taxation on their products.

Now, it does seem to me that as these increased duties on imports were to a very great extent levied in consequence of the imposition of these internal taxes, the plainest principles of justice and fairness would suggest a corresponding reduction of these duties when the internal taxation is removed, in consequence of which they were levied. As matters now stand this repeal of internal taxes operates simply as a bonus of five per cent. to these manufacturers. They ought, therefore, not only to consent to, but to propose a corresponding reduction of the tariff. But, sir, in the face of all this, they not only oppose any substantial reduction, but now most solemnly insist on another and still greater increase of these duties. Sir, the persistency and audacity of this proceeding is almost without a parallel in American legislation.

I agree, Mr. Speaker, that there ought to be some legislation on this subject; indeed, that there ought to be a thorough revision of our tariff laws; but I insist that this revision ought to be in the interests of agriculture and commerce as well as of manufactures. In this matter it is peculiarly appropriate that there shall be "equal and exact justice to all men; exclusive privileges to none." But above all, sir, this revision ought to be primarily in the interests of the public revenue for which alone taxes can be justly imposed. When the advocate of a protective tariff fails at every other point in his argument he usually takes refuge in the plea that it is labor he is really seeking to protect, and not the capitalist especially.

If I could be convinced, Mr. Speaker, that high duties, levied for the purpose of protection, inured chiefly, or indeed to any great extent, to the benefit of the laboring masses of the country, I would yield at once much of my opposition to that class of legislation. No gentleman on this floor, or elsewhere I trust, is more really desirous of promoting the true interests of labor at all times and everywhere than I am. It is a subject which has long commanded my most earnest attention. It is a subject on which I desire, above all others of a public nature, to be right. In the very nature of things those who labor with their hands—the hardy sons of toil—must always constitute much the largest portion of the human race. Whatever, then, affects the great mass of the people of any nation peculiarly concerns them. In attempting to do the greatest good

to the greatest number, as every just legislator ought to desire to do, their interests demand our first and highest consideration. The very force of numbers, if nothing else, entitles them to that precedence.

But that is not all. Still higher considerations appeal to us. All wealth is the result of labor; without labor there is no development, no progress in the material world. There is no property in anything on which labor has not been expended. If the earth were to yield spontaneously her increase the labor of man would still be required to gather in her ripened fruits and to secure the harvest. The birds of the air, the beasts of the forest, the waters of the ocean, the vast area of land, the air of heaven, and the light of the sun are not wealth in the sense in which we speak of the wealth of a nation. They are the raw material out of which wealth may be produced. They are the common inheritance of all mankind and have been bestowed on all alike. It is what labor produces from these and appropriates to individual and national uses which we call wealth. It is labor that imparts to every commodity its value in the markets of the world. There can, then, be no wealth without it. Great, therefore, is the dignity and power of labor. Wise and just legislation will always exalt it. If, then, the proposed protective legislation will result favorably to the interests of labor, it is certainly a very strong argument in favor of such legislation.

Then, Mr. Speaker, do high tariffs and protective duties inure peculiarly to the benefit of the laboring men and women of this country? Clearly not, as I most earnestly believe. It is to their interest to have cheap food, cheap capital, cheap lands, and cheap homes; to have the necessities as well as a share of the luxuries of life within their reach. These they cannot have so long as high taxes constitute a large portion of the cost of the article and prices are thus inflated by them. Protective duties tend to concentrate wealth and population, whereas the true interests of the laboring man require that these shall be diffused and fairly distributed. Protective duties are always arranged with reference to the amount of money they will put into the pocket of the employer and the capitalist, and not with reference to the wages of the laborer.

Sir, when the friend of protection has occasion to refer to the interests of labor he seems unconscious of the fact that only a very small proportion of the laboring people in this country are engaged in manufacturing. He practically ignores the stalwart millions who are engaged in agriculture and commerce, who build railroads and dig canals, and who are mining the precious metals. These, constituting as they do the vast majority of our laboring population, desire no shackles on commerce and no unequal laws for their benefit. They want a just and humane Government, honestly and economically administered, with the ocean for a highway and the world for a market, and they will be content to take their chances in the great race of life. They demand no subsidies from other branches of industry for their aggrandisement, and they have a right to insist that none shall be levied of them except for the common good of all alike.

Mr. Speaker, there are many other serious, and, as I think, overwhelming, objections to the existing tariff laws as well as to other amendments to these laws proposed by the Committee of Ways and Means, but the brief time allotted to me will not permit me to refer to them to-day.

On motion of Mr. ELDRIDGE, (at ten o'clock p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of Lewis T. Mann, of Alleghany county, Virginia, for removal of his political disabilities.

By Mr. CHURCHILL: The petition of D. W. Sims, for increased invalid pension, to date from June 6, 1866.

Also, the petition of B. F. Clarke and others, citizens of Cazenovia, New York, asking that the petition of D. W. Sims be granted.

By Mr. HOOPER, of Massachusetts: A memorial of the Massachusetts Horticultural Society, in favor of the importation of ornamental trees, plants, shrubs, and seeds free of duty.

By Mr. JUDD: The petition of John Dittman and others, asking protection for dealers in lager beer.

By Mr. MOORE: The petition of S. K. Marshall, a citizen of Yorktown, Virginia, praying the protection of Congress from the illegal oyster tonnage tax law of Virginia.

Also, the petition of George H. White, of Baltimore, Maryland, with accompanying papers, praying for the intervention of Congress to protect all engaged in the oyster trade from illegal taxes by the authorities of Virginia.

Also, a petition from masters and owners of vessels of Tuckerton, New Jersey, praying the intervention of Congress to protect all engaged in navigation from illegal exactions by State and municipal corporations.

Also, the petition of Sidney P. Russell, of Accomack, Virginia, owner of schooner D. R. Wilson, with accompanying papers, praying the intervention of Congress for protection from the illegal taxes exacted by the authority of Virginia.

By Mr. MYERS: The petition of Christian Sharps, of Philadelphia, Pennsylvania, for an extension of his patent for breech-loading firearms.

By Mr. PHELPS: The petition of Robert B. Goodyear, asking for an extension of his patent for improvement in power looms.

By Mr. VAN AERNAM: The petition of Lucetta Clements, for back pension.

IN SENATE.

THURSDAY, January 28, 1869.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. WILSON, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of the Interior, suggesting further legislation with regard to the erection of penitentiaries in the Territories of Nebraska, Washington, Colorado, Montana, Idaho, and Arizona; which was referred to the Committee on Territories, and ordered to be printed.

He also laid before the Senate a letter from the Secretary of the Interior, communicating, as provided in the treaty of the 7th of August, 1868, reports of the commissioners appointed to examine the claims of the Pottawatomie Indians; which was referred to the Committee on Indian Affairs.

He also laid before the Senate a letter of the Secretary of the Interior, communicating information of the suffering condition of the Indians on the Upper Missouri river, and urging the necessity of an appropriation for their relief; which was referred to the Committee on Indian Affairs.

CREDENTIALS.

The PRESIDENT *pro tempore* presented the credentials of Hon. John Scott, elected by the Legislature of Pennsylvania a Senator from that State for the term commencing March 4, 1869; which were read, and ordered to be filed.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented two petitions, signed by citizens of New York, Pennsylvania, Ohio, Indiana, and Illinois, praying that in any amendment which may be proposed to the Constitution of the United States there shall be no distinction between men and women; which was referred to the Committee on the Judiciary.

Mr. CONKLING. I present the petition of Charlotte Crane, of the town of Northfield, county of Richmond, and State of New York, widow of the late Colonel Ichabod B. Crane, asking a pension and setting forth special facts constituting the merits of the case. I move that it be referred to the Committee on Pensions.

The motion was agreed to.

Mr. CONKLING also presented the petition of the proprietors and inmates of Our Home, Danville, Livingston county, New York, praying that the women of the District of Columbia may not be debarred the right of suffrage; which was referred to the Committee on the District of Columbia.

Mr. POOL presented a petition of William Eley, of Virginia, praying to be relieved of disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

Mr. POMEROY presented petitions of citizens of the State of New York, of the city of New York, of the State of Kansas, of the State of Connecticut, and of citizens of Watertown, Jefferson county, New York, praying that in any amendment proposed to the Constitution of the United States there shall be no distinction made between men and women; which were referred to the Committee on the Judiciary.

Mr. WILLEY presented the petition of R. F. Graves, of Powhatan county, Virginia, praying the removal of civil disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

Mr. MORGAN presented the memorial of the Lake Shore Grape Growers' Association, praying the enactment of a law authorizing the granting of letters patent on new horticultural varieties; which was referred to the Committee on Agriculture.

He also presented a petition of merchants of New York, in favor of an act of Congress legalizing the construction of the New York and Brooklyn bridge; which was referred to the Committee on Commerce.

Mr. TRUMBULL presented the petition of wholesale grocers and merchants of Chicago, remonstrating against any increase of the duty on refined sugars; which was referred to the Committee on Finance.

Mr. TRUMBULL. A few days ago I presented the memorial of the city council of Chicago, accompanied by a bill, asking for the passage of a law granting to the city the land under the waters of Lake Michigan for one league in front of the city in order to enlarge the harbor facilities of that city. I now present the memorial of Mahlon D. Ogden and others, property holders and men who have riparian rights upon the shores of Lake Michigan, remonstrating against the passage of any bill which shall interfere with the rights they have already acquired by purchase from the United States. I move its reference to the Committee on Commerce.

The motion was agreed to.

Mr. CAMERON presented the petition of naval officers at League Island, praying relief for Mrs. Jane Dean Bishop, widow of William S. Bishop, deceased, late a surgeon in the Navy; which was referred to the Committee on Naval Affairs.

He also presented a memorial of citizens of the United States, praying for an appropriation for the Soldiers' Orphans' Home at Gettysburg, Pennsylvania; which was referred to the Committee on Military Affairs.

CAPTAIN CHARLES HUNTER.

Mr. ANTHONY. I am instructed by the Committee on Naval Affairs, to whom was referred the petition of Charles Hunter, praying for pay from the 22d of June, 1863, to the 21st of June, 1866, to report a bill for his relief; and as this is a bill that will create no debate I ask for its present consideration.

By unanimous consent the bill (S. No. 844) for the relief of Captain Charles Hunter, of the United States Navy, was read twice, and considered as in Committee of the Whole. It directs the Secretary of the Treasury to pay

to Captain Charles Hunter, United States Navy, pay as commander in the Navy on leave from the 22d of June, 1863, to the 21st of June, 1866.

The bill was reported to the Senate without amendment.

Mr. CONKLING. I presume there is a report accompanying this bill, or else there should be some explanation of it. I wish the Senator would let us understand it.

Mr. ANTHONY. I will explain it in one moment. Captain Charles Hunter was in command of the United States steamer Montgomery in 1862. Cruising off the coast of Cuba he sighted a rebel steamer. He fired a blank shot, and the vessel showed very suspicious indications and endeavored to avoid him and ran toward the land. He endeavored to cut her off, but she got within neutral ground, within the marine league, before he could reach her. She then cast anchor. He sent his boats out to ascertain her character, and the crew fired the vessel and she was destroyed. She proved to be the steamer *Blanche*. She had also other names. She had been a very celebrated blockade runner, and was then, I think, upon her fifth successful voyage. The vessel was destroyed; but it was destroyed—although the act of her own crew—in neutral waters, and the Spanish Government complained against ours on that ground. For performing his duty too well Captain Hunter was tried by court-martial, and under the pressure of diplomatic necessity he was broken, but recommended by the court to executive clemency. The President and the Secretary of the Navy were disposed to restore him immediately. Admiral Farragut told me he ought to have been promoted for it. But in the then condition of the country it was not thought advisable or prudent to offend any foreign nation, and as Spain had made remonstrances on the subject the sentence was carried into execution. The Navy Department informed the State Department of its desire to restore Captain Hunter just so soon as it could be done with safety to our diplomatic relations. As soon as that period arrived Mr. Seward addressed a letter to Mr. Welles, stating that he had no further objection to the restoration of Captain Hunter; and he was immediately restored, nominated, and confirmed. This bill is to give him leave pay during the time that he was deprived of his commission for having performed his duty too well. The report is unanimously made by the Committee on Naval Affairs.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

REPORTS OF COMMITTEES.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom was referred the bill (S. No. 687) establishing a certain post road in the State of Connecticut, reported it with an amendment.

He also, from the same committee, to whom was referred the bill (S. No. 686) to establish a certain post road in the State of Connecticut, reported it with an amendment.

Mr. HOWE. The Committee on Claims, to whom was referred the bill (H. R. No. 833) for the relief of Rufus M. Hollister, of Janesville, Wisconsin, have directed me to report it back with a recommendation that it pass. It is a small bill, appropriating \$500 to pay for a destroyed bond, and I ask for its present consideration.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider the bill at the present time. Does any Senator object?

Mr. CONKLING. I do not object if we may go through the morning business and introduce such bills as we have. I suppose the Senator has no objection to that. I have a bill that I should like to introduce for reference.

Mr. CHANDLER. I desire to make a report.

The PRESIDENT *pro tempore*. Reports from committees are still in order.

Mr. CHANDLER, from the Committee on

Commerce, to whom was referred the bill (S. No. 838) to prevent the collection of illegal imposts under color of State authority, reported it with amendment.

Mr. KELLOGG, from the Committee on Commerce, to whom was referred a petition of captains and owners of vessels, and citizens of different States praying protection from illegal taxes imposed by States, cities, and sea-port towns, reported adversely thereon.

He also, from the same committee, to whom was referred the memorial of the Legislative Assembly of Montana in favor of an appropriation for a national road from Fort Benton to the Columbia river, asked to be discharged from its further consideration, and that it be referred to the Committee on Territories; which was agreed to.

He also, from the same committee, to whom was referred a petition of citizens of Wilmington, North Carolina, praying an appropriation for the purpose of building a post office in that city, asked to be discharged from its further consideration, and that it be referred to the Committee on Post Offices and Post Roads; which was agreed to.

Mr. VICKERS, from the Committee on Commerce, to whom was referred the bill (S. No. 734) to create an additional collection district in the State of California, reported adversely thereon.

He also, from the same committee, to whom was referred the petition of Cecil C. Neil, surveyor of the port of Charleston, South Carolina, praying that he may be allowed a stated salary instead of fees, reported adversely thereon.

He also, from the same committee, to whom was referred the memorial of Thomas Rigney and other merchants of the city of New York, asking for congressional legislation with respect to certain charges alleged to be illegally levied by the custom-house of New York, asked to be discharged from its further consideration; which was agreed to.

Mr. NYE. The Committee on Naval Affairs, who were directed by a resolution of the Senate of December 16, 1868, to inquire into the practicability, expediency, and probable cost of deepening the entrance to the harbor of Midway Islands in the Pacific ocean, so as to afford a safe rendezvous and port of refuge and resort for the naval and mercantile vessels of the United States, have instructed me to report favorably upon the proposition. I desire to have the report and the accompanying documents, except the maps, printed.

The PRESIDENT *pro tempore*. The order to print will be entered.

Mr. NYE. I desire in this connection to give notice to the Committee on Appropriations that whenever the naval appropriation bill is under consideration I shall move an appropriation of \$50,000 to carry out the purpose of that report. I submit the amendment for reference to that committee, according to the rules.

Mr. DRAKE, from the Committee on Naval Affairs, to whom was referred the petition of Abbott Q. Ross, submitted a report, accompanied by a bill (S. No. 845) for the relief of Abbott Q. Ross. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. HENDERSON, from the Committee on Indian Affairs, to whom was referred the bill (H. R. No. 1482) to restore the Bureau of Indian Affairs to the Department of War, reported it with an amendment.

APPOINTMENT OF MIDSHIPMEN.

Mr. FRELINGHUYSEN. I am instructed by the Committee on Naval Affairs, to whom was referred the bill (H. R. No. 1671) in relation to the appointment of midshipmen from the lately reconstructed States, to report it back without amendment and recommend its passage; and if there be no objection I should like to have it considered now. By the existing law the nominations of midshipmen to the Naval Academy must be made between the 4th of March and the 1st of July, on the nomina-

tion of the Representatives from the respective districts in Congress. In one or two of the southern States they will have no Representatives until after the 1st of July, their election not taking place this year until after that time. This bill provides, to remedy that evil, that the nominations shall be made before the 4th of March by the present Representatives. It is unanimously recommended by the Committee on Naval Affairs.

Mr. WARNER. I hope that motion will prevail.

The PRESIDENT *pro tempore*. The question now is, is there any objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Secretary of the Navy to make the appointment of midshipmen to the United States Naval Academy, on or before the 4th day of March next, from any State in which the election of members of the House of Representatives to the Forty-First Congress does not by law take place previous to the 1st of July, 1869, upon the nomination of the members of the House of Representatives from such States in the present Congress; but no such appointment is to be made from any State not by law entitled to the appointment of midshipmen in the year 1869.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. POMEROY. I desire to call the attention of the Senate to the title of the bill. I do not know but that it is as good a title as any, but it strikes me as being somewhat peculiar. I ask that it be read.

The CHIEF CLERK. The title now reads, "An act in relation to the appointment of midshipmen from the lately reconstructed States."

Mr. POMEROY. What States are "reconstructed?" It may be a proper title, but it is something new.

Mr. CONNESS. The title is all right.

The PRESIDENT *pro tempore*. There is nothing before the Senate.

Mr. POMEROY. I move to amend the title. The PRESIDENT *pro tempore*. What is the amendment?

Mr. POMEROY. It is to insert "certain States" instead of "the lately reconstructed States."

Mr. FRELINGHUYSEN. The bill has already passed the House of Representatives, and it is certainly very immaterial what the title of the statute is. The title is not part of the statute.

Mr. POMEROY. When we legislate for particular States we speak of "certain States," not "reconstructed States."

Mr. FRELINGHUYSEN. An amendment sends the bill back to the House of Representatives, and probably defeats it.

Mr. POMEROY. We have got no States divided by the question of reconstructed or unreconstructed; but if this is a House bill I will withdraw the amendment.

The PRESIDENT *pro tempore*. The amendment is withdrawn.

BILLS INTRODUCED.

Mr. MORTON. Yesterday, at the expiration of the morning hour, a question of order was left undetermined, and for the purpose of having that question settled by the Senate I move to take up House bill No. 65.

Mr. CONKLING. I hope the Senator will let us finish the morning business.

Mr. MORRILL, of Vermont. I desire to call up a matter that will not occupy a moment.

Mr. CONKLING. I must object until we have an opportunity to finish the morning business.

The PRESIDENT *pro tempore*. Objection being made, the motion cannot be entertained under the rule until the morning business is disposed of. The introduction of bills is now in order.

Mr. CONKLING asked, and by unanimous consent obtained, leave to introduce a bill (S.

No. 846) for the relief of Charlotte Crane; which was read twice by its title, and referred to the Committee on Pensions.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 847) to furnish supplies for the Indian Bureau; which was read twice by its title, referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. RICE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 848) for the construction of lines of telegraph between Boston, New York, Philadelphia, Baltimore, and Washington, under the direction of the Post Office Department; which was read twice by its title, referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

Mr. VICKERS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 849) to incorporate the National Railway Trust and Loan Company; which was read twice by its title, referred to the Committee on Railroads in the States, and ordered to be printed.

PROPOSED AMENDMENTS.

Mr. CRAGIN. By direction of the Committee on Naval Affairs I give notice that I shall offer an amendment to the bill (H. R. No. 1599) making appropriations for the naval service for the year ending June 30, 1870, which I send to the Chair.

I ask also to offer an amendment to the joint resolution (S. R. No. 202) more effectually to insure the faithful completion of the Union Pacific railroad and its branches according to law; and I ask that it may be printed, so that it will be in order whenever it shall come up.

The PRESIDENT *pro tempore*. The order to print will be made.

Mr. MORTON submitted an amendment intended to be proposed by him to the bill (S. No. 793) in relation to the public debt and the currency; which was received and ordered to be printed.

CENTRAL BRANCH PACIFIC RAILROAD.

Mr. CONNESS. I wish to make a motion—I make it now—to reconsider the vote by which the Kansas or Central Branch railroad bill was yesterday rejected. My object in moving the reconsideration is that the bill may lie upon the table until an amendment is prepared in the way of a substitute for it which promises to be more acceptable to the Senate and beneficial to the country. I now make the motion to reconsider.

The PRESIDENT *pro tempore*. The motion will be entered.

Mr. CONNESS. I ask for a vote on it. That is in order, I believe.

Mr. CONKLING. I hope that will not be done.

The PRESIDENT *pro tempore*. The unfinished business is not yet through with.

Mr. CONNESS. There is no unfinished business of the morning hour.

The PRESIDENT *pro tempore*. The Chair should have said that the business of the morning hour is not yet through. Nothing else is in order, except by unanimous consent, until the business of the morning hour is through with.

Mr. CONNESS. What else is before the Senate?

Mr. POMEROY. The Chair must be aware that a motion to reconsider is a privileged motion.

Mr. CHANDLER. I desire to give notice that I shall to-morrow, at one o'clock, try to bring up the river and harbor bill.

Mr. CONNESS. Mr. President, this is not in order.

Mr. CHANDLER. And I shall press it to a vote.

Mr. CONNESS. This is not morning business.

Mr. MORTON. Is anything before the Senate?

The PRESIDENT *pro tempore*. There is a motion to reconsider the vote by which the bill

called the Central Branch railroad bill was rejected.

Mr. WILSON. I hope that motion will be entered and not pressed to a vote this morning.

Mr. CONNESS. Very well, sir; if that is the wish of Senators I have no objection to that course being taken.

The PRESIDENT *pro tempore*. The motion will be entered.

COMMITTEE ON EDUCATION.

Mr. MORRILL, of Vermont. If it is now in order I ask for a moment's attention of the Senate to consider the resolution reported by the Committee on Agriculture, for the establishment of a standing Committee on Education. I presume there is no objection to the passage of it, and I ask for action on it at this time.

The motion was agreed to; and the Senate proceeded to consider the following resolution:

Resolved, That a committee consisting of five members, to be styled a Committee on Education, be added to the standing committees of the Senate.

The resolution was agreed to; and Messrs. MORRILL of Vermont, FRELINGHUYSEN, HARLAN, DRAKE, and WELCH were appointed the committee.

R. M. HOLLISTER.

Mr. MORTON. Mr. President—

Mr. HOWE. I appeal to the Senator from Indiana on this ground: a short time ago I reported a small bill for the payment of a private claim from the Committee on Claims. I asked unanimous consent to have it considered at that time. That privilege was accorded to two other reports, but it was not accorded to the one that I made. Now, I think it will not occupy as long a time as I have been on the floor to consider and dispose of that bill. I hope the Senator will allow me to submit a motion to take it up.

Mr. MORTON. If it will not lead to debate I have no objection.

Mr. HOWE. Certainly not. If it does I shall give way to the Senator.

The PRESIDENT *pro tempore*. Does the Senator from Indiana yield the floor for the purpose of this motion?

Mr. MORTON. Yes, sir.

Mr. HOWE. I move to take up House bill No. 833.

The motion was agreed to; and the bill (H. R. No. 833) for the relief of Rufus M. Hollister, of Janesville, Wisconsin, was considered as in Committee of the Whole. It proposes to direct the Secretary of the Treasury to pay to Rufus M. Hollister, of Janesville, Wisconsin, the sum of \$500, to reimburse him for that sum, in seven-thirty bonds of the United States, lost and destroyed by fire on the 16th of June, 1866.

Mr. SHERMAN. The amount involved in that bill, \$500, is too small to make a contest over; but the principle involved in it extends to hundreds of millions of dollars. It is whether or not the Government of the United States shall pay for bonds or notes destroyed by fire or by accident. We have had some cases brought to the attention of the Committee on Finance, to which, I believe, all such cases have hitherto been referred, where the proof appeared to be pretty plain that the bonds were destroyed, and yet where the bonds actually turned out afterward to be in existence. It presents the very grave and very difficult question whether the United States ought to become the insurer of its bonds payable to bearer.

Mr. EDMUNDS. The Senator alludes to coupon bonds.

Mr. SHERMAN. There are seven-thirty coupon bonds. In this case the *prima facie* evidence furnished to the Committee on Claims no doubt satisfied them that these seven-thirty bonds were destroyed. But if Congress undertakes to pay for all the bonds and notes the destruction of which is proved it will be a very difficult operation. You cannot distinguish between this case and the cases of notes of the United States lost or destroyed. It seems to

me it is entering upon a very dangerous precedent.

Mr. HOWE. Let me say to the Senator from Ohio that among the papers in this case are the remains of the bonds identified by the Treasurer of the United States himself. He says that these are the remains of the seven-thirty bonds specified in the application.

Mr. SHERMAN. Is there no possible question about their identity?

Mr. HOWE. He says there is none. Besides that, I want to say to the Senator that we have paid quite a number of these claims already.

Mr. SHERMAN. If there is no possible chance of doubt it may be safe to pay them; but generally it is a dangerous thing. If these particular bonds have been identified by the Treasurer I shall make no objection.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

WILLIAM M'GARRAHAN.

Mr. MORTON. Now, Mr. President, for the purpose of having a settlement of the question of order which has occupied the attention of the Senate on several occasions, I move to take up House bill No. 65, for the relief of William McGarrahan, and I hope the question will be disposed of.

The PRESIDENT *pro tempore*. The Senator from Indiana moves to take up the bill mentioned by him, for the purpose of reference; and the question is whether it is in order now to take up this bill, it having been postponed indefinitely at the last session. That is the question for the Senate to decide.

Mr. WILLIAMS. Mr. President, I think it due to myself and to all parties concerned, in view of the speech made yesterday by the Senator from Indiana, [Mr. HENDRICKS,] that I should say a word or two more upon this subject. When this bill was referred to the Committee on Private Land Claims that committee proceeded to consider it, and counsel were heard on each side as long as they desired to be heard, and after three or four weeks of careful and patient investigation the report which has been filed was made by the unanimous vote of that committee. When the report was made Mr. McGarrahan commenced importuning me to have the case recommitted or sent to some other committee, and I absolutely refused to consent to any such arrangement; but finally, to rid myself of importunity, I told him that I would not call up the bill, but at the same time distinctly notified him that other Senators could do it; and I knew and he knew that the Senator from Nevada [Mr. STEWART] was decidedly opposed to the bill. He so announced on the floor of the Senate when the bill came over from the House of Representatives. I stated to the Senator from Michigan [Mr. HOWARD] what I had said to Mr. McGarrahan. True, Mr. McGarrahan said that he wanted to obtain further testimony to show that he had possession of this property, but I supposed that that was a mere pretext for the purpose of delay, for the very ground on which this claim was rejected by the board of land commissioners in 1853 was that McGarrahan or his grantor was never in the possession of the property, and the want of equity was affirmed by the Supreme Court on this ground; and after this case had been litigated for fifteen years, and all through it had not been pretended that McGarrahan ever occupied this land or expended a dollar upon it, after this report was made he alleged then that he wanted to prove his possession. I supposed there was nothing in it; but I expected that he would go to the Senator from Nevada and to others who were interested in this claim. I cared nothing about it. I made the report and supposed my duties in reference to the matter were ended. I did not propose to say or do anything more about the case, but let other Senators who felt more interest in the matter than I did take charge of it. I cared not what the Senate did with the report; but I supposed McGarrahan would go to these other gentlemen and agree with them

as he did with me. I have no control over other Senators; and when this matter was called up it did not attract my attention, and if it had I should have interposed no objection, because I had no control of other Senators and did not propose to take any further part in reference to the bill.

So much upon that point. Now I ask the attention of this Senate and of every Senator to what I am about to show in reference to the proceedings of this man McGarrahan as to this question of order. McGarrahan has filed a written brief upon this question, which has been laid upon the table of every member of the Senate, in which he undertakes to cite authorities to show that an indefinite postponement of a bill only puts off its consideration to the succeeding session; and one authority which he cites I will read from his brief:

"The motion to postpone indefinitely is of American origin, and peculiar to legislative assemblies in this country, in which it is used. In the House of Representatives it is provided by a rule, that when a question is postponed indefinitely it shall not be acted on again at the same session."—Cushing, 1386.

Now, sir, I will read paragraph 1386 from Cushing's work:

"The motion to postpone indefinitely is of American origin, and peculiar to the legislative assemblies of this country, in which it is used as an adverse motion to reject or suppress, and with the same effect."

Now, sir, this innocent and injured McGarrahan has filed here a brief in which he has mutilated the authority which he proposes to cite, and made it mean exactly opposite to what it does mean in the book. He has taken that paragraph down to the word "used."

"The motion to postpone indefinitely is of American origin, and peculiar to the legislative assemblies of this country in which it is used."

There the quotation ends, when the operative words of the paragraph are "as an adverse motion to reject or suppress, and with the same effect."

Mr. EDMUNDS. Does he mean by "reject" and "suppress" the same thing, or does he express different ideas by these two words?

Mr. WILLIAMS. I am not now proposing to interpret that language; I will submit it to the honorable Senator from Vermont; but I am proposing to show that this man, McGarrahan, in the broad light of day has attempted by a falsification of an authority to mislead this Senate into making a false decision in his favor.

Sir, this is a specimen brick of this man McGarrahan. I think that the Senate will now see that this man is not so innocent and so much entitled to the sympathy and consideration of the Senate as he claims to be, when he has made this attempt to impose upon the Senate by citing an authority to show that an indefinite postponement only continues the case from one session to another, when the parliamentary law is, as it is clearly and explicitly laid down in the authority, that an indefinite postponement is equivalent to its rejection or suppression.

Now, sir, I shall say no more upon this subject. I want the Senate, however, to understand that in sustaining this motion they proceed to consider a bill which is at this time filed away in the pigeon-holes of the House of Representatives among the rejected bills of Congress. I want the Senate to understand that they are trampling under foot the parliamentary practice of this body for more than thirty years without an exception. I want the Senate to understand that they are trampling under foot the parliamentary law as it is pronounced by the best authorities in the country. I want them to understand that they are indorsing by this vote the action of a man who has attempted to cheat the Senate by misquoting an authority for the purpose of inducing this body to sanction his claim.

Mr. HOWARD. Mr. President, as I was a member of the Committee on Private Land Claims at the time this bill was before the Senate, I ought perhaps to say a word in reference to it.

Mr. CONNESS. Not on its merits; we were suppressed yesterday.

Mr. POMEROY. I hope the point of order will be settled without going into the merits of the bill. It is simply a question of order; and if our rules are good for anything they certainly prohibit a discussion of the merits of a question on a point of order. We shall never bring this question to a close unless we confine the discussion to the point of order.

Mr. HOWARD. How does the honorable Senator know that I am not about to discuss the point of order?

Mr. POMEROY. I understood the Senator to say that he had some remarks to make about this case. That was the only reason I interposed.

Mr. HOWARD. About the question.

The PRESIDENT *pro tempore*. The Senator from Michigan is entitled to the floor.

Mr. HOWARD. I wish to say very briefly that it is true, as the honorable chairman of the committee has remarked, that the Committee on Private Land Claims heard this claim with great patience, and at some six or seven sessions of the committee, at which the claimant was assisted by very able counsel, and at which there was counsel and argument on both sides of the question. After a very patient consideration of the case, looking at all the proofs that were introduced, the committee came to the conclusion which is announced in the report presented to the Senate by the honorable Senator from Oregon. I had no doubt, as a member of the committee, of the correctness of the conclusion to which the committee arrived. After the report was made, however, Mr. McGarrahan, in whom I have never discovered any intentional fault or vice, came to me and had a conversation with me. I observed to him that in all the papers which he had produced before the committee there was none that related to the prior possession of the claim, and I asked him whether there was in fact any proof of prior possession on his own part or on the part of those who preceded him in the title. He answered very earnestly that there was such proof in existence and that such was the fact. I then suggested to him the propriety of returning to California for the purpose of procuring such proofs of anterior possession in good faith, and that he should take such evidence and give notice to the New Idria Mining Company of the time and place at which the evidence was to be taken by him, so that there should be no surprise to the opposite party, the New Idria Mining Company. I thought that was perfectly fair. He said he would do so, and he left the city, as I was informed, for that purpose. That was the foundation of the letter which I addressed to the Commissioner of the General Land Office, upon which it seems he stopped proceedings for the present.

I then suggested to the honorable Senator from Nevada, [Mr. STEWART,] who took an interest in the question, that he had better let the report lie over during the last session and give Mr. McGarrahan an opportunity to produce this supplemental evidence which he said was within his power. The Senator from Nevada did not agree to do so, but said that he would call up the report as soon as he could and ask action on it by the Senate. I told him that I thought justice required that McGarrahan should have a further opportunity to produce additional proof, as the question of possession was in my mind one of great importance, and upon that question there was no evidence whatever. I think so still, sir. I think it becomes the Senate, where a party seems to be acting in good faith, to allow him an opportunity to present his whole case before them.

That is all I desire to say upon that subject; but I beg further to remark that it does seem to me a little hard toward this claimant and toward other claimants who may have meritorious claims that we should apply this technical rule with the stringency which is insisted upon now by those who oppose the taking up of the bill. It is but a mere technicality if it be parliamentary law, and certainly in this

case, as it seems to me, is likely to operate with great hardship on a claimant, who, notwithstanding the denunciations against him, may turn out to be an honest and meritorious claimant. I do not wish, sir, to hang up the claim upon such a small technicality.

Mr. MORTON. Mr. President, the authority introduced by the Senator from Oregon this morning does not change in any respect the aspect of this case.

"The motion to postpone indefinitely is of American origin, and peculiar to the legislative assemblies of this country, in which it is used as an adverse motion to reject or suppress, and with the same effect."

Does anybody doubt that it has had the same effect? While the two sessions of the Congress were not connected together any motion that had the effect to put a question over beyond the session had the effect to destroy it; and that is precisely the way it was attempted to be used in this case; and if the two sessions were not connected together by the operation of the twenty-first joint rule it would be successful undoubtedly. While the sessions are totally disconnected, and all the business that is not finished at the end of one session is destroyed by the termination of the session, an indefinite postponement does have the effect to destroy the business, because there is thus no day beyond that session; that is all there is of it. One authority, which I have not now in my hand, in speaking of an indefinite postponement, says it has the effect to postpone the business to a day beyond the session at that time. There is a day beyond that session now. The two sessions are connected together by the operation of the twenty-first joint rule, and this is clearly unfinished business within the meaning of that rule.

Now, what does the authority to which the Senator refers amount to? Simply that while the sessions were not connected together a motion to postpone indefinitely was used for the same purpose as a motion to reject. Undoubtedly it was, and that was the very use made of it in this case. The question is whether it shall prevail; whether a mere technicality that is really, in point of fact, no technicality at all, shall prevent the reexamination of this man's case. Now, sir, I give no opinion about this case at all; I have not done so; but it is my judgment that it ought to be reexamined. I only know enough about it to make me think that it ought to be reexamined; and there is too much property at stake here to allow that reexamination to be prevented by a barren technicality, if it be one at all, which I insist it is not.

Mr. STEWART. How much property is it?

Mr. MORTON. I understand there is a good deal.

Mr. STEWART. How much?

Mr. MORTON. I understand there is property enough at stake to make the opposite party fight most desperately to prevent a reexamination of this case. Is not that so?

Mr. STEWART. If there was but one dollar to be taken in this form it would make me stand up for it; but I will inform the Senator that this property is not as valuable as has been stated. It has been stated at four, five, or six millions. The parties who own the property and paid for it would be glad to get rid of it at what it actually cost them in round dollars. They have invested about five hundred thousand dollars, and they would sell it for that amount. It is estimated here at millions.

Mr. MORTON. That is all out of the record and foreign to the question of order. We are now asking simply that this question shall be brought up again for reexamination. If the title is with the New Idria Mining Company, now said to be taking \$50,000 a month of quicksilver out of this Territory, perhaps they can show it on a reexamination. If it is not, then the parties who own the title ought to have it. But, sir, although it may not be worth \$6,000,000, it is worth enough to justify the Senate in authorizing justice to be done. It is worth too much to have a mere technical-

ality not as wide as a hair's breadth to stand in the way of a reexamination of the question.

Sir, there has been some display of feeling here. I have none. I have expressed no feeling, and I do not know how I shall vote on the main question. I was requested to bring this question up here in the way I have done. I have done it simply as my duty as a Senator. I have been somewhat surprised at the feeling that has been exhibited. I know of no reason for it. For my part I do not participate in it. I care nothing about that. I am simply acting in my capacity as a Senator in bringing this matter up in order to have it referred to a committee for the purpose of having a reexamination of this man's title. If he has not a good title he ought not to have the land, and if he has he ought to have it. I am aware that one committee, an able committee in the Senate, has made an adverse report. I am also aware that a very able committee in the House of Representatives has made an affirmative report, one of great ability. But I say nothing upon the merits of the case. All I ask is that this man shall have a chance to represent the title.

One word in regard to what the Senator from Michigan said. Mr. McGarrahan did go to California upon the understanding that this case was not to be taken up, and he has obtained the evidence.

Mr. CONNESS. I rise to a point of order. My point of order is that a discussion of the merits of this question is not in order now. The honorable Senator objected to such discussion by me yesterday.

Mr. MORTON. It does not come with a very good grace from my friend. I think he went into the merits yesterday. I know the Senator from Nevada did.

The PRESIDENT *pro tempore*. A question of order is made, and the Senator must wait until it is decided.

Several SENATORS. The morning hour has expired.

Mr. MORTON. I make this point, that this is a privileged question to be decided by the Senate.

Mr. CONNESS. I object to the honorable Senator proceeding.

The PRESIDENT *pro tempore*. The Senator from California makes a new question of order, that a discussion of the merits is not in order at this time. The Chair would observe upon that point that it is very difficult to arrest debate on the merits of a question. Senators have been permitted to make use of such arguments generally as to them appear proper and pertinent to the issue, although we are admonished in our rules that on a motion to take up a measure its merits are not in controversy. In this case a paper has been introduced from some quarter that seemed to allude somewhat to the merits of the case, and on that debate on each side has been had, and it appears to the Chair that he cannot arrest the debate on that subject now; it has gone too far. But the Chair was about to announce, what it is his duty to announce, that the morning hour having expired the special order of the day, fixed for one o'clock, is now before the Senate.

Mr. MORTON. When I was interrupted by the honorable Senator from California I wished to make a question of order which, I suppose, I have a right to make, although I may be wrong in it. I have been advised by Senators who are much better versed in the rules and in questions of order than I am that this question of order is a privileged question and is not terminated by the morning hour. I am not prepared myself to discuss that question, for I do not claim sufficient information in regard to the rules to do so; but I am advised that it is a privileged question, and if so, I should be glad to have it determined this morning. It will continue to occupy the morning hour until it is settled. Senators may be satisfied of that fact that the solution of this question cannot be prevented by the consumption of the morning hour from day to day.

Mr. STEWART. And Senators may be

satisfied of another fact, that my conduct having been brought before the Senate, by the introduction of letters, &c., outside of the question of order and commented upon, I shall, as long as the Senate will permit me, reply to that course of argument, and I shall have further remarks to make on this case.

Mr. MORTON. I think that it will be a saving of time to the Senate if this question is settled now, and I submit the point of order as to whether it is a privileged question or not.

Mr. WILSON. I move that the special order of the day be postponed informally for the purpose of having this matter settled and having it out of our way. It stands in the way of all morning business.

The PRESIDENT *pro tempore*. That can only be done by unanimous consent.

Mr. FERRY. I object.

The PRESIDENT *pro tempore*. Objection being made, that cannot be done. The Senator from Indiana makes a question of order over again that when a question of order is raised no other business can be done until that question is disposed of, as the Chair understands. That point was raised the other day, and it was the opinion of the Chair that such a question had no preference over the order of the day which intervenes. The Chair was not certain about the rule. He has tried to consult some books on the subject, but they give him no light upon it, and he will be compelled to stand by the decision then made unless it can be shown that there is some rule of parliamentary law conflicting with it which he has not been able to find.

Mr. STEWART. I understand that the special order is now before the Senate.

TAKING OF THE CENSUS.

Mr. CONKLING. I ask the Senator to yield to me for one moment to enable me to send a resolution to the Chair, on which I shall not ask action, but desire to have read and lie on the table. I shall call it up to-morrow:

Resolved, That a select committee of five members be appointed by the Chair to inquire and report to the Senate whether any, and if so what, legislation is necessary touching the taking of the ninth census, as provided by the Constitution.

The resolution was ordered to lie on the table.

WILLIAM M'GARRAHAN.

Mr. STEWART. I call for the reading of the joint resolution regularly before the Senate.

The PRESIDENT *pro tempore*. The special order of the day is the joint resolution (S. R. No. 8) proposing an amendment to the Constitution of the United States.

Mr. MORTON. I think it will be economy of the time of the Senate to dispose of this question, and not have it up morning after morning, and therefore I move to suspend the order of the day for forty minutes for the purpose of having this question settled.

Mr. CONKLING. You had better make it an hour.

Mr. MORTON. Well, I will say an hour, if it shall last so long.

Mr. STEWART. I hope that will not be done. It is important to have action soon on this constitutional amendment, if ever, and I shall call for yeas and nays on any motion to postpone it.

Mr. MORTON. It is simply for the purpose of having this question of order settled, and then I shall be willing to go on with the constitutional amendment.

Mr. CONNESS. Is the motion of the honorable Senator from Indiana in order?

The PRESIDENT *pro tempore*. The Chair is of opinion that it is. He has the floor, and moves to postpone the special order for the purpose of continuing the debate on the question of order.

Mr. CONNESS. Then I wish to say a word upon it. I wish to say to the Senate and to the Senator from Indiana that when the question which has been before the Senate shall come up upon its merits I want to occupy its attention a little while growing out of the char-

acter of the remarks that have been made by some honorable Senators, and also the circulation of letters and documents by Mr. McGarran, which seem to me make it necessary; and yet I am as anxious as any Senator can be that this question shall be disposed of; and in my opinion it could have been disposed of before this time but for the advocates of the motion that is sought to be made. The motion seems so extraordinary a one to me that any interest I could possibly have in any question could not induce me to vote on the affirmative side of it. But, sir, if the motion now before the Senate shall obtain, and a vote can be had upon the question without further debate, I will not attempt to occupy any time on the subject. If not, I give notice that I shall want to take part in the discussion and to reply to many things that have been said on the subject.

The *PRESIDENT pro tempore*. The question is on postponing the special order for an hour, with a view to continuing the debate on the question of order.

The motion was agreed to.

The *PRESIDENT pro tempore*. The question of order is again before the Senate as to the motion made by the Senator from Indiana, to take up the bill (H. R. No. 65) for the relief of William McGarran.

Mr. POMEROY. I have taken no part in this debate, and I did not intend to do so. I have no opinion in regard to this case. I do not know anything about it. If I did know I would not express an opinion; but I do not know, and therefore I have none to express. But the question of order is more important to the Senate than the consideration involved in this case, I care not how large that consideration may be. The question of order involves the question whether we are to continue the precedents of the Senate, or whether we are to reverse them; and that is a question of the greatest importance. There is a way in which this question might have been reached under our rules. But before you can proceed to the consideration of a question the first thing to be ascertained is whether the question itself is before the Senate; whether the papers relating to it are here; whether you can proceed with it provided the motion is in order. To make a motion to proceed to the consideration of a question when the papers relating to it are not in the possession of the Senate is out of order, no matter what the question is. Now, the motion to proceed to the consideration of this bill is out of order, first, because the papers are not in the possession of the Senate. There are two ways in which we might proceed with this question: one is by a resolution asking the return of the papers from the House of Representatives, and another is by a proceeding in the House of Representatives. These are two ways which could have been pursued in order to get at the question. But to proceed to consider a question that is not here is certainly not in order. Then, secondly, the papers having got here by one of the two methods of which I have spoken, the question would come up whether we could proceed to the consideration of the case; and all I can say about that is that we can proceed to its consideration by unanimous consent or by reversing our rule. I do not know of any other way.

The *PRESIDENT pro tempore*. The question for the Senate to decide is, is it in order to take up the bill mentioned by the Senator from Indiana for the purpose of reference, it having been postponed indefinitely at the end of the last session?

Mr. CONNESS. Upon that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. FERRY. Mr. President, I was a member of the committee which investigated this case. I have, however, nothing now to say about the case; but I do wish to say a very few words directly to the point of order. The question before the Senate is important in one particular. It is not by any means the mere technicality which the Senator from Indiana seems

to suppose. The question before the Senate is, whether we will now abandon and abolish the very convenient mode of disposing of bills which committees recommend to have rejected by the motion to postpone indefinitely; whether we will abolish in our subsequent proceedings in the Senate the use of that motion; for if the present motion is declared to be in order, then henceforth it is idle at a first session of Congress to make and carry a motion for an indefinite postponement, for it will only heap bills and measures upon the table of the next session.

Mr. MORTON. I beg to ask my friend one question, with his permission.

Mr. FERRY. Certainly.

Mr. MORTON. If that should be the effect, I ask him if the right to reject is not left?

Mr. FERRY. The action of the Senate upon the passage of a bill is still in order; but it occupies more time. It is not as convenient nor as rapid for the transaction of business as the motion to postpone indefinitely.

Now, sir, the question of order in this case turns, as the Senator from Indiana has correctly said, entirely upon the construction of the twenty-first joint rule; and in order to know what the twenty-first joint rule means we must ascertain what was the condition of the law at the time that rule was adopted. It is agreed on all hands that before the adoption of the twenty-first joint rule the adoption of a motion to postpone indefinitely was considered by the Senate as a determination of that measure. Everybody considered it so; and there has been no question made here on either side of the present controversy but that the passage of such a motion before the adoption of this rule, and at the time of such adoption, was considered by the entire Senate as a determination of the subject-matter. Now what is the rule?

"That all bills, &c., which, at the close of the next preceding session, remained undetermined in either House."

What did the committee that drafted that rule mean by the word "undetermined"? Did they mean to include bills which had been postponed indefinitely, or not? Does the word in its legitimate signification include such bills? Unquestionably, if what I have hitherto said be correct, it does not, and unquestionably the language of the twenty-first rule will not have the effect to carry over bills which have been postponed indefinitely at the preceding session, because those bills had been determined at the preceding session by the universal view entertained by the Senate at and previous to the time of the adoption of the rule. If, then, at the time of the adoption of this rule, the indefinite postponement of a measure at a preceding session was a determination of that measure the rule does not take the measure and carry it over to the succeeding session. I hence think the motion is out of order.

Mr. COLE. I cannot see that the merits of this claim are at all involved in the question of order now before the Senate, and so far as I am concerned I shall vote on the question of order without any reference to the merits involved in the proposition that was postponed indefinitely at the close of the last session.

Mr. HENDRICKS. I wish to say just one word in reply to the Senator from Kansas. The point that he makes is a mere question of the mode of putting the proposition. If the papers are in fact over in the House of Representatives, if the Senate now, upon the motion of my colleague, decides to consider this measure, of course we shall call upon the House for the papers. That is a mere matter of form, of calling upon the House for the papers when we decide to consider the bill.

The *PRESIDENT pro tempore*. The question is whether it is in order to take up this bill for the purpose of reference, it having been postponed indefinitely at the close of the last session, and on that question the yeas and nays have been ordered.

The question having been taken by yeas and nays, resulted—yeas 27, nays 18; as follows:

YEAS—Messrs. Buckalow, Cameton, Cragin, Doo-

little, Drake, Fessenden, Fowler, Grimes, Harlan, Harris, Hendricks, Howard, Kellogg, McCreery, Morrill of Maine, Morton, Osborn, Pool, Ramsey, Rice, Ross, Sherman, Thayer, Van Winkle, Vickers, Warner, and Welch—27.

NAYS—Messrs. Cole, Conness, Corbett, Dixon, Edmunds, Ferry, Morgan, Morrill of Vermont, Nye, Patterson of New Hampshire, Robertson, Sprague, Stewart, Sumner, Trumbull, Willey, Williams, and Wilson—18.

ABSENT—Messrs. Abbott, Anthony, Bayard, Cattell, Chandler, Conkling, Davis, Frelinghuysen, Henderson, Howe, McDonald, Norton, Patterson of Tennessee, Pomeroy, Saulsbury, Sawyer, Spencer, Tipton, Wade, Whyte, and Yates—21.

The *PRESIDENT pro tempore*. The Senate determines that it is in order.

Mr. MORTON. I move now to send to the House of Representatives for the papers, and that they be referred to the Committee on the Judiciary.

Mr. CONNESS. I object to that form of motion. Nothing can be referred until it is in the possession of the Senate.

Mr. MORTON. I move, then, to send for the papers to the House of Representatives. I make that motion first.

The *PRESIDENT pro tempore*. It is moved that the Secretary be directed to request the return of the papers in this case from the House of Representatives to the Senate.

Mr. STEWART. I should like to know if that opens the merits of this case? I think it does. I understand that that is the broadest possible motion that can be made. It opens the propriety of sending for these papers for the purpose of correcting and again considering them. If the matter has been correctly disposed of, of course there is the end of it. If we are to call upon the House to return these papers it must be for the purpose of further consideration because the Senate is not satisfied with its action.

Mr. CONNESS. I beg pardon of my friend from Nevada for interrupting him; but under the decision just made by the Senate it appears to me to be an equivalent decision that they will finally order these papers to be returned or send a resolution to the House for them. That it is an extraordinary decision I understand; but I forbear, and am forbidden to say more on the subject. I think, if my friend will pardon me, that it is best not to occupy the time of the Senate now upon the merits, if he will excuse my saying so, because there are many Senators, including himself, on the great subject he has charge of who will feel that we ought to proceed to the consideration of more important matter. Besides, upon the merits of the case, after the exhaustive examination which has been given it by the committee to which it has been referred heretofore, for one I have no fear of the result. Therefore I hope that this motion will not be discussed at length by my friend, and I hope he will excuse me for making this suggestion.

Mr. STEWART. The Senator from Oregon [Mr. WILLIAMS] also suggests that that would be the better course, and I shall acquiesce in that suggestion. All I wish to say now is that I do hope to have an opportunity to discuss this matter, and I hope that Senators when it is discussed will give it sufficient attention to see who is right and who is wrong, and that it shall have a place here and a discussion. My object in opposing this motion was that the case might be reconsidered in the House of Representatives. I do not think the bill was ever properly considered in that House. It was not a unanimous report in the House; and I should prefer to have a new bill introduced in both Houses with a full opportunity for its consideration. But the rules have been so construed that it must be considered wholly in the Senate hereafter. The merits cannot again be considered in the House. Whenever that time comes I shall have something to say.

The *PRESIDENT pro tempore*. The question is on the motion of the Senator from Indiana, that the Secretary be directed to request the return from the House of Representatives of the papers in this case.

The motion was agreed to; and a message was subsequently received from the House of

Representatives, by Mr. McPHERSON, its Clerk, returning to the Senate the papers in the case of William McGarrahan.

ENROLLED BILL, SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the enrolled bill (H. R. No. 1158) for the relief of Commander John L. Davis; and it was thereupon signed by the President *pro tempore*.

SUFFRAGE CONSTITUTIONAL AMENDMENT.

The PRESIDENT *pro tempore*. The order of the day is now before the Senate.

Mr. WILSON. Will the Senator from Nevada allow me to put on its passage a bill that will save a few hundred thousand dollars, and which it is very important should be acted upon at once?

Mr. STEWART. I am afraid of this resolution losing its place altogether, and I cannot yield to anything. There are so many Senators pressing me that I must now insist on the consideration of the constitutional amendment.

The PRESIDENT *pro tempore*. The order of the day, the joint resolution (S. R. No. 8) proposing an amendment to the Constitution of the United States, is now before the Senate as in Committee of the Whole, and the pending question is on the amendment reported by the Committee on the Judiciary.

Mr. STEWART. Mr. President, I do not propose to occupy the time of the Senate in discussing this great question at any length. It is the culmination of a contest which has lasted for thirty years. It is the logical result of the rebellion, of the abolition of slavery, and of the conflicts in this country during and before the war. Every person in the country has discussed it; it has been discussed in every local paper, by every local speaker; it has been discussed at the firesides; and now we are to place the grand result, I hope, in the Constitution of the United States. And let me remind my fellow-Senators that it is well that this work be now done, for we have realized the force of the very pointed sentence which was read here from the Swiss address, that "undetermined questions have no pity for the repose of mankind." This question can never rest until it is finally disposed of. This amendment is a declaration to make all men, without regard to race or color, equal before the law. The arguments in favor of it are so numerous, so convincing, that they carry conviction to every mind. The proposition itself has been recognized by the good men of this nation; and it is important, as the new administration enters upon the charge of the affairs of this country, that it should start on this high and noble principle that all men are free and equal, that they are really equal before the law. We cannot stop short of this.

It must be done. It is the only measure that will really abolish slavery. It is the only guarantee against peon laws and against oppression. It is that guarantee which was put in the Constitution of the United States originally, the guarantee that each man shall have a right to protect his own liberty. It repudiates that arrogant, self-righteous assumption, that one man can be charged with the liberties and destinies of another. You may put this in the form of legislative enactment; you may empower Congress to legislate; you may empower the States to legislate, and they will agitate the question. Let it be made the immutable law of the land; let it be fixed; and then we shall have peace. Until then there is no peace. I cannot add to the many eloquent speeches that have been made on this great question in this House. I will not attempt it. I want a vote. I will not occupy time. The proposition itself is more eloquent than man can be. It is a declaration too high, too grand, too noble, too just, to be ornamented by oratory. I hope we shall soon have a vote upon the question.

Mr. BUCKALEW. Mr. President, I propose to offer an amendment.

The PRESIDENT *pro tempore*. There is an amendment pending.

Mr. BUCKALEW. I am informed that there is an amendment of the committee pending. I will await the disposition of that. I suggest that the vote be taken on that at once. I believe there is no controversy about it; it is a matter of detail; and then I will offer my amendment.

The PRESIDING OFFICER, (Mr. FERRY in the chair.) The question is on the amendment reported by the Committee on the Judiciary, to strike out—

No State shall deny or abridge the right of its citizens to vote and hold office on account of race color, or previous condition.

And in lieu thereof to insert:

The right of citizens of the United States to vote, and hold office shall not be denied or abridged by the United States or any State on account of race, color, or previous condition of servitude.

The amendment was agreed to.

Mr. BUCKALEW. Now, Mr. President, I propose the following, as an article of amendment to the Constitution of the United States, to be added to this resolution.

The second clause, first section, article two of the Constitution shall be amended to read as follows:

Each State shall appoint, by a vote of the people thereof qualified to vote for Representatives in Congress, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or person holding an office of trust and profit under the United States, shall be appointed an elector; and the Congress shall have power to prescribe the manner in which such electors shall be chosen by the people.

Mr. President, the provision of the second article which it is proposed to amend reads at present as follows:

"Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector."

The changes proposed in that provision of the second article are two: in the first place, that electors of President and Vice President shall be chosen by the people of the several States instead of being chosen as the Legislatures of the States may direct. That will always secure the direct voice of the people. Instead of the electors being chosen by the Legislatures themselves, or being chosen in some other way which they may prescribe, a voice by the people will be secured at all times and under all circumstances. I suppose this is an improvement in our system which will receive unanimous approval. I doubt, sir, whether there is any sentiment or opinion in the country in favor of reposing the power at present confided in the Legislatures to them in future time.

I pass, then, to the second proposition in this amendment, which is that Congress may prescribe the manner in which the electors shall be chosen by the people of the several States. At present this power is reposed in the Legislatures of the States. By another provision of the same article it is provided that Congress may determine the time of choosing electors, and the day on which they shall give their votes, which day shall be the same throughout the United States. The power, then, as to fixing the time of the presidential election resides in Congress by virtue of the Constitution as it now stands. The amendment in addition to that will give to Congress the power of prescribing the manner in which the people shall choose electors. This amendment, which is a very desirable one, indeed, can be secured in no other manner than the one proposed by me; that is, by an amendment to the Constitution. It is morally impossible that the Legislatures should regulate the manner of choosing the electors so as to secure reform. Now, what is the fact? Many years ago the Congress of the United States abolished the general ticket system in the States for choosing Representatives in the lower House of Congress, because it was seen to be attended with great evils, inconven-

iences, and mischiefs which required the hand of reform. Fortunately the power existed in Congress to apply reform, and Congress did it. It required that each State electing more than one member to the House of Representatives should divide itself into single districts, and that a Representative should be elected from each. It was only because that power resided in Congress that that reform was possible at the time it was secured. Some of the States in fact resisted it. I believe two or three States continued to elect by general ticket in spite of the act of Congress, but they were finally compelled to conform themselves to the new and improved system which was established by Federal law; and we now have, therefore, in the election of Representatives in the other branch of Congress, a single district system established and enforced by congressional power. But Congress had no power to reform the system of choosing presidential electors by general ticket. The consequence is that we have that old, imperfect, clumsy, and often unjust mode of selecting presidential electors; and I believe that a general opinion exists throughout the country—among thinking and intelligent men at least—that we should have some change and reform in that particular.

I repeat, however, that the only mode in which you can secure that reform, or any other reform in the manner of choosing presidential electors, is to arm Congress with authority to establish a general system, a new and improved plan applicable to all the States. If you leave the Constitution unchanged the States will not introduce any new mode of electoral action. The political majority, for instance, in the State of New York, one of the great States, will not, by dividing their State into single districts, or by allowing the voter to cumulate his votes upon a less number than the whole number of electors to be chosen, consent to break, divide, and reduce the political power of his party in that State so long as other States do not at the same time adopt the new plan; and there is very good reason why they should not. Why, sir, a politician in the State of New York would see that he would injure his party, and injure it seriously, by breaking the power of the State as an aggregate body in the presidential election, while other States adhering to the old system and still electing by general ticket, would take the advantage of the change thus made by the State of New York.

This practical difficulty, this impediment, will always prevent the adoption of any reform by the States themselves, each acting for itself and separately from all the others in the manner of choosing electors of President and Vice President. There is, then, a necessity that this power shall be placed in the hands of Congress, and that Congress, by a general and uniform rule, shall apply this improvement to our system of elections throughout the country. Here it can be introduced, and doubtless it will be introduced promptly and at once whenever you have the power conferred upon the two Houses.

This is all I choose to say at present upon the amendment to the Constitution of the United States which I have proposed; but I will add a few words by way of explanation.

I do not propose that this amendment which I offer shall embarrass the consideration of the amendment which is pending before the Senate. The two propositions, although they both relate to elections and to electoral rights, are quite distinct from each other, and they deserve separate and distinct consideration in Congress and in the country. If, therefore, the Senate shall approve this amendment, my idea is that the formal part of the resolution which provides for the submission of the amendment to the different States shall be changed so that the amendments shall be submitted to be acted upon separately, so that the fate of one shall not necessarily be the fate of the other, that the several Legislatures who come to act upon the subjects embraced in this resolution of amendment can separate them, can adopt the one and reject the other, if they choose.

I repeat, it is not my intention to embarrass

the consideration of the original proposition, but to obtain a distinct consideration for this, and although I offer it now, early in the consideration of this subject, I do not care to have an immediate vote upon it. I hope the debate will go on upon the amendment presented by the Senator from Nevada, and that after due consideration I shall be able to obtain a favorable vote upon this amendment which I have proposed.

The PRESIDENTIAL OFFICER. (Mr. FERRY.) The question is on the amendment proposed by the Senator from Pennsylvania.

Mr. WILSON. I hope that amendment will be agreed to.

Mr. MORTON. It seems to me the amendment is proper in every particular. I am for it.

Mr. SHERMAN. Let the amendment be read.

The Chief Clerk read the amendment proposed by Mr. BUCKALEW.

Mr. STEWART. From the reading of that proposition it strikes me rather favorably, but it is a matter that ought to be examined by a committee, and certainly to attach it here would embarrass the original resolution. I should like to have the naked proposition with regard to suffrage submitted by itself; and I would suggest to the Senator from Pennsylvania to introduce his proposition as a separate measure and have it referred to a committee.

Mr. BUCKALEW. I drew this amendment with the intention of offering it to-day as a separate resolution, and of having it referred to the Committee upon Representative Reform, and of calling a meeting of that committee for this evening to consider this very question. All I desire is that we have an opportunity to obtain the vote of the Senate on this proposition before the resolution now pending passes beyond the reach of amendment. That is my only purpose.

Mr. SHERMAN. If I understand the reading of the amendment the only change made in the Constitution is to require presidential electors to be elected by congressional districts.

Mr. BUCKALEW. No, sir; the Senator is in error. There are two changes proposed by my amendment. The first is that the choice of presidential electors shall be by popular vote, instead of being as the Legislatures of the States may prescribe—a change to which I suppose there is no objection in any quarter. It is very proper. The second change is that Congress shall have power to prescribe the manner of choosing presidential electors. They already have the power to fix the time; and I merely propose to confer upon Congress the power to regulate the manner of choosing presidential electors, under which Congress may prescribe the single district system, or any other improved mode.

Mr. SUMNER. Mr. President, I would suggest, with regard to the amendment proposed by the Senator from Pennsylvania, that while it is very important in itself, and certainly has much in its favor; it is hardly germane to the pending proposition. The amendment to the Constitution reported by the Committee on the Judiciary relates to the right of suffrage. Now, as I understand the proposition of the Senator from Pennsylvania, he proposes to add to the amendment determining the right of suffrage a further amendment determining how presidential electors shall be chosen. Is it expedient for the Senate at this moment, in considering the other and more important question, to embark upon the question presented by the Senator from Pennsylvania?

I know what a history the proposition of the Senator from Pennsylvania has in its favor. I believe it may be traced substantially to the greatest mind that has been called to consider our Constitution; certainly the greatest of those who at the beginning of its history contributed his powers to its illustration. I mean Alexander Hamilton. This proposition will be found substantially in his writings; never, however, carried into practical life. I do not say that I will not support it; I do not say that it is not proper that it should be embodied

in the Constitution of the United States; but I simply submit now to the Senate whether it is expedient to complicate the great question of suffrage with this other question, important as it may be.

Mr. STEWART. I do not understand that the Senator from Pennsylvania presses the question now.

Mr. BUCKALEW. The Senator from Massachusetts will remember that the first and very material part of this amendment does relate to the subject of popular suffrage, and it is equally as extensive as the original amendment to which it is offered. It proposes to take from the Legislatures of the several States the power, which they now possess, of directing how presidential electors shall be chosen, and to provide that the people of the several States themselves shall exercise the right of suffrage in the choosing of those electors in the several States.

The second branch of my amendment also relates to the subject of suffrage. It provides that Congress may direct the manner in which that right of suffrage by the people of the several States shall be exercised in the particular of selecting electors of President and Vice President of the United States. Consequently, both branches of this proposed amendment to the second article relate to the subject of popular suffrage, and to the manner in which that right shall be exercised. The amendment is, therefore, most germane, is most appropriate, is most legitimate; and offered as an addition to the proposition presented by the Senator from Nevada no objection can lie to it upon that ground. I repeat, however, sir, that I only desire that this subject shall be considered distinctly and by itself at some time before the present measure passes from before the Senate.

Mr. FESSENDEN. I merely wish to inquire whether if this is adopted as an amendment the two propositions would be submitted as one article, or whether there would be a separate vote on each.

Mr. BUCKALEW. I explained before that it was my design, as soon as it should be in order, to offer to change the formal part of the resolution so that it shall be submitted separately and distinctly from the other.

The PRESIDENTIAL OFFICER. The question is on the amendment offered by the Senator from Pennsylvania.

Mr. STEWART. I should not like to vote for it as an amendment to this proposition nor as an additional section. I would rather it should be considered by the committee and come up separately.

Mr. BUCKALEW. It is offered as a new section.

Mr. STEWART. But it is in the same article, and both are to be submitted together. I prefer that each single proposition should be submitted alone. So I shall vote against it as an amendment, and hope it will not be put upon this resolution, although it strikes me favorably in itself from the reading of it. I hope the Senator will not press it as an amendment. If he does my vote will be against it, but not on its merits. I shall oppose it as an amendment.

Mr. ANTHONY. I was absent for a moment when the Senator from Pennsylvania introduced his proposition. Do I understand that it goes to regulate in any way the suffrage, or only the mode of electing, whether it shall be by the Legislature or by districts or by the popular vote?

Mr. BUCKALEW. It is that Congress may prescribe the manner in which presidential electors shall be chosen, and also that they shall be chosen by the people in the several States.

Mr. ANTHONY. Then the only power that it gives is to decide whether the election shall be by districts or by general ticket. Is there anything more than that?

Mr. BUCKALEW. It does decide that the people shall choose the electors. Next, it leaves to Congress the regulation of the manner in which they shall be chosen.

The PRESIDENTIAL OFFICER. The ques-

tion is on the amendment proposed by the Senator from Pennsylvania.

The question being put, the amendment was declared to be agreed to.

Mr. STEWART. I suggest that we cannot have two amendments at the same time. I call for a division on the question. I do not think the Senate intends to put these two propositions together. We cannot have two propositions pending before the Senate at the same time unless we unite them. I call for a division.

Mr. SUMNER. I suggest to my friend who has this resolution in charge that it seems to me the Senate ought to have the proposition of the Senator from Pennsylvania on its table in print before it undertakes to embody it in the Constitution of the United States. The proposition has not passed through the ordeal of any committee. It comes from the careful brain of my excellent friend, [Mr. BUCKALEW;] but then I presume that even he would not expect that we should receive from him alone a text of the national Constitution without any consideration by a committee or others of the Senate. I think, therefore, in some way that we ought to secure for his proposition, important as it is, more careful consideration than it has had merely from being read at the desk. I hope that it will be printed and will be brought up for consideration on some other day when we proceed with this business.

Mr. HENDRICKS. Mr. President, the objection that I would have to the amendment of the Senator from Pennsylvania would be the very opposite to the objection that would come from the Senator from Massachusetts. The proposition of the Senator from Pennsylvania is so obviously right that in no Legislature of the Union, I presume, would it meet with any hostility, but it would be a popular element in any amendment proposed, and would give strength to the proposition of the Senator from Nevada. I desire, if this amendment conferring universal suffrage shall go to the people, that it shall go alone, without that which gives it particular strength over and above its own claims to strength. That is the objection I have to the proposition of the Senator from Pennsylvania, for I think experience, as far as it has shown anything upon this subject at all, shows that the amendment of the Senator from Pennsylvania is a proper one, that the mode of selecting presidential electors should be otherwise than it is now regulated in the Constitution. But as the measure itself is right in my opinion I cannot vote against it. I do not see why any Senator who desires that the original proposition shall go with strength before the State Legislatures should object to this amendment, for I am sure its tendency would be to strengthen the other proposition.

The PRESIDENTIAL OFFICER. A division is called for on the question of agreeing to the amendment proposed by the Senator from Pennsylvania.

Mr. FRELINGHUYSEN. I trust that the Senate will not adopt this amendment. The amendment to the Constitution which has been proposed by the Judiciary Committee has been considered by the people of the United States and been discussed before them for years; it has been discussed in Congress; it has been referred to a committee, and this is the result of all that deliberation.

Now, this amendment of the Senator from Pennsylvania may be a very good one; but it would be a very hasty mode of altering the fundamental law of the country for the Senate of the United States, on the mere suggestion of an amendment, to change that which has been the law of the country ever since its foundation. I think there may be a good many objections in this amendment. It provides that Congress may regulate the manner of choosing presidential electors. That is taking the whole subject of suffrage from the States and giving it to Congress. It is the broadest step that has been made, if I understand the amendment.

Mr. BUCKALEW. The Senator is mistaken in supposing that this takes the whole

subject of suffrage into the hands of Congress. It is a mere power of regulation of the manner in which the suffrage may be exercised. The Senator will remember that the Constitution now provides that Representatives in the lower House of Congress shall be chosen by the electors in each State qualified to vote for members of the most numerous branch of the State Legislature. That is the rule already in the Constitution. Then, in the first clause of this amendment it is provided that the electors in each State qualified to vote for Representatives in Congress shall choose presidential electors—leaves it to the same rule which now obtains in the choice of Representatives. The same class of voters shall choose presidential electors that choose Representatives. There is nothing new introduced.

Mr. FRELINGHUYSEN. That is very true, as stated by the Senator; and yet the amendment does contain these clear words: that "Congress shall have power to prescribe the manner in which such electors shall be chosen by the people." Just how far these words would carry us certainly merits more deliberation.

Mr. BUCKALEW. I beg the Senator to look to the first clause of the amendment.

Mr. FRELINGHUYSEN. The first clause of the amendment corresponds with the statement made by the Senator from Pennsylvania, but these other words may in some manner conflict with his construction. I hope, at all events, that we shall have time to look at it, and therefore that it will not now prevail.

Mr. WILLEY. Mr. President, we have an illustration just now, it seems to me, of the propriety of giving mature consideration to this proposition by a committee. Already upon the floor of the Senate the purport of the proposition seems to be a matter of doubt. Although, like other Senators, I favor the proposition, certainly a matter of such grave import as an amendment to the Constitution of the United States, affecting such important interests, before it is incorporated into the Constitution ought to be the result of mature deliberation. Every word of it should be considered carefully; and the purpose of the Senator from Pennsylvania ought to be so expressed that that purpose can hereafter be carried out so that there may be no doubt about it. I suggest to the Senator from Pennsylvania whether, in order to carry into effect beyond all controversy his purpose, it would not be better to have the matter referred to a committee, so that the bearing of each word may be considered and weighed, and so that the purpose which he evidently designs, proper in my estimation, may be truly accomplished by the proposition when it comes up for consideration.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Pennsylvania.

Mr. BUCKALEW. I do not care to crowd a vote on members if they are not ready for it now. If the Senator from Nevada is willing that this resolution shall be within reach of amendment to-morrow I shall be content to withdraw this proposition for the present, so as to have it considered this evening and proposed as an amendment to-morrow.

Mr. STEWART. I desire to hold on to this resolution and get a vote, if possible, to-day. I do not want to delay it for any consideration. It is a simple proposition, and I shall have to resist all amendments that are not germane to the proposition, and I must ask the Senate to dispose of it because there is other pressing business, and if this is delayed for a day or two we shall lose it altogether at this session. It is very important that if passed at all it should be passed at an early day. Senators all appreciate that importance. For that reason I do not feel disposed to discuss it; it has been discussed sufficiently. I hope no new matter will be introduced that will embarrass getting a vote on the distinct proposition contained in the resolution.

Mr. FOWLER. Mr. President, I see no reason why these propositions should not go

together. The objection which has been urged against the proposition of the Senator from Pennsylvania, because it does not come from a committee, I do not think a valid one. I do not know of any great or thoroughly clean proposition that has ever been made which has not come from the careful consideration of a single individual mind. I would rather take a proposition well weighed by an individual who has had the subject before him for a considerable length of time, and has carefully examined it, than the result of the deliberations of a committee after a certain number of individuals have compared their views and brought their ideas together. Indeed, no very great expression can come from a committee; it must be the emanation of the conviction of some individual, personal mind. I would, therefore, be willing to take this amendment without referring it to a committee.

In regard to the proposition to amend the Constitution, I will say that it is known that I am altogether in favor of manhood suffrage, and have been for years. I do not know, however, that I prefer to see the Constitution changed to perfect that purpose. It is a matter that to some extent ought to be left to the reflection of the people, and the change ought to be made by the people of the various States themselves. I would rather see an indication on the part of the people of the United States expressive of their entire confidence in the freedom of the individual than to see us put into the Constitution an arbitrary and fixed rule that cannot be changed and cannot be reformed without revolution.

Besides that, there is another objection in my mind to this provision going into the Constitution, and that is this: if it is intended to be an expression of the fact that the American people have risen to the point of acknowledging the freedom of the individual—that the individual is free—if this is to be an expression of individual freedom, it does not go far enough. While I am in favor of all citizens of the United States having the right to vote and hold office, without respect to race or color, I would rather go a little further than that. I would not by any means be willing to debar the women of the country from giving their suffrage or their expression in regard to the authority of laws to control or govern them, as I do not believe that any responsible person can be controlled by the authority of any other one. There is no reason why you, sir, should be governed by any other person; and if there is any argument why you should vote, that argument will apply equally well to any intelligent woman in the country. I cannot see the force of the argument which would give to natives of China, of Africa, and of India a right to control the destinies of the women of this country—and recollect I am an advocate of that right—and exclude from a voice my mother or my sister or my wife, an American woman, from the exercise of this inestimable privilege. I intend, when the proper stage is reached, to move an amendment to this proposition for the benefit of the women of the country.

Mr. WILLIAMS. I inquire if the amendment of the Senator from Pennsylvania is disposed of?

Mr. BUCKALEW. I want the amendment adopted.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Pennsylvania.

Mr. BUCKALEW. I respectfully ask the Senate to pass upon this amendment which I have offered at this time. If the subject were to go over until to-morrow and the measure could then be within reach of amendment I would offer it for consideration at that time, and in the mean time have it printed; but it is so simple that printing it will convey no additional information to a single member of the body. It is, in the simplest language, that the people of the United States shall choose their presidential electors, and that the power to meddle with or molest their right shall not be in the State Legislatures; and it is also that

Congress shall possess the same power in regard to the manner of choosing presidential electors that they now have in regard to choosing Representatives in Congress, and may prescribe the same rule, or any other uniform and equal rule, which will secure to the people of the United States fair representation. That is all there is in it.

Now, if at the suggestion of the Senator from New Jersey I stand aside with my amendment, do not offer it upon this proposition, and bring it up hereafter, there is not time for its consideration at the present session. It is this difficulty which induces me to press upon the Senate the convenience and the propriety of now voting upon this subject; and if we should discuss it for a week not a single member of the Senate would be enlightened in the slightest degree with reference to the merits of the proposition. It is a subject perfectly familiar in Congress and out of Congress from one end of the country to the other. It is just one of those things that can be seized upon, commanded completely by our mind when first presented. Subsequent debate and prolonged consideration would produce no changes of opinion.

I am very glad, but I am not at all surprised, to hear every gentleman who has spoken upon this subject express a feeling favorable to the proposition. Why is this so? Because there is no objection to it, and because every one upon the mere statement of the amendment sees that it is one which would be adopted as a matter of course by probably every State Legislature in the country.

Besides, as I said before, it cannot embarrass the original proposition in the slightest degree because we propose to make it separately and distinctly from the other amendment accompanying it to the State Legislatures. If it have any effect, as suggested by the Senator from Indiana, [Mr. HENDRICKS,] it would be to give an odor of popularity to the whole resolution. At all events, even those who would be against the first proposition could say "Well, Congress at all events has sent us a proposition to which we can accede, which is a real measure of reform—a valuable improvement in our system of government."

Now, sir, if this were a subject that required a careful study of language; if it were an involved proposition contained in several paragraphs, it might be well enough to pause over it; but the amendment follows the exact language of the present second clause of the first section of the second article throughout, from beginning to end, with the exception of inserting the three or four lines which secure to the people of the United States the right of suffrage in selecting presidential electors, and give to Congress that necessary and indispensable power to the introduction of any improvement in the manner of selecting them which they now possess in regard to the Representatives in the other House of Congress. The power is identically the same, and presidential electors, under the amendment, are hereafter to be chosen by the same men that choose Representatives in Congress. I insist, therefore, that there is nothing new, nothing novel, nothing surprising, nothing requiring deliberation or prolonged debate in order to the comprehension of this subject. I respectfully ask, then, that the vote be now taken; and I will suggest, in addition, that as we are now in Committee of the Whole, the adoption of this amendment does not put it beyond the reach of the Senate. When the resolution shall be reported to the Senate and be on its third reading it will still be within reach of a vote, and if anybody can suggest any objection to it then that objection can be made.

Mr. SUMNER. Mr. President, this proposition on the present occasion is an entire surprise to me, and I doubt not it is to many other Senators. It proposes a radical change in the system of choosing the President of the United States. Is the Senate ready to enter upon the consideration of that question—how shall the President of the United States be

chosen? My friend from Pennsylvania who presents us this proposition has doubtless considered carefully the whole subject in all its bearings. He is doubtless prepared to express an opinion on a question greater than that which he has presented—whether the President of the United States shall be chosen by the people directly, without the intervention of Electoral Colleges. His proposition assumes that there shall be Electoral Colleges; that that early, but I may say now *effete*, system shall continue with a new sanction in the Constitution.

Sir, if there is to be a change I would prefer a much more radical change than that now moved by the Senator from Pennsylvania. I should prefer that the President of the United States should be chosen directly by the people of the United States without the intervention of any Electoral College. That college has become a sham. It is nothing but a name. It has never fulfilled the original idea of the founders when they constituted it. A practical question well worthy of debate is whether what has become nothing but a name shall not cease to exist. Now, sir, if we are going into the question of how the President of the United States shall be chosen, I prefer to present the question on a higher plane. I ask the Senate to consider whether this whole system of Electoral Colleges shall not be made to disappear. I would much rather do that than prop it up by supplementary provisions like that now proposed by the Senator from Pennsylvania.

Mr. FRELINGHUYSEN. Mr. President, I should like to ask the Senator from Pennsylvania whether, under the last clause of his amendment, which provides that Congress may regulate the manner in which the presidential electors shall be elected, it would not be competent for Congress to pass an act authorizing minorities to be represented in the Electoral College?

Mr. BUCKALEW. If the Senator asks me the question I will answer very promptly: as a matter of course Congress could do so.

Mr. FRELINGHUYSEN. I suppose so; and therefore we see how important the proposition is, and one which is not certainly to be passed upon within half an hour. Whether we are prepared to say that the Congress of the United States shall have at any future time the power to authorize minorities to be represented in the Electoral College, is a grave question which ought to be pondered carefully before voted upon, and therefore I hope that this amendment will not be adopted.

Mr. BUCKALEW. The Senator from New Jersey makes a suggestion which is pertinent, of course. The very object of establishing single districts was to divide representation in the States. I alluded to that subject before Congress did to pass such a law in regard to the choosing of Representatives in the lower House of Congress. Now, it is to get away from the very evil which the Senator from Massachusetts has depicted as attending upon Electoral Colleges that I propose to give this power to Congress. He justly denounces the Electoral Colleges as a sham. Why, sir, they are worse than a sham; they are positively pernicious. These elections by general ticket, it is understood throughout the country, are unjust and unfair. However, I do not propose to introduce any new plan here in this amendment; I only propose to leave it open to the judgment of Congress.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Pennsylvania, upon which a division is demanded.

A division being had, it appeared that there was not a quorum voting.

Mr. STEWART. I call for the yeas and nays.

Mr. BUCKALEW. To save embarrassment for the moment, as I suppose the debate will go on upon the general subject, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. BUCKALEW. I will offer it hereafter. Mr. WILLIAMS. I desire to offer a substitute for the proposition reported by the committee.

The PRESIDING OFFICER. The amendment of the Senator from Oregon is not now in order, and will not be until the resolution shall be reported to the Senate, as already the amendment reported by the committee has been adopted, and he proposes to strike out that which has been already adopted. The amendment of the Senator from Oregon will be in order when the resolution shall have been reported to the Senate.

Mr. WILLIAMS. There was a misapprehension about that, I suppose, on the part of the Senate, particularly on my part. I did not know that the adoption of the amendment reported by the committee would cut off all other amendments.

The PRESIDING OFFICER. The Chair will remark that that amendment can be amended by adding to it, but not by striking out that which has already been adopted.

Mr. STEWART. The question can be tried in the Senate.

Mr. DAVIS. I move to amend the resolution by adding:

And this and all future proposed amendments to the Constitution, whether proposed by the Congress or a convention called by Congress on the application of the Legislatures of two thirds of the several States, instead of being submitted to the Legislatures or to conventions of the several States, shall be submitted to the vote of the people of each State; and if a majority of the people entitled to vote on the proposed amendment in three fourths of the several States shall vote in favor of the proposed amendment it shall, to all intents and purposes, be a part of the Constitution.

Mr. President, the party in power professes to be very democratic. I believe it makes louder pretensions to democracy than the Democratic party ever did or now do. But what is its practice? The honorable Senator from Nevada, who has charge of this measure, wants to submit his proposed constitutional amendment to Legislatures already elected. He wants to attach the amendment to the Constitution by the first heat. How do he and his friends carry out their professions of democracy? The Legislatures already chosen are to act upon this amendment, although they were elected by the people in advance of it and without regard to it. Now, my proposition is that neither the Legislatures already chosen, nor those which may hereafter be chosen, nor any convention chosen in the several States, shall be called upon to act on the ratification of this proposed amendment to the Constitution, but that that question shall be submitted directly to the people of the various States.

Now, sir, what necessity is there for having a proposition to amend the Constitution submitted either to a Legislature or a convention in a State called for the purpose of acting on the proposition? They cannot add to the proposition; they cannot subtract from it; they cannot modify it. The proposition is to be voted for or against as a totality, as an entirety, as a matter beyond the control of the body to which it is submitted either for acceptance or rejection.

If the people are capable of self-government; if they can comprehend a simple proposition submitted to them to amend their constitution, which proposition when they act by a Legislature or convention of the State, that convention or Legislature has no power whatever to vary, where is the utility, the good sense, or the principle of submitting it to an intervening body either called a Legislature or a convention of the people of the State? Let the question come before the people of the State just as questions in relation to their own constitution are thrown before them. When a State proposes to amend its constitution it either submits to the people all the amendments as an entirety, or it submits the several amendments as distinct and separate propositions. Here the honorable Senator from Nevada proposes to submit a distinct proposition for an amendment of the Constitution. He desires and pro-

poses that it shall be submitted to the Legislatures now in existence, now in being. I am opposed to it; among other reasons for this one: these Legislatures have not been chosen with a view to the question or principle involved in the proposed amendment of the Constitution. They have been chosen irrespective of that question of principle, in ignorance of it. They have been elected not with a view to act upon it. The people in selecting and choosing them had no reference whatever to what would be a proposed amendment of the Constitution before them, such a one as is embodied in the proposition that is now before the Senate.

Can the Senate of the United States, the Congress of the United States, the people of the United States, be engaged in a more important and solemn matter than that of amending their fundamental law? Is it a matter of substance that these propositions to amend the Constitution shall go before the people of the States, and shall be acted upon by the people of the States either through their Legislatures or their State conventions called for that particular and special purpose? If it is not an idle form—I agree that it is in practice nothing else—but if it is not intended to be continued as an idle form, why submit this important matter of amending the Constitution of the United States to a body that has been chosen some considerable time previously, and that was elected and chosen with no reference whatever to so important a matter?

But, Mr. President, I go further than that. I say that it is unseemly; it is not in accordance with the principles and analogies of our system of government, and it is unsafe in practice to submit these amendments either to the Legislatures already elected of the States or to the Legislatures to be hereafter elected, or to conventions elected in the States for the sole purpose of considering the proposed amendment. The best, the safest proposition, that in most analogy to all the principles of our Government, is to submit a proposition which cannot be changed, cannot be modified, can in no way be altered, not to a Legislature or a convention, but to the sovereign people themselves.

Sir, what objection is there to my proposition? There cannot be any objection on principle, but there may be an apprehension, and no doubt is an apprehension to a considerable extent, that if the submission of an important proposition to amend the Constitution of the United States is withdrawn from the existing Legislatures and is submitted directly to the people of the States the people of the States will reject it. I cannot conceive of opposition to the amendment which I have offered upon any other consideration than a fear to trust the people themselves with the decision of this important question. I therefore make the proposition in perfect good faith. If the proposed constitutional amendment was in accordance with my views and principles, which it is not, I would say as a permanent, unalterable principle of amending the Constitution of the United States, whenever a proposition to that effect has been made either by Congress or by a convention called by the States in obedience to the recommendation of Congress, that the proposed amendment should be submitted to the people themselves in their primary and sovereign capacity. I am utterly opposed to superseding the sovereignty of the people on the great question of altering their fundamental law in relation to a most important and vital principle. I am altogether opposed to the sovereign power being superseded by Legislatures that have already been elected without any reference whatever to the action of its members upon such a proposition.

I therefore hope, Mr. President—no; I cannot say I hope—I desire that my proposition shall be accepted. I have no idea that it will be, no faith that it will be, because it would defeat the purposes of the gentlemen who propose and advocate this amendment if they were to submit it to the sovereign people of their respective States. They are the most beautiful

party in the world in theory, altogether for democracy, for the power of the people, the sovereignty of the people, their right to amend or alter, modify or abolish their governments as they see proper. These are the beautiful theories of this Radical party; but whenever the Radical party are asked to put their theories into practice, and the practice threatens to jeopardize any favorite proposition of theirs, they have the greatest facility in the world of putting aside their theories. Gentlemen, is not this so? If it is not, come up and vote to lay this proposed amendment to the Constitution before the sovereign people of your respective States.

Mr. SHERMAN. Would that not violate the Constitution?

Mr. DAVIS. It would not violate the Constitution. I propose to change the Constitution in that respect. What would be done in the State of my honorable and most respected friend if my proposition should be adopted? Why, sir, negro suffrage would not touch bottom; it would be ingulfed so deep that it would never be heard of again. What would be done in the Empire State, which my honorable friend [Mr. CONKLING] represents in part so ably? They might adopt it with a property qualification, but never in that latitude which is contemplated by the father of the measure, the distinguished and immortal Senator from Nevada. [Laughter.] What would become of this constitutional amendment in the State of Kansas, the State represented by the honorable Senator, [Mr. POMEROY,] who, in relation to questions of order, is always the oracle of this body? What would become of it in Michigan?

Mr. POMEROY. If the Senator will allow me, I think the Legislature of my State will adopt this constitutional amendment in twenty-four hours.

Mr. DAVIS. That is not my proposition. I have no doubt the honorable Senator believes so, and that is the very reason why he would vote against my proposition. My proposition is that it shall not be submitted in the State of Kansas to a Legislature already elected, manipulated, and I suppose as much committed as the human mind and will can be committed; but I want it submitted to the people of Kansas. Are you afraid to trust your people? If you are they ought to be afraid to trust you, and I am not satisfied that they would not have much more ground for their distrust than you would have. [Laughter.] No, gentlemen. If you are Democrats, if you are devoted to the principles that the people—

Mr. THAYER. We are Republicans.

Mr. DAVIS. Well, if you are Republicans you ought to adopt my proposition. What does a republican mean? He who represents the will of his constituency. Now, I ask if his constituency cannot express its will better than he can upon a proposition to adopt or reject an amendment to the Constitution? No, gentlemen; you are not going to have this amendment tried, but you will be tried and you will be found wanting, all of you. [Laughter.]

Mr. THAYER. We have been tried.

Mr. DAVIS. But you may be tried again in the forum of the sovereign people some of these days. There will come a day of retribution. It is a long lane that never turns. Yours has run for rather a long time in the same direction, and in a direction to the common ruin of Government and people. It is time for you to change the route of your lane. Why will you reject this proposition? If you do, as I know you will, the people will say that you are more devoted to your own interests, to your own faction, to your own continuance in power, to the offices and spoils and plunder of the Government, than you are devoted to the Government itself and to their interests. That is what the people will say; I do not say so. [Laughter.]

Mr. THAYER. The people spoke last fall.

Mr. DAVIS. Yes; the people spoke last fall, and what did they say? They just said that General Grant should be President. Every man who has any notion, any political fantasy,

any pet idea that he imagines General Grant would support, says that the people in electing General Grant decided in favor of his whim and his notion. That is all nonsense. The people last fall decided upon one question, and that was that General Grant should be President of the United States. They never decided any principle.

Now, sir, I submit this proposition to the Senate. It is one that I would make in any political position or with any political relations that it would be possible for me to have. I believe the proposition is right in itself. I do not want gentlemen to continue an unconstitutional, unjust, and mischievous system of legislation. I want them to do what is right and just for the people, under the Constitution, and that will promote their good and prosperity. So far as they make propositions of that character I assure them they shall have my support, and I think I am making a proposition of that kind now.

Mr. WILSON. Mr. President, the Senator from Kentucky tells us that in proposing this amendment we are seeking to perpetuate our power. A word to the Senator on that point. He knows and I know that this whole struggle in this country to give equal rights and equal privileges to all citizens of the United States has been an unpopular one; that we have been forced to struggle against passions and prejudices engendered by generations of wrong and oppression; that we have been compelled to struggle against great interests and powerful political organizations. I say to the Senator that the struggle of the last eight years to give freedom to four and a half millions of men who were held in slavery, to make them citizens of the United States, to clothe them with the right of suffrage, to give them the privilege to be voted for, to make them in all respects equal to the white citizens of the United States, has cost the party with which I act a quarter of a million of votes. There is not to-day a square mile in the United States where the advocacy of the equal rights and privileges of those colored men has not been in the past and is not now unpopular. Yes, sir, the cause of the poor, wronged, oppressed negroes has been, now is, and for some years will continue to be, an unpopular cause. The public man or the political party that honestly and zealously espouses their cause will continue to be misunderstood, misrepresented, and maligned. In the past the true and tried friend of the black man has been made to feel the hatred and power of the enemies of the black race. It is too much so now, and I fear it will be so in some portions of the country for years to come.

But my doctrine is, no matter how unpopular it is, no matter what it costs, no matter whether it brings victory or defeat, it is our duty to hope on and struggle on and work on until we make the humblest citizen of the United States the peer and the equal in rights and privileges of every other citizen of the United States. Sir, I do not intend to cease my efforts until that end is fully accomplished. Let us give to all citizens equal rights, and then protect everybody in the United States in the exercise of those rights. When we attain that position we shall have carried out logically the ideas that lie at the foundation of our institutions; we shall be in harmony with our professions; we shall have acted like a truly republican and Christian people. Until we do that we are in a false position, an illogical position—a position that cannot be defended; a position that I believe is dishonorable to the nation with the lights we have before us. Through all the contests of the past thirty-five years I have looked to the final consummation of the perfect equality of citizens of the United States in rights and privileges and the complete protection of all citizens in their rights and privileges. Peace can only come in all its power and beauty by the complete triumph of equality and justice.

To the Senator from Kentucky I say he may accuse us of anything else but the idea of

advocating this policy with a view of obtaining votes or strength or power. He has already taunted us with the weakness of this cause; he has asked us how it would be if we submitted to the people this amendment; he tells us that in certain States we would be voted down. Sir, all our knowledge assures us that every single question pertaining to the rights of the black men of this country during the struggle of the last nine years instead of bringing us votes has cost us votes. We have had to battle against the persistent opposition of the Senator himself. We have had to battle against the powerful opposition of those with whom he has chosen to act; and, more than all, we have had to battle against the prejudices, as I think the ignorant prejudices, of a portion of our countrymen; against the prejudices, too, of a small portion of our own political friends. When the proposition was made to abolish slavery in the District of Columbia I remember that the Senator made an earnest, I may say a passionate, speech against it, in which he prophesied great evil to the city and to the country. I remember, too, that at that time there were many Republicans in Congress who hesitated and doubted; there were many Republicans throughout the country who hesitated and doubted. We had to drag along with us a great many of our reluctant political associates. When we put muskets into the hands of black men to help to fight the battles of the country we not only had stern opposition here in the Senate and in the House of Representatives, but we had it in the country; we had it in the ranks of the Army; we had it everywhere. We acted contrary to the sentiment and feeling of a great portion of the men who are with us. So it was on every question, until we came to Mr. Lincoln's proclamation of emancipation; that proclamation which the earnest men in the Senate and in the House of Representatives—which you, sir, and many of us here—pleaded and begged for day after day and month after month, because we knew it would put the country in harmony with the decrees of Almighty God. When it came it encountered a storm of passion and prejudice. State after State fell away. Thousands turned their backs upon Mr. Lincoln. That act of emancipation, so gloried over to-day, cost us for months the support of many of those who had acted with us. We had to encounter the sternest denunciation of those who were against us.

The crowning act of emancipation, the great constitutional amendment, was sternly resisted. The fourteenth article of amendment to the Constitution, the civil rights bill, the Freedman's Bureau bill, every measure that we have passed to enlarge the rights and privileges of that emancipated race, to protect them, to lift them up, has encountered not only the sternest opposition of those who were against us politically, but it has encountered the prejudices of a portion of those who ordinarily vote with us. Men who have been trusted and honored, who have held seats in these Chambers and in the Cabinet, have hesitated, have faltered, have left us and joined the ranks of our defectors. This constitutional amendment, which if it be submitted to the people and sustained by the States is to crown the great work, to make every citizen equal in rights and privileges, will cost us the opposition of some of our political associates. But no matter what timid friends say about it, it is right, absolutely right, and it is our duty in the light of to-day to take the responsibilities of our position, submit it to the people of the country, and do all we can to have it speedily ratified by the States. When it becomes a part of the Constitution, as I have faith it will, then the great work, so far as legislation is concerned, will have been accomplished. Then we shall have equality among all male citizens of the United States at least; and then we will protect the citizens of the country in the exercise of those rights. With an administration coming into power pledged to liberty and equality of rights and privileges, pledged to peace, I believe before the four

years pass away we shall become accustomed in all parts of the country to see all classes of our citizens peacefully exercising their rights. When that day comes, as come it will if we are true and brave, we shall have peace and good neighborhood and kindly feeling all over the country; these questions that have excited so much of passion and prejudice will have passed away; the country will be lifted up and carried forward. When the work is achieved all sections of the country will thank God that it is accomplished, and the people will wonder why it was that they ever made any opposition to its accomplishment.

Mr. HENDRICKS. Mr. President, it is not my purpose to discuss the amendment proposed to the Constitution of the United States now before the Senate. My opinions have been on one or two occasions expressed to the Senate upon that subject. I think that the history of the last two or three years does not strengthen the position of gentlemen who claim that the right of suffrage ought to be extended to the colored population. The governments that have been established in some of the States under that policy are not such a success in protecting person and property and promoting the prosperity and peace of the people as will justify any very confident demand made by the friends of this measure.

The question which I wish to discuss just now is that of the proper submission of this amendment to the people or to the States. I am not able to concur in all of the proposition of the Senator from Kentucky. One of the features of his proposition is that the amendment may be submitted to the people of the States to be voted upon in the popular way by the people. I am not aware of any provision of the Constitution of the United States authorizing the ratification of an amendment in that mode. So far as the future is concerned, I have no doubt that we may so amend the Constitution. The question which I wish to speak of now is, how shall this amendment be considered by the people? It is radical and important, and it should be decided in the country according to the will and the pleasure of the people. How can that be done? In the absence of a constitutional provision authorizing it, I cannot see how it can be submitted to a popular vote in the States.

There are only two modes of ratification: one is by the Legislatures of the States, and the other by conventions called in the States; and it seems to be competent for Congress to decide upon the mode of ratification as between these two modes. The Senator from Connecticut [Mr. DIXON] has proposed a submission to conventions in the States, as I understand it. That is the nearest possible approach that we can now make to the people with this amendment. I wish we could provide, but I am not clear that it is practicable, that this amendment shall not be considered by any Legislature already selected. If it could be submitted to Legislatures the members of which are hereafter to be elected that would answer every purpose, as I think, desired by the Senator from Connecticut; but I suppose it is not practicable or possible for Congress to say to the States what particular Legislature shall consider the amendment. I am not sure upon that question. I wish I could feel sure that we might say that the Legislatures now elected shall not consider it. I want, in some mode or other, the people to pass upon this measure. If they decide that suffrage in this country shall be without limit, then, of course, it becomes their voice; it becomes right so far as Government is concerned; but until that is done no submission will be altogether satisfactory. So that I know of no mode by which we can secure the voice and judgment of the people except that suggested by the Senator from Connecticut; and what I wish to say now to the Senate is in favor of that proposition.

I submit to honorable Senators on all sides that none of us to-day politically stand in a position to deny this proposition. It is proposed by the Senator from Connecticut that

the people in the selection of delegates to the State conventions shall have a voice upon this matter. It is their matter. It is ours no further than we constitute a part of the body of the people. The Senator from Connecticut proposes that the people shall speak upon the great question of changing the Constitution of the United States in regard to the exercise of political power. Is that unreasonable? Is it not right? Did not this Government come from the people through State conventions? Is it not right that when we change it we shall come as near to the people as is possible?

Who says that a member of a Legislature elected last summer or fall ought to act upon a question that was not considered by the people when they elected him? Did I understand some Senator to say that this question was considered in the election? I think some Senator interrupted the distinguished Senator from Kentucky and called his attention to the election of last fall. I call your attention to the election of last fall, honorable Senators, and I ask you now to stand upon the pledge of honor that your party made to the people in the election last fall.

The position of the Democratic party last summer, I presume, is not a question of doubt or of uncertainty. That the Democratic party, in casting its vote for Seymour and Blair, did not vote for negro suffrage, is plain enough. That the Republican party last fall in voting for Grant and Colfax cast a vote against universal suffrage is as plain. You took the question away from the people. You said that they need not consider it. You said that they should not consider it last summer; and now I understand it to be proposed to submit it to Legislatures that are not again responsible to the people, but that were elected before this question is submitted. The second section of the Chicago platform, not yet a year old, declared the doctrine of the Republican party, and I simply ask honorable Senators now to make the pledged and plighted faith of their party to the country good and true, and not in the face of the nation and of humanity to give it the lie:

"The guarantee by Congress of equal suffrage to all loyal men at the South was demanded by every consideration of public safety, of gratitude, and of justice, and must be maintained."

That is plain enough. In that you say that the guarantee of suffrage to all the loyal men in the South was called for by high considerations and must be maintained. Your party took plain ground upon that question; but in the northern States, in the State that I have the honor to represent in this body, what position did you take? You go on to say:

"While the question of suffrage in all the loyal States properly belongs to the people of those States."

Not yet a year old is this political faith, declared by the grand council of your party, upon which Grant and Colfax stood before the people; and now you propose, without giving the people a voice or a hearing upon the question, to say that the right to control suffrage in the northern States does not belong to the people of those States.

I ask honorable Senators, upon this question of submission for ratification, what that plighted faith of a great party to the people did mean? Was it an evasion? If so, your party is unworthy of a nation's support. Was it a trick and a fraud? Then you are not only unworthy of a nation's support but worthy only of the condemnation of virtuous manhood everywhere and in all ages. To the people you submitted the question last fall, did you? You interrupt the Senator from Kentucky and say that the election last fall meant something! If so, what did it mean? You said to the party when they cast ballots for Grant and Colfax: "Your ballot, if it means anything on this subject, means just two propositions: first, that in the southern States Congress shall maintain equal suffrage to loyal men; but in the other States, in the northern States, the right to control suffrage belongs to the people of those States." Did it belong to them? Then give

them a voice upon it and make this declaration of your party true, and not stand before the nation and before the world as declaring a falsehood in a national platform.

Circumstances may change in a country so as that the policy of a party must change somewhat. I have heard much said about "the logic of events." I have heard inconsistencies in political action and conduct and faith apologized for upon the general proposition of "the logic of events." But since the 20th day of May last up to the present hour what events have occurred that change this question? The negroes were free then—as free as now; your understanding of the subject was as ample then as now; and you said that in Indiana the right to control suffrage properly of right belonged to the people of that State. Now you propose to take it away from them, and, whatever may be the voice of Indiana, if you can get the concurrence of three fourths of the State Legislatures you propose to say to the people of Indiana, "It is not properly your right to control suffrage; it does not belong to you; our Chicago platform was false upon that subject." Men may be untrue to their political faith elsewhere, where offices are to be obtained, where political power is to be held; but in the Senate of the United States may I not appeal to the representatives of great States to stand by pledged and plighted faith?

Now, is this wrong that is asked by the Senator from Connecticut? He asks that this amendment shall be submitted to the people, the people whose Government you propose to change, that they may have a voice on this question; not that the men who hold office now in the Legislature of the State of Indiana, but the great body of voters, three hundred and seventy thousand of them, in the State of Indiana, shall be heard upon this amendment. I almost understood the argument of the Senator from Massachusetts to be an admission that the people were against it. If the people are against it what right have you to change the Government? Is it not the Government of the people, made by them and for themselves?

Then, Mr. President, the proposition is a distinct one. Now, inasmuch as you propose to take a position contrary to the position upon which your President-elect was chosen by the people, now as you propose to throw upon the country a new position upon this question, the proposition of the Senator from Connecticut is that it shall go as directly to the people as can be under the circumstances of the case. My appeal then is, that Senators will so amend this proposition as that it shall go to the people. Then, when they decide it, let it stand.

Mr. STEWART. Mr. President, there have been fourteen amendments to the Constitution of the United States heretofore ratified. They have all been submitted to the State Legislatures for ratification, and have been ratified by the various Legislatures. That has been the course pursued from the beginning of this Government until now. Never before was it pretended that such a ratification was not a ratification by the people. In the beginning of the Constitution it is declared that "we, the people, do ordain this Constitution," &c.; and in this Constitution ordained by the people a mode of amending it was pointed out by the people; and that was to submit the amendment to the individual States. In the Chicago platform we did take the position that this matter to a certain extent belonged to the States; and that is what influenced several members of the Senate against legislation who had formerly thought there was power to legislate directly upon this subject; they thought they were committed to submit it to the several States. The platform says that so far as the rebel States are concerned it is the duty of Congress to maintain equal suffrage. It says further that the other question should be submitted to the several States; and it is not to be pretended that that platform meant that it should be submitted for ratification in any unusual manner. We have adopted the manner adopted from the founda-

tion of the Government of taking the sense of the people.

A literal construction of the amendment would prevent any action whatever, because the Constitution does not point out any mode of taking the popular vote. In neither of the modes prescribed by the Constitution do the people act directly. There is no way of amending the Constitution so as to let the people act directly on the amendment. As the Constitution is now, you can submit the question to the Legislature or to a convention in the State—to no other body. It has been thought that the Legislature reflected more directly the will of the people than a convention irregularly called; and hence from the foundation of the Government all constitutional amendments proposed by Congress have been submitted to the State Legislatures for action.

Sir, it is very strange that whenever the Constitution of the United States can be construed to deny rights it is sacred with some; but whenever it can be used to secure right and liberty we are complained of for following the Constitution. Does the Senator from Indiana suppose that the Republican party intended in the Chicago convention to change the Constitution or to limit the power of Congress to submit propositions to the several States under the Constitution? No such construction is fair; no such construction can be maintained. The people understood perfectly well that Congress had power to submit amendments to the Constitution and ask for the action of the several States. They did regard that as a pledge against legislation; and that is the embarrassment in the way of legislation; but they did not regard it as a pledge against submitting propositions to amend the Constitution in the ordinary way.

Mr. DIXON. Mr. President—

Mr. POMEROY. If the Senator desires to go on to-night I shall not ask him to yield; otherwise, I desire to ask the Senate—

Mr. DAVIS. With the permission of the honorable Senator from Connecticut, I will withdraw the amendment which I proposed.

The PRESIDENT *pro tempore*. The amendment is withdrawn.

Mr. DIXON. Mr. President—

Mr. BUCKALEW. With the permission of the Senate, I desire to move that the amendment offered by me to this resolution be printed.

The PRESIDENT *pro tempore*. That order will be entered if there be no objection.

Mr. BUCKALEW. I also desire to offer a resolution for reference.

By unanimous consent, leave was granted to introduce a joint resolution (S. R. No. 209) proposing an amendment to the Constitution of the United States; which was read twice by its title.

Mr. BUCKALEW. I move its reference to the select Committee on Representative Reform.

The motion was agreed to.

Mr. DIXON. Mr. President, the Senator from Massachusetts who last spoke [Mr. Wilson] informed the Senate that the proposition to extend the right of suffrage to all the races—

Mr. EDMUNDS. Mr. President, as the Senator from Connecticut is desirous of making some remarks of moderate length, and it is late, I move that the Senate adjourn.

Mr. WILSON. I ask leave to call up a bill. Let this matter go over until to-morrow.

Mr. EDMUNDS. As the Senator from Connecticut is willing to go on, I withdraw my motion.

Mr. HENDERSON. I have an amendment to offer to the measure that is pending; and I desire to offer it and have it printed.

The PRESIDENT. It will be so ordered.

Mr. WILSON. I now move to lay this resolution aside informally for the purpose of taking up Senate bill No. 811, to provide for the reduction of the military forces, and for other purposes. I think we can pass the bill in fifteen minutes.

The PRESIDENT *pro tempore*. That can only be done by unanimous consent.

Mr. STEWART. I shall object, because if we commence that there are so many other things which other Senators will want to bring up. If we can keep this resolution before the Senate we can dispose of it to-morrow.

Mr. WILSON. This bill will only take a few moments.

Mr. STEWART. But if I give way to one there are others who wish to take up other bills.

The PRESIDENT *pro tempore*. The Senator from Connecticut is entitled to the floor.

Mr. EDMUNDS. With the assent of the Senator from Connecticut, I move that the Senate proceed to the consideration of executive business.

Mr. STEWART. Before that motion is put I desire to say to the Senate that I shall try very hard to-morrow to get a vote on this resolution, and I hope the Senate will stand by me until we reach a vote.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Vermont, that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, January 28, 1869.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

ARMY APPROPRIATION BILL.

Mr. BLAINE, from the Committee on Appropriations, reported a bill (H. R. No. 1808) making appropriations for the support of the Army for the year ending June 30, 1870; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and made the special order for Monday next after the morning hour, and from day to day thereafter till disposed of.

Mr. ELIOT, of Massachusetts. I reserve any point of order upon the bill.

Mr. BLAINE moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REPRESENTATION OF GEORGIA.

Mr. PAINE. I rise to make a privileged report. The Committee on Reconstruction have instructed me to offer the following resolution and to ask for its immediate consideration. I move the previous question:

Whereas it is provided by the reconstruction act passed March 2, 1867, that "until the people of the lately rebellious States shall be by law admitted to representation in Congress, any civil government which may exist therein shall be deemed provisional only, and that no persons shall be eligible to office in such provisional governments who are disqualified for office by the fourteenth amendment of the Constitution of the United States; and whereas it is reported that the Legislature of Georgia has expelled the colored members thereof and admitted to their seats white men who received minorities of votes at the polls, and that members of said Legislature who had been elected thereto by the votes of colored men joined in such action, and that twenty-seven disqualified white men hold seats in said Legislature in violation of the fourteenth amendment of the Constitution and of the reconstruction acts of Congress; and whereas Senators from Georgia have not yet been admitted to the Senate of the United States: Therefore,

Resolved, That the Committee on Reconstruction be ordered to inquire and report whether any, and if any what, further action ought to be taken during the Fortieth Congress respecting the representation of Georgia in this House.

Mr. BROOKS. The gentleman says the resolution was ordered to be reported by the committee. I ask him if the preamble was also ordered to be reported?

Mr. PAINE. The preamble and resolution in this precise form were ordered to be reported by the committee.

Mr. BROOKS. One more question. I ask if this subject in its entirety is not now before the Committee on Reconstruction; and if so, what is the necessity of its resubmission? What

action is proposed here which the committee is not already authorized to take?

Mr. PAINE. The condition of things generally in Georgia is before the committee, but—

The SPEAKER. Does the gentleman withdraw the demand for the previous question?

Mr. PAINE. I do not.

On seconding the previous question, there were—ayes 70, noes 30; no quorum voting.

Tellers were ordered; and Messrs. PAINE and BROOKS were appointed.

The House divided; and the tellers reported—ayes 91, noes 33.

So the previous question was seconded.

The main question was then ordered.

Mr. CHANLER. I call for a separate vote on the preamble.

The SPEAKER. That is in order.

Mr. NIBLACK. I demand the yeas and nays on the adoption of the resolution.

The yeas and nays were ordered.

The question was taken on agreeing to the resolution; and it was decided in the affirmative—yeas 128, nays 34, not voting 60; as follows:

YEAS—Messrs. Ames, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Beaman, Beatty, Benjamin, Benton, Bingham, Blackburn, Blaine, Blair, Boies, Boutwell, Bromwell, Broomall, Buckland, Buckley, Benjamin F. Butler, Roderick R. Butler, Calk, Callis, Clift, Cobb, Coburn, Cook, Corley, Covode, Cullom, Dawes, Deweese, Duckery, Dodge, Donnelly, Driggs, Eggleston, Ela, Thomas D. Eliot, Farnsworth, Ferriss, Ferry, Fields, French, Gove, Harding, Haughey, Heaton, Higby, Hopkins, Chester D. Hubbard, Hunter, Alexander H. Jones, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Koontz, Laflin, Lash, William Lawrence, Loan, Lynch, Marvin, Maynard, McCarthy, McKee, Mercer, Miller, Moore, Moorhead, Morrill, Mullins, Myers, Newcomb, Newham, Norris, O'Neill, Orth, Paine, Perham, Peters, Pottis, Pierce, Pike, Pile, Plants, Poland, Polisy, Price, Prince, Raum, Robertson, Root, Sawyer, Schenck, Scofield, Selye, Shanks, Shellabarger, Starkweather, Stevens, Stewart, Stokes, Stover, Taffe, Taylor, Thomas, John Trimble, Upson, Van Aernam, Bart Van Horn, Van Trump, Van Wyck, Ward, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Whittemore, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Windom—128.

NAYS—Messrs. Archer, Baker, Barnes, Beck, Boyer, Brooks, Burr, Cary, Chanler, Fox, Getz, Goldaday, Grover, Haight, Hochstetler, Humphrey, Thomas L. Jones, Kerr, Knott, Marshall, Niblack, Phelps, Pym, Randall, Ross, Sitgreaves, Spalding, Stone, Taber, Tilt, Van Auker, Wood, Woodward, and Young—34.

NOT VOTING—Messrs. Adams, Allison, Anderson, Axtell, Baldwin, Banks, Barnum, Bowen, Boyden, Churchill, Reader W. Clarke, Sidney Clarke, Cornell, Delano, Dickel, Dixon, Eckley, Edwards, Eldridge, James T. Elliott, Garfield, Grossbrenner, Goss, Gravelly, Griswold, Halsey, Hamilton, Hawkins, Hill, Holman, Hooper, Asbel W. Hubbard, Richard D. Hubbard, Hubbard, Ingersoll, Jencks, Johnson, Kellogg, George V. Lawrence, Lincoln, Logan, Lunckbridge, Mallory, McCormick, McCutlough, Morrissey, Mungen, Nicholson, Nunn, Pomeroy, Robinson, Smith, Sypher, Lawrence S. Trimble, Trowbridge, Twichell, Robert T. Van Horn, Vidal, Cadwalader C. Washburn, and Woodbridge—60.

So the resolution was agreed to.

Mr. PAINE. I demand the previous question on the preamble.

Mr. CHANLER. Is it in order to move to recommit the preamble with instructions?

The SPEAKER. It is not in order pending the demand for the previous question.

Mr. CHANLER. Then I move to lay the preamble on the table.

The question was put; and the House refused to lay the preamble on the table.

The previous question was seconded—ayes 94, noes 32.

The main question was then ordered to be put, being upon agreeing to the preamble.

Mr. CHANLER demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 135, nays 39, not voting 53; as follows:

YEAS—Messrs. Allison, Ames, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baker, Beaman, Beatty, Benjamin, Benton, Bingham, Blackburn, Blaine, Blair, Boies, Boutwell, Bromwell, Broomall, Buckland, Buckley, Benjamin F. Butler, Roderick R. Butler, Calk, Callis, Clift, Cobb, Coburn, Cook, Corley, Covode, Cullom, Dawes, Deweese, Dodge, Donnelly, Edwards, Eggleston, Ela, Thomas D. Eliot, James T. Elliott, Farnsworth, Ferriss, Fields, French, Gove, Gravelly, Griswold, Harding, Haughey, Hea-

ton, Higby, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Jenckes, Alexander H. Jones, Judd, Julian, Kelley, Kelsey, Ketchum, Kitchen, Koonz, Ladin, Lash, George V. Lawrence, William Lawrence, Loan, Lynch, Mallory, Marvin, Maynard, McCarthy, McKee, Mercier, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, Newsham, Norris, O'Neill, Orth, Paine, Perham, Peters, Pettis, Pierce, Pike, Plants, Poland, Polscy, Price, Prince, Raun, Robertson, Roots, Sawyer, Schenck, Seefeldt, Selye, Shanks, Shellabarger, Spalding, Starkweather, Stevens, Stewart, Stokes, Stover, Taylor, Thomas, John Trimble, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Whittemore, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—133.

NAYS—Messrs. Archer, Barnes, Beck, Boyer, Brooks, Burr, Chandler, Fox, Getz, Glassbrenner, Goldaday, Grover, Haight, Hotchkiss, Richard D. Hubbard, Humphrey, Thomas L. Jones, Kerr, Knott, Marshall, Niblack, Phelps, Pruyn, Randall, Robinson, Ross, Sitgreaves, Stone, Taber, Tift, Van Aiken, Wood, Woodward, and Young—34.

NOT VOTING—Messrs. Adams, Anderson, Axtell, Baldwin, Banks, Barnum, Bowen, Boyden, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Cornell, Delano, Dickey, Dixon, Dockery, Driggs, Eckley, Eldridge, Ferry, Garfield, Goss, Halsey, Hamilton, Hawkins, Hill, Holman, Hooper, Asabel W. Hubbard, Ingersoll, Johnson, Kellogg, Lincoln, Logan, Loughbridge, McCormick, McCullough, Morrissey, Mungen, Nicholson, Nunn, Pile, Pomeroy, Smith, Sypher, Taffe, Lawrence S. Trimble, Trowbridge, Twichell, Van Trump, Vidal, and Cadwalader C. Washburn—53.

So the preamble was agreed to.

Mr. PAINE moved to reconsider the votes by which the resolution and the preamble were severally agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BRIDGE ACROSS THE MISSOURI RIVER.

On motion of Mr. ELIOT, of Massachusetts, by unanimous consent, the Committee on Commerce was discharged from the further consideration of a letter from the Secretary of War, in answer to a resolution of the House of the 16th ultimo, relative to a bridge over the Missouri river at Kansas City; and the same was referred to the Committee on Roads and Canals.

Mr. CHANLER moved to reconsider the various votes by which matters were referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BRIDGE ACROSS THE EAST RIVER.

Mr. BARNES, by unanimous consent, introduced a bill (H. R. No. 1804) to establish a bridge across the East river between the cities of Brooklyn and New York, in the State of New York, a post road; which was read a first and second time, and referred to the Committee on Roads and Canals.

Mr. SPALDING. I call for the regular order of business.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HAMLIN, one its clerks, informed the House that the Senate had passed bills of the House of the following titles:

A bill (H. R. No. 833) for the relief of Rufus M. Hollister, of Jonesville, Wisconsin; and

A bill (H. R. No. 1751) in relation to the appointment of midshipmen from the lately reconstructed States.

The message further announced that the Senate had passed a bill (S. No. 844) for the relief of Captain Charles Hunter, United States Navy.

The message also requested the return to the Senate of the bill (H. R. No. 65) for the relief of William McGarrahan, which was indefinitely postponed by the Senate in July last, also the papers in the case.

WILLIAM M'GARRAHAN.

By unanimous consent, it was ordered that the bill (H. R. No. 65) for the relief of William McGarrahan, with the accompanying papers, be returned to the Senate, in accordance with its request.

GAUGER'S FEES.

The SPEAKER, by unanimous consent, laid before the House a communication from the Commissioner of Internal Revenue, in answer to a resolution of the House of the 25th instant,

relative to gauger's fees for gauging and inspecting liquors; which was referred to the Committee of Ways and Means, and ordered to be printed.

PENITENTIARIES IN THE TERRITORIES.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, in relation to the construction of penitentiaries in certain Territories therein named; which was referred to the Committee on the Territories, and ordered to be printed.

CLAIMS OF POTTAWATOMIES.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, submitting a report of the commissioners appointed under the tenth article of the Pottawatomie treaty of August 7, 1868, to examine the claims of said tribe; which was referred to the Committee on Indian Affairs, and ordered to be printed.

GEORGIA CONSTITUTIONAL ELECTION.

Mr. DAWES. Mr. Speaker, I now call up the resolutions reported from the Committee of Elections in reference to the case of John H. Christy and of John A. Wimpy, each claiming to be duly elected a Representative in this Congress from the sixth congressional district of Georgia.

The resolutions were read, as follows:

Resolved, That J. H. Christy, having voluntarily given aid, countenance, counsel, and encouragement to persons engaged in armed hostility to the United States, is not entitled to take the oath of office as a Representative in this House from the sixth congressional district of Georgia, or to hold a seat therein as such Representative.

Resolved, That John A. Wimpy, not having received a majority of the votes cast for Representative in this House from the sixth congressional district of Georgia, is not entitled to a seat therein as such Representative.

Resolved, That the Committee of Elections be discharged from the further consideration of the question of removing political disabilities from John H. Christy, and that the same be referred to the Committee on Reconstruction.

Mr. DAWES. I desire to have these resolutions considered separately.

The SPEAKER. A separate vote will be taken upon each resolution upon the demand of any member.

Mr. DAWES. I ask unanimous consent that each of the gentlemen claiming to be entitled to this seat be permitted to address the House upon the merits of the case under the rules of the House.

No objection was made.

Mr. DAWES. The vote which has just been given by the House instructing the Committee on Reconstruction to examine matters connected with the State of Georgia has somewhat embarrassed the Committee of Elections as to what disposition it may be proper for them to ask the House to make of this case; whether, after having instructed the Committee on Reconstruction to inquire into these matters, it is not the proper course that these resolutions be referred to that committee. They would have no question but what that reference would be the most proper disposition to be made of these resolutions at this time were it not that the Committee of Elections were unanimously of opinion that neither of these parties was entitled to the seat claimed, even assuming that everything under the reconstruction acts had been complied with. Yet there may be, as every member of the House will see, a contingency in which the House might not agree with the committee in that respect, and then we should find ourselves involved immediately in the discussion of the very question which the House by a very decided vote—in which most of the members of the Committee of Elections, myself among the number, have agreed—has referred to another committee. Under these circumstances, the vote of the House instructing the Committee on Reconstruction having just been given, I have been unable to confer with all the members of the Committee of Elections upon this view of the case. I am, however, willing, and I do not know but that it is necessary—certainly I shall interpose no objection to that

course—that before we enter upon this discussion, inasmuch as the House may think that one or the other of these claimants is entitled to represent this district, if the House shall deem it best, this subject shall be postponed for the present.

Mr. UPSON. Will my colleague upon the Committee of Elections [Mr. Dawes] yield to me for a moment?

Mr. DAWES. Certainly.

Mr. UPSON. My colleague will recollect that in concurring in this report I distinctly announced to the committee that the question whether or not Georgia should be entitled to representation was not involved, and that on that subject I would not commit myself until that question, now pending before the Committee on Reconstruction, shall have been reported upon and decided by this House.

Mr. DAWES. I do not know that there would be any diversity of opinion among the members of the Committee of Elections upon the facts that came before the committee. But if the House should be of opinion that one or the other of these gentlemen was entitled, upon the papers before the Committee of Elections, to a seat upon this floor for the district named, I think there would be no difference of opinion in the minds of the members of the Committee of Elections that the question of the right of Georgia to be represented at all in this House should be decided before these resolutions shall be passed upon. Under these circumstances I am really at a loss to know what disposition to make of this case. It would be profuse for us to spend much time in discussing this question now if the result should be, after all, that it would be necessary to refer these resolutions to that committee for the precise examination which they have already been instructed to make. It is, however, desirable for these claimants to have their case determined. The Committee of Elections were unanimously of the opinion that neither of the claimants was entitled to represent that district in Congress under any circumstances. If, however, no member of the Reconstruction Committee is of opinion that the reference of the case of Georgia this morning takes this question away from the House for the present I may as well discharge the duty devolved upon me by the Committee of Elections, and present this case as I have been instructed to present it.

Mr. PAINE. If the chairman of the Committee of Elections will allow me—

Mr. DAWES. I yield to the gentleman.

Mr. PAINE. I desire to say that the views which the gentleman [Mr. Dawes] has expressed on this subject seem to me to be correct; and it is, in my judgment, proper that a motion should be adopted by the House to postpone the consideration of this case until the question involved in the resolution agreed to this morning shall have been decided. But I do not feel willing to make such a motion if it will interfere with the direction which the Committee of Elections may see fit to give to this case. I will merely say that to me, as one member of the Reconstruction Committee, it seems quite proper that it should take that course.

Mr. BUTLER, of Massachusetts. Speaking for one of the contestants, Mr. Wimpy, I am quite content, as I understand he is, to have this case referred to the Committee on Reconstruction; but I think that the present posture of the question had better not be interfered with until after the case of Mr. Christy is settled. I do not think that Mr. Christy's case ought to be referred to anybody, and I am here for the purpose of arguing that proposition. But as to the question whether Mr. Wimpy is entitled to represent this district I can have no doubt that that should not be settled until the main question is settled. But Mr. Christy, I am prepared to show from evidence emanating from his own hand, does not stand anywhere, and ought not to represent anybody on earth.

Mr. CHANLER. Will the gentleman from

Massachusetts [Mr. DAWES] yield to me for a moment?

Mr. DAWES. Yes, sir.

Mr. CHANLER. Mr. Speaker, I would respectfully submit to the House and to the chairman of the Committee of Elections that the opening argument in favor of Mr. Wimpy, just made by the gentleman from Massachusetts, [Mr. BUTLER,] presents a cogent reason why this whole subject should be discussed before this House. To refer a matter of such great public importance, involving the right to a seat upon this floor, to the Committee on Reconstruction, even with the consent of the chairman of the Committee of Elections, when the latter committee has prepared a report, is out of order and inconsistent with the dignity of the question involved. Certainly the merits of these two contestants are sufficiently plain to be understood by this House as well as by the condensed intelligence of any committee whatever. The only object of a preliminary consideration of this question prior to its presentation to this House is, as it always is in such cases, to lay before the House the general merits of the case. Why should we transfer the decision of this question from the body of the House into the hands of the Committee on Reconstruction? Why should not the House decide upon this question after due discussion? This strikes me as the practical, fair, reasonable, and customary manner of proceeding in such cases.

I hope the chairman of the Committee of Elections will take into view my statement in reference to this case, and will bear in mind that practically any reference of this subject to any other committee than the Committee of Elections would be simply a postponement of the debate upon the subject. To call for a decision by another committee upon a question which exclusively belongs to the Committee of Elections would be derogatory to the dignity of the committee, as well as inconsistent with the practice of this House and the dignity of the question involved.

Mr. MAYNARD. I ask the gentleman from Massachusetts [Mr. DAWES] to yield to me for a moment.

Mr. DAWES. I will do so.

Mr. MAYNARD. Mr. Speaker, the resolution adopted by the House this morning referring a matter of inquiry to the Committee on Reconstruction seems to me to put an obstacle in the way of our inquiring at this time whether either of these gentlemen or anybody else is entitled to represent the sixth congressional district of Georgia in this House, for surely if the investigation results as it is manifest the mover of the resolution anticipated it might possibly result the question now presented from the Committee of Elections will necessarily be postponed indefinitely. Hence, until that examination be had and the result reported to the House, we should, it seems to me, be consuming time unnecessarily and meeting questions prematurely by taking up and considering the claim of either of these gentlemen to a seat. Appearing as a personal friend of one of the contestants, formerly a neighbor of mine, a young man raised in my immediate neighborhood—a "carpet-bagger," I may say, from my State, he having gone to Georgia somewhere about the year 1859—I am prepared, either now or at any future time, to discuss his claim to a seat in this House when it shall have been settled that his district is entitled to a Representative here and when his claim shall have been disbarred of the question involved in the order of the House adopted this morning.

Mr. DAWES. Let me say to my colleague, [Mr. CHANLER,] who is apprehensive I shall forget the dignity of the Committee of Elections, that I am quite as sensible as he can possibly desire to have me upon the subject of the dignity and jurisdiction of that committee, and as I may have strength I shall endeavor to defend it; but unless the gentleman can assure me that the House will agree precisely with the committee in the conclusions arrived

at I do not see how we can avoid the discussion immediately of the very question which has been referred to the Committee on Reconstruction. If I were quite certain that the House would agree precisely with the committee in the conclusion that neither of these gentlemen under any circumstances is entitled to this seat, we might dispose of the matter so far as they are concerned, and leave the question of the further representation of Georgia to the Committee on Reconstruction to consider at their leisure. But no one can tell how the House will decide that question, and therefore there is danger that we waste time in this discussion. Hence, I will yield the floor, for the purpose of ascertaining the opinion of the House, to a motion to refer this matter to the committee, or a motion to postpone it to any future time, or any motion consistent with the dignity and jurisdiction of the Committee of Elections. I will now yield to the gentleman from New York.

Mr. BROOKS. I was about to say that I heartily concur in the suggestion made on the other side, that after the vote taken this morning in the case of Georgia it was hardly worth while for us further to continue this discussion until the question can be referred to the Committee on Reconstruction and we can have a report from that committee on the subject. I must confess, Mr. Speaker, that after the little experience I have had in this House, seeing the Committee of Elections so often overruled, so little respected as to have its conclusions trampled under foot by this House over and over again, I prefer that the matter should be referred to the Committee on Reconstruction; because, in my judgment, whatever report that committee makes will be sustained, while whatsoever report may be made by the Committee of Elections is more likely to be upset than to be sustained by the majority of this House. I therefore am decidedly of opinion, more especially after the vote to-day, in which the House has committed itself to certain principles and certain matters adverse to representation of the State of Georgia at all, that the question ought first to be decided by the Reconstruction Committee whether Georgia has a status in this House or is to be turned wholly out of the House.

In reply to an incidental remark of the gentleman from Massachusetts, [Mr. BUTLER,] I have to say that whenever the merits of these two claimants, Mr. Christy and Lieutenant Wimpy, of the confederate army, are discussed, whenever a contrast is to be drawn between the antecedents of these two gentlemen, if the gentleman from Massachusetts is able to show that Mr. Christy was anywhere I shall be able to show that Lieutenant Wimpy was almost everywhere. But I will not enter into a discussion of the merits of these candidates or their claims upon the House now. The vote of the House twice this morning on the yeas and nays, on a fair and ample division, has decided that the first question to be settled by a majority of the House is, has Georgia a status here? Have her present members any right here, or are they mere obtruders upon the floor of the House, holding without right and without law? The majority of the House having so decided to-day, if the Reconstruction Committee upon reference of this case to them adhere to the expressed opinion of the House their report will be that Georgia is not entitled to representation at all. Therefore whatsoever time is consumed here upon the two or three resolutions of the Committee of Elections will be time wasted and an obstruction to the public business to be transacted in this House.

Mr. MULLINS. Will the gentleman from Massachusetts yield to me?

Mr. DAWES. I will yield three minutes.

Mr. MULLINS. That will be time enough for what I have to say. It is not my purpose to go into detail about this matter at all. It presents one great, grand feature, as I term it, that overrides the minor considerations in the case. I cannot join entirely with the gentleman from New York in lecturing the chair-

man of the Committee of Elections. As far as I am capable of seeing, that committee has done what will be approved by the House, and what is doubtless right in the scale of justice. This body is a body entitled to respect, and is respected by the outside world whether it is by all its members here or not. Then, in accordance with the action had by this committee in making the report they have made touching the case now to be considered, in my view they have hit the merits of the question in several particulars. The first grand particular is that the State of Georgia is not fully reconstructed. Part of her representatives are now debarr'd from entering Congress at the other end of the Capitol, while she is in part admitted to representation in this body. They are standing with one foot in the grave of rebellion and the other upon the rock of loyalty. We propose holding them in that position until it is ascertained clearly and conclusively that the State of Georgia, the State government of Georgia, has placed itself upon a platform that the American people and the American Congress can and will regard as being legitimately sound in all Republican essences and quintessences intended and meant by the words "republican government." [Laughter.] And how can we do otherwise than to follow the directions of this committee and conform to the request they make at our hands? But a moment ago—and the gentleman from New York [Mr. Brooks] is as cognizant of the fact I am about to declare as any other gentleman here—the Committee on Reconstruction have reported a resolution, with a preamble attached to it, declaring that they must and ought to consider the condition of Georgia and determine whether her political status is such that she is now entitled to be fully represented here. The House has declared by a decided vote, one that looms up and overshadows everything in opposition to it, that she is not in a condition now to be represented.

Now, one of the gentlemen contesting the seat is Mr. Christy. Well, Christy is a sweet name, a beautiful name, and if it had been "Christiana" or "Christianity" it would have been better still. [Laughter.] Some of the old apostles did stagger on the way, and I am afraid this man fell a little short of the mark; he ought to have so run as to gain; but he has missed the mark; he fell among the Bulgarians, and they have somewhat tattered his garments and covered him with mud. I want to wash him off if I can, but not at the sacrifice of loyal men. I hope the House will send this matter to the Committee on Reconstruction.

Mr. DAWES. I yield now for three minutes to my colleague on the committee from Missouri.

Mr. STOVER. I do not exactly understand this question as my honorable friend from Tennessee does. I do not understand that the House has taken any decisive action on the right of the State of Georgia to representation in this House. The resolution adopted this morning was a resolution of inquiry merely. In regard to this case I will state that it went before the Committee of Elections simply upon its merits, and that Georgia occupied the same attitude that Tennessee, South Carolina, Mississippi, or any other of the States lately in rebellion would have occupied. I cannot see why this question should not be disposed of now. The committee have unanimously agreed that neither of the parties is entitled to a seat in this House. If the House should think differently and reverse the decision of the Committee of Elections and decide that one of the claimants is entitled to a seat here, he occupies the same position as any other member on the floor from the State of Georgia.

Now, as to the remark of the gentleman from New York [Mr. Brooks] that "Lieutenant Wimpy, of the confederate army," may have been "everywhere," I will say, if it is intended to prejudice the case against him, that there was no particle of evidence presented before the committee that Mr. Wimpy ever

held the position of lieutenant or any other commissioned office in the confederate army.

Mr. DAWES. I yield now for three minutes to my colleague, [Mr. BUTLER.]

Mr. BUTLER, of Massachusetts. I do not know whether the House desires to discuss this question at the present time. If they do not, however, allow this question to be settled, of course every gentleman representing Georgia ought from this time forth to represent her no longer until the report of the committee. I think on the whole it would be better now to settle this case, and, with the leave of the gentleman, I will state briefly the reasons. There is a unanimous report of the committee against Mr. Christy, in the first place, because he is ineligible and admits himself to be ineligible. They then report against Mr. Wimpy because they say that Mr. Wimpy is supposed to be ineligible under certain constructions of law. If these constructions of law are correct, perhaps Mr. Wimpy is ineligible, and his ineligibility consists in his having been in the confederate service at one time.

Now, the difference with me is this: I am willing to take by the hand any man who has been in the confederate service who has fought us honorably and fairly, and then, when the war was over, laid down his arms and yielded an honest support to the Government. I would rather take him by the hand than any man North or South who through the columns of a newspaper stirred up sedition which he did not dare to fight for, and who endeavored to make loyalty odious while he had not a particle of it in his own heart. In regard to this man, Christy, I have here a newspaper which was owned by him; I have seen a file of them, in which I find that as late as last May he poured forth a stream of venom against the loyal men of this Government such as I have never before seen or heard, counseling murder, sustaining the Kuklux Klan, advising that no negro be employed, calling us in this House conspirators and the spawn and crew of Thaddeus Stevens. And yet he comes here claiming a seat among us as a Representative from the State of Georgia.

Mr. DAWES. I will now yield for a few moments to the gentleman from Wisconsin, [Mr. PAINE.]

Mr. PAINE. If it be satisfactory to the chairman of the Committee of Elections, [Mr. DAWES.] and not otherwise, I will move to postpone the further consideration of this subject until the third Tuesday of February next, after the morning hour.

Mr. DAWES. I will allow the motion to be made.

Mr. PAINE. Then I submit that motion.

Mr. DAWES. I have yielded to allow that motion to be made in order to ascertain the sense of the House upon this subject, to determine whether we should go into the merits of this case at this time.

My colleague [Mr. BUTLER] has shown some disposition to go into the character of these gentlemen. At the proper time, if it be necessary, I trust the Committee of Elections will be able to make the House understand that we have fully appreciated the relative position of these two men and are disposed to do entire justice to them. I have not been very ambitious, representing that committee, to go into that question at this time. I am ready, however, if the House shall think it necessary and proper to dispose of the case now, to enter into the merits involved. If, however, the House shall decide that there may be a question whether the one or the other of these gentlemen is entitled to a seat then it will be necessary to learn from the Committee on Reconstruction precisely what we have instructed them this morning to ascertain and report to the House. Therefore I do not see how the case can be fully heard at this time. I will acquiesce in the decision of the House upon this question.

I will now yield for a few minutes to my colleague upon the Committee of Elections, the gentleman from Ohio, [Mr. SHELLABARGER.]

The SPEAKER. The Chair will state that

the motion to postpone, which is now pending, admits of but very limited debate under the rules of the House.

Mr. PAINE. I will withdraw the motion for the present so as to allow the gentleman from Ohio to be heard.

Mr. SHELLABARGER. Had I known it would have taken even so much trouble as it has to enable me to state what I am about to state I should not have asked the opportunity to do so. The position in which we are now placed, as it seems to me, is just this: we will all agree upon the proposition that it cannot happen that any State is entitled to representation in this House when it is not at the same time entitled to its equal suffrage in the Senate. The question as to the position of the State of Georgia, in regard to the matter of its representation in the Senate, is now pending and undetermined in that branch of the national Legislature. It becomes proper for us, therefore, now to consider how that state of the constitutional law affects the matter now before the House.

In the position in which this case came before the Committee of Elections, as it turned out, the committee could dispose of all that was before them without determining anything in regard to the first question to which I have alluded, to wit, the propriety of the State of Georgia being represented in this House at all. But since the committee has acted and made its report to the House, that has transpired which it seems to me—and I of course now speak as a member of the House—makes it proper that we should postpone the question of the representation of Georgia in this House as well as the question now before the House until after that is disposed of which has transpired in this House since the committee made its report. I allude, of course, to the reference made to the Committee on Reconstruction. This House may not agree with the report of the Committee of Elections. If the House should agree to that report it will not touch or interfere with the question now referred to the Reconstruction Committee. But we cannot foresee the result of the vote of the House if we proceed with the consideration of this question now, and what I want to submit to the House is, that a decision which may dispose of the question of the propriety of the representation of Georgia in either branch of Congress should properly be postponed until the main question is disposed of. Although the report of the Committee of Elections as made would not touch that question, yet the decision of the House may affect it, and as we cannot foresee the decision of the House I suggest that it is perhaps well enough, all things considered, that the vote should be postponed.

Mr. SPALDING. I desire to ask my colleague [Mr. SHELLABARGER] a question; and it is whether we must not "face the music," and unseat some half dozen members from Georgia already occupying seats in this House in order to carry out this idea of making Georgia a "republican form of government?"

Mr. DAWES. I will say to the gentleman that that is a question which has been referred to the Committee on Reconstruction this morning.

Mr. SPALDING. The gentleman from Massachusetts [Mr. BUTLER] has expressed, I think, the right view of the matter: that, in order to carry out the idea implied in the resolution adopted this morning we must unseat the representatives from Georgia already occupying seats on this floor.

Mr. PAINE. That may be the result.

Mr. MILLER. I desire to ask the gentleman from Massachusetts [Mr. DAWES] whether members from the whole State of Georgia, except this sixth district, have not already been admitted to seats in this House?

Mr. DAWES. Yes, sir.

Mr. MILLER. Then I understand the question involved in the inquiry addressed to the Reconstruction Committee is whether, in case the Committee on Reconstruction should report against the State of Georgia, this House can assume the right of displacing the members

already admitted to their seats under the reconstruction law, and whose seats are not contested? Now, in view of that fact, it seems to me it would be best to go on and decide at once the question presented in this report from the Committee of Elections.

Mr. DAWES. Mr. Speaker, I do not desire to anticipate the conclusion to which the Committee on Reconstruction may arrive or any arguments by which they may sustain their report. I yield now to the gentleman from Wisconsin [Mr. PAINE] that he may renew his motion to postpone.

Mr. PAINE. I move that the further consideration of this subject be postponed until the third Tuesday of February next, after the morning hour.

Mr. ELIOT, of Massachusetts. Is not that the day assigned by the Constitution for other business?

The SPEAKER. The day to which the gentleman refers is the second Wednesday of February.

On the motion of Mr. PAINE, there were—ayes 78, noes 39.

Mr. BUTLER, of Massachusetts. I call for the yeas and nays.

On ordering the yeas and nays, there were—ayes eighteen, noes not counted.

Mr. HARDING. I call for tellers on ordering the yeas and nays.

Tellers were not ordered.

So the motion of Mr. PAINE was agreed to.

Mr. DAWES moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PENSION LAWS.

The SPEAKER. The morning hour has now commenced, and the first business in order is the consideration of the bill pending at the expiration of the morning hour yesterday, being the bill (H. R. No. 1682) relating to the operations of the pension laws, and for other purposes. The House having refused to second the previous question on the bill and pending amendments, the floor passes to the opponents of the bill, and the Chair recognizes the gentleman from Indiana, [Mr. NIBLACK.]

Mr. NIBLACK. I inquire, Mr. Speaker, whether this bill is in order during the morning hour this morning? The Committee on Invalid Pensions has already occupied two morning hours.

The SPEAKER. A committee is entitled, under the rules, to but two morning hours; but any bill pending at the expiration of the second morning hour must be disposed of before any other committee can be called. This bill, therefore, continues as the business of the morning hour until disposed of.

Mr. NIBLACK. I move, then, to recommit the bill and pending amendments to the Committee on Invalid Pensions.

Mr. PERHAM. Will the gentleman yield to me for a moment?

Mr. NIBLACK. Yes, sir.

Mr. PERHAM. Gentlemen will see at once that the recommitment of this bill will be the end of it; for the Committee on Invalid Pensions will not again be reached before the end of the session. While, therefore, the committee are desirous that members shall have ample opportunity to offer amendments to the bill, they hope that the measure will be definitely acted on now.

Mr. NIBLACK. I modify my motion, and move that the bill be recommitment with instructions to strike out the second section, and that the committee have leave to report at any time.

Mr. BINGHAM. I move to amend the motion of the gentleman from Indiana [Mr. NIBLACK] by adding instructions to strike out of the first section after the word "widow" the words "is a non-resident of the United States and;" so that the clause will read:

Nor shall payment of such pension heretofore allowed be continued in any case when the widow has for five consecutive years immediately preceding his death lived separate and apart from him, and without receiving from him any support.

Mr. NIBLACK. I accept the amendment of the gentleman from Ohio [Mr. BINGHAM] as a modification of my motion.

The SPEAKER. That part of the motion of the gentleman which proposes that the Committee on Invalid Pensions be authorized to report back this bill at any time requires unanimous consent. Is there objection?

Mr. ROSS. Object.

Mr. PAINE. I would like to inquire whether the instructions embrace the insertion of the amendment proposed by the gentleman from Indiana, [Mr. WASHBURN?]

The SPEAKER. That is pending. If the bill is referred, that will be referred also, but the instructions will not cover it.

Mr. NIBLACK. I insist upon the demand for the previous question.

Mr. ARNELL. I appeal to the gentleman—

Mr. NIBLACK. Gentlemen are appealing to me all around. I decline to yield.

On seconding the previous question there were—ayes 33; noes 40; no quorum voting.

Tellers were ordered; and Messrs. NIBLACK and PERHAM were appointed.

The House divided; and the tellers reported—ayes 45, noes 72.

So the previous question was not seconded.

The SPEAKER. The House having refused to second the previous question the Chair recognizes the gentleman from Maine. The motion to recommit with instructions is pending.

Mr. PERHAM. I inquire whether on this motion it will be in order to discuss the merits of the first and second section?

The SPEAKER. It brings up the whole question before the House.

Mr. PERHAM. Mr. Speaker, the second section of this bill has met with opposition of a determined and persistent character, such as I confess I little expected. But I feel certain that the members who have taken an active part in opposition to this measure, if they had taken the pains to study the purport of the sections to which their opposition was more especially directed, would have refrained from opposing them. I am quite certain now, notwithstanding the impression that might have been made by remarks of the gentleman from Ohio [Mr. SCHENCK] and the gentleman from Illinois [Mr. INGERSOLL] yesterday, that if I can get the ear of the House, and if members will only get an idea of what we want to accomplish by this measure and the necessity for it, the committee will be sustained. Why, sir, an impression was made yesterday upon some persons in the House, and outside of it, who came to me this morning and desired to know whether or not it was the fact that we had presented a provision in this bill requiring every widow of a soldier to be put under oath to testify as to whether she was a chaste woman or not. A very singular idea it was, but one which might have been very properly deduced from the remarks of the gentlemen who spoke on this subject.

I said I was surprised at the opposition the bill met with. The moment the second section was read my good friend from Ohio [Mr. SCHENCK] seemed to be thrown into a state of excitement such as I never witnessed on his part before during this session, and so loud and continuous, though sitting in his seat, were his exclamations of contempt and opposition to the measure that those of us in his vicinity could scarcely hear the rest of the bill read. He continued in that state of mind until I gave him an opportunity to make his speech. Since that time he has seemed to be comparatively quiet. But not only was that gentleman in a state of excitement, but the gentleman from Illinois, [Mr. INGERSOLL], the gentleman from Wisconsin, [Mr. PAINE], and others, seemed to be struggling for the honor of moving to strike out the second section of the bill.

Mr. PAINE. The gentleman is mistaken in referring to me.

Mr. PERHAM. I thought the gentleman was desirous of the honor. But I awarded the

floor to the gentleman from Ohio, believing that the other gentlemen who were exercised on the subject would be willing that he might have the honor of making the motion.

Mr. PAINE. I simply wish to say that I did not seek an opportunity of moving to strike out that section, although I should vote to strike it out.

Mr. PERHAM. Now, in regard to what this bill seeks to accomplish, the first question that arises is whether there is any occasion for this kind of legislation. The gentleman from Illinois [Mr. INGERSOLL] declared in his speech yesterday, in language which I confess did not strike me as very becoming from a man representing a district that he does, that such a measure could only have emanated from the cold and frigid regions of the State of Maine. I will refer to that again at a later stage of my remarks. If gentlemen had read the report of the Commissioner of Pensions, which has been laid on the desks of members of the House, they would have seen that he called special attention to this subject. He says:

"Widows in increasing numbers cohabit without marriage, refusing this solemn rite and living in open prostitution." The Government should not be placed unwittingly in the strange attitude of offering a premium upon immorality.

Mr. PILE. What are you reading from?

Mr. PERHAM. From the report of the Commissioner of Pensions. I read it for the purpose of showing that this proposition did not emanate entirely from the "cold and frigid regions of Maine." Now, as for the occasion for legislation of this kind facts are coming to the knowledge of the Pension Office from different sections all over the country of numerous instances—and the number is increasing every day—of widows who are entitled to pensions who perhaps contract for marriage with men, but for the purpose of retaining their pensions they come together and live together as though they were married, and have children. In such a case, the woman every six months makes oath that she is still a widow and she draws her pension from the Government. You place the Government, by the law as it now is, in this anomalous position; and I ask my friends who oppose this measure to see just what they propose to vote for if they vote as they indicated they would yesterday. Here are two widows drawing pensions and living, it may be, in the same community. They both make an agreement with some gentlemen of their acquaintance for marriage.

Mr. WOOD. I rise to a question of order. It is that the gentleman is perpetrating a libel and calumny on these widows. If he knows of any such cases as he has referred to it is his duty to specify them, and not to thus slander the whole class.

The SPEAKER. The Chair overrules the point of order, upon the ground that the remarks of the gentleman from Maine were parliamentary and decorous. The Chair can only decide parliamentary questions. A bill of this character brings up precisely this question, and the remarks of the gentleman from Maine are in order.

Mr. WOOD. Well, I hope the gentleman from Maine will name the parties to whom he refers.

Mr. PERHAM. My purpose is to keep myself within the parliamentary rules of debate. The gentleman from New York desires names. I am not going to peddle out any names here. It is not my business.

Mr. WOOD. You have no right to slander the whole class.

Mr. PERHAM. If the gentleman from New York desires to get names let him go to the office of the Commissioner of Pensions and there he can get names. I am not going to give them here.

I was going on to say that two widows living in the same community and entitled to pensions contract each with a man to marry. One of the women marries honestly, as she should do; under your law she forfeits her pension. The other declines to marry, but lives with the man just the same as though she were married,

and she draws her pension every six months, making oath that she is still a widow. The Government is thus placed in this position: you take away the pension from the woman who is honest and has married as she ought to do, while to the woman who is dishonest and living in crime you give the pension as a reward for her sin. That is just the position.

Mr. LOGAN. I desire to ask the gentleman a question at this point. Suppose the woman he speaks of should happen to live with a soldier who was also pensioned, which would be the greater, the crime of the woman or the crime of the male pensioner?

Mr. PERHAM. Perhaps it may be as well for me to answer that question now as at any other time. I know the question was asked the other day why we did not make this provision apply to soldiers who are entitled to pensions and who may have lived bad lives. To my mind the distinction is very clear. In the instance to which I refer the Government actually gives a premium to the woman who lives in sin and crime. You refuse to the woman who is honest, and marries as she ought to marry, any pension, while you continue the pension to the woman who is living in sin.

Now, a word in regard to the male pensioners to whom the gentleman from Illinois [Mr. LOGAN] refers. That is an entirely different case. You offer to the man no premium for crime. You give him a pension because he himself has personally bared his bosom to the storm of battle; he himself has personally suffered the loss of an eye or the loss of a limb or the loss of his health upon the field of battle. I do not know what the members of the House may think, but the members of the Committee on Invalid Pensions are of opinion that there is a great difference in the cases.

Mr. MULLINS. Will the gentleman tell us the name of the commissioner who is to decide these questions, and before whom these persons are to be arraigned?

Mr. PERHAM. That makes no difference at all. The name of the commissioner has nothing to do with the settlement of the question before the House, which is this: do the members of this House propose to continue a system which offers a premium to vice? We propose if a woman prefers to live on in this way we will not continue her pension; that is all.

Mr. LOGAN. I would like to submit a proposition to the gentleman, as somewhat of a legal proposition. As I understand it, a pension is a gratuity, whether given to a soldier a male, or to a female the widow of a soldier; it is a mere gratuity on the part of the Government. It is proposed now to take that pension from the woman. Why? Because of crime on her part. The gratuity is to be stopped because of the crime on the part of the pensioner. Now, the male, who is a soldier, who receives a pension, receives it as a gratuity just the same as the woman does. And if he is guilty of adultery, living with this woman who is a pensioner, both refusing or neglecting to marry in order to continue to receive this pension, then I ask how is the crime on the part of the man any less than it is on the part of the woman? And if crime shall cause a suspension of the pension in the one case, why should it not in the other?

Mr. PERHAM. In answer to the gentleman from Illinois [Mr. LOGAN] I desire to say that when you give or continue a pension to a woman acting in the manner I have described you really give her a reward for acting as she does act, because you withdraw the pension from the woman who marries.

Mr. FARNSWORTH. Will the gentleman allow me to make a suggestion?

Mr. PERHAM. Certainly.

Mr. FARNSWORTH. Long experience has taught us that it is wise to surround persons charged with crime with various safeguards. And our Constitution and laws provide that a person charged with the commission of a crime shall be presented by a grand jury, shall have a traverse jury to try his case, shall be allowed

to meet his or her accusers face to face, and shall be allowed counsel on his or her behalf. Does my friend from Maine think it is wise to knock down all these safeguards and leave every widow of the war to the tender mercies of some person who from motives of vindictiveness or meddlesomeness may send a report to the Commissioner of Pensions charging her with crime, and requiring him to put her upon proof of her honesty before she can have her pension?

Mr. PERHAM. If the gentleman from Illinois [Mr. FARNSWORTH] had been content to wait I would have answered his question at the proper time, without requiring him to ask it, and if gentlemen will allow me to proceed I will answer all their questions before I get through.

Mr. BOYDEN. I would ask the gentleman whether he supposes it is the duty of the Government or of its officers to take care of the morality of its citizens?

Mr. PERHAM. Not in all respects; but the Government should not offer a premium for crime. I have before me many facts bearing upon this subject, and the Pension Office is in possession of letters from the State of Illinois and from the State of Ohio and from other States whose members here are making opposition to this provision, which letters declare that this crime has become a very serious one there; and the Commissioner of Pensions reports that the number of persons who occupy this position is rapidly increasing; that more and more are entering upon this kind of life. And let me tell gentlemen of this House that though they may vote down this provision now the time is coming and not far distant when the people of this country will make such a demand upon Congress that it will be compelled to adopt some measure to prevent this evil.

Mr. MUNGEN. Will the gentleman yield to me for a moment?

Mr. PERHAM. For what purpose?

Mr. MUNGEN. I am opposed to charging the Commissioner of Pensions with the duty of superintending all offenses of this kind in the country. But I am willing that it should be placed in charge of the State of Maine.

Mr. PERHAM. The gentleman objects, I know, to the State of Ohio being named; but nevertheless the facts show that many such cases exist in the State of Ohio.

Mr. SCHENCK. I do not believe it.

Mr. MUNGEN. Can the gentleman from Maine say in what part of the State any such cases have occurred?

Mr. PERHAM. Mr. Speaker, I find that this subject creates more excitement in this House than I had anticipated. I trust I shall be permitted to conclude what I wish to say in reference to these two sections, and then I will give way for other gentlemen. I was about to speak of the necessity for this kind of legislation; and I think that members on examining this subject, in view of the information that has been presented and that can be had at any time on application at the proper office, will concede that some such legislation as that proposed here is necessary. The question is, has the committee presented the best measure that can be presented?

The gentleman from Illinois has asked whether we are going to make the Commissioner of Pensions a censor of the morals of the pensioners in this country. The gentleman, it will be remembered, denounced this proposition as barbarous and an insult upon all the widows of United States soldiers who are entitled to pensions. The widows of our soldiers are, as a whole, virtuous and worthy women, and they do not ask that that class under consideration should have immunity for their crime, and they will not feel complimented by the declaration that this is insulting to them. Now, let me state what we propose. We do not propose to provide that on the presentation to the Commissioner of Pensions of any scandalous letter which may be written the woman whose character is impugned

shall have her pension suspended. The bill provides that on the presentation of "satisfactory evidence"—mark the expression—"upon the presentation of satisfactory evidence" that a widow receiving a pension is living in this way, he may do—what? Not drop her name from the pension rolls, not suspend her pension; but on the presentation of satisfactory evidence to the Commissioner that the woman is living this kind of a life and receiving a pension, when by every principle of law she has violated her right to the pension, he shall make a copy of all the information that has been presented to him and send it to the woman accused. If there have been any scurrilous letters written that are considered evidence by the Commissioner of Pensions, copies of those letters go directly back to the community from which they emanated and to the woman against whom the accusation is made; and, without any forfeiture or suspension of the pension, six months are allowed to her to show that the accusations are unfounded. The committee were unable to devise any better safeguard than this. They may have failed to present the proper kind of measure, but the bill will be open to amendment, and any member can propose additional safeguards.

Now, let me pass to the third section. The gentleman from Ohio, [Mr. SCHENCK,] it will be remembered; moved to strike out both the second and the third section; but the speech which he made shows that he misapprehended entirely the purpose of the third section. The gentleman evidently understood it as a provision for withholding pensions from all pensioners employed in the civil service. Sir, that is not the purpose of the section. I will explain its object. In March, 1865, a bill was passed withholding from pensioners who might be employed in the civil service of the Government their pensions during the time they were so employed. The wisdom and justice of that measure I am not called upon to discuss. I will simply say that in all cases in which pensioners go into the Army they forfeit their pensions entirely. Every maimed soldier or officer now serving in the Veteran Reserve corps, or in any other branch of the military service, forfeits by going into the service the pension to which he would be otherwise entitled. A private soldier, though his pay may not be more than one fifth of what he would draw if employed in the civil service of the Government, can receive no pension on account of any wounds or disability which he may have suffered. Yet no one complains of that provision. But, sir, I do not intend to discuss the justice of that enactment. In 1866, about fifteen months after the passage of that act, the Government by another law restored to those men the pensions but not for the fifteen months that had elapsed between the passage of the two laws.

By the act of July, 1868, the time within which applications must be filed in order to allow the pensioner to draw a pension is five years from the time when the right accrues thereto. Under that provision of law there has been a decision of the Interior Department, one authorized by the act I presume, that pensioners who made their application after the passage of the act of July, 1868, even though they might have been employed during those fifteen months, are entitled to a pension for the whole time. The purpose of the committee was not to interfere with this law at all except to provide that those persons who happened to make their application after July, 1868, should have no advantage over those who made it before. That is all. We do not interfere with the law. If members of the House desire that this shall be restored, that this amount withheld shall be given back to the pensioner, that is a subject open to amendment, and any member of the House can have an opportunity to present it.

That, then, is all there is in regard to that subject. Now, sir, I would content myself with these remarks but for the fact that my friend from Illinois [Mr. INGERSOLL] was pleased to characterize this measure in most unmeasured

terms as an act fit only for a barbarous age; that it was indicative of barbarism, and that it could have emanated only from the cold and frigid regions of Maine. Mr. Speaker, Maine needs no defense on this floor. Her sons need none. Their impress is made upon the broad western prairies, the State of Illinois, that the gentleman represents, not excluded. The State of Maine furnished, according to her population, as many, as faithful, and as valiant soldiers as any other State. Proud as we all are of the soldiers who went from Illinois, I claim that those who went from Maine fought with equal prowess and valor upon almost every bloody field during the war. I detract nothing from the credit due to Illinois, and I claim that there shall be no detractation from the services performed by the soldiers of Maine during the recent struggle. That State has been as benevolent toward her soldiers as any other. She paid as good bounties as any other. While in the service she took care of their wives and little ones, and since the close of the war she has done and is doing. I am certain, as much as the State of Illinois. In addition to what the Government is paying, we are paying to our meritorious soldiers who are in needy circumstances a pension out of the State treasury. We have a separate department of the State government for the distribution of pensions. Our people by their legislation and by their acts toward the soldiers have indicated that they have as much regard for these men and their widows as the people of any other State. They have gone from their native State to the West, and have aided in developing the immense resources of the State of Illinois. If no Maine men had gone to that State would she, think you, have been quite up to her present prosperous and enviable condition? Many of her best citizens were reared in the "frigid" State of Maine, and were educated in her common schools, and wherever they have gone they compare favorably with the citizens of any other State. I know members of the House will feel that I give no offense when I say this.

The SPEAKER. The Chair does not desire to arrest the remarks of the gentleman, but he thinks they are scarcely germane upon the motion to recommit. If remarks in regard to the State of Maine are in order they may be extended to any other State.

Mr. PERHAM. I have but little more to say.

The SPEAKER. The remarks of the gentleman have been quite elaborate, and the Chair desires to bring the debate back to the bill.

Mr. PERHAM. I think I will be able to keep myself within the rule in order to finish what I desire to say upon this topic. Though what I have said may not have been strictly within the rules I thought that no member would be inclined to interfere with me, because I felt that the attack made upon this bill, characterizing it as a barbarous measure, which could only have emanated from the State of Maine, was one to which I ought to be privileged to reply.

Now, I was going to say that I had the privilege of visiting the State of Illinois some two years since, and I found people that had come from my State scattered all round. I found them there as lawyers, as doctors, as merchants, as mechanics, as statesmen, and where ever they were I found them leading men. Why, the good sense of the constituency that the gentleman himself represents sent here to this House for three successive Congresses a man who was born and reared and educated in "the cold and frigid regions of Maine." I refer to the lamented Owen Lovejoy, who had his birth there, who cultivated one of our farms until he was eighteen years of age, who was educated at one of our colleges.

The SPEAKER. The Chair must state to the gentleman from Maine—as the morning hour is so valuable to the committees—that the debate is certainly progressing beyond the range allowed under the rules. The motion is to recommit the bill, with instructions, to the Committee on Invalid Pensions. If the

remarks of the gentleman in regard to the distinguished citizens of Maide who have gone to Illinois are in order, then remarks in regard to all the other distinguished gentlemen who have gone there from other States would be in order. The morning hour is so valuable that the Chair must bring the debate back to the question before the House.

Mr. PERHAM. It is unfortunate that I have been obliged to make this reply in this peculiar form of the question. As it is, I recognize the justice of the decision of the Chair, and without making any further remarks I will yield to the gentleman from Missouri, [Mr. BENJAMIN.]

Mr. BENJAMIN. I will detain the House but a moment, and what I have to say is in regard to the proposition of the gentleman from Ohio, [Mr. SCHENCK,] to strike out the third section of the bill. I am satisfied that if the gentleman from Ohio had understood the effect of his motion he would not have made it, and if the members of the House can be made to understand the effect of the motion they will vote it down. Let me call the especial attention of the gentleman from Ohio to the effect of the third section. I understood him to argue yesterday that the effect of the section was to deprive soldiers of their pensions during the time they were employed in the civil service of the Government, and that it was unjust and wrong for us to do so. Such is not the effect of this section. The history of the matter is this: that from March, 1865, until June, 1866, a period of fifteen months, the law was that a person drawing a pension who was employed at full compensation in the civil service of the Government should be deprived of the pension during that period. That was the fact, and ninety-nine out of every hundred of those thus employed lost their pensions. But there is a class of cases yet pending, cases of a doubtful character, cases that were suspended at the Department for one cause or another, making perhaps an aggregate of one in one hundred, or perhaps a little more, but the number is few. This provision is merely that that one in a hundred shall be placed upon the same footing with the ninety-nine in one hundred that have already been dealt with. That is the effect of this provision.

Mr. WASHBURN, of Indiana. Does this section apply to all pensioners who have made application since June, 1866?

Mr. BENJAMIN. It applies to all who were entitled to pensions under the general law, and also to those that we pension here every session by special acts.

Mr. WASHBURN, of Indiana. Does it include all who have applied since 1866?

Mr. BENJAMIN. Yes; all of those who have applied since June, 1866, that were employed from March, 1865, to June, 1866, in the civil service. It merely places that one hundredth portion on the same footing as the ninety-nine hundredths that have been dealt with by the operation of the pension laws, thus giving that small number no advantage over the great bulk of them whose cases have already been disposed of by the Pension Bureau under the law.

Mr. WASHBURN, of Indiana. One more question. Does not my amendment restore the ninety-nine, so that the whole hundred will get what was taken from them during that year?

Mr. BENJAMIN. The effect of the gentleman's amendment would be to cause the Pension Bureau to reopen all the cases that have been adjudicated on and disposed of during that period. I get this fact from the Pension Office, that there are about three thousand of these persons whose pensions were suspended during the fifteen months that they were receiving full salaries in the civil service of the Government. If they were all private—which we know they were not—drawing eight dollars per month, or ninety-six dollars a year, it would require the sum of \$360,000 bonus to those parties, in addition to the large amount that we are now appropriating for the payment of pensions, to

pay this class of persons that we never promised by any law or by any rule or by any regulation to pay. These parties went into the civil service knowing well what the law was. They forfeited eight dollars a month, and received from the Treasury from twelve to eighteen hundred dollars a year or from one hundred to one hundred and fifty dollars a month. For the purpose of getting the larger amount they forfeited the smaller. They were perfectly content to do so. It was a great advantage to them to do so; and as my colleague on the committee has stated, such is the law to-day in regard to our Army and our naval service. The law of 1865 only applied that rule to the civil service, but after its operation for fifteen months we repealed the law.

Mr. LOGAN. Let me interrupt the gentleman right here for a moment.

Mr. BENJAMIN. I will yield first to the gentleman from Indiana, [Mr. WASHBURN.]

Mr. WASHBURN, of Indiana. I desire to ask the gentleman if the soldier does not perform the same services as the civilian alongside of him, and if this provision would not take from the soldier the amount of his pension?

Mr. BENJAMIN. I presume that such was the fact, but it was according to the law. I admit that the law was unjust, but still it was the law, and we administered the pension laws accordingly, and I am decidedly opposed to going back and opening up all these cases which have been passed upon, and which have passed almost into oblivion, for the purpose of bringing up the arrears of pensions at this late day.

Mr. LOGAN. Now, will the gentleman allow me a moment?

Mr. BENJAMIN. Certainly.

Mr. LOGAN. I do not understand the section as explained, or else I misunderstand the explanation. My understanding of the section is this: by the law of 1863 or 1865—

Mr. BENJAMIN. The law of 1865.

Mr. LOGAN. By the law of 1865 persons were deprived of their pensions when they were employed in the civil service of the Government. That law was repealed in June, 1866. The Secretary of the Interior has decided that those applying for pensions since June, 1866, were entitled to this pension while in the civil service, but those who applied before that time were not. Am I correct?

Mr. BENJAMIN. Nearly so; not entirely.

Mr. LOGAN. I want the gentleman to explain this to the House; that is, if I am correct, and I think I am. In 1865 a law was passed depriving persons of their pensions who were employed in the civil service of the Government. Now, according to the decision of the Secretary of the Interior, if persons entitled to pensions failed to make applications for them until after June, 1866, they were not affected by that law, but were entitled to receive their pensions? Is that the case?

Mr. BENJAMIN. It is.

Mr. LOGAN. Then I want the gentleman to tell the House if the proposition of the Committee on Invalid Pensions is not this: it is to debar those persons who were not sharp enough not to file their applications prior to the time I have named from receiving pensions for the time they were in the civil service of the Government, while those who were sharp enough to withhold their applications until after June, 1866, are entitled to their pensions during that time.

Mr. BENJAMIN. The gentleman entirely misapprehends this section.

Mr. LOGAN. Very well, then; what is it?

Mr. BENJAMIN. We say that those persons who did not apply until after the repeal of the law of 1865 shall have no advantage over those who applied before the repeal of the law.

Mr. LOGAN. The Secretary of the Interior has decided that those who applied subsequently to June, 1866, are entitled to pensions during the time they were in the civil service, and this provision proposes to deprive them of that right.

Mr. BENJAMIN. That is the decision of the Secretary of the Interior, and I will tell the gentleman the effect of it.

Mr. LOGAN. Will the gentleman allow me—

Mr. BENJAMIN. The gentleman will pardon me; I yielded only for a question.

Mr. LOGAN. Very well.

Mr. BENJAMIN. According to the Secretary of the Interior, those who are entitled to receive pensions at all, whose applications are pending to-day, or who neglected to make application until after June, 1866, are entitled to receive their pensions for the fifteen months that the law was in force while they were in the civil service. As I said before, probably ninety-nine of every hundred persons entitled to pensions made applications before the repeal of the law. But under that decision the one in the hundred who neglected to make application until after the repeal of the law will get the pension. The proposition of the committee is to put that one on the same footing with the ninety-nine.

Mr. LOGAN. Another question right here.

Mr. BENJAMIN. Very well.

Mr. LOGAN. Do you not believe, as one of the Committee on Pensions, having examined this law, that it was wrong in its inception?

Mr. BENJAMIN. I do.

Mr. LOGAN. Then why not say that the law was wrong, and restore pensions to all those whom that law deprived of pensions?

Mr. BENJAMIN. We have already repealed that law.

Mr. LOGAN. Then if the law was wrong and not right that is not the point here. But the point with the gentleman is that because the decision of the Secretary of the Interior will take money out of the Treasury this provision is to extend that wrong, because to right it will cost the Government a few dollars. That is the point exactly.

Mr. BENJAMIN. The argument of the gentleman would overturn a great part of the laws upon our statute-books. We are constantly amending upon every conceivable subject for the purpose of perfecting them. We find them wrong in some particular and we try to amend them. But we never make the amendatory laws retrospective in their character. We pay these parties all that we promised them at the time. But there is one in a hundred, as I have already said, whose case is still pending, and we propose to put him on the same footing with the ninety and nine.

Mr. LOGAN. Will the gentleman allow me right here to ask him another question?

Mr. BENJAMIN. I will yield to the gentleman directly.

In 1861, soon after the breaking out of the rebellion, we passed a general pension law promising to soldiers a certain amount of pension, to their widows a certain amount, to their children a certain amount. In 1868 it was found that the amounts which had been fixed in 1861 were too small, and Congress largely increased the amount of those pensions, making an increase in the aggregate of at least one third. The principle which is advocated by the gentleman from Illinois and the gentleman from Indiana would require us to extend that increase of pension back to the beginning of the war. But when the Government of the United States pays what it has promised to pay it has discharged its duty.

Mr. LOGAN. Will the gentleman permit me to ask him a question?

Mr. BENJAMIN. Certainly.

Mr. LOGAN. The gentleman says that to strike out this section and insert the amendment of the gentleman from Indiana would have a retrospective effect, and that we are not in the habit of passing such retrospective enactments. Now, I ask the gentleman whether every law passed by Congress upon the report of his committee granting a special pension is not retrospective? Has not every law giving a pension to widows not on the pension-roll gone back to the date of the death of the soldier? Now, where is the difference in principle?

Mr. BENJAMIN. I admit that as a general thing what the gentleman says is true; but it is not true in all cases. I will state the distinction. In every one of the cases to which the gentleman alludes the parties were within the spirit of the law, though not within its letter. They had failed to receive pensions because their cases were outside of the letter of the law. But the Congress of the United States, believing them to be within the spirit of the law, placed them upon the same footing as those whose claims had been allowed by the Pension Bureau. But in the case now under consideration these parties are within neither the spirit nor the letter of the law. We are not under an obligation to them in virtue of any express or implied promise. The entering of the civil service by these parties was a voluntary act, they knowing very well what the law was.

Mr. LOGAN. Will the gentleman allow me to ask him a question?

Mr. BENJAMIN. Certainly.

Mr. LOGAN. I think the gentleman is certainly in error in one respect at least. This law could not be retrospective so far as regards the pension due to the party; but the act passed in 1865, like the carving of one estate out of another, merely took out of the pension already allowed to the pensioner by law the amount of pension to which he would have been entitled from the time he entered the civil service until he left it. It was a mere carving out of a portion of that gratuity which the Government had given the pensioner by law, and was not a deprivation of the pension.

Mr. BENJAMIN. The gentleman misapprehends the purpose and effect of that law. It took from the pensioner nothing in the world. It merely provided that the pensioner employed in the civil service should be placed upon the same footing as similar parties in the military and the naval service. It said to those who were pensioners under our laws, "If we furnish you employment at the rate of one hundred or one hundred and fifty dollars a month in the civil service, and pay you full wages, we will withhold from you the pensions we have heretofore paid you in consequence of disabilities contracted in the military service." The party entering the civil service elected to receive the larger salary and forfeit the smaller.

Mr. LOGAN. Is not the distinction between the military and the civil service this, that we put nobody in the military service who would be entitled to a pension, because they are all presumed to be able-bodied men?

Mr. BENJAMIN. The gentleman is mistaken as to the Veteran Reserve corps.

Mr. LOGAN. I beg the gentleman's pardon. I was going to except the Veteran Reserve corps. What is that corps? It is nothing more than a corps of crippled officers, composed of pensioned soldiers or of officers who could not possibly, perhaps, have drawn their pensions under the laws.

[Here the hammer fell.]

The SPEAKER. The morning hour has expired, and the bill goes over till the morning hour of Tuesday, when the gentleman from Maine [Mr. PERHAM] will be entitled to ten minutes remaining of his hour.

DOWLING CLAIM.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting, in compliance with the request of the Commissioner of Public Lands, a report to the chief of engineers concerning the alleged claim of one Mr. Dowling, of California, to Government land in San Francisco harbor; which was referred to the Committee on the Public Lands.

REVISION OF THE LAWS.

The SPEAKER also laid before the House a report from the commissioners to revise the statutes, presenting their revision of the laws relating to the Army, the Navy, patents, and public printing; which was referred to the Committee on Revision of Laws of the United States.

GEORGE N. HUNTSMAN.

Mr. BUTLER, of Tennessee, by unanimous consent, introduced a bill (H. R. No. 1805) for the relief of George N. Huntsman, of Tennessee; which was read a first and second time, and referred to the Committee of Claims.

RONDOUT HARBOR.

Mr. CORNELL, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be directed to report to this House such information as he may have in reference to the survey of Rondout harbor, New York, with such information as he may obtain from the Treasury Department in relation to such survey.

F. A. GIBBONS.

On motion of Mr. COVODE, the Committee on Public Buildings and Grounds was discharged from the further consideration of the papers in relation to the claim of F. A. Gibbons, and the same were referred to the Committee of Claims.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. BUTLER, of Massachusetts. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union upon the special order.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. SCHENCK in the chair,) and resumed the consideration of the special order, being House bill No. 1672, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1870.

Mr. BUTLER, of Massachusetts. Owing to the illness of my colleague on the committee, [Mr. WASHBURN, of Illinois,] I move that this bill be laid aside, and that the Indian appropriation bill be taken up.

Mr. MOORHEAD. I object.

Mr. MAYNARD. Is that motion amendable?

The CHAIRMAN. It is not, except in this: that the Indian appropriation bill, not being a special order, a motion to lay it aside and take up another bill would be in order, and would be carried by a majority of the committee.

Mr. BUTLER, of Massachusetts. I trust nobody will object to the legislative bill being laid aside.

Mr. MOORHEAD. If it is laid aside, I move to proceed with the regular order.

The CHAIRMAN. The Indian appropriation bill is next in order, but it is not a special order.

Mr. BUTLER, of Massachusetts. I suppose a motion to proceed to the consideration of the appropriation bills takes precedence and must be put.

The CHAIRMAN. The first motion is to lay aside the legislative appropriation bill as the special order.

The motion was agreed to.

The CHAIRMAN. The Clerk will now read the rule on the question raised.

The Clerk read as follows:

"In Committee of the Whole House on the state of the Union general appropriation bills, and, in time of war, bills for raising men and money and bills concerning a treaty of peace, shall be preferred to all other bills, at the discretion of the committee; and when demanded by any member the question of consideration shall first be put in regard to them. Existing special orders, however, being made under a suspension of the rules, take precedence of all other business."

The CHAIRMAN. This bill, although not a special order, has precedence if there be no order made in regard to it; but it is in the discretion of the committee to lay it aside by the vote of a majority, and to take up any other bill.

Mr. BUTLER, of Massachusetts. I move to proceed to the consideration of the Indian appropriation bill. It is very necessary that we should get on with the appropriation bills.

Mr. MOORHEAD. I call for the regular order.

The CHAIRMAN. The regular order will be the consideration of the Indian appropriation bill, unless a majority of the committee

shall decide to lay it aside and take up another bill.

Mr. MAYNARD. I move to lay aside the Indian appropriation bill, and to proceed with the consideration of the tariff bill. I desire to ask whether the tariff bill has not already been under consideration, and is not still under consideration in the committee.

The CHAIRMAN. The motion is not debatable.

Mr. BROOKS. I know the motion is not debatable; but let us understand this matter. Will the Chair state to the House what is the exact issue, and what would follow after the Indian appropriation bill?

The CHAIRMAN. There is now before the committee the tariff bill, which has been partly considered by the Committee of the Whole. There is also in order, not as a special order, however, the Indian appropriation bill reported by the Committee on Appropriations. Under the rules the Indian appropriation bill will have, as an appropriation bill, precedence, unless at the discretion of the committee it be laid aside to give preference to some other bill. The gentleman from Tennessee [Mr. MAXNARD] moves to lay it aside. The gentleman from Massachusetts [Mr. BUTLER] demands that the committee shall go on with the Indian appropriation bill, which will be in order unless the committee decides otherwise by preferring another bill to it. The gentleman from Tennessee moves to lay aside the bill in order to proceed with the tariff bill, which has been partly considered by the committee.

Mr. BROOKS. Let me ask if the tariff bill has not been referred to the Committee of Ways and Means for the committee to make a report upon the tariff, and if that committee are not preparing to make such a report?

The CHAIRMAN. The gentleman is mistaken in regard to the bill having been recommended to the Committee of Ways and Means.

Mr. BROOKS. Referred.

The CHAIRMAN. Or referred in any sense. It is now in Committee of the Whole on the state of the Union, although the Committee of Ways and Means may have been engaged in modifying it in some form and preparing amendments to be submitted whenever it shall be taken up in Committee of the Whole.

Mr. MOORHEAD. I rise to ask a question on a point of order. I understand the Chair to state that the question is on the motion of the gentleman from Tennessee, to lay aside the Indian appropriation bill for the purpose of proceeding to the consideration of the tariff bill.

The CHAIRMAN. That is the question.

Mr. MOORHEAD. I assume that that is not the question; that the Indian appropriation bill is not up; that the tariff bill is the first bill in order, and that the gentleman from Massachusetts would have to move to proceed to the consideration of the Indian appropriation bill.

The CHAIRMAN. The Chair overrules the assumption of the gentleman from Pennsylvania. The Indian appropriation bill is in order, because the rule makes it so in providing that it shall have preference. It has that preference if it be asked to proceed with it; but it has it subject to the discretion and power of the committee to lay it aside and give preference to another bill, as is now proposed.

Mr. WOOD. I desire to inquire of the Chair whether the Committee of the Whole has power to control the question as to what bill it will take up? When the House has gone into Committee of the Whole on a particular bill can the Committee of the Whole reverse that action of the House?

The CHAIRMAN. The Committee of the Whole have power under the rule which has been quoted to proceed with another bill in preference to the one called for, if a majority of the committee so desire.

Mr. WOOD. Although the House has resolved to go into Committee of the Whole on a particular measure?

The CHAIRMAN. There was no order of

that kind. It was simply an order to go into Committee of the Whole on the state of the Union. Then the gentleman from Massachusetts [Mr. BUTLER] had a right to demand that the committee should proceed with a preferred bill—the Indian appropriation bill. That demand was made under the rule, which at the same time provides that in the discretion of the committee they may lay it aside and take up another bill.

Mr. WOOD. I understood the gentleman from Massachusetts [Mr. BUTLER] to move in the House to go into Committee of the Whole on the state of the Union on the legislative appropriation bill. If that was so, then the committee cannot change the order of the House.

The CHAIRMAN. The Chair decides that it is entirely within the power of the committee to lay aside the bill named to bring up the tariff bill; that being the first bill in Committee of the Whole if the Indian appropriation bill be laid aside. The committee has just laid aside the legislative, &c., appropriation bill, for the reason stated by the gentleman from Massachusetts, [Mr. BUTLER]—the illness of the chairman of the Committee on Appropriations. Having gone into the Committee of the Whole on the state of the Union, the legislative, &c., appropriation bill would first come up; but the legislative bill having been laid aside, the next bill in order having preference is the Indian appropriation bill. It is proposed to lay aside the Indian appropriation bill.

Mr. MAYNARD. I wish to ask what is the effect of the motion. If the Indian appropriation bill is laid aside, then, as I understand, we will come to the tariff bill.

The CHAIRMAN. That will be the effect, the tariff bill being the next bill on the Calendar.

The committee divided; and there were—ayes 20, noes 64; no quorum voting.

The CHAIRMAN, under the rule, ordered tellers; and appointed Mr. Wood and Mr. MOORHEAD.

The committee again divided; and the tellers reported—ayes 46, noes 78.

So the motion was disagreed to.

INDIAN APPROPRIATION BILL.

The CHAIRMAN stated that the committee would now proceed to the consideration of House bill No. 1788, making appropriations for the current and contingent expenses of the Indian department and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1870.

Mr. WILSON, of Iowa, here took the chair.

Mr. BUTLER, of Massachusetts. I move that the first reading of the bill for information be dispensed with.

Mr. FARNSWORTH. Can that motion be made in the Committee of the Whole on the state of the Union?

The CHAIRMAN. It can be by unanimous consent.

There was no objection; and it was ordered accordingly.

Mr. BUTLER, of Massachusetts. Now, Mr. Chairman, before the bill is read by paragraphs for amendment, I wish to explain to the House for a few moments the theory upon which these appropriations are made. The appropriations are generally the same as those last year for the same objects, and the House will remember that the Indian appropriation bill of last year was carefully considered and sifted. The appropriations here are generally only those required by existing laws. The additions are only where new treaties have been made, ratified, and proclaimed, and estimates sent to the committee. I believe, with one or two exceptions, there will be found no substantial variance from what was done last year; and as it is a subject which does not require general debate I will propose, unless some gentleman desires to discuss the general subject, that the committee rise for the purpose of closing the general debate in five minutes.

Mr. McKEE. Will the gentleman yield to me for a question?

Mr. BUTLER, of Massachusetts. Certainly.

Mr. McKEE. I wish to inquire whether in this bill there are any appropriations for tribes of Indians with which we are now waging war? We are now trying, as I understand, to destroy certain hostile bands of Indians, and I wish to know whether this contains any appropriations for them.

Mr. BUTLER, of Massachusetts. There are appropriations for that tribe of Indians, and for this reason: there are treaties with those Indians which have not yet been abrogated, and this bill is for 1870, and we do not know what Indians will be "crushed out" before that time. And I will say that the committee have appended to this bill some sections which provide that no appropriations made for one tribe of Indians shall be used for another. Of course, then, the appropriations to which the gentleman from Kentucky has referred will not be expended if the Indians are not in peace with the United States; nor if the House shall pass these added sections, as I have no doubt it will, can one appropriation be transferred from one object to another.

Mr. PRUYN. I wish to inquire of the gentleman from Massachusetts, who has this bill in charge, whether it is intended in this bill to deal with the proposal heretofore made to place the Indian Bureau under the control of the War Department?

Mr. BUTLER, of Massachusetts. No, sir, in no way; this is an appropriation bill only.

Mr. WINDOM. I desire to ask the gentleman a question or two, and I hope he will yield me the floor for that purpose.

Mr. BUTLER, of Massachusetts. Certainly.

Mr. WINDOM. I understood the gentleman to say that this bill does not materially differ in principle from the one passed last year; and he informed the House that the Indian appropriation bill of last year was carefully considered and sifted so as only to carry out treaty stipulations, and yet there is a statement at the end of the bill that "the amount appropriated by the bill is \$2,312,260 12, being \$1,624,822 18 less than was appropriated by the same bill last year." If the bill last year was simply to carry out treaty stipulations I desire to know what treaties he proposes to violate by this bill?

Mr. BUTLER, of Massachusetts. I shall be glad to answer that question, and the answer is this: a great many treaty stipulations have expired by their own limitation. In the treaties made with Indians we stipulate to pay them yearly installments for fifteen, twenty, or thirty years, and as a large number of those stipulations have expired by their own limitation the appropriations called for in this bill are therefore reduced in that respect.

Then again we appropriated last year for the removal of the Navajo Indians almost half a million of money. Those Navajo Indians have now been removed to their reservations and have been pretty well established upon them, so that in this bill a very small appropriation relatively is necessary. So also with various other matters that were to be done last year, but which have not to be provided for this. If the gentleman will turn to the estimates of the department he will find the same explanation which I have given.

Mr. WINDOM. I was not aware of that fact. I thought certain treaties had been shaved off by the Committee on Appropriations, and that they had carried out only such portions as they deemed proper.

Mr. BUTLER, of Massachusetts. No, sir. The Committee on Appropriations consider that it is not within their power to shave them off. They would if they could, and they hope that Congress will take some means different from those we now have of dealing with the Indians. The bill makes appropriations according to the law as it now stands. We have to obey the law, and are glad to do it.

Mr. WINDOM. One word more. Mr. Chairman, I am very glad that the Committee on

Appropriations have kindly come to the conclusion to carry out Indian treaties. I believe, sir, and I propose to state it as broadly as I believe it, that because of the failure of the Committee on Appropriations to carry out Indian treaties at the time as provided in said treaties, by making the necessary appropriations in 1867 and in 1868, they have caused a loss to the Government of \$50,000,000. I believe, sir, that because of their failure to carry out treaty stipulations with the southern Indians we were forced into the Indian war which we are now waging at a cost of \$2,000,000 a week. Treaty stipulations were carried out with the Sioux of the North, by far the most savage of all the tribes, and as a consequence we are at peace with them. We have expended on these northern Indians, for the purpose of feeding instead of fighting them; in order to maintain our plighted faith and to carry out treaty stipulations with them, something like seven or eight hundred thousand dollars, and they are at peace to day. General Harney, armed with the power to partially fulfill our obligations, went among these Indians, where he found two military posts. I think I am correct in saying that in each of those military posts there are ten soldiers. He saw that there was no necessity for these soldiers, and ordered every one of them to leave the reservations. No troops have been there since. It may have cost us seven or eight hundred thousand dollars to comply with agreements made with them, but on the other hand, by refusing to execute our treaties with the southern Indians, it is now costing the Government at the rate of \$300,000 a day, or in other words it costs us as much every three days to fight those with whom we have violated our plighted faith as it does to feed the same number a whole year with whom we have kept our agreements.

What I have said will sufficiently illustrate the evil consequences of the Indian policy which has been pursued by the Committee on Appropriations. I believe in keeping the plighted faith of this nation with the various Indian tribes, but it has not been done, and because it has not been done in years past this Government is now compelled to pay at the rate of fifteen or twenty million dollars every year for military expeditions against them. I do not desire to criticise the action of the House, but its Indian policy, if it can be said to have any such policy, convinces me that we are far more ready to vote twenty, thirty, or fifty million dollars for Indian wars than to give \$1,000,000 to keep the peace with them by carrying out in good faith our treaty stipulations.

I propose in about thirty days from this time to leave this Hall, when I shall have no more responsibility on this question. Indeed, I have not felt much responsibility in regard to it since the House took the whole subject out of the hands of the Committee on Indian Affairs and turned it over to the Military Committee. But I want to say that the \$50,000,000 that have been expended in the last year or two for Indian wars are entirely due to our breach of faith; and having said that much I do not wish to discuss the subject any further.

Mr. BUTLER, of Massachusetts. A single word or two in reply to the gentleman from Minnesota. I know that he does not mean any discourtesy to the Committee on Appropriations.

Mr. WINDOM. Of course not.

Mr. BUTLER, of Massachusetts. I know it, and I will give the reason for it. He was on the committee of conference with me on the Indian appropriation bill at the last session of Congress and agreed to every appropriation in it. I think it was his fault as much as mine if they were not correct.

Mr. WINDOM. I will say further that I agreed to several which the gentleman did not, and which, in my judgment, ought to have been in the bill.

Mr. BUTLER, of Massachusetts. I did not know that we disagreed on any. Certain it is that I want to acknowledge his valuable ser-

vices in that regard. He agreed to all those in the bill, and I did not know that we disagreed as to any one of them.

But, sir, there are two things to be said about this matter. I agree that it costs more to fight the Indians than to feed them. It cost a great deal more to fight the revolutionary war than to pay the tax on tea; so that that is not always a safe rule. In order to carry out the treaties made and ratified, and which were brought to our knowledge, we have made the necessary appropriations. Last year we gave \$200,000 to General Sherman to carry out the provisions of certain treaties in advance of their being ratified. Mark that—in advance of their being ratified! Thereupon those \$200,000 were spent, and \$400,000 more without any appropriation. Well, sir, if that course is to be permitted, if the Indians are to be fed in that way, then this House of Representatives can have no control over the appropriations at all. And, let me say again, that without any treaty with the Navajo Indians we paid half a million to put them back, because we thought they had been wronged. Without any treaty with the northern Indians, ratified and declared, we appropriated \$200,000, and put it in the hands of General Sherman to take care of them; and without any treaty General Sherman and General Harney spent \$400,000 more for the same purpose.

I have no doubt if we boarded all the Indians at Willard's Hotel, or at any one of the first-class hotels in the country, that we should not have any war with them; but the question is whether we shall or shall not do that. I mean to say that there is a limit to this method of feeding and taking care of them. I will state to this House that we have appropriated enough money to take care of all the Indians in the United States better than the majority of the white people are taken care of; but the difficulty is that only one dollar is got to them out of every ten that we appropriate for their benefit, and when that one dollar does get to them it is generally in the shape of glass beads, lead medals, and yellow ochre. They do not get anything with it that they really do want, but when it does get to them it gets to them in such form as to influence them against the Government instead of making them grateful to it.

If we had not any Indian agents, if we had not any Indian traders in the West, if we had not anybody to interfere with the Indians, there would be no war with them. Mr. Chairman, just look at it for a moment. There runs through this continent an invisible line separating the British dominions from the United States. That almost trackless wilderness is full of Indians, as many on one side of the line as upon the other. Yet, sir, on one side of that line, in the British dominions, there has not been an Indian war for sixty years, while on the other side, within the limits of the United States, we have had upon our hands perpetual Indian wars. Why is this? It results, sir, from the manner in which we have been dealing with these Indians; treating every man who has half a dozen ragged—no, not ragged, for they do not even have clothes of any sort—treating every Indian who may happen to have half a dozen followers as a separate nation and making a treaty with them. And in all such treaties the first five articles declare what sort of houses, what sort of stores, and what other provisions shall be made for Indian agents, all to be paid for out of the money of the United States. That is the system which we have been following. I can point the House and the committee to treaty after treaty where there has been provision after provision for the most extensive establishments for these Indian agents. And expensive houses are also provided for physicians, farmers, blacksmiths, and everybody who has anything to do with the Indians. There is one estimate which has been sent to our committee for starving Indians near Devil's Lake. It is stated in the report transmitted to us by the Secretary of the Interior that there is a necessity for \$119,000 to save these Indians

from absolute starvation. When we come to look over the estimates, what do we find? Why, sir, we find an estimate of \$54,000 for houses and mills and horses and everything else wanted by the Indian agents, and not wanted by the Indians.

I therefore trust, Mr. Chairman, that we shall not start off on this bill with any false spirit of philanthropy. I agree that it is cheaper to feed the Indians than to fight them. I agree that we should never have had this Indian war; but, sir, we will continue to have Indian wars until we do away with the extravagance of the present system of dealing with the Indians, and until we refuse to recognize in any shape or form the going upon the war-path of Spotted-Tail or Waggle-Tail, or any other Indian with a few followers, as an Indian war which is to be settled by another Indian treaty granting new appropriations of money. When we get rid of that system we will have no more Indian wars and no more of these extravagant appropriations of money. Then we will look upon them as subjects to be protected and cared for; who are to be kept in order; to whom the courts are open; who shall not have lands to sell out of which they will be cheated for a few bottles of whisky; who shall not be considered as lords of the domain and brought on to Washington to enter into negotiations with the treaty-making power of this Government, we paying the expenses on both sides, and all for the advantage of some land speculators. When we get rid of this most vicious and accursed of all systems we will get rid of all these Indian wars, but not until then.

Mr. HIGBY rose.

Mr. BUTLER, of Massachusetts. I cannot yield to the gentleman now. The difficulty about the matter is this: the question which the gentleman from Minnesota discussed, and which I am discussing, does not belong to the Committee on Appropriations. You tie our hands, and you say we must make appropriation where there is law for it; and not only that, we have to make an appropriation where there is no law because some treaty has been concluded between the agents of the Government and the Indians.

Mr. HIGBY. I ask the gentleman, then, whether his complaint is not against the Senate, who ratify these treaties?

Mr. BUTLER, of Massachusetts. I make no complaints; I am only stating facts.

Mr. WINDOM. I ask the gentleman to allow me the floor for a few moments.

Mr. BUTLER, of Massachusetts. I yield to the gentleman from Minnesota for five minutes.

Mr. WINDOM. I wish to say, in reply to the remarks of the gentleman from Massachusetts, that two or three efforts have been made in this House to establish a better system of dealing with these Indians than the present one. I am glad to find that he agrees to what I have tried to accomplish, or rather what the Indian Committee tried to accomplish two or three years ago. I am not here to defend dishonest Indian agents. The bill which the Indian Committee reported three years ago was designed to prevent all such wrongs as are charged against Indian agents. The bill was introduced and pressed upon the attention of the House, and, if passed, I have no doubt that it would have put a stop to Indian stealings and Indian wars.

Let me for a moment call the attention of the House to the provisions of that bill. It was the result of a thorough examination of the Indian question. A joint committee of the Senate and of the House was appointed, who went into the Indian country, took the testimony of the leading chiefs of almost all the tribes in the West, and indeed thoroughly investigated this whole question. They decided upon a policy in reference to our Indian affairs. The bill was passed by the Senate and came to this House, and by direction of the Committee of Indian Affairs I urged its passage. It provided that the country occupied by Indian tribes should be divided into five districts, and also provided for a commission of three men in each district, one of whom should be ap-

pointed from persons selected by the various religious denominations at their yearly meeting, another from the people at large, the third being a military officer of high rank. It was believed such commission would, if any could be, free from suspicion of corruption. It was provided that they should be constantly in the Indian country to supervise the acts of Indian agents, and if they found any stealing or mismanagement on the part of those agents they were clothed with the power to at once suspend them. At the same time provision was made to extend the laws of the country over the Indians and to give them the protection which white men have. In fine, the design of the bill was to carry out, as far as it could be done honestly and in good faith, the treaties we had made, and to prevent stealing and corruption under these treaties. I brought that bill before the House as an organ of the Indian Committee. A member moved as an amendment that the Indian Bureau should be transferred to the War Department, and it went through under the previous question almost without discussion. Ever since then there has been a standing dispute between the two Houses, and nothing has been done. I think if the House had accepted that proposition we would have had no Indian war to-day costing us millions of dollars.

Now, one word as to the difference suggested by the gentleman from Massachusetts between our success in dealing with Indians and that of our British neighbors. I think there is a great difference in the circumstances of the two cases, which will account for the difference of result. In this country emigration is constantly pushing westward. We are opening new mines and new farms and new States, and driving away the game upon which the Indians subsist. In the British territory the Hudson Bay Company rules supreme, and its only object is to get as many furs as possible. Instead of driving away the game they really are the partners of the Indians; and it is not to be expected that the Indians will fight them so long as they protect the game and furnish food and ammunition. That is one reason why they have better success than we have. Another reason is, because those Indians were placed under the charge of the Roman Catholic church. I am not myself a Roman Catholic, but I will do them the justice to state that their priests in that region have managed Indian affairs exceedingly well. They have been there as missionaries, and they have kept the peace with them. Acting in harmony with the policy of the Hudson Bay Company, they have managed them without wars. Now, if you will keep the pioneers back, prevent the pioneer from going to the West, we will have peace with the Indians. But you cannot now have peace with them, unless when you make treaties you carry them out faithfully, and in addition provide means for punishing them effectually when they break those treaties themselves, which we cannot possibly do at the present time.

I had the honor to state my views pretty fully on that point the other day, when I argued that we must construct railroads across the continent if we would effectually control the Indians. You may now occasionally destroy an Indian village; or a Black Kettle with his friendly band, but when you undertake to chase down the hostile savage of the plain you will find such wars as fruitless in the future as in the past. The Quaker policy and no other is the true one.

Mr. BUTLER, of Massachusetts. Without taking time now to reply to the gentleman from Minnesota, [Mr. WINDOM,] I propose to move that the committee rise for the purpose of closing all general debate on this bill in five minutes.

Mr. SCOFIELD. Cannot that be done by unanimous consent, without the committee rising?

Mr. BUTLER, of Massachusetts. If that can be done it will answer my purpose.

No objection was made; and all general debate was ordered to be closed in five minutes.

The CHAIRMAN, (Mr. WILSON, of Iowa.) The first reading of this bill having been dispensed with by unanimous consent, it will now be read by clauses for amendment.

The Clerk proceeded to read the bill for amendments.

The following clause was read:

For the contingent expenses of the Indian department, namely:

For the pay of eleven superintendents of Indian affairs and of fifty-eight Indian agents, \$113,200, as follows.

Mr. BUTLER, of Massachusetts. We have now made a treaty with the Crow Indians, which require another superintendent. I therefore move to amend this clause by striking out "eleven" and inserting "twelve."

Mr. HOLBROOK. I would like to make an inquiry of the gentleman from Massachusetts, [Mr. BUTLER.] In proposing to strike out "eleven" and to insert "twelve" as the number of superintendents he states it is for the purpose of providing a superintendent for the Crow Indians. I wish to call his attention to the fact that in the Indian appropriation bill of last year the superintendencies of the Territories of Montana and Idaho were united. I think the gentleman is now convinced that a superintendency embracing those two Territories is too large; that it is impossible for one superintendent to attend to all the business for those two Territories. I therefore ask the gentleman to amend his amendment so as to increase the number of superintendents to thirteen. I have a letter here in my possession from the first person who was appointed to the superintendency of those Territories after they were united. He has had much experience with various tribes of Indians in the West, and he states that it is an utter impossibility for one superintendent to attend to all the business pertaining to those two Territories. Those Territories, as members of the House are well aware, are separated by a mountain range, extending the entire distance from their northern to their southern boundaries, and for months in the year communication across that range of mountains is impracticable. If the gentleman from Massachusetts intends the additional superintendent for the Crow Indians I ask him to make the number thirteen instead of twelve. I believe I have consulted with every member but one of the Committee on Appropriations, and they have agreed that the Territories of Montana and Idaho should be separated, and each have a superintendent.

Mr. BUTLER, of Massachusetts. I understand that there is very considerable difficulty in the superintendency of the two Territories of Montana and Idaho dealing with the Indians on both sides of the range of mountains which divides those Territories. And when we reach the proper place in this bill it is my intention to move an amendment which will give a superintendent to each of those Territories.

Mr. HOLBROOK. That will be entirely satisfactory.

Mr. ALLISON. I would like a little information on this question of superintendencies. The bill now provides, in the paragraph under consideration, for eleven superintendents. In another portion of the bill there seems to be a more particular description of the location of those superintendents. One is provided for the State of Nevada, while a little further on we find that there is only one Indian agent provided for Nevada. What I desire to know is whether or not it requires one superintendent to supervise the acts of one Indian agent. It occurred to me that we might reduce the number to ten. I observe also that the Commissioner of Indian Affairs in his communication to this House does not propose that we shall provide a superintendent for the Crow Indians, but only an agent. From all the information I can obtain I am inclined to think that we had better reduce the superintendents to ten, rather than increase them to twelve. I only make this suggestion for the purpose of eliciting an explanation.

Mr. BUTLER, of Massachusetts. The gentleman will find, in turning over this bill, that

these appropriations have to be made in accordance with the terms of existing laws. He will find, for instance, that under the head of Indian agents the bill provides for "eleven for the tribes east of the Rocky mountains; two for the tribes east of the Rocky mountains," &c.

[Here the hammer fell.]

Mr. ALLISON. I move to amend by striking out "twelve" and inserting "ten." I yield to the gentleman from Massachusetts, [Mr. BUTLER,] that he may tell us why he thinks it necessary to have twelve of these superintendents.

Mr. BUTLER, of Massachusetts. As I was saying, these Indian agents are provided for by existing laws, and the appropriations have to be made in accordance with the terms of those laws. Now, there are a great number of Indian agents in Nevada; but they have to be provided for in such terms as the gentleman will find in lines twenty-four, twenty-five, and twenty-six, on the second page of the bill. We there provide for "eleven for the tribes east of the Rocky mountains; two for the tribes east of the Rocky mountains; four for the tribes east of the Rocky mountains," &c. The gentleman will find such provisions occurring quite a number of times.

Mr. ALLISON. Nevada is not in there.

Mr. BUTLER, of Massachusetts. I am aware of that; I am only giving an illustration. Any one reading the bill would naturally inquire, why not provide in gross for a certain number of Indian agents east of the Rocky mountains, or a certain number for a particular State? But we have to conform our appropriations to the various laws establishing these agencies. I think there are five or seven Indian agents for Nevada and the tribes adjacent thereto. I will state the reason which influences me in fixing the number of these superintendents. A large number of Indians have, under a treaty made within the past year, been removed up into Idaho. Besides that, another superintendent is required for the Crow Indians, and it is necessary to have one superintendent for Idaho and one for Montana, because of the line of mountains running between those two Territories.

Mr. ALLISON. I do not object to separating Idaho and Montana; I think it should be done. I only wanted to know why we should have an additional superintendent for the Crow Indians. I withdraw my amendment.

Mr. CAVANAUGH. I move to amend by striking out "eleven" and inserting "twelve." I make this motion for the purpose of asking the chairman of the committee a question. The portion of the Crow Indians known as the Mountain Crows are, under the treaty made by the peace commissioners, located in Montana; and there is already a superintendent for that Territory. I wish to inquire whether this appropriation is intended to provide a superintendent for the River Crows, who are outside of the Territory of Montana, or the Mountain Crows, who are within that Territory?

Mr. BUTLER, of Massachusetts. I do not propose to have another superintendent for the Crows, but an agent.

Mr. CAVANAUGH. I withdraw my amendment.

Mr. PRUYN. I move to amend by reducing the number to eight. I make this motion for the purpose of saying that I heartily approve the very philanthropic and noble views expressed by the gentleman from Minnesota [Mr. WINDOM] in regard to this question; and I wish to ask him whether he proposes to reach the objects he has indicated by any amendments to this bill, or whether a separate measure, embodying the views which he has expressed, is to be brought before the House?

Mr. WINDOM. If it were possible under the rules to reach at this session the bill now pending before the Committee on Indian Affairs I should be most happy to bring that bill before the House. But, as every gentleman understands, the Committee on Indian Affairs will not be again reached this session, and we shall have no opportunity to report. As to offer-

ing it as an amendment to this bill, I apprehend that it would not be in order.

Mr. PRUYN. It strikes me that the amendment would be perfectly in order. It does not require any appropriation, and we have a perfect right to direct how these appropriations shall be made.

Mr. HIGBY. It calls for an additional appropriation; but that can be made hereafter. I trust that the gentleman will propose his amendment to this bill. I withdraw my amendment to the amendment.

Mr. CLARKE, of Kansas. I move to strike out the word "eleven" and insert "ten," so that the bill will provide for only ten superintendents of Indian affairs instead of eleven; and I give notice that in the next paragraph I shall move to strike out "three" and insert "two," so as to provide for only two superintendents for the tribes east of the Rocky mountains instead of three. I understand that there are three superintendents east of the Rocky mountains, one located at Omaha, Nebraska, one in Kansas, and the other in the Indian territory. As a matter of fact, ever since the commencement of the Indian war the superintendent of Indian affairs for the territory south of Kansas has actually had his office and carried on his business in Kansas. I will say to the House that I am familiar with the operations of these Indian superintendents, and I see no reason why two instead of three should not be able successfully to perform all of the duties performed at the present time by three superintendents. I think I can say to the gentlemen who have charge of the bill that by reducing the number to two the headquarters of the Indian superintendent can still be left in Kansas, while at the same time the Government will save the salary of one of these superintendents of Indian affairs.

If I may be allowed to make a remark further, I will say that when we reach the third page of the bill I will so move to amend the proviso that it shall not only provide that the President may dispense with Indian agencies and require the same person to perform the duties of two agencies for one salary, but that he may, if he finds it necessary for the public service, combine the duties of two or more superintendencies in one.

Mr. ALLISON. I think if we are to have a superintendent for Montana and another for Idaho we should leave the number as it is.

Mr. CLARKE, of Kansas. I withdraw my amendment to the amendment.

Mr. BUTLER, of Massachusetts. I withdraw my amendment.

The Clerk read as follows:

Superintendents of Indian affairs:

Three superintendents for the tribes east of the Rocky mountains: one for Oregon, one for Washington Territory, one for the Territory of New Mexico, one for the Territory of Utah, one for California, one for Nevada, one for the Territory of Arizona, one for Montana and Idaho.

Mr. CLARKE, of Kansas. I move to strike out "three" and insert "two," so it will read "two superintendents."

The amendment was agreed to.

Mr. BUTLER, of Massachusetts. I move to amend, in the eighteenth line, so as to make it read "one for Montana and one for Idaho."

Mr. BURLEIGH. I move to amend the amendment, so as to provide one also for Dakota Territory. I understand by the present arrangement that the Indians are all to be located in Dakota, and if that be so, we ought to have a superintendent there.

The committee divided; and there were—ayes six, noes not counted.

Mr. BURLEIGH demanded tellers.

Tellers were not ordered.

So the amendment to the amendment was rejected.

The amendment was agreed to.

The Clerk read as follows:

Indian agents:

Three for the tribes in Oregon; four for the tribes in New Mexico; one additional for Indians in New Mexico; one for the tribes in New Mexico; one for the tribes in Utah; one additional for the Indians in Utah; one for the tribes in the Territory of Utah; eleven for the

tribes east of the Rocky mountains; two for the tribes east of the Rocky mountains; four for the Indians east of the Rocky mountains, namely: Sioux and Seminoles, the Omaha, Kickapoo, Kansas, and Neosho agencies; three for the tribes east of the Rocky mountains; one for the Indians in the State of New York; one for the Delaware Indians; one for Green Bay, Wisconsin; three for the tribes in Washington Territory; one for the Wichitas and neighboring tribes west of the Chocataws and Chickasaws; one for the tribes east of the Rocky mountains; one for the Indians in the Territory of New Mexico; one for the Ponca tribe; one for the Pawnees; one for the Yancton Sioux; three for the tribes in the Territory of Washington; one for the Grand River and Uintah bands of Indians in the Territory of Colorado; two for the Upper Missouri and the country adjacent thereto; one for the Ottawas, Chippewas of Swan creek and Black river, and Christian Indians in Kansas; three agents for the State of California; one for the Kiowa, Apache, and Comanche Indians; one for the Sisseton and Wahpeton bands of Dakota, or Sioux Indians; one for the bands of Sacs and Foxes of the Mississippi, now in Tama county, Iowa; one for the Indians in the State of Nevada: *Provided*, That it shall be the duty of the President to dispense with the services of such Indian agents herein mentioned as may be practicable; and where it is practicable he shall require the same person to perform the duties of two agencies for one salary.

Mr. BUTLER, of Massachusetts. I move to amend by inserting before the proviso "and one for the Crow tribe of Indians, \$1,500."

The amendment was agreed to.

Mr. BUTLER, of Massachusetts. I desire further to amend, in lines eleven and twelve, by adding \$1,500.

The CHAIRMAN. That is going back, and requires unanimous consent.

Mr. BUTLER, of Massachusetts. When it is understood there will be no objection. One additional agent necessarily increases the amount to be appropriated for salaries.

Mr. HIGBY. I wish to call attention to an amendment I am about to propose.

The CHAIRMAN. Does the gentleman object?

Mr. HIGBY. Not if the gentleman accepts my proposition. I ask him to wait till I propose the amendment.

Mr. BUTLER, of Massachusetts. I will wait.

Mr. HIGBY. I move to strike out in line forty-one the word "three" and insert "four;" so that it will read "four agents for the State of California." There are four reservations in that State, and no two of them are less than fifty miles apart. Why the number of agents should be reduced from what it has been heretofore I do not understand. Possibly the Committee on Appropriations can give us some information on the subject. I see, however, by the estimate that came from the Department that there is no reduction in the number of agencies in California, and I know from actual observation and examination which I made as a member of the Committee on Indian Affairs in 1865 that these agencies cannot get along without each having a separate agent. For that reason I move this amendment. There can be no object in trying to get along with the Indians unless we keep them under the management of distinct agents, as they have been heretofore.

Mr. BUTLER, of Massachusetts. If the gentleman will look at the law of last year he will find this appropriation: "For removing the Indians from Smith river reservation to Round valley reservation, \$3,500, or as much thereof as may be necessary; and Smith river reservation is hereby discontinued." Now, having discontinued one reservation by law last year, we discontinue one agent.

Mr. HIGBY. I would ask if the Indians have been removed?

Mr. BUTLER, of Massachusetts. They are in process of being removed; but the gentleman must remember that this is an appropriation from July next to July, 1870; and they will be removed if everybody does his duty.

Mr. HIGBY. If the removal is effected I suppose there will be needed but three agents.

Mr. BUTLER, of Massachusetts. The removal is ordered by law, and I have no doubt it is being carried out.

Mr. HIGBY. With that statement I withdraw the amendment.

Mr. CLARKE, of Kansas. I move to amend by inserting in line forty-seven, after the word "agents," the words "and superintendents;" also in line fifty, by inserting after the word "agencies" the words "or superintendencies."

The amendments were agreed to.

Mr. ALLISON. I move to amend by striking out in lines thirty-three and thirty-four the words, "one for the Indians in the Territory of New Mexico." I do this for the purpose of ascertaining from the chairman of the committee why it is that we have so many Indian agents in that Territory. I find in line twenty-one a provision for four agents for the tribes in New Mexico; then, in line twenty-two; two more for the tribes in New Mexico; then, in line thirty-four, one additional agent for Indians in New Mexico. So that we have six for the tribes of New Mexico and one for the Indians in New Mexico. It seems to me we can dispense with at least one of these agents.

Mr. BUTLER of Massachusetts. The reason why these appropriations are made in this way is because there was once a law or treaty which gave four agents for the tribes of New Mexico; then another law was passed by Congress giving one more for the tribes of New Mexico; then another giving one for the Indians in New Mexico, and then another law giving one additional agent for the Indians of New Mexico. The Committee on Appropriations have to report an appropriation wherever the law has given an agent. The reason why they have so many Indian agents in New Mexico is because they have so many Indians there. There are a large number of Indians in New Mexico. These agents are all controlled by the superintendent. There are small roving bands of Indians in New Mexico that require to be dealt with, and these general agents are employed in moving the tribes and consolidating the Indians and getting them on to their reservations. The Indian agents for tribes are fixed by treaty. These additional agents are fixed generally by law. Each tribe, by treaty, has Indian agents who must live there. For the purpose of dealing with all the Indians other agents are appointed by law. I do not know whether there are too many or too few. I only know that the wisdom of Congress, for which I have high respect, has provided by law that there shall be so many, and the committee have framed the bill to carry out existing law. The House can strike out anything they please.

The question was taken on the amendment; and it was disagreed to.

Mr. BURLEIGH. I move to strike out line fifty-one, which is as follows: "For pay of sub-agents, \$6,000." There is no necessity in my opinion for that appropriation. These sub-agents are set down for no other purpose but to absorb the \$6,000. I have never known them to do any good.

Mr. BUTLER, of Massachusetts. All I can say is that the committee have no objection to its being stricken out. We had no right to omit it, but if the House sees fit to strike it out well and good.

Mr. CAVANAUGH. I move to amend the clause proposed to be stricken out by inserting "\$9,000" in lieu of "\$6,000." I would ask the gentleman from Dakota why he is opposed to the sub-agency system? There is one agency in my Territory now where the agent resigned over six months ago and no successor has been appointed, and the sub-agent there is taking charge of the Blackfeet tribe of Indians. There was another case last fall in which the agent of the Flathead tribe of Indians committed suicide in this city, and the Department had to send a sub-agent or special agent to discharge the duties of the office. In every Indian country sub-agents and special agents are needed. I now withdraw the amendment to the amendment.

Mr. BURLEIGH. I must insist on my amendment to strike out the clause. If the agent in Montana was not at his post of duty, there was no reason why he should not be there.

Mr. CAVANAUGH. He resigned.

Mr. BURLEIGH. And if the other agent to whom the gentleman referred committed suicide rather than go back there, it was the most sensible act of his life. [Laughter.]

The question was put on Mr. BURLEIGH's amendment; and there were—ayes 38, noes 10; no quorum voting.

Tellers were ordered; and Messrs. ALLISON and VAN AUKEN were appointed.

The committee divided; and the tellers reported—ayes 75, noes 45.

So the amendment was agreed to.

Mr. ROBINSON. I move that the committee do now rise.

The question was put; and there were—ayes 27, noes 56; no quorum voting.

Tellers were ordered; and Messrs. CLARKE, of Kansas, and ROBINSON, were appointed.

The committee divided; and the tellers reported—ayes twenty, noes not counted.

So the committee refused to rise.

Mr. ALLISON. I move to strike out the clause "for pay of clerk to superintendent at St. Louis, Missouri, \$1,200." I understood the gentleman from Kansas [Mr. CLARKE] to state that there is no superintendent at St. Louis, and I desire to know why it is that this clerk to the superintendent is located there.

Mr. CLARKE, of Kansas. I think I can answer the gentleman from Iowa. I understand that this superintendency was originally located at St. Louis. Since the progress of settlements it has been moved westward, and is now located at Atchison, Kansas. By an amendment made on page 2 of the bill the superintendencies of Kansas and of the Indian territory have been combined, and if in order I will move in line fifty-three that the word "two" be stricken out and "six" inserted, so as to make the salary of the clerk \$1,600. I dislike to offer any amendment which looks like raising the salary of anybody, but by the action of the House the two superintendencies have been combined, and it is within my knowledge that the duties of the clerk of what is now known as the central superintendency, provided for in this amendment, are very heavy; and that it has been almost impossible for the central superintendent during the last year to obtain and keep the services of a competent man for the performance of the duties of the office.

Mr. BURLEIGH. Will the gentleman allow me to ask him a question?

Mr. CLARKE, of Kansas. Very well.

Mr. BURLEIGH. I would like to know if there is any clerk or superintendent at St. Louis?

Mr. PILE. Permit me to answer the gentleman. There is.

Mr. BURLEIGH. Who is he?

Mr. PILE. I do not remember his name; but I know he has been changed two or three times within the last year.

Mr. BURLEIGH. I know that since I have been in the western country, for the last eight or nine years, the clerk of the central superintendency has been in the habit of going down to St. Louis to superintend the shipping of Indian goods to the western country; and this is the first time I ever heard that there was a superintendent at St. Louis.

Mr. PILE. I do not say that there is a superintendent there, but there is a clerk there to superintend the shipping of good, making purchases, &c.

Mr. ALLISON. I desire to modify my amendment so as to strike out the words "at St. Louis, Missouri," and to insert in lieu thereof the words "of central superintendency."

The CHAIRMAN. That is not now in order except by unanimous consent, pending the amendment of the gentleman from Kansas; [Mr. CLARKE.]

Mr. ALLISON. I ask unanimous consent for that purpose.

Mr. HARDING. I object.

The question recurred upon the amendment

of Mr. CLARKE, of Kansas, to strike out "\$1,200" and to insert "\$1,600," in the following clause:

For pay of clerk to superintendent at St. Louis, Missouri, \$1,200.

The amendment was agreed to.

Mr. ALLISON. I now move to further amend the clause by striking out the words "at St. Louis, Missouri," and inserting in lieu thereof the words "of central superintendency."

The amendment was agreed to.

Mr. HARDING. I move that the committee now rise.

The motion was not agreed to, upon a division—ayes seventeen, noes not counted.

The Clerk resumed the reading of the bill, and read the following clause:

For vaccination of Indians and furnishing vaccine matter, \$1,650.

Mr. TAFFE. I move to amend this bill by inserting the following after the clause just read:

For damages sustained by the citizens of Niobrara township, Nebraska, by the action of the Government in moving the Santee Sioux Indians upon their lands in the year 1868, such sum as may be found just after proper investigation by the Interior Department, \$15,000.

Mr. BURLEIGH. I would like to ask the gentleman who is to investigate this question of damages?

Mr. TAFFE. It is to be done under the direction of the Interior Department.

Mr. BURLEIGH. I am opposed to this amendment. The whole township of Niobrara was never worth \$15,000 or the half of it.

Mr. TAFFE. This is in accordance with the estimates of the Department, which I hold in my hand, and which do not seem to have been regarded by the Committee on Appropriations. If it shall be found upon investigation that no damage has been done, then there will be nothing to pay.

Mr. BURLEIGH. When I went to Dakota Territory in 1861 I was located just above Niobrara township, and I have never seen the day since when I could not have bought the whole township for half the amount proposed in this amendment.

Mr. TAFFE. In what capacity did the gentleman go there?

Mr. BURLEIGH. I went there at the commencement of the rebellion as an agent to take charge of the Indians there.

Mr. TAFFE. That may account for the gentleman being able to buy so much. This amendment does not appropriate \$15,000, but only so much as may be necessary. If upon investigation it shall be found that nothing is due on this account, then nothing will be paid out of the Treasury for this purpose.

The question was then taken upon the amendment of Mr. TAFFE; and it was not agreed to.

The Clerk resumed the reading of the bill, and read the following clause:

Arikarees, Gros Ventres, and Mandans:
For third payment, to be made during the pleasure of Congress, to be expended in such goods, provisions, and other articles as the President may from time to time determine, \$5,000 of which may be expended in the purchase of stock, animals, and agricultural implements, in instructing in agricultural and mechanical pursuits, in employing mechanics, educating their children, providing medicines and medical attendance, care for and support of the aged, sick, and infirm, for the helpless orphans of said Indians, and in any other respect to promote their civilization, comfort, and improvement, and also for pay of head chief, soldier chiefs, second chief, and Pierre Garneau, for his services to the Arikarees, \$0.000.

Mr. McKEE. I move to strike out the paragraph just read.

Mr. BURLEIGH. I would like to ask the gentleman his object in making that motion.

Mr. McKEE. I will tell the gentleman my reason for the motion. I make it simply to obtain some information in regard to this "head chief, soldier chiefs, second chief," and the other person named here. I understand that an appropriation was made last year for some such purpose as this. I wish to know why we propose now to pay this money to this "head chief," these "soldier chiefs," this

"second chief," &c. I have merely made my motion for the purpose of obtaining some information.

Mr. BURLEIGH. If the gentleman will yield to me I will try to give him the information he seeks. During the war in which we have recently been engaged, these chiefs, the leaders of the war party, were invariably found upon the side of the Federal Government fighting its enemies. No man can point to a single instance in which they have ever raised their hands against the Government or shed the blood of the white settlers in the western country. These friends of our Government, who have always been ready to fight its battles, ought to receive not merely this appropriation of \$40,000, but double that amount.

Mr. McKEE. I withdraw my amendment. The Clerk read the following:

For transportation of goods to the Apaches, Kiowas, and Comanches, under same article, \$5,309.

Mr. BUTLER, of Massachusetts. I desire to offer an amendment, coming in after the paragraph just read, to carry out a new treaty which has been agreed upon since the bill has been printed. I send the amendment to the Clerk.

The Clerk read as follows:

After line one hundred and thirty-two insert the following:

Northern Cheyennes and northern Arapahoes:
For fulfilling treaty stipulations with the northern Cheyenne and northern Arapahoe Indians, under treaty of May 10, 1868, for the fiscal year ending June 30, 1870:

For construction of school-house, per fourth article treaty May 10, 1868, \$5,000.

For first of thirty installments for purchase of clothing, per sixth article treaty May 10, 1868, for the fiscal year ending June 30, 1870, \$10,000.

For first of ten installments to be expended by the Secretary of the Interior (ten dollars for each Indian roaming—nine hundred and sixty souls) in the purchase of such articles as from time to time the condition and necessities of the Indians may indicate to be proper, per sixth article treaty May 10, 1868, for the fiscal year ending June 30, 1870, \$9,600.

For first of four installments to furnish said Indians with flour and meat, per sixth article treaty May 10, 1868, for the fiscal year ending June 30, 1870, \$66,576.

For the purchase of cows and oxen, per sixth article treaty May 10, 1868, \$10,000.

For salary of physician, \$1,200; teacher, \$1,000; carpenter, \$720; miller, \$720; engineer, \$800; farmer, \$720, and blacksmith, \$720, per seventh article treaty May 10, 1868, for the fiscal year ending June 30, 1870, \$5,880.

For first of three installments to be expended in presents to the ten persons of said tribe who, in the judgment of the agent, may grow the most valuable crops for the respective year, per ninth article treaty May 10, 1868, for the fiscal year ending June 30, 1870, \$500.

For insurance and transportation of goods, &c., for the northern Cheyenne and northern Arapahoe tribes of Indians, for fiscal year ending June 30, 1870, \$4,000.

The amendment was agreed to.

Mr. CLARKE, of Kansas. I move to amend by inserting after the amendment just adopted the following:

Provided, That whenever that portion of the public domain of the United States included within the limits of Indian reserves be disincumbered of Indian title the same shall be done by the United States, and the land opened to actual settlement only under existing laws, or in tracts not to exceed one hundred and sixty acres to any one individual, and at not more than \$1 25 per acre.

Mr. BUTLER, of Massachusetts. That amendment, if it should, be inserted in any part of the bill, ought to come in further on. I am therefore compelled to raise the point of order that the amendment proposes new legislation, and is therefore out of order.

The CHAIRMAN. The Chair sustains the point of order.

Mr. ARNELL. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. Wilson, of Iowa, reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the Union generally, and particularly the bill (H. R. No. 1738) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various tribes for the year

ending 30th June, 1870, and had come to no resolution thereon.

NATIONAL MECHANICS' AND FARMERS' BANK.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting, in compliance with House resolution of the 5th instant, a report by the Comptroller of the Treasury relative to the condition of the National Mechanics' and Farmers' Bank of Albany, New York; which was referred to the Committee on Banking and Currency, and ordered to be printed.

COMMITTEE ON THE PACIFIC RAILROAD.

Mr. ROOTS. I ask unanimous consent to submit the following resolution for reference to the Committee on Rules:

Resolved, That in order to grant the States recently admitted to representation a place upon the Committee on the Pacific Railroad, the rules of the House be so amended as to increase the said committee during the remainder of the Fortieth Congress by the addition of two members.

The SPEAKER. If there be no objection, this resolution will be referred to the Committee on Rules.

There was no objection.

LEAVE OF ABSENCE.

Mr. McCARTHY obtained leave of absence for eight days.

SUFFRAGE.

Mr. BOUTWELL. Mr. Speaker, I wish to state to the House that I propose to demand to-morrow the previous question upon the motion to reconsider the vote by which the joint resolution (H. R. No. 402) proposing an amendment to the Constitution of the United States was recommitted, leaving the bill upon the same subject where it now stands.

A MEMBER. Where is that?

Mr. BOUTWELL. The bill as well as the joint resolution has been recommitted, and a motion is pending to reconsider the vote recommitting it. I am satisfied, from the discussion already had and from what I know of the feeling of the House, that I cannot consistently bring the House to a vote upon the bill at a very early day. But I desire that the vote shall be taken on the proposition to amend the Constitution at once, for the reason that there are some Legislatures, as I understand, now in session which will terminate as early as the 1st of March. I understand there has been a general agreement that some amendment to the Constitution should be proposed, and I desire that the vote should be taken on that proposition at once. In order that the debate in the House to-morrow may be directed to the proposed amendment of the Constitution, I ask unanimous consent that the speeches to-morrow shall be limited to twenty minutes.

Mr. BROOKS. Does the gentleman intend to abandon his bill?

Mr. BOUTWELL. I do not intend to abandon the bill. I desire to have action at first on the constitutional amendment.

Mr. BROOKS. Is not that an abandonment of the bill?

Mr. ELDRIDGE. Does the gentleman not intend to carry these matters along as in the first instance?

Mr. BOUTWELL. I have already stated that I propose to-morrow to demand the previous question.

The SPEAKER. Is there objection to limiting the speeches to twenty minutes?

Mr. ELDRIDGE. I think I shall object.

Mr. SHANKS gave notice of his intention to amend the joint resolution and the bill by inserting the word "property" before the words "race, color, or previous condition."

The amendment was ordered to be printed.

PACIFIC RAILROAD.

Mr. MAYNARD, by unanimous consent, submitted an amendment in reference to the Southern Pacific railroad; which was referred to the Committee on the Pacific Railroad, and ordered to be printed.

CORRECTION.

Mr. BUTLER, of Massachusetts. I desire to call the attention of the House to what appears to be a mistake in the report of the Globe, which escaped my attention, although I tried to revise the manuscript. I am made to say the "Treasurer and the Comptroller of the Currency act as the servants of the banking interests." I used the word "Treasurer" instead of "Treasurer." I did not mean to say that my good friend, General Spinner, had anything to do with that.

DESTRUCTION OF AMERICAN VESSELS.

Mr. STARKWEATHER, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of State, if not incompatible with the public interest, communicate to this House such information as may be in possession of said Department relating to the destruction during the late war by rebel vessels of such American vessels as were engaged in trade or commerce, giving the name, character, and ownership and value of vessels and cargoes destroyed or taken; also, a statement of damages claimed by the owners of said vessels respectively, and the time and place of capture or destruction, and by what vessels.

TIMOTHY J. BURNS.

Mr. TWICHELL, by unanimous consent, presented the petition of Timothy J. Burns, of Boston, Massachusetts, demanding compensation as a spy during the war; which was referred to the Committee of Claims.

RECLAMATION OF DESERT LANDS.

Mr. HOOPER, of Utah, by unanimous consent, introduced a bill (H. R. No. 1806) granting lands to aid in the reclamation of desert lands in the Territory of Utah; which was read a first and second time, and referred to the Committee on the Public Lands.

INHABITANTS OF UTAH, ETC.

Mr. HOOPER, of Utah, also introduced a bill (H. R. No. 1807) for the relief of the inhabitants of cities and towns in the Territories of New Mexico, Arizona, and Utah; which was read a first and second time, and referred to the Committee on the Public Lands.

Mr. SCOFIELD moved to reconsider the several votes of reference; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NEW YORK ELECTION FRAUDS.

Mr. LAWRENCE, of Ohio, from the select Committee on New York Election Frauds, reported the following resolution, on which he demanded the previous question:

Resolved, That the Sergeant-at-Arms of this House be, and the same is hereby, directed to arrest and bring before this House Henry Johnson, to answer as for a contempt in refusing to appear before the committee of this House appointed to investigate alleged frauds in the late election in the State of New York in pursuance of a subpoena duly issued and served on said Johnson on the 13th of January, requiring him to appear and testify before said committee on that day; and that a warrant be issued by the Speaker of this House to the Sergeant-at-Arms, commanding him or his special messenger to arrest said Johnson and bring him before this House accordingly, and to abide the order and judgment of this House.

Mr. ROBINSON. I rise to make a motion which takes precedence. I move that the House do now adjourn.

The SPEAKER. The question will be upon taking a recess, as the House has ordered an evening session.

The motion was agreed to; and thereupon (at four o'clock and forty minutes p. m.) the House took a recess till half past seven o'clock p. m.

EVENING SESSION.

The House reassembled at half past seven o'clock p. m., pursuant to order.

SUFFRAGE.

The SPEAKER. By order of the House this evening will be devoted to debate on the proposed constitutional amendment in regard to suffrage.

LEAVE TO PRINT.

Leave was granted to Mr. WHITTEMORE and Mr. CORLEY to print remarks.

SUFFRAGE—AGAIN.

Mr. BECK. Mr. Speaker, I propose to reply to the argument of the gentleman from Massachusetts, [Mr. BOUTWELL,] who introduced, and in his elaborate and carefully considered speech doubtless set forth, the views of those who advised the proposed law: first, because his is the only speech on that side which represents the views of those who present it; and second, because it is through the politeness of his colleagues, Messrs. MARSHALL and ELDRIDGE, the Democratic members of the committee, that I am entitled to the floor. Coming as it does from a majority of the Committee on the Judiciary, the leading lawyers of the House and the country, the measure is vouched for by no common authority. I speak of the bill, because it was on that his argument was made, though my remarks will apply with equal force to the amendment, and are so intended. The proposed amendment to the Constitution, unwise as I think it, is one Congress may possibly have a right to propose. Indeed, I suppose Congress may propose anything that two thirds of both Houses concur in. The proposition amounts to nothing until the Legislatures of three fourths of the States ratify and approve it.

This singular anomaly is presented for the first time in the history of this, or, I suppose, of any other country. The States are asked to so enlarge the grant of powers in the Constitution as to enable Congress, by appropriate legislation, to enforce the right of any citizen of the United States to vote in any State, regardless of race, color, or previous condition of slavery, the constitution and laws of the State to the contrary notwithstanding. The proposition asking for the grant of power from the States, by whom alone when thus proposed it can be granted through their Legislatures, admits upon its face that the power to grant or refuse to grant the proposition or request of Congress is lodged in the States, and that if they refuse to transfer it Congress has no right to exercise it; and yet before the proposition has received the sanction of a single State Congress proposes, by the bill now under consideration, to exercise all the power which the proposed amendment would give it, and which, for aught we know, every State may refuse to surrender when the proposition is submitted to them. The reputation of the majority of the Judiciary Committee of this House will not be promoted in the eyes of the civilized world by the serious presentation of such anomalous and inconsistent propositions. To ask States to grant powers, and at the same time to exercise them in spite of the constitutions and laws of the States who are asked to make the grant is, it seems to me, too absurd for grown men seriously to consider. If we have the power now the proposed amendment to the Constitution is folly. If such an amendment is required to confer the power upon us the proposed law is the grossest and most shameless usurpation and oppression.

When the distinguished gentleman was goading his party on with the lash of necessity, and telling them it was too late to look back—that their only safety lay in consummating the revolution they had inaugurated—I could understand him; but when he urged that both the amendment and the law were indispensable, because the party was divided in opinion as to where the power now was, I hardly think he was intelligible to himself.

The idea that this is a nation—that the national Congress is vested with all power necessary to preserve whatever a majority of Congress may consider the life of the nation which, properly speaking, now means the life of the Radical party, was urged with a vehemence only equaled by the contempt with which the idea that this is a Union of coequal, confederated States was scouted and sneered at.

Whatever stress may be laid on the language of the preamble, the fact remains that we are living under a Constitution framed by States, ratified by States, and which has been and can be only amended or altered—which is the better word when applied to the present and the

last so-called amendment—by States. We are in no sense a nation; and whenever we become so we will be a centralized despotism in some form. The United States of America will have ceased to exist; anarchy or empire will have come. Nothing short of separate, independent State governments can manage and control the great, diversified, widely-separated, and often conflicting interests of this people. Perhaps the best way to determine who framed the Constitution is to ascertain who has the power to alter and amend it, as it can hardly be supposed that its framers would transfer to a power other than its maker the power under the guise of amendments to alter and destroy it. How can it be amended? The Constitution says:

"Only by the Legislatures of three fourths of the several States, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress."

This Congress, of course, prefers and proposes the former, for the very obvious reason that it does not desire nor intend that the people of the States shall have any right to deliberate or decide on the propositions, choosing rather to trust their partisans in the State Legislatures, all of whom have been elected already, without reference to and without any knowledge on the part of the people who elected them that they would be called upon to consider so grave a proposition as the annulling of their own State constitutions on the question of suffrage.

In the action of the State Legislatures or in the State conventions there is no approach on this question to popular equality. Florida is the equal of New York, Nevada neutralizes Pennsylvania, Rhode Island is the peer of Ohio; while Delaware and Nebraska, Oregon and Kansas offset Illinois and Indiana, Missouri and Kentucky; yet the last census shows that New York alone had seven times the population of all the seven small States I have named; and it shows further that the seven States of New York, Pennsylvania, Ohio, Illinois, Indiana, Missouri, and Kentucky, the great central belt, had about a million and a quarter more white population than all the other States and Territories of the United States combined; yet the constitutions of these seven States, and the united, and if you please unanimous, will and voice of all their people can be constitutionally set at naught, disregarded, and overthrown by the action of the Legislatures or conventions of other States—it might be representing not only a minority, but less than one tenth of the American people. In view of these palpable and indisputable facts, what becomes of the twaddle about "We, the people," in constitutional changes and amendments? Is a citizen of New York less entitled to all the rights and privileges of a citizen of the United States than a citizen of Florida? Is his voice and vote less potential than that of a citizen of Delaware, Oregon, or Nevada? Certainly not in any matter where the power is in the people as a people. Then all are free and equal. "The citizens of each State shall be entitled to all privileges and immunities of citizens of the several States." So says the original Constitution; so says your fourteenth amendment.

How, then, does it happen that sixty thousand people in Nevada in the exercise of the highest rights of sovereignty, the alteration or amendment not only of the fundamental law—the Constitution of the United States—but the destruction of the constitution and laws of the State of New York, for example, not only without the consent, but against the will and solemn protest of the four million people of that State, have as much power as sixty-six times their number residing in New York? Simply because the changes are not made by the people but by the States, to whom the power was reserved when the Constitution was formed. If, as the distinguished gentleman from Massachusetts asserts, ten at least of the great States of this Union, Pennsylvania and Ohio included, have not now and never have had a republican form of government, and if, as

he contends, it is not only the right but the duty of the United States to interfere and guaranty it to them against their will because they have seen fit, in accordance with their own State constitutions, some of which were in existence before the Federal Constitution was formed, and under which they were acting when they aided in its formation, to determine for themselves who should and who should not exercise the elective franchise within their borders—if, I say, that constitutes their State governments aristocracies, which we in Congress are in duty bound to subvert, what will the gentleman say about the republicanism of one citizen of Nevada or Florida having the same power over the fundamental laws of the United States and the several States as sixty-six citizens of the State of New York have? What doctrine of republican equality and right gives New England, with less than three and a half millions of population, twelve Senators, while the State of New York, with a population of over four and a half millions, has only two?

Passing from the more general positions taken by the distinguished representative of the Judiciary Committee to his specifications I may state them under three heads. He claimed the existence of the power now sought to be exercised as being vested in Congress by the Constitution prior to the adoption of any of the late amendments. First, because there was no express grant of absolute power over the question of suffrage granted to the States, but rather a qualified one which was set forth in that portion of section four of article one of the Constitution, which provides that—

"The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof."

Admitting as he did what could not well be denied, that this, taken in connection with that part of section two of article one which prescribes that—

"The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature,"

would give full authority over the subject of suffrage to the States but for the limitations imposed in what may properly be called his second proposition in the following portion of section four aforesaid, to wit:

"But the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators."

Which authority he contended, especially over the "manner of holding elections," gives this Congress full power to pass the proposed bill. His third proposition is that none of the States which prohibit negro suffrage are, because of that prohibition, republican in form, but are all mere aristocracies, and that Congress in order to guaranty to each of these States a Republican form of government is in duty bound to impose universal negro suffrage upon them, set aside their State constitutions, annul their laws, and make them conform to the orders of this most august and omnipotent Congress. I will notice each of these positions briefly in the short time allotted to me before I notice his argument as to the effect which the fourteenth amendment has on the question, and I can only suggest objections to each, want of time making it impossible to elaborate them.

As to the first ground assumed by the gentleman from Massachusetts, I have only to say that it is the first time I have ever heard it intimated that the States were dependent on the Constitution for a grant of power in order to be able properly to exercise it. On the contrary it is well known and universally admitted that their delegates met and framed that instrument as the representatives of free, equal, sovereign, and independent States. That—

"The Constitution of the United States is one of limited and expressly delegated powers, which can only be exercised by the General Government as granted, or in the cases enumerated."

That—

"The Government of the United States can claim no powers which are not granted to it by the Constitution, and the powers actually granted are such as

are expressly given or given by necessary implication."

That—

"This instrument contains an enumeration of powers expressly granted by the people to their Government."

And, as if to render this construction certain, as if to make assurance doubly sure, it provided that—

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people."

Why, sir, when a lawyer looks into a State constitution to see whether a law of the State is in conflict with it, what does he do? He looks to see whether or not there is anything in the constitution prohibiting the Legislature from so acting, because all the power of the State is in the Legislature of the State except what is taken from it by the State or Federal Constitution. But when he looks into the Federal Constitution to see if a law of Congress is constitutional he takes exactly the opposite view. He looks to see whether that power has been granted to Congress, and if it has not been expressly or by necessary implication granted to the Federal Government then the power is not there; it is in the States or the people thereof. If the gentleman will look at the decision of Chief Justice Marshall in the case of *McCullough vs. Maryland*, he will find that the words "necessary and proper" do not mean everything that Congress thinks is necessary. It must be necessary and proper. You must use constitutional means to carry out constitutional ends.

But I will not elaborate this idea. The gentleman from Massachusetts is triumphantly answered, and all his arguments overthrown by the very able and logical argument of the distinguished lawyer and advocate from Ohio, [Mr. BINGHAM,] when on the floor of this House he was urging the passage of an amendment to the Constitution for the purpose of investing Congress with the power now assumed by the gentleman from Massachusetts to have existed always. It was delivered on the 28th day of February, 1866, and may be found in the *Globe*, volume fifty-seven, page 1093. I adopt the following portion of it as expressing my ideas better than I can express them myself.

Mr. BINGHAM said:

"I beg leave to read, in confirmation of the truth of what I say, an utterance made in the hearing of the whole people of this country in 1788, when the Constitution was on trial for its deliverance. I read from No. 45 of the *Federalist*, a paper written by James Madison:

"The powers reserved to the Federal States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State."

"I submit that this is the text of the Constitution, except as the new amendment prohibiting slavery, and providing for legislation to prevent it except as punishment for crime. It stands as the ruling of the Supreme Court of the United States in the great case of *McCullough vs. The State of Maryland*, in 4 Wheaton. It stands as the ruling of the same tribunal in the case of *Ogden vs. Gibbons*, in 9 Peters. It stands, in short, as the uniform ruling of the Supreme Court of the United States, concurring with the continued action of the other Departments of the Government from the year 1789 till this hour, there being no law anywhere upon our statute-books to punish penal any State officer for denying in any State to any citizen of the United States protection in the rights of life, liberty, and property. It stands as the very text of the Constitution itself, which declares that—

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people."

"The word 'powers' controls the whole question. The Government of the United States has no legislative powers, save the express grants and the general grant to pass all laws which shall be necessary and proper to carry into execution all other powers vested by the Constitution in the Government of the United States, or in any department or any officer thereof, and the implied powers necessary to carry the express powers into effect. A grant of power, according to all construction, is a very different thing from a bill of rights. In support of what I have said on this point I ask attention to the following citations:

"*McCullough vs. Maryland*, 4 Wheaton, 405, Marshall, C. J., says:

"The Constitution of the United States is one of

limited and expressly delegated powers, which can only be exercised as granted, or in cases enumerated."

Speaking of the authority given to Congress by the last clause of the first article, eighth section, of the Constitution, Judge Story in his *Commentaries*, section 1238, says:

"The plain import of this clause is, that Congress shall have all the incidental and instrumental powers necessary and proper to carry into execution all the express powers. It neither enlarges any power specifically granted, nor is it a grant of any new power to Congress."

"In *Martin vs. Hunter's Lessee*, 1 Wheaton, 321, it is said:

"The Government of the United States can claim no powers which are not granted to it by the Constitution, and the powers actually granted are such as are expressly given or given by necessary implication."

"In *Gibbons vs. Ogden*, 9 Wheaton, 187, Chief Justice Marshall, speaking of the Constitution, says:

"This instrument contains an enumeration of powers expressly granted by the people to their Government."

"In Kent's *Commentaries*, volume one, pages 388-390, there is this language:

"The correct principle is that whenever the terms in which the power was granted to Congress, or the nature of the power required that it should be exclusively exercised by Congress, the subject was as completely taken away from the State Legislatures as if they had been expressly forbidden to act upon it."

"You have the express power to define the punishment of treason; the express power to punish the counterfeiting of coin or securities of the United States; the express power to define and punish piracy and felonies committed upon the high seas, and offenses against the law of nations; exclusive legislative power within this District; express powers to govern all Territories; but where is the express power to define and punish crimes committed in any State by its official officers in violation of the rights of citizens and persons as declared in the Constitution? And from what expressly delegated power in the Constitution can any such power be implied? Passing the anti-slavery amendment, is there any one prepared to say that the Bill of Rights confers express legislative power on Congress to punish State officers for a willful and corrupt disregard of their oaths and oppressive and flagrantly unjust violations of the declared rights of every citizen and every free man in every free State? The words of Madison cited are very significant: 'The powers reserved to the several States will extend to all the objects which concern the lives, liberties, and properties of the people.' The fact is that Congress has never by penal enactment in all the past attempted to enforce these rights of the people in any State of the Union."

The second proposition, to wit, that the portion of section four of article one of the Constitution which provides that Congress may at any time alter such regulations as the Legislatures of the States may prescribe as to the times, places, and manner of holding elections for Senators and Representatives, invests Congress with any power to determine who shall and who shall not exercise the right of suffrage in the States, seems to me even more absurd than the first. What Patrick Henry may have said, bitterly opposed as he was to many of the provisions of the Constitution; what any man in Massachusetts may have said about the power of Congress over suffrage in the States under this clause, I care not. The language of the instrument and the uniform recognition of this power as one belonging exclusively to the several States sufficiently refutes all their theories. But when it is asserted that Mr. Madison asserted or admitted that Congress had any such power I deny it. He took precisely the opposite ground, asserting that this power was not only absolute in the States, but being as to Representatives in Congress required to be fixed and determined in the constitutions of the States; it was equally beyond the authority of Congress or the fluctuating legislation of the State Legislatures. I read from the first part of No. 52 of the *Federalist*, pages 242-243:

"From the more general inquiries pursued in the four last papers I pass on to a more particular examination of the several parts of the Government. I shall begin with the House of Representatives."

"The first view to be taken of this part of the Government relates to the qualifications of the electors and the elected."

"Those of the former are to be the same with those of the electors of the most numerous branch of the State Legislatures. The definition of the right of suffrage is very justly regarded as a fundamental article of republican Government. It was incumbent on the Convention, therefore, to define and establish this right in the Constitution. To have left it open for the occasional regulation of the Congress would have been improper, for the reason just mentioned. To have submitted it to the legislative discretion of the States would have been improper for the same reason; and for the additional reason that it would have rendered too dependent on the State governments that branch of the Federal Govern-

ment which ought to be dependent on the people alone. To have reduced the different qualifications in the different States to one uniform rule would probably have been as dissatisfactory to some of the States as it would have been difficult to the Convention. The provision made by the Convention appears, therefore, to be the best that lay within their option. It must be satisfactory to every State, because it is conformable to the standard already established, or which may be established by the State itself. It will be safe to the United States, because being fixed by the State constitutions, it is not alterable by the State governments, and it cannot be feared that the people of the States will alter this part of their constitutions in such a manner as to abridge the rights secured to them by the Federal Constitution."

Can language be plainer? Could Mr. Madison have expressed his conviction more clearly that the question of suffrage was not only vested in the States, but, so far as electors for Senators and Representatives in Congress are concerned, they are defined and fixed in the constitutions of the States, so that their rights are secured against the prejudices and vascillations of even State legislation, as the same persons who can elect the State Legislatures can always vote for members of Congress? Why does he regard this section of the Constitution as eminently proper and satisfactory? Because suffrage being a fundamental article of republican government it would have been improper to have left it open for the occasional regulation of Congress, and so far as representation in Congress is concerned, which is the only thing the United States was concerned about or had anything to do with, it is safe and satisfactory both to the States and the United States by having the right of the electors fixed, defined, crystallized, as it were, in the constitutions of the States themselves, which it was, as he says, not to be feared that they would alter so as to abridge the rights secured to them by the Federal Constitution. But this bill goes greatly beyond what either the gentleman from Massachusetts or any of the learned committee for whom he speaks will venture to assert that they can find any pretense of constitutional warrant; for it declares null and void the constitutions and laws of every State, and punishes with heavy fines and prolonged imprisonment all State officers who refuse to receive the votes of negroes in elections for electors for President and Vice President or for members of the Legislature of the State in which they may reside. What section or clause of the Constitution gives Congress the right to regulate even the times, places, or manner of holding elections for President or for members of the Legislatures of the several States? I ask this question because, unless the language of the instrument itself and the uniform decisions of the tribunals provided by it to expound its meaning are all set aside and disregarded; if the power is not given either by express grant or by necessary implication, it not only does not exist in Congress, but is expressly reserved to the States respectively or to the people. As to who shall be electors for the State Legislatures the Constitution is silent, even as to the time, place, and manner of their action, and is among the absolutely reserved powers, while the electors for President shall be appointed in such manner as the State Legislatures may direct, negating all idea of power in Congress even over the manner of the election. Yet this bill assumes control over all.

The Constitution was not designed by its framers to interfere with or in this matter to limit or control in any way the absolute sovereign power of the States in any manner, except to secure to the people thereof representation in the Federal Congress, and by the powers granted to Congress in the fourth section of the first article that right was secured by giving Congress control over the times, places, and manner of holding elections for Representatives there. When Mr. Hamilton, in the fifty-ninth number of the *Federalist*, vindicated the wisdom of this provision, and used the language on which so much emphasis has been laid, and which has been so much perverted that "its propriety rests upon the evidence of this plain proposition that every government ought to contain in itself the means of its own preserva-

tion," he uttered only an axiomatic truth, and explained fully what he meant in this application of it. The people of each State had the right to be represented in the Congress of the United States. The people of each of the other States had the right to expect, perhaps to require, the presence there of the Representatives of all the States. It was well known that each State was compelled to elect periodically a State Legislature; its very existence required that to be done. Certain classes of the citizens of each were of necessity obliged to be qualified electors for Representatives in the most numerous branch of the Legislature. The numbers and qualifications of these electors might vary in every State; negroes, women, foreigners, might be admitted to or excluded from the privilege. Universal suffrage or educational or property restrictions or qualifications might be allowed or imposed as each State thought most conducive to its own prosperity, security, and peace. With all that the United States had no concern and no right to interfere. But knowing that some class of citizens in each State must have the qualifications for electors for their Legislatures, it provided that that class, whether numerous or restricted, should by virtue of these qualifications possess all the qualifications requisite for electors for Senators and Representatives in the Congress of the United States. Indeed, all the States, had, when the Constitution was formed, State constitutions republican in form, at least in the opinion of its framers and of all the statesmen and jurists who have succeeded them until within a few years past, the distinguished gentleman from Massachusetts and a few others similarly organized have discovered that all these men were fools, and that these constitutions were the most odious aristocracies; but of that hereafter. A class of electors being thus secured beyond all peradventure who could vote for members of Congress, it was equally important that the privilege of exercising the right should be assured to them beyond all contingency.

The times, places, and manner of holding such elections were to be prescribed by the State Legislatures. Congress was not expected to interfere except in case of failure or refusal of the local Legislatures to make proper provisions, but the State was not to be left unrepresented in Congress nor the qualified electors therein deprived of their right of representation in the common council of the Union because of the failure or refusal of the State Legislatures from any cause, no matter what, to furnish them the means legally to elect men to represent them. Hence the provision that "Congress may at any time by law make or alter such regulations" as to the times, places, and manner of holding elections for members of Congress. This provision gave the Federal Government the power to use again and apply as he did the words of Mr. Hamilton, "that every Government ought to contain within itself the means of its own preservation." As long as there is in any State any number of electors qualified to vote for members of the most numerous branch of the State Legislatures, as long as there is a man who has the constitutional qualifications of a member of Congress, this body has the constitutional power, and it is its duty to see that the electors and candidates are not only allowed but furnished proper facilities for the exercise of their rights and privileges.

If the State Legislatures refuse to fix a time for holding such elections, or fix an improper time; if they fail to designate places or to authorize them to be designated, or if they are unsuitable or inadequate, or if they fail to appoint or cause to be appointed suitable persons to conduct and determine the result of such election, or in any regard fail to conduct them in a proper manner, I take it to be not only the right but the duty of Congress by proper laws to provide and prescribe the proper times, places, and manner of conducting such elections, which, when complied with by the electors in the States, will entitle the Repre-

sentatives chosen by them in conformity thereto to take their seats in Congress and represent their States with the same binding effect as if all the machinery of the election had been provided by the States themselves. That seems to me to be the whole scope, intent, and meaning of the constitutional provision upon which the gentleman from Massachusetts seeks to overthrow and subvert the constitutions and laws of at least ten States of this Union, most of them older than the Constitution itself, and under which or under others not materially different their people were living when they framed it.

I venture the assertion here before the House and the country, and in the face of the long array of distinguished names which the gentleman from Massachusetts has paraded, and extracts from whose speeches he has published, that all his authorities, with perhaps one exception, sustain me and my views and contradict him and his. Story, Kent, the Supreme Court, all the expounders of the Constitution, official and unofficial, are against him; and even Patrick Henry, the bitterest and most unrelenting of all the opponents of the Constitution, whose opinions were all overruled and disregarded, only objected to this provision because, as he says:

"According to the mode prescribed Congress may tell you that they have a right to make the vote of one gentleman go as far as the votes of one hundred poor men. The power over the manner admits of the most dangerous latitude."

He even did not believe they had any such power, but he says Congress may tell you that they have this dangerous power. Nearly a century has rolled on since he spoke, and no Congress ever thought of it. He was about to go down to posterity as a false prophet, a croaker, or an alarmist, when the gentleman from Massachusetts and his friends set up the claim and have verified his fears, and now cite him as authority to sustain them in their revolutionary course.

But I must hurry on. The third proposition of the gentleman from Massachusetts is that no State which excludes a portion of its citizens from the exercise of the right of suffrage is republican in form; and as by section four of article four of the Constitution "the United States shall guaranty to every State in this Union a republican form of government," it is our duty to pass this bill to comply with that guarantee. The distinguished source from which this proposition emanates alone entitles it to serious consideration. If I or any other common member of this House had enunciated and advocated it we would not have been listened to; it would have been treated simply as an absurdity. I suppose it will hardly be denied that the framers of the Constitution knew what constituted a republican form of government, and that each of the thirteen States that by the Constitution formed and constituted the United States were recognized then as having republican forms of government. It is hard to understand how they could have become parties to and have ratified the Federal compact if it had not been so. Mr. Madison, whose views coincided with those of Mr. Hamilton, in the forty-third number of the *Federalist* assumed as an unquestioned and undoubted proposition that each of the States then had governments republican in form. He says, when speaking of when and how the Federal Government can interfere under the guarantee clause in the Constitution:

"It may possibly be asked whether it may not become a pretext for alterations in the State governments, without the concurrence of the States themselves. It may be answered that if the General Government should interpose by virtue of this constitutional authority, it will be of course bound to pursue the authority. But the authority extends no further than to a guarantee of a republican form of government, which supposes a preëxisting government of the form which is to be guaranteed. As long, therefore, as the existing republican forms are continued by the States they are guaranteed by the Federal Constitution. Whenever the States may choose to substitute other republican forms they have a right to do so, and to claim the Federal guarantee for the latter. The only restriction imposed on them is that they shall not exchange republican for anti-republican constitutions."

"Justice Story, in his Commentaries on the Constitution, quoting these opinions of Hamilton and Madison, says:

"The Federalist has spoken with so much force and propriety upon this subject that it supersedes all further reasoning."

Let us see wherein these States, having then beyond all question governments republican in form are now less so than they were then; let us see by what act or change they have lost their republican forms of government, so as to authorize the United States to interfere and restore it under her obligation to guaranty it to them.

Twelve out of the original thirteen States were then slave-holding States to begin with. Now slavery is abolished in all of them. They had republican forms of government while they held slaves and excluded the whole negro race from the right of suffrage. Will it be contended that the abolition of slavery has made their forms of government anti-republican? I presume the gentleman from Massachusetts and his colleagues on the Judiciary Committee will not so contend. Suffrage in nearly all these twelve States was confirmed when the constitution was adopted to free white men, and in a number of them property qualifications were prescribed as a condition precedent to the exercise by the citizen of the right of suffrage. Yet Mr. Madison, in the extract I have read, assumed as an undoubted and indisputable fact that the then existing State governments were all republican in form.

Massachusetts by her constitution of 1780, under which she maintained her republican form of government without amendment on the question of suffrage till 1836, limited the right of suffrage thus by article four, chapter one:

"Every male person, being twenty-one years of age, and resident in any particular town in the Commonwealth for the space of one year next preceding, having a freehold estate within the same town, of the annual income of three pounds, or any estate of the value of sixty pounds, shall have the right to vote in the choice of a representative or representatives for the said town."

That property qualification doubtless deprived half her white citizens of the right of suffrage, yet none of her statesmen of that day for a moment supposed that her government was anti-republican, or that the Congress of the United States, under the constitution she had helped to create, could set aside her constitution and laws because she had an aristocratic and not a republican form of government. No one knows better than the gentleman from Massachusetts that suffrage was not universal in any of the republics of ancient times. None knows better than he that it was not universal in any of the republics of America when they united in the formation of the Federal Constitution, and none knows better than he that in the changes made by the thirteen original States in their constitutions after the Federal Constitution was adopted a large majority of them limited, and still limit, the right of suffrage to white male citizens; and he knows as well as any man on this floor, and every school-boy knows, that every State that was admitted into the Union after the formation of the Federal Constitution, prior to 1862, without a single exception, limited the right of suffrage in their constitutions to white male citizens, and that all of those that changed their constitutions in any way prior to 1864 continued the limitation, and confined the right of suffrage to white male citizens. Yet all these States so admitted into the Union, slave-holding and free, were admitted by a distinct resolution of Congress, in each case declaring that they were so admitted under the constitutional provision authorizing the admission of new States, because they had each adopted constitutions republican in form.

The resolution admitting Illinois and Indiana, which can both be found in volume third of the United States Statutes-at-Large, page 536, may be taken as specimens of all the others. They fully verify what I say. Look for a moment at the changes made by the States in their State constitutions since the Constitution of the United States was adopted, or since their admission into the Union as States, and what

do we find upon the subject of suffrage? I have the State constitutions all before me, and they can be examined by any member who desires to do so. New Hampshire, by her constitution of 1792, and Maine in 1819, excluded paupers only. Massachusetts in 1836 excluded paupers and all those who could not read the Constitution in the English language and write his name. Rhode Island in 1842 excluded, and still excludes, all naturalized citizens of the United States, and imposes a property qualification on all others. Connecticut in 1818 limited the right of suffrage to white males over twenty-one years of age. New Jersey in 1844, Pennsylvania in 1838, Maryland in 1851, Delaware in 1831, imposed the same limitation. New York in 1846 excluded all negroes from the right of suffrage, except those who had resided for three years in the State and owned freehold estates worth \$250, no such restriction being imposed upon white men.

I will not speak of any of the original thirteen that attempted to secede, though they all, while undoubted members of the Union, limited suffrage to white men. Of those admitted after the adoption of the Constitution, Ohio in 1851 formed a new constitution, and limited suffrage to white male citizens; Indiana did the same thing in the same year; Illinois did so in 1847, and Michigan made the same provision in 1850. Iowa imposed the same restriction on this right in 1855, and Kansas in 1859. A similar limitation was made by Wisconsin in 1848, and the constitutions of Minnesota and Oregon contain precisely the same limitations. Congress admitted Texas and California with similar restrictions, while Missouri in 1848, and Kentucky in 1849, placed precisely the same restrictions and qualifications in their State constitutions, and these restrictions and limitations remain in nearly all the constitutions of the States I have named to this day. In view of all these facts it is amazing to hear a gentleman assuming to speak for the majority of the Judiciary Committee of this House, and one of the leading and most influential members of it make such a statement as this which I read from the Globe:

"Mr. BOUTWELL. I was proceeding to consider the distinction between an aristocracy and a republic. I say without hesitation that none of those States in which men are denied the elective franchise for themselves and for all their posterity are republican. They are aristocracies more or less offensive to republican institutions and republican government, and inasmuch as by the Constitution the United States has power, and it is made its duty to guaranty a republican form of government to each State, if upon observation we find, as I think we do find, in Delaware, in Kentucky, in Maryland, in Ohio, and in Pennsylvania, that the governments are not republican, it becomes our duty to exercise the power vested in us by the Constitution and make those governments republican by law."

And the following from the same speech is equally indefensible—I had almost said ridiculous:

"But, sir, consider the anomalous feature in our Government if the doctrine be successfully maintained that we cannot legislate on this subject. There are citizens in Kentucky and Maryland who, if the doctrine set forth by the opponents of this bill be a sound constitutional doctrine, are eligible to the office of President or Vice President of the United States, and yet who cannot vote for Representatives in Congress or even for a State, county, or town official. What is the qualification for the office of President? He must be a native citizen of the United States and thirty-five years of age. Nothing more. These are the only qualifications for the office of President. By the fourteenth amendment to the Constitution we have declared that all the black men in Maryland and other States shall be citizens of the United States. Certain State governments have for the present denied these people the right to vote, and yet one of them may be elected President of the United States and another Vice President. Is there such an anomaly in our Government? Are we prepared to admit its existence unless the Constitution imperatively requires it? The Constitution provides that any one twenty-five years of age, who has been a citizen for seven years, may be elected a Representative upon this floor; and colored men, although denied the right of suffrage in their own States, may be elected to legislate for the whole country. Thus is the General Government put in an anomalous and inconsistent position."

As the speech progressed the following colloquy occurred:

"Mr. WELKER. I desire to inquire whether there is anything in this bill that will prevent any of the

States from requiring of voters a property or educational qualification?

"Mr. BOUTWELL. I do not suppose there is.

"Mr. WELKER. Then the States may, under this bill, require such a qualification?

"Mr. BOUTWELL. I suppose they may."

I never expected to hear such positions taken on this floor, even by the most obscure member; surely not from one of the great leaders of his party. Two Presidents of the United States have been elected from the State of Massachusetts; and while they each had all the constitutional qualifications for that high office, yet neither of them may have possessed the property qualification required at the time of the election of each to have enabled either of them to vote for a member of the Legislature or even a constable in the State of Massachusetts. A pauper may be elected President. Belisarius is said to have become a beggar. Misfortunes may reduce the wisest and best to be dependent on the community, and while in that dependent condition a man may be elected President; yet he is deprived of the right of suffrage by the constitutions of Massachusetts, Maine, and New Hampshire. It is not so in Kentucky. Intellect, and not wealth, is the qualification in the proud State I have the honor in part to represent. It is admitted by the gentleman from Massachusetts that he does not propose by his bill to prevent disfranchisement by the States to any extent if wealth is made the measure of the right.

But further elaboration seems to me useless. A simple statement of the facts refutes all the sophistries of the argument of the gentleman. If the constitutions of the States he named as having anti-republican governments can be subverted and overthrown by Congress as "odious aristocracies," there were no republican State governments when the Constitution was framed, and there are few, if any, now. New York, Connecticut, and all the western and north-western States must be added to his list. Their Representatives must be expelled from these Halls, and Vermont alone will rule the continent. His idea of a guarantee is equally puerile. If these States ever had republican forms of government they have them now. The original thirteen States certainly had; and each agreed with the other that they had by the very act of framing the Constitution for the better protection of and more effectually to guaranty to each the preservation of their then existing republican governments; for the very idea of a guarantee presupposed the existence of the thing guaranteed. So with the States afterward admitted. The act of admission of each into the Union by the Representatives of all, with the solemn declaration in each case that their State constitutions were republican in form and that they should severally be protected and guaranteed in the preservation and perpetuation of them, is conclusive against the power of Congress on any pretense whatever now to annul and subvert them.

This bill, so far from guarantying to every State in the Union a republican form of government, actually, avowedly destroys and obliterates it. When Congress forces voters upon a State against its expressed will it assumes the reins of government then; the State is the mere serf of Congress, executing its orders, obeying its mandates. The government is congressional, not State, as much so as if Congress ordered it to fill all its State offices with men selected and named by Congress. Authority over the electors would give it equal authority over the office-holders in a State. There can be no State republican government if Congress dictates and enforces the government it sets up. Instead of protecting the State in the exercise of its freedom, this bill proposes to destroy that freedom; instead of guarantying that freedom to the States which is the very essence of republican government, it strikes it down. They have said in their State constitutions what they want guaranteed. They are making no complaint and asking for no interference; neither foreign nor domestic enemies assail or threaten them; peace prevails. Yet we say we will not only not guaranty them in that, but we will annul

their constitutions, set aside their laws, and make them obey our orders whether they want to or not. I assert when we propose to do that we are plainly, palpably establishing a congressional despotism over the whole country. It is sheer folly for gentlemen to stand up here and think to hide their purposes from the country or the world by any such hollow pretenses as are set up in the argument of the gentleman from Massachusetts. The ostrich with his eyes closed and his head stuck in the sand is about as well concealed as the purposes of this bill are by all the high-sounding declamation of the gentleman. A centralized, consolidated despotism will swallow up these great United States.

I now propose to show that the fourteenth amendment gives Congress no power over suffrage in the States, and that even the Republican party never claimed that it did, but, on the contrary, distinctly avowed in the most solemn form that it did not, pledging themselves to the people of the country that they would so maintain if they were again intrusted with power and place. When General Grant was nominated, the convention which met at Chicago in May, 1868, after the whole meaning and effect of the fourteenth amendment was fully understood, laid before the country a platform of principles which it pledged itself to uphold and be governed by. Congress took a recess, and its Republican members were there *en masse*, doubtless its most active members, and the following resolution was unanimously adopted, being the second in the series:

"The guarantee by Congress of equal suffrage to all loyal men at the South was demanded by every consideration of public safety, of gratitude, and of justice, and must be maintained, while the question of suffrage in all the loyal States properly belongs to the people of the States themselves."

If that resolution was not intended to delude and deceive the people whose confidence and support they were seeking to obtain because of the principles they were pledging themselves to uphold and perpetuate, this bill cannot be supported by any man who did not publicly disavow the published principles of his party. If the question of suffrage in all the loyal States rightfully and properly belongs to the people of the States themselves Congress cannot legally or properly interfere with it, and it would not only be bad faith but gross usurpation so to do.

But independent of that, it is evident, not only from the debates in both Houses of Congress at the time the fourteenth amendment was proposed, but from the language of the amendment itself when considered in reference to the peculiar and anomalous condition of the negro race, to which it more specifically, indeed almost exclusively relates, that the first section of the amendment, even if we leave out of view the second, which, making clear the meaning of the first, fully sustains the position which I in common with the Republican convention—and we agree but seldom—maintain, that the question of suffrage was not thereby interfered with, but was left where it properly belongs, with the States themselves.

Prior to that amendment negroes were not citizens of the United States. They possessed none of the rights or privileges and were entitled to none of the immunities of citizens. They could not sue in the courts of the United States. Passports to travel in foreign countries could not be granted to them because the United States could not protect any but her citizens. A negro born abroad could not be naturalized, that right being limited to free white persons. When the Constitution was adopted they were not regarded in any of the States as constituting any part of the people or citizens thereof, and the only two clauses in the Constitution pointing to the negro race treat them as persons whom it was legally and morally right to deal in as property and hold as slaves. The then civilized world acted on that idea in regard to them. Of course, no State could, after the adoption of the Federal Constitution, by any State legislation, make either a foreigner or other description of per-

sons citizens of the United States, nor entitle them to the rights or privileges secured to citizens by that instrument; and while a State might by its own laws place a negro or any other person on a footing with its own citizens as to all rights, privileges, and immunities enjoyed by them within its own dominion, it could not make him a citizen of the United States so as to confer upon him any of the privileges or immunities of a citizen of any other State. It was because of these well-settled principles that Massachusetts was unable to afford protection to negroes who were citizens of that State when they were seized and punished in South Carolina, which prohibited free negroes from other States from landing on her soil. It was because they were well established that Dred Scott could not test his right to freedom in the courts of the United States.

By section two, article three, of the Constitution the judicial power of the United States so far as it is controlled by the personal status of the litigant is limited to controversies "between a State and citizens of another State, between citizens of different States, between citizens of the same State claiming lands under grants from different States, and between a State or the citizens thereof and foreign States, citizens, or subjects," so that it was up to the adoption of the fourteenth amendment impossible for a negro resident in a State that refused him the privileges of State citizenship to assert any rights in the courts of the United States; and it was equally impossible for him to obtain any of the benefits of section two, article four, of the Constitution, which provides that—

"The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States."

It was to give to the negro race, nine tenths of which had been held in slavery until the adoption of the thirteenth constitutional amendment, the benefit of the protection which citizenship confers that the fourteenth amendment was adopted, if it be adopted, which, for the purposes of this argument only, I propose to admit. Under it negroes, as well as Indians, Gipsies, Chinese, and all the Mongolian races born in the United States, men and women, young and old, can now sue and be sued in the courts of the United States.

They can travel under the protection of the Government in foreign countries; they can move from State to State, locate in any State, acquire, hold, and enjoy property under the protection of the laws of the State upon the same terms as white citizens going there from other States can; they are entitled to the privileges and immunities of citizens of the United States, and those rights are not to be abridged by State legislation when such citizen of the United States comes within the local jurisdiction of the State. But as it must be conceded that being a citizen of the United States, whether by birth or naturalization, never gave any man the right against the will of the State to go there and exercise the right of suffrage, the refusal of the State to grant it cannot in any sense abridge his rights or privileges as a citizen of the United States. It is impossible for any privileges to be abridged that a man never possessed. The very idea conveyed by the term abridge is that existing rights, privileges, or immunities shall not be impaired, taken from, diminished or made less beneficial, but it conveys no idea of the acquisition of rights or of the requirement now assumed that new privileges shall be granted.

Whatever privilege he possesses by virtue of being such citizen when he goes within the local jurisdiction of a State shall not be taken away, impaired, or abridged. But no new grant is either required or expected from the State. She shall not interfere with his right to sue in the courts of the United States, nor withhold from him the equal protection of her laws; to do so would abridge his privileges. The first section has that extent—no more. States may allow persons to exercise the right of suffrage who are not citizens of the United

States; most of the northwestern States have done so; some of them now do, or they may refuse to allow it to citizens of the United States, as Rhode Island now does, to those who are naturalized. A grant of the right of suffrage in a republic is an investment of the individual to whom it is granted with the highest rights of citizenship, yet it is by no means an element necessary to establish unqualified citizenship. All the native-born white females in the United States, and all persons, male and female, under twenty-one years of age, are as much citizens of the United States and of the States in which they reside, and are as fully entitled to the protection of all the laws, State and Federal, as those males to whom the right of suffrage is intrusted. The paupers in Massachusetts, and those who cannot read the Constitution in the English language nor write their names, all of whom are excluded from the right of suffrage in that State by its constitution, are citizens of the State as much as those who vote. If the gentleman and his friends had given the people of the southern States the same constitution that the people of Massachusetts in 1836 imposed upon themselves, ninety per cent. of the negroes there would be excluded from the exercise of the right of suffrage; and while they are fastening negro equality, social and political, upon that people, Massachusetts, in her code of laws passed in 1836, prohibited the marriage of any white person with a negro or mulatto, declared all such marriages null and void, and their children bastards, punishing by a fine of fifty pounds any person who should join them in marriage. I think Massachusetts was right; but with her high pretensions to justice she ought to apply the same rule to others that she does to herself.

Mr. Speaker, it seems like child's play to cite authority to sustain a proposition so plain as that the right of suffrage is by no means a necessary incident of citizenship. It may not be amiss, however, to say that in the discussion of the civil-rights bill, which makes all negroes born in the United States citizens of the United States, and gives them all the right that citizenship can confer, as well as in the discussion of the rights given to them by the fourteenth amendment, Senator TRUMBULL, chairman of the Judiciary Committee of the Senate, and all the Republican lawyers in both Houses whose opinions were worth anything, admitted that neither the act nor the amendment conferred, or were expected or intended to confer on them the right of suffrage. All agreed that each State regulated that matter as each might consider that extension or limitation of the right most conducive to the welfare of the State. It was in view of these well-known facts and admissions that I asked the gentleman from Massachusetts, while making his speech, the following questions, which, with his answer, I read from the Globe:

"I desire to ask if by the first section of the fourteenth amendment it was intended to prevent the States from determining who should and who should not vote, why, when it provides that 'no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States,' it did not add, nor makes discriminations among the citizens of the State itself in the exercise of the right of suffrage?"

Mr. BOWTLE. There was the plainest reason in the world. It was not necessary. The article provides, as it stands, that there can be no discrimination by the States among the citizens of the United States, who are as well citizens of the several States and entitled equally to the privileges of citizens."

The answer not only does not meet, but carefully avoids the question. All may be equally entitled to the privileges of citizens without impairing the absolute right and power of the State to limit suffrage there as it pleases. The women and children, as I have stated, are all citizens of the State and of the United States. The paupers and those who cannot read or write in Massachusetts are all citizens, and their rights, privileges, and immunities cannot be constitutionally abridged; but that does not make them voters in the State. It never entered into the brain of any statesman till a majority of the Judiciary Committee of this House

took it up by presenting this bill, that every State constitution, with the exception perhaps of Vermont, is overthrown and annulled by that amendment, and that every State is now carrying on the State government under a constitution which contains provisions inconsistent with and antagonistic to the Constitution of the United States, and are therefore now living in contempt of, if not in rebellion to its authority. If the words—or any others equivalent thereto—suggested in my question had been inserted, despotic and revolutionary as the exercise of such power would have been, being subversive of the freedom and rights of the States, indeed of their very existence as States, still it could have been understood that universal suffrage was to be enforced, the failure to insert some such idea is conclusive that it was only intended to invest this class of people with the protection which the Federal Constitution throws around its citizens, and such as the State constitutions grant to all their citizens, young and old, male and female, rich and poor, all of which can be done without any changes in the fundamental laws of the States; purposely leaving the question of suffrage as it stands in the several State constitutions, so that the people thereof may extend the right or not as they see fit. Congress doubtless desired that all the States should adopt universal suffrage, and so desiring, determined to so exercise the power it possesses of apportioning representation among them as to make it their interest to do so. It had been heretofore provided that population should regulate representation in Congress, with some modifications. Now it is provided that suffrage shall control; hence the second section of the amendment, which provides:

"SEC. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State."

It is contended by the gentleman from Massachusetts that this is only a political punishment to be imposed on such States as refuse to obey the mandates of the first section till such time as Congress can enforce its provisions, which he asserts provides that the right to vote for certain officers cannot be denied or abridged. A more unfounded assumption cannot well be imagined. The right to vote is not only not secured by the first section, as he assumes, it is not even alluded to; nor, as I have shown, is there any language in it which indicates that was so intended. Just the reverse; and as the right to regulate that question was by the first section left the States, the consequences which are to follow their refusal to make suffrage universal are determined in the second.

If the first section secured the right to vote at all, the second was the most absurd and abortive effort to secure that right to the parties entitled to it that can well be conceived. It is very hard to see how the disfranchised or unenfranchised persons are better protected, or their right to vote in any way forwarded, by a diminution of the representation of the States of their residence in the Congress of the United States. The conclusion of the gentleman on that subject is singularly lame and impotent. This amendment being part of the Constitution is, of course, subject to and governed by the same rules of construction as the original instrument, which is a grant of express powers, or of powers properly and necessarily inferable from the express grant. There is no bill of rights in the Federal Constitution, while nearly all the State constitutions contain them; the amendments to the Constitution being all limitations on the General Government and

not applicable to the States. Why is this? Simply because the Federal Constitution could grant no rights; it only received powers, and is authorized to enforce restrictions which the States put upon themselves.

Construing the force, effect, and meaning of this amendment as I do, there is no difficulty in carrying it out by appropriate congressional legislation; but if the other view is attempted to be enforced and the existing constitutions and laws of the States are to be set aside by legislation here, as this bill proposes, it will be very difficult to find either an express grant or a properly implied one anywhere in that first section.

As to the fourth section of the bill, I have only time to say that, even if there was no other objection to it, it is so cruel and inhuman in its penalties, and is kept open as a constant bid for perjury on the part of those who want the offices to which others have been elected—and their name is legion—for such a length of time, (ten years,) that it ought to be at once rejected. I would commend to the gentleman the careful and serious consideration of the twenty fourth article of the bill of rights of the Massachusetts constitution, which provides that—

"Laws made to punish for actions done before the existence of such laws, and which have not been declared crimes by preceding laws, are unjust, oppressive, and inconsistent with the fundamental principles of a free government."

Following up that fundamental idea, the Constitution prohibited Congress from passing bills of attainder or *ex post facto* laws; and lest the States in the exercise of their reserved powers might at any time so far depart from the established principles of republican liberty and law as to do so, the Constitution further provided that no State should pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts.

There is at least enough doubt about the construction of the third section of the fourteenth amendment, on which the fourth section of this bill is based, to make it not only extremely oppressive, but grossly unjust legislation. The provision to punish "any person who shall exercise the powers and duties of any office therein specified" who is disqualified by the third section of the amendment by imprisonment at hard labor for two years, without in any manner defining what offices he must have held to impose the disability upon him or without giving him any information which will enable him to understand, for example, what is meant by being an executive or judicial officer of any State.

Are city, town, and county officers included? Does it apply to men who had been fully pardoned, and had been duly elected to State offices before the amendment was passed? These and many other questions will arise, and men must not only run all risks of what the ultimate decision will be, but one court may decide one way, and another the reverse; men may be assured that their case is not covered by the law, and in the utmost good faith continue to hold office, and yet be convicted and sentenced to ignominious punishment for two years at hard labor, when they were not only wholly unconscious of being guilty of any wrong, but believed they had a perfect right to the office. These prosecutions may be prosecuted by this law at any time within ten years from the commission of the offense. What is the offense? Is it the holding of the office or the disqualifying act? The evidence may be oral, and supported by statements purporting to have been made ten years before. Recollections of what was said ten years before, when party bitterness is aroused, and motives to commit perjury to secure place are held out, make it, as I said, a most oppressive and unjust law. If I can get an opportunity, and the bill is to be considered, I shall move to amend by inserting after the words "who shall exercise the powers and duties of any office therein specified" the following: "after having been declared ineligible to such office by the judgment of a court of compe-

tent jurisdiction," and limit the time for such prosecution to two instead of ten years. But I will not discuss this section. It was not discussed by the gentleman from Massachusetts, and all the principles in it have been so fully and ably discussed and exposed by my colleague, [Mr. KNOTT,] whose argument has not been and cannot be answered, that I am willing to rest it there.

My time is nearly exhausted. I have endeavored to confine myself strictly to the law and the facts as I understand them. I have made no allusion to the repeated insinuations against the State of Kentucky. She needs no defense. She stands to-day the peer of the proudest Commonwealth in this great Republic. When this or any other Congress shall strike down her State government and those of her sister States, as this bill and amendment proposes to do, it will be the darkest day this country ever saw. I have no response to make to the rallying cry of party necessity so warmly, I had almost said so fiercely, urged. The principles involved reach far beyond and rise high above party; they strike down Republican and Democrat alike, for they strike down the columns that support the temple of liberty itself. Five years ago a proposition of this sort would have brought down denunciations loud and deep from men of all parties on the heads of the committee or the member proposing such a bill; but revolutions progress, usurpation if successful encourages and develops further encroachments until all the original landmarks of liberty are lost. A distinguished historian says—and we would do well to heed it and see that we do not verify it:

"We find in the history of all usurping governments time changes anomaly into system and injury into right. Examples beget custom, and custom ripens into law, and the doubtful precedents of one generation become the fundamental maxims of another."

Mr. SHANKS. Mr. Speaker, my purpose in rising at this time is to say that I will vote for the bill and proposed amendment of the gentleman from Massachusetts, and have offered an amendment thereto by inserting the word "property" in the seventh line of the first section of the printed bill, and in the eleventh line of the amendment to prohibit the practice adopted by some of the States of requiring a property qualification for voters as well as for the purposes previously intended by the bill and amendment, that of prohibiting encroachments on the elective franchise on account of race, color, or previous condition of slavery. But, sir, I here wish to state further that I do not think the amendment to the Constitution necessary. In my opinion the bill is ample to reach the case.

I have long thought that it was not only in the power but in the duty of Congress to protect the right of the elective franchise to all the people against any attempt by State or local legislation or by force or fraud to curtail, embarrass, or defeat its full and equal enjoyment by all adult citizens. It would seem to be a remarkable termination of a great and good purpose upon the part of our ancestors, as well as all other founders of free government and of the principles of free government itself that they should declare the equal rights of all men as a cardinal doctrine, and then abandon it in the practical workings of the institutions they thus formed to secure those equal rights?

If, indeed, free government exists only in theory, and has no practical virtues, we are mistaken, and the sooner the masses of mankind are rid of the delusion, and the more readily they return to the pathway of subjection, oppression, and humility, before their more assumptive followers, the better for them. and the more readily and heartily they will be forgiven for believing the heresy that they had valuable natural rights given of God and equal to those of other men. I have implicit confidence in the existence, purity, and majesty of a supreme Ruler of the universe, and I have not lost confidence in mankind. The large majority of the people of all countries, if untrammelled and left to their own judgment, are

honest, generous, and even noble in their conceptions and distribution of justice and right, and always magnanimous toward their fellows. It is generally in the minority, but who are the more assumptive, arrogant, ambitious, and not unfrequently vicious portion of society that evil is engendered, that, like leaven, it affects the entire society and often impresses belief diametrically opposite to the real truth. The ambition and vigilance of such often make them rulers among men, and thus republics and free institutions are wasted by falling into bad hands, and being thus used for sinister purposes weaken their hold upon the confidence of the masses and are easily wrenched from them, they caring little for the theory of political blessings that bring to them no real protection.

No man is safe in his person or property in a community where he has no voice in the protection of either. The subjugation of his rights and liberties, the seizure and waste of his property, the degradation of his character, and the insecurity of his life are only questions of time that are not often long deferred. Our own much-injured country furnishes examples enough of the proof of this to both awaken and astonish the civilized world, and to demand the most certain and radical remedy against their recurrence, which can only be secured to society by placing in the hands of all men both the right of self-defense and of the ballot, by which the Government becomes sacred in the hands of the people, because it is the reflected will of all the people. It is only then, it may be truthfully said, that the Government is of the people, for the people, and by the people.

When our forefathers declared to oppressed and astonished mankind the day of a brighter civilization in the birth of the immortal declaration of the equal rights of men they believed that there was a living reality in the declaration. When in support of that declaration and its legitimate consequences they, at great loss of property and life, both of which they deliberately staked on the eventful issue, had founded a Government formed in support of these views, they were still confirmed in the justness of their cause. When, years afterward, in the judgment of the people it became necessary, in support of the cause they had espoused through the Government they had founded to secure a more perfect union of the States, they, after due deliberation and debate, both in the national Congress and in the Legislatures of the several States, establishing a Constitution for the United States, adorning it with this synopsis of its contents and declaration of its purposes:

"We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

This they understood to be a declaration of universal right, and is sufficient for the purpose, for it teaches the genius of the Government and the character and purpose of its founders and protectors. If there were no other teachings in its articles or sections touching the equal rights of the people this preamble is enough and to spare. But if it be said that the blacks were not included because they were slaves I answer, sir, that many of the blacks then were voters, and aided in support of the men who taught these doctrines and established this Constitution, while many white men were denied the ballot because they were poor.

It is poverty more than complexion that dictates the fate of mankind. There has not been an hour since the commencement of the barbarism of slavery in America that money would not purchase the liberty of the slave, nor has there been a time that a white man could vote in some States unless he paid a tax, while in some States the black man could vote if he had property and in others without that qualification, and in others still he could not vote at all, while in many others he is not permitted to vote though more than half his blood be

white. Again, I say, it is property more than complexion that dictates the fate of mankind, and republics can only stand when the ballot-box is secured to the poor as well as the rich, when every one is interested in supporting the Government because the Government secures his rights. Have the opponents of this measure learned nothing by the past? Has that revolution conceived and executed by those who held an undue and unequal balance of power in the management of the Government, with all the great sacrifices of that struggle, taught them nothing? Have they walked blindly through these past years of severe schooling? Is the history of the past dead to them? Has the strength of the people of this nation in field and forum, in legislative hall and at the ballot-box been only a pastime and folly to them, or have they deliberately, with true Mussulman zeal, set their souls against progress and determined to destroy civilization in the house of its friends and make this Republic a mockery and by-word among the nations of the earth, instead of a political high-school for the civilized world? Have our fathers established a Republic with a Constitution so fragile as to be controlled by mere traditions and governed by prejudice in violation of its plain teachings? Will the Constitution, that is the written will of all the people, and that declares the rights of the citizen, yield before the anti-republican prejudice of a portion of the people against other citizens, only because they are all or partly of different blood; and would you call this a stable and a free Government? Has the Government no power to secure to all the people their rights, and have the people no power to compel the Government to this duty?

And are the opponents of this measure opposed to trusting the people with the destinies of their own Government, lest they should destroy it or take to themselves the right to manage it for just purposes? And do you call this liberty? Are the few to control the many; the people's servants to govern the nation, while they stand powerless to secure their own rights through the means established for the general good at the hands of their servants? The better sense of honest men revolts at such duplicity and double-dealing, and demands that equal and exact justice be done to all men before the law; that taxation and representation shall go hand in hand, and that the right to participate in the management of the Government whose laws we must obey shall be forfeited only for crimes whereof the parties have been duly convicted.

I believe now, as I have in the past, that Congress had the power, and it was its duty, to abolish slavery throughout the nation at any and every hour of its sessions from its first meeting under the Constitution to that time at which slavery was abolished through other means.

It was with deep mortification and sorrow that I saw Congress stand idly by, even appalled before slavery's high crimes and doubting its power to prevent them, until the necessity was forced upon the nation to declare through its Executive that liberty of the people as a necessary war measure which the legislative power of the Government, vested by the people in a Congress, should have done in time of peace as a light to mankind and a duty to God, and, too, a duty which they could not pass or omit without incurring the responsibility of crime. The sequel has shown how little I was mistaken. I believe that the power and duty of Congress to protect the equal rights of all the citizens of the nation has been perfect since the adoption of the Constitution to this hour. The fact that this is a national legislative body secures that power and carries with it the duty. A war power, then, is power above the law making. A nation that cannot protect its citizens against encroachments of others of its citizens is defective or already in revolution. The nation that will not is an aristocracy and needs correction. If the defect is in the organic law, it should be amended by the people; but if it is only in the practice of the Government, as I believe it is in this case,

either by its commissions or its omissions, it may and should be corrected by its own voluntary but prompt and efficient action. We should do that work here now, and do it well.

I am not one of those who labor among the musty records of aristocratic and monarchical Governments for rules and precedents to carry on this free Republic. I do not first tie my feet and then attempt to walk. I do not give the Government and all its blessings to the few and then ask them generously to yield at their pleasure to consider propositions in favor of the people. All that has had its time; it is in the dead past. It is of the things that were. However, its relics still crop out, and become manifest in the haughtier style of the would-be oppressor, the remnant of corrupt power, who, self-styled and conceited, full of vice and crime, commits murder as a satisfaction to appease his hatred to progress, justice, and law. But this the people and the age alike condemn. They must soon pass away; the fiat has gone forth, and civilization is advancing, justice is triumphant, and the equal rights of men must follow. Those who because they are more idle and vile than their neighbors assume to control, rule, rob, own, or sell them and their families at pleasure for gain have always found in the Constitution, as in the holy writings, proof in support of their great wrongs to mankind; and now, even in the light of the total abolition of that statuted twin relic of barbarism, human slavery, and in the brighter light of an advanced Christian civilization, do not seem to learn the apparent truth that society is moving forward; that mankind has aroused from the scourge of ignorance; that men have learned to comprehend the teaching that has ruled them, and that they have determined to be free. The people will not longer ignore the fact that this is their own Government, founded to secure their own rights.

The public servant who in this age of political advancement, in this free and enlightened country, cannot comprehend how the people can in safety to the public welfare exercise all their just and equal rights in the Government is not the proper person to be trusted by them with its destinies. The public servant who has not firmness enough to do right at all times, regardless of private interest and public prejudice, is an unsafe sentinel. He who will not do right though he could is a willing instrument for evil, not entitled to public or private confidence. He who thinks or believes that this nation can prosper while its legislators are unjust to the people is a fool. He who assumes for himself a superiority over his fellows is worse than either—a knave. It has long been and is yet the practice in Congress to refer with pride to the expansive provisions and conceptions of the Constitution, and to dwell with pride upon the noble generosity of its makers in support of a power in Congress to enact all laws; many to admire the social, pecuniary, commercial, agricultural, scientific, or mechanical interests of the nation and people. Yet our records present the strange fact that whenever that great subject, that absolute necessity to the proper or full enjoyment of social, pecuniary, commercial, mechanical, agricultural, or scientific interests, namely, human liberty, is under consideration, the Constitution is eagerly evoked by every political lilliput to prove the virtues of that miserable, antiquated doctrine of inferior races, castes, and privileged classes.

In this land of freedom, this home of free men, this school of liberty, though in advance ground when compared with other nations, yet our counselors are so badly educated, so wretchedly deficient in a true knowledge of the character of free institutions, that when that great question for which all other political questions were made, and which stands so high above them as not to be compared with them, that which is the foundation and only support of material and social progress, and upon which this Government was founded—human liberty and equal political and religious rights—is discussed in this American Congress. Men, Rep-

representatives of a great people, seem to be ambitious to place on record for all time the evidence of their want of knowledge of the spirit and truth of the institutions and Government in which they live. And yet these men are called statesmen, and the world believes that they are such; a sad mistake, and sadly do we answer for it. There exists a strange fancy for past errors and oppressions; a reluctance to go forward; a Musselman stupor and hatred of progress; an inconsiderate and narrow view of men and things that continually looks backward while being thrust forward; an attempt to gather from the dull, dark past the only hope and instructions of a brighter future, a future that the past never knew and never could, because between the two there was no affinity and no common relation except that in time one was and the other unlike it, unknown to it, but inconceivably brighter, purer, grander, and better, because more just and liberal. The past type of society is monarchical, aristocratic, pro-slavery, oppressive, cruel, sensual, and slow to progress. The future is republican, democratic, liberal, kind, intellectual, generous, and swift in the march of the arts and sciences.

Mr. McKEE. Mr. Speaker, it is not my purpose to-night or at any time hereafter in discussing this subject to enter at any length upon a discussion of the constitutional question involved in the bill that is before the House. It is chiefly to the bill that I propose to confine my remarks. I would say, however, in regard to the amendment proposed, that while perhaps it is not such as in all respects meets my approval, and such as may be necessary for the times and for the country, yet in some shape or other I regard it as a necessity in order to secure to every citizen in the land the rights that belong to him. I think that one defect in the text of our constitution as it originally stood was that it failed to embody any declaration as to what constitutes a citizen. That defect has been cured by the fourteenth article of amendment, which has now become the fundamental law of the land. A second defect, in my opinion, in the original instrument, is that there is no declaration in it as to what are the rights of the citizen. Until, therefore, an amendment is ingrafted upon that instrument defining clearly what a citizen's rights are, we are continually to have trouble because of the different constructions and different legislative enactments by the different States in regard to these questions.

In regard to the proposed amendment as several gentlemen have already offered substitutes for the proposition, I have drawn one myself which I propose to offer at the proper time, and I will read it in order that it may be incorporated as a part of my remarks. It differs very little from those which have already been offered in effect, only perhaps changing the amendment offered by the gentleman from Ohio [Mr. SHELLBARGER] to an affirmative proposition. It is in this language:

Every male citizen of the United States of the age of twenty-one years and upward shall be entitled to the elective franchise in all elections in the State in which he shall have actual residence as shall be prescribed by law, except such as have engaged or may hereafter engage in insurrection or rebellion against the United States, or such as shall be duly convicted of treason, felony, or other infamous crimes; and no State shall make or enforce any law disfranchising any citizen for any other cause than herein mentioned.

In my judgment this amendment should be affirmative and not negative, and by that means we will have the right of the citizen to the elective franchise clearly defined, and behind which no State can go. That is all I propose to say in regard to this question of the amendment except to give my assent to the proposition in whatever form the majority of this House may finally submit it.

And now I propose to pass to the consideration of the bill which has been reported from the Committee on the Judiciary, and in passing to the bill I will simply say in reference to the remark made by my colleague who preceded me, [Mr. BECK,] near the close of his

speech, in which he uttered the language, "I have no defense to make of my own State, Kentucky," that as Kentucky stands to-day, the only State in all this Union that strips utterly two hundred and fifty thousand citizens of every right, I do not believe my colleague would dare come here and offer any defense for her. He followed up that with the declaration that this measure is aimed particularly at Kentucky. Perhaps it may be. There is a necessity in the declaration that it should be aimed at her. Then my colleague followed it up with the further declaration that when this Congress saw fit to strike down that proud State it would be one of the darkest hours of the Republic.

Why, Mr. Speaker, I supposed the time had gone by when the Congress or this nation was to be frightened by the cry that Kentucky stands in the way of an act of justice. We have heard that cry ever since 1861, and too often was that cry listened to during the administration of the late lamented Mr. Lincoln. I believe that the time has gone by and gone by forever when the people of this land will be any longer frightened by her threats coming officially from her Governor or from her Representatives upon this floor. I believe furthermore that the time has now come and is upon us to-day when we are recreant to our duty, recreant to freedom, recreant to justice, recreant to right if we sit quietly in our places here and suffer her to trample the laws of our country under foot and grind into the dust the rights of a quarter of a million of freemen.

Now, sir, the fourteenth amendment, upon which this bill is proposed to be based, has been ratified and officially proclaimed as a part of the organic law of the land. I know that my colleague threw out the intimation, "if it were an amendment;" and I know that the doctrine held by the officials of the State of Kentucky is that it has not been adopted; but I believe that it will be a long time in the future before this Government, or any part of it outside of Kentucky, will question the validity of that amendment.

The first section of the amendment reads as follows:

"SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws."

Sir, that provision stands to-day as a part of the Constitution of the United States; but without a law to enforce it it is a dead letter.

All over my own State, all over the State of Maryland, and in many parts of the unreconstructed South to-day, the chief places are held by men who, by the third section of this fourteenth amendment to the Constitution of the United States, are declared to be not entitled to the right to hold such offices. In my own State to-day the first section of this amendment which I have read is a dead letter entirely, except so far as it is enforced in the Federal courts of our country. Not a State court in Kentucky to-day admits the right of two hundred and fifty thousand colored people in that State to testify in any matter concerning their lives, their liberty, or their property in any case in which the matter at issue is between themselves and white persons. Her high officials are enforcing that state of affairs in Kentucky and defying your laws to-day, overriding your Constitution to-day, trampling it into the dust to-day. Without a law to enforce that constitutional amendment it stands upon your statute-book to-day as a simple declaration.

Now, sir, the right to pass this bill under that amendment is certainly unquestionable. There can be no constitutional question in regard to that right; but if there was such a constitutional question, as I have already said, I do not propose to argue that question. But in this state of affairs I might repeat the lan-

guage of William Pitt, in the English Parliament, on the 14th day of January, 1776, on the bill to tax America. Replying to an argument which had been made on the proposition he said:

"I came not here armed at all points with law cases and acts of Parliament, with the statute-book doubled down in dog's ears, to defend the cause of liberty. On such a subject I will not debate points of law, but rely for the defense of liberty on a general principle—a constitutional principle. It is a ground on which I stand firm, and on which I dare meet any man."

I say, sir, in a case like this, when all over a part of our land the right of perhaps more than half a million of freemen, citizens of our country, are trampled by State laws into the dust, it becomes us not as men loving justice and right to stop and talk about constitutional principles. But we should go on as a matter of right; and when we are satisfied that we do right, we will not only have the approval of our own consciences, but in the end it will be demonstrated we will have acted justly. I will read the third section of the fourteenth constitutional amendment. It is as follows:

"SEC. 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two thirds of each House, remove such disability."

This third section, as well as the first section, of the fourteenth constitutional amendment is systematically defied in my own State, openly and defiantly set at naught, and has been so ever since it was proclaimed. At least one half—and I think I do not overestimate it when I say that three fourths—of all the State officers in my own State, executive, legislative, and judicial, to-day are obnoxious to that third section which I have read. Although disqualified by this amendment they are holding offices in defiance of the same. They were elected to the offices which they now hold after this amendment had been proclaimed as a part of the fundamental law of the land, and they assumed the offices which they to-day are in possession of after this amendment had been proclaimed as a part of the Constitution of the land.

More than all that, there is a particular reason why this bill should be passed, and why it should be enforced in the State of Kentucky against those men who thus dare to defy the law. In the canvasses before the people, prior to the election in August last, they openly proclaimed it their purpose not to submit to this amendment. They openly denounced it as no part of the Constitution of the United States; and when they had been elected to these offices and came to take upon themselves the oath of office the Governor of the State himself, in a public speech reported in the press, made after the election, said to those men in substance, "Go on and assume the places to which the people have chosen you, and I will see that you hold office until the terms expire for which you have been elected by the people." With such an assurance as that they went on and assumed those offices. And to-day, while thus acting in violation of law, they are each and every one of them engaged in grinding out the liberties of more than a quarter of a million of freemen in that State, who by the first article of this amendment are declared to be possessed of all the rights of every citizen in our land.

Now, sir, to show the spirit that animates this class of people in my own State, I have selected at random a few extracts from their declarations, which I propose to read that the House may see exactly what class of people are now controlling that State. I read first from a speech delivered by Judge Pryor at a judicial convention in one of the districts in Kentucky in the month of July last. In accepting the nomination Judge Pryor said:

"Fellow-citizens, I desired this nomination. No man in the country ever wanted an office or a posi-

tion more than I wanted this, not to gratify any personal ambition of my own or to satisfy any prejudices I might have against this man or that man, but as a vindication of my right to run for and to hold an office if the people saw proper to give it to me. [Cheers.] And I tell you, my friends, we will hold these offices."

Still further on in his remarks he paid the following tribute to the efforts of those Kentuckians who are assisting in keeping the rebels in power in this State:

"Public sentiment perhaps in its madness six years ago forgot your rights and mine, but to-day the people are awake upon the subject of their own interests. Why, about three years ago, at the close of the war, a confederate (whether the cause in which he fought was right or wrong it is not necessary to discuss here) was hardly received at his door upon his return home. He had to hide to protect himself from a writ from the Federal court. He was not allowed to hold any office in the county, but to-day, they tell me, not only in the State of Kentucky, but all over this glorious Union, that to have been in the confederate service is a recommendation to a man everywhere."

Loud applause followed this last declaration. This language was uttered about the time the New York convention assembled to do honor to and to do the bidding of the leading rebels of the land. It was about the time of the famous declaration of Francis P. Blair, that it would not only be the right but the duty of the incoming administration (assuming the success of the Democratic party) to trample in the dust all the reconstruction acts of Congress. These men there in the State of Kentucky supposed that that was coming to pass, and they were ready to aid in the work; and but for the triumphant success of the Republican party and the election to the Presidency of the great man who headed our armies in crushing out treason these very men who made these declarations would be to-day engaged in the attempt to trample in the dust all these laws enacted by the Congress of the country.

Furthermore, at that same convention J. D. Lillard, a representative in the Legislature of Kentucky, offered himself as a candidate for the position of Commonwealth's attorney, and at the conclusion of his speech, as bitter and malignant as that of Judge Pryor, he used this language:

"That God Almighty may, in His wrath, speed the arrow of death to the base hearts of those who have crushed the liberties of this land and this people, is my living desire, and will be my dying prayer."

And the declaration, like that of Judge Pryor, was received with loud applause. What do these men mean by having "crushed the liberties of this land and this people?" They mean the crushing that the loyal heart of the country, sustained by the strong arm of our gallant citizens, gave to the cause of treason, which these men advocated in the past and are enacting to day.

Such are a few of the declarations made by these men who now hold office in my State, and these compare favorably with the expressions of all those who made canvasses and speeches in that contest. I will read also from a speech delivered by General John S. Williams (a general in the confederate service) at a meeting held in the city of Lexington, in the district which my colleague has the honor to represent on this floor, and at his very home. General Williams is thus reported:

"He prided himself upon his service in a rebellious cause, and boasted of his achievements in furtherance of treason. He said he repented of nothing, asked no pardon for anything, and was sorry only that a failure was made to accomplish a dissolution of the Union. He said another war would soon be upon us, and when it came he would again buckle on his armor and fight for the cause so recently lost."

Such, sir, is the character of the men who now hold in their hands the destinies of that State, and who are engaged in this work of trampling the law and the Constitution of the country into the dust, while we sit here and hesitate as to the question whether we have the right to pass a law to stop that sort of work. It is true that this man Williams was not nominated for the office of Commonwealth's attorney in that district; but this was only because another man who had done more service than he had for the confederate cause and stood higher with them beat him in the

convention. It is equally true that a distinguished relative of a man once Vice President of the United States, and bearing the same name, W. C. P. Breckinridge, who had also done gallant service in the cause of the confederacy, also stood before that convention and was beaten, but was beaten because he had dared to say publicly that he favored the repeal of the laws which keep two hundred and fifty thousand people of the State of Kentucky out of her courts as witnesses.

Now, sir, these people in the State of Kentucky have not changed their opinions in regard to this matter. They hold to-day the identical opinions which they have held heretofore, and are equally bitter and vindictive as then. I will read now, sir, from an article published in the Clark County Democrat on the 14th of January in the present year, and in the district which my colleague [Mr. BECK] has the honor to represent on this floor. Speaking of this question—of this amendment to the Constitution and this proposition for relieving political disabilities—the editorial I have referred to uses this language:

"*Relieving Disabilities.*—When the war closed it was apparent to the leaders of the Radical party that under existing laws none of the confederates could ever be convicted of treason or any other crime, because they had been warranted in their course by the fundamental principles of the American Government. The farce of indicting Jeff. Davis and a few other prominent leaders was gone through with to satisfy popular clamor in the North, but no lawyer of any standing in that section ever expected to hear of their conviction unless it was brought about through the medium of that packed jury which the infamous Judge Underwood assured a congressional committee he could easily empanel. It was plainly to be seen, moreover, that the chiefs of the so-called rebellion would have the confidence of their own people in a greater degree than ever, and that their influence would gradually extend northwardly from an innate consciousness on the part of the Yankee nation that these same men had been right from the beginning. To do away with this apprehended danger the fourteenth amendment, as it is called, was devised, by one of the provisions of which nearly all in the South who ever held any office of profit or honor before the war under the State or Federal Government are ostracised from public life and disabled from holding any position to which an admiring constituency may choose to elect them. This is an outrageous violation of the plainest and simplest provisions of our organic law and the most clearly defined principles of American liberty."

It prescribes a punishment for an offense committed long before its enactment, and deprives the people, who are sovereign, of the precious privilege which they have always enjoyed heretofore, of electing to official stations their representative men. It is claimed by the Radicals that this infamous attempt to rob men whom the southern people honor and respect of their rights has succeeded, but they know full well that such is not the case. It has never been ratified in a proper manner by three-fourths of the States, and even some of those which really gave their sanction have since retracted. No man with a grain of sense believes that the action of the bogus carpet-bag States down South in a matter of so great moment will be allowed to stand after the Republican party has met that fate to which its crimes are so rapidly hastening its steps. The constitutional amendment and the reconstruction laws will then be buried under the same mountain of contempt. Congress is acting on the assumption that the so-called amendment has become a law, and proceeds to relieve from its disabilities those who will eat dirt and kiss the holy Kaaba known to school children as Plymouth Rock. Occasionally, when in a gracious mood, it relents so far as to forgive some good Democrat his sins, and has even permitted an unrepentant ex-rebel major general to become a member of Congress and take his seat by the side of the immaculate loyalists therein assembled. The question of relieving those officials in this State who are disabled by the so-called amendment is now agitating a certain circle in Washington. Dr. Breckinridge, who had near and dear relatives in the "so-called," William Brown, who is said to be a gentleman; General Burbridge, who has some ax to grind perhaps; and other pure bloods favor the proposition; but the active ruling members of the party in this State are bitterly opposed, because yet hopeful of getting the offices themselves.

"The gentlemen now filling the public places in this Commonwealth were selected by the people because believed to hate the Radicals with an especial hatred. If any of them should be relieved by congressional enactment of disabilities which their constituents considered their chief glory and recommendation there will be good ground for suspecting that they have weakened in the faith."

"We know of none who, according to Radical ideas, are entitled to any favors on account of loyalty, and should any be relieved it will be satisfactory evidence to us that either Congress has been deceived or some quondam brother has strayed from the path of rectitude. Let no true Kentuckian ask such a favor of BEN. BUTLER and the scoundrels who now hold the reins of power. There is no fourteenth amendment to the Constitution, and the courts

will so decide after awhile. Be patient. If ousted now, you will be elevated still higher in that good time coming, whose dawning made bright the political sky of Kentucky in 1866, and has since spread to Connecticut, Maryland, Delaware, California, Oregon, Louisiana, and Georgia."

That is the language of a Democratic paper, and reflecting the sentiments of the Democratic party in the State of Kentucky to-day. It was published in the district represented by my colleague who has preceded me on the floor.

I have another article here of the same tenor from the Frankfort Yeoman, published at the seat of government and edited by J. Stoddard Johnson, who had the honor of being sent on here by the electors of the State of Kentucky to bear the vote of that State in the presidential election, in which this language occurs. I read the conclusion of the article, dated June 16, 1869:

"We maintain that said article constitutes no part of the Constitution, for various reasons, and that the courts must so decide; first, because it was not submitted to the States by a vote of two thirds of the Congress of the United States, but only two thirds of a rump; second, because the States of Ohio, New Jersey, and Oregon having rescinded the action of their respective Legislatures ratifying the said amendment before its promulgation, it has not received the ratification of the requisite three-fourths of the States—said three States being necessary to make up that number; and third, because the pretended ratification by the southern States is utterly void and of no effect, the Legislatures ratifying having been elected under the so-called reconstruction acts, which are unconstitutional, and they, constituting the foundation, falling, the whole superstructure must fall also. But enough for the present."

That is the spirit of the party to-day, a party which, as I have said, defies all your laws on this question; a party which refuses to submit to the verdict of the nation, rendered first in the field and then ratified by the voice of the loyal millions at the ballot-box.

I have other extracts which I might read showing the same tone and of the same tenor by other prominent individuals in that State and from their press. The men who made these declarations (some of them) and some of those who were elected to office indorsing and uttering such sentiments, are here to-day before a committee of this House asking that their disabilities be removed; and without ever having retracted a single statement, and without to-day retracting the opinions they held then and now hold, they ask this Congress to relieve their disabilities that they may continue to hold office, fearing the Federal courts, notwithstanding their boasts. When they learn to do justice to others it will be time for us to grant relief to them. I trust the day may soon come when we can with safety relieve them all, but that day should not come until these men not only submit to the laws, which we intend shall not be a matter of choice with them, but until they go to work and aid in seeing that justice is done to every citizen of the State, and that all have enforced through her own courts the same equal and exact justice, and the same equal political rights which as men and as citizens we propose to declare they shall have irrespective of race or color. When they as a party do this, then, for one, and I think I speak the sentiments of the party I represent from my State, I shall be willing to see all their disabilities removed; but, sir, not until then.

Mr. Speaker, all over the State of Kentucky for the last two years we have had outrage upon outrage, murder upon murder, assassinations by night and by day by the Kuklux Klan, or Regulators, or whatever you may choose to call them. In the dead hour of the night they have gone to men's houses, dragged them from their beds, beaten them and murdered them in the presence of their families, taken them out and hanged them; yet, sir, notwithstanding all this, there is not a single case on the record of that State where one single man engaged in this system of outlawry has been either arrested or punished for the commission of these crimes. Can you expect otherwise when the highest officials in the State themselves openly, systematically, and daily violate the laws of the land? First, sir, you must remove those who countenance violations of the law, violations

of the statute, and who themselves trample your own laws in the dust. Until you have done that you cannot expect to have peace in that State, the execution of the laws of the land, or any protection of life and property. I might read many extracts in support of what I have said, and to show that these outrages take place almost within gunshot of the Governor's mansion, and yet nothing is done to prevent them. I will read from an extract from the Frankfort Commonwealth of a late date:

"*Murder.*—On Sunday night last a man named Samuel Davis, jr., who was confined in the Mercer county jail on a charge of counterfeiting, was taken therefrom by a body of 'Regulators,' and hung a short distance from Harrodsburg, on the Lexington turnpike. This man Davis was at one time in the Federal Army. A number of other prisoners in the jail, on charges of murder, &c., were not disturbed."

And another from the Lexington Statesman, January 14, 1869:

"*Kuklux Outrages.—They Whip One Man, and Fire on the House of Another.*—A correspondent writes us from Lincoln county that on the night of Saturday, the 2d of January, some ten or twelve Kuklux went to the house of W. Baker, in that county, and took him off some distance from it and whipped him unmercifully. Baker begged them to end his troubles by shooting him; but the fiends preferred the severer punishment of lashing and lacerating his flesh. Baker is said to be a man of good character, respected by his neighbors. He is a Republican. After whipping Baker they went to the house of Jesse Davis, in the same county. A dog gave the alarm and aroused Davis. They shot the dog, and asked Davis to come out, representing themselves as hunters who had lost their way. Davis refused to come out, but invited them to come in the house. This they would not do; and seeing that Davis would not come out they commenced firing upon the house. One of the balls went through the door and struck the bedstead that contained Davis's little children. After the firing ceased, Davis lit a candle and again invited the fellows in, being now prepared for them. They refused to accept the invitation."

I have many other extracts, all showing the truth of the declaration of what I have said, but it is unnecessary to insert them.

Mr. Speaker, there is no law in my State to protect the two hundred and fifty thousand freemen of color who are there. I wish to read one extract from the last annual message of the Governor to show what is the spirit which animates him. Referring to a case of murder by two citizens in Lewis county, Governor Stevenson says in his message to the General Assembly:

"But recently two persons, John Blyew and George Kinnard, were arrested and indicted in the Lewis circuit court of Kentucky for alleged murders committed by them in Lewis county upon the 30th of August, 1868, a place over which the jurisdiction of the United States did not extend, and while so in custody of a State court of competent and unquestioned jurisdiction to try them, these two prisoners were, by the coercive process of the Federal court, forcibly taken from the custody of the State authority, and against its consent, to Louisville."

Here, sir, we have the declaration of the Governor of the State of Kentucky, in his official message, that your jurisdiction does not extend over Kentucky. It is in regard to the case of an atrocious murder in Lewis county, Kentucky, and this is only one example of the many that have occurred in that State during the last two years. The house of an old man was entered at night by these two men, Blyew and Kinnard, and the old man and his wife were murdered in the most atrocious and brutal manner and without any cause whatever. A small boy of about eleven years of age, a grandson, perhaps, of that old, worthy, and respectable couple, the man and his wife, was also beaten by these two men and left for dead. Not another human being witnessed the murder except these persons and one little child, who was concealed and was too young to testify. The only testimony that could be had in regard to the murder was that of the colored boy, whom the murderers left for dead but who recovered. It occurred in my own district, and I know the circumstances. By the laws of the State of Kentucky had there been twenty colored men present at that scene of death there is no court in the State where one of them could have opened his mouth to testify against the murderers. In defiance of your fourteenth amendment, by laws enforced by men elected and holding office against its provisions, no man of color who might have witnessed that

murder could have been heard in the courts of Kentucky. The perpetrators of the foul deed were white men, and could not be convicted in the State courts, because no person of color could testify against them. But your Federal courts came to the rescue. The men were taken to Louisville, tried and convicted in the United States circuit court, and condemned to death, and but for the fact that the State of Kentucky, under the advice of her Governor, employs counsel to appeal to the Supreme Court of the United States, they would have suffered the penalty of the law ere this.

Now, sir, the spirit of these colored people of Kentucky is everywhere one of submission and obedience to law. They are far from being arrogant. They live there at their peril. To-day I can walk in broad daylight into the cabin of any colored man and rob him of all he possesses in the presence of all his family, and there is no court of Kentucky that will convict me; to-day I can enter the church where one of the colored ministers preaches to his flock, and in the presence of his own congregation drag him from the altar and murder him on the spot, and there is no court of Kentucky that can convict me unless a white person saw the deed. It is against such laws as these, against the men of Kentucky who uphold these infamous enactments in direct conflict with your Constitution and your laws, that this bill is aimed.

I cannot do better in presenting the cause of these two hundred and fifty thousand people of my own State than to read a petition presented by a mass convention of these people, held at the city of Lexington in the month of November, 1867, to the Legislature, asking only the right to testify in the courts of justice. I read it because the language is perhaps better than I can use:

"Much of the property now constituting the aggregate wealth of Kentucky has been acquired or improved, in whole or in part, by our labor. None know better than the citizens of this State how we have protected and cared for both the property and the lives of our former owners. Suddenly freed by act of war we were mostly thrown upon our own resources, without property or means of protecting what little we now have, the product of our own toil and care. It is larceny to steal it from us; it is murder to feloniously deprive one of our people of his life. Is there any member of your honorable body who would offer inducement to crime, outrage, and lawlessness by saying that the white man's property and the white man's life are protected under our law, but the property and the life of a black man are unworthy of protection, and beyond the pale of our law? We hope not; but this is what the law now says, for we can be despoiled of our property, our families may be outraged, our school-teachers shot down at their desks, and our ministers murdered in their pulpits by any person lawless enough to do so, and the sad history of the past few years must convince you that many men, thus lawless, live in Kentucky, and we have no remedy in the courts, if the only witnesses happen to have African blood in their veins, no matter how truthful or intelligent they may be. On many of the lonely farms of our State, in the absence of the owner the wife and daughter are the only white persons remaining."

"His property may be stolen, his wife and daughter may be outraged and murdered during his absence, in the presence of every colored servant on the place, by a white man, and the villain go free of punishment if no white man witnesses the awful crime. We believe that much good will accrue, both to the white and the black people, when this right of testimony is given to our people in all cases; and thus society will be more effectually protected from crime of every character than it is at present. We do not expect by our rights of testimony to influence wrongfully the action of any court or jury, but simply desire the right of any of our people to go before any court or jury and testify to matters within their knowledge, the testimony to go for what it is worth under the circumstances attending every case. And that equal and exact justice may be administered to both white and black, we ask that all disqualifications on account of race or color, in so far as they apply to testifying, be removed, and that the plaintiffs and defendants in every action, whether white or black men, shall be made competent witnesses, with the right to testify in their own behalf, subject only to such exceptions as are made for white men."

"For this simple act of justice, as a poor and oppressed race, we appeal to you by every consideration of civilization and love of right. And for your favorable action will ever pray."

Such was the humble appeal of these people, citizens of this country, and under the Constitution and laws entitled to all the rights which we ourselves possess, made to the Legislature of Kentucky in 1867. That Legislature has sat through two winters at the capital of the State,

and never so much as a response or a movement has been made by any Democratic member of the Legislature in the State looking to the granting of this simple right asked by these downtrodden people. Such is the state of affairs there. Then, sir, I say it behooves us, as an act of justice to these men whom we have declared entitled to all the rights and privileges of citizens by our law, to set aside the men who now enforce these wrongs against them.

One word more, and I shall conclude. I have spoken chiefly in regard to the third and fourth sections of the bill reported from the Committee on the Judiciary. I have a word to say in regard to the first part of the bill, that relating to the right of suffrage. As I have said, I have no constitutional arguments to make on this matter. If I ever had any doubts in regard to the constitutionality and the right of Congress to legislate on the subject of suffrage, as I confess I have had, all that doubt was removed when this fourteenth amendment was declared part of the fundamental law of the land; and I am not sure but the doubts which I had upon the question were doubts which I ought never to have entertained. But, sir, when this fourteenth amendment was adopted, which made all these people citizens, and declared that they should be entitled to all the rights and privileges of citizens, I had no longer any doubt as to the constitutional right of the Congress of the United States to declare that these men shall be voters in any and every State on the same footing with white men. You cannot in any manner so forcibly—I might say you cannot in any manner at all—secure to a man the protection of his rights and immunities in any other way in a free republic like this than by giving into his hands the ballot.

I have no further constitutional argument to make; but as a matter of justice, as a matter of right, as a matter necessary to enforce that which is already a part of the Constitution of our country, I give my voice and my vote for this measure, believing that while we may secure the same ends by the amendment which is proposed we shall secure it more efficiently by the passage of this bill. In so doing we shall do an act of justice, which, as a party pledged to the rights of man, we owe to every citizen of this land. I believe, furthermore, that every day we hesitate to do this simple act of justice, we, as the representative body of the nation, put ourselves in the position before the world of having declared in favor of a principle which we have not the courage to carry out.

Mr. MILLER addressed the House. [See Appendix.]

Mr. BURR. Mr. Speaker, it has been truly said that the Republican party is a party of progress. Whether its progress is in the direction of the greatest good of the greatest number is quite a different question. On the limitless subject of reconstruction the party has made startling advances from one position to another, pausing at each successive advance only sufficient time to call its stragglers into line, satisfy the timid and wavering by declaring the given step a finality, and thus, having restored confidence among its own adherents, prepare the way for still more alarming advances in what it pleases to term the path of progress.

From the moment when the proclamation of emancipation was under consideration among politicians, and being by them urged upon President Lincoln, down through a series of events, including the arming of negroes as soldiers, their recognition as citizens, the bestowal upon them of the elective franchise in the States lately in rebellion, their elevation to office, and assured control of those States by means of white disfranchisement, the exclusion of those States from practical union with the others until acquiescence could be secured in these revolutionary measures, until the present moment, not a plan has been proposed or a measure advanced on the subject of reconstruction without a solemn assurance by the

party to the people that the one plan or measure was the only one intended or upon which the public would be called to pass its sanction. Yet ever as each advance has been made, acquiescence secured, and the public led to believe that all was well, some one more bold and adventurous than his fellows, or some group constituting the vanguard of the grand political army, has always been ready to discover the necessity of another advance, and on each occasion the announcement has been made that the "life of the nation" was in peril and the peril could only be averted by the sanction of new and untried measures and adoption of experiments often urged outside of the Constitution.

The distinguished gentleman from Massachusetts, [Mr. BOUTWELL,] in his speech advocating the pending bill and amendment, declares with most commendable candor that "the Republican party must move forward and consummate the great work it has undertaken." What that great work is he informs us in another sentence, when he says:

"Sir, I doubt not that nine tenths of the Republican party of the country are in favor of manhood suffrage. One tenth of the party are not in favor of it, and they constitute the great obstacle in the way of perfecting this benign measure. For one, I am in favor of taking the responsibility of the position which we occupy. We are responsible for universal suffrage as one of the crowning measures of an administration of eight years' duration, to be continued for four years by the judgment of the people already pronounced. The great majority of the people—and in this connection I will say that by 'the people' I mean those who on the 3d of November last supported General Grant for the Presidency—the great majority of them expect of us the consummation of this plan."

Sir, according to this declaration the great mass of the Republican party expect the passage of a law by Congress to carry negro suffrage into all the States North as well as South. It is not my province to answer for the Republican party, nor assume what it should expect, but if it does expect what the gentleman from Massachusetts has declared, it must be because it has at last learned to expect just what its leaders promise to avoid. Why, Mr. Speaker, only last May, when the party assembled by its delegates in Chicago and nominated General Grant, it announced its political creed, the very first article of which congratulates the country on the assured success of the reconstruction policy of Congress. Did the reconstruction policy of Congress then demand an extension of suffrage to negroes in Illinois and Ohio; and did that convention promise or propose to assume new ground upon the subject? Let us see if any one of their declarations in that political creed gave room for the expectation which "the people" are supposed to share on this subject. In the second resolution the party declared as follows:

"II. The guarantee by Congress of equal suffrage to all loyal men at the South was demanded by every consideration of public safety, of gratitude, and of justice, and must be maintained; while the question of suffrage in all the loyal States properly belongs to the people of those States."

Sir, it is as I said a moment ago, apologizing for what the party had done, but promising forbearance in the future. That convention appealed to the gratitude and magnanimity as well as the fears of the people to indorse what had been done in giving the negroes unlimited political power in the South, and in order to avoid defection in the ranks and hold the wavering in their party allegiance the convention further declared its policy as to the North by adding the declaration that "the question of suffrage in all the loyal States properly belongs to the people of those States."

Sir, if I remember aright the gentleman from Massachusetts was content with that platform. Upon it he went before the people advocating the election of the nominees of that convention, and in voting for those candidates he indorsed the declaration of his party, that the question which he now proposes to settle, or rather to unsettle, by congressional act, properly belonged to the several States, and should only be decided by them, each acting for itself. Sir, the nominees of that convention stand before the people of the United

States pledged to maintain the rights of each State to regulate the question of suffrage for itself, except in cases where the people had by rebellion forfeited all political rights according to the theory of the party, and only "lived and moved and had their being" by the merciful permission of the Congress of the United States. When the distinguished gentleman who for years has presided with such signal ability over the deliberations of this body accepted a nomination from that convention for still higher honors than those he has so worthily won in this Hall, he pledged to his followers and supporters the influence of his high position to prevent just such legislation as is now proposed, by indorsing the proposition that, except in rebellious States, the question of suffrage properly belongs to the States themselves.

But, Mr. Speaker, inasmuch as the distinguished gentleman who opened the discussion in favor of this measure declares that "universal suffrage is one of the crowning measures of an administration of eight years' duration," thereby assuming its indorsement by President Lincoln during his lifetime, it may not be inappropriate to recur to some of his expressions upon this subject. Among his earliest utterances on this question were his declarations in a joint discussion with Senator Douglas at Charleston, Illinois, while they were rival candidates for the United States Senate in 1858. In his speech on that occasion, he says:

"I will say, then, that I am not, nor ever have been, in favor of bringing about in any way the social and political equality of the white and black races; that I am not nor ever have been in favor of making votes or jurors of negroes, nor of qualifying them to hold office, nor to intermarry with white people; and I will say in addition to this, that there is a physical difference between the white and black races which I believe will forever forbid the two races living together on terms of social and political equality. And inasmuch as they cannot solve while they do remain together, there must be the position of superior and inferior, and I as much as any other man am in favor of having the superior position assigned to the white race."

Such were his views when by the unanimous voice of his party in Illinois he was called to dispute senatorial honors with one whom he had designated as the "Napoleon of American politics." But if it be assumed that his views were modified or his sentiments changed by the war or its incidents let me refer to a much later declaration. On the 14th of August, 1862, a delegation of free men of color waited upon President Lincoln, and an interview was held, which is described in McPherson's History of the Rebellion as follows:

"Having all been seated, the President informed them that a sum of money had been appropriated by Congress and placed at his disposal for the purpose of aiding the colonization in some country of the people, or a portion of them, of African descent, thereby making it his duty, as it had a long time been his inclination, to favor that cause. 'And why,' he asked, 'should the people of your race be colonized, and where? Why should they leave this country? This is perhaps the first question for proper consideration. You and we are different races. We have between us a broader difference than exists between almost any other two races. Whether it is right or wrong I need not discuss; but this physical difference is a great disadvantage to us both, as I think. Your race suffer very greatly, many of them, by living among us; while ours suffer from your presence. In a word, we suffer on each side. If this is admitted it affords a reason at least why we should be separated.' 'It is better for us both, therefore, to be separated.'"

Such were the last declarations of Mr. Lincoln on this subject. He declares a "broad difference" between the races—this bill assumes equality. He favored a separation—this bill proposes a perpetual union. He insisted that both races suffered from contact—this bill anticipates a joint exercise of political power by whites and blacks throughout the Union, terms such joint exercise the crowning measure of reconstruction, and places the whole future of our country in the partial control of an inferior race.

But, sir, my opposition to this bill is based not so much upon the fact that it vests full political rights and privileges in an inferior race as upon the more important fact that by it Congress arrogates all power over what our

Constitution regards as the proper subject of State action exclusively; and rising above the views of individuals and the pledges of party, let us examine first the question, has Congress the constitutional right to pass this bill? Assuming that the argument of the gentleman from Massachusetts in favor of this exercise of power presents the subject in its strongest light, I find him claiming to derive that power from three several clauses in the Constitution, each of which he claims embodies a grant of power in the direction he proposes to act. Let me very briefly examine each:

Article one, section four, reads as follows, and is the clause first relied upon as a grant of power to Congress:

"The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but Congress may at any time, by law, make or alter such regulations except as to the places of choosing Senators."

This clause undoubtedly gives to Congress the right to make or to alter regulations in the States as to the time and manner of electing members of Congress—nothing more. The whole article treats of the elections, returns and qualifications of members of the two Houses of Congress, and the mode of organizing those Houses and conducting business. It provides for two Senators from each State, and designates the number of Representatives to which each State would be entitled until the next enumeration of inhabitants. For the purpose, as is claimed, of perpetuating the Government and securing the continued existence of both branches of Congress, the authority was given to Congress to "make or alter" regulations regarding the election of its own members except as to the places of choosing Senators. But from what portion of this section is it claimed that Congress derives a right to prescribe the qualification of voters in Illinois? We are told that it results from or is connected with the right to make or alter regulations as to the "manner" of holding elections for Senators and Representatives. The distinguished gentleman from whom I have already quoted, in commenting on the "manner" of elections, says:

"It includes, as I maintain, everything relating to an election, from the qualification of the elector to the deposit of his ballot in the box."

If that view of the extended meaning and significance of the word "manner" be correct, then the whole sentence is liable to an objection never before urged against any part of our Constitution. I have been taught to regard that instrument as embodying the perfection of human reason, as expressing in few words all it intended and avoiding tautology and redundancy in language. But if "manner" in this clause includes "everything relating to an election," then manifestly it must include both the time and place of that election, for both are essential ideas in connection with the whole subject. This rule of interpretation throws ridicule upon the instrument itself, and is a reflection upon the wisdom of our fathers in framing it. But it is asserted that debates in the several State conventions on the question of ratifying the Constitution afford means of interpretation of given clauses of that instrument, and that such debates show that the uniform opinion existed that by this clause Congress would have the right to prescribe the qualification of voters in the several States as connected with the manner of electing Senators and Representatives.

Let us understand that at the time the several States acted upon the Constitution the public mind was divided on the question of its adoption, and those opposed to its adoption based their objections mainly on the allegation that in the instrument the independence and identity of the several States was not sufficiently guarded. Fearing the exercise of dangerous powers by Congress, and jealous of the rights of the States as sovereigns, they predicted that under various clauses Congress would exercise powers not really intended to be granted; and their predictions that Congress would claim the right to do certain things

is now distorted into an admission of the absolute right in Congress to do those very things which they, in fear, predicted. When it was proposed to arm negroes and place them in the army as soldiers those objecting to the measure—not exclusively Democrats—based their objection in part upon the assumption that those who made them soldiers during the war would claim that justice would require that they be vested with political rights after the war. Did that objection admit in advance the justice and policy of enfranchising them at the close of the war? By no means. During the pendency of the so-called fourteenth amendment, which assumed to make citizens of negroes, Democrats predicted that in the event the amendment should be adopted those advocating it would insist that one of the "privileges and immunities" of citizenship was the elective franchise. And now that such prediction has been verified, are we estopped from denying that such claim on the part of the advocates of that amendment is just and well founded in law and fact?

These questions indicate the position and views of those who predicted in an early day of our Government that Congress would ultimately wield certain powers to which they objected. In each case the prediction has been verified, and in each case the prediction has been pointed to as a justification in advance of the very thing to which the objection was made.

But, sir, we need not resort to doubtful language or impassioned utterance to determine how our fathers viewed this question of power under the clause in contemplation. I will show what was meant by the word "manner," as used in this clause, and it will be found by high authority to mean just what the honorable gentleman from Massachusetts said it did not mean. One of the best, if not the very best of American writers on the Constitution, its interpretation, limitations, and restrictions, was Justice Joseph Story. In his comments upon the clause in question he reviews the argument of those advocating and opposing the Constitution, or this part of it, and continues:

"Such were the objections, and such was the reasoning by which they were met, at the time of the adoption of the Constitution. A period of forty years has passed by without any attempt by Congress to make any regulations, or interfere in the slightest degree with the elections of members of Congress. The States now regulate the time, the place, and the manner of elections, in a practical sense exclusively."

By this extract it will appear that in his judgment this right in Congress, whatever it might be, related to the election of members of Congress exclusively. But he defines what he understands by the "manner" as follows:

"The manner is very various, and perhaps the power has been exerted [by States] in some instances under the influence of local or party feelings to an extent which is indefensible in principle and policy. There is no uniformity in the choice or in the mode of election. In some States the representatives are chosen by a general ticket for the whole State; in others they are chosen singly in districts; in others they are chosen in districts composed of a population sufficient to elect two or three representatives; and in others the districts are sometimes single and sometimes united in the choice. In some States the candidate must have a majority of all the votes to entitle him to be deemed elected; in others (as it is in England) it is sufficient if he has a plurality of votes. In some of the States the choice is by the voters *viva voce*; in others it is by ballot."

Such was the view of this eminent writer as to what was embraced in the expression "manner of electing;" and it will be noticed that while he states the great diversity of manner in the different States, he refers only to the districts within which elections are held, the proportion of votes required by various States to elect, and the two ways of casting those votes by the elector.

To illustrate, let me refer to my own State. Before the census of 1860 was completed Congress apportioned to Illinois thirteen representatives. The State Legislature provided thirteen districts wherein they should be severally elected, but after the adjournment of the Illinois Legislature, and on full review, Congress decided that the population of that State entitled it to fourteen Representatives. The session of

the Legislature would not occur in time to correct the apportionment of congressional districts, and the exigencies of the period, as well as the right of the State, required a full representation. Under this right "to regulate the manner of electing Representatives" Congress, adopting or rather not disturbing the thirteen districts created by State act, provided by joint resolution for the election of the fourteenth member by vote of the whole State. It followed State action, so far as the State had acted at all, and where from lack of opportunity the State had not acted it proceeded in harmony with and in obedience to all the State regulations, never once assuming to regulate either the qualification of the voter or the deposit of the ballot.

Why, Mr. Speaker, with the great diversity then and now existing in different States as to the qualifications of voters, Justice Story would hardly omit to refer to that fact had he deemed that question embraced in the expression "manner of electing." We, then, are authorized to conclude that Story dissents when the learned and eloquent gentleman from Massachusetts asserts that the term "manner" embraces everything from the qualification of the voter to the deposit of the ballot. But if this quotation from Story be deemed negative in its character, I refer to his affirmative statements in another part of his work, where he treats directly of the qualification of voters. Section two of article one reads as follows:

"The House of Representatives shall be composed of members chosen every second year by the people of the several States; and the electors in each State shall have the qualifications required for electors of the most numerous branch of the State Legislature."

After commenting upon the first clause in this section the learned writer discusses the qualification of voters, and vindicates the wisdom of our fathers in leaving that to be determined by the several States, and in this connection uses the following emphatic language:

"When the revolution brought about the separation of the colonies and they formed themselves into independent States a very striking diversity was observable in the original constitutions adopted by them, and a like diversity has pervaded all the constitutions of the new States which have since grown up, and all the revised constitutions of the old States which have received the final ratification of the people. In some of the States the right of suffrage depends upon a certain length of residence and payment of taxes; in others upon mere citizenship and residence; in others upon the possession of a freehold or some estate of a particular value, or upon the payment of taxes or performance of some public duty, such as service in the militia or on the highways. In no two of these State constitutions will it be found that the qualifications of the voters are settled upon the same uniform basis. So that we have the most abundant proofs that among a free and enlightened people, convened for the purpose of establishing their own forms of government and the rights of their own voters, the question as to the due regulation of the qualifications has been deemed a more matter of State policy, and varied to meet the wants, to suit the prejudices, and to foster the interests of the majority."

With this understanding the clause under consideration was adopted by unanimous vote in the convention of 1787, and in commenting upon it the Federalist makes the passing remark, "It must be satisfactory to every State, because it is conformable to the standard already established by the State itself."

The next clause relied on by those claiming this power is as follows:

"The United States shall guaranty to every State in this Union a republican form of government."

Having on a former occasion given my views of this clause I will be very brief in considering it here. It is assumed by those advocating congressional power over States that the word "guarantee" is used in the sense of making, erecting, building. This error leads to others still more grave, which would sanction a tyrannical usurpation on the part of Congress in entering into a State, and under pretense of guarantying a republican form of government impose one repugnant to all the ideas of our fathers. The truth is, when properly understood, this clause is really a safeguard against intervention from abroad as well as from the effect of violent outbreak at home. The States as such existed at the time this clause was adopted. Each had a form of government, and in yielding in part their sovereignty to a gen-

eral government by express grant and enumerated powers they naturally desired some assurance that the power they were yielding for the general good would not in turn be used for the destruction of their preëxisting State governments. Being called on to surrender the power to make war or keep armies or create fleets, the States respectively desired some assurance that in case their existence or either of them should be threatened some Power would, if necessary, make war in their defense; in other words, defend their governments to them as they then existed, or as they might thereafter see fit to change them. They did not wish Congress to make or create governments for them, but only to guaranty, and the very term "guarantee" presupposes the existence of the thing to be guaranteed. That I am right in this construction I will show by the same author I have heretofore quoted. After vindicating the necessity of the clause in question, he states in form of a question the strongest view our antagonists urge, and himself proceeds to answer it:

"It may be asked what need there could be of such a precaution, and whether it may not become a pretext for alterations in the State governments without the concurrence of the States themselves. These questions admit of ready answers. If the interposition of the General Government should not be needed the provision for such an event will be a harmless superfluity only in the constitution. But who can say what experiments may be produced by the caprice of particular States, by the ambition of enterprising leaders, or by the intrigue of foreign Powers? To the second question it may be answered that if the General Government should interpose by virtue of this constitutional authority it will be of course bound to pursue the authority. But the authority extends no further than to a guarantee of a republican form of government, which supposes a preëxisting government of the form which is to be guaranteed. As long, therefore, as the existing republican forms are continued by the States they are guaranteed by the Federal Constitution. Whenever the States may choose to substitute other republican forms they have a right to do so, and to claim the Federal guarantee for the latter. The only restriction imposed on them is that they shall not exchange republican for anti-republican constitutions; a restriction which, it is presumed, will hardly be considered a grievance."

By this, sir, it will be seen that the continued governments of the States under their own chosen forms was secured by this very clause, and in adopting it it was pledged to those States not only that Congress would not itself interfere with their several State governments, but would neither permit foreign or domestic foes to interfere. Such was the nature of the guarantee, and properly considered it pledged Congress against just such intervention in State affairs as this bill provides.

But, sir, the next argument is that this amendment is necessary to "preserve the life of the nation." Great God! what outrages have not been perpetrated under pretense of "saving the life of the nation!" Under that pretense liberty of speech has been denied, the press has been muzzled or perverted, the right of the citizen outraged, and his person incarcerated in dungeons in violation of law; and now, under the same pretense, the States which furnish the foundation upon which the superstructure of Union is based are to be degraded to the lowest level for the mere sake of party and to secure party results in future. "The life of the nation!" Why, sir, the rights of States constitute the life of the nation, not the pernicious doctrine of State's rights asserted by Massachusetts in resisting the fugitive slave law, nor by South Carolina in asserting control of Federal property within the limits of the State, but the doctrine based on a balance of power admitting variety, yet maintaining harmony throughout the whole system. It is the doctrine asserted by the State of Illinois in her sovereign capacity, adopting a State motto: "State sovereignty; national Union." Speaking of Illinois reminds me of the last test vote in that State on the subject of political rights to the negro. The proposition was squarely submitted to the people, "Shall negroes have the right of the ballot in Illinois?" and by over one hundred thousand majority our people answered, "No."

That was in 1862. Has any event happened since 1862 to satisfy this Congress that Illinois is more ready for mixed suffrage in 1869 than

in 1862? Will our fourteen Representatives of the sovereign people of Illinois here to-day violate their last authoritative instruction upon this point under pretense that they are aiding Massachusetts to save the life of the nation, or will these fourteen Representatives unite as one man in obedience to the almost unanimous voice of Illinois, and assert in the language of Douglas, "This is a white man's Government, made by white men for white men and their descendants forever," and indorse all that is correct in the second plank of the Chicago platform by declaring again that suffrage is a question properly belonging to the States? But to recur for a moment to the expression used by the eloquent advocate who leads in favor of this bill, [Mr. BUTWELL,] "preserving the life of the nation." It seems to me, sir, he has confounded the nation with the Radical party. I can readily understand that this measure is needed to save the life of the Radical party; if, indeed, even this can save it; and I think that is really the meaning of the gentleman himself, for in the eloquent peroration of his speech, in appealing directly to his party to rally to the support of the bill, he admonishes them that there is for the party "power on one side and ruin on the other."

But, sir, it is urged with great confidence by those advocating this bill that if Congress has never possessed this doubted or disputed power until of late it certainly has a clear and express grant of that power in the so-called fourteenth article of amendment. Before considering that article, however, let me remark how passing strange it is that no considerable number of our opponents agree as to the source from which this disputed power is, if at all, derived. If it be in Congress it must be there by virtue of an express grant on the one hand or a clear prohibition of such power in the States by the Constitution on the other, for by the tenth article of amendment it is asserted that—

"The powers not delegated to the United States by the Constitution nor prohibited by it to the States, are reserved to the States respectively or to the people."

Of those in the Republican party who claim the power to have been granted in the Constitution hardly two will agree as to which clause grants it. One says one section, another a different section; still another claims that it is derived from the joint operation of several clauses or sections combined, and not a small proportion of these theorists, ambitious of results but reckless of means claim that the right "exists in the nature of the case, and is based on the right of a nation to save its own life." Before this argument "outside of the Constitution" can have force it must be found or demonstrated, first, that the "life of the nation" is imperiled by the refusal of Illinois, Ohio, and other States to give the ballot to the negro; and second, that congressional intervention in the affairs of those States without their consent, and in violation of constitutional limitations and party pledges alike, will save the imperiled life of the nation, and that nothing else will.

But, sir, this appeal to aid in saving the life of the nation is only, as of old, a cry to rally the party followers and bring the stragglers into line. I myself believe the life of the nation to be imperiled, but its danger is from too much legislation. The world is governed too much. We have for years been trying to make statutes supply the lack of brotherly love among our people. Pains and penalties have been the strong incentives to patriotism, and equality with the negro has been the reward for that patriotism when proved to exist. "Let us have peace," says the President-elect. Every true heart echoes the invocation. In a political sense, what part of the Union is now in a condition of peace? Only those portions where negroes are denied the ballot. Where is strife, contention, discord, and anarchy? Radicalism answers in every State of the South where negroes are permitted to vote by law of Congress.

If, then, Congress has by "regulating" ten States produced or perpetuated strife in each will the same experiment bring peace in ten others? If one third of the Union be prostrated by a given system, is it not marvelous to believe that that same system extended to all will "save the life of the nation?" If those who use this argument wish credit for both sense and candor, let them modify the expression and talk of "saving the life of" the Radical party, by means of this unconstitutional action, distasteful to every man who is not ashamed of Anglo-Saxon origin. But, sir, does not every gentleman know that the period of unpunished infractions of the Constitution has gone by? During the war the great masses of the people of northern States were so intent in conquering the rebellion that they passed unheeded many warnings full of significance, and tolerated many practices by those in power which were equally dangerous to popular rights and constitutional government as was the rebellion itself. But now approaches a day of reckoning, and let politicians beware of popular condemnation when, by playing upon party passion, they attempt to prompt an invasion of reserved rights and a desecration of those time-honored principles which passed without challenge or cavil until touched by the polluting finger of a faction that would blot out all reserved rights of States, and over the ruins and embers of dismantled, dishonored, and destroyed States would erect the dazzling throne of consolidated empire. Let the following earnest protest against the exercise of forbidden or even doubtful powers by Congress be heeded as uttering on that subject the sentiment of every Democrat, and according to the press a large majority of Republicans in my own Illinois.

In November last Major General John M. Palmer was elected Governor of our State. On the 11th day of this month he was inaugurated. No one suspects Governor Palmer of having ever been too deeply tintured with the doctrine of State rights. During the war it was by many thought that he ignored the existence of any right whatever in a State as an independent organization. In his inaugural message, referring to the pending attempt of Congress to regulate or organize corporations in the States, he uses very earnest language; and in his protest against exercising the power, even if its existence be admitted, he is crystalizing, even in the Republican mind of his State, a higher, nobler, more correct, and patriotic view than prompted the introduction of this bill and the attempt to exercise still more dangerous powers for a still more objectionable purpose than those condemned by Governor Palmer in the following language:

"Now that the war is ended and all its proper objects attained, the public welfare demands a recurrence to the true principles that underlie our system of government, and one of the best established and most distinctly recognized of these is that the Federal Government is one of enumerated powers." "It is essential to the usefulness of the State governments that their just authority should be respected by that of the nation. Already the authority of the States is in a measure paralyzed by a growing conviction that all their powers are in some sense derivative and subordinate, and not original and independent. The State governments are a part of the American system of government. They fill a well-defined place, and their just authority must be respected by the Federal Government, if it is expected that their laws will be obeyed. A frequent recurrence to the fundamental principles of government is essential to civil liberty, and in this view I have thought it proper to invite your attention to these subjects."

"It is the clear duty of the national Government to decline the exercise of all doubtful powers when the neglect to do so would be to bring into the fields of legislation already occupied by the States, and thereby raising embarrassing questions, and presenting a singular and dangerous instance of two jurisdictions claiming the right to control the same class of subjects, and creating rival corporations with differing powers. Arguments may be found for the exercise of this class of powers by Congress, but they are greatly overbalanced by the evils it would produce."

How full of meaning these sentences at this particular time! How like "apples of gold in pictures of silver" some of his declarations! "One of the best established and most distinctly recognized" of the principles that

underlie our system of government is that the "Federal Government is one of enumerated powers." And again:

"The authority of the States is paralyzed by a growing conviction that all their powers are in some sense derivative and subordinate, and not original and independent."

If, in Governor Palmer's view, there was danger and mischief in the attempt to regulate corporations in States by act of Congress, because of liability to a collision in jurisdiction, how much more clear and positive would have been the danger in his judgment where the interests to be affected are vital and involve the very existence of the State, and where the conflict in jurisdiction is not merely liable, but absolutely certain and unavoidable? So far as the exercise of this power is claimed under the so-called fourteenth amendment, I have little to say. When that article shall have been pronounced by competent authority part of our Constitution, its text may be of importance. At present I have only to compare text with text. The first section of that article is as follows:

"Sec. 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the States wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws."

If this clause be operative at all it is simply declaratory of the condition of certain classes therein named. The prohibition against any State making or enforcing laws which shall abridge the privileges or immunities of citizens of the United States is of no moment until it be shown that some State has proposed or now proposes to do so. In this view the question arises, does this section secure the elective franchise to the negro in the several States? Did any one of the advocates of that amendment, while it was pending here, claim such a construction? So far as I can ascertain they did not. The public were informed by them, and by speakers who advocated that amendment on the stump, that its intention and effect was to permit every State to do as it might elect on that subject, with the understanding that such States as refused suffrage to the negro would be curtailed in representation to that extent. It was held that the whole article affirmed the right of a State to act on suffrage, and that because they would not all act alike it was necessary to equalize representation. To accomplish that equality the second section was submitted, as follows:

"Sec. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State."

Suppose now these two sections be admitted to be parts of the Constitution, may Congress under any power derived from them, when construed together, declare that negroes shall vote in Pennsylvania? No! What, then; is the whole article void? By no means; but if the article be valid Congress may, under the two sections, say to a given State, "The negroes constitute one half your population; you have a given number of Representatives in Congress; that number is based on your whole population; if you see fit by State law to disfranchise one half of your inhabitants, we, by virtue of the power to apportion Representatives, will decrease your representation to one half of the present number." That, and that only, is the extent of power resulting from the clause in question if there be any validity in the view of those who hold that the General Government

is one of delegated and enumerated powers; and if there be any vitality in the tenth article of amendment, which declares that—

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Before Congress can act on any subject it must appear to be either, first, "delegated to the United States by the Constitution," or second, "prohibited by it to the States."

Having already considered the delegated powers, let me briefly refer to those which the States are prohibited from exercising. With the exceptions already noticed the prohibitions on States are all embraced in the tenth section of the first article. There, in plain, bold, language, requiring no interpretation, it is declared that—

"No State shall enter into any treaty, &c., grant letters of marque, and reprisal, coin money, emit bills of credit, make anything but gold and silver coin a tender in payment of debts, pass any bill of attainder, *ex post facto* law, or law impairing the obligations of contracts, or grant any title of nobility."

Other prohibitions are embraced in the section under consideration, and it is observable that among all the inhibitions on State action none in the body of the Constitution can be even so tortured as to refer to the question of suffrage within the States.

And now, having briefly as I could given my objections to the bill, I close without reference to the proposed amendment, also pending. Upon the last we can talk before the people. I can but hope that we will be spared the humility of seeing this bill pass, and protest in the name of my people against Federal intervention in the domestic affairs of the several States.

Mr. PAINE obtained the floor, but yielded to Mr. KELLEY, who moved that the House adjourn.

The motion was agreed to; and thereupon (at ten o'clock and twenty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. ARNELL: The petition of C. B. Davis, of Tennessee, for relief from political disabilities.

By Mr. AXTELL: The petition of J. G. Morrison, Niel McSwain, and others, of Snelling, California, praying for the establishment of a post route from Tuolumne City, Stanislaus county, to Millerton, county seat of Fresno county.

By Mr. BEAMAN: The petition of C. H. Parshall and 81 others, citizens of Detroit, Michigan, praying for the passage of the civil service bill, &c.

By Mr. FARNSWORTH: The petition of Charles A. Russell, of Texas, for removal of disabilities.

By Mr. FERRISS: A petition of citizens of New York, that a bronze medal commemorating the preservation of the Union be struck and distributed to the officers, soldiers, sailors, and marines who were honorably discharged from the Union Army, and to the children of those who died in the service of the Union.

By Mr. KERR: A statement in the case of the application of the widow and children of the late Captain John S. Davis, of Indiana, for a pension.

By Mr. LAFLIN: The petition of M. R. Carter, of Annapolis, Maryland, in favor of increase of pay of paymaster's clerk at Annapolis.

By Mr. LINCOLN: The petition of Elizabeth Knowles, for relief.

By Mr. LOAN: A petition of citizens of Holt and Nodaway counties, in the State of Missouri, for the establishment of a post route.

By Mr. MERCUR: The petition of E. M. Davis, of Philadelphia, asking that the law making gold a legal tender be repealed, and that a new money system be adopted by which,

to any one who can offer productive real estate security, the nation shall loan, with proper guards, in money similar to the "greenbacks," one dollar for every six of security, and charge for the same not exceeding four per cent. per annum until the public debt is paid; that then the interest shall be reduced to the cost of producing the "greenbacks;" to conducting the system and to guaranteeing losses on errors in securities; that the loans shall be payable at any time by the borrowers, but never demandable by the Government so long as the interest is paid punctually and the security does not decrease; that the borrowers shall fix the denominations of the money within certain limits, and that said money shall be a legal tender and the only legal tender of the country. Also, that Government notes be prepared having twelve months to run (not a legal tender) bearing three and sixty-five hundredths per cent. interest, to be issued to any one who may wish to invest his money, thereby furnishing an absorbent or sinking fund for any surplus money on the market.

By Mr. MOORE: A petition of masters and owners of vessels of Elizabethport, New Jersey, praying the intervention of Congress to protect all engaged in navigation from illegal exactions by State and municipal corporations.

By Mr. STARKWEATHER: A petition of owners and masters of vessels in the State of Connecticut, praying the intervention of Congress to protect those engaged in navigation from illegal taxes and exactions by State and municipal corporations.

By Mr. WHITTEMORE: A petition of citizens of Tennessee, president of the senate, and members of the State Legislature, and judges of the courts, asking that James Cox, late a private of company C, first regiment of East Tennessee cavalry, may be placed on the pension-roll.

By Mr. WINDOM: The petition of Z. M. Brown, Samuel E. Adams, and 80 others, citizens of Monticello, Minnesota, asking for aid in the construction of the Northern Pacific railroad.

Also, the petition of Hiram H. G. Bradt, Cyrus H. Reed, A. Seymour, and 20 others, citizens of Walnut Grove, Minnesota, asking for an amendment to the homestead law so as to give Union soldiers the right to enter their homesteads after an occupancy of one year.

IN SENATE.

FRIDAY, January 29, 1869.

On motion of Mr. WILSON, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of the Interior, communicating an estimate of appropriation required for defraying the expenses of negotiating the treaty of March 2, 1868, with the Ute Indians; which was referred to the Committee on Indian Affairs.

CREDENTIALS.

The PRESIDENT *pro tempore* presented the credentials of Hon. ZACHARIAH CHANDLER, elected by the Legislature of Michigan a Senator from that State for the term commencing March 4, 1869; which were read, and ordered to be filed.

PETITIONS AND MEMORIALS.

Mr. FRELINGHUYSEN. I present the petition of Rev. Dr. McCosh, president of Princeton College, and the other members of the faculty, setting forth that a total eclipse of the sun will take place on the 7th of August next, and petitioning that a small appropriation be made to the United States Naval Observatory or to the National Academy of Sciences for the purpose of taking observations of that eclipse. They represent that these observations are not only very interesting to science, but very useful in fixing exactly the latitudes

and longitudes, that the observations cannot be made at the Observatory, as it is not within the region in which the total eclipse will be visible, and that the opportunities for making such observations are very rare. I move the reference of the petition to the Committee on Appropriations.

The motion was agreed to.

Mr. FRELINGHUYSEN also presented a petition of citizens of New Jersey, praying that suffrage may be extended to women on equal terms with men in the District of Columbia and the Territories; which was referred to the Committee on the Judiciary.

Mr. WILLEY presented the petition of Reuben D. Hill, of Virginia, praying to be relieved from political disabilities; which was referred to the Committee on the Judiciary.

He also presented the petition of Reuben F. Watts, praying to be relieved from political disabilities; which was referred to the Committee on the Judiciary.

Mr. POOL presented a petition of citizens of North Carolina, praying that Joseph D. Davis, a resident of that State, may be relieved from political disabilities; which was referred to the Committee on the Judiciary.

Mr. SUMNER presented a petition of citizens of Boston, praying that a reciprocity treaty may be made with the Dominion of Canada and the British Provinces; which was referred to the Committee on Foreign Relations.

He also presented a petition of the Massachusetts Horticultural Society, praying the repeal of the duty on plants and seeds; which was referred to the Committee on Finance.

He also presented a petition of citizens of New York, praying that the right of suffrage may be extended to women equally with men in the District of Columbia; which was referred to the Committee on the District of Columbia.

He also presented a petition of merchants and other dealers in distilled spirits in Boston, praying for certain amendments or modifications of the internal revenue law; which was referred to the Committee on Finance.

Mr. SUMNER. I also present the petition of George B. Upton, a merchant of Boston, in which he says that he has read what purports to be a copy of a treaty between this Government and Great Britain for the settlement of claims, and among others for a settlement of the so-called "Alabama" claims. Before stating the subject of this petition I will say that I have hesitated whether to present it in open or in executive session; but considering that the subject has received publicity on the other side of the water, that it has extensive publicity on ours, and also considering the gravity of the question, I have felt that upon the whole I should present this petition in open session.

He remonstrates against the ratification of the treaty on account of the injustice which would thereby be done to himself and other claimants. He sets forth the character of that injustice. He then says that he has higher objections to its confirmation; "that the so-called treaty proposes to put upon the same footing claims by British subjects which have arisen under a disagreement in regard to the ordinary forms of neutrality and claims of our own citizens upon the British Government for piracies committed by British-built, British-manned, and British-armed vessels; by vessels and armaments which left British ports under the protection of the British flag and burned American ships, and your memorialist's among the number, upon the high seas without taking them into port for condemnation, and without any action being taken upon the part of the British Government when these atrocities were laid before it to prevent the same." I will not read any further in this memorial. What I have read presents its substance. I move its reference to the Committee on Foreign Relations.

The motion was agreed to.

Mr. SUMNER. I also present a petition

from the national executive committee of colored citizens, praying for the passage of House bill No. 267. The object of this petition is to secure to colored people in the rebel States a piece of land; in other words, to secure the operation of our homestead law to certain lands in the rebel States. The Senator from Kansas, [Mr. POMEROY,] I believe, has had this subject in hand. May I have his attention for one moment, for I wish to ask what should be the destination of the petition relating to House bill No. 267, which I understand the Senator has reported?

Mr. POMEROY. There are two bills on that subject. The particular bill to which the Senator refers is still in committee and not reported.

Mr. SUMNER. Then I move the reference of this petition to the Committee on Public Lands, and I ask the earnest attention of my friend to the petition.

The motion was agreed to.

ALPHEUS C. GALLAHUE.

Mr. WILLEY. If there is nothing before the Senate I ask the indulgence of the Senate to take up a little private bill which will occupy but a moment. I move to take up Senate bill No. 781.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 781) for the relief of Alpheus C. Gallahue. It provides that Alpheus C. Gallahue shall have leave to make application to the Commissioner of Patents for the extension of the letters-patent granted to him for an improvement in machines for pegging boots and shoes on the 16th of August, 1853, antedated 18th of February, 1853, for fourteen years from the latter date, in the same manner as if the petition for the extension had been filed at least ninety days before the expiration of the patent; and the Commissioner of Patents is authorized to consider and determine the application in the same manner as if it had been filed ninety days prior to the expiration of the patent, and with the same effect as if it had been regularly filed and acted upon under existing laws; but any such extension of the patent is not to affect the right to continue to use the machine of any person who, since the 18th of February, 1857, and prior to the approval of the act, may have procured and at the time of such approval shall be using the machine.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

WILLIAM M'GARRAHAN.

The PRESIDENT *pro tempore* laid before the Senate a communication from the House of Representatives, returning, in answer to the request of the Senate, the bill (H. R. No. 65) for the relief of William McGarrahan, with the papers relating thereto.

Mr. MORTON. I move to refer the message, with the bill and accompanying papers, to the Committee on the Judiciary.

Mr. FERRY. I do not understand the motive of this proposed reference to the Committee on the Judiciary. I do not suppose that the Senator from Indiana intends to cast a reflection upon the Committee on Private Land Claims?

Mr. MORTON. Not at all.

Mr. FERRY. All that has been done with regard to this case of Mr. McGarrahan is this: it has been referred to the Committee on Private Land Claims; they have examined the case and made a report; that report was acted upon partially at the last session, but in such a manner that the bill is now called back from the House of Representatives, and we are told that Mr. McGarrahan wishes to submit additional testimony, believing himself to be injured by the report, and that he has acquired additional testimony since the last session. The proper place evidently for a reference of the papers is to the Committee on Private Land Claims; and it certainly is a reflection upon that committee if their report, immediately upon its being presented here in the Senate without any examina-

tion, is referred to another committee, as if they were incompetent to examine the case.

Mr. TRUMBULL. I certainly trust that this matter will not be referred to the Judiciary Committee after what has transpired in the Senate. It is a matter appropriately belonging to the Committee on Private Land Claims; and after that committee has investigated the matter and made a report, which it is alleged has been hastily acted upon and without consideration, and that there is some other testimony to be submitted, to take it away from the Committee on Private Land Claims and refer it to another committee of this body—to take it from the committee to which it appropriately belongs and refer it to a committee to which it does not belong—would certainly be a reflection upon the committee that has had charge of the subject which I, for one, would not be willing to make. One committee certainly ought not to undertake to revise the action of another committee; and, as is suggested by one of my associates upon the committee, [Mr. FRELINGHUYSEN,] it would involve a labor to which the Judiciary Committee should not be subjected. This subject has been investigated by the members of the Committee on Private Land Claims, and if any further investigation is to take place certainly that committee is the proper one to make it. I trust the Senate will recommit the matter to the Committee on Private Land Claims and let them hear such further explanations as are to be made or receive such testimony as the parties may offer.

Mr. MORTON. There is no disrespect whatever intended to the Committee on Private Land Claims. If they choose to make disrespect out of it it will be difficult to avoid it, but there is no such intention. This bill came from the Committee on the Judiciary in the House of Representatives, and it ought to have been referred, I should think, to the Committee on the Judiciary in the Senate. It properly belongs to that committee. It is not the case of a person claiming land from the United States; it is not in the nature of a private land claim from the Government of the United States, to be referred to that committee; but the questions involved are questions of law as well as questions of fact, and it ought to go to the Committee on the Judiciary. The Senator from Connecticut insists that it will be disrespectful to him, as a member of the Committee on Private Land Claims, if it should be referred to the Committee on the Judiciary. I should rather suppose the Senator from Connecticut would be glad to be discharged from the consideration of it. He has committed himself on this question; and if it is to be reexamined it ought at least to be reexamined by a committee the majority of which has not committed itself against the party who asks the reexamination. For my part, if I were on that committee I should be glad, as a matter of delicacy, to be discharged from the further consideration of it.

Mr. FERRY. I do not know what the Senator from Indiana means by saying that I have already committed myself in reference to this case. I united with the report of the committee, but in the discussion which has taken place upon the questions presented now by the Senator from Indiana I have said not one word in regard to the merits of the case. If, because the members of the Committee on Private Land Claims, upon the investigation of the case on the evidence presented to them, found that evidence insufficient its members are to be considered as committed, then all that the Senator is asking is that the action of one committee shall be revised by another committee, and I cannot consider that as anything else than a reflection upon the first-named committee, and if we must submit to it, so we must, as the Senator seems to think there is nothing for us to do but for the Senate and the committee both to submit to his dictation in this matter.

Now, Mr. President, I cannot think that the Senator from Indiana properly understands this

case. It is simply a claim under a Mexican grant of land—such a claim as the Committee on Private Land Claims have been called upon to investigate more than twenty times since I have been on that committee. It involves similar questions of law and similar questions of fact to those which have arisen in other cases. It is no more appropriate to the Judiciary Committee than any question which has ever been referred to the Committee on Private Land Claims growing out of these ancient Mexican land grants. It is an ordinary case, but a strange feeling has been created in regard to it apparently in the minds of some Senators. I certainly am unconscious of entertaining any feeling myself in regard to the case or the parties or the questions involved; but I do not like, after the matter has been referred to a committee of which I am a member, and the report of that committee has not been discussed in the Senate, and the case is brought back from the House of Representatives solely because it is said there is additional evidence to be offered—I do not like to have the imputation upon a committee of which I am a member that they are not to be trusted with the examination of this additional evidence. The Committee on Private Land Claims has been changed since the last session. A majority of the present members of the Committee on Private Land Claims were not on the committee at the last session, and certainly it is impossible for the Senate to adopt the motion of the Senator from Indiana without creating at any rate some unpleasant reflection in the breasts of those who are members of that committee.

Mr. HENDRICKS. Mr. President, I have always understood that the Committee on Private Land Claims was organized for the purpose of examining questions between the United States and citizens. Where the citizen claims a right to a portion of what appear to be the public lands, and that question is to be decided between the Government and the citizen, the case should be referred to the Committee on Private Land Claims. But if it be only a controversy between two citizens as to which citizen has the better right, that is a judicial question. It is not a question of policy at all. The Committee on Private Land Claims may consider questions of policy between the citizen and the Government; but when a question of legal right between two citizens in regard to lands the legal title to which is yet in the United States arises, that question probably belongs to the Committee on the Judiciary, as I suppose.

Mr. WILLIAMS. I wish simply to inform the Senator, so that he may understand it, that this bill recognizes the title as in the United States, and it is simply a controversy between McGarrahan and the United States. The bill does not claim that the title is in Mr. McGarrahan, but it provides that he may enter the land at a land office of the United States as though he was a settler upon the public land. These other parties come in incidentally. There is no controversy between Mr. McGarrahan and those parties as far as Congress is concerned. It is a question between McGarrahan and the United States so far as Congress is concerned.

Mr. HENDRICKS. So far as the legal title is concerned perhaps the Senator states it aright, that the legal title is in the United States. McGarrahan seeks that legal title, but which has the better right to this land, some mining company, the name of which I do not recollect, or McGarrahan, is a question that ought to go to the Judiciary Committee. I think there are other interests opposed to Mr. McGarrahan. I have not read any report, and I have not read the bill, but I understand that it is really a controversy between a mining company and Mr. McGarrahan. I understand that to be the fact, and, I think, some of the correspondence that has been referred to shows that fact. I think the Commissioner of the General Land Office was called upon to complete the title of some mining company, or some parties, at least, who claim in hostility

to McGarrahan. If it be a question, as I understand it is, which has the better claim to this land, the mining company or McGarrahan, that is a judicial or legal question which ought to go to the Committee on the Judiciary. The distinction is a very broad and plain one, not only in reason, but, as I understand, in the practice of the Senate. This belongs to that class of cases which have gone to the Judiciary Committee. I think I could name some cases that have been referred to the Judiciary Committee where the questions were like this, between claimants to the same piece of land.

Mr. CONNESS. Mr. President, this is not such a case as was stated by the Senator last up. It is a case where the claimant now presenting himself to the Senate, Mr. McGarrahan, asserts that he is the rightful owner of a grant made by the Mexican Government to one Gomez, and that that grant covers a parcel of ground which contains a valuable quicksilver mine. Two questions are involved. The first is, whether that grant was ever made by the Mexican Government or not; and if it was, and he is the rightful owner of it, the United States have, by treaty with Mexico, bound themselves to confirm it to its rightful owner. The first question, then, is: was such a grant ever made? The next is: if the grant was made, does it cover the particular parcel of land in question? Both of these questions belong to the Committee on Private Land Claims.

Now, Mr. President, let me state a fact in this connection. When the House bill now before us for reference came to the Senate at the last session of Congress Mr. McGarrahan desired to have it referred to the Committee on Private Land Claims. He urged me to support that reference. I believed it, for the purposes of his investigation, the best and most proper committee, because it had cognizance of that class of cases always, and because its members—I allude to the honorable Senator from Oregon, [Mr. WILLIAMS,] my friend from Connecticut, [Mr. FERRY,] and the honorable Senator from Michigan, [Mr. HOWARD]—were of the foremost lawyers of this body. I apprehend their legal knowledge was not unfavorably affected because they were not members of the Committee on the Judiciary.

The Senator from Nevada, [Mr. STEWART,] impressed and convinced that the claimant's claim was not a good one, wished it sent then to the Committee on the Judiciary, of which he was a member. I opposed that. There was a discussion, and it was referred to the Committee on Private Land Claims, where it received, as all these gentlemen tell us, and it is undoubtedly a fact and will so appear, an exhaustive examination.

But now the claimant comes forward and makes application to my two honorable friends from the State of Indiana that they may rise here and see that justice shall be done him; and they rise accordingly, alleging that he has discovered additional testimony which was not submitted to that committee, and whereupon they say that the case shall be submitted now in propriety to the Judiciary Committee *de novo*; that they shall go over the entirety of the investigation of this case which involves piles of manuscripts and books almost incalculable, because he desires to submit additional testimony upon what point? As stated by the Senators when they undertook to reverse the standing and uniform rule of this body the other day, testimony affecting his possession of the land in question, not whether the grant was made by the Mexican Government to Gomez under whom he claims; not whether the land in question is the land upon which this mine exists; but whether he was in possession or not. And now the Senators rise, and for the purpose of taking it out of the hands of this committee make it out to be a case involving a question between two private persons, citizens of the United States!

There are two Senators here, Mr. President, representing to the best of their ability and

capacity the State of California. This claim is located in that State. Its history is a part of the history of questions that we have become necessarily familiar with. The assumption from the beginning of this controversy seems to me to be that McGarrahan could not have justice at our hands, and hence this advocacy of his claims out of that State. Well, Mr. President, I do not think there is any citizen of that State or of the United States who has a claim to prefer which has justice for its basis, or who, for the purpose of ascertaining whether it has justice for its basis, cannot find advocates in my colleague and me. Nor do I state this, sir, for the purpose of confining Mr. McGarrahan to our support or to our determination of his case or to our advice. But the Senator from Indiana last up, [Mr. HENDRICKS,] when discussing this matter the other day, said some things—I have not the report now before me—which implied very nearly that such justice as Mr. McGarrahan was entitled to was not obtainable from us. There was paraded here a copy of a letter printed for Senators' convenience by Mr. McGarrahan, which contained my name among others, addressed to the land department, upon this subject; and another Senator, while that was before the Senate, used the language that the "secret"—that was the word, sir—the secret of the course pursued on this subject might be found in that paper.

Mr. President, there are no secrets connected with my action on public affairs. He who states it, and he who implies it, both imply and state what is false—that is the word, sir. Mr. McGarrahan might have had my letters addressed to the Commissioner of the General Land Office in his behalf, demanding all the attention that he could give him for the purpose of his investigations, printed also and spread before the Senate, but he did not.

Between these claimants I care not the weight of the piece of paper that I throw from my fingers. But, Mr. President, it is a case involving a very important question to the people that I in part represent here. When the American population went to that State they went and fell heir to a system of land disposition not previously known to any extent in our country, namely, the perfect and imperfect and the simulated grants made and alleged to have been made by the Mexican Government to various parties; and they had to be examined, investigated, and determined under laws made and provided for that purpose. The existence of these grants prevented settlement upon the public lands in our State everywhere, and now, sir, in the twentieth year of the location and settlement of that State, these questions are yet impoverishing our State and harassing our people. After the exhaustive report, which I gave attention to if the Senators did not, made by an able committee of this body, a committee than which there is none abler, none more honest or painstaking, when Mr. McGarrahan had not stated to me—and he had access to me every day and every moment—that he desired to present additional testimony, was it any wonder that I was in favor of finally disposing of the case and settling the titles to that land, as I had favored the settlement of these titles at all times?

This, Mr. President, is a case of consequence to us. It affects us. It is one of hundreds like it. Hundreds of these grants have been confirmed and hundreds of simulated ones have been rejected; but pending the confirmation and rejection the State has been torn, disturbed, settlements prevented, industry checked, investments prohibited; and it has been our business and our duty—and we have understood the questions, too, sir—to bring these controversies to a close as soon as possible; and hence I joined in a letter asking that a patent should issue in this case; but it was after I had demanded for this claimant and in his behalf, both on the part of the land department and the legislative department, all the investigation that this subject was capable of having.

So much, sir, for the parade of this letter which was paraded in connection with dissertations upon parliamentary law, mutilated for the special purposes of the Senate on that occasion, and which gave the convenience to Senators of being able to get all that was known upon parliamentary law upon a single sheet in place of turning to a volume for that purpose!

Now, Mr. President, for the present I say, in conclusion, that I care nothing to what committee this goes. I will not vote to take it away from a committee offensively whose capacity in all respects to investigate is beyond question. But if it shall go to the Judiciary Committee of this body, in whom I have the greatest confidence, I shall be satisfied with the result of their investigation; and I have no doubt, whatever their report shall be, I shall vote affirmatively for its adoption.

Mr. WILSON. I move—

Mr. FESSENDEN. I desire to say a word in reply to the Senator from California.

Mr. WILSON. Three or four mornings have already been occupied with this matter, and we have had no time to do other business.

Mr. FESSENDEN. It would not be very just if I should not be permitted to make an explanation after what has been said by the Senator from California.

Mr. President, the Senator from California notified us a day or two ago that he was about to demolish some of us—I could not understand his threat in any other way—and it seems the effort has been made this morning, I think, however, without any very great success. I do not understand myself the extraordinary excitement that seems to prevail on the part of some gentlemen at this motion. I wish to state that all I know with regard to this matter is contained within a very narrow compass. Mr. McGarrahan—a person entirely unknown to me—called with another gentleman, with whom I was acquainted, at my room, and stated to me the condition of this case, and handed to me the report made by the chairman of the Committee on the Judiciary in the House of Representatives and requested that I should read it. He also handed me a printed copy of the letter from the honorable Senator from Michigan, [Mr. HOWARD,] and stated the fact that on the last night of the session, without any hearing whatever, a motion was made, contrary to the intimation conveyed in that letter and without his knowledge, to postpone the bill indefinitely, and it was so acted upon. He requested that I would read the report, and if I thought he had a just cause to be heard before the Senate that I would sustain the motion to be made by the Senator from Indiana to give him a hearing to bring the matter back.

Mr. CONNESS. Let me ask the Senator at this point what report he refers to—the House report or the report of the Senate Committee?

Mr. FESSENDEN. The House report. He stated also that a report had been made adverse to his claim by the honorable Senator from Oregon, the chairman of the Committee on Private Land Claims of the Senate. That report, however, he did not hand me, and I did not see it; but I have seen it since and read it. It appeared to me that he had been treated—it never occurred to me intentionally treated—but that on the whole he had been treated unfairly and had not had what he was entitled to, a hearing before the Senate of the United States; that he had been unwittingly induced to suppose that the matter would not be acted upon at that session; that he would have an opportunity to obtain more testimony; and that without his knowledge this action had been taken by the Senate, and the consequence would be, as he stated, unless it was reversed in some way, that he would lose all claim to the land.

Sir, when a man calls upon me from any section of the country, the Pacific coast or any other coast, a fellow-citizen, and asks me to examine a claim of his before the Senate, if it is in my power to do so I invariably do it. Cases have occurred in which gentlemen have

asked me particularly to examine their claims, and I have done so, and after that examination have come out and opposed their claims, being satisfied that they were not well founded. In this case I told Mr. McGarrahan that I thought he was concluded by the action of the Senate on the subject. He stated, however, in reply, that he was instructed otherwise, and handed me a brief of the authorities which have since been exhibited, which I examined, and it seemed to me that I was mistaken as to the effect of it; and I told him therefore that if I remained of that opinion I would support the motion to be made by the honorable Senator from Indiana, in order to give him a hearing. I formed no opinion whatever upon his case as to the exact merits of it. I knew nothing about it, and drew no inferences with regard to the action of anybody. I supposed it had been done unwittingly, and believing that that was the case, and that he was a fellow-citizen entitled to redress, I told him that so far as I was concerned he should have it. That is my action, sir; and I care not what gentlemen choose to say about it on the one side of this Chamber or the other. It commends itself to my judgment and my sense of right, and I stand by it.

Now, sir, as to the matter of offense by the honorable Senator from California, it never occurred to me to cast an imputation upon him or any other Senator in the transaction.

Mr. CONNESS. Will the Senator permit me to ask him whether he did not raise this letter—

Mr. FESSENDEN. Yer, sir; and I am about to explain how I did it and why.

Mr. CONNESS. And push it toward the Senator from Oregon?

Mr. FESSENDEN. Certainly I did, and I had a perfect right to do it; and there was nothing offensive in it and nothing at which gentlemen should take offense, or had a right to take offense in any way whatever, and I meant no offense toward anybody in doing it. There was a letter on my table which was an illustration of a statement that I made.

Now, let me read a little from that debate to see what cause the honorable Senator has for his heat, so far as I am concerned. The honorable Senator from Oregon [Mr. WILLIAMS] was arguing this matter, and what did he say? I will read a few sentences:

"I have nothing to say about McGarrahan or about his claim at this time. If it ever becomes necessary to discuss that I may have something to say on that subject; but I consider it foreign to this discussion. Under this invariable practice, and in view of the fact that the bill is now in the possession of the House of Representatives, that this vote of indefinite postponement has been regarded as a rejection, and that no motion to reconsider would be in order at this time, even if the bill was before the Senate, it seems to me extraordinary that an effort should be made to subvert the settled practice of the Senate. Mr. McGarrahan can introduce another bill—there is no objection to that—and have the question considered in the Senate again."

I had understood that the Commissioner of the Land Office would consider the final disposition of this question as authorizing him to issue a patent to other parties, and that a new bill would therefore do Mr. McGarrahan no good at all. It was in relation to that that I interrupted the Senator from Oregon. He had stated that this particular proceeding was "extraordinary," in his judgment.

Mr. FESSENDEN. Is there not this objection: it is perfectly well understood that if this bill is finally disposed of the Commissioner of the General Land Office will then issue his patents to other parties, and that will close the matter. Is not that the whole secret?

What "secret?" The secret of this movement to get this bill back again. No other secret than that was alluded to in any shape or form. The Senator from Oregon said that it was an extraordinary proceeding, and that Mr. McGarrahan might have another bill introduced. I interposed, and said that that would afford him no redress, because it was understood that a patent would be issued, and that was the secret of what seemed to be this extraordinary proceeding. Is there any imputation on the Senator arising from that statement,

and from the fact that the word "secret" is used in that connection? Not the slightest in the world; and nothing but a very sensitive state of mind could have induced the Senator, if he had read the whole passage, to come to any such conclusion. Then the Senator from Oregon goes on:

Mr. WILLIAMS. I do not know that that is the case.

Mr. FESSENDEN. I am so informed.

Mr. WILLIAMS. I presume the Senator has much information derived from Mr. McGarrahan that is not in the possession of myself or others, but be that as it may, I suppose that if a bill was introduced and was pending here the Commissioner might be induced to withhold any patent in reference to these lands until the bill pending could be determined. I do not know anything about the proceedings before the Commissioner one way or the other.

Mr. FESSENDEN. Here is a letter laid on the table addressed by Senators to the Commissioner, requesting patents to be issued. Has the Senator seen it?

Mr. WILLIAMS. I have not seen it, and know nothing about it.

That is the whole of it. Now, sir, when in support of the information that I had received, that it was understood that the Commissioner would, when this bill was disposed of, issue a patent to the other parties, I produced as evidence a paper lying before me which requested the Commissioner to at once issue that patent, was there any impropriety in that? I made no imputation upon Senators. I had nothing to do with their motives, nothing to do with their views. I adduced it as a fact, and I had a perfect right to do so without being accused of any disrespect to any Senator. Is there anything in the letter itself that is improper? Is there anything in the fact that the Senators made such a communication that is improper? It did not occur to me that there was. If it occurs to them that it was a great impropriety, and that it is an insult to allude to it, that is their concern, if they choose to put that construction upon it, and not mine. Why Senators, with regard to a transaction so open, not a secret, the mere fact that they claimed that a patent should be issued in this case, should consider it an imputation on them that the fact is adduced in evidence of the conclusion that the Commissioner intends to or is called upon to issue a patent in the case is to me a mystery. I do not understand it. I repeat that I had no sort of intention of casting any reflection whatever upon those gentlemen who signed that paper; but if they choose to take it so it is their construction of it and not mine.

Mr. MORTON. Mr. President, the discussion this morning is among the surprises of this whole proceeding. I intended no disrespect to the members of the Committee on Private Land Claims. I have as much respect for them as for the members of any other committee; and when a member of that committee rises and in behalf of the committee claims that the reference of this subject to another committee would be a disrespect to them it places me in an embarrassing position, and I can have but little to say about it.

The Senator from California gives us to understand this morning that it is a proper subject for the Committee on Private Land Claims, because it is a contest between the United States and Mr. McGarrahan. That is another new thing. I had supposed that the contest was between a mining company and Mr. McGarrahan; that the United States had no interest in the matter one way or the other; for it made no difference to the Government which party it went to. Now, Mr. President, they have a Committee on Private Land Claims in the House of Representatives, but this bill was referred to the Committee on the Judiciary in that body, and in my opinion it properly belongs to the Committee on the Judiciary in this body. I think it went improperly to the other committee.

But the Senator from California drops an intimation here that this matter ought to be referred to the two Senators from California, as it is a matter of public consideration there.

Mr. CONNESS. He did nothing of the kind, Mr. President, and the Senator does not find it in anything I said.

Mr. MORTON. If the Senator disclaims it of course I retract it.

Mr. CONNESS. I am sure the Senator does not intend to misrepresent what I said.

Mr. MORTON. No, sir; but I so understood him when he referred to both the Senators from California. I do not understand that the Senator from California on my left [Mr. COLE] has taken any distinct ground on this measure, or is concerned in it one way or the other; so his moral support cannot be brought up on this question.

Now, one word in reply to the Senator from Connecticut, [Mr. FERRY.] I said that I thought he was committed on this question. Perhaps I ought not to have said that. I made that remark, however, from a conversation I had had with the Senator. But, sir, if the Committee on Private Land Claims now say to the Senate that this bill cannot be referred to another committee without its being considered a personal disrespect to themselves, and as I am the last one to offer personal disrespect to any honorable committee of this body, I have nothing further to say. It seemed to me to be a matter of justice and propriety that it should go to a new committee, a committee the members of which were not enlisted by any feeling or by any controversy or by any labor upon the one side or the other of this question; but if the Committee on Private Land Claims claim it as a legitimate part of their business I have no further argument to make.

Mr. THAYER. Mr. President, I have not risen to discuss the question of reference. The Senator from Connecticut has stated very emphatically that if this motion prevails it will be a reflection on the Committee on Private Land Claims. Now, if I follow the example set by the honorable Senator from Connecticut on a former occasion he cannot blame me. When the bill from the House of Representatives transferring the Indian Bureau to the War Department came before this body a motion was made to refer it to the Committee on Indian Affairs, where it properly belonged. The honorable Senator voted against that motion, and said:

"Mr. FERRY. I voted against the motion to refer to the Committee on Indian Affairs because I believe that if that motion were to prevail it would be fatal to this bill. Favoring the bill I should prefer its reference to the Committee on Military Affairs."

Now, if I follow the rule laid down by the honorable Senator in that case I trust he will not blame me. I have no belief about this matter. I know nothing about this bill, and I know nothing about the feeling of the committee toward the bill; but if I should be led to believe that its reference to the Committee on Private Land Claims would have the effect to kill it or to bury it I might vote for its reference to the Committee on the Judiciary under the rule laid down by my honorable friend from Connecticut. It seems that it makes a difference what committee it is which is to be reflected upon when a proposed departure from the rule is made.

Mr. CONNESS. One word, sir—I shall detain the Senate but a moment—in regard to the statement made by the Senator from Maine. What I complain of and did complain of in the Senator's treatment of this subject as affecting me personally is this: that he exhibited and used here a paper which was a part of a garbled correspondence of mine on this whole subject with the land department that was put in his hands by an interested party, while I, as a brother Senator, was near him, might have been consulted, could have made him understand it in a word, and was not so consulted. This man who prefers this claim has letters of mine on record in the land department as much stronger than that, demanding all the investigation that his case required at their hands, as one letter can be over another, and the letter brought in here and printed by him and used by the honorable Senator was specially selected with a view of showing that I had a purpose of foreclosing him in the case when it was written by me or signed by me after I believed

that the case had been exhaustively considered. That is all, sir.

Mr. FESSENDEN. It seems that the Senator changes his ground a little; it is now a want of courtesy.

Mr. CONNESS. No, sir; more than that; it involves justice.

Mr. FESSENDEN. Well, I cannot understand what may be in the mind of the Senator, and I will not undertake to trace it. He must satisfy himself on that subject. All I can say is, it was not put in my hands by Mr. McGarahan. I found it on my desk, and I suppose a similar paper was placed on the desk of every Senator. I do not know that it was placed on my desk for my benefit particularly or anybody else's specially. I found it here, looked at it, and in the course of the discussion, to show what the real difficulty was in the case, I alluded to it and pointed the attention of the honorable Senator from Oregon to it. But I will say that if I had had the slightest idea that either of the Senators signing that paper whose names were affixed to it considered it a transaction improper to be referred to, and one that was in any way tending to cast an imputation upon them, I should certainly have taken some other course in regard to it; but looking at it as a mere fact in the case, I exhibited it. I have no apology to make for doing so, and I should do precisely the same thing under similar circumstances unless I was led to suspect that there was an impropriety about the thing itself. But as it did not occur to me that the Senators had done anything improper, of course I did not suppose I was affecting them in any way.

Mr. STEWART. I justify it. I take all the responsibility.

Mr. CONNESS. One word, and I dismiss this matter so far as I am concerned. I did not rise as a candidate for the approbation of my friend from Maine. His affirmation of my integrity here I did not seek at all. I said what I thought I had a right to say because of what I regarded as an offense by him, and I am willing to let it rest.

Mr. STEWART. Mr. President, the morning hour has expired.

The PRESIDENT *pro tempore*. The morning hour has expired, and the order of the day is regularly before the Senate.

Mr. WILSON. I hope the Senator from Nevada will let us take a vote on this question, so that we may have an opportunity to do something else this session.

The PRESIDENT *pro tempore*. If no objection be made the question will be put on the reference of the bill.

Mr. CONNESS. On that question I ask for the yeas and nays.

Mr. CORBETT. I merely wish to say that as the Senate decided in the former case referred to by my friend from Nebraska to refer that bill to the appropriate committee—the Committee on Indian Affairs—when another committee sought to take jurisdiction, I think it is due to the Committee on Private Land Claims that this case should be referred to that committee, which I believe is the proper and appropriate committee for its consideration.

The PRESIDENT *pro tempore*. The question is on the motion to refer the bill and accompanying papers to the Committee on the Judiciary, upon which question the yeas and nays are called for.

Mr. CONNESS. I withdraw the call for the yeas and nays.

The PRESIDENT *pro tempore*. The question is on the motion to refer the bill to the Committee on the Judiciary.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The question now is on the motion to refer the bill to the Committee on Private Land Claims.

Mr. MORTON. In view of the ground it has been put upon this morning by the Senator from Connecticut, [Mr. FERRY,] I withdraw any further application to refer the case to the Committee on the Judiciary. He puts it on a ground that I cannot answer.

The PRESIDENT *pro tempore*. The question is on the motion for reference to the Committee on Private Land Claims.

The motion was agreed to.

PETITIONS AND MEMORIALS.

Mr. STEWART. I call for the regular order.

Mr. MORRILL, of Maine. I desire to make a report.

Mr. POMEROY. I have some petitions to present.

Mr. STEWART. I will give way for morning business merely if that be the sense of the Senate.

The PRESIDENT *pro tempore*. The Chair, if there be no objection, will receive petitions and reports and other morning business.

Mr. POMEROY presented a petition of citizens of Maine, a petition of citizens of Massachusetts, a petition of citizens of New York, a petition of citizens of Pennsylvania, a petition of citizens of Ohio, a petition of citizens of Michigan, a petition of citizens of Illinois, a petition of citizens of Iowa, and a petition of citizens of Missouri, praying that the right of suffrage be extended to women; which were referred to the Committee on the Judiciary.

Mr. RAMSEY presented a petition of citizens of Minnesota, praying the establishment of a mail route from Hutchinson, via Cedar Mills, to Granite Falls; a petition of citizens of Minnesota, praying the establishment of a mail route from Lynde, in Minnesota, to Sioux City, Dakota; and a petition of citizens of Minnesota, praying the establishment of a mail route from Ottertail City to the White Earth reservation in that State; which were referred to the Committee on Post Offices and Post Roads.

Mr. VICKERS presented a petition of citizens of Maryland, praying the establishment of a light-house at Lone Point and for the deepening of the harbor at Queenstown, near the mouth of Chester river; which was referred to the Committee on Commerce.

Mr. HARLAN presented the memorial of the representatives of the religious society of Friends, praying that measures be taken to establish permanent relations of peace and good-will with the Indians; which was referred to the Committee on Indian Affairs.

Mr. HOWE presented the petition of James W. Long, brevet major United States Army, praying to be reimbursed for moneys paid out by him while engaged in the recruiting service; which was referred to the Committee on Claims.

Mr. DOOLITTLE presented the memorial of the Legislature of Wisconsin, relation to the improvement of the navigation of the Fox and Wisconsin rivers; which was referred to the Committee on Commerce.

WITHDRAWAL OF PAPERS.

On motion of Mr. FOWLER,
Ordered, That Charles C. Neal have leave to withdraw his petition and papers from the files of the Senate.

REPORTS OF COMMITTEES.

Mr. MORRILL, of Maine. The Committee on Appropriations, to whom was referred the bill (H. R. No. 1570) making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1870, and for other purposes, have instructed me to report it back with amendments. While I am up I desire to say that to-morrow at one o'clock I shall ask the Senate to allow me to proceed to the consideration of certain appropriation bills which have been reported by the Committee on Appropriations.

Mr. MORTON. The Committee on Representative Reform, to whom was referred the joint resolution (S. R. No. 209) proposing an amendment to the Constitution of the United States, have directed me to report it back without amendment. I will state that the report is unanimous.

Mr. CHANDLER. I gave notice yesterday that I should try to bring up the river and har-

bor bill to-day. I ask now if a motion to postpone the pending order of business for the purpose of proceeding to the consideration of that bill would be in order?

The PRESIDENT *pro tempore*. It is in order to move to postpone the order of the day for the purpose of taking up other business.

Mr. STEWART. I hope that will not be done.

Mr. MORTON. I have another report to submit yet.

The PRESIDENT *pro tempore*. The Chair will receive the report.

Mr. MORTON, from the Committee on Military Affairs, to whom was referred the bill (S. No. 661) for the relief of Lieutenant Colonel John W. Davidson, of the United States Army, reported it without amendment.

Mr. DRAKE. In reference to the report just made, I ask the unanimous consent of the Senate to pass that little bill, which is simply refunding to an officer of the Army \$218 25 stolen from him in 1847 in California. The money was stolen by soldiers, and he made it good to the Treasury, and this bill is simply to refund it to him. The committee report in favor of it.

Mr. STEWART. The Senator from Connecticut [Mr. DIXON] is entitled to the floor on the order of the day, and he objects to my yielding it. He is not willing to yield the floor for anything except such morning business as has not yet been received. He is willing to yield to allow reports of committees to be made and bills to be introduced, but no further.

The PRESIDENT *pro tempore*. The order of the day is regularly before the Senate. It has not been postponed, and nothing else is in order unless by unanimous consent.

Mr. STEWART. The Senator from Connecticut declines to yield the floor to a motion. He is willing to allow morning business to be received, and the moment that is through with he desires to take the floor at once. It is merely by his courtesy that this morning business is now being allowed to be received.

Mr. DRAKE. I withdraw the request.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred the bill (S. No. 697) granting lands to the States of Wisconsin and Michigan to aid in the construction of the Wisconsin and Lake Superior railroad and its branch, reported in favor of the indefinite postponement of the bill; which was agreed to.

He also, from the same committee, to whom was referred the bill (H. R. No. 767) to regulate the disposition of lands that may be hereafter granted to aid in the construction of railways, reported adversely thereon.

He also, from the same committee, to whom was referred the bill (S. No. 717) to amend an act entitled "An act to aid in the construction of certain railroads in the State of Wisconsin," approved May 5, 1864, reported adversely thereon.

He also, from the same committee, to whom was referred the bill (S. No. 796) making a grant of land to the State of Minnesota to aid in securing the navigation of the Mississippi river immediately above the falls of St. Anthony, reported it without amendment.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the bill (S. No. 748) to amend an act entitled "An act to restrict the jurisdiction of the Court of Claims, and for other purposes," approved July 4, 1864, reported adversely thereon, and moved its indefinite postponement; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 813) to extend the jurisdiction of the Court of Claims, reported adversely thereon, and moved its indefinite postponement; which was agreed to.

He also, from the same committee, to whom was referred the bill (H. R. No. 1439) authorizing the remission of penalties in certain cases, reported adversely thereon.

He also, from the same committee, to whom was referred the bill (S. No. 724) to declare the meaning of the first section of an act en-

titled "An act in relation to the competency of witnesses, and for other purposes," reported adversely thereon, and moved its indefinite postponement; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 726) to authorize imprisonment with hard labor as a punishment in certain cases, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 727) to provide for the trial and punishment of accessories to criminal offenses, reported adversely thereon, and moved its indefinite postponement; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 728) to repeal an act entitled "An act to prevent the importation of certain persons into certain States where by the laws thereof their admission is prohibited," reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 348) to provide for holding terms of the United States district court for the western district of Missouri at St. Joseph and the city of Kansas, in said State, reported adversely thereon, and moved its indefinite postponement; which was agreed to.

He also, from the same committee, to whom were referred a petition of citizens of Kansas and a petition of citizens of Massachusetts asking that suffrage may be extended to women in the District of Columbia, asked to be discharged from their further consideration, and that they be referred to the Committee on the District of Columbia; which was agreed to.

He also, from the same committee, to whom was referred the petition of Mrs. Philip Johnson, praying for the passage of a law to compel landlords to comply with their leases, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the memorial of the American Missionary Association, praying the adoption of measures for the protection of loyal persons in the South in the enjoyment of their civil rights, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the resolution submitted by Mr. HARLAN, on December 19, 1868, that the Committee on the Judiciary be instructed to inquire into the expediency of reporting a bill for the apportionment of Representatives in Congress in accordance with the provisions of section two of the fourteenth amendment to the Constitution of the United States, asked to be discharged from its further consideration; which was agreed to.

Mr. VAN WINKLE, from the Committee on Pensions, to whom was referred the joint resolution (S. R. No. 196) granting a pension to Mrs. Mary Lincoln, widow of the late President of the United States, who was killed during the war of the rebellion, submitted a report; which was ordered to be printed.

Mr. HARLAN, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 675) to incorporate the United States Accident and Life Insurance Company, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 669) to incorporate the National Junction Railway Company, reported it with amendments.

Mr. DRAKE, from the Committee on Naval Affairs, to whom was referred the joint resolution (H. R. No. 172) relative to Captain Thomas H. Stevens, United States Navy, reported adversely thereon, and submitted a report; which was ordered to be printed.

Mr. STEWART, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 1746) for the removal of certain disabilities from persons therein named, reported it with amendments.

BILLS INTRODUCED.

Mr. MORTON asked, and by unanimous consent obtained, leave to introduce a bill (S.

No. 850) for the relief of Mrs. Louisa McDougall; which was read twice by its title, referred to the Committee on Claims, and ordered to be printed.

Mr. WILLEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 851) providing for the sale of lands to aid in the construction of the West Virginia Central railroad; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 852) for the relief of the Drew Theological Seminary, of Madison, New Jersey; which was read twice by its title, referred to the Committee on Finance, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 853) to aid the Memphis, El Paso, and Pacific Railroad Company, of Texas, in the construction of a railroad and line of telegraph from the Mississippi river to the Pacific ocean, and to secure to the Government of the United States the use of the same for postal, military, and other purposes; which was read twice by its title.

Mr. HARLAN. I introduce this bill at the request of the friends of the bill. I have not read the bill, and do not know that I shall be able to approve of it. I move that it be printed and referred to the Committee on the Pacific Railroad.

The motion was agreed to.

Mr. COLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 854) to further the administration of justice; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. WELCH asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 855) to relieve sundry citizens of Florida from disabilities; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 210) concerning certain lands granted to the State of Michigan to aid in the construction of certain wagon roads; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

STEAMER CONGRESS.

Mr. CHANDLER. I ask leave to offer a resolution of inquiry:

Resolved, That the Secretary of State be, and he is hereby, requested to transmit to the Senate copies of papers filed in the Department of State, October 9, 1866, relative to the claim of Owen Thorn and others against the British Government for indemnity for losses sustained by the detention of the steamer Congress by the Canadian authorities.

I ask for its present consideration if there be no objection.

Mr. SUMNER. It will raise a question as to the form—

Mr. STEWART. I object, then.

The PRESIDENT *pro tempore*. Objection being made, the resolution goes over.

FINANCIAL STATISTICS.

Mr. POOL submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That the Secretary of the Treasury be requested to communicate to the Senate, for the purpose of being printed for use, a statistical statement prepared in the Treasury Department, being a compilation of statistical, historical, and financial matter, referring solely to this Government and compiled from its records, from its organization to the present period.

AMENDMENTS TO BILLS.

Mr. RICE. I ask leave to offer an amendment to the bill (H. R. No. 1276) for the sale of the Hot Springs reservation in Arkansas, which I ask to have referred to the Committee on Private Land Claims and ordered to be printed.

The PRESIDENT *pro tempore*. That order will be made.

Mr. ANTHONY. I am instructed by the Committee on Naval Affairs to give notice that when the bill (H. R. No. 1599) making appropriations for the naval service for the year ending June 30, 1870, shall be under consideration I shall move an amendment, which I now submit, and ask to be referred to the Committee on Appropriations.

The PRESIDENT *pro tempore*. It will be so referred.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 1714) to close the land system in certain States, in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the amendment of the Senate to the bill (H. R. No. 394) confirming title to Little Rock Island, in the Mississippi river.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 833) for the relief of Rufus M. Hollister, of Janesville, Wisconsin;

A bill (H. R. No. 1751) in relation to the appointment of midshipmen from the lately reconstructed States; and

A bill (H. R. No. 394) confirming title to Little Rock Island, in the Mississippi river.

SUFFRAGE CONSTITUTIONAL AMENDMENT.

The PRESIDENT *pro tempore*. The order of the day is the joint resolution (S. R. No. 8) proposing an amendment to the Constitution of the United States, which is now before the Senate as in Committee of the Whole, upon which question the Senator from Connecticut [Mr. DIXON] is entitled to the floor.

Mr. DIXON. Mr. President, the importance and the gravity of the subject now under consideration by the Senate ought to lift its discussion out of the region of mere party politics, and elevate the Senate in its consideration into an atmosphere purer and higher than that of mere party controversy; for, sir, it is not, perhaps, too much to say that this is the most important question in many of its bearings which has ever been presented to Congress in the shape of a proposed constitutional amendment.

What is the question? It is not merely a question of suffrage. That of itself is a subject of vast importance, and is now agitating the public mind of this country to a very great extent. The question whether the female sex should be permitted to participate in the privilege of suffrage, whether other restrictions should be removed, the question of age, the question of property, a multitude of questions are or may be raised which are vastly important and interesting in connection with the right of suffrage. But, sir, we are not now dealing merely with the qualification of voters. The question is not what shall be the qualifications of the voter, but who shall create, establish, and prescribe those qualifications; not who shall be the voter, but who shall make the voter.

In considering that question we ought to remember that it is utterly impossible that any State should be an independent republic which does not entirely control its own laws with regard to the right of suffrage. Nor does it make the slightest difference with regard to this that any abdication or abnegation of its power is voluntary. It may be said that it is proposed that the States shall voluntarily relinquish their power to control the subject of suffrage within their respective limits. Sir, suppose a State should voluntarily assume upon itself a foreign yoke, or declare by a majority of its own people, or even by a unanimous vote, that it would prefer a monarchy, would the fact of its being voluntary at all affect the question whether it was still an independent republic?

Now, sir, it may be that the people of this

country in their present condition of mind are ready to relinquish the power in the States of regulating their own laws with regard to suffrage; and if it should so prove, and the result should show that your own State (Ohio) and my State, (Connecticut,) having once or twice voted against extending the right of suffrage to the negro race, should now consent that a central power should regulate that question, and should do this voluntarily and freely, nevertheless they would by that action lose their character as republican governments. And, sir, that is the reason why it was that in the formation of the Constitution of the United States there was an entire neglect to interfere in the slightest degree with the question of suffrage in the several States. Look through the Constitution as it was formed, and you find no allusion whatever to the question of suffrage, except by reference to existing laws and qualifications in the then existing States. And why was that? We are not left in the dark upon that question. Was it because suffrage was not considered an important question? Was it not deemed of sufficient importance for the convention to consider and consult upon? We find, sir, that there were many propositions in the Convention which framed the Constitution of the United States to interfere with suffrage in the States. In the first place it was proposed to apply a variety of restrictions, among others a freehold qualification. I will barely refer, without tiring the Senate with a long reference upon that question, to what was said by Mr. Ellsworth, of Connecticut, on that subject:

"Mr. Ellsworth thought the qualifications of the electors stood on the most proper footing."

That is, without being interfered with by the Constitution.

"The right of suffrage was a tender point, and strongly guarded by most of the State constitutions. The people will not readily subscribe to the national Constitution if it should subject them to be disfranchised."

And added:

"The States are the best judges of the circumstances and temper of their own people."

Thus, sir, Mr. Ellsworth was of opinion that the States being sovereign republics should be left to control and regulate that matter according to their own discretion.

We find that the question of suffrage and the interference of the General Government therewith in the States was fully discussed in the Federalist by Mr. Madison and Mr. Hamilton. Mr. Madison, in No. 52 of the Federalist, writes as follows:

"The first view to be taken of this part of the Government relates to the qualifications of the electors and the elected."

"Those of the former are to be the same with those of the electors of the most numerous branch of the State Legislatures. The definition of the right of suffrage is very justly regarded as a fundamental article of republican government. It was incumbent on the Convention therefore to define and establish this right in the Constitution. To have left it open for the occasional regulation of the Congress would have been improper for the reason just mentioned. To have submitted it to the legislative discretion of the States would have been improper for the same reason; and for the additional reason that it would have rendered too dependent on the State governments that branch of the Federal Government which ought to be dependent on the people alone. To have reduced the different qualifications in the different States to one uniform rule would probably have been as dissatisfactory to some of the States as it would have been difficult to the Convention. The provision made by the Convention appears, therefore, to be the best that lay within their option. It must be satisfactory to every State, because it is conformable to the standard already established, or which may be established by the State itself."

I read this from page 226 of the edition of the Federalist I hold in my hand, that of 1831. On page 236, in No. 54, Mr. Madison says further:

"It is a fundamental principle of the proposed constitution that as the aggregate number of Representatives allotted to the several States is to be determined by a Federal rule, founded on the aggregate number of inhabitants, so the right of choosing this allotted number in each State is to be exercised by such part of the inhabitants as the State itself may designate. The qualifications on which the right of suffrage depend are not perhaps the same in any two States. In some of the States the difference is very material."

So far Mr. Madison. In No. 59, written by

Alexander Hamilton, at page 255 of the same volume, I find the following words:

"Suppose an article had been introduced into the Constitution empowering the United States to regulate the elections for the particular States, would any man have hesitated to condemn it both as an unwarrantable transposition of power, and as a premeditated engine for the destruction of the State governments?"

That was the objection taken by Alexander Hamilton to the interference of the General Government in State elections except so far as was necessary to protect the very existence of the national Government, which required that the national Government should have power to interfere in the choice of Representatives and Senators as to the time, place, and manner of choosing them, leaving the question of the qualifications of the electors wholly to the States. He says:

"The violation of principle in this case required no comment."

What was the principle that would have been violated? It was the principle that an independent republic must necessarily control the question of suffrage in its own elections. This lies at the very foundation of all government, and it is therefore wholly impossible for any State to be an independent republic or an independent government in which the right of suffrage is controlled by an external power, whether by the consent of that State or against its consent. For that reason when it is proposed to amend the Constitution of the United States in this respect it is very questionable whether it is not an amendment which subverts the whole foundation and principle of the Government. Suppose an amendment were offered here to-day proposing that this Government, instead of being a Republic, should be a monarchy; suppose it were proposed to strike out the clause of the Constitution guarantying a republican form of government to each State, and instead of that to insert a guarantee of a monarchy to each State. I do not know that this amendment would not be within the power of Congress to propose. The Constitution provides that Congress may propose such amendments as in its own judgment it shall think best and proper. If a proposition of that kind were made it is very true it might be objected "this goes to the foundation of your Government; this is not amendment; it is revolution, it is subversion." Can that not be said in this instance? Is the proposed amendment any more a fair carrying-out of the intentment of the Constitution when it provides for its own amendment than it would be if it proposed directly to subvert the form of government, if it be true that the right of exercising and controlling the power of suffrage must necessarily exist in a State or it ceases to be a Republic?

Sir, when we view the question in this light it must be acknowledged that it rises far above the question of any mere detail as to suffrage; far higher in importance than the question even of abolishing slavery in the States; far higher than any proposition which has ever been made with regard to the amendment of the Constitution, because it is in its truest sense radical and revolutionary. It strikes at the very root and foundation of the Government; it removes its corner stone, and changes the entire character of the State governments. Nor does it relieve this difficulty at all to say that the interference is not by this amendment perfect and complete; that some shadow of liberty is left to the States to control their own suffrage laws. The proposition submitted by the Committee on the Judiciary provides that no restriction on the right of suffrage shall be made by a State on account of race, color, or previous condition of servitude. It may be said that in all other respects the State is left free to prescribe its own restrictions. The first answer to that is that when you once begin to interfere with the right of a State to regulate for itself independently the question of what shall be the qualifications of the voter, you abandon the whole principle. It is not necessary to utterly subvert the power of the State in this respect and make it wholly de-

pendent upon a foreign—and when I use the word "foreign," I mean merely external—power outside of itself. But, sir, in this case it so happens that the very question upon which the public mind has mainly been agitated is the question of the extension of the right of suffrage in respect to race and color—I should say, perhaps, mainly with respect to race. I do not acknowledge that in the State of Connecticut any man is disfranchised merely on account of his color, although the word "white" is used in the Constitution. It is precisely as if it had been said, "none shall vote but those of the white race." That this is so shown by the fact that it excludes negroes and Indians. Certainly the Indian patriarch who once lived in the neighborhood of Norwich had as good a natural right to vote as any imported African, but in the State of Connecticut the right has always been claimed and exercised entirely to control the Indian race; to keep them in a state of tutelage; to refuse them even the power of making a contract, much more the power of governing the State. It was a question of race; it was not merely a question of color.

Although it may be said that in this case the intention is not entirely to deprive the various States of the right to control their own suffrage laws, it so happens that in some of those States most interested, as, for example, the State of Ohio and the State of Connecticut, this is the very question. It is therefore a subterfuge and an evasion to say, "We do not interfere in any other respect," when there is no other respect in which it is possible to interfere, or in regard to which anybody ever proposed to interfere.

Having, as I think, shown the importance of this question, and that it is not merely a question of the qualification of voters, that it is in no sense a mere party question, that it is a question to which a statesman may well apply the best powers of his mind, I think I am safe in saying that a question of that importance, one so vital to the life and actual being and existence of the State governments, ought to be submitted to the people themselves for their action and decision.

It has been said that the proposition is to deprive the people of the respective States of this power of controlling the right of suffrage within their own limits by their own consent, and that therefore their rights are not interfered with. How by their consent? Technically or in fact? I admit that technically this question is proposed to be submitted to the people of this country, but is it in point of fact? Is there any real submission? I beg leave, Mr. President, with all respect, to take your own State as an example, for it so happens that in consequence of the peculiar political character of that State at this moment, the present Legislature of Ohio, if this question were submitted to them, would not perhaps agree with your own sentiment on the subject or with that of a majority of the Congress of the United States. Would it be fair to submit a question of this character to the present Legislature of the State of Ohio? You would not think so if every Legislature had the same sentiments and had been elected a year and a half ago, and was still in existence. I ask any Senator whether it could be said that a Legislature with those sentiments thus elected upon other issues was a fair tribunal to express the sentiments of the people of that State upon a question of this character? It so happens that in other States the members of the Legislature entertain different views. They also were chosen without direct reference to this question. It may even be said that the Legislature of the State of Ohio was chosen with more reference to this question than the Legislatures of other States, because when that Legislature was chosen the question of colored suffrage was pending before the people of the State, and the people actually voted down the proposition by a majority of nearly fifty thousand votes. But notwithstanding that fact, which shows that the subject was under consideration, I still say that I cannot as a Senator declare that I believe it would be fair to

submit a proposition of this character to the Legislatures of all the States having the same views as the Legislature of Ohio, chosen a year and a half ago. That, sir, is what you propose to do, because it happens that the Legislatures are in favor of your proposition. Would you do it if they were against it?

A word further as to the question whether this is a submission to the people. When the Constitution was formed provision was made that amendments to it might be submitted to the Legislatures or to conventions in the various States. Of course the intention was that Congress should select and judge as between these forms of submission; but can any man suppose that at that period in the history of our country it was ever supposed that questions of amendments to the Constitution would come to be party questions, submitted with party views, and to a party majority? I do not reproach anybody that that should now be the fact. It is, perhaps, a necessity of the case, and cannot well be otherwise; but when the Constitution was formed there was probably no anticipation of such a state of things, and therefore when it was proposed to submit questions of amendment to Legislatures or conventions the meaning and intent was that the people should have an opportunity to act, that they should at least have an opportunity to elect those Legislatures or those conventions with reference to the consideration of the proposed amendments.

But suppose now you say that this question shall be considered by the Legislatures of the States, and not by conventions. Then, from the very necessity of the case, you must place it before bodies actually chosen by the people before the question was presented. It is impossible, in my judgment, for Congress by any particular phraseology of their submission of the proposition, to prevent an existing Legislature from acting on a question submitted. The Legislature of Ohio chosen two years ago, if this subject is submitted before they go out of existence, have a right to act on it. The Legislature of Connecticut now existing, if the proposition were submitted in season, might be called together by the Governor and act upon it. You cannot prevent it. Therefore it seems to me that it is absolutely essential, in order to get the action of the people on this question, that it should be submitted to bodies to be elected by themselves subsequently, to wit, conventions, because you cannot control the question of submission to the Legislatures.

But I was more particularly upon the point of the technical consideration of this question by the people. I think that the Senate of the United States in a question of this gravity and this importance ought not to stand upon technicalities. They ought not to insist that a mere submission *de jure* shall be sufficient when there is no submission and can necessarily be no submission *de facto*, and there are peculiar reasons in the present case why such a submission should not be insisted upon.

The Senator from Massachusetts [Mr. WILSON] said yesterday that he had no doubt that the Republican party had lost, I think he said, seven hundred and fifty thousand votes by this question of colored suffrage. I will not contend with him as to the number of votes they may have gained or lost, but I cannot but think as he said, that that possibly was a reason why under his guidance and control and that of other distinguished Senators the Chicago Republican national convention not only ignored this question, but actually declared a doctrine utterly in opposition to this proposed amendment. That convention assembled last spring in Chicago. They were compelled to meet this question. It was one of those questions which could not be avoided. It would not do to say that suffrage should be granted in accordance with the letter and spirit of the Constitution, as they said the debt should be paid in accordance with the letter and spirit of the law. They were obliged to say something definite. It was true they could not satisfy my honorable friend from Massachusetts, [Mr. SUMNER,] nor the

Anti-Slavery Standard. In that paper their course was very severely condemned, and I suppose my friend from Massachusetts would condemn it. But what did they say? Their resolution on this subject was read yesterday by the Senator from Indiana, [Mr. HENDRICKS.] I will dwell upon it but for a single moment. This is the Chicago resolution:

"The guarantee by Congress of equal suffrage to all loyal men at the South was demanded by every consideration of public safety, of gratitude, and of justice, and must be maintained."

That is explicit. So much was to be done by act of Congress. The resolution then proceeds:

"While the question of suffrage in all the loyal States properly belongs to the people of those States."

The honorable Senator from Nevada [Mr. STEWART] attempted to show that the true intent and meaning of this was that the subject should be left to the people of the States by a constitutional amendment. Why, sir, if he will look at this resolution for a single moment he will see that it makes a distinction which the proposed amendment to the Constitution does not make and cannot make between the several States. There was to be one mode of action as to the southern States and one mode as to the northern States. Can you do that by a constitutional amendment? The fact that the two are separated and divided conclusively proves that the convention had in view a different mode as to the two. Congress was to interfere as to the one, the people of the northern States were to regulate as to the other. The people of all the States? By no means. The people of the States interested—the loyal States—had preserved their powers and rights inviolate, whereas the southern States had sacrificed theirs by rebellion, and it was therefore necessary for the General Government to interfere in their case. That was the plain meaning.

This is conclusive against the construction given to it by those who say that the object and end of the resolution was that Congress should propose an amendment to the Constitution of the United States by which the people might regulate it, for that amendment must include the whole country and cannot include merely a part of the States.

How was it understood in point of fact? I did not share very largely in the discussions during the last canvass, although I had very firm and decided convictions with regard to what ought to be done. In the discussions before the people in all the northern States the ground was taken by all the orators of the Republican party, almost without exception, that the question of suffrage was to be left to the States for their separate action. The honorable Senator from Ohio, [Mr. SHERMAN,] who had the kindness to send me his able speech; the honorable Senator from Missouri, [Mr. HENDERSON,] who did me the same favor; and other Senators, with the exception of the honorable Senator from Massachusetts [Mr. SUMNER]—every one of their great orators before the people in that exciting canvass took the ground that this question was to be left to the States in their separate State action, and if any constitutional amendment was to be made it was to be an amendment to the State constitutions made by the people of the respective States. I have some indistinct recollection that my colleague took the same ground. At any rate it was never claimed anywhere, in any newspaper from the New York Tribune down to the humblest organ of the party, that the intent and meaning of the resolution to which I have referred was that Congress at this session should propose a constitutional amendment to Legislatures chosen in November last. Why, sir, if it had been so your Legislatures would have been of a very different character, in my humble judgment.

Therefore I say that not only from the importance of this question as subverting the character of the Government, but also from the pledged faith of the great Republican party, acting in solemn council, declaring and promul-

gating its principles, stating to the people what would be its action in case it should receive a renewal of their confidence—in view of all this, I say that this Republican party is bound in solemn honor, at least, to submit this question, in fact, to the people; to give them an opportunity to be heard upon the subject. Your convention, at least, said that it should be left to the people of the States. If you say now that you meant by "people" existing Legislatures, or Legislatures to be chosen on the day when General Grant was chosen, do you suppose that if this had been so understood the result would have been precisely what it was? I do not speak of party results; but would legislators have been chosen, precisely such as were chosen, if the people had supposed that the great question of the right of the States to continue their existence as independent republics was to be decided—a question far greater than the question whether a negro or a Chinaman shall vote?

I say, then, in solemn honor you are bound, and you cannot, as men of honor and of character, refuse to submit the question to the actual, genuine sense of the people, nor can you hide yourselves safely and honorably behind technicalities, and say that when the question is submitted to the Legislatures already chosen it is presumed to be submitted to the people.

Sir, I do not wish to bring railing accusations against the leaders of the Republican party, but I beg leave to suppose a case. I beg leave to suppose that the Democratic party in national convention had pledged itself by a solemn resolution to carry out a certain line of policy; that upon that line of policy it had succeeded in carrying the popular vote, and had elected the honorable candidate for whom its members voted to the office of President of the United States. Suppose, for example, the pledge had been on the question of the national debt and the Democratic party had resolved in solemn convention that the debt should be paid in gold, and upon that pledge of their faith and honor the confiding people of the country, not believing it possible that a great party, an honored party, a party which had inherited the glory and the fame of Jefferson and Madison and Jackson, could violate its pledged word, and in that confidence had elected a President and a Congress and State Legislatures in accordance with the views of the Democratic party; suppose they had met here to-day in the Senate of the United States, controlling it by more than a two-thirds vote, and controlling also the House of Representatives, and in violation of their pledge had passed a resolution repudiating the public debt. What would be said of them? Does it require a very great stretch of imagination to suppose that the leaders of a party who had thus violated their honor would have been held up to popular scorn and indignation; that they would have been stamped with infamy as violators of faith, as having obtained power by false pretenses, and that the leaders who devised and suggested such a palpable breach of faith would have been expelled by the common sentiment of mankind from the association of honest and honorable gentlemen throughout the world? Nor would any quibbling gloss or subtlety of interpretation by the leaders of the Democratic party, by which the words of the pledge were claimed to be complied with while its true spirit and meaning were violated, render the proceeding any the less contemptible, any the less worthy of the detestation of honest men.

Sir, I have supposed the Democratic party to have been guilty of such an outrage. *Mutate nomine, de te fabula narratur.*

"Change but the name
Of thee the tale is told."

Or in another form, more scriptural, "Thou art the man." Now, sir, in saying this I do not mean to say that the leaders of the Republican party, as individuals, intend to violate their pledges any more than I should be willing to believe the Democratic party capable of

such an outrage. They scorn to violate any, the slightest implication, by which their honor is involved and pledged in private life; and so I trust they will do in public life. I would not be so offensive as even to suppose that the party in power would ever by any possibility violate knowingly and intentionally a pledge they had made to the whole people in their party platform; and still, Senators, this is the brink of the precipice upon which, in my judgment, you stand, if you refuse to submit this question in honor and in good faith to the actual vote of the people of the United States.

I think I may say more. I think you are pledged not to attempt to amend the Constitution of the United States on the question of suffrage in the States, but to leave it to the people of the States to amend, if they see fit, their own State constitutions. That is my belief as to the meaning of this resolution; but without insisting on this extreme view of the case, I only now say that you are at least under obligations to give the people an opportunity to say whether or not they are willing, by the adoption of this amendment, to subvert their old form of government and become subject provinces to an external power. There is no possible mode by which you can give them this opportunity except by submitting the question of the ratification of the amendment to conventions of the people, as proposed in the amendment which I shall offer.

Mr. President, I have already said that the question before the Senate is not merely a question of suffrage, but that it goes to the very foundation of republican government and strikes at the power of the States to determine and establish, each for itself, the qualification of its own voters. It is important to bear in mind this distinction. There are in the State of Connecticut, and doubtless in all the States, many who are in favor of universal suffrage without distinction of race or color, who yet cling to the right of each State to decide as to the qualifications of its own voters. The pending constitutional amendment proposes to transfer this power from the States to the General Government by the consent of three-fourths of the States; but the character of the Government is no less changed by this mode of effecting the alteration than if it were done by act of Congress. All the States will not consent to the change, and those States which do not thus consent will be deprived by external power of the essential characteristic of self-government as completely as if the change were made by a mere law of Congress.

Furthermore, those States which consent to the amendment are merely the artificers of their own ruin as communities entitled to local self-government. They destroy freely and voluntarily, but yet they not the less destroy their character as independent States of this Union. Even the consent of a State, however freely rendered, would not prevent the necessary consequence, namely, the loss of the vital and essential element of self-government, consisting in the power of deciding freely, independently, and without appeal upon the qualifications of voters. Therefore it will be found that many advocates of negro suffrage will condemn and oppose this attempt to overthrow the State governments and reduce them to utter insignificance by the establishment of the principle involved in this amendment. They are unwilling to see the ancient Commonwealths which won our national independence and formed our national Government, together with their younger sisters who fill up the number of our United States, reduced from the proud position of independent, self-governing republics to the humble and helpless condition of subject provinces whose people exercise the right of suffrage under conditions and regulations imposed by a central power.

For myself I can speak only for Connecticut. For a brief period I may still speak for her in this Senate Chamber; and for her and her people I protest against this proposal to strip her of the distinguishing badge of her sovereignty, the chief remaining sign and evidence that she

is still the proud republic which she has been for more than two hundred years, and I trust for untold centuries will continue to be. In her own good time and by her own will and pleasure she may, when she sees fit, extend, as she has heretofore, in the exercise of her undoubted and unquestioned right seen fit to deny, to the colored race the right of suffrage; meanwhile she inflicts on that race no wrong. If her constitution forbids their voting, her statutes also exempt them from all taxation. It is possible that she would sooner or later, if left to the exercise of her own generous and just convictions of duty, in view of the general enfranchisement of the black race, extend the same privilege to her own colored population, but I think I may safely say that her people will not willingly consent that her ancient laws on this subject shall be altered by the action of other States. Whatever she does in this regard she must do voluntarily and freely. When she acts she must grant, or at least acknowledge and confer, a privilege; not like a galley-slave, be scourged to the performance of a neglected duty. For myself, I cannot conceive how any true son of Connecticut who cherishes her stainless honor and high renown, and feels a just pride in her illustrious history, can consent that she should be compelled by the action of any external power to strike from her constitution provisions relating to suffrage which she has deliberately established and persistently maintained. I trust no such humiliation is in store for that proud and patriotic State. Now, as ever, she is proverbial for her spirit of independence and for her unyielding resolution to manage her domestic affairs, civil and religious, in her own way.

"For still her gray rocks tower above the sea
That crouches at her feet, a conquered wave.
'Tis a rough land, of earth, and stone, and tree,
Where breathes no castled lord or cabled slave,
Where thoughts, and tongues, and hands, are bold
and free,
And friends will find a welcome, foes a grave;
And where none kneel save when to heaven they
pray,
Nor even then, unless in their own way."

Mr. POMEROY. Mr. President, I desire to have read for the information of the Senate, it not being strictly in order at this moment, an amendment which I shall propose at the proper time to this pending question before the Senate.

The PRESIDENT *pro tempore*. The proposed amendment will be read if there be no objection.

There being no objection; the Chief Clerk read the amendment intended to be proposed by Mr. POMEROY, as follows:

"Strike out, in lines fourteen and fifteen, the words 'on account of race, color, or previous condition of servitude,' and in lieu thereof insert 'for any reasons not equally applicable to all citizens of the United States'; so as to read:

The right of citizens of the United States to vote and hold offices shall not be denied or abridged by the United States or any State for any reasons not equally applicable to all citizens of the United States.

Mr. MORTON. With the permission of the Senator from Kansas, I will ask to have the amendment reported by the Committee on Representative Reform read for the information of the Senate.

Mr. STEWART. Relating to this subject?

Mr. MORTON. The amendment was submitted yesterday to that committee by the Senator from Pennsylvania, [Mr. BUCKALEW.]

The PRESIDENT *pro tempore*. It will be read if there be no objection.

The CHIEF CLERK. It is proposed to amend the resolution so as to make it read:

That the following articles be proposed to the Legislatures of the several States as amendments to the Constitution of the United States; and the said articles, or either of them, when ratified by three-fourths of said Legislatures, shall be valid as part of the Constitution, namely:

And then to add as a new article:

ARTICLE 16. The second clause, first section, second article of the Constitution of the United States shall be amended to read as follows: "Each State shall appoint, by a vote of the people thereof qualified to vote for Representatives in Congress, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative or person holding an office of trust or

profit under the United States shall be appointed an elector; and the Congress shall have power to prescribe the manner in which such electors shall be chosen by the people."

Mr. POMEROY. Mr. President, during the discussion of this question yesterday the Senator from Massachusetts [Mr. WILSON] made use of the following words, as reported in the Globe:

"There is not to-day a square mile in the United States where the advocacy of the equal rights and privileges of those colored men has not been in the past and is not now unpopular."

And then he goes on to say that on every square mile the Republican party lost votes by its advanced views upon the question of equal rights. I only desire to reply to that in a word, as I did not have an opportunity then, that that is only one side-view of this question. Let it be known in this country that the Republican party have abandoned the cause of the rights of man, of the rights of the colored men of this country, and instead of losing a few thousand votes, as the Senator from Massachusetts intimated, I apprehend that the party itself would not be worth preserving. The strength of the Republican party consists in its adherence to principle, and to that embodiment of its principles, equality of rights among men. Without that, I repeat, there would be no motive to sustain the party, and the party would not be worth sustaining. It is, to my mind, all that makes it valuable. It was that for which it was organized; and instead of being a source of weakness it is, in my opinion, a source of strength and power.

But I have had read the amendment which I propose to offer to the present constitutional amendment for the purpose of discussing this question still further. My amendment provides that no State nor the United States shall make any inequalities that are not equally applicable to all citizens. If you want a condition of intelligence, of education, of any quality that applies equally to all, it can be adopted by the States under the amendment that I have proposed. I shall now take it upon me in a few brief words to demonstrate the proposition that inequality of rights secured in either constitution or law is a source of weakness.

Mr. President, by this amendment I mean something more than an hour's delay in the passage of this joint resolution. To delay it is no pleasure to me; I am but too anxious for it to become part of the fundamental law. And I would not support this amendment to the amendment but from the conviction I entertain that the Constitution will be incomplete without it. Indeed, I hold it will be radically defective without this amendment. The great error of the past, when the Constitution was formed, grew out of inequalities among men, as it respects their rights. It has been the contest of the century, and it finally culminated in a legal dogma, pronounced some years ago by one of the justices of the Supreme Court, that one class had no rights which the other was bound to respect. To deprive a citizen of any one right will tend to produce the extinction of all. And the right to take the least prepares, if not justifies, the way to take the whole. I know Senators are in haste to pass this resolution, but the opportunity does not often occur to amend the organic law of a nation. It may not come to us again in a lifetime, and what is worth doing at all is worth doing well and right. I approach this question filled with distrust and some misgivings, knowing as I do that the views I entertain are not accepted and adopted as the accredited principles of the majority of this Senate with whom I act. But upon questions of private judgment and personal belief we are accustomed to extend the greatest liberality and to exercise that "charity which vaunteth not itself" and "is not puffed up" with immaculate self-conceit, but "beareth all things" and "never faileth." For the exercise of that charity I plead. To an attractive entertainment I cannot invite you without premonitions of sure disappointment. A plain and honest effort to set forth the truth in faith-

fulness and with candor is all that I shall aspire to.

The fathers who framed our Constitution "sowed to the wind" when they admitted into that instrument the shadow of the substance, afterward claimed, that there could be a class of persons of which it would take five to make three of the average representative weight. And in our day and time "we reaped the whirlwind." I know they were not called slaves, but it matters not so much what a thing is called as what it means. It meant that they were to be held, each one, as but three fifths of a man for the purposes of representation. And that was the first inequality admitted into that immortal instrument which had on its title page those glorious words, radiant with light and promise to the lowly and oppressed:

"That all men are created equal; that they are endowed by their Creator with certain inalienable rights, among which are life, liberty, and the pursuit of happiness."

This was a monstrous inconsistency, which has marred the beauty of that instrument as well as the peace and honor of the country for a hundred years.

Now, Mr. President, I do not want to strike upon such a rock again. We have hauled up the old ark of the Constitution for repairs, and I want above all other things to secure it against the possibility of the admission that there can be inequalities of rights among citizens. It matters not in what those inequalities consist; if they relate to and impair the rights of the citizen, even the poorest and the weakest, they are fatal and destructive to the safety and peace of the Government and to its character as a model of republicanism to the world, and also to the well-being of those whose rights are destroyed or abridged. Amend the Constitution to-day and leave in the possibility of the rights of any of our citizens being insecure or destroyed or neglected, and you have perfected nothing. A contest will go on until we or some more faithful men who come after us shall complete the work neglected at this moment by us.

The work of reorganization, made a necessity by the war, cannot be perfected throughout the nation with the rights of any citizen imperfectly or partially secured. Complete justice, fairly secured equally to all, is the highest expediency and the only safety; and, thank God, "to that complexion it must come at last." The period of the surrender of Lee and Johnston, terminating the existence of armed rebellion in this country, and the months following the assassination of President Lincoln, will evermore be held sacred, as it opened the era of reconstruction, not in the South alone, but throughout the North and the West. Having pulled down by fire and sword, by law and Constitution, it became a necessity to build up. The States having been disorganized and their governments overthrown, it was a work of no ordinary magnitude to "build again the old waste places" and to "lay the foundations of many generations." The demoralization which led to disorganization grew out of a false conception of the rights and duties of the citizen, and injustice, organized into the Government and sustained as a system, soon worked its overthrow.

Gathering lessons from the past, it now becomes a most solemn duty to inquire how to lay the foundations of a government that will stand securely both as against its dissatisfied citizens within and its jealous and opposing enemies from without. To give strength and character to any form of government there must be entire fairness and equality among all its citizens subject to it. Injustice framed into law or put into the Constitution is destined to work its overthrow. You can make an edifice of granite and marble stand upon the drifting sand sooner and better than you can found and maintain a Government whose foundations are not laid securely in impartial justice and in an equality of rights, obligations, and duties where the conditions are equal.

The framers of our form of republican government copied after no model. Indeed, there was no precedent in history, ancient or modern, for the American form of republican government. One thing, from their long and bitter experience, the fathers surely intended to avoid, namely, placing the power of this Government into the hands of one man or one class of men, be it president, king, or cabinet. Indeed, this Government was ordained by and for the people:

"We, the people of the United States, in order to form a more perfect union, secure domestic tranquillity, provide for the common defense, and to promote the general welfare, &c., do ordain and establish this Constitution and Government."

The power of a Government must rest somewhere. And it became a most serious question where and who should be regarded as the safest depository of political power. The fathers said "the people," and all the people. If the few are safer than the many, then the fewer the better. And why not let the divine right of kings and cabinets be at once established, so that the work of the fathers upon this continent may speedily come to an end? But if the people are safer to guard the precious trust of government than any mere individuals, why not all the people? Why trust a part sooner than the whole? The safety of a Government, I apprehend, lies in the patriotism, loyalty, virtue, and love of man, as well as of God, in the hearts of the people. This is not alone found in schools or books or in men alone of family name and descent.

The safety of a good Government is secured when it rests near to the hearts of good men and women—the people—whether wise or unwise, whether learned or unlearned, in books or schools. The very instinct of virtue and a love of human kind, binding indissolubly the citizen in the one bond of equality of rights, where liberty is secured in the law and the law made, upheld, and executed by the citizen, now forms and cements to some extent this national Government, which will tower in its magnificence and stand forever, provided that in this work of reconstruction we allow no injustice, no inequality among citizens, no proscription of rights, either civil or political.

It is worthy of an inquiry here, and without proceeding further, who are the citizens under our Government entitled to the high prerogative of forming and upholding the civil Government? I answer in the language of the fundamental law, article fourteen of the amendments to the Constitution of the United States, section one:

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, shall be citizens, &c., and no State shall make any law abridging the rights of citizens."

The citizens, then, of the United States are the body-politic, possessing the power of the Government and alone the basis of its strength and power. We might inquire, if the question admitted of doubt, whether it is a source of weakness or strength in a Government ordained like ours to make inequalities among her citizens who have forfeited no rights and been convicted of no crime.

The irresistible tendency of modern civilization is in the direction of the extension of the right of suffrage, and not at all toward proscription. The day when a few men did the voting and governing for the many has gone by. Seven hundred thousand colored men were enfranchised in a day, and they have not disappointed the reasonable expectations which were entertained by them. They were unlearned and, for the most part, ignorant men. But instinct is wiser than logic. The negro has blended and is lost sight of in the man. Manhood suffrage is now held to be the native and the inherent right of every male citizen of a prescribed age; and some there are who claim the enfranchisement of negro and rebel together. But is there no injustice in completing the work of reconstruction upon such a basis? Are not the men and the women citizens of the Republic alike? And how can there be in a just Government an equality of

citizens with a proscription of rights? I mean, of any of their rights:

"For whatever link you strike from Nature's chain, Tenth or ten thousandth, you break the chain alike."

And as the strength of a chain is only equal to the weakest link, so the strength of this Government is tested, to failure when any of its links are sundered and alienated. Any man who supposes that you can disfranchise any innocent citizen, with the lights of the past blazing in his face, has become blind, and will not or cannot read the lessons of experience. The ballot is its own instructor. It is an educator. It teaches, and it speaks a language, and that for human rights. It is the great vindicator and protector of individual and personal, no less than of national honor and character. But human nature, claiming its rights, has no sex; the mind and the soul have no gender, and there is no blending of the responsibility of one citizen into that of another. Sir, the criminal for himself or herself goes alone to dungeon or scaffold. To his own master he standeth, falleth; and by no ingenuity or contrivance can the responsibility of one citizen be shifted upon the shoulders of another. In the primary and individual capacity must each speak, vote, pray, believe, love, hate, live, and die for himself or herself alone. Stamped upon every soul is an individual character and individual responsibilities which can neither be laid aside nor transferred to another. In this respect no one can have a representative character. In this ordeal each one stands for himself, and no one for another. These are the duties of this life which cannot be discharged by proxy. You are your own free agent, but you have no power of substitution, and it cannot be delegated. These are duties pertaining to one's self alone, and it is monstrous to talk of one person voting or representing another in the unorganized and primary state. As well may he live another's life, or die another's death.

I now propose to speak of what I consider to be the essential matter in the proposition to extend or regulate the elective franchise in our Government. I prefer, on the whole, to do this by an amendment to the Constitution rather than by a congressional enactment, even if the question of the power of Congress was admitted, because the fundamental law is the place to rest the question of fundamental rights, and when put into the Constitution it is beyond the reach of party legislation and removed from party politics. Unlike a law, it is unrepeatable.

Now, if this question of suffrage is to be settled, and settled by the law of the Constitution, it is of the highest importance that it be settled upon the right basis and upon one entirely in harmony with the genius and spirit of our Government and institutions. I only claim the logical sequence of our political organization. All other Governments save ours have their privileged men or classes and their unprivileged; some are citizens, others are mere subjects; one class control public affairs, the other bear its burdens with voices silenced. But in this Government, ordained by the people, the citizens, their right to administer it should not be questioned. And how can this Government be administered but by the ballot? Laws are made and executed by the representatives of the ballot. An elective officer is but a consolidated ballot; one person exercising the voice and will of many.

And how did the citizen obtain this power in our Government, or how was it exercised by one class and denied to others? Citizenship was not obtained by colonial charters, for then would their rights have perished with the charters themselves; not by any hereditary right or title, for all such were forbidden in the Constitution; not by successfully wielding the sword in battle, for then would it have been confined to warriors alone. How, then, was it obtained? I answer: it was given in

the fundamental law when the Government was ordained for "all men" who are possessed of the "inalienable right to life, liberty, and the pursuit of happiness." And the word "men" is as comprehensive as the word "people," for they all had the same title to life, liberty, and the pursuit of happiness.

The right of self-government springs from the consent of the governed, and there can be no just mind that will consent that a part shall exercise the will of the whole. Such an act would be a palpable usurpation of power and only one step removed from the right of a king or despot to rule; because if you desert the principle of equality of rights and circumscribe them to a part, that principle would not be violated if you proscribed still more and lodged the power finally in one man. And if by virtue of citizenship all are not entitled to the ballot as the source of power and rights, then none are; for power to deprive one extended would deprive all; and if you admit the existence of the power, you must not deny its exercise to any extent.

I now come to this point to say that to deprive any citizen of the right of suffrage is a violation of the principles of our Government as it was ordained, and is a blow direct at the Government itself. I have studied this form of government to no purpose if its logic does not lead me to universal and impartial suffrage. The Constitution places all the powers of the Government in the people who ordained it, (and it resided in them in any event;) but while they delegated the exercise of certain powers to departments, State and national, still they held the reins of modification of all that was delegated, and provided for the exercise of that right. Hence it is that I can say that this is not only no "white man's Government," but it is no male Government; and it is a historical fact that in the early days of our history both colored men and white women were admitted to the ballot upon precisely the same terms as white men. This was done in some instances, but their number being few does not affect the principle. If you admit but one woman to vote or one negro it is a confession that there is no legal bar to all.

Citizenship is of birthright or of choice in our form of government, and the ballot is one of the rights admitted, ay, conceded, and cannot be conferred. Who gave any class the right to monopolize the elective franchise? If a majority, however large, can strike down one right not forfeited then they can another, and hence, as I have said, all. So that if you admit the doctrine of legal disfranchisement you cannot stop short of admitting that the power exists to strike down all rights. It may be said this will allow not only but require that minors and even children should be entitled to vote. To this I reply that a right may exist where the person is not entitled to the exercise of the right until a prescribed period. A child is entitled to the right of walking, marrying, and inheriting property; still it must wait for development to exercise that right. When we become members of society under an organized form we consent to the regulation of the exercise of our rights, but not to their extinction.

I will cheerfully comply with all regulations respecting the time, manner, and place of voting, as well as the age and residence required, when made equally applicable to all citizens; but a man who will not resist a law of disfranchisement has lost the spirit of his manhood. Such a one deserves to have no rights if he dare not maintain them. The citizen who will tamely submit to one robbery will soon be prepared to welcome all. When you have taken away the ballot you have left nothing secure.

Do not tell me that the rights of one class of citizens are safe in the hands of another, that the men will take care of the rights of the women. The rights of individuals allied to you may be or may not be safe, but of a class they never can be.

The property and character of your own

wife and child may be safe in the hands of the husband and father; but would you trust the property and character of all other women and children in his hands? There are instances where one man may safely speak, vote, and act for a whole community; but would you organize and administer a government upon such a theory? Anything short of entire enfranchisement is as destructive of the theory of our Government as it is dangerous and destructive of individual rights. When one right is destroyed the way is prepared to lose all. I would urge all citizens, by all that is valuable in liberty and desirable in the pursuit of happiness, to maintain and demand that equality of rights and those means of their defense which to a free man are better than an army with banners. I urge it by all that is valuable in a republican form of Government and by all that is dear to human life under it. Citizens who will submit to disfranchisement tamely deserve their fate, no matter whether they be men or women; and the men who demand it and deny the ballot are only one step removed from tyrants. As I would not be a slave, so I would not make a slave; and the man who would do or be either under our form of government does not merit the condition of a freeman. "He ought," as it has been said, "with garters, ribbons, and stars upon him, to be bolted with a golden chain to the blazing pavement of some palace court yard, that when his lord and master goes out to hunt of beasts or men he may be there—the slave—to crouch down and let his majesty vault from his shoulders to the saddle," for he does not deserve to breathe the pure air nor to drink the cool springs of a free country. He ought to live where darkness curtains the heavens, and frosts and winter enchain the earth! Thenceforth and forever let him dwell where man is not honored nor woman loved!

But I maintain and defend the right of the ballot to be in the hands of the citizen by virtue of his manhood and not of sex. It was man who was created a "little lower than angels," and not males! "In the image of God created He him," "but male and female created He them;" "and He called their name Adam." It is said, "I will destroy man," not males, "from off the face of the earth," by a deluge. But seven souls were saved that the generations of men might live upon the earth, and by men is meant mankind, and of this one blood are all the nations; and these nationalized here have a right to all that inherits to a free American citizen. These rights, I repeat, inhere to his manhood and are as inalienable as his immortality. I care not if he may have come to us from the center of dark, fettered Asia, from the plains of long-abused Africa, from the snows of Siberia or the heat of the tropics, he is a man, and hence a brother, entitled to all the rights that are inalienable in man and to all he can possess and attain by the honest labor of his hands or by the powers of his mind.

In this work of reorganizing States we should look North and West as well as South. The robbery of the ballot for men—I mean male citizens—is perpetrated now in more than half of what are called the loyal States, and the prejudice of caste, of race, and color, that child of the devil, is rampant in all the States. This reconstruction should now begin in the fundamental law, and be applied to all the States and extend through all departments of the national Government and then the State governments, and through society at large, the schools and churches, and through politics and religion. Let this country in this way elevate humanity and honor God.

I trust this nation has been founded, and of late preserved from dissolution, for high and noble ends. It is the only free Government on the earth that is expanding and growing with reasonable hope of being indissoluble and perpetual. Since it was founded other nations have been going to decay or changing their form. No sooner was our national authority established and vindicated than the imperial

form of government, which in the hour of our trial undertook to subdue a foothold in the republic of Mexico, subsided and retired. And, as never before, can we say this land shall be an asylum for the oppressed of all nations who are longing and struggling to break the links of steel which enchain them. But our superiority over other nations is lost if we perpetuate in the Constitution cruel inequalities of rights among the citizens of the Republic. All that make other Governments oppressive and hateful is the proscription and inequality among their citizens. And what right have we to go counter to the tendencies of the highest civilization of this age, to the lessons of history, and to the voice of passing events now being pressed upon our attention. The Constitution is to-day under our molding hand. As the wax to the seal, the impress given to it by Congress in this amendment will remain as its permanent character for the years to come. We ought to despise ourselves, as we shall be despised in history, if we fail to meet this emergency by an adequate and liberal amendment to the Constitution which shall secure to posterity what the fathers thought they had "ordained" one hundred years ago. The Government then elevated to citizenship three million people, and ten years ago thirty millions, and to-day nearly forty millions; and yet it is not clearly defined by the law of the Constitution that all the citizens have and shall have the power in their own hands to maintain and defend those inherent rights to preserve which "Governments were ordained" among men.

I ask the ballot for woman, not on account of her weakness or on account of her strength; not because she may be above or below a man; that has nothing to do with the question. I ask it because she is a citizen of the Republic, amenable to its laws, taxed for its support, and a sharer in its destiny. There are no reasons for giving the ballot to a man that do not apply to a woman with equal force. She may use it or neglect it, as many men do; still it should be hers whenever she chooses to exercise the right. This would tend to its elevation and purification; for when the sacredness of the ballot is preserved it would not soil a woman's heart, hand, or dress, or the place of voting any more than when she uses the Bible and the prayer-book in the congregation of humble worshippers. In all the walks of life, retired or public, she adds grace, elegance, and purity to every step of her pathway, to every work of her hand, and to every love of her heart. I am for the enfranchisement fully and without restrictions of every man in the land who has the rights and discharges faithfully the duties of a citizen of the Republic, no matter how depressed or oppressed he may have been. The way of his elevation is by the way of the ballot, and that should be as fixed and as settled as the fundamental law itself. But I would put in the form of law precisely the same provision for every woman in the land; for it is as safe in her hands as in his; it will be used with as much intelligence and with as good results. And besides all that, the distinctive character of our republican Government on the basis of the original design can be perpetuated in no other way. The highest justice is the only safety. Let it come, then, by one comprehensive amendment striking out all inequalities among citizens, and the dream of the fathers of a free and pure Republic shall be realized, and there shall be peace throughout the land and good will among men.

Mr. President, when John Stuart Mill unrolled his petition in the British Parliament a few years since it was found to bear the names of those English men and women whose very thoughts were an inspiration to the civilization of the age. It asked for the enfranchisement of woman, and, upon a vote taken, seventy-three members voted for it. Thousands of our own countrymen and women have passed their petitions to the bar of this Senate, through me, that woman might have the ballot in this Government of the people; and in obedience to their ten thousand voices I ask a vote upon

my amendment, and I shall move at a proper time a call for the yeas and nays upon it. I leave the wisdom of this vote to the judgment of history, and will cheerfully meet the verdict of posterity.

Mr. MORTON. Mr. President, I desire to speak for a few minutes on the amendment reported this morning from the Committee on Representative Reform, which we hope to have considered in connection with the report from the Committee on the Judiciary. I will ask the Secretary now to read the amendment proposed.

The Chief Clerk read as follows:

ART. 16. The second clause, first section, second article of the Constitution of the United States shall be amended to read as follows: "Each State shall appoint, by a vote of the people thereof qualified to vote for Representatives in Congress, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or person holding an office of trust or profit under the United States shall be appointed an elector; and the Congress shall have power to prescribe the manner in which said electors shall be chosen by the people."

Mr. MORTON. As the Constitution now stands the mode of choosing a President is left entirely to the Legislatures of the several States. The fact that the people vote for President and Vice President is not derived from the Constitution of the United States, but from the action of various State Legislatures. The Constitution provides that—

"Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors equal to the whole number of Senators and Representatives to which the same may be entitled in the Congress."

I believe the State of South Carolina from the time of the formation of the Constitution up to the rebellion selected electors by the Legislature. The question of the election of President and Vice President was never submitted to the people of that State; and what was done in the State of South Carolina may be done in any State in the Union. It is always in the power of a State Legislature, just in advance of a Presidential election, to repeal the State law by which the people are called upon to vote for President and Vice President, and by the Legislature itself to choose the electors who shall cast the vote of that State in the Electoral College. I think that there cannot be two opinions now upon the question that this is a blemish and a defect in the national Constitution. The election of a President and Vice President should be referred to the people.

It is proposed by this amendment that the people of each State shall appoint the electors, and that the Congress may determine the manner in which these electors shall be appointed. The effect of this amendment is to take away from the Legislatures of the several States the great power which they now have, and which may under certain circumstances be a most dangerous power, and which might bring on civil war and revolution where a Legislature, finding itself in a minority, and unwilling that the people of the State shall vote directly for President and Vice President, may, as it has the power now, repeal the law by which the people can vote at all for these officers and select electors who shall cast the vote of that State. In the desperation of party and in the contingencies of politics such a great power as this should not be left to the Legislature of any State; and while we are engaged in the business of amending the Constitution we should now provide that the people of the several States shall themselves appoint these electors, and that the power shall not be left in the hands of the Legislatures. The concluding portion of the amendment is in these words:

"And the Congress shall have power to prescribe the manner in which such electors shall be chosen by the people."

This does not require Congress in the first instance to prescribe the manner in which these electors shall be chosen by the people, but gives to Congress the right to do it if it shall see proper to do so. I call the attention

of the Senate to the fact that that provision of this amendment is in substance the same power which Congress now has to provide the means by which Representatives shall be chosen by the people. I will read that clause of the Constitution:

"The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators."

In other words, Congress now has the power, so far as Representatives are concerned, to provide the times, places, and manner of holding elections; and this amendment gives to Congress the power to prescribe the manner in which the people shall choose these electors; so that the power proposed to be conferred upon Congress in regard to presidential electors is substantially the same that Congress now has in regard to the choice of Representatives by the people.

I make this explanation with a view to a remark made perhaps by the Senator from Massachusetts [Mr. SUMNER] yesterday upon that point. The committee carefully examined and compared the two powers, and we think they are precisely the same, although the words are not the same. The phraseology in the amendment proposed by the committee I think is better than that which exists in the fourth section of the first article of the Constitution in regard to Representatives. This, Mr. President, is all I have to say in regard to this amendment.

Mr. FRELINGHUYSEN. I ask the Senator from Indiana whether the committee's attention in examining this subject was called to the question whether under the fourth section of the first article, giving Congress the power of prescribing the manner of holding elections of Representatives, Congress has or has not the right to make a registry law regulating the election of Representatives?

Mr. MORTON. Well, sir, I should think, off hand, that Congress had.

Mr. FRELINGHUYSEN. I agree with the Senator as to that, and that is a subject which may be of importance.

Mr. MORTON. And I think under the amendment presented Congress, having the right to prescribe the manner in which electors shall be chosen by the people, would have the right to provide for a registry law for the choice of electors; in other words, I think the two powers are substantially the same, although the language is different.

Mr. FERRY. Mr. President—
Mr. DIXON. Will my colleague allow me to offer the amendment of which I gave notice?

Mr. FERRY. Certainly.
Mr. DIXON. I move to amend the recital in the proposed amendment by striking out the words "the Legislatures of" and inserting the words "conventions in," and also where the word "Legislatures" occurs in the second place to insert the word "conventions" in lieu of it. I find that the Constitution merely refers to "conventions." When the Constitution was first submitted for ratification it was submitted by the seventh article to conventions, not saying how they should be chosen, implying of course that they should be chosen by the laws of the State. I do not think it is necessary to provide how they shall be chosen.

The PRESIDENT *pro tempore*. The amendment will be read.

The Chief Clerk read the amendment, which was in line four to strike out the words "the Legislatures of," and to insert "conventions in;" and in line six to strike out the word "Legislatures" and insert "conventions;" so that the joint resolution will read:

That the following article be proposed to conventions in the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of said conventions, shall be valid as part of the Constitution, &c.

Mr. DIXON. When the vote is taken on that amendment I wish it to be taken by yeas and nays.

The yeas and nays were ordered.

Mr. DAVIS. I am in favor of the principle both of the amendment of the Senator from Indiana and of the amendment of the Senator from Connecticut as abstract propositions; but I will not vote for them at this time in this assembly. If the State of Kentucky was excluded by force and violence from representation in the Senate of the United States I should deem that the whole residue of the Senate would not have the constitutional right to propose an amendment to the Constitution. Well, sir, there are three States in the Union that are as much entitled to representation at this time in the Senate as any State that is represented in it that are violently and by force excluded from representation in the Senate—Virginia, Mississippi, and Texas.

Mr. TRUMBULL. How about Georgia?

Mr. DAVIS. The case is worse in relation to Georgia, because she is represented in the House of Representatives, and the extraordinary anomaly of her exclusion from representation in the Senate is presented. Was there ever such a condition of things in the world in a deliberative assembly that represented the power of a regular and well-organized Government?

I will state what I understand to be the principle of the Constitution in relation to amendment, and I ask the attention of the honorable Senator from Kansas for one moment to the proposition. The great leading idea of the amendment which he proposes is, that no citizen of the United States should have any right whatever that every other citizen is not entitled to share. Do I understand the honorable gentleman's idea?

Mr. POMEROY. My idea is that civil and political rights belong to all citizens alike; I do not mean the rights of private property.

Mr. DAVIS. We understand each other. Now, I lay down the proposition with more distinctness, with more truth and philosophy than the honorable Senator's proposition, that every State in the Union is entitled under our Constitution to all the rights and privileges that any or every other State is entitled to. Here is the State of Virginia, with all her illustrious history and with all of her revolutionary reminiscences, excluded by force and violence from her just representation in the Senate of the United States. Here is the State of Mississippi in the same predicament. Here is the State of Texas in a like predicament. Here is the State of Georgia in a sort of hybrid condition, neither flesh nor fowl, neither fish nor bird, fully represented, I believe, in the other branch of Congress and without a voice in this assembly of the conscript fathers of the nation; and in this condition of things the Senate of the United States undertakes the burlesque of gravely amending the Constitution of the United States!

Sir, I say it is not competent for the Senate of the United States to act in this state of its organization upon a proposed amendment to the Constitution. It is a mockery. If there was communication between the other world and this, or with the ashes of the illustrious dead who have been so long since borne to their graves, the enormity of such a proposition would be enough to reanimate their ashes and to make their illustrious persons turn over in their tombs. Is the extravagance of this day and generation of ours to have no bounds? I ask you, Mr. President, (Mr. FRELINGHUYSEN in the chair,) an advocate of all these anomalous and revolutionary movements, by what authority can the Senate of the United States proceed to propose amendments to the Constitution excluding the State of Georgia from her representation in the Senate? I put it stronger than that: what right has this Senate or this Congress to exclude the other three States that I have named from their representation in the two Houses of Congress, and to undertake the most important function of Government in the United States; and that is, to alter the fundamental law in their absence?

Mr. POMEROY. If the Senator will permit me to interrupt him, I will state that what I

said was that the equality of citizens not convicted of crime was the same, and so of the equality of the States. If they have been faithful in their relations to the Government they are entitled to perfect equality. They may have forfeited it, as the citizen may, by crime.

Mr. DAVIS. Where is the law of forfeiture, I will ask the honorable Senator? Read it. Let us know the law of forfeiture.

Mr. POMEROY. It consists in the relation that one State bears to another.

Mr. DAVIS. And who is to judge of that relation? Where is the tribunal to decide it? What legal or constitutional sanction has it? How do you get it into court? How do you prepare the action that involves that question? How do you have that action decided? What is the power to render judgment upon that question of relationship, and how is it to be enforced?

Mr. POMEROY. It was decided after a contest of four years, at the time of the surrender of Lee.

Mr. DAVIS. Does the Constitution recognize the sword, as deciding any question under it? Is there any principle of constitutional law that is referred to the bloody arbitrament of the sword? No, sir. The Army in time of war makes no law, no Constitution in this country.

Mr. POMEROY. The Senator told us the other day that in the presence of arms the laws were silent. This was a question decided by arms and where the laws were silent.

Mr. DAVIS. Does the Constitution say that its provisions are silent in the midst of arms? No, sir. That was a powerful expression, not of sentiment but of fear, by Cicero when Pompey's soldiers were present in the Forum. There is no such maxim, no such principle, no such monstrosity in our system. Here we have a Government of law founded upon a Constitution and law subordinate to that Constitution. Among the principles of the Constitution is this: that one State of the Union has as much power, as much right to proceed in all of its processes in the important business of altering the fundamental law as any other State. Where States are in insurrection, where they are making *flagrante bello* against the Government of the United States, you can not in that condition of things proceed to alter the Constitution at all. You must first reduce the insurgent States to obedience to the Constitution and the authority of the United States, and then you may proceed to amend your Constitution. You cannot do it under any other state of case.

But the present condition of things is incomparably stronger than that. Here there is no war; there is no rebellion; there is no insurgent in arms against the authority of the Government of the United States. All have submitted. The law reigns supreme, except so far as it is violated by the machinery of the party in power. At any rate, the insurgents have all submitted. They are no longer in resistance to the laws of the United States or its authority. They have been vanquished in battle, and they have submitted in the best and noblest faith that ever was professed by a discontented people who had been warring on the Government of their country and all of its authority. Now, when peace and order reign, except so far as they are disturbed by the revolutionary movements of the party in power; when, if they were disposed to perform their functions under and according to the Constitution there would not be a ripple upon the surface of our great political sea, but it would be as placid and as transparent as a mirror, as peaceful as though there was not a breeze stirring—when this is the condition of things you have a right to claim the representation and the presence of the representation, both in the House of Representatives and the Senate, from every State in the Union. They are anxious to be represented; craving, beseeching, praying, adjuring you to allow them to be represented; and yet you still, by lawless force, keep them out of your councils, and in their ab-

sence, under the operation of this force, you proceed to alter the fundamental law, the Constitution of our common Government, when that Constitution gives to all the States the free and perfect right to take part in this important business.

Sir, your amendments to the Constitution are all void; they are of no effect. They were proposed by a mutilated Congress; they were proposed by a mutilated House of Representatives and Senate. That mutilation at one time was voluntary, but now, since it has been healed by the submission and obedience of the insurgents to the Constitution and laws of the United States, you have proceeded to continue it, to enlarge it, to protect it indefinitely; and with all this violence done by you to the Constitution, and to the rights of the people and the sovereign States of the United States to take part in this important business of amending the Constitution, you still continue the mockery of your amendments. How ridiculous! How absurd!

Sir, these amendments of the Constitution, your Freedmen's Bureau bill, your civil rights bill, and all your monstrous and unconstitutional laws will be decided in the course of a few years by the sovereign people of the United States of America in their paramount power and sovereignty, to be null and void, mere debris that you have thrown over the Constitution. They will be swept away from it. You are now indulging a dream of power as did Belshazzar before the inscription appeared upon the wall of his palace. That inscription will come to you. You will be weighed in the balance and you will be found wanting, and another Cyrus will sweep you from power. Mr. President, I do not expect to live many years, but I expect to live to see the day of that deliverance of our country and of our glorious Constitution. When I have seen that day I shall then be prepared to exclaim, Simeon like, "Lord, now lettest thou thy servant depart in peace." But I want to see that day; and I do not care who the deliverer is. If the honorable Senator from New York [Mr. CONKLING] would undertake that office he would find me an humble follower, and there would be no one more devoted to him in that mission than myself. Sir, tyranny in any form is never long submitted to by the mass of the people. They may be unable at the time to redress their wrongs and to overthrow the power that oppresses them, but hope springs eternal in their breasts, and they strive and strike on until eventually they do their work. That work is ahead of the people of the United States. They are going to undertake it in earnest, and when they do so their power will be found resistless; and all the efforts that this or any other party accidentally in possession of power in the Government may make to stay the progress of this only sovereign power in our land will be put under foot.

Mr. FERRY. Mr. President, I desire to make some remarks both upon the amendment offered by my colleague and upon the proposition reported by the committee. I prefer, however, not to go on this afternoon, and will give way if any Senator will move an adjournment.

Mr. RAMSEY. I make that motion, that the Senate adjourn.

Mr. WILSON. I move to take up Senate bill No. 811. It will take but ten or fifteen minutes to dispose of it, and it is very important that it should be acted upon.

Mr. STEWART. I hope the Senator will withdraw that motion. I desire to know whether we can have an agreement or an understanding to take the vote on the constitutional amendment. If we cannot have such an understanding, we ought to sit it out to-night and not allow an adjournment until it is disposed of. We want to dispose of it this week.

Mr. HENDRICKS. I hope the Senator will not make us sit it out to-night.

Mr. RAMSEY. With the consent of the Senator from Connecticut, I made a motion

to adjourn in order that he might have an opportunity to speak on this subject to-morrow.

The PRESIDING OFFICER. (Mr. FRELINGHUYSEN in the chair.) The motion of the Senator from Massachusetts can only be entertained by unanimous consent. If any objection is interposed the bill cannot be considered.

Mr. RAMSEY. I have moved that the Senate adjourn.

Mr. WILSON. I hope the Senator will withdraw that motion to allow this bill to be considered.

Mr. RAMSEY. I should be glad to do it, but the Senator from Connecticut desires an adjournment in order that he may have the floor to-morrow.

Mr. WILSON. The Senator from Connecticut will not object to our doing this kind of business.

Mr. FERRY. I cannot allow the constitutional amendment to be displaced without the consent of the Senator from Nevada who reported it.

The PRESIDING OFFICER. A single objection carries the bill of the Senator from Massachusetts over.

Mr. RAMSEY. At the instance of the Senator from Connecticut, I have submitted a motion to adjourn.

Mr. WILSON. I will say to the Senator from Nevada that the Senator from Connecticut [Mr. FERRY] has the floor and desires to speak on the constitutional amendment, but he does not wish to do so to-day. Now, sir, I have been trying here for four or five days to get ten or fifteen minutes to pass a bill that it is important to pass, and which will save a little money. I do not know that I ought to say that; but it is important to pass it; and I am told by the chairman of the Committee on Military Affairs in the House of Representatives that that committee cannot be called at this session, and it is important to send the bill to the House that they may take it from the table there and secure action. I ask the Senate to give me ten or fifteen minutes to pass it.

Mr. STEWART. I should like to know about how many desire to speak on this proposed constitutional amendment, so that we can have some little understanding about it, because on next Monday the chairman of the Finance Committee is going to antagonize his bills. I understood from the Senator from Wisconsin that the Senator from Delaware [Mr. BAYARD] desires to speak.

Mr. RAMSEY. I rise to a point of order. Was I in order in moving an adjournment a few moments ago?

The PRESIDING OFFICER. That motion is always in order.

Mr. RAMSEY. I made it some time ago, at the instance of the Senator from Connecticut, who desires to speak to-morrow, and not to-day.

The question being put on the motion to adjourn, a division was called for; and there were—ayes twenty-seven.

Mr. WILSON. I ask for the yeas and nays.

Mr. WILLIAMS. I presume it can be understood—

Mr. HENDRICKS. Is it in order to debate this question?

The PRESIDING OFFICER. Debate is not in order.

Mr. WILLIAMS. I wish, Mr. President—

The PRESIDING OFFICER. Debate is not in order. The yeas and nays are demanded on the motion to adjourn.

Mr. ANTHONY. I ask unanimous consent to make a statement. I think the Senate all want to do the same thing; they wish to allow the Senator from Massachusetts to pass his bill and then adjourn.

The yeas and nays were ordered; and being taken, resulted—yeas 21, nays 29; as follows:

YEAS—Messrs. Buckalew, Cameron, Davis, Dixon, Doolittle, Drake, Fowler, Frelinghuysen, Hendricks, Kellogg, McCreery, Morton, Norton, Patterson of Tennessee, Ramsey, Robertson, Thayer, Van Winkle, Vickers, Wade, and Whyte—21.

NAYS—Messrs. Abbott, Anthony, Cattell, Chand-

ler, Cole, Conkling, Conness, Corbett, Cragin, Fessenden, Harris, Henderson, Howe, Morgan, Morrill of Maine, Morrill of Vermont, Osborn, Patterson of New Hampshire, Pool, Rice, Sawyer, Stewart, Sumner, Trumbull, Warner, Welch, Wiley, Williams, and Wilson—29.

ABSENT—Messrs. Bayard, Edmunds, Ferry, Grimes, Harlan, Howard, McDonald, Nye, Pomeroy, Ross, Saulsbury, Sherman, Spencer, Sprague, Tipton, and Yates—16.

So the Senate refused to adjourn.

MILITARY FORCES.

Mr. WILSON. I now modify my motion and move to pass over informally the pending business for the purpose of taking up Senate bill No. 811. I hope nobody will oppose it.

Mr. HENDRICKS. What is the bill?

Mr. WILSON. If the Senator from Indiana will allow the bill to be read, I am sure he will not oppose it.

The Chief Clerk read the title, as follows:

A bill (S. No. 811) to provide for the reduction of the military forces, and for other purposes.

Mr. HENDRICKS. I should like to know what the "other purposes" are? [Laughter.]

Mr. WILSON. If the Senator will hear the bill read I am sure he will be for it.

Mr. HENDRICKS. Then let us hear the bill read.

The PRESIDENT *pro tempore*. It will be read for information. Is there any objection?

Mr. HENDRICKS. Not till we hear it read. I do not want to consent to its consideration until I hear it read and know what the bill is. I ask for the reading of the bill for information.

The PRESIDENT *pro tempore*. The bill will be read for information, the joint resolution regularly under consideration not yet having been laid aside.

The bill was read.

Mr. WILSON. There are some amendments reported.

The PRESIDENT *pro tempore*. The bill is not yet taken up. The question is on passing over the special order informally.

Mr. HENDRICKS. I wish to ask the Senator from Massachusetts if that is an amendment that he has sent up?

Mr. WILSON. I say there are amendments reported by the committee.

The PRESIDENT *pro tempore*. The amendments will also be read, if desired.

Mr. WILSON. They were in the bill as reported.

Mr. HENDRICKS. Before we decide this question I want to hear all that the Military Committee has to propose, because sometimes there is a little more in the subsequent proceedings than there is in the first.

The PRESIDENT *pro tempore*. The amendments will be read for information if there be no objection.

The amendments proposed to the bill by the Committee on Military Affairs were read.

The PRESIDENT *pro tempore*. It is proposed to pass by the special order informally for the purpose of taking up this bill. Is there any objection? None being made, this bill is before the Senate as in Committee of the Whole. The question is on the amendments reported by the committee. They will be read again, if desired.

The CHIEF CLERK. The first amendment is in section five, line three, to strike out "eight" and insert "ten;" so as to read: "that the corps of judge advocates of the Army be, and the same hereby is, fixed at ten members."

The amendment was agreed to.

The next amendment reported by the Committee on Military Affairs was in section eight, line three, to strike out the words "or the effects of the habitual use of," and in line five to strike out "or indiscretion," and in line six to strike out all after the word "duty" to the end of the section; as follows:

And all medical officers, in furnishing certificates of disability for officers or enlisted men, shall state fully whether the disability to which they certify was so incurred; and if so incurred, the same shall be reported through the Surgeon General for the information of the Paymaster General, who shall stop the pay of such officer or enlisted man for a period equal to the time of absence from duty for such cause.

So that the section will read:

That no officer or enlisted man who shall be unfit for duty by reason of the habitual use of any intoxicating liquors or drugs, or by reason of any disease incurred through his own immorality, shall receive any pay for the period during which he is so unfit for duty.

The amendment was agreed to.

The next amendment was to insert the following as a new section:

And be it further enacted, That the number of appointments of second lieutenants to be made in the Army shall not hereafter exceed fifty, annually, until otherwise ordered by Congress.

The amendment was agreed to.

The next amendment was to add the following as a new section:

And be it further enacted, That no person shall hereafter be appointed a regimental or post chaplain whose age exceeds forty years; nor shall any post chaplain remain longer than five years at any post; and when relieved from duty his place shall be supplied by a chaplain of a different Christian denomination.

The amendment was agreed to.

The bill, as thus amended, reads as follows:

A bill to provide for the reduction of the military forces, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the grade of regimental commissary in the several cavalry regiments shall be, and it is hereby, abolished; and the lieutenants now holding the appointments of regimental commissary may be assigned for duty to companies of their regiments, and shall fill the first vacancies that may occur in their respective grades of first or second lieutenant in the regiments to which they now belong; and nothing herein contained shall affect their relative rank with other lieutenants of their grade.

SEC. 2. And be it further enacted, That the grades of regimental commissary sergeant, regimental hospital steward, and veterinary surgeon are hereby abolished; and the number of corporals in each company of cavalry, artillery, and infantry shall be reduced to four; and the said non-commissioned officers shall have the privilege of receiving an honorable discharge, with full pay and allowances to the actual date thereof, if they shall so elect, in preference to remaining in the service in such other grades as may be assigned to them by the Secretary of War.

SEC. 3. And be it further enacted, That fourteen of the bands authorized by section seven of the act to increase and fix the military peace establishment, approved July 28, 1866, not to include the band at the Military Academy, shall be honorably discharged without delay, and their discharges shall take effect so as to entitle them to receive full pay and allowances to the actual date thereof.

SEC. 4. And be it further enacted, That the term of enlistment for all arms of the service shall hereafter be five years.

SEC. 5. And be it further enacted, That the corps of judge advocates of the Army be, and the same hereby is, fixed at ten members; and the President is hereby authorized, by and with the advice and consent of the Senate, to fill all vacancies which have occurred or may hereafter occur therein.

SEC. 6. And be it further enacted, That to insure a proper observance of the Sabbath it is hereby made the duty of all commanding officers of posts, regiments, and companies, under direction of the Commanding General of the Army, to dispense with all parades, drills, and reviews, other than inspections, on that day, except so far as may be needful for the preservation of proper military discipline; and the Commanding General of the Army shall, on the passage of this act, issue a general order prescribing the duty to be performed by the troops on the Sabbath, which order shall not, however, interfere with any duties which may be required in time of war or public danger.

SEC. 7. And be it further enacted, That the provisions of law now applicable to commissioned officers respecting confinement for offenses, charges of which have or have not been duly preferred, shall hereafter be applied to all enlisted men, and they shall not be confined or held in arrest without trial for a longer period than commissioned officers would be held under similar circumstances. No officer or enlisted man who shall be placed in arrest for any offense, for which he shall have been or may be duly convicted, shall receive any pay for the period during which he may have been or shall be in arrest or confinement either before or after trial on account of such offense.

SEC. 8. And be it further enacted, That no officer or enlisted man who shall be unfit for duty by reason of the habitual use of any intoxicating liquors or drugs, or by reason of any disease incurred through his own immorality, shall receive any pay for the period during which he is so unfit for duty.

SEC. 9. And be it further enacted, That the number of appointments of second lieutenants to be made in the Army shall not hereafter exceed fifty annually until otherwise ordered by Congress.

SEC. 10. And be it further enacted, That no person shall hereafter be appointed a regimental or post chaplain whose age exceeds forty years; nor shall any post chaplain remain longer than five years at any post; and when relieved from duty his place shall be supplied by a chaplain of a different Christian denomination.

Mr. HENDRICKS. I move to strike out the last part of the seventh section. I make

the motion in order to ascertain what is the purpose of the committee. I ask for the reading of the last clause.

The Chief Clerk read the clause proposed to be stricken out, as follows:

No officer or enlisted man who shall be placed in arrest for any offense, for which he shall have been or may be duly convicted, shall receive any pay for the period during which he may have been or shall be in arrest or confinement either before or after trial on account of such offense.

Mr. HENDRICKS. I supposed that the matter of forfeiture of pay was part of the judgment of the court-martial always, and I do not see why it cannot be left so, if it is proper that the soldier should lose his pay because of his conviction. He may be held under arrest upon some trifling matter, and the court-martial may not be willing to punish him with a forfeiture of pay, and may punish him in some other mode. I do not see why that cannot be left as it has been heretofore, to the discretion of the court-martial.

Mr. WILSON. I will simply say to the Senator from Indiana that it was believed this provision would have a tendency to preserve order and discipline in the Army; but I am anxious to get the general provisions of the bill passed into a law, and if this is all the Senator wants I shall not object to his amendment. It is not a vital matter; I should rather have the clause in; but I am willing to let it go out if we can get the bill through.

Mr. WARNER. I hope the amendment of the Senator from Indiana will prevail. It seems to me clearly unjust to deprive a soldier of pay simply because he is under arrest, perhaps on false charges.

Mr. WILSON. The Senator will understand that he must be convicted before he loses his pay.

Mr. WARNER. I do not so understand it.

Mr. WILSON. I do, and I call for the reading of it.

The Chief Clerk again read the words proposed to be stricken out.

Mr. WARNER. I still think that the language is capable of the construction I put on it.

Mr. WILSON. I will not insist on keeping that clause in, if anybody objects to it; but I am sure it is a provision that would tend to good discipline.

Mr. WILLIAMS. I hope that the provision will be retained. The Senator from Alabama certainly misunderstands its effect. It provides that when a person is arrested and convicted he shall be deprived of his pay both before conviction and after conviction, but he is not to be deprived of his pay unless he is convicted.

Mr. CONKLING. And not before the arrest, I suppose?

Mr. WILLIAMS. No, sir.

Mr. WARNER. The effect there is to provide by law what the judgment of a court-martial shall be; that that shall be one of the points in the judgment against the soldier. I think, with the Senator from Indiana, that should be left entirely to the court-martial. We should not fix by law what shall be the penalty a court-martial may inflict for any given offense.

Mr. HENDRICKS. A man might be put under arrest for a very trifling offense and the court-martial might not hold its session for a considerable time, for months, perhaps; while in another case the offense might be very grave and the court-martial sit immediately. In the case of a grave offense the loss of pay would be but for a short time, while in the case of the small offense the loss of pay would be perhaps for months. It is better to leave it to the court to say how men shall be punished. I believe now they generally punish by putting them at labor, and perhaps that is the better mode of punishment.

Mr. DOOLITTLE. I suggest that we insert the words "at the discretion of the court."

Mr. WILSON. I have no objection to that amendment prevailing. I see there is opposition to the clause, and I am anxious to get the bill through; and I do not regard it as material

because it is in the power of the court-martial to do that if they think proper. I therefore hope the proposition to strike out will prevail.

The *PRESIDENT pro tempore*. The Senator from Wisconsin moves to amend it before it is stricken out.

Mr. CONKLING. I suggest to the Senator from Wisconsin that that is not worth while, because the court has discretion now, and that will leave the law precisely as it is, and employ unnecessary words to do it.

The *PRESIDENT pro tempore*. The question is on the amendment of the Senator from Wisconsin to the amendment.

The amendment to the amendment was rejected.

The *PRESIDENT pro tempore*. The question now is on the amendment of the Senator from Indiana to strike out the words which have been read.

The amendment was agreed to.

Mr. HENDRICKS. I ask for the reading of the first additional section that was proposed as an amendment by the committee.

The Chief Clerk read as follows:

SEC. 9. And be it further enacted, That the number of appointments of second lieutenants to be made in the Army shall not exceed fifty annually, until otherwise ordered by Congress.

Mr. HENDRICKS. I wish to inquire of the chairman of the committee upon what principle that section is incorporated in the bill? I have supposed that second lieutenants were appointed from time to time merely to fill vacancies. Now, is it contemplated that there may be fifty appointments whether there be fifty vacancies or not; or, on the other hand, is it contemplated that vacancies shall not be filled if they exceed fifty?

Mr. WILSON. The object is to prevent appointments. We have to-day, in my opinion, at least three or four hundred officers more than we need. They are being worked out as fast as possible; but the best way to prevent an increase of officers is to declare that until Congress otherwise order, appointments shall be limited to a certain small number. Unquestionably for a year or two to come there will be a large number of vacancies, and by not making appointments to fill them we shall decrease the expenses largely. It is well known that whenever there is a vacancy, whether the office is needed or not, there is a great pressure to get persons into office.

Mr. HENDRICKS. Does that apply only to second lieutenants?

Mr. WILSON. The section relates only to second lieutenants.

Mr. HENDRICKS. The reasoning of the Senator would seem to apply to all officers.

Mr. WILSON. Our Army has been reduced largely, and we have now a disproportionate number of officers compared with the number of men in the rank and file. This section is put in the bill for the purpose of preventing the appointment of second lieutenants, or limiting them to a small number with a view of reducing the aggregate number of officers of the Army.

Mr. CONKLING. Are those the only officers whose number is to be reduced?

Mr. WILSON. We cannot do anything else in this bill.

Mr. CONKLING. I should like to know why you can do nothing in the reduction of officers in this bill except what may be aimed at second lieutenants?

Mr. WILSON. The section simply provides that vacancies shall not be filled.

Mr. CONKLING. In that particular grade?

Mr. WILSON. In that grade.

Mr. CONKLING. Now, my inquiry is, why can you not in this bill, and why ought you not in this bill, to reduce other grades of officers correspondingly?

Mr. WILSON. It is supposed that we shall be able pretty soon to have some measure covering the general subject. The committee of the House of Representatives are at the present time making examinations with a view to propose a large reduction. I understand that General Thomas was called before the House

committee to-day to give his opinion, and a large number of other officers have been summoned before the committee with a view of hearing their suggestions as to the propriety of changes in the staff corps of the Army, and such other changes as may be necessary to make a considerable reduction. All the facts necessary to intelligent action, however, are not yet disclosed. This provision will simply tend, during the year to come until we can do something final on the subject, to prevent putting into the Army men whom we do not need. I tried the same thing before and failed, and it is my judgment that we have a hundred men more in the Army to-day than we should have if we had passed the provision which I offered a year and a half ago. We passed it in the Senate, but it was voted down in the other House.

Mr. CONKLING. To illustrate my meaning, let me state that there are now two vacant brigadierships. I should like to know from the chairman of the Committee on Military Affairs whether the question of dispensing with those two offices is not quite as simple as the question of dispensing with all second lieutenants greater than fifty in number. The honorable Senator seems to consider it a matter of very small moment, but I will express my opinion, for I have one very definite on this question, and that is, that the process of nibbling is not the true process of reformation in this case. I do not believe that the two vacant brigadier generalships ought to be filled. Whether they should be or not must be a very obvious question to those as familiar as he is with this subject.

Mr. WILSON. We do not intend to fill them.

Mr. CONKLING. We have lying on the table here, everybody knows, two nominations for those vacant places, and certainly they are liable in theory of law to be filled. I think they ought to be dispensed with by law. I have no doubt that other reductions of the Army ought to take place; and I confess my utter inability to see why it is that a committee can discern the propriety of dispensing with all the second lieutenants—the lowest commissioned officers, I believe—over fifty in number, and yet cannot see whether it is proper or not to dispense with brigadier generals or major generals. I do not know but that there is some very occult and complicated process of reasoning which pertains to one part of the subject from what pertains to the other. Should that be so, however, it would be a curious coincidence that the complicated part relates to the few and the simple part relates to the many and the minor officers.

I do not know but that the bill is all right; I do not mean to interpose any objection to it so far as it goes; but I regret very much that there should be any difficulty in bringing forward, and bringing forward now at least, the other obvious instances in which reduction would seem to be needed and to be proper.

Mr. WILEY. I desire to ask the chairman of the Committee on Military Affairs whether appointments above the grade of second lieutenant are made from civil life; whether the object of applying this limitation to second lieutenants was not to prevent the number of officers being increased from civil life? The grades of officers above that, I suppose, can only be increased by promotion; and when you cut off the source of supply of the promotions you in fact cut off the increase and multiplication of officers. If I am wrong I should like to be corrected.

Mr. WILSON. I think the Senator from West Virginia is substantially right. We educate a certain number of men at West Point. I suppose there will be perhaps forty of them during the year to come who will have to be commissioned as second lieutenants in the Army. We cannot very well cut them off after educating them. But the object is to have as few second lieutenants appointed as possible, in order to diminish the number of officers of the Army. If the Senator from

New York or any other Senator will move a provision on the bill, if that is the sentiment of the Senate—and I am sure it ought to be—that the vacancies in the grade of brigadier general shall not be filled, I have no objection, for I am opposed to their being filled. I certainly believe that this provision which we have in this bill will save us something and will prevent the appointment of officers in the Army; and had it been passed a year and a half ago we should probably to-day have had seventy-five or one hundred less officers in the Army than we now have.

Mr. CAMERON. Mr. President, the bill presented by the chairman of the Committee on Military Affairs was intended as a beginning of reduction in the Army. It makes considerable reduction in the expenses, especially in the items of farriers, supernumerary sergeants, and corporals and musicians. According to a calculation which I have had made for myself in the War Department this bill saves over one million dollars a year in these items. Then it prevents the increase of the Army by prohibiting the appointment of second lieutenants who are not needed. We are bound in a great measure to commission every man who is educated at West Point who passes a proper examination there; but it is not necessary that we should take any more men from private life and put them into these lower grades.

I agree with the Senator from New York and others that we must make larger reductions in the Army; but we cannot do it now. The moment you begin with the top of the Army you will find a great many objections here, and it will take a long while to secure action. It was the object of the committee, of which I have the honor to be a member, to make these reforms to which we thought nobody would object, and thus save, as I believe, about a million and a half dollars by this little bill. Hereafter other bills will be introduced to make other improvements, as I hope.

Mr. CONKLING. I offer an amendment to the ninth section to come in at the end of the section:

Nor shall the two vacancies now existing in the grade of brigadier general be filled until this prohibition shall be repealed.

The amendment was agreed to.

Mr. VAN WINKLE. I wish to suggest an amendment in the sixth section, which I presume the committee will accept when they understand it. I observed in that section the words "the Sabbath" twice introduced. I am not aware that there is any such day as the Sabbath known to the law of this country. Neither is it known in the constitutions, or whatever they may be called, of some of the leading denominations; in two of them, at least, the words "Lord's day" are used. Besides, there are sects in this country who observe another day than Sunday as their Sabbath. There is in my own State, near my residence, a considerable sect of what are called Seven Day Baptists; there are also a great many of them in the State of New York; and they are a sect of some consequence; they publish at least two newspapers. I therefore move, or suggest to the chairman of the committee, that the words "the Sabbath" be stricken out and "Sunday" substituted.

Mr. WILSON. I have no objection to that.

The *PRESIDENT pro tempore*. That amendment will be made if there be no objection. It is made accordingly.

The bill was reported to the Senate as amended; and the amendments concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

LIEUTENANT COLONEL J. W. DAVIDSON.

Mr. DRAKE. Mr. President, I ask the unanimous consent of the Senate to pass the bill that I spoke about this morning. It is a bill simply to refund to an Army officer a small sum of money which had been stolen from him and which he repaid to the Government. It is the bill reported this morning from the Com-

mittee on Military Affairs for the relief of Lieutenant Colonel Davidson. I move to take it up.

The *PRESIDENT pro tempore*. The Senator from Missouri moves that the regular order be postponed for the purpose of taking up the bill named by him.

Mr. STEWART. I object to that.

Mr. DRAKE. I do not wish the special order postponed. I supposed that the Senate would consent to put it aside informally long enough to pass this little bill.

The *PRESIDENT pro tempore*. That can be done by unanimous consent.

Mr. HENDRICKS. What is the bill?

Mr. DRAKE. Simply a bill to refund to an officer of the Army \$218 25 that he paid in 1847 to replace public money that was stolen from him. It was reported this morning by the Senator from Indiana, [Mr. MORTON.]

Mr. STEWART. I am afraid it will cause debate.

Mr. DRAKE. I do not think that anybody will debate it.

Mr. STEWART. Very well; if it is a small matter I shall not object.

The *PRESIDENT pro tempore*. The Senator from Missouri asks the consent of the Senate to lay aside the regular order and take up for consideration the bill (S. No. 661) for the relief of Lieutenant Colonel John W. Davidson, of the United States Army.

Mr. TRUMBULL. Let the bill be read.

The bill was read. It is a direction to the Secretary of the Treasury to pay to Lieutenant Colonel John W. Davidson, of the United States Army, the sum of \$218 25, being the amount of public money stolen from him while in his possession at Los Angeles, California, in August, 1847.

Mr. TRUMBULL. Is there a report?

Mr. DRAKE. There is a written report in favor of the bill.

The *PRESIDENT pro tempore*. Is there any objection to the consideration of the bill? The Chair hears none; and the bill is before the Senate as in Committee of the Whole.

Mr. WILLIAMS. I should like to hear the report read. It does not follow because money was stolen that the man is entitled to have it refunded.

Mr. DRAKE. I can state the facts to the honorable Senator if he is willing to hear me do so.

Mr. WILLIAMS. Certainly.

Mr. DRAKE. In 1847 Captain Davidson was at Los Angeles, California, acting as commissary of subsistence, and had \$400 of Government money in his possession. He was ordered away to a point one hundred and fifty miles distant. He could not take the \$400 with him. There was no public safe in which to keep it. He had to leave it in the quarters of a brother officer, Lieutenant Stoneman; and in the night time, while he was away, two soldiers broke into the quarters and stole the money—the whole \$400. As soon as he came back he instituted proceedings to detect them, did detect them, had them both tried by court martial and convicted, and \$181 75 of the money was recovered, being found upon their persons. He made good the loss to the Government of the remainder, \$218 25. He asks now to have that \$218 25 refunded to him because he was not in fault, and because he did everything he could to recover the money. In 1860 the claim was before the Senate and the Committee on Military Affairs made a report in favor of paying him the money; but the war broke out, the thing passed away, and it has only now been brought up before the Senate again. These are the facts of the case.

Mr. CONKLING. From which committee does the bill come?

Mr. DRAKE. From the Committee on Military Affairs, who reported it to-day. There is a report in writing, but I believe it is not in the Clerk's hands at this moment. These are the facts detailed in the report which I saw myself. The report has gone to be printed. I could not discover any infirmity in the case

at all. It is a case such as we have legislated upon repeatedly before. Since I came into Congress a paymaster in my own State got relief in that way where \$3,000 and more were stolen from his quarters by soldiers. This is just the same as has been done in repeated cases before, and it is evidently to my mind a perfectly meritorious case, and I hope the Senate will consent to pass the bill.

The bill was reported to the Senate without amendment.

Mr. MORRILL, of Vermont. I desire to ask the Senator from Missouri whether in this case there was any evidence of carelessness or gross neglect on the part of the officer?

Mr. DRAKE. I take pleasure in saying, in answer to the Senator from Vermont, and particularly for the vindication of this gallant officer, Colonel Davidson, that there was not the least evidence in the papers in the case presented of any negligence or carelessness on his part.

Mr. MORRILL, of Vermont. I recollect a similar case before the Committee on Claims, where an officer left his funds at the door of a tent and went off to get something to eat, and the funds were stolen, and the Committee on Claims rejected the claim on account of gross carelessness.

Mr. DRAKE. If the honorable Senator had heard the remarks I made in the first instance, he would have seen that this case was not like that at all; that the officer could not carry the money with him when he was ordered away from the post; he had to leave it in the quarters of a brother officer, and two soldiers burglariously entered the quarters in the night time and stole the money.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 1627) to establish a police court for the District of Columbia.

TAKING OF THE CENSUS.

Mr. CONKLING. Mr. President, yesterday I offered a resolution, which lies on the table, authorizing the Chair to appoint a select committee of five members to report whether any legislation is necessary in reference to taking the next census. Such a committee has been appointed in the House of Representatives, with how much necessity I do not know. But the suggestion was made to me that owing to the brevity of the session it might be well to harmonize the recommendations as to the form of a bill which should be reported to the two Houses if a bill should turn out to be necessary. I consented, without very much knowledge of it, to offer the resolution, and I ask the Senate to take it up if there is no objection, so that the committee may be appointed. I am not able to tell the Senate whether legislation is necessary or not.

The Senate, by unanimous consent, proceeded to consider the following resolution; and it was agreed to:

Resolved, That a select committee of five members be appointed by the Chair to inquire and report to the Senate whether any, and if so what, legislation is necessary touching the taking of the ninth census as required by the Constitution.

HOUSE BILLS REFERRED.

The bill (H. R. No. 1714) to close the land system in certain States was read twice by its title, and referred to the Committee on Public Lands.

The bill (H. R. No. 1627) to establish a police court for the District of Columbia was read twice by its title, and referred to the Committee on the District of Columbia.

COMMITTEE SERVICE.

Mr. MORRILL, of Vermont. I should like to take up a bill which has been reported from the Committee on Commerce in relation to a telegraph company to lay a cable from New York to Newfoundland.

The *PRESIDENT pro tempore*. Does the Senator make a motion to take that up, or does he ask unanimous consent?

Mr. MORRILL, of Vermont. I ask unanimous consent.

Mr. ABOIT. I object, unless I can secure the consideration of a little bill reported by the Committee on Military Affairs, which will not take two minutes.

Mr. MORRILL, of Vermont. This will not take longer than the Senator's bill.

Mr. CAMERON. I move that the Senate adjourn.

Mr. HARLAN. I ask the Senator to withdraw that motion that I may submit a motion to be excused from service upon a committee.

Mr. CAMERON. Very well; I withdraw the motion for that.

Mr. HARLAN. I desire to be excused from service upon the Committee on Education. I move that I be excused.

The motion was agreed to.

Mr. HARLAN. I now move that the President of the Senate be authorized to fill that vacancy, and also an existing vacancy in the Committee on the District of Columbia.

The motion was agreed to.

PROPOSED ADJOURNMENT OVER.

Mr. CAMERON. I move that when the Senate adjourns to-day it be to meet on Monday next. ["No!" "No!"]

Mr. POMEROY. I hope we shall have a session to-morrow. I think we can finish the constitutional amendment then. We have had so many adjournments and done so little this session that I think we certainly ought to meet to-morrow.

Mr. MORRILL, of Vermont. I understand the chairman of the Committee on Appropriations desires to put through at least four appropriation bills to-morrow.

Mr. POMEROY. Let us have a meeting to-morrow.

The *PRESIDENT pro tempore*. The question is on the motion of the Senator from Pennsylvania, that when the Senate adjourns to-day it be to meet on Monday next.

Mr. DRAKE. On that question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. TRUMBULL. Before taking the vote I wish to say a word. There is before the Committee on the Judiciary more business than we can possibly attend to and meet here every day. The committee was in session last night until ten o'clock. We have our regular meetings, and sometimes complaints are made that business is delayed. I do not know how it may be with other members of the Senate; but, for myself, to come here every day as we do and stay till this hour, and then go into committee every morning at ten o'clock, is wearing us out, and I think that we accomplish nothing by it; that we do not advance business by it. Senators become irritable and tired. We accomplish less than we should if we came here fresh on Monday morning. We must have time to dispose of business before the committees. I do not know how it may be with other committees, but on the one that I have the honor to be chairman of we find it impossible to dispose of the business before that committee and meet here every day at twelve o'clock and sit until this hour. I hope the motion to adjourn over will prevail.

Mr. HOWARD. I hope so, too, and for the same reason.

Mr. STEWART. I hope it will not prevail. Our time is very short.

The *PRESIDENT pro tempore*. The Senator from Michigan has the floor.

Mr. HOWARD. The amount of business before the various committees of the Senate I am satisfied is such as to require attention for this small lapse of time. In one committee I know that such is the case. I am on several committees, and I find it next to impossible to perform the duties pertaining to me as a member of the several committees on which I am and attend properly here to my

duties on the floor in the sittings of the Senate. I hope the motion will prevail.

Mr. SHERMAN. I trust that the Senate will not adjourn over to-morrow. There is a pressure of business on our Calendar that I have never known at this period of the session. Not a single one of the appropriation bills has been considered. There are public measures now ready for action awaiting the action of the Senate that require a good deal of time and will consume a good deal of time. We have less than thirty working days from now until the 4th of March, including one or two which will be wasted by the ceremonies preceding the inauguration. I hope, therefore, the Senate will be in session to-morrow. Senators must be aware that we shall have to sit probably every day, and probably have night sessions very early next month.

Mr. POMEROY. I do not see the necessity of reporting bills if we are to adjourn and not pass them. This thing of having a pressure before committees in the forepart of the session does very well, but to have so much business before committees just as we are going to close the session seems to me not appropriate, because if we cannot pass the bills we have already got there is no need of reporting any more.

The question being taken by yeas and nays, resulted—yeas 20, nays 29; as follows:

YEAS—Messrs. Anthony, Buckalew, Cameron, Craig, Davis, Doolittle, Edmunds, Fowler, Frelinghuysen, Harris, Hendricks, Howard, McCreery, Ramsey, Robertson, Trumbull, Van Winkle, Vickers, Welch, and Whyte—20.

NAYS—Messrs. Abbott, Chandler, Cole, Conkling, Corbett, Drake, Ferry, Harlan, Henderson, Howe, Kellogg, Morgan, Morrill of Vermont, Nye, Osborn, Patterson of New Hampshire, Pomeroy, Pool, Rice, Ross, Sherman, Stewart, Sumner, Thayer, Wade, Warner, Willey, Williams, and Wilson—29.

ABSENT—Messrs. Bayard, Cattell, Conness, Dixon, Fessenden, Grimes, McDonald, Morrill of Maine, Morton, Norton, Patterson of Tennessee, Saulsbury, Sawyer, Spencer, Sprague, Tipton, and Yates—17.

So the motion was not agreed to.

Mr. CONKLING. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, January 29, 1869.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

The SPEAKER. This being Friday, the first business in order is the consideration of reports of committees of a private nature, and the House will resume the consideration of the bill in regard to the police court for the District of Columbia, which was pending at the expiration of the morning hour on Friday last.

McPHERSON MONUMENT.

Mr. BUCKLAND. I ask unanimous consent to introduce for consideration and action at the present time a joint resolution donating condemned cannon and muskets for the McPherson monument.

Mr. MOORE. I object.

POST OFFICE APPROPRIATION BILL.

Mr. BEAMAN, from the Committee on Appropriations, reported a bill (H. R. No. 1808) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1870; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. BEAMAN. I move that the bill be made the special order for Tuesday next, after the morning hour, and from day to day thereafter until disposed of.

Mr. MOORHEAD. I object to its being made a special order.

The question was put on Mr. BEAMAN'S motion, and there were—ayes 58, noes 26; no quorum voting.

Tellers were ordered; and Messrs. BEAMAN and MOORHEAD were appointed.

The House divided; and the tellers reported—ayes 77, noes 35.

So the motion was agreed to.

LEAVE OF ABSENCE.

Leave of absence was granted for four days to Mr. KITCHEN.

EXPENSES OF PATENT OFFICE.

Mr. WASHBURNE, of Illinois, from the Committee on Appropriations, reported a bill (H. R. No. 1809) making appropriations for the payment of salaries and contingent expenses of the Patent Office for January and February, 1869; which was read a first and second time.

Mr. WASHBURNE, of Illinois. I ask that the bill be put upon its passage.

The bill was read for information. It proposes to appropriate the sum of \$54,766 for the payment of salaries of the officers and employes of the Patent Office, and for the ordinary contingent expenses of said office for the months of January and February, 1869.

Mr. MAYNARD. That is a pretty large appropriation, and I think it had better be considered in Committee of the Whole.

The bill was accordingly referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

COAL-OIL, CRUDE PETROLEUM, ETC.

Mr. MOORHEAD, by unanimous consent, introduced a bill (H. R. No. 1810) to provide for the better security of life and property from the dangers of coal-oil, crude petroleum, and their products; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

TITLE TO ROCK ISLAND.

Mr. PRICE. I ask unanimous consent to have taken from the Speaker's table the amendment of the Senate to House bill No. 394, confirming the title to Rock Island in the Mississippi river.

No objection was made.

The amendment of the Senate was to add to the bill the following:

Provided, That this act shall not be construed to deprive any other person of any right or title to said land acquired from the United States.

The amendment of the Senate was concurred in.

Mr. PRICE moved to reconsider the vote by which the amendment of the Senate was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PUBLIC LAND SYSTEM.

Mr. JULIAN. I ask unanimous consent to report back from the Committee on the Public Lands a bill to close the land system in certain States. It will save thousands of dollars to the Government, and I think no one will object to it.

The bill, which was read, provides that whenever the quantity of public lands remaining unsold in any State shall not exceed three thousand acres it shall be the duty of the Secretary of the Interior to order the land office or offices in such State to be closed, and the offices of register and receiver shall thereupon be discontinued; and the said Secretary shall cause the archives and records of such office or offices to be transferred to the General Land Office; and the Commissioner thereof shall thereupon be vested with all the powers of the said register and receiver in regard to the disposal of any fragmentary or other parcels or tracts that may be found to be vacant public land.

No objection was made.

The bill (H. R. No. 1714) to close the land system in certain States was reported back from the Committee on the Public Lands.

Mr. JULIAN. I am directed by the Committee on the Public Lands to move to amend this bill by extending the amount to five thousand acres, instead of leaving it three thousand acres, as it now is.

Mr. PRUYN. The maximum—perhaps it

should be called the minimum—is fixed at five thousand acres. I think it should be fixed at twenty-five or fifty thousand acres.

Mr. JULIAN. The amount of five thousand acres is thought to be a reasonable limit, and the passage of this bill into a law will save thousands of dollars to the Treasury by the discontinuance of salaried officers.

Mr. PRUYN. If the gentleman will make the limit fifty thousand acres I think it will be much better. We do not want two officers to take care of five thousand acres of land.

Mr. JULIAN. We have considered that matter, and it seemed to us that the limit here fixed was the best under the circumstances. I now call the previous question.

The previous question was seconded and the main question ordered.

The amendment of the Committee on the Public Lands, to increase the amount named from three to five thousand acres, was then agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. JULIAN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HAYTI AND SAN DOMINGO.

Mr. CULLOM, by unanimous consent, submitted the following resolution; which was read, considered, and adopted:

Resolved, That the President be requested to furnish to this House, if not incompatible with the public interest, any information which he may have, showing that the people of the Governments of Hayti and San Domingo are desirous that those Governments shall become a part of the United States.

ORDER OF BUSINESS.

Mr. WASHBURNE, of Illinois. I desire to state that I shall not to-day ask the House to go into Committee of the Whole on the legislative appropriation bill. But to-morrow I shall ask the House to devote the whole day to the consideration of that bill, and shall move to go into Committee of the Whole immediately after the reading of the Journal.

POLICE COURT FOR DISTRICT OF COLUMBIA.

The House resumed the consideration of House bill No. 1627, to establish a police court for the District of Columbia.

The SPEAKER. The pending amendment will be read by the Clerk.

The Clerk read as follows:

Add to the bill the following:
Sec. —. And be it further enacted, That no expenses incurred by the organization of this court shall be paid by the Government of the United States.

Mr. WELKER. Have all the amendments reported from the committee been acted upon?

The SPEAKER. The amendments, being mostly verbal, were agreed to, according to the report in the Globe.

Mr. WELKER. I did not understand that they were agreed to.

The SPEAKER. The Journal Clerk states that the amendments are not recorded in the Journal as adopted. They will therefore be considered as pending.

Mr. WELKER. In addition to the amendments I have already reported I desire to offer several verbal amendments, and then action can be taken on all of them together. I send the amendments to the Clerk.

The Clerk read the amendments, as follows:

In section one insert after the word "have," in line five, the words "original and exclusive;" so that the clause will read: "That there shall be established in the District of Columbia a court, to be called police court of the District of Columbia, which shall have original and exclusive jurisdiction of all offenses committed in the District of Columbia not deemed capital or infamous crimes," &c.

In section two insert the words "per annum" after the word "dollars," in line two, and after the same word in line four; so that the section will read as follows: "That the salary of said judge shall be \$3,000 per annum. The said court shall have power to appoint a clerk at a salary of \$2,000 per annum; said clerk shall have power to administer oaths and affirmations, and shall give bond with surety as pre-

scribed by law for clerks of district courts of the United States, who shall hold his office for six years, unless sooner removed by said court for good cause."

In section four strike out the word "marshal" in line seven, and insert "chief of the Metropolitan police;" in same section, insert after the word "execute;" in line eight the words "or cause to be executed;" and after the word "same," in line eight, insert "and make return thereof," so that the clause will read as follows: "Such process may be directed to the chief of the Metropolitan police of the District of Columbia, who shall execute, or cause to be executed, the same, and make return thereof in like manner as in other cases."

In section seven strike out in line six the words "in the same manner," and insert "by the local jurisdiction in which the offense shall be committed;" so that the last clause of the section will read: "The marshal and witnesses shall receive the same fees as are allowed for similar service and attendance in the supreme court of the District of Columbia, and be paid by the local jurisdiction in which the offense shall be committed."

In section ten, after the word "Columbia" in line four, insert "to be appointed as provided for in section fourteen;" so that the clause will read: "That said police court shall be provided with a suitable place for the holding of its sessions at the expense of the District of Columbia, to be apportioned as provided for in section fourteen."

In section fifteen insert after the word "penalties" in line two the words "and costs;" and add a proviso at the end of the section; so that the entire section will read: "That all fines and penalties and costs assessed and collected by said court shall be paid over by the clerk thereof to the proper authorities of the cities of Washington and Georgetown, and said county of Washington, in the same proportion as said mayors and levy court shall apportion the salaries aforesaid; *Provided*, That such fines, penalties, and costs arising from the violation of the ordinances of the cities of Washington and Georgetown, and the acts of the levy court of the county of Washington, shall be respectively paid over to the proper authorities of said jurisdiction."

Strike out all of section sixteen after the enacting clause, and insert the following:

That it shall be the duty of the attorneys of the cities of Washington and Georgetown and the levy court of the county of Washington, or their assistants, to attend to the prosecution in said court of all offenses arising out of the violation of any of the ordinances of said cities or the laws of said levy court respectively; and for their services they shall be paid by their respective authorities; and it shall be the duty of said cities of Washington and Georgetown and said levy court respectively, to levy and collect yearly the necessary tax to defray the expenses incurred under this act.

Strike out all of section seventeen after the enacting clause, and insert the following:

That no justice of the peace in said District of Columbia shall hereafter exercise any jurisdiction over crimes and offenses the jurisdiction of which is given to the said police court, either for an examination to hold to bail or final judgment, except that said justice may, on complaint or actual view, issue warrants against persons accused of such offenses, which shall be made returnable to the said police court, of which he shall make a record in a book to be kept for that purpose.

Add the following as a new section:

Sec. 19. *And be it further enacted*, That this act shall go into effect on the first Monday of April, 1869, and all acts or parts of acts inconsistent herewith are hereby repealed.

Mr. WELKER. I call for the previous question on the bill and pending amendments.

Mr. ROSS. Will my friend from Ohio [Mr. WELKER] yield to me for a moment?

Mr. WELKER. After the previous question has been seconded I will yield to the gentleman for a few moments.

Mr. ROSS. I desire to offer an amendment. The SPEAKER. The gentleman from Illinois [Mr. Ross] desires to offer an amendment, which cannot be done after the previous question has been seconded.

Mr. WELKER. I cannot consent to the gentleman's amendment; I know what it is.

Mr. HOPKINS. I suggest to the gentleman from Ohio that section seventeen should be modified by inserting after the word "by" the words "or in consequence thereof," so as to make the language a little more explicit.

Mr. WELKER. That amendment may interfere with the mode of paying for performing a part of the duties of the district attorney who is now paid out of the Government funds.

Mr. HOPKINS. I think the section will not be perfect without the addition of those words.

Mr. UPSON. I wish to inquire whether this bill, as amended, gives authority to the police court to take cognizance for the purpose of binding over of offenses higher than those which it has authority to try.

Mr. WELKER. The bill gives to this court exclusive and original jurisdiction as to all

offenses less than penitentiary offenses. The power to hear and examine charges involving higher grades of crime is left just where it now is.

Mr. UPSON. It might sometimes be proper and necessary for this court to bind over for offenses of a higher grade than those which it is authorized to try.

Mr. WELKER. That is done by the magistrates of the District of Columbia upon consultation with the authorities of the city. It was thought best to let that matter remain as it is.

The previous question was seconded and the main question ordered; and under the operation thereof the amendments were agreed to; and the bill as amended ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. WELKER. I yield five minutes to the gentleman from Illinois, [Mr. Ross,] who wishes to make an explanation.

Mr. ROSS. I suggested to the gentleman who has charge of this bill that I desired to offer an amendment to make the judge, clerk, and bailiff elective by the people of the District. I was in hopes he would have permitted me to offer it so as to test the sense of the House in relation to the great fundamental principle of free government, permitting the people to elect their own officers. Mr. Speaker, I am astonished at the action of the majority of this House in reference to this great fundamental principle. They have declared that the elective franchise shall be granted to the people of this District without regard to race or color. But now it is proposed by this bill to deprive these people of the exercise of one of the highest prerogatives pertaining to free government, that of selecting officers who are to pass upon their dearest rights of life, liberty, and property. It is proposed to take away from the people this right and place the selection of their officers in the hands of the President of the United States and Senators of the United States, in the choice of none of whom have the people of this District any voice. I submit, therefore, to the good sense of the House that upon every principle of fair dealing toward the people of this District it is but right that this bill be recommitted to the committee, with instructions to report a bill making these officers elective by the people of the District, without, as suggested by my friend near me, distinction of race or color. Have the majority of this House forgotten that the colored troops fought bravely? Have they so soon forgotten the encomiums they have passed upon the gallant colored men of the District when they endowed them with the franchise? Now, with a majority of three fourths on this floor, it is proposed to deny to these colored men the right to elect the men who are to pass upon their rights. I hope the seconding of the previous question will be reconsidered, and that the bill will be recommitted with instructions to report a bill embodying the fundamental principle of allowing the people to elect their own officers.

Mr. WELKER. I move the previous question on the passage of this bill.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was passed.

Mr. WELKER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The time of the Committee for the District of Columbia is exhausted. The next committee in order under the call is the Committee on the Judiciary.

CORPORATIONS IN THE DISTRICT.

Mr. KOONTZ. I ask unanimous consent to report from the Committee for the District of Columbia a bill (S. No. 102) providing for the formation of corporations and regulating the same in the District of Columbia, for

the purpose of having it printed and recommended to the committee.

No objection was made; and it was ordered accordingly.

Mr. BROOKS moved to reconsider the vote by which the bill was recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BLANTON DUNCAN.

Mr. WILSON, of Iowa, from the Committee on the Judiciary, reported a bill (H. R. No. 1811) for the benefit of Blanton Duncan; which was read a first and second time.

The bill reinvests the petitioner with all the rights acquired and now held by the United States to his property under proceedings against him or his property in the district court of the United States for the district of Kentucky, with the right to all the rents and profits thereof which have not been placed in the Treasury of the United States, except such portion thereof as the officers of said court are entitled to as costs and fees.

Mr. WILSON, of Iowa. This case arises out of the following state of facts: this petitioner was the owner of life estate in certain property in the city of Louisville, Kentucky, with remainder over to his children. At the commencement of the rebellion or soon thereafter he engaged in the rebel service. His property was libeled under the act of 1862 and condemned by a decree of the district court of the United States for the district of Kentucky; but the court, instead of entering a decree of condemnation and sale, directed that the rents should be forfeited to the United States, collected and used for the benefit of the Army and Navy of the United States. As the committee are informed, about ten or twelve thousand dollars of rents have been collected. Some six thousand dollars will be deducted from that amount, under the provisions of this bill, for the purpose of paying the costs attending the proceedings, leaving some five or six thousand dollars to go to this petitioner. I am satisfied myself that if this case should be carried from the circuit court of Kentucky to the Supreme Court of the United States the decree of the court below must be reversed; and the only question in my mind is whether this party shall have this relief without the cost attending the prosecution of his writ of error in the Supreme Court, or have it by the expenditure of the amount of money necessary to carry his case through that court. That is, in brief, a statement of the case. I will state one thing further, however, in connection with the conduct of the petitioner during the progress of the war. He left the service of the confederacy, having some difficulty with members of that government, and went out of the country. But there are papers on file in the case—letters from Governor Holden, of North Carolina, and from Governor Bullock, of Georgia—showing that during the time that he was in service at Wilmington, in North Carolina, he performed a great many acts of kindness to Union prisoners. The granting of this relief is recommended by the Governors of whom I have spoken, and also by Rev. Dr. Breckinridge, of Kentucky, and several other prominent Union men of the country. Unless further information is desired I propose to call the previous question.

Mr. UPSON. Supposing the case were carried up to the Supreme Court and the decision of the court below reversed, as the gentleman says, would it take away the right of a new trial?

Mr. WILSON, of Iowa. Well, I think so, sir, for this reason: that in addition to that the case then would be met with the pardon in the court below. This petitioner was pardoned and presented his pardon in the court below, after, however, the rendition of the judgment, and the court held that the pardon therefore did not restore him to his rights of property.

Mr. MULLINS. I would like to make a few remarks.

Mr. WILSON, of Iowa. If you want any

information I have no objection to answering a question.

Mr. MULLINS. Well, the point that staggers me is why it becomes necessary for the Congress of the United States to take up these individual cases that the courts have had under adjudication and have in part decided. And now, for fear that a rebel will have a little justice done him in the way of taking out of his pocket what ought to have been taken long ago, weakening him so that he could not have fought, we are to supervene and take this money away from the court and give it back to this man to larrup us again if it becomes necessary in his judgment. [Laughter.] He will fight us again with double vengeance, and we are to pat him on the back and say, "Well done, thou good and faithful servant." [Laughter.] You have killed Abraham Lincoln and a good many more and by your bad example—

Mr. WILSON, of Iowa. I must resume the floor.

Mr. McKEE. I did not catch the whole of the statement made by the chairman of the Committee on the Judiciary, and I desire to ask him how much money, if any, that has already been collected this bill proposes to pay back?

Mr. WILSON, of Iowa. As I stated, from the information the committee has it will be from five to six thousand dollars. The money is now, I understand, in the hands and under the control of the marshal, and has not been paid into the Treasury. All that may have been paid into the Treasury will be deducted, and also all expenses attending this proceeding.

Mr. McKEE. With the permission of the gentleman from Iowa, [Mr. WILSON,] I desire to say one or two words in regard to this case. Of course I know nothing about it except what has been stated. It strikes me that if the statement of the gentleman from Iowa is true—and I do not question his statement, and of course have no right to do so—he has his remedy in the Supreme Court, and by going there he may, as he probably would, obtain a reversion of the judgment of the court below. If so, I see no reason why we should come in here and pass a special bill in order to hasten the time when this man may get back this money, which it is possible the court may decide not to be justly due to him.

I supposed when the measure of confiscation was passed it was with the intent to carry it out in good faith. I believe that the chief fault to-day is that we have not rigidly enforced that confiscation act, and by that means have saved part of the expenses of the nation. I do not know what may have been the course of this man during the rebellion or since, except that I know that he was among the very first men to leave my own State to enter the rebellion, and furthermore, that he remained with that cause, or was connected with it, until he perhaps quarreled with some of the leaders, and then he left the country. But I have no reason to suppose that he has changed his sentiments in regard to the rebellion, and I do not believe he has. It strikes me that this bill is simply a proposition to pay back to one of the men who rebelled against the Government of the United States a certain amount which we have taken from him under our laws. If the law is in error, or any error has been committed under it, then let the court so decide. But I certainly think it is no part of wisdom for this House to come in and anticipate what may or may not be the decision of the court in this case.

Mr. BUTLER, of Massachusetts. Will the gentleman from Iowa [Mr. WILSON] yield to me for a few moments?

Mr. WILSON, of Iowa. Certainly.

Mr. BUTLER, of Massachusetts. The circumstances of this case, Mr. Speaker, which have been brought to my knowledge, are very peculiar. It is the only case of the kind; it is itself without parallel; there is no other case like it in the United States; and under our laws, as they now stand, there can be no other

case like it. The question involved has been decided differently in different States. It seems that in this case there was a judgment of confiscation by the court which is appealed to the Supreme Court; and there it stands to-day to be determined at the end of one or two years. No general principle has been settled; the property has not passed into private hands, but is held by the United States marshal to answer the decision of the court. The question now is shall we confiscate a single lot of land under these circumstances, and permit every other lot of land to escape, and every other piece of property belonging to those who have been in rebellion? It seems to me that there should be some general policy. The policy of the country, the policy of the Government, the policy of this House, has been, and is at this day, to condone, to give up and return to the claimants all private property in the hands of the United States not used, or the proceeds of which have not been expended.

Here is a case where a man has been brought before the court, and while his property is before the court the property of every other man is released. As a matter of law I am inclined to think that the President's policy of amnesty has released this also; but of that I am not certain. I think if it has any power at all it does that. This claimant was undoubtedly an officer in the confederate service. Since the surrender he has loyally and properly accepted the situation. Having done that, he finds property belonging to his wife in the courts of the United States. For one, while, as everybody knows, I am not very much inclined to yield the rights of the United States, yet I do not see any reason for making an example of this man alone. In the courts of Delaware property situated precisely as this has been given up by the judgment of the court. In the courts of Kentucky the property was not given up, and the case is now pending before the Supreme Court. Under these circumstances I would ask my friend from Kentucky [Mr. McKEE] why he should seek for what there is in the character of this man that will justify his being punished beyond all others? Has he sinned any more than others?

Mr. McKEE. Allow me to reply to the gentleman. It is not that I would seek to make this man an example above any or all others who were engaged in the rebellion against the Government; because, while I regard his case as bad enough, it is certainly not worse than that of all those who have done the same thing that he has done. But in his case there exists a state of affairs which exists in no other; in his case there has been a judgment of a court taking away from him his property, which has not been restored to him. This circumstance does not exist in any other case. The point I make is simply this: I believe it is not wise or right for this House, by a private bill, passed for the benefit of one individual, to forestall or anticipate what may be the action of the court upon an appeal which has already been taken. In regard to the money involved in this case, which has not been turned over into the Treasury of the United States, but remains in the hands of the marshal or his officers, that money is certainly as safe in their custody as if it were turned over into the hands of the party from whom it has been taken.

Mr. BUTLER, of Massachusetts. I only yielded to the gentleman for a question, and I must resume the floor. The gentleman concedes that this man is in no different position, so far as his offense is concerned, from that occupied by any other man who has been engaged in the rebellion. The gentleman also agrees with me that there is no other case in the United States like this. Hence we are setting no precedent; we are making no improper departure from the general policy of Congress. Unfortunately, however, it happens that this single case pending before the courts is not determined. Now, why should we compel this party to await an adjudication by the Supreme Court some two or three years hence,

a large portion of the fund in dispute being meanwhile consumed in the payment of fees and costs? Why should we thus punish him as we punish nobody else?

Mr. MULLINS. Will the gentleman allow me to ask him a question?

Mr. BUTLER, of Massachusetts. Certainly.

Mr. MULLINS. Is there any other case in which Congress has thus intervened for the relief of a single individual whose case was pending before the court?

Mr. BUTLER, of Massachusetts. I will answer the gentleman. I have already stated that no other case like this has occurred in the United States, except a case in Delaware, where, by the judgment of the court, the property was turned over to the claimants. Hence, there can be no case in which Congress has intervened in the precise way proposed here. But this only differs from a thousand other cases in the fact that this case happens to be in court. We have given up thousands and thousands of dollars' worth of property to everybody else.

Mr. MULLINS. One other question. Where is the difference between this case and the Sue Murphey case?

Mr. BUTLER, of Massachusetts. I will state the difference between this case and the Sue Murphey case. During the war we used the property of Sue Murphey for the Army, and having used that property in the war we have let the war settle itself. But the question in the present case is whether now, four years after the close of the war, when we have given up the property of everybody else, the property of Sue Murphey and all others, we should make this man's case an exception. There might be a parallel between this case and the Sue Murphey case provided we now proposed to go down and take possession of Sue Murphey's farm.

Mr. MULLINS. What is the difference between paying this man and paying Sue Murphey?

Mr. BUTLER, of Massachusetts. I have already said that we do not propose to pay this man anything. We used his property during the war, and as far as regards such use he must be the loser. But now the war being over, the question is, Shall we take away from him the lands which we used simply because his case happens to be in court? I am willing that there shall be a uniform policy in reference to matters of this kind; and it is in accordance with the policy of Congress, the policy of the country, the policy of the Government in all its branches, that this property which has been used shall be restored. I think the whole power of this Government should not fall upon one individual.

Mr. MILLER. I would like to ask the gentleman from Massachusetts whether there is any peculiar reason in this case why this money should be refunded?

Mr. BUTLER, of Massachusetts. It is not to be refunded.

Mr. MILLER. As I understand, the bill provides for paying out of the Treasury any profits which have been received.

Mr. BUTLER, of Massachusetts. Let me state once more the point in this case. This man's property was taken and sold under a process of the United States court and the money is held by the marshal, but the case is not yet decided. This bill does not propose to take any money out of the Treasury, but only to give this man the money for which his property was sold.

Mr. MILLER. Was not his property sold in consequence of his participation in the rebellion?

Mr. BUTLER, of Massachusetts. It was sold in order to answer a judgment of a court when that judgment should be rendered.

Mr. WILSON, of Iowa. The gentleman from Massachusetts is in error. The property has not been sold at all.

Mr. BUTLER, of Massachusetts. I so understood.

Mr. WILSON, of Iowa. Mr. Speaker, I have a statement of the district judge of Kentucky in reference to this case, and I find that the character of the decree rendered by the court is described in these words:

"The decree was in substance 'that the property seized, the rents then collected, and the rents to be collected be condemned as enemy's property and forfeited to the United States, the same after the payment of costs and charges to be to the use of the United States for the use of the Army and Navy of the same.'"

Now that is a most remarkable decree. This is not a condemnation of the property of Mr. Duncan in the life estate which he held, but it is a decree of condemnation to the use of the United States, not only of rents which had accrued but which were to accrue in the future, leaving in Mr. Duncan the life estate; not condemning that, not providing for the use of it, but simply declaring that the United States will go on and collect the rents as they become due, and that they shall inure to the benefit of the United States. Now, I do not believe that a decree of that kind would stand in the Supreme Court of the United States any longer than it would require to present it.

Mr. SPALDING. Is not that the best place to send it?

Mr. WILSON, of Iowa. The Committee on the Judiciary became satisfied, in view of all the circumstances of the case, after examination of the claimant as to his views concerning questions involved in the present condition of the country, that it was not just to make an exception of his case and require him to wait two or three years to get his remedy, putting him to the additional expense of carrying his case through the Supreme Court when we know what the judgment must be.

Mr. SPALDING. If the gentleman will allow me I am perfectly willing to play quits with this man. Let him take his property back, but do not let him take anything that has already gone into the United States Treasury.

Mr. WILSON, of Iowa. We do not propose to let him take the money out of the Treasury. We propose to hold all the money which has been paid into the Treasury. The bill provides that so much as is necessary to pay the costs of the proceeding shall be deducted and he shall receive the balance.

Mr. McKEE. Will the gentleman allow me one minute?

Mr. WILSON, of Iowa. I do not want to consume any more time.

Mr. McKEE. I desire to reply to what has been said by the gentleman from Massachusetts. He says this is the only case that has been presented in regard to the confiscation law. I think it is, and we ought to adhere to the decision that has been made until it has been reversed, if for no other purpose than to vindicate our laws.

One word more. As I said before, I think the proper course is to let it go on to the Supreme Court. While I have great confidence in the Judiciary Committee, especially in the judgment of its chairman, I recognize the fact that the district judge of Kentucky is one of the ablest men in that part of the country, a clear-headed lawyer whose decisions have been very correct; but I am willing to allow this case to go on, and when his decision is reversed then it will be time to pay back the money.

Mr. WILSON, of Iowa. The gentleman's argument has two lines. First, he wants a decision of the Supreme Court in order to vindicate the confiscation act of 1862. Now, he will get no such judgment in this case. In the next place, he wants to have this party deprived of his property because it is the only case where the law can reach it.

Mr. HARDING. I desire to ask the gentleman if this is the only instance in which the Government of the United States has appropriated the property of rebels under the confiscation act?

Mr. WILSON, of Iowa. No, sir; I do not make any such statement.

Mr. HARDING. I understood the gentleman from Massachusetts to say this is the only case in which the power was to be exercised.

Mr. BUTLER, of Massachusetts. Oh, no.

Mr. HARDING. Then I protest against the declaration, if I am allowed to say it, that it is the policy of the Government of the United States to condone and return to rebels all the property which we have taken from them. It is not the policy of the Government which I happen to be a part of; it may be the policy of Andrew Johnson and his colleagues, but it is not the policy of the Republican people of the United States.

Mr. BUTLER, of Massachusetts. I trust the gentleman from Iowa will allow me a word. I did not say that it was our policy to return all the property taken. I said expressly that everything that was taken during the war from enemies of the Government, to be used by the country, or put in the Treasury of the United States, should stay there. But the question is, after the war is over, after everything has been done, and it is the present policy of the country not to take any more private property during this time of peace from the insurgents, but to restore them their private property, whether in this single instance, which is the only instance in the United States where it is or can be done, we shall take this man's property?

Mr. HARDING. I understand that they have taken it already, and that it is in the marshal's hands.

Mr. WILSON, of Iowa. I do not wish to consume the whole morning hour on this bill. There are other committees that desire to report, and I will simply say in conclusion that the case was carefully examined by the committee, and we came to the conclusion that the bill ought to pass. I now demand the previous question upon the bill.

Mr. SCOFIELD. I move to lay the bill on the table, unless the gentlemen will allow me to move to amend it so as to give every "reb" a pension.

The question was put on Mr. SCOFIELD's motion; and there were—ayes 56, noes 56.

The SPEAKER. The Chair votes in the negative, and the bill is not laid on the table.

Mr. LAWRENCE, of Ohio, and Mr. SCOFIELD demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 86, nays 80, not voting 56; as follows:

YEAS—Messrs. Allison, Arnell, Baker, Beaman, Beatty, Benjamin, Benton, Boies, Broomall, Buckland, Buckley, Callis, Clift, Cobb, Coburn, Corley, Covode, Cullom, Donnelly, Eggleston, Eln, Ferriss, Fields, French, Halsey, Hamilton, Harding, Hawkins, Hopkins, Chester D. Hubbard, Kootz, Hunter, Judd, Julian, Kellogg, Kelsey, Ketcham, Koonz, Ladin, George V. Lawrence, McKee, Miller, Moore, Loan, Mallory, Maynard, McKee, Miller, Norris, Morrell, Mullins, Newcomb, Newsham, Peters, Pierce, Nunn, O'Neill, Orth, Paine, Perham, Peters, Scofield, Plants, Polesley, Raum, Kootz, Sawyer, Scofield, Selye, Shanks, Shellabarger, Starkweather, Stokes, Stover, John Trimble, Van Aeram, Bart Van Horn, Van Wyck, Caldwell, C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Whittemore, Thomas Williams, William Williams, John T. Wilson, Stephen F. Wilson, and Windom—86.

NAYS—Messrs. Archer, James M. Ashley, Bailey, Banks, Barnes, Barnum, Beck, Bingham, Blair, Boutwell, Bowen, Boydell, Brooks, Burr, Benjamin F. Butler, Cary, Chandler, Churchill, Cornell, Dawes, Deweese, Dockery, Dodge, Edwards, Thomas D. Eliot, Farnsworth, Ferry, Fox, Getz, Glossbrenner, Golladay, Goss, Gove, Grover, Haight, Haughey, Heaton, Hotchkiss, Richard D. Hubbard, Humphrey, Ingersoll, Jenckes, Johnson, Alexander H. Jones, Thomas L. Jones, Kelley, Kerr, Kitchen, Knott, Lash, Marshall, Marvin, Myers, Niblack, Nicholson, Moorhead, Mungen, Myers, Niblack, Nicholson, Pettis, Phelps, Spalding, Stewart, Stone, Taber, Robinson, Ross, Spalding, Stewart, Stone, Taber, Thomas, Upson, Van Auken, Van Trump, James F. Wilson, Wood, Woodbridge, Woodward, and Young—80.

NOT VOTING—Messrs. Adams, Ames, Anderson, Delos R. Ashley, Axtell, Baldwin, Blackburn, Blaine, Boyer, Broomall, Roderick B. Butler, Cake, Reader W. Clark, Sidney Clarke, Cook, Delano, Dickey, Dixon, Driggs, Eckley, Eldridge, James T. Elliott, Garfield, Gravelly, Griswold, Higby, Hill, Holman, Hooper, Asahel W. Hubbard, Lincoln, Logan, Loughbridge, Lynch, McCarthy, Mercut, Morrissey, Pike, Pile, Poland, Pomeroy, Price, Schenck, Sigreaves, Smith, Stevens, Sypher, Taffe, Taylor,

Tift, Lawrence S. Trimble, Trowbridge, Twichell, Robert T. Van Horn, Vidal, and Ward—56.

So the bill was laid on the table.

During the roll-call,

Mr. BENTON said: My colleague, Mr. STEVENS, is absent from the House in consequence of sickness. If here, I doubt not, he would vote "ay."

The result of the vote having been announced as above recorded,

Mr. HARDING moved to reconsider the vote by which the bill was laid on the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HAMLIN, one of its clerks, announced that the Senate had passed a bill (S. No. 781) for the relief of Alpheus C. Gallahue, in which the concurrence of the House was requested.

ENROLLED BILL SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill (H. R. No. 394) confirming title to Little Rock Island in the Mississippi river; when the Speaker signed the same.

LEAVE OF ABSENCE.

Mr. BARNES obtained leave of absence until next Tuesday.

Mr. CORNELL obtained leave of absence for ten days from next Monday.

Mr. BUTLER, of Tennessee, obtained leave of absence for ten days.

The SPEAKER. The morning hour has expired.

ENROLLED BILLS SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found duly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 833) for the relief of Rufus M. Hollister, of Janesville, Wisconsin; and

An act (H. R. No. 1751) in relation to the appointment of midshipmen from the lately reconstructed States.

ALEXANDER DUNBAR.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting, in compliance with a resolution of the House of the 19th instant, a report by the Quartermaster General, relative to the employment of Alexander Dunbar to instruct veterinary surgeons of the United States Army.

Mr. WOOD. I ask that the report of the Quartermaster General be read.

Mr. RANDALL. Let it be printed.

Mr. WOOD. I desire to move its reference, with instructions, and for that purpose I desire it to be read that the House may understand it.

The SPEAKER. The Chair presents these matters in this way for reference only. If they give rise to debate, or their reading is insisted upon, thus consuming much of the time of the House, the Chair will withdraw them and let them come up in their regular order when the House is considering business upon the Speaker's table.

Mr. WOOD. Very well; I will move that it be referred to the Committee on Expenditures in the War Department, and ordered to be printed.

The motion was agreed to.

MILITARY FORCE IN NEW YORK.

The SPEAKER also laid before the House a communication from the Secretary of War, in compliance with House resolution of the 13th ultimo, relative to the number of civilians, commissioned officers, and enlisted men employed in the military service in and around New York city; which was referred to the Committee on Military Affairs, and ordered to be printed.

UTE INDIANS.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, submitting to Congress an estimate of the appropriation required to defray expenses incurred in negotiating a treaty with the Ute Indians; which was referred to the Committee on Indian Affairs.

MAUMEE BAY SHIP-CANAL.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting, in compliance with the resolution of the House of the 6th instant, the report of General Cram, of the engineer corps, upon the proposed ship-canal through Maumee bay to Lake Erie.

Mr. ASHLEY, of Ohio. I move that this communication be referred to the Committee on Commerce, and ordered to be printed.

The motion was agreed to.

RECUSANT WITNESS—HENRY JOHNSON.

The House resumed the consideration of the following resolution, pending at the close of the afternoon session of yesterday:

Resolved, That the Sergeant-at-Arms of this House be, and the same is hereby, directed to arrest and bring before this House Henry Johnson, to answer as for a contempt in refusing to appear before the committee of this House appointed to investigate alleged frauds in the late election in the State of New York in pursuance of a subpoena duly issued and served on said Johnson on the 13th of January, requiring him to appear and testify before said committee on that day; and that a warrant be issued by the Speaker of this House to the Sergeant-at-Arms, commanding him or his special messenger to arrest said Johnson and bring him before this House accordingly, and to abide the order and judgment of this House.

The SPEAKER. The pending question is upon seconding the call for the previous question.

Mr. BROOKS. I do not know who this Johnson is. I wish the gentleman from Ohio [Mr. LAWRENCE] would state to the House some reasons for this resolution.

Mr. LAWRENCE, of Ohio. I hold in my hand the original subpoena which was served upon Henry Johnson on the 13th of January, 1869, requiring him to appear before the committee charged with the investigation of alleged election frauds in the State and city of New York, at the rooms where they were sitting at the time in the city of New York. He failed and refused to attend. I am advised that he is a material witness; so material that the committee have deemed it proper to direct me to report this resolution, and in order that he may be brought before the House to answer for contempt in refusing to appear and testify before that committee.

Mr. BROOKS. Is the gentleman from Ohio sure that there is such a person as Henry Johnson?

Mr. LAWRENCE, of Ohio. Yes, sir. The Sergeant-at-Arms has made a return that he served the subpoena upon that person.

Mr. BROOKS. There are so many "tricks upon travelers" perpetrated in New York that sometimes persons assume names to which they are not entitled.

Mr. LAWRENCE, of Ohio. The witness is well known in New York. He is not a myth or one of the political friends of the gentleman who vote under assumed names.

Mr. WOOD. I think the House ought to adopt this resolution unanimously, and grant the request of the committee.

Mr. ROSS. I would inquire of the gentleman why we should select this particular individual out of the great number who neglected to respond to the process of the committee? There were I think fifteen or twenty witnesses subpoenaed upon my motion who did not attend, and among them was a telegraph operator by whom I proposed to show that Colonel Wood had sent word to a man named Noble, living at Elmira, to come down and work up the case for the committee. But I was not able to procure the attendance of those witnesses; and I should be glad if the chairman would furnish us with some process by which we may be able

to prove these frauds which were perpetrated and attempted to be perpetrated by the Republican party upon the elective franchise in the State of New York.

Mr. LAWRENCE, of Ohio. The inquiry of my colleague on the committee [Mr. ROSS] is perfectly proper. There were quite a number of witnesses who refused to obey the process issued requiring their attendance before the committee; and the House of course understands very well that the committee, as such, had no power to compel their attendance. We have selected this case and one or two others because the witnesses are deemed very material; and we propose that they shall be brought to the bar of the House not only that they may answer for their contempt, but that we may procure their testimony.

As to the particular case alluded to by my colleague on the committee, he ought, I think, in fairness to state that when this subject was before the committee I said to him, as did other members of the committee, that if he desired that the telegraph operator to whom he has referred should be brought before the House to answer for contempt the committee would make an order directing a resolution to be presented for that purpose. This operator who was served with process did not come before the committee, but made an answer that it was impossible for him to furnish the testimony desired by the gentleman from Illinois. We issued process for his attendance, and that was all the committee could do. If the gentleman from Illinois will say now that he regards that witness as material I will call the committee together, and I think I can assure him and the House that the committee will agree to report a resolution requiring that this witness shall be brought before the House. But the gentleman did not ask that any such resolution should be reported in that particular case, and the committee have selected for the action now proposed the cases of those witnesses only whom they deem the most material, because it would not be practicable during the brief period left for this Congress to deal with all the refractory witnesses—all the witnesses who refused to appear before the committee in answer to subpoenas sent out for them.

Mr. ROSS. I should be very glad if the chairman of the committee would insert in this resolution the name of that telegraph operator, and require him to produce the telegram from Colonel Wood to Mr. Noble, of Elmira, asking him to come down and engage in working up the case.

Mr. LAWRENCE, of Ohio. I have no authority to agree to any amendment, because this resolution comes from the committee; but I say to the gentleman now that I will call the committee together at any time he desires to take into consideration the case of any refractory witnesses whom he may wish to bring before us.

I ought, perhaps, to make a single additional remark. The gentleman has said, as I understood him, that he desired to take some proof as to Republican frauds in the city of New York. I am not surprised that he desires such proof. No such proof has yet been made before the committee. If there have been frauds of that character I should be glad to have them proved, because this committee was charged with the duty of investigating frauds irrespective of party; and the amplest opportunity has been given to the minority of the committee and to all interested to present proof of frauds of every description.

Mr. ROSS. I did not suppose my colleague on the committee would give a statement of all the testimony that we have had before us.

Mr. LAWRENCE, of Ohio. No, sir; I state nothing as to the testimony before the committee.

Mr. ROSS. So far from it being the fact that no Republican frauds have been proved, my recollection is that such frauds have been proved very largely, and that there were twenty or thirty witnesses waiting to prove that they had "repeated" for the Republican party in

New York, when the committee decided to receive no more of that class of testimony.

Mr. LAWRENCE, of Ohio. I yield to the gentleman from Indiana, [Mr. KERR.]

Mr. KERR. Mr. Speaker, I think it my duty, after the remarks of the gentleman from Ohio, [Mr. LAWRENCE,] my colleague on the committee, to say to the House that according to my recollection, in which I am as clear as it is possible for a man to be, the statement which he has just made in reference to there being no proof of fraud practiced in the late election in New York by the Republican party or any of their agents or friends is not true. The very contrary is true, most emphatically true. I am surprised, Mr. Speaker, to have heard such a statement from colleague; and I submit further that it was uncalled for by anything which has transpired in connection with his resolution.

I make no objection to that resolution, provided only that it has for its object the eliciting of some evidence which is material to the investigation intrusted to the committee. But if it is intended, as I believe it is, to develop some cumulative testimony on points upon which this committee have already spent weeks of investigation, but which will add no new material fact to anything already developed, then I do submit, Mr. Speaker, that it is uncalled for now; that it is unnecessary; that it is only creating additional expense by prolonging the examination; and that the House ought not to make this order. I understand—I believe I violate no rule of propriety when I say it—that it is the desire of the majority of the committee to send for this particular witness to testify on the subject of repeating at the late election. If I am wrong in that I hope my colleague will correct me.

Mr. LAWRENCE, of Ohio. The gentleman is wrong.

Mr. KERR. Then I have to withdraw what I have said on that point. I must say, then, I think it becomes the duty of the chairman of the committee to state to the House on what material part of this investigation it is that this witness is expected to testify, in order that we may know whether it is our duty to consent to the adoption of this resolution or not. I ask my colleague whether the testimony expected to be elicited from this witness relates to the irregularities in the business of naturalization, or what is called repeating, in connection with this investigation.

Mr. LAWRENCE, of Ohio. I will say to my colleague on the committee that this witness was not summoned to prove anything in relation to repeating at all. He was summoned, as I understand it, to prove that two Democratic poll clerks put upon a poll-list a large number of names as voters who never appeared and voted at all. This testimony therefore is not cumulative, but it is independent. It is to furnish evidence of a new species of fraud entirely.

I wish to say further that the remark which I made in relation to frauds by the Republican party was made in reply to my colleague on the committee, [Mr. ROSS.] Whether I am correct or my colleague from Indiana [Mr. KERR.] is correct is a matter that will be ascertained from the proof when it is printed. I do not desire now to go into a discussion of that subject.

Mr. KERR. I desire to say just one word in reply to what my colleague has said. I heartily concur in his last remark, that that matter should be properly submitted to the House after all the evidence is reported. It is not a proper subject of wrangling between us now.

Mr. LAWRENCE, of Ohio. Not at all.

Mr. KERR. But I want to say this: that the gentleman should do me the justice now to say that he has never hitherto stated to the minority of the committee why he desired to call this witness here at all, although on several occasions I asked him this very question in the committee-room. But now, since he has stated the reason why he wants to call the

witness I make no objection at all to his being called. On the contrary, I shall vote that he be called here to testify upon that point.

Mr. LAWRENCE, of Ohio. My colleague, I think, has forgotten what occurred in the committee-room. I do not remember precisely whether he was present or not at the particular time the case of this witness was considered, but I do know that the fact was stated in the committee that it was expected that he would prove precisely what I have stated. I apprehend my colleague from Illinois [Mr. ROSS] will remember that. I know that both the gentlemen composing the minority of the committee will do me the justice to say that I have never withheld from them any fact connected with any witness or with the investigation, as to which fact they have made any inquiry or which they could in any sense deem it proper for me to communicate to them.

Mr. KERR. I desire to say—

The SPEAKER. The Chair suggests that it is not regular to debate what occurred in the committee-room except when it is presented in the shape of a written report. Both sides have been heard, and the Chair doubts whether it is proper to continue the discussion.

Mr. KERR. I have no desire to do so, but we should be allowed to be heard on this side.

The SPEAKER. The Chair was under the impression that both sides had been heard. If the gentleman thinks otherwise the Chair will not insist upon enforcing the rule.

Mr. KERR. I have been heard on all the points except the last one suggested by my colleague.

The SPEAKER. The gentleman will proceed till some member arrests him by a point of order.

Mr. KERR. I wish to say that I have not intended to impeach the personal conduct of the chairman of the committee toward the minority. He has certainly been kind. But I must also say, in justice to myself and to the truth, which this record will disclose when it comes to be published, that we have not had fair and equal opportunities to elicit evidence in this case in behalf of that party that has been most attacked by the conduct of the majority. Further than that I do not desire now to say.

Mr. LAWRENCE, of Ohio. Well, I am willing to stand upon the record. I now yield to my colleague on the committee from Massachusetts.

Mr. DAWES. My colleagues upon the committee will pardon me if I say that I think the question before the House is not what this witness would testify to, or whether this or that has transpired in the committee or not, but it is simply whether a witness shall be made to obey the subpoena of this House; and there is nothing further in the question than that.

I regret exceedingly that this discussion has arisen about what has transpired in the committee, or what has been the testimony produced before the committee, and what is proposed to be proved by a witness. It is not for the witness to judge himself whether the testimony is material or not. It is for the House to say whether its subpoena shall be obeyed when properly served on him as a witness, and it seems to me there is nothing further in the case.

Mr. LAWRENCE, of Ohio. I now ask the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. LAWRENCE, of Ohio. I have another privileged resolution which I desire to report.

The SPEAKER. The Chair cannot entertain it at this time, as the motion to reconsider, which is the unfinished business and doubly privileged, now comes up.

Mr. LAWRENCE, of Ohio. I will take another opportunity to present it.

SUFFRAGE.

The SPEAKER. The House now resumes the consideration of the motion of the gentleman

from Massachusetts [Mr. BOUTWELL] to reconsider the vote by which the bill (H. R. No. 1667) to secure equal privileges and immunities to citizens of the United States, and to enforce the provisions of article fourteen of the amendments to the Constitution, and the joint resolution (H. R. No. 402) proposing an amendment to the Constitution of the United States, were recommended to the Committee on the Judiciary. The gentleman from Wisconsin [Mr. PAINE] is entitled to the floor.

Mr. PAINE. I yield the floor to the gentleman from Pennsylvania, [Mr. KELLEY.]

Mr. KELLEY. I have undertaken to yield at the end of twenty minutes to the gentleman from Ohio, [Mr. SHELLABARGER,] and then I yield the remainder of my time to the gentleman from Ohio, [Mr. BINGHAM.]

The SPEAKER. The Chair will, then, arrest the remarks of the gentleman at the end of twenty minutes.

Mr. KELLEY. Mr. Speaker, it is not necessary that I should address the House to inform gentlemen who were members of the Thirty-Eighth or Thirty-Ninth Congress what my views are on either of the questions now pending. I have advocated such an amendment of the Constitution and such a law from 1865, when I was first convinced that the Constitution vests in Congress the right to regulate the suffrage, and as an amendment to the bill which called forth the celebrated WADE and DAVIS manifesto, proposed a clause which would have invested with the right of suffrage those citizens of African descent who had served in the Army or the Navy or who could read the Constitution of the United States. The first provision was accepted by the committee and embodied in the bill, and the House rejected the other. The Republican party was then groping timidly in the dark. Whether it now sees its duty more clearly we are about to learn by the fate of the pending propositions. On the 27th of February, 1866, after several brief incidental discussions of the point, I laid before the House copious authorities in support of my theory, drawn from the debates in the Federal Convention for framing the Constitution and the several State conventions which accepted it, and closed my remarks with a prophecy which, I trust, is about to be fulfilled at this time. I said:

"In conclusion, I repeat that I hold that all the power this amendment will give is already in the Constitution. I admit that it has lain dormant. I admit that there has been raised over it a superincumbent mass of State and political usage and judicial decisions that is mountain high; but when I remember the mass of judicial decisions, of State and political usage, which was swept away by the decision of Judge Taney's court that the Missouri compromise was unconstitutional, I am persuaded that it will yet be quickened and called into action. The aroused people will demand that all the powers of the Constitution be exercised so that each State shall be guaranteed a republican government, and that the citizens of each State shall enjoy peaceably the privileges and immunities of citizenship in the respective States; but as some gentlemen question the existence of the power, and others the propriety of exercising it at this time, I hope we will submit this amendment to the people, that they may more explicitly empower Congress to enforce and maintain their rights throughout the limits of our wide-spread country."

Sir, I came upon this mass of historic evidence when seeking to relieve my mind from the doubts in which public opinion had been involved by the persistent assertions and fine-spun logic of the advocates of State sovereignty upon the question, is sovereignty in the States or the United States. In reading the Constitution I found that section two of article four provides that—

"The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States."

And yet I saw citizens leave the State of Maine or New Hampshire or Massachusetts, voters, jurors, and possible officeholders, and pass into the State of the gentleman who addressed the House so eloquently last night—Kentucky—[Mr. McKEE,] and be degraded by her laws to the position he so touchingly described, in which they might be robbed of property or life itself; and, though twenty persons with a slight infusion of African blood in their

veins beheld the transaction, the court by excluding those witnesses from the witness-stand by reason of the taint in their blood would adjudge that no crime had been committed. I asked myself can it be possible that the framers of our Constitution had undertaken to secure the privileges and immunities of citizens in all the States to all the citizens of each State but had provided no means of securing them. I could not believe they had been guilty of so fatal an omission.

Proceeding in the study of the letter of the Constitution I found that article four of the same section says:

"The United States shall guaranty to every State in this Union a republican form of Government."

How was this power to be exercised? How was the guarantee to be carried into effect? Accepting the political dogmas of the parties of those days—for on this point they did not differ—I could find no provision by which these high duties of the Government could be executed. Finding the political teachers of the day utterly at fault, I went back, as I have said, to consult those who framed the Constitution, and asked, what did they say to each other in the discussion of that august Convention, charged with a duty as grand as ever was confided to any deliberative body? I turned to the recorded views of James Madison, the leader of that Convention, and who is known to history as its father because of the influence he exercised in its counsels and in molding its conclusions. I found that on the 18th of June, 1788, in the Virginia convention, Mr. Madison, in response to Mr. Monroe, who appealed to him as the gentleman who had been in the Federal Convention for an explanation of section four of article one, explained that it provided for the execution of both these guarantees. And in my remarks of February 27, 1866, when I pressed upon the attention of the House all the authorities from this source which have yet been brought to the attention of the House, I quoted the following from his reply:

"Some States might regulate the elections on the principles of equality, and others might regulate them otherwise. This diversity would be obviously unjust. Elections are regulated now unequally in some States, particularly South Carolina, with respect to Charleston, which has a representation of thirty members. Should the people of any State by any means be deprived of the right of suffrage, it was judged proper that it should be remedied by the General Government."

Are not hundreds of thousands of the people of Kentucky, Maryland, and Delaware deprived of the right of suffrage? Are not forty thousand people in Pennsylvania deprived of it? Do not Ohio and Indiana and other States withhold from citizens of African descent that essential right, and is it not the duty of Congress to invest them with it by executing that provision of the Constitution which James Madison pointed to as the means by which it could be secured to each and all?

Mr. WOODWARD. Will the gentleman allow me to ask him a question?

Mr. KELLEY. Having but twenty minutes in which to discuss so grave a question I must decline to yield to any one at this time.

Thus the question of the power of Congress to enact the pending bill was brought distinctly before the Virginia convention, and this was the answer made by "the father of the Constitution."

"Should the people of any State by any means be deprived of the right of suffrage it was judged proper that it should be remedied by the General Government."

If gentlemen ask why, if Congress possesses it, the States have been permitted to exercise this power, as was asked on the first day of the debate by the gentleman from Kentucky, [Mr. KNOTT,] I reply in the language of that same speech of Mr. Madison, as follows:

"It was found impossible to fix the time, place, and manner of the election of Representatives in the Constitution. It was found necessary to leave the regulation of this, in the first place, to the State governments, as being best acquainted with the situation of the people, subject to the control of the General Government, in order to enable it to produce uniformity and prevent its own dissolution."

But Madison was not the only statesman

who so expounded the clause of the Constitution I refer to, nor was Virginia the only State that accepted the Constitution under that interpretation of the clause. In the North Carolina convention Mr. Bloodworth asked this question:

"Now, sir, does not this clause give an unlimited and unbounded power to Congress over the times, places, and manner of choosing Representatives?"

And answered his own question with another of great significance, as follows:

"May not their power over the manner of election enable them to exclude from voting every description of men they please?"

North Carolina was thus notified of the construction of the clause, yet, with Virginia, she adopted the Constitution. The same views were presented in New England. I quote from the debates of the Massachusetts convention the remarks of Theophilus Parsons, as follows:

"But a State Legislature, under the influence of their Senators, who would have their fullest confidence, or under the influence of ambitious or popular characters, or in time of popular commotion, and when faction and party spirit run high, would introduce such regulations as would render the right of the people insecure and of little value. They might make an unequal and partial division of the State into districts for the election of Representatives, or they might even disqualify one third of the electors. Without these powers in Congress, the people can have no remedy; but the fourth section provides a remedy, a controlling power in the Legislature, composed of Senators and Representatives of twelve States, without the influence of our commotions and factions, who will hear impartially, and preserve and restore to the people their equal and sacred rights of election."

Mr. Speaker, as early as 1807, but seventeen years after the adoption of the Constitution, the Democratic party in this House, through its leading orator, John Randolph, of Virginia, could find no answer to the proposition other than that it had lapsed by non-user. They contended that a correlative power, residing, as Madison had said, primarily in the State, but subject to the supervision of Congress, had lapsed, had become a dead-letter in seventeen years, before it had been fairly tested whether the States would regulate the suffrage upon principles of justice!

If gentlemen will refer to the annals of Congress, Tenth Congress, first session, page 887, they will find that in the discussion of the contested-election case of *Barney vs. Creery* Mr. Fisk, of Vermont, announced the theory I am now advocating. The report reads as follows:

"There was one part of the Constitution applicable in the present discussion which had not been noticed. He alluded to the fourth section of the first article. 'The times, places, and manner,' &c. Mr. Fisk would only ask the gentleman from Virginia, (Mr. Randolph,) who had so ably defended the right of the States, if the power of Congress was not equal and coextensive with that of the States. Congress might alter and prescribe the rule of elections so far as respected the time, manner, and place. [The word 'manner' is italicized in the report.] If the gentleman contended that the States had a right to fix qualifications, he must also admit that Congress had the same right."

John Randolph, of Roanoke, had no other reply to make to the suggestion than this:

"The gentleman from Vermont has quoted a part of the Constitution which had nothing to do with this subject—which, in fact, in this day is nothing better than a dead-letter. Would the gentleman from Vermont move for a bill to regulate the time, place, and manner of holding elections in the several States for members to that House? After all that could be said, practice, long-established practice under the Constitution, was the best evidence what the Constitution was. Powers indisputably exercised by the States ever since its adoption were as much departed from the General Government and imparted to the States as if especially delegated by the Constitution itself."

John Randolph was on that day surrounded in the two Houses of Congress by members of the Federal Convention and of the several State conventions, and in their presence did not dare to deny that the power asserted by Mr. Fisk, and which the friends of the pending bill propose to exercise, had been embodied in the Constitution; but, evading the issue, he claimed that because in the brief period of seventeen years it had not been exercised by Congress it had lapsed or become a dead-letter. I would like some of the lawyers of this House to show me how the powers expressly conferred on a Government by a written Constitution can lapse because no

emergency requiring their exercise has arisen. So preposterous a suggestion required the genius and fame of John Randolph to secure it a respectful hearing.

This power is not, I freely admit, one to be exercised by Congress in the first instance. The regulation of the suffrage is left primarily to the States. If they regulate it according to the principles of justice then their action stands; but if not, Congress is required to exercise its supervisory power. And, gentlemen, has not the time arrived for the exercise of this power? Do not two hundred and fifty thousand citizens of the United States in the single State of Kentucky, whose homes and persons are ravaged with legal impunity, whose property is insecure, who have no voice in the Government, whose appeals for justice may not be heard in the courts of that State, proclaim to you and to the country that the time has come when a Republican Congress should call into operation this latent power, and give them and the people similarly situated in other States the power to protect themselves by the peaceful exercise of the right of suffrage in the choice of legislators and other officers? This duty is before us, and we cannot with honor shrink from or evade it. Sound policy and justice with equal voice demand its performance.

How, sir, by means other than the passage of this bill, can we do justice to the citizens of those States who recognize, as all ought to, the citizenship of every man? How otherwise will you carry out as to them the fourth section of the second article of the Constitution, and secure them "in each State all the privileges and immunities of citizens in the several States?" By no other means can that clause of your Constitution be executed. By what other means can you guaranty to each State "a republican form of government?" Gentlemen may answer that it may be done by a constitutional amendment. To secure the adoption of such an amendment may require several years, and this duty is already laid upon Congress, and ought to be performed by the immediate passage of a law, and we may then endeavor to make it a part of the Constitution also. It should be embodied in distinct language in the fundamental law of the land. But gentlemen cannot avoid their responsibility in the premises by shrinking from the performance of plain duty or attempting to cast it upon the Legislatures of the several States. [Here the hammer fell.]

Mr. SHELLABARGER next addressed the House. [See Appendix.]

Leave was granted to Mr. BOWEN and Mr. LOUGHRIDGE to print speeches. [See Appendix.]

Mr. BINGHAM. Mr. Speaker, I fully concur with my colleague [Mr. SHELLABARGER] in all that he has said touching the objectionable features of the amendment as presented by the gentleman from Massachusetts, [Mr. BOUTWELL.] The House, I have no doubt, will concur with me in saying that the only limitation that the amendment imposes upon the original powers now in the several States of this Union is the limitation that they shall not restrict the elective franchise in the persons of citizens by reason of race, color, or previous condition of slavery. Those three terms are the only terms of limitation in it, and hence it is manifestly true that this power remaining in the States, in no other manner fettered by the proposed amendment, may be exercised to the end that an aristocracy of property may be established, an aristocracy of intellect may be established, an aristocracy of sect may be established; in short, what has been done in New Hampshire in regard to official qualifications may be done in every State in this Union in regard both to the qualifications of electors and the qualifications of officers; that is to say, the States may set up a religious test, and pronounce at once that all who are not of the Protestant faith shall be disqualified either to vote or to hold office, and add thereto a property qualification and an educational qualification.

Hence, I believe, if we are going to touch

this question by amendment we ought so to amend the proposition of the gentleman from Massachusetts [Mr. BOUTWELL.] that the amendment presented to the people for their approval will inform them that upon its adoption these abuses by States will hereafter be impossible. To that end I have offered an amendment which, in substance, is the same as that proposed by my colleague, [Mr. SHELLABARGER,] with a single exception. I propose to amend the proposition of the gentleman from Massachusetts [Mr. BOUTWELL.] so that it will read as follows:

SEC. 1. No State shall make or enforce any law which shall abridge or deny to any male citizen of the United States of sound mind and twenty-one years of age or upward the equal exercise of the elective franchise, subject to such registration laws as the State may establish, at all elections in the State wherein he shall have actually resided for a period of one year next preceding such election, except such of said citizens as shall hereafter engage in rebellion or insurrection, or who may have been or shall be duly convicted of treason or other infamous crime.

I desire to give in passing one reason that controls me in presenting this amendment in this form, as to the term of residence required—one year next preceding the election in the State in which he shall offer to vote—that reason is this: each year there are landed upon our shores hundreds of thousands of adult persons who are aliens of—by the modern invention of forged naturalization papers, the Government of the United States is not protected against the pollution of the ballot-box by thousands who are not entitled to vote, and yet control the elections of the people.

I have something further to say of the additional limitations proposed in the short time within which this debate is limited, and then I shall have done. My colleague, [Mr. SHELLABARGER,] I regret to say, has deemed it his duty, in addition to what I have offered here, to offer a further exception; allowing the several States of this Union to exclude from the ballot, for all time to come, all who may have participated in the late rebellion. The gentleman—in addition to the provision that all who may hereafter participate in any rebellion, which is my own amendment, and is intended to protect the Government in the future—would make this constitutional provision have a retrospective operation, thus presenting, by our consent, to the eyes of the civilized world a constitutional provision for disenfranchising in some of the States a majority of its male adults because they have participated in the rebellion, while you enfranchise by name the whole body of male adult citizens of sound mind, without distinction of race or color, who heretofore have been deprived of suffrage. The proposition of my colleague to except "all who have engaged in rebellion" would include all the victims of a cruel conscription, a conscription which entered the homes of hundreds and thousands of people of the southern States and forced them to bear arms in the rebellion against the Constitution and laws of their country.

Sir, it is the common law of the civilized world that no man is criminal in that which he does by coercion; and for myself, while reason holds a place in my brain, I never will support a proposition which holds such persons criminal because, in my judgment, it outrages the enlightened conscience and common sense of mankind. I know the answer is that we do not by this amendment say the States shall do this. My reply is that if we so amend the proposition the States may do this. I submit, sir, that it is not right to affirm to the States the power to do it. We have no more right to disqualify from the ballot the male citizen of sound mind, who by force of conscription bore arms in support of the rebellion, than we have to disqualify you, Mr. Speaker, or to disqualify my honorable colleague.

I wish to remark further, when we were exercising the transcendent powers of this nation, the power of self-defense in presence of the late rebellion, when all the limitations of the Constitution were silent, we never dared

to put upon the statute-book any such provision as the amendment of my colleague contemplates; that the great mass of the men who participated in the rebellion should not vote in the preliminary work of reorganization. On the contrary, by our statutes we did not disqualify one out of twenty of the adult males of the South who participated in the rebellion. Why? Because the Congress of the United States had no thought of setting up in any of the States an oligarchy by operation of statute law. The Congress while providing by the thirteenth and fourteenth articles of amendment to make all men free avoided any proposition by way of amendment to deny the ballot to any citizen. Let it not be forgotten that when it was proposed to insert in the fourteenth article of amendment the provision that until 1870 those who had participated in rebellion should not vote for members of Congress or for Presidential electors it was struck out by every vote of the Senate save one. Now we are to ask the Senators who thus voted, and whose votes stand thus recorded to so amend the Constitution as to allow the ballot to be denied to all who have participated in rebellion not for a limited period of a year, but for life.

Mr. Speaker, I am opposed for another reason to this proposition of my colleague. The interests of this great country demand that we shall so frame the fundamental law of the country that we will take not vengeance for the past, but security for the future. We should so amend our Constitution as to summon back to the standard of the country and to the support of its Government the whole multitude of men who but yesterday were in arms against us. We should so amend the Constitution as that by this work of generous deliverance, by the will of a brave and victorious people, we shall hasten that hour for which all good men pray, when we shall again be one people, with one Constitution and one country. We should frame this amendment so as to carry out the humble petition of the great man whom but yesterday the people lifted by their ballot to the highest office in their gift. "Let us have peace," says Grant. "Let us have peace!" We shall have it when we so amend the Constitution as to clothe the whole body of the people with the elective franchise, and say that no State shall deprive them of it, leaving the disabilities as to the holding of office standing as they stand in the text of the Constitution to-day. Was it not the people's judgment solemnly recorded by the ratification of the fourteenth article of amendment that the only political disability which they would sanction in organized States by reason of and for participation in the late rebellion was that those who violated an official oath to support the Constitution by engaging in the rebellion, or giving aid and comfort to the enemies of the Constitution, should be disqualified for office, civil and military, State and national, until Congress should remove the disability. That was their judgment, and by that judgment we should abide. They intended that there should be neither political nor servile slaves in any State. Let us stand by that judgment and not consent that any of the several States may disfranchise a majority of the male citizens resident therein by reason of the late rebellion.

Having done that, sir, our action will be consistent with our past record. Having done that we shall hasten the time when we shall have peace. Those words, "Let us have peace!" ought to be written in the heart and mind of every one of us when we come to deliberate upon this question. "Let us have peace!" ought to be written on the archways of your Capitol, and, if it were possible, ought to be written upon the azure arch which bends above us like the arms of beneficence to which weary men look up for hope and consolation. "Let us have peace" by an act of peace, that we may restore the broken fabric of American empire. "Let us have peace" by the works of peace and the arts of peace, that the land which but yesterday was stained with fraternal blood

may grow green and beautiful under the hand of honest toil. "Let us have peace" that we may perfect the holy temple of our liberties until it shall lift its headstone of beauty above the towers of watch and war, filling the whole earth with its glory, and drawing all nations unto it. "Let us have peace," that by our sublime example we may teach the whole world "how good and how pleasant a thing it is for brethren to dwell together in unity."

Mr. BOUFWELL obtained the floor, and yielded ten minutes to Mr. JONES, of Kentucky.

Mr. JONES, of Kentucky. Mr. Speaker, I do not propose to make an argument upon the important questions involved in this bill, not being allowed time for any such purpose, but merely to indicate the reasons which will control my vote upon it. While the gentleman from Massachusetts [Mr. BOUFWELL] was addressing the House the other day in defense of this bill, I asked him the question if he contended that the power to regulate suffrage within the States was delegated by the Constitution to the United States or prohibited by it to the States; if not, how he construed the tenth article of the amendments to the Constitution, which reads as follows:

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people?"

The gentleman made no satisfactory reply, but said that the tenth article had nothing to do with the question. Sir, it has everything to do with the question. Such a reply comes with bad grace from any man who assumes to represent the Commonwealth of Massachusetts, supposing indeed that Massachusetts bears any resemblance to her former self. Sir, does the gentleman know that it was the people of that State who were the first or among the first to require this very amendment? No State was so tenacious of the rights of the people or so jealous of Federal power at the dawn of our national existence as was Massachusetts. When her delegates assembled in convention to ratify the Constitution of the United States they solemnly declared thus:

"And as it is the opinion of this convention that certain amendments and alterations in the said Constitution would remove the fears and quiet the apprehensions of many of the good people of this Commonwealth, and more effectually guard against an undue administration of the Federal Government, the convention do therefore recommend that the following alterations and provisions be introduced into the said Constitution: first, that it be explicitly declared that all powers not expressly delegated by the aforesaid Constitution are reserved to the several States, to be by them exercised."

And to show, sir, that when they made this declaration and express reservation they were considering the very question of suffrage and regulating elections, they also declared:

"That Congress do not exercise the power vested in them by the fourth section of the first article, but in cases where a State shall neglect or refuse to make the regulations therein mentioned, or shall make regulations subversive of the rights of the people to a free and equal representation in Congress, agreeably to the Constitution."

Now, what says the fourth section of the first article alluded to?

"The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but Congress may at any time, by law, make or alter such regulations, except as to the places of choosing Senators."

This section gives to Congress the power simply to make or alter the regulations as to the times and manner of such elections, and for obvious reasons to meet other requirements in the Constitution as to Senators and Representatives, but not affecting in the least the power of the States to make and fix the qualifications of its own electors. But so jealous were the delegates of the Massachusetts convention even of this little power in the Congress that they declared against its exercise except in cases which were never likely to occur. The people of a State would not be apt to subvert their own rights or to deny themselves free and equal representation. Well, sir, after suggesting some other restrictions upon Federal power, to make their opin-

ions more emphatic the delegates in the Massachusetts convention concluded thus:

"And the convention do, in the name and in behalf of the people of this Commonwealth, enjoin it upon the representatives in Congress at all times, until the alterations and provisions aforesaid have been considered agreeably to the fifth article of the said Constitution, to exert all their influence and use all reasonable and legal methods to obtain a ratification of the said alterations and provisions in such manner as is provided in the said article."

Thus spoke John Hancock, Samuel Adams, James Bowdoin, Francis Dana, and others of her first-born sons, and thus spoke Massachusetts herself, lately emerged from the baptismal fires of the Revolution, with her robes of sovereignty fresh and bright upon her, a bride at the altar celebrating the nuptials of the Union. Alas! alas! Mr. Speaker, her injunctions are buried with her great men, and her degenerate sons would barter away her sovereignty to pamper this Federal power which she so much dreaded, this political mastodon which is gormandizing on the vitals of constitutional liberty.

And now, sir, what does this bill and this constitutional amendment propose to do? I cannot go into a discussion of the provisions of either, as there is no time for it, and as they have been amply discussed by others in this debate. The proposition is simply to divest the States or the people of the right to regulate suffrage and elections within their own borders and vest it in the Congress of the United States.

I might, if time were allowed, go into an examination of the opinions of the framers of the Constitution, and quote, as is too often done without effect in this House, the authority of Madison and Hamilton, of Franklin, Rutledge, and Pinckney, and cite from the decisions of Marshall and Story and Kent and Taney, or refer to the lucid expositions of Webster and Calhoun, to show that the regulation of suffrage was intended to be confined to the States, to be exercised exclusively by them, and to be maintained as the chief element in their liberties. It was not only a reserved right, but vested in the States by the Constitution itself; and it is only necessary to glance at its provisions on that subject to settle the question in the mind of any sensible man, however captious he may be. "He who runs may read" and understand if he will.

The second section of article one provides:

"The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

The same section then goes on to prescribe certain qualifications for members of Congress, but never in the remotest degree assuming the right to fix the qualification of electors. That right was inherent in the people, as expressed in the Declaration of Independence, "That governments are instituted among men deriving their just powers from the consent of the governed." Section three of the same article carries out the same principle:

"The Senate of the United States shall be composed of two Senators from each State chosen by the Legislature thereof, for six years, and each Senator shall have one vote."

This is the power of the people one degree removed. They elect the Legislature; the Legislature elects the Senators; the source of power being with the people, to be regulated and administered by its own chosen agents. Had not this been intended and understood the Government would have been anti-republican at its inception and a monarchy or oligarchy established as the result of our revolutionary struggle, or, indeed, Mr. Speaker, our fathers would have instituted a delusive phantom to deceive and cheat mankind.

Another provision of the Constitution distinctly fixes the right of choosing electors for President; even with the States.

"Each State shall appoint in such manner as the Legislature thereof may direct, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in Congress," &c.

Can any honest man doubt for a moment the

meaning and intent of these provisions? And strange to say, sir, these startling changes are to be made in our system of government under the specious plea of section four of article four of the Constitution, namely:

"The United States shall guaranty to every State in this Union a republican form of government," &c.

Shame, sir, that these revolutionists should seize that as their shibboleth in this contest. It, sir, is the most potent argument and shield against them. That clause was inserted in the great instrument as a protection of the States, and against the very power and despotism they would now impose upon them. Erase that from the Constitution and you strike down one of the firmest bastions in our republican form of government; indeed, you destroy the Government itself. Let us beware, fellow-Representatives, of these monstrous innovations, and while we, in fidelity to our oaths, cherish the Union and maintain the General Government in its whole constitutional vigor, let us also, I pray you, guard with unceasing vigilance as the vestal flame of our liberties the reserved rights of the States and of the people.

Mr. BOUTWELL. I yield ten minutes to the gentleman from New York, [Mr. WARD.]

Mr. WARD. Mr. Speaker, the course of the gentleman from Massachusetts, [Mr. BOUTWELL,] who has the charge of this subject, in asking that there be no action at present upon the bill which has been reported by him from the Committee on the Judiciary, with reference to this all-important question of suffrage renders it unnecessary for me to say at this time what I desired to say upon that bill. In the short time allotted to me I will endeavor to speak briefly upon the various projects now before the House for the amendment of the Constitution.

It will be observed that the Committee on the Judiciary have reported an amendment which, in substance, prohibits the States from discriminating in regard to the elective franchise against any man of the age of twenty-one years on account of color or race. An amendment has been proposed by the distinguished gentleman from Ohio, [Mr. BINGHAM,] and while it does not come from a committee it comes almost with as much authority as if it emanated from a committee. That amendment proposes to secure this franchise of suffrage to every man in the Republic, no matter whether he has been loyal and faithful to it or not. There is a further amendment proposed by the gentleman from Ohio, [Mr. SHELLABARGER,] and this comes nearer to my judgment of what the House should pass. It in substance secures suffrage to every male citizen of the age of twenty-one years, unconvicted of crime and of sound mind and memory, provided he has not been or may not be disfranchised for participation in rebellion. The amendment which I have had the honor to submit is similar in substance to that to which I have just referred, and further provides that no man shall vote unless he has been a citizen for three months, and that nothing in this amendment shall be construed to prevent the States from passing such naturalization and registration laws as the interests of the country or the proper protection of the elective franchise may demand.

Now, I have no question about our power to pass any amendment which comes within the range of a republican Government or free institutions. The fathers of the Republic left a great power in the hands of Congress and three fourths of the States when they said, "You can amend the Federal Constitution in any respect whenever Congress by a two-thirds vote and three fourths of the States insist on such amendment." Has the time come when further amendment to the Constitution is demanded? Sir, we have four million people who have become free by the act of war, who are now citizens of the Republic, who now pay taxes, and from whom we demand military service. In several of the States those citizens are guaranteed the right of suffrage, and the representative portion of these people, under the reconstruction acts, in many of the States exercise the right of suffrage.

But to-day in the border States, in Maryland, Kentucky, Tennessee, Missouri, Delaware, and in many of the northern States, there are two hundred and fifty thousand loyal male citizens, unconvicted of crime, untainted with treason, who are paying taxes, and who are subject to military duty, who are deprived now of any voice in the Government which they seek to uphold, deprived of all right of suffrage. There are in other States of the Union six hundred thousand male citizens whose right to that depends upon the volition of the States; and whenever rebel legislators, and whenever rebel instrumentalities, get the control of those State organizations, you will find that those men will be deprived of that right of suffrage. So that the question involved in this constitutional amendment is this: will you secure in your fundamental law the right to one million men nearly in this country to vote in future, men who are loyal citizens, and who are willing to discharge their duties to the Government?

Mr. Speaker, I think that nothing is more apparent than that this Congress should hand over to the people this proposition to amend the Constitution. It will be the capstone in the great temple of American freedom. It will be the consummation of our great work. It will secure to us the fruits of the war. It will settle the controversies between the races. It will stop the contests between white men and black men. It will stop the controversies of the North and the South on that subject. It will bring the country back to peace, which all the interests of the country demand. I hope, therefore, the House will not hesitate about passing this amendment.

But the gentleman from Ohio tells us that we should extend universal amnesty. He tells us, in substance, that we shall hand suffrage over to every rebel and every traitor disqualified by the laws of those States from the right of suffrage. I am opposed to that. I am willing to be merciful; I am willing to be just; I am willing to give these men in the South their lives, liberty, and property; but I am not willing to banish from the statute-book the last punishment for treason; for the moment you admit them to suffrage you must admit them to office, and when you admit them to office Mr. Breckinridge comes in triumph from Kentucky and takes his seat in the Senate, Mr. Toombs comes in triumph from Georgia and takes the seat in the Senate which he dishonored, Jefferson Davis returns from his triumphal tour in Europe and takes his seat, and we shall have those spirits back here who defiled these Halls with treason, who went into rebellion and brought all the blood and sacrifice of the rebellion upon the country. It has occurred to me that the quality of mercy might be strained; that we might be too magnanimous. We have been too magnanimous already. There is now a member of this House who was a brigadier general of the confederate army, who was educated at West Point, and who has come here booted and spurred, from the rebel service to make laws for the widows and orphans he has helped to make. He was not admitted, however, with my consent.

Let us see how much the recent conduct of the rebels entitles them to "universal amnesty." Look at the violent overthrow of the loyal Legislature of Georgia under the leadership of Robert Toombs. It was but the other day that we performed our last sad duty to a member of this House from Arkansas who was murdered in cold blood by rebels of that State, with twenty other prominent Union men.

I hold in my hand what is called the "final summary" of the report of the committee of the Legislature of Louisiana on the conduct of the late elections in that State. The "summary" shows that the following number of Union men in that State were killed, wounded, and maltreated: eighteen hundred and eighty-seven, of which more than a thousand were killed outright. This is the fruit of the "loyalty" of these former rebels in a single State. Clemency to such men is crime; it is unjust to the dead who fell in our cause, and to the

living who survive the contest, bearing its marks upon them, and it will be dangerous as a precedent in the future. I hope we shall not insult the loyal sense of this nation by restoring all these murderous villains to political power. I am weary of this sickly sentimentalism which strikes hands with traitors and criminals at the expense of justice and the public safety.

I have no fears, Mr. Speaker, of giving suffrage to the black man. The nation in its march of greatness and to the accomplishment of its high destiny will confer it upon him. Let us have no timidity, no faltering. Let us shake not at the counsels of the weak, but go on and do justice, and from that will come safety, security, and peace.

Mr. BOUTWELL. I now yield for five minutes to my colleague.

Mr. BUTLER, of Massachusetts. I suppose, sir, I need not say that I am in favor of the principle of the amendment as reported by the committee of equal rights to all men. I wish, however, to call the attention of the House for a few moments to the two amendments which have been proposed by the gentlemen from Ohio, [Mr. BINGHAM and Mr. SHELLABARGER,] and to see whether they do not accomplish more than and different from what it is desired they should do. The proposition of the gentleman from Ohio [Mr. BINGHAM] means apparently to supplement the proposed constitutional amendment of the committee by allowing any who have been heretofore engaged in the rebellion to have the right of suffrage unrestrained by any State law. His colleague [Mr. SHELLABARGER] to this adds an amendment which provides that no man who has heretofore engaged in rebellion shall have the right of suffrage. The amendment of the former [Mr. BINGHAM] proposes to prevent any State from denying the right of suffrage to any man for past rebellion, while his colleague [Mr. SHELLABARGER] proposes that the right of suffrage shall be denied to those who have heretofore engaged in the rebellion.

Mr. SHELLABARGER. My proposition is not that that amendment shall deprive any person engaged in the past rebellion from being disfranchised, but in favor of refusing to wrest from a State the power of disfranchisement, thus leaving that matter where it is now, in the hands of the States.

Mr. BUTLER, of Massachusetts. I so understand it, and I think I have so stated. Notwithstanding that, I propose to call attention to the fact that both these amendments go further than that. Both amendments provide that no State shall make or enforce any law which shall deny or abridge to any male citizen of the United States of the age of twenty-one years or over, and who is of sound mind, an equal vote at all elections in the State in which he shall have such actual residence as shall be prescribed by law. Now I wish to call the attention of both of these gentlemen, and the attention of the House, to the fact that these amendments propose to take away—at least that the effect will be, in my judgment, to take away from the State any power whatever to make any educational or other test. In addition, the proposition, whether intended or not, is to take away the power in a State of making any registration law.

Mr. BINGHAM. No, sir. I hope the gentleman will allow me to explain.

Mr. BUTLER, of Massachusetts. I have only five minutes.

Mr. BINGHAM. The words "the equal exercise of the elective franchise at all elections in the State" is perfectly consistent with the registration law.

Mr. BUTLER, of Massachusetts. That is exactly what I am coming to. You must take it one way or the other. If you provide that you shall not abridge or deny to any male citizen of the United States the equal exercise of the elective franchise, you cannot put on any educational test, for that would be abridging the equal exercise of the elective franchise, and so the State cannot adopt any registration

laws, because that would abridge the right of suffrage to whoever was deprived of his vote by non-registration.

The SPEAKER. The gentleman's five minutes have expired.

Mr. BOUTWELL. I yield three minutes more to my colleague.

Mr. BUTLER, of Massachusetts. That is what I desire to call to the attention of the House. If the meaning of the amendment is to confer the equal exercise of the right of suffrage to all men beyond the power of the States to make equal prohibition upon that right, that is, one applying to all men, then they may not put on a registry qualification applicable to all men, but denying the right to the men registered or any educational tests. If the amendment does mean that there shall be an equal prohibition under any form, then they cannot adopt any registry law. There is the difficulty. Suppose, for instance, a State should say that no man who does not reside in the town six months shall vote, or in the country for one year, or in the ward five months, or anything that would operate to restrain some man from voting, that would be to put on an equal restriction. So when it is provided that no man shall vote who is not registered, is not that prohibiting men from voting who are free and twenty-one years of age, and would not a registry law under this amendment be unconstitutional?

Now, Mr. Speaker, I think we had better stand by the proposition of the committee, and apply the amendment precisely where the great trouble and the great disgrace of the country is at present; and that is, that we shall remove the disfranchisement of every man who is deprived of his right because he has not a skin of the color of our own. Let us take away that power of disfranchisement by the States by constitutional amendment; and when every man, white or black, all the country shall have and exercise the full privilege of expressing any sentiment he pleases, and acting as he pleases, when within the bounds of propriety; when we shall have that peace, security, and safety, I shall be ready to relieve everybody from all disabilities because of rebellion, but not until then.

The SPEAKER. The gentleman's time has expired.

Mr. BOUTWELL. I now yield for five minutes to the gentleman from Missouri.

Mr. PILE. I had intended, sir, to say something in reference to the bill before the House, and mainly to argue this proposition, namely: that primarily, as stated by the gentleman from Pennsylvania, it was intended by the framers of the Constitution to leave with the States the right to control the question of suffrage and fix the time and manner of holding election; but they also intended, and thought that they did, at the same time reserve to the Congress of the United States the right to exercise a supervisory power over the whole of this question. That is to say, that so long as in the judgment of Congress the States prescribed just and equal limitations, restrictions, and regulations upon suffrage within their several territories there was no necessity for the intervention of the General Government; but that whenever in the judgment and conscience of Congress any State imposed any unequal, unjust, tyrannical, or oppressive conditions or limitations it was the right and duty of Congress to intervene and apply the corrective. But, sir, I have not the time to enter at any length into an argument on that position.

I desire to say a word in regard to the proposed constitutional amendment, and first in reference to its form. It is difficult by any language to provide against every imaginary wrong or evil which may arise in the administration of the law of suffrage in the several States. What we desire to reach substantially, as I understand it, is first to countervene and deny the principle that the States have the right absolutely to control the question of suffrage; and secondly to insure by constitutional enactment, embodied in the fundamental law of the

land, the right of suffrage to that race of people who have suffered so many wrongs at our hands, and to whom we owe a debt of gratitude for their fidelity in our hour of strife and difficulty. Whatever secures substantially this result is satisfactory to me. The proposition of the gentleman from Ohio [Mr. BINGHAM] differs from all the others, in that it proposes to restore suffrage to those disfranchised for participation in the rebellion.

Now, sir, while I would hesitate to support such a measure if it applied only to my own State, and while I have some doubt as to whether the time has come for the enfranchisement of all the rebels, yet it is well to remember that this condition of things cannot be perpetual. The disfranchisement of any class of men must lead to friction and agitation, must keep up strife and contention.

It is well to bear in mind also that the large mass of those who were engaged in the rebellion have been enfranchised in the States of the South, and that only a small number, some thirty or forty thousand, have been disfranchised under our reconstruction laws. I do not think there is the danger apprehended by many in restoring this thirty or forty thousand to suffrage when the million and more who waged war against the Government already vote. I believe that we will secure that political rest and quiet and peace and restoration to business so much desired only when we shall have given the ballot to the emancipated slave and to the subdued and conquered rebel. It may be wisest to give it to the negro first. It may be that we cannot now extend it to all rebels, but to that we must come at last, and every consideration of interest and enlightened statesmanship prompt us to reach that result as speedily as we can with safety. And, sir, I am not certain but it would be wise to let the disfranchisement of slavery and treason sleep in one common grave, and that justice to the colored man and mercy to the remaining disfranchised rebels would not be now the safest and speediest road to absolute peace.

[Here the hammer fell.]

Mr. VAN HORN, of Missouri, and Mr. HAMILTON, by unanimous consent, were granted leave to print their remarks as part of the debate. [See Appendix.]

Mr. BOUTWELL. Mr. Speaker, this debate has demonstrated two facts: one is, there is a very general agreement that it is desirable to submit an amendment to the Constitution, and the other is, that there is a very great difference of opinion as to the details of the amendment.

I have promised my friend from Pennsylvania to yield to him, and I now do so.

Mr. SCOFIELD. Mr. Speaker, whether the five million colored population of the United States should be excluded from all participation in the elective franchise is not, in my opinion, an open question. It has been debated in these halls and before the country for four or five years. In different ways, directly or indirectly, it has been carried into all the recent elections, and the "white man's Government" dogma has always been rejected. The time of enfranchisement and the manner of enfranchisement, I will admit, are unsettled questions, but the underlying principle of universal suffrage has been approved over and over again. How stands the question practically to-day? Why, colored men vote in twenty-two States of the Union, in the District of Columbia, and in all the Territories. In Nebraska, Iowa, Minnesota, Wisconsin, in five of the New England States, and in all the late confederate States, eleven in number, there is no restriction. In New York they vote upon a property qualification, and in Ohio, by the decision of a Democratic court, upon admixture of blood.

Mr. MUNGEN. I want to say that this is not a Democratic decision.

Mr. SCOFIELD. I understand the decision was originally made by a Democratic bench.

There are now left only fifteen States where the ballot is still withheld from men of color.

It is not withheld there, because a majority of the people condemn the principle, but because they did not consider that the opportune time for action had arrived, or because they had not yet agreed upon the extent and mode of enfranchisement. Enfranchisement has been coming along piecemeal very much as emancipation came. Slavery was first abolished in the District, then in portions of the insurrectionary States, by Mr. Lincoln's proclamation, then in Missouri, West Virginia, Maryland, and Tennessee, and finally, by the thirteenth amendment of the Constitution, the institution itself, with all its cruelties, crimes, and blood, was buried out of sight of the Christian world forever. Enfranchisement has followed slowly but steadily. State after State, as time and opportunity and public sentiment would admit, has given its assent to the doctrine of universal suffrage, until, as I said, in twenty States, in the District of Columbia, and all the Territories, there is no exclusion on account of color. We propose now to give the people an opportunity to consider whether the time has not at last arrived when it is safe to put the great words of the Declaration of Independence in the Constitution itself. We are told that some of the States are not yet ready; that Connecticut, Ohio, Michigan, Missouri, and Kansas have so declared. That is not conclusive; Connecticut acted several years ago, and the majority was not large. The State would not have given its consent to emancipation a few years prior to that. In Ohio the question was coupled with the disfranchisement of deserters, and could not be decided upon its own merits. In Michigan it was buried beneath the weight of an unpopular constitution, of which it was only a single section. In Kansas it was submitted with another question not yet ripe for action. It was voted down in all of these States, not, as I believe, because the people condemned it in the abstract, but because they thought it premature, or because they found it allied with some other undesirable measure. I believe they would all approve it next year in the form we propose to present it; at least they could not take offense because they are asked for "the sober second thought."

The gentleman from Ohio [Mr. BINGHAM] proposes to attach to this proposition which has been debated and considered, and as I believe substantially approved by the people, an undeserved and almost unsolicited act of grace to the cruel men, who for four years drenched the land with blood, and whose implacable hate still pursues the unforgiven Unionist with persecution, banishment, and murder. If we cannot send out for the people's consideration this little boon, I should rather say this act of justice, too long withheld for the faithful but humble friends of the Union, without again putting the elective power of the country in the hands of men who so lately foreswore and betrayed it, we had better not act at all. Both propositions would thus be defeated. If the gentleman thinks his proposition is so popular, let him try it by itself. There is no gentleman in the House to whom I listen with more pleasure than to my valued friend. He illustrates whatever he discusses. But even he cannot persuade the people to again confide in men who broke both fealty and oath in order to betray and destroy the country. Their forfeited lives and estates have been restored. Let them enjoy them. I shall not trouble myself to give back to them their old mastery at the polls.

Mr. BOUTWELL. I wish to state to the House the condition of the question and what I propose to submit to the House in the way of changing the amendment as reported by the committee. The discussion in the House on the amendment submitted by the two gentlemen from Ohio [Mr. BINGHAM and Mr. SHELLEBARGER] has led me to suppose that some amendment to the report of the committee may be expedient, and I will state the amendment that I shall submit for the action of the House when the time arrives.

The SPEAKER. The motion to reconsider

may be considered as agreed to, and the motion to recommit as having been voted down, which will bring the joint resolution before the House.

Mr. SPALDING. Will it be in order to move to lay the motion to reconsider on the table after the gentleman gets through?

The SPEAKER. It will.

Mr. SPALDING. Whenever he does yield the floor I give notice that I shall move to lay the motion to reconsider on the table.

The SPEAKER. The effect of that will be to leave the joint resolution with the committee unreported.

Mr. BOUTWELL. I propose to strike out the word "the" before the word "race," in the eleventh line, and to add after the word "vote" in the tenth line the words, "at any election in the State in which he shall have actually resided for a period of one year next preceding said election." I think that will accomplish what the gentleman from Ohio desires. Then, in order to meet objections which have been made to the report of the committee, I shall move to add to the amendment of the gentleman from Ohio the words, "nor on account of his want of property or education;" so that it will read:

The right of any citizen of the United States to vote at any election in the State in which he shall have actually resided for a period of one year next preceding said election shall not be denied or abridged by the United States or any State by reason of race, color, or previous condition of slavery of any citizen or class of citizens in the United States, nor on account of his want of property or education.

I wish now to call the attention of the House to the substantive qualities of these various propositions. The Committee on the Judiciary directed their attention principally to the evil which was complained of—that in some States men were deprived of the privilege of voting on account of their race, color, or previous condition. So far as the amendment of the gentleman from the seventh district of Ohio [Mr. SHELLABARGER] is concerned, I think there are practical objections to offering that amendment precisely as it stands. And one of the chief objections is that I believe it will cut under all qualifications. I am not sure that it will not go so far as to put it out of the power of the States to establish a registration law. It certainly does abolish those qualifications in some States which require the voter to pay a small capitation tax, which shall have been assessed, perhaps, within two years preceding the election. I think that by arraying against this proposition all the peculiarities of the different States we put the proposition itself in danger. I think it better, therefore, as a matter of practical wisdom, to address ourselves exclusively to those great evils which have existed in the Government and the country, to those which are now practically of a serious character or which may reasonably be apprehended. But I think we ought not to go beyond the lines of what I have indicated.

Another objection which I have is, that it recognizes the right in the States to exclude men from the exercise of the elective franchise who participated in the rebellion. A right I will admit exists, but I prefer that it should not be incorporated in the Constitution of the United States. While for the time being I am set as firmly against universal enfranchisement of these people as I can possibly be set against any project, I still look forward to the time, which I trust is not far distant, when all these restrictions will be wiped out, not primarily by legislative action, but by that concord of opinion among the people of the States recently in rebellion by which there will be no substantial difference of opinion among them as to the Government under which they live. And when that time arrives I trust I shall be among the first to welcome all these men. Therefore I prefer not to be put into the Constitution any suggestion, as there is in the language of the amendment, that they may be excluded.

In these particulars I think the amendment proposed by the committee preferable to that proposed by the gentleman from Ohio, [Mr. SHELLABARGER.] But I have a stronger objection against the amendment of the gentleman's

colleague, [Mr. BINGHAM.] He proposes to remove all distinction in all the rebel States and allow men who have been in armed rebellion to enjoy the franchise at once. Sir, having been engaged for two years as a member of a committee of this House in a most careful examination in reference to these States, and I do not hesitate to say that it is not safe by one swoop, either by statute or by constitutional authority, to relieve these men of their disabilities.

But there is an inconsistency in the amendment which shocks my sensibilities, and that is, that while the men who have been engaged in the rebellion recently suppressed, who have brought upon us intolerable woes, are to be relieved, the men who may engage in some future rebellion—as though the gentleman from Ohio could conceive of any future rebellion more infamous than that from which we have just escaped—are to be disfranchised by his constitutional amendment. Sir, if we are prepared to enfranchise the men who have just come out of rebellion, let us not higgie about any subsequent rebellion. It does not require the spirit of prophecy to foretell that none of these men can more deserve to be put out of the pale of the Government than those whom we propose to disfranchise for participation in the recent rebellion.

Mr. BLDRIDGE. I would inquire of the gentleman if there is not a distinction; if we are not now disfranchising men and inflicting penalties upon them *ex post facto*; and whether we might not establish a rule in regard to a future rebellion which would not be applicable to the past one.

Mr. BOUTWELL. I have no doubt the gentleman has anathemas to bestow upon some future rebellion which he did not feel willing to bestow upon the past.

Mr. BINGHAM. Will the gentleman allow me to interrupt him a moment on that point?

Mr. BOUTWELL. I have not time.

The SPEAKER. The gentleman has one minute remaining of his hour.

Mr. BOUTWELL. Then I demand the previous question on the motion to reconsider the vote by which the joint resolution (H. R. No. 402) was recommitted to the Committee on the Judiciary.

The SPEAKER. The previous question will exhaust itself on the motion to reconsider.

The question was put upon seconding the previous question; and there were—ayes one hundred and four, noes not counted.

So the previous question was seconded.

The main question was then ordered to be put; and under the operation thereof the motion to reconsider was agreed to.

The question recurred on the motion to recommit the joint resolution to the Committee on the Judiciary.

Mr. BOUTWELL. I withdraw the motion.

The SPEAKER. Then the joint resolution is before the House for consideration.

The joint resolution was read, as follows:

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring) That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be held as part of said Constitution, namely:

ARTICLE —

SECTION 1. The right of any citizen of the United States to vote shall not be denied or abridged by the United States or any State by reason of the race, color, or previous condition of slavery of any citizen or class of citizens of the United States.

SEC. 2. The Congress shall have power to enforce by proper legislation the provisions of this article.

Mr. BOUTWELL. I move to amend section one by striking out the word "the" before "race."

The amendment was agreed to.

Mr. WARD. I desire to make a suggestion to the gentleman from Massachusetts. There are a number of amendments before the House, and this is an exceedingly important matter; it is a matter that the House has considered comparatively but little. I suggest to the gentleman that he permit the subject to be recom-

mitted to the Committee on the Judiciary. They will have power to report on Monday, or can move to suspend the rules, if they desire, for that purpose. Let them take all these projects and consider them, and digest such an amendment as the House can adopt. I do not think we will lose anything by it.

Mr. BOUTWELL. I cannot accede to any such proposition.

Mr. WARD. Then I wish to make a parliamentary inquiry, and it is whether if the previous question is voted down it will not be in order to move to recommit the joint resolution, with all the amendments, to the Committee on the Judiciary?

A MEMBER. What for?

Mr. WARD. In order that they may perfect the resolution.

The SPEAKER. It will be in order if the previous question is not sustained.

Mr. BOUTWELL. Mr. Speaker, I am of opinion, upon the whole, that the amendment as it came from the committee, which says that "the right of any citizen of the United States to vote shall not be denied or abridged," is a comprehensive and explicit declaration. I thought so when it was drawn, and on the whole I think it best for the amendment that I should not undertake to incorporate into it the language used by the gentleman from Ohio, [Mr. SHELLABARGER;] but in order that the sense of the House may be tested upon the question—not that I am myself of the opinion that it will add anything substantial to the value of the amendment—I will propose to add to section one the words "nor shall educational attainments or the possession or ownership of property ever be made a test of the right of any citizen to vote," and on that amendment I will ask the previous question.

Mr. BINGHAM. I hope the previous question will not be seconded.

Mr. BOUTWELL. I only call it on this amendment.

Mr. BINGHAM. I hope the previous question will not be seconded. I want to carry the amendment beyond educational tests. There are religious tests involved in this question.

Mr. BOUTWELL. I am entitled to the floor for an hour, am I not?

The SPEAKER. The gentleman is entitled to the floor for an hour.

Mr. BOUTWELL. Then I withdraw the demand for the previous question, and yield to the gentleman from Ohio for ten minutes.

Mr. BINGHAM. It must occur to the gentleman from Massachusetts on a moment's reflection that the designation of property and educational qualifications recognizes the right in every State of establishing a religious test; and I ask the gentleman why he will insist on the previous question upon a proposition which, as it stands by a well-known rule of construction, commits this House to the monstrous proposition that every State in the Union may establish a religious test as a qualification of the elective franchise. The exceptions made by the gentlemen are, I believe, a property qualification and an educational qualification, and the result is, in the words of one of the foremost jurists of America, that every other thing not included in this exception may be made a test, and that is the reason I object to it.

I have no idea of amending the Constitution of my country by piecemeal in this way. When I am asked to vote I wish to vote intelligently. I desire to see and understand the entire proposition; and, for one, I shall oppose the seconding of the previous question, which is called for the purpose of preventing any one from presenting an entire provision in lieu of the first section of the gentleman's amendment. If the majority of the House are with him I will bow with submission, as all good citizens should, to the expression of their will. If they are against him then he ought to allow that majority to have an opportunity to speak without undertaking, by the operation of a

mere parliamentary contrivance, to cut them off from that opportunity, and then telling them that they are opposed to enlarging the elective franchise if they do not vote for his proposition.

Sir, I have stood here the advocate of impartial suffrage when gentlemen who now put themselves forward as its special friends were on the other side of the question. It has been the rule of my political life. I never could see the propriety, under the Constitution of the United States, of any State disfranchising any free citizen of the Republic by reason of his color from exercising this great privilege of freemen, out of which come constitutions, out of which come legislative assemblies, out of which come laws, out of which comes the establishment of tribunals of justice, and out of which comes the administration of justice itself between man and man. I am for the largest liberty and for the greatest good of the greatest number, and I stand here opposed to a proposition which on its face, in the words of Marshall, necessarily implies the consent of the House and of the country, if we adopt the amendment, that religious tests may be established as a condition of the exercise of the elective franchise.

Mr. ELDRIDGE. I desire to ask the gentleman a question.

Mr. BINGHAM. Very well.

Mr. ELDRIDGE. I ask the gentleman if, in the view he has taken of the proposed amendment to the Constitution, there may not be established by the States any and every other test but the two only that are excepted?

Mr. BINGHAM. That is exactly what I have said touching the proposition of the gentleman from Massachusetts, [Mr. BOUTWELL.]

Mr. ELDRIDGE. Not only a religious test, but every test that the mind of man can conceive that does not come under the head of property or of education?

Mr. BINGHAM. Certainly. And now, if the gentleman from Massachusetts will indulge me, I wish to say this: that years ago, in my place, I deemed it my duty as a Representative of the people to say that while the original power of exercising this right of the elective franchise was in the States I denied that the majority of the people—that is, the male citizens, for that is the meaning of the term “the people” as used in the Constitution of the country—ever had the right under the Constitution, though they had the power, to deprive the minority of the equal exercise of the elective franchise, the minority being of like lawful age, sex, and residence, and of sound mind. And I stand by that proposition to-day. All I desire touching this proposed amendment to the Constitution is so to reform it that it will be acceptable to the great majority of the people of this country, North and South, East and West, to the end that it may be a success, so that you will establish impartial suffrage; in short, so that you will not lose all by grasping for the unattainable and, I might add, the undesirable.

Mr. MAYNARD. Will the gentleman allow me to ask him a question?

Mr. BINGHAM. Certainly.

Mr. MAYNARD. I would ask the gentleman if his objection will not apply equally to every form of amendment we may adopt, unless we undertake to declare affirmatively what shall be the qualifications of a voter? This proposed amendment speaks only negatively when it speaks of the qualifications of a voter, stating that certain matters shall not be a test against a voter, leaving everything else open.

Mr. BINGHAM. I am glad to have an opportunity to answer the question of the gentleman from Tennessee, [Mr. MAYNARD.] If there were nothing at all here except the first section I might see a great deal of weight in the gentleman's suggestion. But there happens to be added to that a second section, giving to Congress the express power to enforce the prohibition. The result of the whole matter is that if we amend this first section, as suggested by my honorable colleague as well as

by myself, by the second section Congress is invested with express authority to enforce the limitation.

Mr. JENCKES. I would like to ask the gentleman a question.

Mr. BINGHAM. Very well; what is it?

Mr. JENCKES. Does the gentleman understand that this second section gives to Congress the power to prescribe affirmatively the qualifications of electors in these elections; or does it simply give the power to enforce the prohibition upon the States; in other words, can that power be exercised by Congress so as to secure uniformity of qualification of electors in all the States of the Union?

Mr. BINGHAM. I answer the gentleman that I have not the least doubt on the question as a question of law. There are other negative provisions in the Constitution of the United States; for example, the express negative provision that “no State shall pass any law impairing the obligation of contracts.” By virtue of your judiciary act, as it has been in force from the foundation of the Government to this day, that limitation upon the power of the States is uniform, and whenever or where ever any State has undertaken by legislative enactment or by constitutional provision, if you please—I care not which—to impair the obligation of contracts, that wrong has, by the operation of your law, been righted; so that the provision of the Constitution has operated uniformly. Whenever Congress has the power under the Constitution to enforce the limitations of that instrument, even upon States, the exercise of the power will be as uniform as the exercise of any affirmative power can possibly be. It must be so; it cannot be otherwise.

Mr. BOUTWELL. Mr. Speaker, I do not see that the argument made by the gentleman from Ohio [Mr. BINGHAM] changes the condition of the question at all. If it be true, as he argues, that under this amendment the States would have the right to impose a religious test, it is equally true that they can do so now. What he has said only adds force to the suggestion I made, that the amendment proposed by the gentleman from Ohio, if referred to the State Legislatures, will be met by all these difficulties; and although I should be willing to strike down all educational or property tests, and all possibility of their being established anywhere, the probability is that the amendment which we are discussing, if submitted substantially as it came from the committee, will be stronger before the people, and that if we should attempt to grasp at too much we shall lose the whole. I believe that if we adhere to the proposition to protect the people of this country against destitution on account of race, color, or previous condition of slavery we undertake all that it is probably safe for us to undertake now.

But I learned from the gentleman from Ohio that the delegation from that State were anxious that there should be a provision in this constitutional amendment against any property or educational qualification. My own conviction is that no such qualification will ever be imposed. I do not think that such a restriction would be a serious obstacle in the way of the ratification of this amendment, and I am therefore willing to submit the question to the House, my own opinion being that it is not very material which way it be decided; but the longer this discussion continues the better satisfied I am that it is dangerous to undertake to wipe out every minute test or distinction which may have been established in the several States, and that where these distinctions are not serious in their consequences, not calculated to endanger the rights or liberties of individual citizens or the public welfare, it is wisest, under the circumstances in which we find ourselves, not to strike at those distinctions.

I was about to demand the previous question, but the gentleman from Ohio [Mr. SHELLABARGER] desires to say a few words, and I yield to him.

Mr. SHELLABARGER. I desire, Mr. Speaker, to say, in the first place, that the

proposition which I submit is not amenable to the objection urged by the gentleman from Massachusetts, [Mr. BUTLER,] that by it the States would be deprived of the power of passing registration or election laws. Plainly that cannot be so. The Constitution itself in express terms provides that—

“The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people.”

Hence it follows that the power of regulating elections not being prohibited to the States by the Constitution as it stands, resides now either with the States or with the people. If this is so, if the power to regulate elections or registrations resides with the States under the Constitution in its present form, then my proposition will not take it away. It simply provides that the right to vote shall be exercised by all male citizens of a certain age. Every power now residing with the States under the Constitution, except so far as this amendment takes away their power, will remain with them still. The power of regulating elections and of passing registration laws being with the States now is not taken away by my proposed amendment.

Now, let me state another point. The form in which this proposition is drawn, that all male citizens of a prescribed age and who have not been guilty of certain crimes shall have an equal right to vote, excludes every possible ambiguity and doubt in regard to who at least shall be permitted to vote. In other words, the provisions of my amendment, as applied to the proposed constitutional amendment reported by the committee, will have the effect of making it more explicit and distinct.

Mr. BOUTWELL. The difficulty, in one word, is that the gentleman's amendment, if made a part of the Constitution, vests the right of suffrage absolutely in every person covered by the amendment; and if any State should provide that the voters shall be registered ten days before the election it will be in the teeth of the provisions of the gentleman's amendment as I understand it. His amendment sweeps out of existence at once every condition or qualification or consideration which may be imposed by any State Legislature on the absolute and unrestricted right of suffrage. If the man is covered by the provision of the gentleman's amendment he can go up to the polls and vote, notwithstanding the restrictions of any State law.

Mr. SHELLABARGER. I may suggest to the gentleman from Massachusetts that that is a proposition in reference to which we differ *toto caelo*. Nothing can be plainer to me, it seems, than that every one of the States is left to the responsibility which it now has, and which my proposed amendment does not take away. It does not take away the right of the State to control the election. The Constitution itself provides that powers not expressly granted are reserved to the States and the people, and that is an answer to all the gentleman has said.

Mr. BOUTWELL. I now yield to the gentleman from Iowa.

Mr. WILSON, of Iowa. Mr. Speaker, the pending amendment upon which we are to vote declares that the States shall not impose any property or educational test as a condition to the exercise of the right of suffrage. Now, it seems to me, if the doctrine of my colleague on the committee, [Mr. BOUTWELL,] as stated to the House the other day, is correct, we need no such amendment. He quoted from a case decided by the supreme court of Kentucky these words:

“No one can, therefore, in the correct sense of the term, be a citizen of a State who is not entitled, upon the terms prescribed by the institutions of the State, to all the rights and privileges conferred by those institutions upon the highest class of society.”

He continued, after reading from that decision, as follows:

“Here is a full, and I believe a fair, statement of what constitutes a citizen. He must be in the enjoyment of all the rights and privileges of any other citizen.”

Further on he says:

"It is in harmony with the declaration made by the supreme court of the State of Kentucky, in the opinion from which I have just read, that it is an essential quality of citizenship that the citizen should enjoy the highest privileges that appertain to citizenship in the State or city of which he is a citizen. Therefore, when you prove to me that one man in the State of Kentucky votes for President, or for a Representative in Congress, or for members of the State Legislature, you have proved that every man having like qualifications of education or property has the same right. If you deny it to him you deny that to which by the Constitution he is entitled: the enjoyment of equal privileges and immunities as a citizen of the United States, and as a citizen of Kentucky in the State of Kentucky."

The result of this doctrine is that it is held that the right to vote is a question of citizenship; and if that be correct then I wish to know, after we have declared that every person born within the jurisdiction of the United States is a citizen of the United States, how you can interpose even the qualification which the gentleman from Ohio proposes: "except to such as have engaged in rebellion in the past." If this doctrine be correct, that person who is a citizen must be entitled to all the rights enjoyed by the highest and most favored citizen in the land. Then, as a matter of course, if one citizen enjoys the right to vote on reaching twenty-one years of age, you cannot impose on another a property qualification or an educational test or this test of the committee of having been engaged in the rebellion. Therefore, if I am to follow this doctrine, I must be led into the position of the other gentleman from Ohio; that is to say, that all citizens of the United States of twenty-one years of age, of sound mind, and who have not been convicted of any offense or felony under the law, must be entitled to vote; for if the right of suffrage is an incident of citizenship then no State has a right to deprive any citizen of that incident.

Mr. BOUTWELL. In answer to what my colleague has said, I will say to the House that I do not discover anything in the quotation made by him or in the speech I made in the House the other day that is in any way inconsistent with itself or with the position I now occupy. I stated then, and I stated in what he has read, that when you have established the fact that a person is a citizen you have also established the fact that he has a right to all the privileges of any other citizen. That is unquestionably true; and if in any State an educational test were made for some people, or a property test for some people, and not for others, that provision would be in conflict with the Constitution of the United States. But it is undoubtedly true in the practice of the country that certain qualifications are prescribed—and the word "qualification" in the Constitution is used in a proper and legitimate sense, such quality of the man as may be attained by men generally—and when those qualities are imposed upon all men alike there is no discrimination, there is no injustice, as between man and man. That is all I said, I think, on the former occasion, and it is all I contend for to-day.

Nor does the doctrine which I held the other day lead to the conclusion embodied in the proposition offered by the gentleman from Ohio, [Mr. BINGHAM], that all rebels should be enfranchised. Is it not known that rebellion in contemplation of law and in the presence of all that we have ever done on the subject of the rebellion is regarded as a crime, and for that reason these men are excluded from the elective franchise the same as if they had committed murder or treason or had been guilty of bribery? There is no reason or logic in the suggestion that because I have said that a citizen is entitled to all the rights of a citizen that there can be no exclusion for crime, no exclusion for unsoundness of mind, no qualification which is attainable by all men imposed upon the exercise of his right. Those qualifications may be unwise. I think generally they are.

But I have been diverted. I do not know that it is necessary to prolong this debate. I suppose the House desires to come to a conclusion. I submit the amendment and demand the previous question upon it.

Mr. JENCKES. Will the gentleman yield?

Mr. BOUTWELL. The gentleman is entitled to a few minutes, and I yield him five minutes.

Mr. JENCKES. The reasons for my opposition to this amendment of the committee will reach beyond the amendment itself and bear with some weight against the original proposition. In order to ascertain the purpose of a constitutional amendment we should look first to see how the Constitution now stands. By the original Constitution the citizens of each State are entitled to all the privileges and immunities of citizens in the several States. By the fourteenth amendment the States are prevented from passing any laws abridging the right of citizens to these privileges and immunities. Now, it is said that they are abridged in some States by citizens not being permitted to exercise the right to vote and hold office, and it is proposed to cover this omission and secure these privileges by this new constitutional amendment. It is proposed to do this, not by an affirmative proposition, but by a negative. A constitutional amendment should be so framed as to settle doubtful questions; but instead of settling any question, this amendment, if adopted with the addition now proposed, would raise just as many new constitutional questions as there are States, because the conditions of suffrage in the proposed amendment are not identical with the conditions of suffrage in any State of the Union. Hence there must be a conflict in every State, and new questions will arise which must be settled by some adjudication.

Nor is the reply of the gentleman from Ohio [Mr. BINGHAM] sufficient upon this point. He says there are negative clauses in the Constitution which are construed in a certain sense affirmatively, and he instances that in regard to the restraint upon the States from passing laws impairing the obligation of contracts. But although no affirmation concerning the obligation of contracts is to be found either in the State constitutions or in the Constitution of the United States, yet that obligation is part of the common law recognized by the Constitution of the United States, and which underlies all the laws of all the States. But the right of suffrage is not a right under the common law; nor is it affirmed as a right under definite qualifications by the Constitution of the United States; nor is it uniformly declared by the constitutions of the several States, with conditions and limitations identical in all. Hence this amendment settles nothing; it simply increases the difficulty by its negative character; and upon principle I am opposed to inserting any more negative clauses in the Constitution, unless, like the one read by the gentleman from Massachusetts, it can operate upon another negative clause, and thus become affirmative. The idea of the gentleman from Ohio [Mr. BINGHAM] is that it may become affirmative by the second clause of this proposed amendment. Well, if being affirmative it gives power to Congress to settle the qualifications of suffrage within the limits imposed by this amendment, it simply adds to the difficulty and makes the condition of suffrage primarily the subject of legislation in the Legislatures or in the conventions of the States, and then throws the residuum which is declared beyond their power into Congress for settlement. It seems to me that it is far better to undertake to settle it all at once by an affirmative proposition declaring what shall be the qualifications of every elector for President and Vice President and Representatives in Congress and members of the State Legislatures. If an amendment of that kind be proposed I am willing to be as liberal as any one in declaring what the qualifications shall be, although it may interfere with the institutions of the State which I in part represent and the institutions of many other States. Let these qualifications be uniform throughout the land and defined in clear and positive terms, and then there can be no two constructions placed upon the amendment which cannot be settled by the tribunal of ulti-

mate resort, whether it be the House of Representatives in judging of the election of its members or the Supreme Court of the United States in testing the qualifications of a citizen in a case properly made; but so long as it stands as a mere negative I feel bound to oppose it.

Mr. BOUTWELL. I think now the House will be better satisfied to have the vote taken on the amendment, and I ask the previous question upon it.

Mr. GARFIELD. I would ask the gentleman whether he thinks it wise for us to put it into the Constitution of the United States that never under any conceivable circumstances shall any State of the Union require an educational test for suffrage?

Mr. BOUTWELL. I demand the previous question.

Mr. GARFIELD. I should be sorry to see such a prohibition placed in the Constitution.

The previous question was seconded—ayes 104, noes 46.

The main question was then ordered to be put, being upon agreeing to Mr. BOUTWELL's amendment, to add to section one of the proposed article of amendment the following words: "nor shall educational attainments or the possession or ownership of property ever be made a test of the right of any citizen to vote."

Mr. ROBINSON. I move that the House do now adjourn. It is quite evident that we cannot reach a vote to-night, and we had better adjourn.

The question was put, and the House refused to adjourn.

The question was then put on Mr. BOUTWELL's amendment; and there were—ayes 45, noes 95.

Mr. BROMWELL demanded the yeas and nays.

The yeas and nays were not ordered.

So the amendment was disagreed to.

Mr. BOUTWELL. I suppose, under the circumstances in which we are placed, that the wiser way is to allow the proposition of the gentleman from Ohio on my left [Mr. BINGHAM] to be submitted, and also the proposition of the gentleman from Ohio on my right, [Mr. SHELLABARGER.] I will yield first to the gentleman from Ohio on my left to offer his amendment.

Mr. BINGHAM. I move to amend section one of the proposed article of amendment by striking out all but the words "citizens of the United States" and inserting so that it shall read as follows:

No State shall make or enforce any law which shall abridge or deny to any male citizen of the United States of sound mind and twenty-one years of age or upward the equal exercise, subject to such registration laws as the State may establish, of the elective franchise at all elections in the State wherein he shall have actually resided for a period of one year next preceding such election, except such of said citizens as shall engage in rebellion or insurrection, or who may have been, or shall be, duly convicted of treason or other infamous crime.

Mr. BOUTWELL. As I understand that the gentleman from Ohio on my right [Mr. SHELLABARGER] can move his proposition as a substitute for that amendment I now yield to him for that purpose.

Mr. SHELLABARGER. I move as a substitute for the amendment of my colleague [Mr. BINGHAM] that which I send to the Chair, being a modification of the amendment of which I gave notice a day or two since.

The Clerk read as follows:

No State shall make or enforce any law which shall deny or abridge to any male citizen of the United States of the age of twenty-one years or over, and who is of sound mind, an equal vote at all elections in the State in which he shall have his actual residence, such right to vote to be under such regulations as shall be prescribed by law, except to such as have engaged, or may hereafter engage, in insurrection or rebellion against the United States, and to such as shall be duly convicted of infamous crime.

The question was upon the substitute offered by Mr. SHELLABARGER to the amendment offered by Mr. BINGHAM.

Mr. BOUTWELL. The amendment of the gentleman from Ohio [Mr. SHELLABARGER] is new to me. The first impression upon my

mind is that it is in such form as to defeat just exactly what we are aiming at.

Mr. SHELLABARGER. The regulations are simply in regard to the exercise of the right. But the right to vote is secured by the substantial part of the section.

Mr. BOUTWELL. I now call the previous question upon the amendment and the amendment to the amendment.

The question was upon seconding the demand for the previous question.

Mr. BURR. Is it in order to move that this joint resolution and the pending amendments be laid on the table?

The SPEAKER. That motion is in order.

Mr. BURR. Then I make that motion; and upon it I call for the yeas and nays.

The question was upon ordering the yeas and nays.

Mr. FARNSWORTH. I move that the House now adjourn.

The SPEAKER. The Chair will state that if the motion to adjourn shall be now agreed to this subject will come up as unfinished business immediately after the morning hour to-morrow.

Mr. SCOTFIELD. Let the previous question be seconded now; otherwise we will have a long debate on this proposition to-morrow.

The SPEAKER. The first question to-morrow when the consideration of this subject is resumed, if the motion to adjourn is now agreed to, will be upon the motion of the gentlemen from Illinois, [Mr. BURR,] that the resolution and pending amendments be laid upon the table.

Mr. FARNSWORTH. I ask unanimous consent that this joint resolution, with the amendments pending thereto, be printed for the use of the House.

No objection was made, and the order to print was accordingly made.

The question was then taken upon the motion to adjourn; and upon a division there were—ayes one hundred and nineteen, noes not counted.

So the motion was agreed to; and accordingly (at four o'clock and forty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BANKS: The petition of Catharine Walsh, for a private bill granting her a pension.

By Mr. BLAIR: The petition of M. Wake-man and 200 others, citizens of Jackson county, Michigan, in favor of granting pension to soldiers of the war of 1812.

By Mr. HALSEY: The petition of Alexander Donnan, of Petersburg, Virginia, asking Congress to remove his disabilities.

Also, the petition of John C. Armistead, of Petersburg, Virginia, asking Congress to remove his disabilities.

By Mr. JONES, of Kentucky: The memorial and petition of Peck, Vanhask & Co., and others, merchants, distillers, and dealers in distilled spirits, in the sixth district of Kentucky, for certain changes and amendments to the internal revenue laws.

By Mr. KERR: The claim and evidences of S. M. Stockslager, for payment by the United States of \$141 for special service during the late war.

By Mr. KITCHEN: The petition of N. K. Trout, of Virginia, for removal of political disabilities.

Also, the petition of Samuel Gold, and others, for the removal of the political disabilities of Gilbert M. de Lafayette Smith, of West Virginia.

By Mr. MAYNARD: The petition of James D. Murray, of Knox county, Tennessee, praying compensation for supplies furnished during the war.

By Mr. PLANTS: The petition of Hon. A. G. Brown and 52 others, citizens of Athens, Ohio, praying for the passage of the bill now pending

dividing the State of Ohio into three judicial districts.

By Mr. POLSLEY: A petition of the members of the bar of Monroe county, West Virginia, against the removal of the circuit court of the United States from Parkersburg to Wheeling.

By Mr. ROBERTSON: The petition of John Demorest and others, citizens of southern New York, for an appropriation for the removal of obstructions at Hell Gate.

By Mr. SPALDING: The petition of citizens of Ohio, for the enlargement of the Sault Ste. Marie ship-canal.

IN SENATE.

SATURDAY, January 30, 1869.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. HOWE, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

PERSONAL EXPLANATION.

Mr. STEWART. Mr. President, I rise to a question of privilege. I ask the Clerk to read a paragraph from the Washington correspondence of the New York World, which I send to the Chair.

The PRESIDENT *pro tempore*. It will be read if there be no objection.

The Chief Clerk read the following article from the New York World of yesterday:

"The McGarrahan Claim.—The McGarrahan claim, of which much has been made in the Senate for several days past, came to a head at two o'clock, when, by a vote of 27 to 18, it was ordered to request the House for the papers in the case, and to-morrow they will be referred to the Judiciary Committee to re-examine the whole question. Though this is by construction a private claim, the interests involved amount to at least \$5,000,000, and comprise a litigation for ten years. It is practically McGarrahan against the Iberia Mining Company, and he claims to have bought the fee of the Spanish company who used to work the mines. The claim of McGarrahan has been affirmed by six judgments and denied by one rendered by Judge Clifford, of the Supreme Court of the United States. The claim was also endorsed by Abraham Lincoln and Caleb Smith and Judge Usher, Secretaries of the Interior; also by Mr. Browning, the present Secretary. The Commissioner of the Land Office has, however, not allowed the claim, and the Public Land Committee of the Senate reported adversely the last night of last session; and without reading their report the claim was indefinitely postponed at Mr. STEWART's instance. It was at that time promised by Senator WILLIAMS, chairman of the committee, that McGarrahan should have a chance to put in more testimony before the report was presented. STEWART, however, sprung the report and its indefinite postponement upon the Senate, though the Judiciary Committee of the House, through Hon. JAMES WILSON, made at the same time a favorable report. When the Senate learned of the summary disposition of the report, and also that the Senators most active in its presentation were counsel of the mining company in question, and that it was alleged they had received \$10,000 in gold as counsel fees, then Messrs. FESSENDEN, HENDRICKS, MORTON, SHERMAN, and the best of the Senators, determined to have the case re-examined by a committee not in interest, and accordingly after a very personal and bitter debate have carried their point. The case will now go before the Senate Judiciary Committee, of which STEWART is also a member, but in which he has no influence to speak of. The vote of eighteen against calling up the measure again was, at least half of it, cast by Senators really desirous of a fair and a new investigation, but they hesitated to revive in the same Congress a matter which had been indefinitely postponed. The Senate, however, largely concludes to waive the technicality and to go into the business again, which in its prior phases has involved directly some, and impliedly the whole Senate, in a decided scandal. The end is not yet."

Mr. STEWART. It is stated in this article that there have been six judgments affirming this claim. The fact is, there was but one, and that was fraudulently obtained. The land commissioners rejected it. It was then taken before the district court, and the district attorney took one half of the claim and allowed judgment to be entered against the United States. It is here stated that the Secretaries of the Interior and Mr. Lincoln passed upon it favorably.

Mr. TRUMBULL. Mr. President—

Mr. STEWART. Only a word more.

Mr. TRUMBULL. I desire to raise a question of order. The Senator has called the attention of the Senate to what he says is a question of privilege. It certainly is no question of privilege to correct the misstatements made about a claim in the Senate. If we do that

the whole time of the Senate will be occupied in correcting the mistakes made with reference to the business of this body. This does not reflect upon the Senator from Nevada, certainly.

Mr. STEWART. It does. It accuses me of having received a fee.

Mr. TRUMBULL. The Senator is not commenting upon that, but he is commenting upon the statement that half a dozen decisions had been made, and that Mr. Lincoln and the Secretaries of the Interior had done something. If we consume the morning hour in controverting these matters we shall do very little business.

Mr. STEWART. I should have been through by this time if I had not been interrupted.

Mr. TRUMBULL. I withdraw the point of order.

The PRESIDENT *pro tempore*. When a Senator rises to make a personal explanation, the usage has been to allow him to state what he deems to be proper.

Mr. STEWART. It is stated that the Secretaries of the Interior and Mr. Lincoln passed upon this claim favorably. If so, their action was predicated upon this one judgment, which the highest tribunal in the country has pronounced fraudulent. While these proceedings were pending in the Department, the Attorney General took an appeal to the United States Supreme Court in the original case. The claimants moved to docket and dismiss the appeal, whereupon the question arose and Mr. Justice Wayne delivered the opinion of the court. I will read one sentence from that opinion of his:

"It is a most delicate and unwelcome task which we are performing, but it must be done in order that violated justice may be vindicated, and that official purity of conduct in our courts may be preserved and be unsuspected."

He then goes on to comment upon the facts of the case. When the claim was finally reached upon its merits, the opinion of the Supreme Court was delivered by Mr. Justice Clifford. After reciting the circumstances, which it is improper for me to go into at length here, he sums up, saying:

"Comment upon these circumstances is unnecessary, except to say the confirmation was fraudulently obtained."

Then of the six judgments which are paraded here, there is only one, and that charge is disposed of.

Then the charge of my having been attorney for the New Idria Company or any party in interest adverse to Mr. McGarrahan is utterly false. I would be incapable of appearing in this Senate to advocate a claim of which I was the attorney, and the parties in interest in the New Idria mine would be incapable of employing attorneys to appear in this Senate. It is utterly false in every intent and every insinuation. I regret that I should be called upon, as I am now for the first time in my life, to vindicate my honor against a charge of this kind; but I felt it to be due to me and to the Senate that the matter should be understood.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented the memorial of the Chamber of Commerce of Cincinnati, Ohio, remonstrating against the proposed extension of the fifty per cent. provision of the bankrupt law; which was referred to the Committee on Finance.

He also presented the memorial of the Legislature of Wisconsin, in relation to the improvement of the navigation of the Fox and Wisconsin rivers; which was referred to the Committee on Commerce.

He also presented resolutions of the Legislature of Kansas, urging the ratification of the Shawnee Indian treaty now pending before the Senate, and the protection of settlers on the Shawnee lands; which were referred to the Committee on Public Lands.

He also presented resolutions adopted at a mass meeting of citizens of Yankton, Dakota Territory, remonstrating against the passage of the bill to abolish the political organization of that Territory; which were referred to the Committee on Territories.

He also presented the petition of Charles R. Pate, of Georgia, praying that protection may be extended to the Union men of that State; which was referred to the Committee on the Judiciary.

Mr. SHERMAN presented the memorial of the Chamber of Commerce of Cincinnati, Ohio, remonstrating against the proposed extension of the fifty per cent. provision of the bankrupt law; which was referred to the Committee on the Judiciary.

He also presented a petition of citizens of the District of Columbia, praying the passage of the bill to incorporate the Industrial Home School Association of the District; which was referred to the Committee on the District of Columbia.

Mr. HOWE. I desire to present a memorial from the Legislature of Wisconsin, in aid of another memorial which has already been presented from the convention held at Prairie du Chien, in Wisconsin, in aid of the improvement of the Wisconsin river. I move that this memorial be printed, together with the memorial of that convention, and that these memorials be referred to the Committee on Commerce.

The PRESIDENT *pro tempore*. It will be so referred and the order to print will be entered, if there be no objection.

Mr. DRAKE presented resolutions of the Legislature of Missouri, in favor of a continuance of the aid originally granted for the construction of the central branch of the Union Pacific railroad; which were referred to the Committee on the Pacific Railroad.

Mr. WILSON presented the petition of citizens and merchants of Boston, praying that a reciprocity treaty may be made between the United States and the Dominion of Canada and the British Provinces in North America; which was referred to the Committee on Foreign Relations.

Mr. SUMNER. I present the proceedings of the Republican executive committee of Fredericksburg, Virginia, being in the nature of a petition addressed to Congress, in which they represent that the Union people of that city, county, and State look with great alarm upon the efforts of the rebel element of the State of Virginia to induce Congress to strike out the disfranchising clause in the proposed constitution of the State to remove the disabilities of the present State, city, and county officers; and they proceed to assign their reasons against any such action, and protest against it. I move the reference of this petition to the Committee on the Judiciary.

The motion was agreed to.

Mr. MORGAN. I have been requested to present resolutions of the Chamber of Commerce of the State of New York, on the subject of the national finances, in which they resolve—

"That the following plan be recommended to Congress as a basis of action for the permanent settlement of our national finances:

"1. Declare that when the debt is paid it shall be paid in coin.

"2. Legalize gold contracts.

"3. Introduce the strictest economy in every department of the Government.

"4. Refuse all subsidies and unnecessary appropriations.

"5. See that the revenues are economically, energetically, and honestly collected.

"6. Use all the surplus revenue in reducing the debt.

"7. Take away all the power of the Secretary of the Treasury to make money plentiful or scarce.

"8. Let the people understand that while they need not fear rapid contraction, it will be dangerous to rely upon indefinite suspension.

"9. Contract the currency moderately the first year; next year determine whether the country will bear a more rapid contraction.

"10. Reduce the taxes so as to leave only surplus revenue sufficient to pay off annually a reasonable amount of the debt.

"11. Resume specie payments as soon as a rigid adherence to the above policy makes it safe to do so."

I move the reference of these resolutions to the Committee on Finance.

The motion was agreed to.

Mr. MORGAN also presented the petition of Matthew Callaghan, praying for compensation for special services rendered the Post

Office Department; which was referred to the Committee on Post Offices and Post Roads.

Mr. POMEROY. I ask leave to present several petitions which I have received from citizens of the State of Maine, earnestly requesting that in any change or amendment of the Constitution that may be proposed to extend or regulate suffrage there may be no distinction between citizens of the United States whether male or female.

I also present several other petitions from Wisconsin; Wayne county, New York; Massachusetts; Illinois; Grand Rapids, Michigan, all in the same language, or nearly so; certainly of the same import. I move that they all lie on the table, as this question is now before the Senate. The Committee on the Judiciary having reported, I see no reason why they should be referred.

The petitions were ordered to lie on the table.

Mr. COLE. I am charged with a petition signed by Joel N. Turner, mayor of the city of Los Angeles, California, and many other influential citizens of that portion of the State, asking for the reorganization of the southern district court for that State, which, it will be remembered, was abolished a few years ago on the occasion of the death of the judge of that court. They set forth that the administration of the laws is very much impeded by the difficulty they find in reaching the place where the United States court is now held, to wit, San Francisco, and they earnestly appeal to Congress for the reorganization of that court. I move that the petition be referred to the Committee on the Judiciary.

The motion was agreed to.

Mr. VICKERS presented a memorial of citizens of the District of Columbia, remonstrating against the passage of the bill conferring additional powers on the Metropolitan Police Board relative to the granting or refusing of licenses; which was referred to the Committee on the District of Columbia.

Mr. DOOLITTLE presented the petition of John L. Andrews, of Virginia, praying to be relieved from political disabilities; which was referred to the Committee on the Judiciary.

Mr. CRAGIN. I wish to call up a motion I entered some time ago to reconsider the vote by which the House concurrent resolution giving the use of portions of the Capitol for the inauguration reception was rejected.

Mr. CONKLING. Has the Senator any objection to letting us finish the morning business?

Mr. CRAGIN. Not at all.

Mr. CONKLING. I should like to present a petition.

The PRESIDENT *pro tempore*. The petition will be received.

Mr. CONKLING. I present a memorial of the New York and Antwerp Mail Steamship Company, which recites the organization of the company under the laws of the United States to ply with ocean steamships between the port of New York and the port of Antwerp, in the kingdom of Belgium; recites that they have mail contracts with Belgium and an equipment and appointment which will enable them to carry the ocean mails of the United States for simply the postage, without guarantee or inducement for doing it, and praying that they may be permitted to take the ocean-going letters and mail matter of the United States, receiving simply the postage for carrying the same. The memorial is carefully drawn, setting forth in a logical and intelligible way the facts, and praying for the contract which I have stated, and other matters of legislation provided for in a bill which I desire to introduce.

The memorial was referred to the Committee on Post Offices and Post Roads.

Mr. HENDERSON. I present concurrent resolutions of the Legislature of Missouri, instructing the Senators and requesting the Representatives of that State in Congress to vote for a grant of aid to the central branch of the Union Pacific railroad. I will state that previous to the reception of these resolutions I had

voted against the bill to grant the aid referred to. It is due to the members of the Legislature that I should say that I had taken my action on the subject before I was aware of those resolutions. I move that they lie on the table.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. CONNESS. The Committee on Mines and Mining, to whom was referred the bill (S. No. 770) to incorporate the National Gold and Silver Mining Company of Washington, District of Columbia, have instructed me to report it back and ask to be discharged from the further consideration of the bill. The bill proposes, I will state in brief, to establish a corporation by a congressional act for the purposes of mining in the Territory of Montana, which Territory has an act of general incorporation of its own, under which companies for those purposes may be organized; and the committee deem it, therefore, improper to recommend the passage of an act for that purpose by Congress.

The committee were discharged from the further consideration of the bill.

Mr. WILLEY, from the Committee on Claims, to whom was referred the bill (H. R. No. 284) for the relief of N. A. Shuttleworth, of Harrison county, West Virginia, reported it without amendment.

Mr. VICKERS, from the Committee on Railroads in the States, to whom was referred the bill (S. No. 849) to incorporate the National Railway Loan and Trust Company, asked to be discharged from its further consideration, and that it be referred to the Committee on the District of Columbia; which was agreed to.

GEORGE W. LANE.

Mr. DAVIS. The Committee on Claims, to whom was referred the joint resolution (H. R. No. 219) for the relief of George W. Lane, superintendent of the branch mint at Denver, Colorado, and Assistant Treasurer of the United States, have had it under consideration and directed me to report it back with a recommendation that it pass; and as it is a bill of very great and strong justice I should like to have it considered now. It will take but a few moments, I think.

The PRESIDENT *pro tempore*. It requires the unanimous consent of the Senate to consider the joint resolution at this time.

Mr. DAVIS. Allow me to say a word in explanation of the joint resolution. The petitioner was the Assistant Treasurer and superintendent of the mint at Colorado. His principal clerk stole something over thirty six thousand dollars from the safe of the mint. Mr. Lane went in pursuit of him to New Mexico, and made a most remarkable, energetic, and successful pursuit. He overtook him and reclaimed, of the \$36,000 over thirty-two thousand dollars, and had the culprit brought back, tried, convicted, and sentenced to the penitentiary. He now asks that he be exonerated from the payment of so much of the money as was not reclaimed—\$4,419 90. A special agent was sent by the Treasury Department to examine into the matter, and he recommends the passage of the joint resolution.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It proposes to authorize the Secretary of the Treasury to credit and allow to George W. Lane, superintendent of the United States branch mint at Denver, Colorado Territory, in the settlement of his accounts, the sum of \$4,419 90, public money, which was stolen from the mint without fault or neglect his part, and which has not been recovered.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, and read the third time.

Mr. SHERMAN. Is there a report in connection with that joint resolution?

The PRESIDENT *pro tempore*. There is no report.

Mr. DAVIS. The facts are all as I have stated them. It is a very strong and obvi-

ously just case, as strong a case as I have ever heard of.

The bill was passed.

REV. D. HILLHOUSE BUEL.

Mr. HOWE. The Committee on Claims, to whom was referred the bill (S. No. 760) for the relief of Rev. D. Hillhouse Buel, have directed me to report it back without amendment, with a recommendation that it pass.

Mr. EDMUNDS. I ask the unanimous consent of the Senate to take up and pass that bill now. It is to relieve, for some lost registered bonds, a poor clergyman in the State of New York. The case on the evidence is made perfectly plain, and all he had in the world, a few thousand dollars, is tied up. I ask the unanimous consent of the Senate to put it on its passage.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Secretary of the Treasury to cause to be issued to Rev. D. Hillhouse Buel, of Cooperstown, New York, proper certificates of the registered stock of the United States of the consolidated debt under the act of March 3, 1865, to the amount of \$7,000, in lieu and stead of certificates of the debt Nos. 16,381 and 16,382 for \$1,000 each, and certificate No. 4,987 for \$5,000, belonging to him and lost while passing through the mails; but he is to give bond with surety to the satisfaction of the Secretary of the Treasury, conditioned to indemnify the United States against all claim upon or in respect to the first-mentioned certificates.

The bill was reported to the Senate.

Mr. GRIMES. I should like to have some explanation of the bill.

Mr. EDMUNDS. I can explain it, as I presented the papers and knew this gentleman, and know from the affidavits and evidence all the facts. This gentleman is a clergyman of the Episcopalian persuasion at Cooperstown, New York, whose character is above all reproach.

Mr. TRUMBULL. Were these registered bonds.

Mr. EDMUNDS. Certainly.

Mr. TRUMBULL. Then what is the difficulty?

Mr. EDMUNDS. None, except that the Treasury say that without an act of Congress they will not issue them. That is the only difficulty. I think, as the law is, they may do it; but they say they will not. He exchanged \$7,000 in coupon bonds for \$7,000 of registered stock, which was entered up to him in the Treasury books, and sent to the cashier of his bank in Troy to be forwarded to him. The cashier forwarded it to him by mail, and it has never been heard of since. That was at a time when the mails were being somewhat interfered with in that region. The truth undoubtedly is that somebody stole these and other bonds out of the mail, and the thieves (as they always do with registered bonds) destroyed them, because they would not be of any use to them without an indorsement. This bill provides that duplicates shall be issued to this clergyman upon his giving security with sureties satisfactory to the Secretary of the Treasury to indemnify against these bonds. The only possible danger is that this clergyman may have fraudulently indorsed them to somebody who does not bring them forward, and if he should he would not be entitled to have new certificates. It seems to me there can be no danger in it.

Mr. FESSENDEN. I do not know that I shall object to this particular proceeding; but I wish to suggest to the Senate that this matter of giving bonds to secure and indemnify the Government in cases where long bonds are issued, registered or coupon, amounts to nothing at all by way of security. The Senate will observe that these registered or coupon bonds run for quite a long series of years. The security that is given to indemnify the Government may be good at the time it is given; but we all know that so many years may elapse

before the missing bonds turn up, if they should ever turn up, that the security may in the meantime become good for nothing. In considering this matter I have come to the conclusion that although it has been the habit to require that security should be given in the way of a bond to make good any loss, this formal proceeding amounts to nothing at all; and that, therefore, it is extremely dangerous for Congress to order the issue of duplicates unless in a case where it has been proved to their entire satisfaction that the original bonds are destroyed, or that there is no chance, so to speak, of their again coming up. Otherwise there are securities out in the hands of other persons issued by the Government, and it must meet both, and the bond of indemnity in all probability is good for nothing.

Mr. EDMUNDS. That would be perfectly true in the case of coupon bonds; but, as my friend knows, by the course of business at the Treasury, on every transfer of a registered bond the registered bond is immediately returned to the Treasury and a new certificate, as it is called—what we call a bond—issued. These certificates being payable to order and transferable only on the books of the Treasury, they stand almost exactly in the same position as stock in an incorporated company. The consequence is that it always happens when there is any difficulty between the indorser and indorsee as to the fact of indorsement, or if there is a loss of the bond and it is brought forward by anybody whose name does not appear in the books, the Treasury say, "We do not accept the bond which you bring here as indorsee without your proving the genuineness of the indorsement." That is to say, the course of commercial business which binds the Government, just as it does other parties in such matters, requires that registered stock shall be brought forward and transferred on the books of the Treasury.

Mr. FESSENDEN. At no specific time?

Mr. EDMUNDS. At no specific time, but within a reasonable time, of course; and we all know that in commercial transactions a reasonable time is really a very short one. Therefore, in the case of stock of this kind that requires to be transferred on the books of the Treasury and to be indorsed, if the stock was not brought forward, supposing that this clergyman had fraudulently indorsed it and then had stolen it out of the mail—if it were not brought forward within a few months the Treasury would be under no obligation, legal or equitable, to pay the holder because he did not use due diligence. I hope, therefore, as this has been done very frequently when occasion has required, the danger, whatever there is, may not be visited upon this clergyman.

Mr. FESSENDEN. I stated that I did not know that I should object in this particular case. It is very true, as my friend says, that the danger is comparatively slight in the case of registered bonds. What I rose to say was that the Senate, in my judgment, must be very careful in issuing duplicates on the strength of any security given by the parties to make good any loss to the Government. I should vote for this bill just as readily without the last clause that security shall be given, as with it, because I cannot see any benefit that that clause will be as a matter of practice.

Mr. CORBETT. I desire to inquire how long it is since these bonds were lost?

Mr. EDMUNDS. More than a year now. The affidavits of this gentleman and of the cashier of the bank show the precise date. I have forgotten it, but I believe it is something more than a year.

Mr. HOWE. They were lost in November, 1867.

Mr. CORBETT. I understand that if these bonds had been lost, or if they were not lost, but had been indorsed to any one, the person to whom they were indorsed could not draw the interest upon them unless he presented them to the Treasury and had them registered in his own name, and new certificates issued.

Mr. EDMUNDS. That is it exactly.

Mr. CORBETT. That is the position of

affairs; and therefore there is a safety in this case which there is not in the case of coupon bonds.

Mr. EDMUNDS. Yes, sir.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

BILLS INTRODUCED.

Mr. CONKLING asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 856) to promote the building of steamships in the United States and to provide for the transportation of the United States mails between New York and Europe by steamships built in the United States; which was read twice by its title, referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

Mr. MORTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 857) to enable the people of Montana to form a constitution and State government; and for the admission of said State into the Union on an equal footing with the original States; which was read twice by its title, referred to the Committee on Territories, and ordered to be printed.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 211) for setting apart a portion of the Fort Snelling military reservation for a permanent military post, and the settlement of all claims in relation thereto; which was read twice by its title, referred to the Committee on Military Affairs, and ordered to be printed.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 212) relating to home-steads for soldiers; which was read twice by its title, referred to the Committee on Public Lands and ordered to be printed.

LAND GRANTS FOR IMPROVEMENTS.

Mr. HARLAN. I offer the following resolution:

Resolved, That the Secretary of the Interior be requested to inform the Senate the quantity of public lands certified and patented to States and Territories and corporations to aid in the construction of railroads, wagon-roads, and canals, and the improvement of rivers and harbors, indicating the quantity thus certified and conveyed within the limits of each State and Territory, naming the corporations to be benefited thereby and the quantity of land received by each of such corporations.

Mr. HENDRICKS. I think that will appear in the report of the Commissioner. The Senator will find that a summary of all that usually accompanies the annual report.

The resolution was considered by unanimous consent, and agreed to.

RECOMMITTAL OF A BILL.

Mr. CHANDLER. I move that the bill (S. No. 697) granting lands to the States of Wisconsin and Michigan to aid in the construction of the Wisconsin and Lake Superior railroad and its branch be recommitted to the Committee on Public Lands. I make this motion with the assent of the chairman of that committee. The motion was agreed to.

DOCKS AT PENSACOLA.

Mr. OSBORN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Navy be directed to communicate to this House whether the docks at the Pensacola navy-yard are sufficient for the accommodation and necessities of the Navy in the Gulf of Mexico, and whether further legislation is requisite before the docks can be made sufficient; and if so, what legislation is necessary.

PACIFIC BRANCH OF SOLDIERS' HOME.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be directed to report to the Senate a plan for the establishment of a branch of the Soldiers' Home on the Pacific coast.

INAUGURATION BALL.

Mr. CRAGIN. Some time ago I made a motion to reconsider the vote by which the

Senate rejected the concurrent resolution from the House of Representatives granting to the committee of control to conduct the inaugural proceedings other than official of the President and Vice President certain portions of the Capitol. I now move to take up that motion, and I will state that I have here a letter from the committee in which they say that they have voted to dispense entirely with dancing, and ask that they may have the use of the parts of the Capitol named in the House resolution for a reception simply. I hope the Senate will at least act upon the question.

The PRESIDENT *pro tempore*. The question is on taking up the motion to reconsider. The motion to take up was agreed to.

The PRESIDENT *pro tempore*. The question now is on reconsidering the vote rejecting the resolution.

Mr. CRAGIN. I send to the desk a letter which I have received. I ask that it be read. The Chief Clerk read as follows:

WASHINGTON, D. C., January, 27, 1869.

DEAR SIR: At a meeting of the general committee on official inaugural ceremonies, held this day, the following resolution was adopted:

Resolved, That Senator CRAGIN be requested to ask a reconsideration of the vote on House concurrent resolution, and that he be authorized to inform the Senate that in deference to the expressed views of several of its members this committee has decided to withdraw dancing from the programme of the proposed inauguration reception if the use of the Capitol is granted.

Respectfully,
THOMAS L. TULLOCK,
Secretary.

Hon. AARON H. CRAGIN, United States Senate.

Mr. TRUMBULL. Let us have the yeas and nays on the reconsideration, and settle it. The yeas and nays were ordered.

Mr. CRAGIN. I ask leave simply to say a word. I am informed that unless this privilege is granted it is almost certain that there will be some sort of an inauguration ball in this city under influences which will not be agreeable to a majority of the Senate. If this is done it will accommodate the great mass of the people that come here, especially the soldiers, and give them an opportunity to come here in the evening to see General Grant and go away satisfied. For that reason and for others I hope this reconsideration may take place.

Mr. CONKLING. Under what auspices will the ball take place? Will not the same committee have charge of it?

Mr. CRAGIN. Not at all.

Mr. CONKLING. Who will have charge?

Mr. CRAGIN. A committee of citizens of the city of Washington.

Mr. TRUMBULL. I was in hopes this matter would not again be brought to the attention of the Senate; that we were through with it. I see by the morning papers that an inauguration ball is to be given somewhere else, in some other part of the city; and it seems to me that for Congress to undertake to enter into an arrangement with some committee, unofficial it seems—I do not know who the committee are—that there shall be an inauguration ceremony in the Capitol, is out of place. I trust the vote of the Senate will not be reconsidered, and that we shall be done with this thing. I will take no time about it.

Mr. WARNER. I understand the proposition, as modified, is simply to provide that the President-elect may hold a reception in the Rotunda of the Capitol. That seems to be all that is left of the proposition. If that be so he may certainly do that without any action of Congress.

Mr. CONKLING. I hope we are not to vote upon this question as if it stood precisely as put by the honorable Senator who has just taken his seat, whether the President-elect should be permitted to hold a reception in the Capitol. The President-elect does not seem to part for any such opportunity as that, and I think it would be assuming a good deal for us to take jurisdiction of any such question. If the President-elect felt the need of occupying this building and we had knowledge of that it would present a question so unlike the one before us

that it could hardly be raised by reconsidering this resolution.

I believe it is a matter of public history—I think I saw in some newspaper a letter conveying that information—that the President-elect has what I will call the good sense to wish very much to bow himself out of this whole proceeding. He has said that in very explicit terms, and therefore the question is still as it was before, whether somebody who has not yet been elected President of the United States and will not be for at least four years—whether somebody other than the President-elect, who has conceived the idea of occupying this building for a ball or a reception or an exercise of that kind of some name or description, shall be permitted by the Senate to do it.

That is the question, and the only question. I saw, as the honorable Senator from Illinois did, in the paper this morning—and, on inquiry, I understand it is true—that an arrangement has been made to obtain the occupation of a large and newly-finished room in the Treasury building, which contains no furniture and no pictures and no appointments to be injured. That is a matter with which we have nothing to do, and therefore there is no need of our taking any jurisdiction; so that it turns out that those who wish a parade of that sort are in a fair way to have it. They have secured a room which, as described in the newspapers this morning, must be a room abundant in its height and depth and dimensions and grandeur for anybody who proposes to receive or be received on that occasion.

It seems to me there are all the reasons there were before, and some reasons in addition, why we should leave this subject alone. Let it stand where it is; and if the President-elect, in spite of his expressed wish, can be dragooned into going and submitting to the ordeal of a ball or a reception, or whatever it is to be called, so be it. That is a question for him. I have no doubt that he is abundantly able to take care of himself. But why we should reverse our action I cannot see, when we know that in the meantime another place and a fitter place has been obtained, and also that the gentleman in whose honor professedly this is conceived has pointedly disclaimed any wish to become the recipient of that honor.

Mr. CRAGIN. Mr. President, I do not know what the wish of General Grant is in this matter. I do not propose to intimate it. In the letter which he wrote to the secretary of this committee he intimated that it would be agreeable to him if the inauguration ball should be dispensed with. As now arranged, it is proposed to dispense with it. The only question is whether the Senate will concur with the House in granting the use, not of the Senate Chamber, not of the Hall of the House of Representatives, not of any of the committee-rooms of this Capitol, not of any of the rooms where there is furniture, but simply the corridors, the Rotunda, and the old Hall of the House of Representatives, where the people who come here to attend this inauguration ceremony may meet and pass around and see their friends, and see General Grant if he chooses to come. There is no danger of any injury to any part of the building.

The Senator from New York alludes to the fact that a ball is to take place at another place. I say to him that if it takes place there it will be under the direction of a different committee and under different auspices from the one which is seeking the use of this Capitol, or a portion of it, for the purpose of a reception or social gathering, whatever it may be. I have nothing more to say.

Mr. DRAKE. Mr. President, I am opposed to the reconsideration of this resolution, but if it shall come up there is a proposition which I wish to make with regard to it which I will mention now, and that is that no lady shall be admitted into the Rotunda in party dress. [Laughter.]

Mr. NYE. I should like to have the Senator explain what that means. [Laughter.]

Mr. DRAKE. It is a very considerable

undress, if the gentleman can understand it. [Laughter.]

Mr. MORRILL, of Vermont. I ask the Senator from Missouri if he will not also accept an amendment from me that all ladies shall be admitted without regard to color? [Laughter.]

Mr. DRAKE. Certainly; anything of that kind that will accommodate my friend from Vermont I will agree to with great pleasure. [Laughter.]

But, Mr. President, here is a trap for the injury of the health and perhaps the destruction of the lives of numbers of ladies. You cannot heat that Rotunda on the 4th of March in such a way that if ladies attend there in ordinary party dress multitudes of them may not take serious colds, and perhaps lives be lost in consequence of it. It is impossible, sir; you cannot do it. If you were to put stoves in there by the dozen you could not do it, because the height of the Dome is so great that the heated air ascends immediately and passes out through the windows and crannies and crevices there. The consequence is that those on the floor are in the coldest atmosphere that can be in a room at all. I am against this proposition in any form in which it can be put, but most especially against it when the ladies who are to attend there in the ordinary party dress, which is, as I said before, a very considerable undress, are to suffer such exceeding injury as they will if they go there.

Mr. CONKLING. I desire to make one remark only in reply to the honorable Senator from New Hampshire. I do not like, because I do not approve this resolution, to be set down as wishing churlishly to exclude anybody from the Capitol. For some reason, or by some accident, this has been several times put as if it was a question between the Senate and the public or the citizens of this country who might wish to see and to occupy the inside of the Capitol. I object to that, Mr. President. On inauguration day and every other day it is not the privilege but the right of all the citizens of this country, without regard to sex or age, to visit the Rotunda of the Capitol to look at the pictures, and to do everything that an opportunity can be afforded anybody to do by way of inspection and occupation; and when they do it, unless the Senate should pass this resolution, they will not have to pay to any committee ten dollars or any other admission fee for the privilege of visiting that Rotunda. I have only to say, in answer to the honorable Senator, that I propose to allow all the people of the country to visit the Rotunda on that day and on every other without authorizing a committee to place janissaries at the door to exact a fee of ten dollars for that privilege.

One other suggestion, and I have done. The honorable Senator says that this resolution applies to a part of the building in which there is no furniture. I beg to remind him that in the Rotunda are pictures, all of which, perhaps, are not very precious, but some of which are very valuable; and if there be anything which could well be placed as furniture or appointment in an apartment likely to suffer detriment on such an occasion, I think pictures hanging as low as those would fall within that description of appointment. That is all I meant by my reference to that.

Now, I hope we shall say that everybody will be permitted on that day and on that night, like every other day and every other night, to go without let or hindrance all over the open and unoccupied parts of the Capitol.

Mr. WARNER. I desire to say that the Senator from New York expresses my views in reference to this matter, and that any action necessary to accomplish what he states I am ready to take.

Mr. CRAGIN. One remark in reply to the Senator from New York. He says that on inauguration day every person who comes here and wishes to go into the Rotunda has the right to do so, and can do so. He must be aware, I presume, that on that day the doors of the Capitol are closed against the great public, and only those are admitted in here who have tickets;

and it is for the purpose of letting in those who cannot get tickets in the evening that this proposition is offered.

MR. CONKLING. Are the doors closed at any hour during which this resolution proposes to open them? If not, then there is no pertinency in the suggestion of the Senator. Of course, I am aware that during the time when the members of the two Houses and the other persons taking part in the inauguration ceremonies are traversing the building in procession, as I believe they do, for the reason that two solid bodies cannot occupy the same space at the same time, other persons are excluded. That is a philosophical proposition, I believe, which the Senator cannot very well obviate by a resolution. But the point is, that during that time this resolution would not open the doors any wider or amplify the space any more. On the contrary, without the resolution the time to which it applies will be a time when the building can and will be open to everybody.

MR. CORBETT. When this resolution was up before I did not state my reason for voting against it, but it is substantially the reason offered by the Senator from Missouri, [Mr. DRAKE,] who states that the Rotunda is an unsuitable and improper place for such a reception or ball. Every one who has passed through the Rotunda and gone from the Rotunda to the Senate wing or House wing of the building must know that the drafts through that portion of the building are so cold that it is impossible for persons to pass through there without taking cold unless they have on overcoats, cloaks, or shawls. For that reason I voted against the resolution before, and shall feel constrained to do so now. I think some other place in the city could be obtained that would be much more acceptable to the people generally, and much more healthy for the ladies who may visit the reception or ball.

The PRESIDENT pro tempore. The morning hour having expired, the unfinished business of yesterday, being the joint resolution (S. R. No. 8) proposing an amendment to the Constitution of the United States, is before the Senate.

Several **SENATORS.** Let us vote on this question.

MR. CRAGIN. I hope the Senator from Nevada will not object to our taking a vote on this motion. There will be no further debate.

MR. STEWART. I cannot give way.

The PRESIDENT pro tempore. The Senator from New Hampshire asks the unanimous consent of the Senate to pass over the order of the day informally for the purpose of taking a vote on this subject.

MR. STEWART. I object.

MR. EDMUNDS and others. Let us settle it now.

The PRESIDENT pro tempore. Objection being made, Senate joint resolution No. 8 is before the Senate, the pending question being on the amendment of the Senator from Connecticut, [Mr. DIXON,] upon which the Senator from Connecticut [Mr. FERRY] is entitled to the floor.

MR. STEWART. If the debate on the other subject is concluded, and the Senator from Connecticut is willing to yield the floor long enough to allow the vote to be taken, I will consent that that shall be done.

MR. FERRY. I am willing to yield to allow a vote to be taken.

The PRESIDENT pro tempore. The Senator from Connecticut yields for that purpose; and the question is on the motion to reconsider the vote rejecting the concurrent resolution, upon which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 21, nays 29; as follows:

YEAS—Messrs. Abbott, Anthony, Cattell, Chandler, Cole, Connors, Cragin, Edmunds, Ferry, Fessenden, Harlan, Kellogg, McDonald, Nye, Patterson of Tennessee, Pomeroy, Rice, Stewart, Thayer, Welch, and Williams—21.

NAYS—Messrs. Buckalew, Conkling, Corbett, Davis, Dixon, Doolittle, Drake, Grimes, Harris, Hendricks, McCreery, Morgan, Morrill of Maine, Morrill of Vermont, Norton, Osborn, Patterson of New

Hampshire, Pool, Ramsey, Robertson, Sherman, Sprague, Sumner, Trumbull, Vickers, Wade, Warner, Wiley, and Wilson—29.

ABSENT—Messrs. Bayard, Cameron, Fowler, Frelinghuysen, Henderson, Howard, Howe, Morton, Ross, Saulsbury, Sawyer, Spencer, Tipton, Van Winkle, Whyte, and Yates—16.

So the motion to reconsider was not agreed to.

COMMITTEE SERVICE.

The PRESIDENT pro tempore. Before the Senator from Connecticut takes the floor the Chair will announce the appointment of Mr. WILLIAMS, of Oregon, as a member of the Committee on Education in place of Mr. HARRIS, who was excused.

ORDER OF BUSINESS.

MR. MORRILL, of Maine. If the Senator from Connecticut will excuse me, I desire to make a motion to postpone the special order, with a view of taking up an appropriation bill of which I gave notice yesterday, provided it does not discommode the honorable Senator from Connecticut. If it is agreeable to him to go on on Monday I will make the motion.

MR. FERRY. It is entirely immaterial to me whether I go on to-day or Monday. I cannot, however, yield the floor without the consent of the Senator from Nevada, who has in charge the resolution upon which I am to speak; but I will say, so far as I am myself concerned, that I am entirely indifferent whether I go on to-day or Monday. I refer the Senator from Maine to the Senator from Nevada.

MR. MORRILL, of Maine. I submit the motion to postpone.

MR. STEWART. I object to the motion.

MR. MORRILL, of Maine. Allow me to submit it. I have the floor. I do not yield to the Senator.

MR. STEWART. The Senator from Connecticut has not yielded the floor.

MR. MORRILL, of Maine. I think I have the floor. I move to postpone the special order and all other orders and proceed to the consideration of—

MR. STEWART. Does the Senator from Connecticut yield for that motion?

MR. MORRILL, of Maine. I do not yield to the Senator from Nevada at present.

MR. STEWART. I rise to a point of order.

MR. MORRILL, of Maine. I call the Senator from Nevada to order.

The PRESIDENT pro tempore. The Senator from Maine must not be interrupted until he can make his motion.

MR. STEWART. I rise to a point of order, that he is not in order in making the motion.

MR. MORRILL, of Maine. I believe the Chair recognized me.

The PRESIDENT pro tempore. The Senator from Maine had the floor, and the Chair supposes that it is in order for him to make a motion or to state what the motion is.

MR. MORRILL, of Maine. I move to postpone the special order and take up the bill (H. R. No. 1564) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1870.

The PRESIDENT pro tempore. The Senator from Maine moves that the special order and all prior orders be postponed for the purpose of taking up the bill indicated by him.

MR. STEWART. I believe that motion opens the merits of the resolution, because if it is postponed it is perfectly obvious that it cannot be passed at this session, and there will be no use in trying to call it up again. The speeches upon it will soon conclude now; but if it is passed over it will be rediscussed and it will be the end of the whole proposition for the session. I should so regard it. If the appropriation bills are now to come in, and then the Committee on Finance are allowed to present their business and we cannot reach a vote now when we have the resolution under consideration, it will be impossible to pass this constitutional amendment at the present session. Upon this motion, to see whether the Senate will consider it at all, I call for the yeas and nays.

MR. FERRY. As I stated, it is entirely immaterial to me whether I go on to-day or on Monday with my remarks upon the constitutional amendment. I do, however, feel that that amendment is so important, and the necessity for the action of the Senate upon it is so great, that I should very much dislike that any action of mine should displace the consideration of that amendment and allow other business to come in and take the place of it. I supposed that the Senator from Maine would merely ask to have the pending order laid aside informally, not absolutely to displace it. I should be unwilling, not on account of my own convenience but on account of public interests, to have the special order absolutely displaced.

MR. MORRILL, of Maine. I did not make that motion, because I was advised by the honorable Senator from Nevada that he would oppose the proposition. So I made the only motion I could make. Of course I do not wish to interfere with the Senator from Connecticut; and I first ascertained before making the motion that it would not be disagreeable to his wishes. It is now a question for the Senate, and I address myself to the Senate. I have here four appropriation bills of a character which I think can all be disposed of to-day. They are all that have been sent to the Senate from the House of Representatives.

MR. SUMNER. Will the Senator mention the names of the bills?

MR. MORRILL, of Maine. They are the bills making appropriations for pensions, the Military Academy, the naval service, and for consular and diplomatic expenses. I am sure they can all be disposed of to-day, and we can make that progress toward the completion of the appropriation bills. I need not say that at this late day in the session it seems to be quite indispensable that we should make that much progress. On Monday we are to have the Indian appropriation bill, and very soon after that the Army appropriation bill, and a little later the legislative, executive, and judicial appropriation bill, which the Senate well knows will very likely occupy their time exclusively for several days. Therefore, if the Senate intend to hold me or the Committee on Appropriations responsible for due progress in these bills, I feel it my bounden duty to urge their consideration on the Senate at the present time.

I wish to suggest another consideration to the honorable Senator from Nevada, who has charge of the measure which is the special order. To-day, I am told, the House of Representatives will send to the Senate a similar proposition for the amendment of the Constitution; I do not know but one precisely identical with this. If the Senate shall be able to adopt the proposition which may come from the other House, that will end the whole matter. I suggest, therefore, to the Senator from Nevada whether he will not, with the Senator from Connecticut, concur in my proposition, and allow the constitutional amendment to pass over until Monday. By that time we shall probably have an amendment from the other House, and then the Senate will have the whole subject before it. I hope, therefore, that there will be no objection to my proposition, and if the Senator from Nevada chooses, I am quite willing that the special order shall go by informally so as not to lose its place, and be in order on Monday, and I will endeavor to make such progress in the appropriation bills to-day as to be out of the way of it.

MR. STEWART. I am very fearful that if the constitutional amendment is postponed it is the end of it for the session.

MR. MORRILL, of Maine. Oh, no.

MR. STEWART. The chairman of the Committee on Finance is pressing his financial measures, and he will soon call on the Senate to act upon them. The Indian appropriation bill will be here on Monday.

MR. MORRILL, of Maine. It has to go to the committee.

MR. STEWART. As to the proposition pending in the other House, if it comes in here to-day it can just as well be considered in con-

nection with this. There are several gentlemen who wish to speak, and their speeches will be made in any event whenever the question is taken up. If we postpone it, it will cause more speeches to be made. I shall regard it as a loss of the measure if it is now laid aside. The appropriation bills will go through anyhow, but if this amendment is laid over now it will be postponed so late that I fear it will be impossible to pass it at this session. I shall insist upon the yeas and nays. I want to take the sense of the Senate.

Mr. MORRILL, of Maine. Oh, no; you had better let it go over informally.

Mr. STEWART. No; I insist upon the yeas and nays.

The yeas and nays were ordered.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Maine to postpone the unfinished business of yesterday and all prior orders for the purpose of proceeding to the consideration of the bill named by him, and upon this question the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 29, nays 23; as follows:

YEAS—Messrs. Anthony, Bayard, Buckalew, Cole, Corbett, Davis, Dozelle, Fessenden, Fowler, Grimes, Hendricks, Hewo, Kellogg, McCreery, Morgan, Morrill of Maine, Morrill of Vermont, Patterson of New Hampshire, Patterson of Tennessee, Sherman, Sprague, Sumner, Trumbull, Van Winkle, Vickers, Whyte, Willey, Williams, and Wilson—29.

NAYS—Messrs. Abbott, Conkling, Conness, Dixon, Drake, Edmunds, Ferry, Frelinghuysen, Harlan, Harris, Henderson, Nye, Osborn, Pomeroy, Pool, Ramsey, Rice, Ross, Stewart, Thayer, Wade, Warner, and Welch—23.

ABSENT—Messrs. Cameron, Cattell, Chandler, Cragin, Howard, McDonald, Morton, Norton, Robertson, Salisbury, Sawyer, Spencer, Tipton, and Yates—14.

So the motion was agreed to.

PENSION APPROPRIATION BILL.

The PRESIDENT *pro tempore*. The special order is postponed, and the question now is on taking up the bill indicated by the Senator from Maine.

The motion was agreed to; and the bill (H. R. No. 1564) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1870, was considered as in Committee of the Whole.

Two amendments were reported by the Committee on Appropriations. The first was in line seven to strike out "ten" before "million" and insert "nine;" so as to make the clause read "for invalid pensions under various acts, \$9,000,000."

Mr. MORRILL, of Maine. I will state briefly to the Senate what this bill is, and the amendments that are proposed. The bill, as it came from the House of Representatives, appropriated \$10,000,000 for invalid pensions and \$13,000,000 for pensions to widows, children, mothers, fathers, brothers, and sisters of soldiers. The bill, as reported by our committee, appropriates \$9,000,000 for invalid pensions and \$10,000,000 for the other class; and these two sums are considered by the committee to be ample. I will make a statement in regard to the number of pensioners to show that we are not mistaken.

The number of persons actually on the rolls as invalid pensioners on the 30th of June, 1863, was seventy-four thousand seven hundred and eighty-two, requiring an expenditure of \$6,828,000. The number on the rolls on the 30th of June, 1867, was seventy thousand, and the estimated increase for that year was ten thousand, while as matter of fact the increase was only four thousand seven hundred and eighty-two. Making a proportionate estimate for this year, the committee are satisfied that \$9,000,000 will be abundant to meet all the expenditures that may be required for that purpose, and accordingly we reduced the appropriation from \$10,000,000 to \$9,000,000.

The same may be said of the other item of the bill for pensions to widows, children, &c. There were on the rolls on the 30th of June, 1867, eighty-eight thousand of that class of pensioners, and the estimated increase for the

year ending June 30, 1868, was twenty thousand, but as matter of fact only four thousand were added. Making the same estimate for the present year, we are satisfied that the appropriation of the House is at least \$3,000,000 more than is absolutely necessary. For these reasons the committee have reported these amendments.

The amendment was agreed to.

The next amendment was in line twenty-three to strike out "thirteen" before "million" and insert "ten."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. It was ordered that the amendments be engrossed and the bill read a third time. The bill was read the third time and passed.

MILITARY ACADEMY APPROPRIATION BILL.

Mr. MORRILL, of Maine. I move that the Senate proceed to the consideration of House bill No. 1596.

The motion was agreed to; and the bill (H. R. No. 1596) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1870, was considered as in Committee of the Whole.

The first amendment of the Committee on Appropriations was in line fifteen after the word "expenses" to strike out "\$57,000" and insert "\$61,930;" so that the clause will read, "for current and ordinary expenses, \$61,930."

The amendment was agreed to.

The next amendment was in line thirty-five to strike out "for addition to soldiers' hospital, \$2,000."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. It was ordered that the amendments be engrossed and the bill read a third time. The bill was read the third time, and passed.

NAVAL APPROPRIATION BILL.

Mr. MORRILL, of Maine. I move now that the Senate proceed to the consideration of House bill No. 1599.

The motion was agreed to; and the bill (H. R. No. 1599) making appropriations for the naval service for the year ending 30th June, 1870, was considered as in Committee of the Whole.

The first amendment of the Committee on Appropriations was on page 2, line twenty-seven, to strike out "\$100,000" and insert "\$50,000;" so that the clause will read:

Navy-yard at Boston:
For repairs of buildings and repairs of all kinds, \$50,000.

The amendment was agreed to.

The next amendment was in line thirty-four, to strike out "\$80,000" and insert "\$50,000;" so as to read:

Navy-yard at Washington:
For repairs of all kinds, \$50,000.

The amendment was agreed to.

The next amendment was in lines forty-eight and forty-nine to strike out:

Naval Asylum at Key West:
For necessary repairs of wharves and buildings, \$2,000.

The amendment was agreed to.

The next amendment was after line sixty-one to insert:

Provided, That this appropriation, and all amounts hereafter appropriated for the support of the Naval Asylum at Philadelphia, the beneficiaries therein, the pay of officers, repairs, contingent and other expenses shall be charged to and paid from the income of the naval pension fund.

The amendment was agreed to.

The next amendment was to strike out lines one hundred and one and one hundred and two in the following words:

For compass stations, and for repairs and care of same, \$4,000.

The amendment was agreed to.

The next amendment was on page 6 to strike out "\$6,000" and insert "\$3,000;" so as to read:

For bunting and other material for flags, and for

making and repairing flags of all kinds for the Navy, \$3,000.

The amendment was agreed to.

The next amendment was in line one hundred and forty-three to strike out "\$10,000" and insert "\$8,000;" so as to read:

For freight and transportation of navigation materials, instruments, books, and stores, postage on public letters, telegraphing on public business, advertising for proposals, packing-boxes and material, blank books, forms, and stationery at navigation offices, \$8,000.

The amendment was agreed to.

The next amendment was to strike out lines one hundred and forty-eight to one hundred and sixty-four inclusive, as follows:

For one professor of the French language, \$1,800; for five assistant professors of the French language, \$7,000; one professor of the Spanish language, \$1,800; two assistant professors of the Spanish language, \$2,800; one professor of drawing and draughting, \$1,800; three assistant professors of drawing and draughting, \$4,200; one sword master, \$1,200; two assistant sword masters, \$1,600; one boxing master and gymnast, \$1,200; making in all \$23,400; and all professors, assistant professors, and others on duty or employed in the Naval Academy, excepting those herewith designated, shall be detailed from the officers, petty officers, and men of the Navy, and shall receive no pay or allowances except their pay as such officers or men.

And in lieu thereof to insert the following:

For pay of professors and others, \$50,000.

The amendment was agreed to.

The next amendment was in line one hundred and sixty-nine to reduce the appropriation "for contingent expenses of the Naval Academy from \$63,450 to \$61,450."

The amendment was agreed to.

The next amendment was in line one hundred and seventy-one to strike out "\$10,000" and insert "\$8,680;" so as to read: "for necessary repairs of quarters, &c., \$8,680," [at the Naval Academy.]

The amendment was agreed to.

Mr. MORRILL, of Maine. I move to strike out the words "and so forth."

The PRESIDENT *pro tempore*. That amendment will be considered as agreed to unless objected to.

The next amendment of the Committee on Appropriations was to strike out line one hundred and eighty-three under the head of "Naval Observatory," as follows:

For salary of three aids, \$4,000.

And in lieu thereof to insert:

For salary of first assistant astronomer, \$1,800.
For salary of second assistant astronomer, \$1,600.
For salary of third assistant astronomer, \$1,300.

The amendment was agreed to.

The next amendment was to strike out in line one hundred and ninety-one "\$20,500" and insert "\$16,200;" so as to read:

For preparing for publication the American Nautical Almanac, namely, for pay of computers and clerk, \$16,200.

The amendment was agreed to.

The next amendment was after line one hundred and ninety three, to insert:

For erecting suitable frame building and mounting transit circle in it, \$5,000.

The amendment was agreed to.

The next amendment was in line two hundred and fourteen, to strike out "\$2,000,000;" and insert "\$3,000,000;" so that the clause will read:

Bureau of Construction and Repairs:
For preservation of wood and iron vessels and ships in ordinary, and for those that are on the stocks; vessels for the Naval Academy; for purchase of material and stores of all kinds; labor in navy-yard; transportation of material, repair of vessels, and maintenance of the Navy afloat, \$3,000,000.

The amendment was agreed to.

The next amendment was in line two hundred and forty-five, after the word "work" to insert the word "and," and in line two hundred and forty-six after the word "furniture" to strike out the words "and so forth;" so that the clause will read:

Bureau of Medicine and Surgery:
For necessary repairs and improvements of hospitals and appendages, including roads, wharves, walls, outhouses, sidewalks, fences, gardens, farms, painting, glazing, blacksmiths', plumbers', and masons' work, and for furniture, \$30,000.

The amendment was agreed to.

The next amendment was to strike out the third section of the bill in the following words:

SEC. 3. *And be it further enacted*, That no accounting officer of the Treasury shall pass or allow any account for payment whatever in excess or beyond the appropriation herein made for or during the fiscal year.

Mr. BUCKALEW. There is some question made about this. It is obvious that although the object may be proper the effect of this section of the bill would work very improperly and produce no reform. There is no reason for rejecting at the Treasury items of expenditure that have been lawfully incurred. You cannot get reform in that manner. You must strike at a higher point than the point of payment. You must strike at the authority to make expenditures in some way and curb and limit that. Where you have outstanding laws authorizing the Secretary of the Treasury or any officer under him to incur an obligation the Government must meet it. Merely stopping payment at the Treasury would produce no reform at all. It seems a very absurd provision, and therefore I agree with the members of the committee to strike it out. It will only produce the necessity of appropriating money hereafter.

Mr. GRIMES. I desire simply to say that if this is enacted into a law the Navy Department or any other Department cannot be run thirty days after the end of the present fiscal year.

Mr. HENDRICKS. That there ought to be a correction in this direction is beyond all question. I think that the check ought to be upon Congress rather than the executive officers. With a full knowledge last year that the appropriations would not supply the demands of the public service as those demands were provided for by existing laws, Congress deliberately, with a view to a coming election, made appropriations knowing that they were not sufficient to carry on the Government. Now, the question simply was at the Departments whether they should stop the machinery of the Government so far as it was not provided for.

If the purpose of this amendment is to impose upon Congress the necessity of making the appropriations exactly according to the requirements of law, then it will do some good, perhaps, and I am in favor of the provision. I do not quite agree with the Senator from Iowa, who thinks the Navy Department cannot be carried on two months. I think his statement amounts to just this: that here is an appropriation bill under pretense of supplying the Department, as that Department is now organized under the law, and there is not an appropriation sufficient to carry it on for two months. That is the statement of the distinguished chairman of the Naval Committee. Then here, under pretense of providing for the service, as the law requires the service to be carried on, you do not provide except for one sixth of the year; and what is the policy, then, with that statement plainly made? The policy is that the lack, that which is not provided for now, shall be provided for in a deficiency bill. I think deficiency bills have grown to be a great evil. They used to be complained of when they were but for a few thousand dollars; now that they have gone up to very many millions of dollars we become accustomed to them. I think they should be stopped. Therefore I think this provision ought to be left in the bill.

Mr. GRIMES. The Senator from Indiana entirely misapprehended what I said. I am not objecting to the fact that some of these appropriations are below what I think they ought to be; but if he will notice the phraseology of this section he will observe that it reads thus: "No accounting officer of the Treasury shall pass or allow any account for payment." They are not only not authorized to pay, but they are not authorized to allow or adjust for payment. Here is an appropriation perhaps of several hundred thousand dollars that has not yet lapsed, which was made last year to carry out some specific purpose. We have made the appropriations in this bill with the knowledge on the part of the Appropriation Committee that there is such an amount still standing to

the credit of that particular appropriation or that particular bureau, and yet the auditing officers are not to be allowed to audit and adjust an account to be paid out of that balance which exceeds the specific sum appropriated in this bill to that purpose.

Mr. HENDRICKS. I do not know that I understand the Senator. Does he mean that the appropriations already made, which do not go back into the Treasury again for two years from the date of their enactment, cannot be used if this section passes?

Mr. GRIMES. I understand so.

Mr. HENDRICKS. I do not think that will be the construction put upon it. I think that is a forced construction. I want the officers who disburse the public moneys to know that if they pay out money without authority of law their accounts cannot be settled. Then you will stop the evil and strike at the root, as I think.

Mr. GRIMES. The provision is that "no accounting officer of the Treasury shall pass or allow"—not that he shall not pay, but that he shall not pass or allow—"any account of a payment whatever in excess or beyond the appropriation herein made." Take a case; there may be \$100,000 lying over in the hands of the Treasury to the credit of the Bureau of Equipment and Recruiting, made for the purpose of purchasing coal, which was not all expended last year. We know that there is that amount of money in the Treasury to the credit of that fund, and therefore we do not appropriate in this bill as much to that fund for the next fiscal year as we should appropriate if we did not know that there was that amount to the credit of the fund. Under this provision the officer having the disbursement of that fund would not be permitted to have his accounts audited and adjusted if it became necessary to use that \$100,000 still lying to his credit in the Treasury in excess of the amount we herein appropriate for that specific purpose.

Mr. HENDRICKS. That trouble is easily remedied by striking out in the fourth line the words "herein made for or during the fiscal year" and insert "authorizing such payment." I move that amendment so as to make the section read:

That no accounting officer of the Treasury shall pass or allow any account for payment whatever in excess or beyond the appropriation authorizing such payment.

Mr. BUCKALEW. The Senator will get exactly to where the law is now. Of course, as far as any beneficial object is concerned, at worst the Treasury cannot make payment after an appropriation is exhausted, nor can they make any payment where the object is not covered by some existing appropriation. Now, observe, the absurdity of this section is this, that it does not interpose any difficulty in the way of a claimant as to receiving his money; it is striking merely at the settlement of an account, at the ascertainment of a demand on the Treasury. It can therefore produce no reform. My objection to the section is not that it may tend to decrease the expenses of the Government, but that it strikes at a point where it can by no possibility produce any reform whatever.

Mr. HENDRICKS. I think the amendment that I desire will be secured by simply striking out the words heretofore mentioned in the fourth line and inserting merely the word "therefor," so as to make the section read:

That no accounting officer of the Treasury shall pass or allow any account for payment whatever in excess or beyond the appropriation therefor.

Mr. MORRILL, of Maine. I think the honorable Senator from Indiana will find it very difficult to tell precisely what the effect of this proposition would be upon the general service, if it were passed. It will be remembered that last year, on a similar bill, an attempt was made to regulate this matter, and the committee were rather of opinion that, so far as they could see, it was properly arranged last year. We could not tell precisely the effect of such a proposition as this upon this branch of the

service, and it was for that reason rather than any other that the committee came to the conclusion that it was safer on the whole to strike it out; because it is not our particular function to ascertain precisely the effect of general legislation on the service, but rather to provide the means necessary to carry it on. If we could know precisely what the effect of this would be, I might be quite willing to let it go on this bill. But it was the uncertainty of its effect which led the committee to propose to strike it off. If the House of Representatives do not agree to striking out the proposition, and have better light on the subject than we have, a committee of conference can make an arrangement, and we may agree perhaps upon a proposition which will be safe. I suggest, therefore, to the Senator from Indiana, whether he had not better, on the whole, allow the Senate to concur in the amendment of the committee to strike out the section, and let us act in some way, under some circumstances, when we can know what the effect will be on the public service. I am not clear that the amendment which he proposes would obviate the difficulty.

Mr. SHERMAN. My attention is just called to this third section, and I think the Senator from Indiana, on a moment's reflection, must perceive that it will be utterly impracticable. The provision is that "no accounting officer of the Treasury shall pass or allow any account for payment whatever in excess or beyond the appropriation herein made for or during the fiscal year." The accounting officers of the Treasury have nothing to do with the appropriations. The money goes into the hands of the disbursing officers, and the only question with the accounting officers is whether it has been paid out in pursuance of law for a purpose provided by law. The accounting and disbursing officers are different sets of officers entirely. The Treasurer of the United States pays no money; he dare pay no money except in pursuance of an appropriation. If he does he violates the Constitution. But the accounting officers are officers of entirely distinct functions. The Third Auditor passes upon the accounts of the paymasters. The Third Auditor does not know where the paymaster gets his money, who paid it to him, out of what fund it comes, or anything about it. He only requires the paymaster to account for the money in his hands by proper vouchers made out according to law and in pursuance of law. It seems to me, then, that if the House of Representatives intended to correct any abuses by this section they do not accomplish it. In my judgment, the section which the Senate passed at the last session of Congress would accomplish it and prevent money being paid out of the Treasury except in pursuance of an appropriation, because we forbade the transfer of appropriations except in particular cases. That is the only way in which we can prevent it.

Mr. GRIMES. This will accomplish a great deal; it will tie up all the accounts of the Navy Department without being audited.

Mr. SHERMAN. Certainly; but this will not accomplish the purpose the House of Representatives evidently designed.

Mr. GRIMES. Certainly not.

Mr. SHERMAN. It will simply embarrass the accounting officers. When they are looking over a paymaster's accounts they will have to stop and see whether the money has been appropriated. Now, they have nothing in the world to do with that. Many paymasters' accounts are yet to be settled. The accounts of a paymaster who paid out money a year ago may be settled, while those of one who paid out money three years ago may not yet be settled. It strikes me that this section is clearly wrong, and whatever may have been the intention of it it will not accomplish the purpose the House designed.

Mr. HENDRICKS. I do not have sufficient knowledge of the complicated machinery of the Treasury Department to answer the suggestions of the Senator from Ohio; but I had supposed that when an accounting officer

passed upon the accounts of a disbursing officer he could go one step further than the mere inquiry whether a payment was provided for by law, and ascertain also whether the disbursing officer had gone beyond the appropriation. I supposed that was an inquiry that was possible by the accounting officers, the Auditor and the Comptroller. I think that the House of Representatives by this proposition is aiming at a very important reform. It is not right that Congress shall provide for a certain public service and then make a partial appropriation to carry on that service, and the administrative officer go beyond that appropriation, with the hope of having the matter settled in a deficiency bill. That whole system is an evil, and it is an evil of long standing, not of this administration or of the one before it; but for twenty years I believe this evil has been complained of. I suppose the House of Representatives thought it could be corrected in this way; but if gentlemen who are so familiar with the machinery of the Treasury say that this particular proposition is not practicable or is of doubtful propriety I shall not insist; and therefore, at the suggestion of the chairman of the Committee on Finance and the chairman of the Committee on Appropriations, I for the present withdraw my amendment.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment reported by the Committee on Appropriations to strike out the section.

Mr. SHERMAN. Before the vote is taken I desire simply to state that the Senator from Indiana must be aware that the ordinary mode of getting money is by requisition drawn by an executive officer upon the Secretary of the Treasury. It is the business of the Secretary to examine first and see whether an appropriation has been made by Congress, without which the money cannot be paid. Upon receiving his sanction, a proper draft is drawn on the Treasurer, and that is signed and countersigned. The Auditor has nothing to do with the requisition and nothing to do with the appropriations. That has always been the way from the foundation of the Government.

Mr. HENDRICKS. I ask the Senator from Ohio, as a matter of fact, if every year payments are not made for carrying on the public service in excess of appropriations, and if it has not gone up to hundreds of millions of dollars a year? It is an evil that ought to be corrected.

Mr. SHERMAN. I will state that at the last session the evil of transferring appropriations under authority given to heads of Departments to transfer appropriations from one head to another had grown to be such a fearful abuse that the Committee on Finance undertook by a radical change to correct it; but for some reason or other our proposition was very much modified before it was finally enacted in one of the appropriation bills. As it now stands, all transfers are prohibited except of certain classes of appropriations in the Navy and War Departments. The accounting officers have nothing to do with questions of appropriation. The amendment was agreed to.

Mr. MORRILL, of Maine. I have an amendment to propose from the Committee on Appropriations to come in after line two hundred and eight:

That the officer in charge of ordnance and gunnery experiments at the Washington navy-yard shall receive the same pay, and no greater pay, than the officers of the same grade performing other shore duty.

The amendment was agreed to.

Mr. GRIMES. I am instructed by the Committee on Naval Affairs to offer the following amendment as an additional section:

And be it further enacted, That so much of the eighth section of an "Act entitled an act to amend certain acts in relation to the Navy," approved March 2, 1867, as authorized the annual selection of ten enlisted apprentices for appointment as midshipmen to the Naval Academy be, and the same is hereby, repealed.

Mr. MORRILL, of Maine. I do not know what the effect of that is.

Mr. GRIMES. It takes away the appoint-

ment of ten midshipmen from the enlisted apprentices of the Navy.

The amendment was agreed to.

Mr. DRAKE. I am instructed by the Committee on Naval Affairs to offer the following amendment as an additional section:

And be it further enacted, That so much of the first section of the act making appropriations for the naval service for the year ending June 30, 1853, as declares that the salary of the secretary of the Naval Academy shall be \$1,250 per annum be, and the same is hereby, repealed, and the salary of said secretary from and after the 30th day of June, 1868, shall be at the rate of \$1,600 per annum.

Mr. MORRILL, of Maine. I should like to have the Senator explain that amendment.

Mr. DRAKE. I will explain it. In the act referred to in the amendment, passed in 1852, the salary of this officer was fixed at \$1,250. In 1862 the estimate of the Department was, and every year since has been, for an appropriation of \$1,600 for this office; but the secretary has never been able to get of that any more than the \$1,250, because of an omission to repeal the previous limitation on the salary, though the appropriation has been made on the basis of \$1,600 now ever since the year 1861. Last year an act was passed requiring unexpended appropriations to the credit of the Navy Department standing on the 30th of June, 1868, to be passed into the Treasury, and, therefore, there is no unexpended appropriation on this account which could be given to that office for a period anterior to that date.

Mr. MORRILL, of Maine. This amendment, then, is to put the law in harmony with the appropriations?

Mr. DRAKE. Entirely so.

Mr. MORRILL, of Maine. Does it cover past arrearages?

Mr. DRAKE. It covers only from the 1st day of July, 1868. All the unexpended arrearages prior to that time have gone back into the Treasury again, and he can get nothing in the past beyond the 1st of July, 1868.

The amendment was agreed to.

Mr. ANTHONY. I am instructed by the Committee on Naval Affairs to offer the following amendment:

For observation of the eclipse of the sun in August, under the direction of the superintendent of the Nautical Almanac, \$5,000, or so much thereof as may be necessary.

The amendment was agreed to.

Mr. NYE. I am instructed by the Committee on Naval Affairs to offer, in accordance with the notice I gave a day or two ago, the following amendment:

For improving the mouth of the harbor at the Midway Islands, in the Pacific ocean, \$50,000.

I should like to have the report of the Committee on Naval Affairs on this subject read. The Chief Clerk read the report, as follows:

"The Committee on Naval Affairs having, by resolution of the Senate, passed December 16, 1868, been directed to inquire into the practicability, expediency, and probable cost of deepening the entrance to the harbor of Midway Islands, in the Pacific ocean, so as to afford a safe rendezvous and port of refuge and resort for the naval and merchant vessels of the United States," beg leave to report:

"The Midway Islands, so called from their position nearly midway between California and Japan, are situated in latitude 28° 12' north, longitude 170° 22' west, and distant from San Francisco twenty-eight hundred nautical miles, from the coast of Japan twenty-two hundred miles, and from Honolulu twelve hundred miles. They were discovered on the 5th of July, 1869, by Captain N. C. Brooks, an American ship-master, commanding the bark Gambia, owned by American citizens, though sailed under the Hawaiian flag; were first occupied by the Pacific Mail Steamship Company in July, 1867, and on the 28th of the following month were formally taken possession of in the name of the United States by Captain William Reynolds, commanding the United States steamer Lackawanna, by order of the Secretary of the Navy.

"The group consists of two islands of coralline formation, the most important being a mile and a half long, three-quarters of a mile broad, and fifty-seven feet high, inclosed in an encircling coral reef open on the west so as to form an entrance eight hundred feet wide to a roomy, deep, and safe harbor, sheltered against the prevailing winds. There is not sufficient water in the bar, however, to admit vessels drawing over eighteen feet. There is no vegetation of any consequence on either island, but a plentiful supply of good fresh water is found there. The climate is mild and healthful at all seasons.

"Practicability of deepening the entrance.—The re-

ports and charts accompanying show that the bar is quite narrow and has an uneven bottom of coral rock and small sand holes, its depth changing instantly and often from three and a half to three fathoms, the least depth found at low water being eighteen feet. The tide rises eighteen inches at neap, and spring tides three feet." (Report of Captain Reynolds.)

"Your committee are of opinion, after considering the reports of the Secretary of the Navy, of Rear Admiral Thatcher, under whose orders the surveys were made, of Commodore Jenkins, chief of the Bureau of Navigation, and of Captain Reynolds, who personally examined and surveyed the locality, that there can be no doubt of the entire practicability of removing the obstructions by simple methods so as to give a uniform depth of twenty-four feet at low water, sufficient to admit our largest ships of war. All the officers named concur in this view.

"Expediency.—Your committee consider it most important, in every point of view, that this work be undertaken immediately. By it access will be given to one of the finest harbors in the world, safe and roomy, and the naval and merchant vessels of America will find under their own flag, just at the point where the growth and development of our national interests and commerce indicate the need, a rendezvous and port of refuge and resort. The Navy will be enabled to procure coals and supplies there conveniently and economically. In concerted operations between the Asiatic and North Pacific squadrons, especially in the event of a foreign war, this station would play a most important part, and besides lending increased efficiency thereto would render a smaller number of vessels necessary for the protection of our commerce on the Pacific ocean. The large steamers of the California and China mail line will be able to coal there regularly, thus greatly reducing their heavy loads and increasing their speed, while at the same time giving frequent and regular communication. Our large whaling fleet in the North Pacific, now driven to winter in Japan or the Sandwich Islands, will find at the Midway Islands a national port with superior advantages, where they can send and receive letters and send home their products in fortunate seasons. Nor should it be forgotten that if we neglect the prize other nations will not be slow to grasp it, and we may find in some future war another Nassau shielding with its neutral flag other Alabamas and Floridas, the destroyers of our commerce on the Pacific, and enabling them to carry on their piratical attacks with convenience and safety.

"There is no other port available for our naval and merchant vessels between California and Japan.

"Cost.—In the absence of surveys and examinations specially undertaken by experts for the particular purpose of determining the exact areas of rock to be removed, and by a series of experiments on the spot, the exact cost of removing a given quantity, no estimate can be formed with accuracy. But in view of the manifest importance of the work, and its great value, and believing that the expense of an expedition to make such preliminary examinations and experiments would go far towards accomplishing the substantial result sought, your committee beg leave to recommend that a liberal provision be at once made for the work by inserting in the naval appropriation bill an appropriation of \$50,000, or so much thereof as may be necessary, for deepening the entrance to the harbor of Midway Islands, in the Pacific Ocean so as to afford a safe rendezvous and port of refuge and resort for the naval and merchant vessels of the United States, to be expended under the direction of the Secretary of the Navy, if in his judgment expedient, after preliminary examination of the situation of the Islands."

Mr. NYE. I see that there is a mistake of a thousand miles in the distance stated in the report.

Mr. MORRILL, of Maine. I desire to call the attention of the Senate to the character of this proposition. I thought at first that perhaps it ought to go to the Committee on Commerce, having charge of the river and harbor bill; but it is obvious enough that I was mistaken about that, because this is not a harbor belonging to the United States. It occurs to me that there may be another question which the Senate ought to be apprized of. This is an appropriation of \$50,000 to improve a harbor midway between this country and China and Japan. Will the Senator from Nevada who offers the amendment tell us whose island that is?

Mr. NYE. Yes, sir. The island was discovered about three years ago by an American citizen by the name of Brooks, and taken possession of in the name of the United States and by hoisting the flag of the United States. Since that time it has been formally taken possession of by Commodore Thatcher, acting under the orders of the Government. It is the first island ever taken possession of by the United States since it was a Government.

Mr. MORRILL, of Maine. But there is no information before the Senate in the communication which has been read that it belongs to the Government of the United States. I do not raise that question if the honorable Senator

understands that to be the fact, that the Government has taken formal possession of it and there is no adverse claim.

Mr. NYE. None whatever, as the papers show.

Mr. MORRILL, of Maine. Then I suggest to the Senate and to the honorable Senator that it is not customary to make appropriations for the improvement of rivers and harbors upon an estimate previously made. As this communication suggests that it is impossible even to make an approximate estimate of the expenditures necessary to make the contemplated improvement, I submit whether it is not advisable upon the whole to have a preliminary survey antecedent to the appropriation, whether it is safe to make this appropriation of \$50,000 with any other view at least than to require such preliminary survey. It may turn out on a survey and examination by experts that it is not advisable to make any appropriation at all.

Mr. NYE. Mr. President, I regret very much that the documents upon which this appropriation is asked have not returned from the printer. They are full of interest, and to me were very instructive.

This island was discovered by Captain Brooks, and the discovery being made known to the Government the Navy Department at once ordered one or two men of war to go and ascertain the whereabouts and the exact position of things at that island. The Lackawanna was one of the ships sent on that expedition. There is in the papers a full description of the surveys they made. I have lying before me the maps that show their exact locality and exhibit at once the attitude which these islands present—that preliminary survey which the honorable Senator suggests has been made, but not with that particularity upon which an exact estimate could be made of the cost of the work. The officers who made the soundings, however, report that they find that the mouth of this harbor is of a broken coral intermixed with sand, which can easily be removed by a dredging-machine. The papers to which I have referred give the cost of the dredging-machine, the cost of operating it per day, and the probable cost of getting it there. The officers ask for an appropriation of \$100,000; but the committee deemed it prudent to recommend an appropriation of \$50,000, to be expended under the direction of the Navy Department, or so much thereof as may be necessary to remove the obstacles, or if that is not done, to ascertain exactly what it will cost.

The importance of immediate action upon this subject perhaps cannot be overestimated. It is a long, weary passage of six thousand miles and more from the Pacific coast to China and Japan. Heretofore, upon that long and somewhat dangerous passage, where the typhoons play the mischief with shipping, there has not been a resting-place nor a harbor of refuge in the whole distance. A crippled ship must remain crippled, perfectly at the mercy of winds and waves, for that long distance, unless she can reach Honolulu—twelve hundred miles southeast of this, I think—or she must wait the chances of being picked up.

It is perhaps proper for me to say that the pathway of these ocean steamers is entirely out of the direction in which most of the sailing crafts go. They go that way when they are going down from the north to winter at Honolulu. Our whalers, who are now whaling in the northern seas of the Pacific, have to go to Honolulu every year to winter. But if this improvement is made they can winter at these islands, where there is plenty of fresh water, and save some twenty-four hundred miles of somewhat dangerous navigation.

I remarked to the honorable Senator that this was the first island that had ever been taken possession of by this Government. Right here under our very noses, within two hundred miles of our coast, is a series of islands which have cost this nation more than it would have done to purchase them, by furnishing harbors to piratical crafts and the depreda-

tions they were enabled to commit upon us during the late struggle.

I desire also to call the attention of the Senate to the fact that the Pacific ocean is fast becoming the great commercial thoroughfare of the world. It is growing in importance every day; and these islands seem to have been providentially thrown up in the mid-ocean and the coral reefs formed on purpose to give a resting place for the wearied sailor in distress. It will be remembered by the Senate that the rebel steamer Florida found her way into the Pacific ocean and committed a series of depredations entirely destructive to the great whaling interests of the East and of the West—a series of depredations that were seriously offensive in every way. If the harbor at one of these islands, taken possession of as they have been by the United States can be made available, as all the reports from scientific naval men say that it can, then we have the key to the navigation of the Pacific, and no marauders can find rest there. If we go twelve hundred miles south to Honolulu we are there under a flag that is unable to protect us, and we are prohibited by law from protecting ourselves within certain limits of its territory. I think, therefore, it will be the sense of the Senate that this is an opportune discovery, and that this is an opportune moment for us to do so much, at least, as to show that we are going to make there a harbor not only for our own but for the shipping of other nations. To me it seems very important to the whole commercial world.

One other suggestion and I will close what I have to say on this subject. The steamers on these long voyages of six thousand miles have to take a very large proportion of their carrying capacity to carry fuel. It will be remembered by the Senate that these ships are in the habit of doing their business in this way: they take coal, for instance, by sailing vessels to their depot, from Panama to Acapulco; there they have a coaling station between Panama and San Francisco, where the coal is taken by sailing vessels; and there the steamers always have a large and ample supply of coal. By that process they are enabled to carry a much larger amount of freight. The Senate will see that for a voyage of six thousand miles, where they burn seventy tons of coal a day and the passage takes twenty-two days, it requires a ship of enormous size to carry large quantities of freight aside from this coal.

There will be another advantage incident to this improvement, and I speak of it now in a governmental sense, aside from the merchant marine. I say it is a necessity in a time of war and a necessity in time of peace. It will not be forgotten by the Senate that we are sending every year a fleet of ships to the eastern coast, to China and Japan, from the Pacific coast. They go there and cruise and then are ordered back every two or three years, and other ships ordered to take their places. If this improvement is made those ships will not be obliged to load themselves down with coal at San Francisco or at Panama, or Acapulco, but they can run off to these Midway Islands, and there supply themselves. In time of peace this will be very useful; in time of war it will be indispensable. I therefore ask the favorable consideration of the Senate, in a national point of view, to this small expenditure for the improvement of this almost accidental island that seems to have sprung up just in the right time to give our growing commerce a resting place between the Pacific coast and the Indies.

Mr. COLE. I can add but little to what has been said by the Senator from Nevada upon this subject; but it strikes me that this is one of the most becoming applications for an appropriation that can be considered by the Senate. We have now a line of steamers plying between our Pacific coast and the coast of China and Japan, which need precisely the accommodation which this harbor on the Midway Islands will afford them if the harbor is made available by being improved in the way suggested by the

Senator from Nevada. It appears to me that this appropriation is asked for with propriety upon the ground of economy and revenue. It is well understood that the steamships that traverse the Pacific are required in order to make the complete voyage to take a very large amount of fuel, and in fact small steamships cannot make the trip across the Pacific at all. If a coal depot can be established midway on this passage they will be enabled to make the passage across the Pacific ocean with a much less amount of fuel, half the amount perhaps, and the rest of the capacity of the ship may be devoted to freight and passengers.

Mr. PATTERSON, of New Hampshire. I should like to ask the Senator the size of this island—the number of acres it contains?

Mr. DRAKE. Thirteen miles.

Mr. COLE. It is several miles in circumference—not thirteen miles, I take it, in length, but in circumference—and is in the form of a crater of a volcano, which probably it may have been at some time in the history of the world, geologically speaking. The commerce that is carried on across the Pacific in these steamships must, of course, be greatly increased if this depot is established midway on the passage, and in that way it must be an advantage to the Government of the United States to an amount severalfold greater than the amount that is now asked in the form of an appropriation, and this benefit will be yielded each year. I hope, therefore, that this appropriation will be granted at this time, for the reason that if it is put off from year to year the commerce of the Pacific will only be retarded in a greater degree by the delay.

Mr. CONKLING. Mr. President, this proposition is not only a new one, but a peculiar one. I do not know why the amendment pertains to this bill necessarily rather than to the miscellaneous appropriation bill. The Committee on Appropriations had no knowledge of this amendment. They have had no opportunity of knowing about it; for although doubtless the rule was satisfied in the ordinary way by proposing the amendment in writing, it must have been done after the bill was reported to the Senate, so that no consideration of this amendment has been had.

Mr. NYE. After what bill was reported?

Mr. CONKLING. This bill. The appropriation bill.

Mr. NYE. I beg your pardon; it was reported before.

Mr. CONKLING. When was this amendment introduced?

Mr. NYE. Some days ago; I gave notice of it to the Chair.

Mr. CONKLING. I should like to inquire of the honorable chairman of the Committee on Appropriations, the Senator from Maine, how it was that this amendment never reached that committee? The Senator from Nevada thinks it was introduced before the bill was reported.

Mr. MORRILL, of Maine. No. My recollection is that it did not reach the committee until after the bill was reported; but the rule does not require that it should.

Mr. CONKLING. No, Mr. President, I did not mean to intimate, I was careful, indeed, not to say that the rule required it should reach the committee before; but of course the spirit of the rule requiring notice to be given of an amendment is, that the committee having charge of the bill to which it is proposed may consider it.

Mr. MORRILL, of Maine. If the Senator will allow me, I find that the amendment was referred yesterday.

Mr. CONKLING. Then I was right in my statement. Not only was it referred after the bill was reported, but it was not referred until yesterday, as the chairman of the committee now states. Mr. President, the obvious purpose of the rule is to add to the security of the general consideration of these amendments the consideration of the committee responsible for the bill. In this case, in fact, of course I

did not mean to impute any blame to anybody about it, but by the action of time this amendment never has reached the committee, never has been considered by them. Therefore, as one member of the committee, I have no knowledge in regard to it; and that alone ought to prevent my objecting to it upon the merits because from want of information I should not be warranted in doing that.

This suggestion, however, occurs to me: no Senator seems to know that \$50,000 will answer the purpose, and by consequence no Senator can know how much more than \$50,000 will be needed. It seems to me that as there are papers relating to this subject which have not been before the Senate, and which certainly have not been before the Committee on Appropriations, it might be well, and perhaps be entirely satisfactory to Senators supporting the amendment, to allow it to stand and be considered in connection with the miscellaneous appropriation bill or any other bill to which perhaps just as appropriately as to this it might be annexed.

I suppose from the statement made that we may safely assume that the United States does own and will own these islands; but even that question is to be determined upon facts which only in a very general way now can be conveyed to the Senate. Without, therefore, meaning to interpose against this amendment upon its merits, which I have no information to warrant my doing, I suggest that it is of importance in itself and in future appropriations to which it may possibly point; and therefore, inasmuch as the Committee on Appropriations has not considered it, and has had no opportunity to consider it, there being other bills behind which must come here presently, it possibly may be the pleasure of the Senate, and not objectionable to the Senators supporting it, to allow it to stand, that it may be considered and annexed to another bill, if it is to be adopted at all.

Mr. GRIMES. Mr. President, I think I can answer the inquiry as to how this question comes before the Senate from the Committee on Naval Affairs. It was simply because the Senate, in the exercise of its own judgment, saw fit to intrust the examination of this subject to the Naval Committee. A proposition was introduced by some Senator, I do not know who, referring this subject to the Naval Committee, and instructing them to make such inquiries as they could as to the feasibility, the necessity, and the propriety of such an improvement, and of what value it would probably be to the Government. I suppose the reason why that resolution was introduced and thus referred was because Admiral Thatcher, who recently was in command of the North Pacific squadron, had a particular survey made of these islands and the harbor completely platted out, returned to the Navy Department with his recommendation that an appropriation should be made for the purpose of removing the obstructions just at the mouth of it. As has been said by my colleague on the committee, [Mr. NYE,] these Midway Islands are just about midway in the Pacific ocean, three thousand and some hundred miles from the Pacific coast of the United States and three thousand and some hundred miles from Japan. They have been recently discovered by United States sea captains, and have been taken possession of by us. They are reported by our naval officers to furnish an admirable harbor. On the bar, entering the harbor, there are eight feet of water at low tide, and perhaps twenty or twenty-one feet of water at high tide.

The committee, in the prosecution of their inquiries, addressed a note to the engineer officer in charge of the engineer department of the Army to get information from him as to what would be the probable expense of the removal of these obstructions. He answered us to the effect that he was not able to give us any very satisfactory information on the subject. Thereupon, the committee were compelled to rely upon such data as they could obtain from naval officers who were familiar

with these coral reefs; and the committee were satisfied—I was satisfied, at any rate; I am not authorized to speak for the other members of the committee—that \$50,000 would not be required to make the proper improvements at this harbor and remove this obstruction.

Now, the Senator from New York proposes that we allow this proposition to lie over and put it upon another appropriation bill. The objection to that is, that then it probably would not be intrusted to the same parties to make the improvement that it would be if it was incorporated into this bill. Allowing the Navy to make the improvement, authorizing it to be done under the Secretary of the Navy, who has the ships and the men already in the public employment, to go out and make the proper surveys and examinations and carry on the improvement it probably would not cost one tenth of what it would if you made the appropriation upon your ordinary river and harbor bill and authorized it to be done under the direction of the Secretary of War; because in that case vessels would have to be chartered or purchased, scows would have to be made, dredging-machines of a new construction would have to be made; whereas you now can take all the implements we have at the Mare Island navy-yard to be used for this purpose, and thereby save a very large amount of money.

Mr. CONKLING. Will the honorable Senator allow me to remark that I made no such suggestion as that which he is now considering. It never occurred to me, if this is to be done, that it should be done by any Department except the Navy Department; but why is it, if he will tell us, that on miscellaneous appropriation bills, for example, this very amendment cannot be attached with the direction in a word that it is to be done by the Navy Department?

Mr. GRIMES. Why is it that it should not be put on this naval appropriation bill? Is not the Senator willing to trust to the examination that the Naval Committee has been able to give to this subject? Is it vastly important that the Committee on Appropriations, of which he and I have the honor to be members, should consider it? Is that committee any more entitled to examine this subject, or entitled to greater credit for any examination they may make on a question of this kind, than the Naval Committee?

Mr. CONKLING. If the Senator will allow me, I did not interrupt him for the purpose of making that suggestion. If the Senate is sufficiently informed on this subject—and the information which the Senator is now giving certainly goes far to that end—so be it; but if, in truth, any further investigation is desirable there can be no objection to putting the amendment on another bill rather than upon this. That is my point. Now, if the Senator thinks we know enough about it to put it on this bill, very good; if we do not, I submit to him, there is no objection whatever to selecting another bill rather than this on which to put it.

Mr. GRIMES. I do not know what may be the condition of information of other members. All I can say is that I think the Senate has all the light on the subject they are able to obtain. I think that no question ever came before the Naval Committee where there was a greater effort to procure accurate information on a subject than there was on this. I regret extremely that the papers that accompanied the report of the committee have been sent for publication to the printer, and are not within the reach of the Senate at this time. This is a subject, I desire to state, in which I have no particular direct interest. The gentlemen representing the Pacific coast are very deeply interested in it. It is a question that certainly must address itself to the good judgment of every man who is largely interested in the commerce of the country, and it will be a great aid to the Navy of the United States and to our national defenses in the future. That is the reason I support it.

Mr. MORRILL, of Maine. I propose an

amendment to the amendment, which I send to the Clerk's table and ask to have read.

The CHIEF CLERK. It is proposed to amend the amendment so that it will read:

For deepening the entrance to the harbor of Midway Islands, in the Pacific ocean, so as to afford a safe rendezvous and port of refuge and resort for the naval and merchant vessels of the United States, \$50,000, or so much thereof as may be necessary, to be expended under the direction of the Secretary of the Navy, in his judgement, after a preliminary examination; he shall deem such expenditure expedient.

Mr. NYE. That is all right.

Mr. MORRILL, of Maine. If that is acceptable perhaps it will obviate the difficulty.

Mr. NYE. I think that is right.

Mr. COLE. I understand the preliminary examination has already been had, and that this will result in the delay requisite to make another examination.

Mr. NYE. If they have a satisfactory survey now, of course they will not make another, but will act upon the survey already made.

Mr. COLE. If they have light enough on the subject now I do not see why there should be another examination or survey.

Mr. MORRILL, of Maine. It will throw the responsibility upon the Secretary.

Mr. COLE. It seems to me the amendment would require another examination before the expenditure could be made.

Mr. MORRILL, of Maine. That is not the language of it.

Mr. NYE. The Navy Department are fully possessed of all the facts. It might be better to insert the words "if another examination is deemed necessary," but I guess it is well enough as it is.

The PRESIDENT *pro tempore*. The question is on the amendment as modified by the Senator from Maine.

The amendment, as modified, was agreed to.

Mr. CRAGIN. I am instructed by the Committee on Naval Affairs to offer the following amendment as an additional section to the bill:

And be it further enacted, That the office of Solicitor and Naval Judge Advocate General be, and the same is hereby, continued and established, and \$8,000 are appropriated for the salary of said Solicitor and Naval Judge Advocate General.

Mr. MORRILL, of Maine. That office was created during the exigencies of the late civil war, and with an express provision that it should terminate with the war. We had this question up here last year and it was pretty largely discussed, and the inclination of the Senate seemed to be that it would not authorize the continuance of the office beyond the present year. I therefore wish the Senate to understand that this is for the establishment now of what I must regard as a new office in the Navy Department, and should like the Senate to vote upon the subject understandingly. That is the only purpose I had.

Mr. CRAGIN. It is true, as the Senator from Maine says, that this office was created during the rebellion. It was created in 1865, and was to continue during the war and one year thereafter; but Congress has annually, by appropriations, kept the office alive up to this time. The Committee on Naval Affairs, or those of us who have given the subject attention, are satisfied that this is an important office. The Secretary of the Navy states that there are very many important questions that arise requiring legal investigation, and that the salary paid to the Solicitor and Naval Judge Advocate General is less than would be paid to special counsel if no such office as this existed. It appears that there is an intimate connection in some way between this office and the War Department, for I find here a letter from the Secretary of War, addressed to the chairman of the Committee on Naval Affairs, urging the continuance of this office.

Mr. GRIMES. Read it.

Mr. CRAGIN. It is dated—

JANUARY 16, 1890.

SIR: I desire to call your attention to a letter addressed by me to you during the last session of Congress relative to General Bowles, and reiterate what I then expressed, that I concur with the Secretary of the Navy and General Grant in the opinion that

the public service will be promoted by continuing the office of Naval Solicitor and Judge Advocate General.

I am, sir, very respectfully, your obedient servant,
J. M. SCOFIELD, *Secretary of War.*
Hon. J. W. GRIMES,
Chairman Senate Committee on Naval Affairs.

For these reasons and others the committee instructed me to offer this amendment. Of course I have no interest in it. My own private opinion is that it will be good policy and good economy to adopt it.

Mr. HENDRICKS. Mr. President, I was not able to concur with the majority of the Committee on Naval Affairs in favor of this amendment. It is, perhaps, not a matter of great consequence. Possibly I ought not to occupy any of the time of the Senate about so small a matter. It only involves the expenditure of a few thousand dollars from the Treasury and the continuance in office of an officer who is not required by the public service. Such matters seem to be regarded as so trivial that it is hardly worth while to ask the attention of the Senate to them perhaps.

This office was created during the war, and by the law of its creation it was only to continue during the war. It was supposed that during the war there would be questions come before the Navy Department which for their examination would require a legal mind, and therefore the office of Judge Advocate General was created for that Department to continue during the war. At the close of the war it was found that there was still of that class of business a large amount undisposed of, and the office was continued for a year. Another year rolled around, and it was continued for another year upon the pretense that it was necessary to close up the business.

Now, Mr. President, it is proposed to make it a permanent office of the Navy Department. I do not believe it is required. The investigations of courts-martial that are held in the Navy Department do not require a court of justice for that Department. It is not as it is in the Army. There was no such officer as this known to the Department prior to the war. The proposition is now presented for the first time to the Senate, and I ask the attention of Senators to the fact, to make the office of Judge Advocate General a permanent office in the Navy Department. It is against the express judgment of the Senate and of Congress every time an opinion has been expressed upon it.

I was in the committee and heard the statement of the gentleman who holds the office. I heard him explain what he has to do; the class and extent of business that comes before him; and I do not believe that he ought to be continued as a permanent officer of the Department. We can as well relieve the Treasury of the expense connected with continuing this office as not; at least that is my judgment, and it is a judgment formed upon his own statement of the amount of business that calls for his continuance in office. I shall not care very much if the Senate determine to continue it, as there are so many offices being continued now; but I should like to see a discontinuance of an office that is not necessary.

Mr. DRAKE. I desire to say a word in reply to the remarks of the honorable Senator from Indiana concerning this office. After a full examination of the subject the majority of the Naval Committee came to the conclusion that it was better to establish the office permanently.

Mr. HENDRICKS. Will the Senator allow me to make one other statement which I intended to make, and then he can answer the whole?

Mr. DRAKE. Certainly.

Mr. HENDRICKS. This amendment proposes to reverse the judgment of Congress at the last session. Congress decided then that the office should be discontinued unless expressly continued, expressing their purpose at the last session to discontinue the office.

Mr. DRAKE. I do not see exactly that the action of Congress at the last session is to be

regarded as precisely in the light in which the honorable Senator from Indiana states it. My recollection is, that the appropriation for the office was continued only until the 4th of March, and that if Congress did not in the mean time continue the office beyond the 4th of March then it should cease. They did not decide in that that the office should be discontinued, but left it for the decision of the Congress at this session whether it should be discontinued.

Now, Mr. President, this office is desired very much by the Navy Department. The Secretary of the Navy has written a letter to the Committee on Naval Affairs, urging the permanency of the office; and the very ground that he puts it upon is one which, if true, as I doubt not it is, completely overthrows the principal position taken by the Senator from Indiana. The Senator from Indiana says we can save the expense of this office to the Government. To that I reply, upon the statement of the Secretary of the Navy, that if this office is dispensed with the Navy Department will have to pay more money for special counsel than the salary of the office amounts to; so that the refusal to establish the office will be unquestionably an expense to the Government instead of a saving of money.

I have examined this matter, Mr. President, with as much skill and care as I could. Here is an officer who is not only to be the Judge Advocate General of the Navy Department, but the Solicitor of the Navy Department as well—two functions combined in the same office. I have examined the ground as well as I could, as thoroughly as I could, and the conclusion that I have come to is just the reverse of that which the honorable Senator from Indiana has expressed. I really believe that the interests of the service and the interests of the Treasury will be subserved by making this a permanent office. You have a Judge Advocate General, an Assistant Judge Advocate General, and a corps of ten or a dozen judge advocates in the Army; and here for the whole naval service a single solicitor and judge advocate is begrudged. I think it would be unwise and impolitic and expensive to the Government to refuse to provide for this office.

Mr. MORRILL, of Vermont. I do not know whether it would be wise or not to make this a permanent office; but I am satisfied it ought not to be discontinued this year. The office is now filled by a gentleman who is well read and thoroughly furnished at all points in the law, and I have no question but that he has saved the Government ten times over his salary for all the time he has been employed therein. I trust we shall at least provide that he may be continued for a year longer.

Mr. CONNESS. I do not wish to occupy more than a moment upon this proposition. The statements made by the Senator from Indiana in connection with this office are strictly correct. The Senate has said time and again that it was a provisional office. It was created during the war because of the excess of public business connected with that Department; and now, with not a speck of war or a speck of the war left remaining, it is proposed to erect it into a permanent office. I hope it will not be done.

I regret that my friend from Vermont, always economical, mostly too much so, advocates its provisional retention upon the ground that it is filled by a particular person, or a person perhaps, more correctly stated, of particular qualities. Why, sir, when a man gets into office he always has those qualities; he is always a good man; you cannot do without him; there is not in the country his like; and the wonder is that when officeholders die, as they rarely do, their like can ever be found again. [Laughter.]

I hope that no permanent office of this sort will be created. I hope that it will not be kept existing any longer as a temporary institution either, but will be abolished, as I believe it stands abolished now, if I am not misinformed,

by its termination. I trust, I will say in conclusion, that at the outgoing of the venerable and distinguished officer who has graced the position of the head of naval affairs in this country so long we will hardly continue this office at his advice. Let us wait until we can get some not uncommon sense and ability, but common sense at the head of that Department—some vigor, some spirit, some perception. Let us wait until jobbery has closed, and integrity and vigor shall characterize that as well as every other Department of the Government under the new order of things, and then take the advice of the head of that Department, if we are to be advised by the head of a Department.

Mr. GRIMES. I simply desire to inquire of the Senator from Vermont under what particular head this large amount of money that has been saved by this officer has been placed in the Treasury Department? [Laughter.]

Mr. MORRILL, of Vermont. The Senator from Iowa does not inquire for information, but he puts the inquiry because he supposes it would embarrass me to answer it, but it will not in the least. I answer that if this officer had not been employed the services of distinguished attorneys like the Senator, who charge large fees for very trifling performances, [laughter,] would have been inevitable in the Navy Department.

Mr. GRIMES. I am not going to oppose the adoption of this amendment. I did not agree with the majority of the committee in regard to it; but I wish the Senate to understand this thing. Those gentlemen who suppose that this is going to save any money most egregiously err. The idea seems to be, from what I hear, that this Judge Advocate General is to go to the different navy-yards, whenever a court-martial or a court of inquiry is ordered, and there act as the judge advocate of that court of inquiry. It is not proposed that he shall do anything of the kind, and the Navy Department will be compelled to employ a man to do that, just as they always have employed one, both during the time this gentleman has been at the head of that bureau and before. This simply creates a kind of bureau officer, whose business it is to examine the records of courts-martial that are held on board of ships of war in different stations and at different yards; and after making that examination report to the Secretary of War the same thing that has been done by a clerk in the Navy Department.

Mr. HENDRICKS. I wish to ask the Senator from Iowa—as he is very familiar with all such questions—whether the Navy now, in regard to the number of men employed, is larger than it was before the war, when there was no Judge Advocate General at all; and if so, to what extent?

Mr. GRIMES. The Navy, as to its men, is no larger. The Navy, as to its line officers, has about one hundred more than at the beginning of the war, but no more than was allowed at the beginning of the war. The staff officers in the Navy are considerably increased, perhaps fifty per cent., and I do not know but more; that is to say, the surgeons and paymasters and engineers are increased. I suppose there are perhaps three or four hundred more officers than there were at the beginning of the war.

I am not opposing this amendment. I simply desire the Senate to know that it is not going to save money by having this officer perform the duties of judge advocate of these courts-martial. He is to do precisely the same duties as the Judge Advocate General of the Army, and that office shows how things progress in this country. Before the war we had an army of twelve thousand men, and it was authorized to be increased, whenever the President saw fit to increase it, to nineteen thousand and something. At that time we had one officer of the ordnance corps, Captain Lee, detailed to act as Judge Advocate General. He had an office in the War Department, and performed all the duties of Judge Advocate General to the satisfaction of the Army and of the public so far as

I know, and was still an officer and captain in the ordnance corps. Now, with an increase of the Army of about three hundred per cent., I believe, the Senator from Massachusetts [Mr. Wilson] passed a bill here yesterday creating ten permanent judge advocates, beginning with a brigadier general, and I do not know how many colonels, but I will guaranty with not an officer below the rank of major.

Mr. MORRILL, of Maine. I believe the amendment is divisible, and I move to strike out the first clause of the proposition.

Mr. HENDRICKS. I ask for the reading of that clause.

The CHIEF CLERK. It is proposed to amend the amendment so that it will read:

Three thousand dollars are hereby appropriated for the salary of the Solicitor and Naval Judge Advocate General.

Mr. MORRILL, of Maine. Now read the part to be stricken out.

The CHIEF CLERK. It is proposed to strike out the following words:

That the office of Solicitor and Naval Judge Advocate General be, and the same is hereby, continued and established.

The PRESIDENT *pro tempore*. The question is on striking out the first clause of the amendment.

The amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question now is on the amendment as amended.

Mr. HENDRICKS. At the last session it was determined to discontinue this office unless Congress continued it. That was the language used at the last session. We are just as ready to discontinue it now as we shall be a year from this time; and if it is continued by a yearly appropriation it simply brings the question up next year again. I do not believe the office is needed, and therefore I feel it to be my duty to oppose the amendment.

Mr. CRAGIN. I really hope that this amendment will be adopted. There is no doubt in my mind, and the Secretary of the Navy, in a letter which I have before me, expresses the same opinion, that it is economy to continue for the present, at least, this office. I trust the amendment will be adopted.

Mr. HENDRICKS. As this question is really to decide whether this office is to be continued or not I think we might as well decide it upon the yeas and nays.

The yeas and nays were ordered.

Mr. CAMERON. Before the yeas and nays are called I wish to give notice that I shall be compelled to rise to a privileged question unless we can dispose of this bill at once. I have been waiting for half an hour in the hope that we should get through with this bill.

Mr. MORRILL, of Maine. I think we can dispose of it now.

Mr. CAMERON. If we can get through with it after this vote I will waive the privileged question—the announcement of the death of one of my colleagues in the House of Representatives; if not, I shall be compelled to announce it.

Mr. MORRILL, of Maine. I think we can dispose of the bill in a few moments.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from New Hampshire, as amended.

The question being taken by yeas and nays resulted—yeas 12, nays 26; as follows:

YEAS—Messrs. Abbott, Anthony, Cattell, Cragin, Drake, Kellogg, Morrill of Vermont, Nye, Osborn, Patterson of New Hampshire, Sumner, and Wilson—12.

NAYS—Messrs. Buckalew, Cameron, Conkling, Conness, Davis, Dixon, Doolittle, Ferry, Fowler, Hendricks, McGreevy, Morgan, Morrill of Maine, Patterson of Tennessee, Ramsey, Rice, Robertson, Ross, Sherman, Trumbull, Vickers, Wade, Warner, Whyte, Wiley, and Williams—26.

ABSENT—Messrs. Bayard, Chandler, Cole, Corbett, Edmunds, Fessenden, Frelinghuysen, Grimes, Harlan, Harris, Henderson, Howard, Howe, McDonald, Morton, Norton, Pomeroy, Peol, Saulsbury, Sawyer, Spencer, Sprague, Stewart, Thayer, Tipton, Van Winkle, Welch, and Yates—28.

So the amendment was rejected.

The bill was reported to the Senate as amended; and the amendments were concurred in.

Mr. BUCKALEW. I desire to say a few words before this bill passes, as I was a member of the committee which reported it, and shall vote for it.

I think in some way the expenditures of the Navy Department should be largely reduced. If I remember correctly, the amount expended by that Department for the last fiscal year was \$25,000,000, and for the year previous to that \$31,000,000. We have at the end of this bill as it was sent from the House of Representatives a very singular feature, a sort of speech on the subject of naval expenditures. We are informed by a note at the end of the bill that the total sum appropriated by the bill is \$15,280,466; and we are further informed that this is \$2,840,784 less than was required for the same service for the previous year.

Two facts are to be taken into account when we consider these appropriation bills, for they do not represent the whole amount of money to be expended for the year for which they are appropriated. Unexpended appropriations from former years are to be taken into account, and then we are to consider that under the practice of the Government—and particularly its recent practice—we are ordinarily to expect deficiency bills. It follows, therefore, that the aggregate amount of this naval appropriation bill will not indicate the total amount of expenditure for the year ending June 30, 1870.

Before the war I believe the highest expenditure in any one year for the Navy Department was \$18,000,000, and that under what were alleged to be very exceptional circumstances; and yet we find that three years after the conclusion of the war the expenditures of that Department were \$25,000,000 per annum. That is the last year for which we have any official and certain data, any full information. We do not know how much the amount will be for the fiscal year ending on the 30th of June next. According to the representation at the end of this bill from the House the ordinary appropriations are some two or three million dollars less than they were last year; but I have no information which leads me to believe that the expenses of the Navy Department will be very greatly reduced. And in voting this money as we are obliged to do in the form in which we have this bill before us, I, for one, desire to protest against the rate of expenditure in that Department, and to insist that at an early day Congress shall interpose with a stern hand and curb and reduce them to a moderate level, such as is suited to a time of peace, when there are no national exigencies either at home or abroad demanding large expenditures for that Department.

I do not believe that it is necessary that we should have large numbers of vessels in foreign waters or in commission in our own; that a large force of officers should be kept in commission and a large body of men in the service either at home or abroad with reference to any immediate necessities of the Government or any prospective necessities for the exertion of public authority upon the ocean. Nor do I think that it is necessary to keep up a large number of vessels for the purpose of national display, whether they are to go upon a cruise dancing up the Mediterranean, or looking into obscure ports in the Asiatic seas, or to be stationed in some of the southern ports in the New World, where the necessity for their presence has never manifested itself to me, although I have been in that quarter and know somewhat of the organization of Governments there and of the degree of necessity that exists for our being represented in that part of the world.

Now, sir, take the case of the southern fleet ordinarily stationed at Rio; a force of steamers now, formerly of sailing vessels. The United States minister to Brazil, in a letter of his recently published, informs us that within three years past our Government has expended for the support of our fleet in the waters of Brazil the sum of \$5,000,000. That is the expenditure upon that one fleet, according to General Webb, being an amount exceeding \$1,500,000 per annum. The number of vessels

kept there is unnecessarily large. He proceeds to inform us what has been the amount of service we have obtained from that fleet, incurring, as we do for it, according to his statement, an amount exceeding \$1,500,000 per annum. What has that fleet done for us? What service have we obtained from it? In the first place, one of the smaller steamers was sent in charge of one of the lowest officers, a lieutenant, to the harbor of Bahia to greet the Brazilian flag in that port as an act of national reparation, which was arranged by diplomacy after the difficulty in regard to our consul at that port. The commander in charge of our fleet sent one of his smaller vessels, I repeat, in charge of a lieutenant to make national amends in the harbor of Bahia. What else? A steamer was sent up the La Plata and the Parana rivers to Paraguay to conduct the American minister there upon one occasion, and then last year another vessel, after a considerable expenditure of diplomatic correspondence, was sent to bring him away again. The salutation of the Brazilian flag in the port of Bahia, and the transportation of the American minister to Paraguay, and his retransportation from Paraguay, constitute the sum total of the service performed by that fleet, which, according to the American minister at Rio Janeiro, has cost us the sum of \$5,000,000 during the last three years. Unquestionably the fleet that we have kept there is unnecessarily large. A single steamer upon that eastern coast would be adequate, and it might make occasional visits to the African coast, no doubt, if there was any emergency that called for one of our vessels in that quarter.

I speak of this particular object of outlay by the Navy Department because it is now freshly brought to our notice by one of our own ministers abroad, a man of unquestioned ability and intelligence, however gentlemen may differ with regard to the prudence of his conduct in some leading passages of his life; and this sample of outlay may convey to us a hint of the reason why in the third year after peace the expenditures of our Navy Department were as high as \$25,000,000 per annum.

Of course the Committee on Appropriations cannot effectually reach this evil. We are to vote the money for expenditures authorized by existing laws. We are to provide the means by which the obligations of the Government shall be met. It will be for Naval Committees and for committees devoted to retrenchment and reform to reach behind the question of appropriation to the sources of outlay and limit and retrench them. I shall hope that they and the two Houses of Congress, at this session and at the next session, will see to it that the expenditures of the Navy Department are brought down to a sum below \$15,000,000 per annum, which I believe will be entirely adequate for any necessities of the public service. Such reduction will be approved, nay, I believe it is demanded, by the public sentiment of the country.

I have said this much, Mr. President, as I consider myself responsible in a certain sense for this bill, having voted to report it in committee, and now intending to vote for it as a member of the Senate.

The amendments were ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bill and joint resolution in, which it requested the concurrence of the Senate:

A bill (H. R. No. 1812) to allow deputy collectors and assistant assessors of internal revenue acting as collectors or assessors the pay of collectors or assessors; and

A joint resolution (H. R. No. 402) proposing an amendment to the Constitution of the United States.

The message also announced the death of Hon. DARWIN A. FINNEY, late a member of the House from the State of Pennsylvania, and

communicated the proceedings of the House of Representatives thereon.

Mr. CAMERON. Mr. President—

Mr. MORRILL, of Maine. Will the Senator yield to me for a moment?

Mr. CAMERON. I would yield but for the fact that the Senator on my right [Mr. FERRY] will make another motion, and we shall have a discussion as to what shall be taken up.

Mr. MORRILL, of Maine. Do I understand the Senator to object to what I am about to propose?

Mr. CAMERON. I do.

The PRESIDENT *pro tempore*. The Chair will lay before the Senate for reference the bills received from the House of Representatives.

HOUSE BILLS REFERRED.

The bill (H. R. No. 1812) to allow deputy collectors and assistant assessors of internal revenue acting as collectors or assessors the pay of collectors or assessors was read twice by its title, and referred to the Committee on Finance.

The joint resolution (H. R. No. 402) proposing an amendment to the Constitution of the United States was read twice by its title, and referred to the Committee on the Judiciary.

DEATH OF HON. D. A. FINNEY.

The PRESIDENT *pro tempore* laid before the Senate the message of the House of Representatives, communicating intelligence of the death of Hon. DARWIN A. FINNEY, late a member of the House from the State of Pennsylvania.

Mr. CAMERON. Mr. President, I desire to formally announce to the Senate the death of Hon. DARWIN A. FINNEY, a member of the House of Representatives from Pennsylvania. He died in Brussels, Belgium, whither he had traveled in pursuit of health, on the 20th of August last.

Mr. FINNEY was born in Vermont in 1814. He came to Pennsylvania, as I learn, in 1838, receiving that welcome which all meet from that hospitable population. He entered Alleghany College, Meadville, and graduated there, and choosing the law as a profession was admitted to the bar in 1842. His professional attainments I cannot speak of from personal knowledge, but this much may be justly said of him, that his failure to reach the highest rank at the bar of western Pennsylvania did not prove his want of ability by any means. One might be an excellent lawyer, and yet fail to place himself by the side of such men as Thomas Williams, George P. Hamilton, John Scott, and Wilson McCandless, and Mr. FINNEY probably suffered from a comparison which few men could successfully encounter. He was elected to the senate of Pennsylvania in 1854, and served six years in that body. His friends claimed for him that he was a good debater, an intelligent legislator, and a complete master of vituperative eloquence. The last claim has never been called in question. Harshness toward those who differed from him is not too strong a term to employ in describing his legislative career.

Very soon after Mr. FINNEY took his seat in Congress his sadly failing health forced him to leave his home for a foreign land, to return no more alive; and I now announce his death to the Senate, and move the adoption of the customary resolutions of condolence and respect:

Resolved, That the Senate has received with deep sensibility the announcement of the death of Hon. DARWIN A. FINNEY, late a member of the House of Representatives from the State of Pennsylvania.

Resolved, That as a mark of respect for the memory of Hon. DARWIN A. FINNEY the Senate will wear the usual badge of mourning for thirty days.

Resolved, That as a further mark of respect for the memory of the deceased, the Senate do now adjourn.

Mr. BUCKALEW. Mr. President, I knew Mr. FINNEY at one time very well, having served with him four sessions in the senate of Pennsylvania. But he resided at the opposite extremity of the State from me, and I have little information of his career before he be-

came a State senator or since he retired from that position. I can, however, speak with certainty regarding him so far as he manifested himself in public service in our State and in social intercourse at the same time.

He was a man of considerable intelligence. He was also a man very remarkable for independence of mind and of temper. He formed his own opinions, and he acted an independent part. Mr. FINNEY was a respectable lawyer also, and while he was a member of our senate he contributed valuable service in the transaction of public business in that body.

I may add that in private association with him I found him to be a pleasant companion, and generally he was a man of honorable conduct and of upright purpose.

When he was elected to the lower House of Congress I anticipated with great pleasure a renewal of our former association. He came on to Washington, but he remained here only a short time, when, as has been already stated, he went abroad with a design of reestablishing his health and of afterward resuming his place in Congress. He was accompanied by his wife, an estimable lady, but his expectations from his journey abroad were not realized. He sank under the insidious action of disease and died in a foreign country. Recently his remains were brought to New York, and then, under conduct of a committee of the senate of Pennsylvania, to the city of Philadelphia for interment. The Legislature and people of our State have manifested due sensibility as well as sincere respect both for his public services and for his memory.

If I had anticipated that this subject would come up to-day I should have prepared some remarks giving, so far as I could, an analysis of his character, public and private. I should have endeavored to do greater justice than I am now able to do to my former colleague and friend. I could not, however, permit this occasion to pass, although the subject comes upon me unexpectedly, without submitting these few remarks. They are unstudied but sincere. I heartily add my voice of respect and regret to those of others in the two Houses who have spoken of Mr. FINNEY's services and character and recalled the events of his life.

The resolutions were agreed to *nem. con.*; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, January 30, 1869.

The House met at twelve o'clock m. Prayer by Rev. NORMAN McLEOD, of Denver City.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

The SPEAKER. This being Saturday, private bill day, the first business in order, unless it should be set aside by the House, is the calling of committees for reports of a private nature, commencing with the Committee on the Judiciary.

Mr. BOUTWELL. I move that the morning hour of to-day be dispensed with, and that the House now proceed to the consideration of the joint resolution proposing an amendment to the Constitution of the United States.

The SPEAKER. That is a privileged motion.

Mr. MAYNARD. I hope that will not be done.

Mr. ROBINSON. I rise to a point of order. The SPEAKER. The gentleman will state his point of order.

Mr. ROBINSON. The Speaker has just announced that the gentleman from Massachusetts [Mr. BOUTWELL] has submitted a privileged motion.

The SPEAKER. He has.

Mr. ROBINSON. I rise to submit this idea as a point of order: the gentleman from Massachusetts [Mr. BOUTWELL] some days since submitted a motion to reconsider the votes by which the House recommitted to the Committee on the Judiciary the joint resolution and

the bill relating to suffrage. That motion to reconsider, and that motion alone, was a privileged motion. The motion to reconsider having been disposed of, the privilege covering all this business has been exhausted, and this question now stands naked and unprivileged before the House. Therefore the regular order comes up in preference to it, which I now demand, should the Speaker rule in my favor.

The SPEAKER. The Clerk will read the one hundred and twenty-eighth rule.

The Clerk read as follows:

"Friday and Saturday in every week shall be set apart for the consideration of private bills and private business in preference to any other, unless otherwise determined by a majority of the House."

The SPEAKER. The Chair overrules the point of order made by the gentleman from New York, [Mr. ROBINSON.] The House having adjourned while the motion for the previous question and the motion to lay on the table the resolution proposing a constitutional amendment were pending, that subject would come up immediately after the reading of the Journal this morning as unfinished business pending at the adjournment but for the one hundred and twenty-eighth rule, which gives private business on Friday and Saturday priority, unless a majority of the House should otherwise determine. The gentleman from Massachusetts [Mr. BOUTWELL] moves to dispense with private business on this day.

Mr. ROBINSON. I would like to say—

The SPEAKER. The point of order raised by the gentleman from New York has been decided. The gentleman is out of order, unless he takes an appeal from the decision.

Mr. ROBINSON. I believe, then, I must take an appeal. I desire to explain that I do not deny that private bills take precedence to-day, but I contend that this other subject is not privileged in its present position, and that the regular order, whatever it is, has the preference.

The SPEAKER. The Clerk will read the rule on page 186 of the Digest.

The Clerk read as follows:

"The consideration of the unfinished business which the House may be engaged at an adjournment shall be resumed as soon as the Journal of the next day is read, and at the same time each day thereafter until disposed of; and if from any cause other business shall intervene it shall be resumed as soon as such other business is disposed of."

The SPEAKER. The Chair, under this rule, decides that the constitutional amendment, pending at the adjournment last evening, would come up immediately after the reading of the Journal unless other business having priority to it should interfere. Rule 128, previously read by the Clerk, provides that on Friday and Saturday private business shall have priority unless a majority of the House otherwise determine. The gentleman from New York [Mr. ROBINSON] appeals from this decision of the Chair. The question is, Shall the decision of the Chair stand as the judgment of the House?

Mr. WASHBURNE, of Illinois. I move that the appeal be laid on the table.

Mr. ROBINSON. Being anxious not to consume time, I withdraw the appeal.

DEPUTY REVENUE COLLECTORS, ETC.

Mr. SCHENCK. I ask the gentleman from Massachusetts [Mr. BOUTWELL] to yield to me that I may ask the attention of the House to a matter which will not occupy more than five minutes.

Mr. BOUTWELL. I yield to the gentleman on condition that his business shall not occupy more than five minutes.

Mr. SCHENCK. I ask unanimous consent to report from the Committee of Ways and Means a bill to allow deputy collectors and assistant assessors of internal revenue acting as collectors and assessors the pay of collectors and assessors.

The SPEAKER. The bill will be read, after which there will be an opportunity for objection.

The bill, which was read, provides that any deputy collector of internal revenue or assistant

assessor of internal revenue who has performed or may hereafter perform, under authority or requirement of law, the duties of collector of internal revenue or assessor of internal revenue, in consequence of any vacancy in the office of such collector or assessor, or on account of the suspension from duty or temporary disability from sickness or other cause of such collector or assessor, shall be entitled to and receive the same pay and compensation as is provided for such collector or assessor in their districts respectively; but no such payment is to be made in any case when the collector or assessor has received or may be paid compensation for services rendered during the same period of time.

Mr. RANDALL. I wish to ask the gentleman from Ohio [Mr. SCHENCK] who it is that appoints these assistant collectors and assistant assessors?

The SPEAKER. The gentleman from Pennsylvania [Mr. RANDALL] will please suspend. The Chair must first ask whether there is objection to the gentleman from Ohio [Mr. SCHENCK] occupying five minutes in explanation of this bill?

There was no objection.

Mr. SCHENCK. I will say, in reply to the inquiry of the gentleman from Pennsylvania, [Mr. RANDALL], that the assistant assessors are appointed by the Secretary of the Treasury upon the recommendation of the assessors. The deputy collectors are appointed by the collectors, who are responsible upon their bonds for themselves and their deputies also.

Mr. Speaker, my only reason for asking to be heard even for five minutes upon a bill which I know must commend itself to every one, and the passage of which has been asked for on all sides of the House, is that I wish to make some defense of the House of Representatives and of Congress against a systematic attempt to slander and decry and misrepresent those who constitute the legislative body of the United States. Gentlemen will recollect that in the general bill condensing all the internal revenue laws, which has been pending in this House since last summer, and is now in the Committee of the Whole, there is a provision for the pay of these assistant assessors and deputy collectors who perform the duties of their principals. That, however, does not go back to past cases. It was thought not unlikely that when the bill should come up for final action the Committee of Ways and Means might recommend the giving of this relief, even in that general bill, to those who had thus served in the past. But it seems now that this general bill is not likely to be acted on at this session. I hope it will be, but perhaps it may not be. Under these circumstances the committee conclude to report a special bill for the purpose of paying these officers, to meet these meritorious cases in the past and for the future. It has long been known by many persons outside of the committee that this was the determination of the committee. Now, acting upon this knowledge, certain claim agents have sent circulars over the country saying they have influence with Congress and can get such a bill passed, and desiring those interested in such bill shall agree to pay fifty per cent. of the amount they will get under the bill to those agents. Let me read one of these circulars:

WASHINGTON, D. C., December 1, 1868.

Sir: Certain influential parties, with myself, will undertake at the coming session of Congress to obtain the passage of a law securing for you the payment of the salary and fees you are properly entitled to for the time during which you acted as collector for the eighth district of Kentucky, namely, from the 4th day of March, 1867, to the 27th day of March, 1867, *vice* Mr. E. L. Cockrill, but which the Treasury Department has now no authority in law to pay you. We shall require as our compensation fifty per cent. of the amount due you, and will thank you to state to me as soon as may be whether you are willing to allow it to us. We desire to preserve this matter as much as possible from notoriety, as otherwise it might hinder our efforts.

Very respectfully, yours.

Mr. WASHBURN, of Illinois. What is the name?

Mr. SCHENCK. I shall not disclose the name, because we sent for the gentleman, had

him before the committee, interrogated him, found that he had acted, as he admitted himself, very wrongly; that he was penitent for it, and was willing and volunteered to write to every one to whom he had addressed this circular confessing this wrong; and we found that and he had been in other respects a good citizen deserved much from the Government—indeed had received a medal of honor for his services all through the war, showing what his loyalty was. We therefore concluded on the whole to suppress the name; but I give the form of the circular, remarking when I do so that this is an old game. It is not infrequently the case that claim agents, attorneys, lobbyists, and prowlers around Congress find out what is likely to be done by a committee or by Congress, and then speculate upon it under pretense that it is through their influence it is obtained to be done, and thus rob of their just dues those claimants against the Government.

In this case there was a call made to get the names of all persons who, in sums from five to ten dollars up to several hundred, would be entitled to compensation under a bill of this kind; and taking advantage of that document such circulars were addressed by one or more persons to every one of these men, and we have ascertained that some twenty have already agreed to give one half of what Congress would give to them under a bill of this kind for the meritorious and influential services of those gentlemen who were getting Congress to pass the bill, it being known all the time that the Committee of Ways and Means, upon the mere ground of simple justice, had virtually reported such a bill, intending to make it a matter upon which they would ask special action of Congress. I say that it is an old game. I have personal knowledge, in a former Congress, in one instance where a man levied upon a claimant the large sum of \$10,000, and actually received it for influencing a member of a committee to obtain a particularly favorable report, when that member of Congress never knew he had heard of the rascal before in his life.

The SPEAKER. The time of the gentleman has expired.

Mr. SCHENCK. I hope I may be permitted to have one minute more.

The SPEAKER. Is there objection? The Chair hears none.

Mr. SCHENCK. Now, sir, I do not assume for members of Congress that we are any better than the rest of the world, and I hope I ought not to confess that we are any worse than the same number of respectable gentlemen in public or in private life anywhere. But there is a systematic, fashionable abuse all through the country, stimulated by letter writers, occasion being given to it by these prowling agents around us, to bring Congress into discredit, and I thought it my duty in behalf not only of my committee, but of members of Congress, to ventilate a case of this kind. Having done it, I want to add to the remarks I have already made a warning to all assistant assessors and deputy collectors who may be entitled to receive anything under this bill, if it should pass, that they are not indebted one cent to any claim agent or lobbyist whatever, but that Congress gives to them what is justly their due, and they should give a kick to any such man who comes to them rather than pence.

There being no objection, the bill (H. R. No. 1812) to allow deputy collectors and assistant assessors of internal revenue acting as collectors or assessors the pay of collectors and assessors, was read a first and second time.

Mr. SCHENCK. Mr. Speaker, I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

The SPEAKER. The gentleman from Massachusetts [Mr. BOWWELL] moves to dispense with the rule by which there shall be a morning hour to-day for private business, and that the House shall proceed with the business pending at the adjournment last evening.

Mr. WASHBURN, of Illinois. I hope he will enlarge the motion, so as to dispense with the morning hour.

The SPEAKER. The motion, as it stands, will effect that purpose.

Mr. WASHBURN, of Illinois. And permit me to make the remark that the Committee on Appropriations have disposed of every bill before them, so that they have nothing before them now; and, if we intend to get through the appropriation bills it is necessary that my colleague [Mr. BUTLER, of Massachusetts] should be able to get up the Indian appropriation bill to-day and finish it.

The SPEAKER. If private business should be dispensed with to-day it will be dispensing with the morning hour altogether; so that as soon as the pending business is disposed of it will be in order to go into Committee of the Whole on the appropriation bills.

The question being taken on dispensing with the rule, it was agreed to—ayes 86, noes 40.

SUFFRAGE.

The SPEAKER. The House now resumes the consideration of the unfinished business pending at the adjournment yesterday, being the joint resolution (H. R. No. 402) proposing an amendment to the Constitution of the United States, the pending question being on the motion of the gentleman from Illinois, [Mr. BURN,] to lay the constitutional amendment with the pending amendments on the table, on which the yeas and nays have been demanded.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 41, nays 131, not voting 50; as follows:

YEAS.—Messrs. Axtell, Beck, Boyden, Boyer, Brooks, Burr, Cary, Chanler, Coburn, Eldridge, Fox, Getz, Golladay, Grover, Haight, Hawkins, Hotchkiss, Humphrey, Jenckes, Johnson, Thomas L. Jones, Kerr, Knott, Marshall, McCormick, Mungen, Niblack, Nicholson, Phelps, Polesley, Pruyn, Randall, Robinson, Ross, Sitgreaves, Taber, Tilt, Van Auken, Van Trump, John T. Wilson, and Young—41.

NAYS.—Messrs. Allison, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Beatty, Benton, Bingham, Blaine, Blair, Boies, Boutwell, Bromwell, Broome, Buckland, Buckley, Benjamin F. Butler, Cake, Callis, Churchill, Sidney Clarke, Clift, Cobb, Covode, Cullom, Dawes, Delano, Dewees, Dockery, Dodge, Donnelly, Driggs, Eckley, Edwards, Eggleston, Thomas D. Eliot, James T. Elliott, Ferriss, Ferry, Fields, French, Garfield, Goss, Gove, Gravelly, Griswold, Hamilton, Harding, Heaton, Higby, Hooper, Hopkins, Chester D. Hubbard, Hulbard, Hunter, Alexander H. Jones, Judd, Julian, Kelley, Kellogg, Kelsey, Ketchum, Kootz, Lash, William Lawrence, Loan, Logan, Loughbridge, Lynch, Marvin, Maynard, McKee, Mercur, Miller, Moore, Moorhead, Morrill, Mullins, Myers, Newcomb, Norris, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pierce, Pike, Pile, Plants, Price, Prince, Raum, Robertson, Root, Sawyer, Schenck, Scofield, Shanks, Shellabarger, Smith, Spaulding, Starkweather, Stokes, Stover, Sypher, Taft, Taylor, John Trimble, Trowbridge, Twichell, Upson, Van Aernum, Bart Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, William Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—131.

NOT VOTING.—Messrs. Adams, Ames, Anderson, Archer, Barnes, Barnum, Benjamin, Blackburn, Bowen, Roderick R. Butler, Reader, W. Clarke, Cook, Corley, Cornell, Dickey, Dixon, Eli, Farnsworth, Glossbrenner, Halsey, Haughey, Hill, Holman, Asahel W. Hubbard, Richard D. Hubbard, Ingersoll, Kitchen, Luffin, George V. Lawrence, Lincoln, Mallory, McCarthy, McCullough, Morrissey, Newsham, Pettis, Poland, Pomeroy, Selye, Stevens, Stewart, Stone, Thomas, Lawrence S. Trimble, Vidal, Elihu B. Washburne, Whittemore, Thomas Williams, Wood, and Woodward—50.

So the House refused to lay the joint resolution on the table.

During the roll-call,

Mr. NIBLACK said: I desire to say that my colleague, Mr. HOLMAN, has been called home by the sickness of a member of his family. If he were here he would vote "ay," being opposed to this whole proposition in all its forms.

Mr. ROBINSON said: I am requested by my colleague, Mr. BARNES, who is absent by

leave of the House, to say that he is paired off with Mr. AMES on this subject. If he were here he would vote in the affirmative.

Mr. WELKER said: My colleague, Mr. CLARKE, is detained at his room by sickness. If he were here he would vote "no."

Mr. SCOTFIELD stated that Mr. VIDAL was confined to his room by sickness.

Mr. MARVIN stated that Mr. CORNELL was absent on account of illness. If present he would vote "no."

Mr. GLOSSBRENNER stated that on this and on all other questions upon which parties are divided he was paired until Monday next, including the sessions of that day, with his colleague from the Mercer district, Mr. PETTIS. He [Mr. GLOSSBRENNER] would vote against the proposed amendment to the Constitution in whatever form it might be presented, and Mr. PETTIS would sustain substantially the amendment reported by the Committee on Reconstruction.

The result of the vote having been announced as above recorded, the question recurred upon seconding the demand for the previous question on the pending amendments made by Mr. BOUTWELL last evening.

Leave was granted to Mr. BROOMALL, Mr. BLACKBURN, Mr. ARNELL, and Mr. WELKER to print speeches on the pending measure. [See Appendix.]

Mr. SHELLABARGER. I withdraw the modifications of amendment which I offered yesterday, so as to leave the amendment as it was originally printed, and I ask that it may be read.

The Clerk read the amendment, as follows:

No State shall make or enforce any law which shall deny or abridge to any male citizen of the United States of the age of twenty-one years or over, and who is of sound mind, an equal vote at all elections in the State in which he shall have such actual residence as shall be prescribed by law, except to such as have engaged or may hereafter engage in insurrection or rebellion against the United States, and to such as shall be duly convicted of treason, felony, or other infamous crime.

Mr. ELDRIDGE. I would ask the gentleman from Ohio if he is not willing to strike out from his amendment that exception in regard to persons convicted of crime or conviction of any other thing which may be considered or made to be crime, so that the bill or joint resolution shall only be prospective in its effect?

Mr. SHELLABARGER. I do not know that I exactly understand the point of the inquiry. If the gentleman means to inquire whether I would not consent to strike out the exception of that class who must be convicted before they could be disfranchised, I reply that I would not.

Mr. ELDRIDGE. If the gentleman will allow me, I will state what I desire.

The SPEAKER. Does the gentleman from Massachusetts [Mr. BOUTWELL] yield for that purpose?

Mr. BOUTWELL. As I understand the proposition as modified by the gentleman from Ohio [Mr. SHELLABARGER] it is now precisely the proposition which he originally submitted to the House and which was printed, he having withdrawn the modifications which he suggested yesterday.

Mr. SHELLABARGER. That is right.

Mr. BOUTWELL. On the other hand, the proposition reported by the committee stands without any alteration whatsoever, except that the definite article "the" before the word "race" has been stricken out. Therefore the debate which took place yesterday was appropriate to these two propositions precisely as they stand. If we open the subject to-day for debate, I do not know how, if the matter is to be left to me, I can regulate it consistently with the business of the House or with the appeals that are made to me on both sides of the House. I suggest, therefore, that it is better that we should come to a vote upon these propositions, which are probably now understood.

Mr. ELDRIDGE. I do not wish to make a speech or an argument on the subject. I only wish to suggest to the gentleman from Ohio [Mr. SHELLABARGER] a modification of his amendment which I would desire.

Mr. SHELLABARGER. I wish now that we may have it distinctly understood how these propositions stand. Am I right in supposing that the proposition of the gentleman from Massachusetts, [Mr. BOUTWELL], or rather of the Committee on the Judiciary, stands now just as it was reported, with the exception of the change by striking out the word "the" before the word "race"?

Mr. BOUTWELL. There has been no other change.

Mr. SHELLABARGER. And the provisions suggested yesterday in relation to qualifications grounded on intelligence, &c., are now out of the case?

Mr. BOUTWELL. They were voted down yesterday by the House two to one.

Mr. ELDRIDGE. I desire to make a suggestion.

Mr. BOUTWELL. If I yield it will open the matter to debate.

Mr. ELDRIDGE. I do not desire to debate, but to suggest to the gentleman from Ohio [Mr. SHELLABARGER] a modification of the amendment he has proposed.

Mr. BOUTWELL. Very well; let the suggestion be made without debate.

Mr. ELDRIDGE. I desire to say that every feeling and sentiment of my nature is against *ex post facto* laws and the conviction by act of Congress of any person for a crime which he may have committed heretofore. I desire, therefore, that the gentleman from Ohio shall so modify his amendment as to make it apply to future offenses, to crimes hereafter to be committed only, that we shall not by act of Congress convict men of crime and inflict penalties not provided for when the act was committed.

Mr. BOUTWELL. I must insist upon my demand for the previous question.

Mr. ELDRIDGE. Does that apply to the joint resolution as well as to the amendments which have been offered, so that the House will be brought to a vote upon all the pending propositions?

The SPEAKER. It does.

Mr. ELDRIDGE. And we shall be obliged to vote upon the amendments which have already been offered, and then upon the joint resolution itself, without opportunity to move further amendments?

The SPEAKER. That will be the effect of the previous question, as moved by the gentleman from Massachusetts, [Mr. BOUTWELL], if the House shall sustain the call and order the main question.

Mr. BINGHAM. I appeal to the gentleman from Massachusetts [Mr. BOUTWELL] to allow me to make some verbal changes in my amendment before the previous question is ordered.

Mr. BOUTWELL. Certainly.

The SPEAKER. The gentleman has the right under the rules of the House to modify his amendment before the previous question is seconded.

Mr. BINGHAM. The changes I have made in my amendment are merely verbal, not in any manner changing the substance of the proposition which I presented on yesterday. I ask the Clerk to read it as modified.

The Clerk read as follows:

No State shall make or enforce any law which shall abridge or deny to any male citizen of the United States of sound mind and twenty-one years of age or upward the exercise of the elective franchise at all elections in the State wherein he shall have actually resided for a period of one year next preceding such election, (subject to such registration laws and laws prescribing local residence as the State may enact,) except such of said citizens as shall engage in rebellion or insurrection, or who may have been, or shall be, duly convicted of treason or other infamous crime.

Mr. SCHENCK. Will the gentleman allow me to make an inquiry?

Mr. BOUTWELL. Very well.

Mr. SCHENCK. I understand the propo-

sition of the Committee on the Judiciary to be the same now as it was originally reported, excepting the article "the" before the word "race," has been stricken out.

Mr. BOUTWELL. Yes.

Mr. SCHENCK. And the proposition now offered by my colleague [Mr. SHELLABARGER] on behalf of a number of members from Ohio, including myself, is the same as it was first offered. The interlineations and modifications made in the proposition yesterday by my colleague was upon the suggestion of a great number of persons. Upon consultation, however, we have concluded that the proposition had better be restored to its original form; and I wanted four or five minutes in which to express the reasons why I have advised that the modifications proposed yesterday be taken out as being unnecessary. I will confine myself to that simple question.

Mr. BOUTWELL. I think I must, under the circumstances, yield to the gentleman for five minutes.

Mr. SCHENCK. Knowing how many of us are represented by my colleague [Mr. SHELLABARGER] in the substitute he has offered, I need not say I approve the form, that it shall be in the shape of an inhibition to the States. Yesterday, when the proposition was pending, many gentlemen, among them the gentleman from Massachusetts [Mr. BOUTWELL] and his colleague, [Mr. BUTLER], objected that unless there was something saving to the States the power to regulate the exercise of the elective franchise this noted proposition would virtually repeal or be repugnant to the passage of any registry law. Now, I conceive there is nothing in that objection. At first it seemed to be plausible, and yielding to that plausibility my colleague, [Mr. SHELLABARGER], with the consent of others, agreed to modify the proposition. He now withdraws the modification. I think it necessary to have the modification withdrawn, because if there be anything in the argument presented by the gentleman from Massachusetts, [Mr. BOUTWELL], that it interferes with the possibility of having registry laws, then upon the same argument we could have no registration laws now.

Look, for instance, at the constitution of Massachusetts. What does it provide? It provides in absolute terms that every male citizen who has attained the age of twenty-one years, who has resided in the Commonwealth one year, and within the district six months, and who has paid certain taxes, shall be permitted to vote; and to this is added by the twentieth article of the amendments an educational requirement. Now, a man in Massachusetts goes to the polls and offers to vote. He shows that he is twenty-one years of age; that he has always resided within the State; that he is a citizen; that he can read the Constitution in the English language and write his name, yet objection is made to the reception of his vote. Why? Because he has not registered. He points to the Constitution and says, "By the Constitution it is provided that every man having these qualifications, which I possess, shall have the right to vote." The reply is, "That Constitution implies the necessity of prescribing by law regulations under which the votes shall be cast." If this were not so, the registry law now in force in Massachusetts would be unconstitutional. But does any gentleman here pretend to say that it is so? A man possessing all the qualifications which by the express terms of the Constitution are requisite to make him an elector, presents himself at the polls, and is told, "Stand back, because you are not registered." This goes to show that these provisions as to the qualifications of electors do not, in the slightest degree, interfere with the power of the Legislature of the State to adopt proper regulations under which the votes shall be cast. Hence, any exception of the kind proposed here for the purpose of saving that right to the States is unnecessary. Besides, sir, the language of this amendment is still stronger, because it contains the word

"equal;" it provides for securing to citizens an "equal" right to vote.

Mr. BUTLER, of Massachusetts. I ask my colleague [Mr. BOUTWELL] to yield to me for a moment.

Mr. BOUTWELL. I think I had better bring the debate to a close; and I may as well make an example in the case of my colleague by refusing to yield to him.

Mr. Speaker, I only wish to say that the distinctions and differences of opinion which have been evolved by the debate in regard to the effect of the amendment proposed by the gentleman from Ohio afford to my mind conclusive evidence that if we submit the amendment in that form to the country we shall introduce in every State confusion, discord, and contention as to what the effect of the provision will be. But the amendment reported by the Judiciary Committee is directed against those distinctions which have been brought prominently before the country, and on which substantially public opinion, as entertained by the Republican party, has been expressed. We are safe if we stand upon the resolution reported by the committee; and, in my judgment, we are unsafe if we accept what we ourselves confessedly are unable to understand in such a way as to come to an agreement upon it. I now demand the previous question.

The previous question was seconded; there being—yeas 114, nays 35.

The main question was ordered; which was first upon Mr. SHELLABARGER's amendment to the amendment of Mr. BINGHAM.

The amendment was read, as follows:

Strike out in the amendment of Mr. BINGHAM the provision proposed to be inserted in lieu of section one of the proposed new article of the Constitution, and insert in lieu thereof the following:

No State shall make or enforce any law which shall deny or abridge to any male citizen of the United States of the age of twenty-one years or over, and who is of sound mind, an equal vote at all elections in the State in which he shall have such actual residence as shall be prescribed by law, except to such as have engaged or may hereafter engage in insurrection or rebellion against the United States, and to such as shall be duly convicted of treason, felony, or other infamous crime.

Mr. BROOKS. I wish to inquire whether the amendment of the gentleman from Ohio, [Mr. SHELLABARGER,] as now modified, contains in the fifth and sixth lines this language: "Such actual residence as shall be prescribed by law, except to such as have engaged," &c.?

The SPEAKER. The amendment, as it now stands, has been printed, and is printer's No. 678.

Mr. BROOKS. I rise to a point of order. I submit that no gentleman, not even the gentleman from Ohio, has the right to ingraft upon the instrument framed by Washington, Madison, Hamilton, Franklin, and their contemporaries such bad English as that contained in the clause I have just read.

The SPEAKER. The Chair overrules the point of order. It is not the province of the Chair to decide upon points of grammar, or questions as to what is "bad English." Such questions must be determined by the judgment of the House.

Mr. ELDRIDGE. I desire to suggest to the gentleman from Ohio [Mr. SHELLABARGER] that the phrase "of sound mind" which he has inserted in his amendment will exclude a very large portion of the Republican party. [Laughter.]

Mr. MULLINS. It would exclude all of the party of the gentleman from Wisconsin, [Mr. ELDRIDGE.]

The SPEAKER. No debate is in order. The House is acting under the operation of the previous question.

Mr. GARFIELD. I call for the yeas and nays on agreeing to this amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 61, nays 126, not voting 35; as follows:

YEAS—Messrs. Delos R. Ashley, Baldwin, Beaman, Beatty, Benton, Boles, Bowen, Broomall, Buckland, Calkins, Coffey, Cobb, Culum, Dawes, Delano, Eckley, Eggleston, Ela, James T. Elliott, French, Gravelly, Hamilton, Hawkins, Hooper, Chester D.

Hubbard, Judd, Julian, Kelley, Kelsey, George V. Lawrence, William Lawrence, Loan, Logan, Maynard, Mullins, Newsham, Norris, Orth, Paine, Plants, Polisy, Price, Prince, Sawyer, Schenck, Scofield, Shanks, Shellabarger, Starkweather, Stokes, Sypher, Twichell, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Whittemore, and William Williams—61.

NAYS—Messrs. Allison, Archer, Arnell, James M. Ashley, Axtell, Bailey, Baker, Banks, Barnum, Beck, Benjamin, Bingham, Blaine, Blair, Boutwell, Boyden, Boyer, Broomall, Brooks, Burr, Benjamin F. Butler, Callis, Cary, Chanler, Churchill, Sidney Clarke, Cook, Corley, Covode, Dawes, Dockery, Dodge, Donnelly, Driggs, Edwards, Eldridge, Thomas D. Eliot, Ferriss, Ferry, Fields, Fox, Garfield, Getz, Golladay, Goss, Grover, Griswold, Grover, Haight, Halsey, Harding, Haughey, Heaton, Higby, Hopkins, Hotchkiss, Hulburd, Humphrey, Hunter, Jenckes, Johnson, Alexander H. Jones, Thomas L. Jones, Kerr, Ketcham, Knott, Kootz, Ladin, Lash, Lincoln, Loughbridge, Marshall, Marvin, McCormick, McCullough, McKee, Mercer, Miller, Moore, Morrell, Mungen, Myers, Newcomb, Niblack, Nicholson, Nunn, O'Neill, Perham, Peters, Phelps, Pierce, Pike, Pile, Poland, Pruyn, Randall, Raum, Robertson, Robinson, Roots, Ross, Sitgreaves, Smith, Spalding, Stewart, Stone, Stover, Taber, Taffe, Taylor, Thomas, Tift, John Trimble, Trowbridge, Upson, Van Aernam, Van Auker, Burt Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Whittemore, Thomas Williams, William Williams, Stephen F. Wilson, Windom, Woodward, and Young—126.

NOT VOTING—Messrs. Adams, Ames, Anderson, Barnes, Blackburn, Buckley, Roderick R. Butler, Reader W. Clarke, Cornell, Diekey, Dixon, Farnsworth, Glosbrenner, Hill, Holman, Asahel W. Hubbard, Richard D. Hubbard, Ingersoll, Kellogg, Kitchen, Lynch, Mallory, McCarthy, Moorhead, Morrissey, Pettis, Pomeroy, Selye, Stevens, Lawrence S. Trimble, Vidal, Elihu B. Washburne, Thomas Williams, James F. Wilson, and Wood—35.

So Mr. SHELLABARGER's amendment to the amendment of Mr. BINGHAM was not agreed to.

During the vote,

Mr. SCHENCK stated that his colleague, Mr. CLARKE, was detained from the House by illness, and if present would have voted for the amendment.

Mr. BOUTWELL said: As between the amendments I should be for that of the gentleman from Ohio, [Mr. SHELLABARGER,] but as I am against all amendments, I shall vote no.

Mr. MAYNARD said: I am so much opposed to the amendment of the gentleman from Ohio [Mr. BINGHAM] that I do not wish to be put in the attitude of seeming to indorse it, and shall therefore vote ay.

The vote was then announced as above recorded.

Mr. BOUTWELL moved to reconsider the vote by which the amendment was rejected; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The question then recurred on Mr. BINGHAM's amendment, as follows:

Strike out all of article one and insert as follows: SECTION I. No State shall make or enforce any law which shall deny or abridge to any male citizen of the United States of sound mind and twenty-one years of age or upward the equal exercise of the elective franchise at all elections in the State wherein he shall have actually resided for a period of one year next preceding such election, subject to such registration laws and laws prescribing local residence as the State may enact, except such of said citizens as shall engage in rebellion or insurrection, or who may have been, or shall be, duly convicted of treason or other infamous crime.

Mr. WARD demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 24, nays 160, not voting 38; as follows:

YEAS—Messrs. Axtell, Baker, Bingham, Brooks, Dawes, Dockery, Eldridge, Garfield, Haight, Heaton, Hotchkiss, Alexander H. Jones, McCullough, Phelps, Plants, Robinson, Ross, Spalding, Stewart, Stone, Tift, John T. Wilson, Woodward, and Young—24.

NAYS—Messrs. Allison, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Banks, Beaman, Beatty, Beck, Benjamin, Benton, Blaine, Blair, Boles, Boutwell, Bowen, Boyden, Boyer, Broomall, Buckland, Buckley, Burr, Benjamin F. Butler, Calkins, Cary, Chanler, Churchill, Sidney Clarke, Clift, Cobb, Coburn, Cook, Corley, Covode, Culum, Dawes, Delano, Donnelly, Driggs, Eckley, Eggleston, Ela, Thomas D. Eliot, James T. Elliott, Ferriss, Ferry, Fields, Fox, French, Getz, Golladay, Goss, Grover, Griswold, Grover, Halsey, Hamilton, Harding, Hawkins, Higby, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Humphrey, Hunter, Jenckes, Johnson, Thomas L. Jones, Judd, Julian, Kelley, Kellogg, Kelsey, Kerr, Ketcham, Kootz, Ladin, Lash, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughbridge, Lynch, Mallory, Marshall, Marvin, Maynard, McCormick, McKee, Mer-

cur, Miller, Moore, Moorhead, Morrell, Mullins, Mungen, Myers, Newcomb, Newsham, Niblack, Norris, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pierce, Pike, Poland, Polisy, Price, Prince, Pruyn, Randall, Raum, Robertson, Roots, Sawyer, Schenck, Scofield, Selye, Shanks, Shellabarger, Sitgreaves, Smith, Starkweather, Stokes, Stover, Sypher, Taber, Taffe, Taylor, Thomas, Trowbridge, Twichell, Upson, Van Aernam, Van Auker, Burt Van Horn, Robert T. Van Horn, Van Trump, Van Wyck, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Whittemore, Thomas Williams, William Williams, Stephen F. Wilson, Windom, and Woodbridge—160.

NOT VOTING—Messrs. Adams, Ames, Anderson, Archer, Baldwin, Barnes, Barnum, Blackburn, Roderick R. Butler, Reader W. Clarke, Cornell, Diekey, Dixon, Dodge, Edwards, Farnsworth, Glosbrenner, Haughey, Hill, Holman, Asahel W. Hubbard, Richard D. Hubbard, Ingersoll, Kitchen, Knott, McCarthy, Morrissey, Nicholson, Pettis, Pile, Pomeroy, Stevens, John Trimble, Lawrence S. Trimble, Vidal, Elihu B. Washburne, James F. Wilson, and Wood—38.

So the amendment was rejected.

The question then recurred on ordering the joint resolution to be engrossed.

Mr. WOODWARD demanded the yeas and nays.

Mr. BROOKS. I demand a division of the question.

The SPEAKER. There can be no division of a bill or a joint resolution, although there may be of a single resolution. Internal improvement bills are specially excepted by the rules, and there may be a division on the engrossment of each item.

Mr. BROOKS. Will the gentleman from Massachusetts yield to me to have a vote on my amendment for the enfranchisement of women and children over twelve years of age?

Mr. BOUTWELL. The gentleman is not serious in that inquiry.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 144, nays 45, not voting 33; as follows:

YEAS—Messrs. Allison, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baldwin, Banks, Beaman, Beatty, Benjamin, Benton, Blaine, Blair, Boles, Boutwell, Bowen, Boyden, Broomall, Broomall, Buckland, Buckley, Benjamin F. Butler, Calkins, Churchill, Sidney Clarke, Clift, Cobb, Coburn, Corley, Covode, Culum, Dawes, Delano, Dawes, Dockery, Dodge, Driggs, Eckley, Edwards, Eggleston, Ela, Thomas D. Eliot, James T. Elliott, Farnsworth, Ferriss, Ferry, Fields, French, Garfield, Goss, Grover, Griswold, Hamilton, Harding, Heaton, Higby, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Jenckes, Alexander H. Jones, Judd, Julian, Kelley, Kellogg, Kelsey, Ketcham, Kootz, Ladin, Lash, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughbridge, Lynch, Marvin, Maynard, McKee, Mercer, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, Newsham, Norris, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pierce, Pike, Pile, Plants, Poland, Price, Prince, Raum, Robertson, Roots, Sawyer, Scofield, Selye, Shanks, Shellabarger, Smith, Starkweather, Stewart, Stokes, Stover, Sypher, Taffe, Taylor, Thomas, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Whittemore, Thomas Williams, William Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodward—144.

NAYS—Messrs. Archer, Axtell, Baker, Barnum, Beck, Bingham, Boyer, Brooks, Burr, Cary, Chanler, Eldridge, Fox, Getz, Golladay, Grover, Haight, Hawkins, Hotchkiss, Humphrey, Johnson, Thomas L. Jones, Kerr, Knott, Marshall, McCormick, Mungen, Niblack, Nicholson, Phelps, Polisy, Pruyn, Randall, Robinson, Ross, Sitgreaves, Spalding, Stone, Taber, Tift, Van Auker, Van Trump, John T. Wilson, Woodward, and Young—45.

NOT VOTING—Messrs. Adams, Ames, Anderson, Barnes, Blackburn, Roderick R. Butler, Reader W. Clarke, Cook, Cornell, Diekey, Dixon, Donnelly, Glosbrenner, Halsey, Haughey, Hill, Holman, Asahel W. Hubbard, Richard D. Hubbard, Ingersoll, Kitchen, Mallory, McCarthy, McCullough, Morrissey, Pettis, Pomeroy, Schenck, Stevens, Lawrence S. Trimble, Vidal, Elihu B. Washburne, and Wood—33.

So the joint resolution was ordered to be engrossed and read a third time.

During the roll-call,

Mr. BLAINE said: At the request of the gentleman from Illinois, Mr. WASHBURN, I desire to say that he was compelled to leave the House by ill health, but if present he would have voted for the resolution of the committee.

Mr. BENTON. I am requested on behalf of my colleague, Mr. STEVENS, to say that he is absent in consequence of sickness. If here he would no doubt vote "ay."

Mr. NIBLACK. I am authorized to say in behalf of my colleague, Mr. HOLMAN, that if present he would vote against the resolution.

The result having been announced as above, the joint resolution, being engrossed, was read the third time.

Mr. BOUTWELL. I move the previous question on the passage, and demand the yeas and nays.

The previous question was seconded, and the main question ordered.

Mr. SHENCK. Mr. Speaker, does not the Constitution require the vote to be taken by yeas and nays?

The SPEAKER. It does not. The only imperative requirement of the yeas and nays under the Constitution is in regard to a veto, where a concurrent vote of two thirds of each House by yeas and nays is required. On all other questions requiring a two-thirds vote, such as proposed amendments to the Constitution and relief from political disabilities, the Constitution does not command the vote to be taken by yeas and nays any more than on bills which only require a majority vote. On bills relieving from disability under the fourteenth amendment the Chair has ruled, with the assent of the House, that the Constitution does not require the yeas and nays, but that the result must be arrived at by a two-thirds vote, to be declared by the Chair. On constitutional amendments, however, on account of their gravity and the value of the record, the usage has been to take the vote by yeas and nays.

The yeas and nays were ordered.

Mr. PRUYN. Mr. Speaker, is it intended to fill the blank with the number of the article of amendment?

The SPEAKER. It is not necessary. In regard to the history of the adoption of constitutional amendments, the amendment numbered as the seventh was rejected and the one that was adopted as the eighth amendment was afterward incorporated in the Constitution as article seven, the Secretary of State taking the responsibility of changing the numbering, as was evidently proper, and as the engrossing clerks of both Houses of Congress do in regard to the numbering of sections where intervening ones are stricken out.

The question was taken; and it was decided in the affirmative—yeas 150, nays 42, not voting 81; as follows:

YEAS—Messrs. Allison, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baldwin, Banks, Beaman, Beatty, Benjamin, Benton, Blackburn, Blaine, Blair, Botes, Boutwell, Bowen, Boyden, Bromwell, Broomall, Buckland, Buckley, Benjamin F. Butler, Cake, Callis, Churchill, Sidney Clarke, Clift, Cobb, Coburn, Cook, Corley, Covode, Cullom, Dawes, Delano, Deweese, Dockery, Dodge, Donnelly, Driggs, Eckley, Edwards, Eggleston, Ela, Thomas D. Eliot, James T. Elliott, Farnsworth, Ferriss, Ferry, Fields, French, Garfield, Goss, Gove, Gravelly, Griswold, Halsey, Hamilton, Harding, Haughey, Heaton, Higby, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Jonckes, Alexander H. Jones, Judd, Julian, Kelley, Kellogg, Kelsey, Ketcham, Koontz, Ladin, Lash, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughbridge, Lynch, Marvin, Maynard, McKee, Mercer, Miller, Moore, Moorhead, Morrill, Mullins, Myers, Newcomb, Newsham, Norris, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pierce, Pike, Plitt, Plants, Poland, Price, Prince, Raum, Robertson, Roots, Sawyer, Scofield, Selye, Shanks, Shellabarger, Smith, Spalding, Starkweather, Stewart, Stokes, Storer, Taffe, Taylor, Thomas, John Trimble, Trowbridge, Twichell, Upson, Van Aernum, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Whittemore, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and the Speaker—150.

NAYS—Messrs. Archer, Axtell, Baker, Barnum, Beck, Bingham, Boyer, Brooks, Burr, Cary, Chanler, Fox, Getz, Golladay, Grover, Haight, Hawkins, Hotchkiss, Humphrey, Johnson, Thomas L. Jones, Kerr, Knott, Marshall, McCormick, Mungen, Niblack, Nicholson, Phelps, Polesley, Pruyn, Randall, Robinson, Ross, Sitgreaves, Stone, Taber, Tift, Van Auker, Van Trump, Woodward, and Young—42.

NOT VOTING—Messrs. Adams, Ames, Anderson, Barnes, Roderick R. Butler, Reader W. Clarke, Cornell, Diekey, Dixon, Eldridge, Glossbrenner, Hill, Holman, Asahel W. Hubbard, Richard D. Hubbard, Ingersoll, Kitchen, Mallory, McCarthy, McCallough, Morrissey, Pettis, Pomeroy, Schenck, Stevens, Synphur, Lawrence S. Trimble, Vidal, Elihu B. Washburne, Wood, and Woodbridge—81.

So (two thirds having voted in favor thereof) the joint resolution was passed.

During the roll-call,

Mr. ROBINSON said: My colleague, Mr.

BARNES, is paired with Mr. AMES. My colleague would have voted "no."

Mr. NIBLACK. I repeat the statement that if my colleague, Mr. HOLMAN, were here he would vote "no."

The result having been announced as above, Mr. BOUTWELL moved to reconsider the vote by which the joint resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REMOVAL OF DISABILITIES.

The SPEAKER, by unanimous consent, laid before the House concurrent resolutions of the Legislature of South Carolina for the removal of political disabilities from James F. Green and several others; which were referred to the Committee on Reconstruction.

BANKRUPT LAW.

The SPEAKER also laid before the House a resolution of the Cincinnati Chamber of Commerce against the extension of the fifty per cent. clause of the bankrupt law; which was referred to the Committee on Revision of Laws of the United States.

BRIDGE ACROSS THE OHIO RIVER.

Mr. BUTLER, of Massachusetts, obtained the floor, but yielded to

Mr. WILSON, of Ohio, who by unanimous consent introduced a bill (H. R. No. 1813) to authorize the construction of a bridge across the Ohio river; which was read a first and second time, and referred to the Committee on Roads and Canals.

EVENING SESSION FOR PENSION BILLS.

Mr. BUTLER, of Massachusetts. I yield for a moment to the gentleman from Pennsylvania, [Mr. MILLER.]

Mr. MILLER. I ask unanimous consent to offer the following resolution:

Resolved, That there be on Tuesday next an evening session to hear and act upon reports from the Committee on Invalid Pensions.

Mr. ELIOT, of Massachusetts. I object.

Mr. MILLER. I will say that there is a vast amount of business before that committee relating to soldiers and soldiers' widows and orphan children that it is important to have acted on and sent to the Senate.

Mr. SCHENCK. I object to the resolution.

Mr. ROBINSON. I object to the gentleman from Massachusetts yielding any further.

INDIAN APPROPRIATION BILL.

Mr. BUTLER, of Massachusetts. I move that the rules be suspended, and the House resolve itself into Committee of the Whole on the state of the Union on the Indian appropriation bill.

The motion was agreed to; and the House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. WILSON, of Iowa, in the chair,) and resumed the consideration of the bill (H. R. No. 1738) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1870.

The Clerk proceeded with the reading of the bill for amendment.

The following clause was read:

For interest on \$390,257 92, at five per cent. per annum, for education, support of the government, and other beneficial purposes, under the direction of the general council of the Choctaws, in conformity with the provisions contained in the tenth and thirteenth articles of the treaty of 22d June, 1855, \$19,512 89.

Mr. CLARKE, of Kansas. I move to add to that clause the following proviso:

Provided, That it shall be the duty of the Secretary of the Interior to sell a sufficient amount of the bonds of the United States held in trust for the Choctaw Indians to enable him to pay the amount of the awards heretofore approved by him in favor of Joseph G. Heald and Reuben Wright under the provisions of the fiftieth article of the treaty concluded with the Choctaw and Chickasaw Indians on the 20th day of April, 1866.

This is a claim which received full consider-

ation at the last session in the Committee on Indian Affairs, and of which I believe the gentleman from Massachusetts [Mr. BUTLER] entirely approves. I hope he will make no objection to it. This claim, arising under the fiftieth article of the treaty with the Choctaw and Chickasaw Indians of April 28, 1866, was put into the Indian appropriation bill by the Senate last year, but in some way it was struck out, I believe, by the committee of conference. I have here in my hand papers which give a full explanation of the justice and propriety of this claim, and I have been instructed by the Committee on Indian Affairs, if it had been called, to report the claim to the House and recommend its passage.

Mr. ALLISON. What is the amount of the claim?

Mr. CLARKE, of Kansas. Eighty thousand dollars, \$10,000 having been already paid out of available funds of the Choctaws in the hands of the Secretary of the Interior. Let me say, also, that the only reason why any legislation at all is necessary at this time to carry out the provisions of the fiftieth article of this treaty is because the Secretary of the Interior does not feel authorized to pay this sum, although he is instructed to pay it by the treaty, because the word "funds" was used in the treaty instead of moneys.

As I said before, this matter has been fully investigated by the Committees on Indian Affairs of the House and of the Senate, and I am under instructions, whenever the Committee on Indian Affairs is called, to report it to the House for its favorable action. The gentleman from Massachusetts, I believe, is familiar with the matter, and I hope, considering the justice of this claim and considering the fact that it arises under treaty stipulations, he will make no objection to it.

Mr. SCOFIELD. I had the honor to serve on the Committee on Indian Affairs, and heard the arguments in this case. I know we went very fully into it, and I approve of it and think it ought to be put into some bill. But I would like to know of the gentleman, for we had some difficulty about the peculiar form and phraseology of the provision, if the amendment which he now offers is in the particular form that was finally agreed upon by the committee last session?

Mr. CLARKE, of Kansas. I will state that it is in the precise form of the resolution which we agreed upon last session.

Mr. SCOFIELD. Then I have no objection to it. I think it ought to go in here; it takes no money out of the Treasury.

Mr. ROSS. I believe I must oppose this amendment. I would like to have here our chairman of the Committee on Indian Affairs, [Mr. WINDOM.] I think it better be in an independent bill.

Mr. CLARKE, of Kansas. Then it will never be passed, for the Committee on Indian Affairs will not be again called this session.

Mr. PRUYN. Is this the way to pay a claim which has been refused payment heretofore for some good reason?

Mr. CLARKE, of Kansas. As I have already stated, the Secretary of the Interior would pay this claim promptly if he felt authorized to sell the bonds held by him to obtain funds for the purpose. This takes no money out of the United States Treasury.

Mr. PRUYN. That may be.

Mr. CLARKE, of Kansas. It authorizes the Secretary of the Interior to sell the bonds referred to for the purpose of obtaining the necessary funds to pay this award.

Mr. PRUYN. That does not meet the point I made at all. I know it takes no money out of the Treasury of the United States, but it does take money away from these Indians. Is this a claim which we ought to undertake to provide the payment of in this way?

Mr. CLARKE, of Kansas. In answer to that, I will state that I hold in my hand a communication from the representatives of these Indians withdrawing any opposition to this

claim, and asking for it the favorable action of Congress.

Mr. ROSS. I rise to a question of order. Is not this a kind of legislation which, under the rule, cannot be attached to an appropriation bill?

The CHAIRMAN. The Chair overrules the point of order as being taken too late, the amendment having been received and discussed.

The question was taken upon the amendment of Mr. CLARKE, of Kansas; and upon a division there were—ayes 50, noes 7; no quorum voting.

Tellers were ordered; and Mr. CLARKE, of Kansas, and Mr. ROSS were appointed.

Mr. PRUYN. I am assured by the chairman of the Committee on Indian Affairs [Mr. WINDOM] that this claim is right.

The committee again divided; and the tellers reported that there were—ayes 90, noes 24.

So the amendment was agreed to.

The Clerk resumed the reading of the bill, and read the following:

Crows:

For third of twenty installments for pay of nineteen half-breeds, in goods or money, at the discretion of the President, fifty dollars each, in accordance with seventh article of treaty of July 16, 1866, \$950.

For this amount to be paid Pierre Chien for friendly services rendered by him to the Crow Indians, \$200.

Mr. BUTLER, of Massachusetts. Since this bill was reported another treaty with the Crow Indians has come in, which requires other items of appropriation. I ask leave to recur to this paragraph hereafter rather than to detain the committee now while I prepare the amendments rendered necessary by the new treaty.

No objection was made.

The Clerk resumed the reading of the bill, and read the following:

Flatheads and other confederated tribes:

For the first of five installments on \$120,000, being the third series, for beneficial objects, at the discretion of the President, per fourth article treaty 16th July, 1855, \$4,000.

Mr. CAVANAUGH. I move to amend the paragraph just read by striking out "\$4,000" and inserting in lieu thereof "\$6,000." I desire to occupy the attention of the committee a moment in relation to this amendment. I hold in my hand a letter from Captain McCauley, the agent of the Flathead Indians. And I will say here that if there be an honest Indian agent on earth I believe that the writer of this communication is one. He writes:

"In hopes of receiving some relief for this place, I have distributed a large amount of provisions, clothing, &c., which will very nearly amount to the sum appropriated for beneficial objects. And unless I can obtain a special appropriation of \$1,500 to pay for one hundred blankets purchased and distributed I shall be very much embarrassed indeed. I purchased the above amount for the Kootenays, who, as I had the honor to inform you before, received no blankets on distribution day."

I presume it is just and right that I should state to the committee that some party or parties in the Territory of Montana, some employed of the Government, or some official thereof, committed the crime of larceny by stealing from these Indians something like two hundred and thirteen pairs of blankets before they had arrived at the agency while being transported from Fort Benton to the reservation in Bitter Root valley. The writer goes on to say:

"I do not envy those who could tamely witness the sights that are daily presented to me. Few if any could calmly look at a lot of miserable beings huddled together in lodges composed of a few poles, thatched with straw, without covering of any kind save a few filthy rags, in a climate where the thermometer stands at zero, sometimes below, and seldom over ten degrees above, during the long winter season. In addition some are disabled, some cripples, and many entirely blind. There are three families, ten in all, who are entirely blind. There are many partially so; and I trust, for the sake of our common humanity, that there are few who could witness this unmoved."

Now, Mr. Chairman, I trust that the gentleman from Massachusetts [Mr. BUTLER] will assent to this amendment. I admit that under the strict letter of the law this agent had, perhaps, no right to incur this indebtedness; that under the strict letter of the law he had no right to purchase one hundred blankets for

these shivering Indians; but I will say that the gentleman who did this without regard to the consequences to himself at the department deserves the thanks of every man who has a Christian heart within his bosom. I know this Captain McCauley well, and I know him to be a truthful, honest man, a sincere Christian, taking the warmest interest in the work of civilizing and christianizing the Indians: and that there is not in any department of the Government a more conscientious and faithful officer. I trust, therefore, that the gentleman from Massachusetts will not object to this amendment, and that it will be adopted by the committee.

Mr. BUTLER, of Massachusetts. I can only say that the appropriation proposed to be increased by this amendment is in exact accordance with the estimates of the department, and in exact accordance with the treaty. It is the same appropriation which for some years has been made for the fulfillment of the treaty. The whole amount appropriated for these Indians by this bill for the next fiscal year is \$22,200, and the deductions which have been made by the committee are not upon this item, which is fixed by treaty.

The amendment was not agreed to; there being—ayes five, noes not counted.

The Clerk read the following:

For tenth of twenty installments for the pay of each of the head chiefs of the Flathead, Kootenay, and Upper Pend d'Oreilles tribes, per fifth article treaty 16th July, 1855, \$1,500.

Mr. CAVANAUGH. I send to the Clerk an amendment which I propose to add after the paragraph just read.

The Clerk read as follows:

And the Secretary of the Treasury is hereby instructed to cause to be paid to the said chiefs the sums due them under said treaty and which have not been heretofore paid.

Mr. CAVANAUGH. I desire to say, Mr. Chairman, that under the treaty made by Commissioner Stevens in, I think, 1855, each of these chiefs was to receive \$500 per annum. I understand that from that hour to the present only one of those chiefs has received this annuity.

Mr. BUTLER, of Massachusetts. What is the amendment?

Mr. CAVANAUGH. Let the Clerk read it again.

The Clerk again read the amendment.

Mr. BUTLER, of Massachusetts. I make a point of order on this amendment, that it proposes new legislation.

The CHAIRMAN. The Chair overrules the point of order, because it is made too late. The amendment has been read at the Clerk's desk, entertained, and discussed.

Mr. CAVANAUGH. I desire to say to the committee that the Indians in every part of the United States, from the foundation of our Government—nay, from the very settlement of New England—to the present hour, have been swindled by the civilized rulers of the land.

Mr. BUTLER, of Massachusetts. I agree to that.

Mr. CAVANAUGH. Sir, from the time when the Pilgrim Fathers first stole the Indian's corn in the town of Lynn, Massachusetts, until the present hour the whole system of Indian affairs has been conducted upon a principle of robbery. I believe that that corn-stealing from the Indians was the first recorded case of grand larceny upon the continent of America, and the system thus initiated has been kept up from that hour to the present.

Mr. WOODWARD. I insist that while the gentleman is condemning the manner in which the Indians of this country have been treated he should except from his remarks William Penn and the State of Pennsylvania.

Mr. CAVANAUGH. I do except William Penn. I thank the gentleman from Pennsylvania [Mr. WOODWARD] for calling my attention to that matter. I except from my remarks the whole Quaker community of America. They have been actuated by only one feeling, the feeling of Christian men; and they have treated

the Indians as though they were a part of God's children. I repeat the language uttered the other day by the gentleman from Minnesota, [Mr. WINDOM], and say that the only denomination of Christians, except the Quakers, who have had any influence with the Indians and who have treated them as though they had souls to be saved, are the Catholics—the Jesuits, if you please. Their labors upon the frontiers of the country in behalf of the Indians have been most devoted and self-sacrificing. Look at the case of Father De Smet. If there be any man wearing the image of his God who ought to be enrolled by any church among its patron saints, that man is Father de Smet—a true Christian of the noblest type, loving his fellow-men next to his God.

Mr. MULLINS. I wish to ask the gentleman whether the Catholic teaches the Indian that he is to be saved by faith in Christ, or that he is to be saved by the intercession of the priest?

Mr. CAVANAUGH. I will answer the question. The fanaticism of the gentleman from Tennessee crops out on this occasion just as it does on all other occasions.

Mr. MULLINS. Answer the question.

Mr. CAVANAUGH. I was about answering it when the gentleman interrupted me. Catholic priests teach the Indians precisely as Protestant ministers ought to teach them—to love God and obey his commandments; and let me tell the gentleman that if he had been trained by a good Catholic priest he would to-day have been a better, purer, and more forgiving Christian than he is.

Mr. MULLINS. I have been trained by the Bible, by the revealed law of God, and not by the revealed law of man.

Mr. CAVANAUGH. I did not think that this amendment of mine would call for any remark or question or discussion of a sectarian character. History has vindicated the noble, self-sacrificing, and Christian efforts of the early Jesuits to civilize and christianize the Indians, who were actuated by only one thought, the glory of God and the conversion of souls. They need no eulogy. I am not discussing any question of theology, but I am discussing a question in reference to the Indians and the course which ought to be adopted toward them so long as the Government recognizes their right to make treaties. Here is a solemn treaty made by the commissioners of the United States with the Flathead, Kootenay, and other tribes of Indians. Shall it also remain unexecuted? I ask the gentleman from Massachusetts, I ask every man of this committee; to point to one treaty with the Indians that has been faithfully kept by the United States. It is well known that the Indians are no pets of mine, but I do say, either carry out in strict good faith every treaty stipulation made of wiper them from the face of the land forever. Send honest men, not thieves, to manage them, and there will be less trouble.

[Here the hammer fell.]

Mr. BUTLER, of Massachusetts. Mr. Speaker, Massachusetts, God bless her! and the Pilgrim Fathers can stand all such attacks. They require no defense at my hands. They took corn when they were hungry, I have no doubt. They differed from the men of the West who, when full themselves, take everything from the Indians.

Mr. CAVANAUGH. They came from New England, principally.

Mr. BUTLER, of Massachusetts. I shall not go into any defense, and I should not have said a word on the subject if it had not been for the interference of my friend from Pennsylvania, who insists that William Penn was the only man and Pennsylvanians the only men who treated the Indians with equity. If I remember history, one of William Penn's men walked nearly five hundred miles in one day, as he was to take all the land he was to cover in one day, and thousands of acres were taken from the Indians.

Mr. WOODWARD. A few years ago the

gentleman from Massachusetts could have seen an elm tree in Kensington, Philadelphia, under which the only treaty was made which was made without an oath and without an armed force, and which was not violated. That treaty was made by William Penn with the Indians, and was observed religiously in all of its provisions. I am sorry that the gentleman from Massachusetts is ignorant of that example of William Penn.

Mr. BUTLER, of Massachusetts. I agree that was religiously observed. One of the provisions of that treaty was that he should have as much land as a man could walk over in one day, and a Quaker was found who walked over four hundred miles in one day. [Laughter.]

Mr. WOODWARD rose.

The CHAIRMAN. The gentleman must move an amendment to the amendment, as discussion is exhausted on the amendment.

Mr. WOODWARD. I move to strike out the last word. William Penn in his intercourse with the Indian tribes treated them with entire integrity. What he bought he paid for. Various metes and bounds were used to designate the interior country, which was but little known, and if any mistake was made it was corrected as soon as detected. Wherever land was purchased it was paid for to the entire satisfaction of the Indians. They received all that he agreed to give them, and the Indians never found better friends or men in whom they had more confidence than the governors he sent out.

Mr. Chairman, the Commonwealth of Pennsylvania was founded on the policy of peace with the Indians, and if the nation had been wise enough to take the hint we would not have had miserable Indian wars on our borders.

Mr. BURLEIGH. What did the Indians in Pennsylvania get but blankets and beads?

Mr. WOODWARD. Penn's family never made anything out of Pennsylvania. After the Revolution the estate was turned over to the State. I withdraw my amendment to the amendment.

The question being put on the amendment of Mr. CAVANAUGH, there were—ayes 8, noes 34; no quorum voting.

Tellers were ordered; and Messrs. WOODWARD, and BUTLER of Massachusetts, were appointed.

The committee divided; and the tellers reported—ayes 27, noes 54.

Mr. CAVANAUGH. I withdraw the amendment. I will ask a vote on it in the House.

The Clerk resumed the reading of the bill.

Mr. WOODWARD. I move that the committee rise.

The motion was disagreed to.

Mr. BUTLER, of Massachusetts. I will state to the committee that at four o'clock I will move to lay aside this bill for the purpose of allowing the gentleman from Pennsylvania [Mr. WOODWARD] to address the House.

Mr. WOODWARD. The House is very thin now; it is half past three o'clock Saturday afternoon. I am obliged to be away during the first part of next week, and I would like very much to be able to address the House half an hour now.

Mr. BUTLER, of Massachusetts. I will move, then, that the bill be laid aside, and that the committee proceed to the consideration of the President's message of 1867.

Mr. CLARKE, of Kansas. Does the gentleman intend to resume the consideration of this bill to day?

Mr. BUTLER, of Massachusetts. I do not. The motion was agreed to; and the committee accordingly proceeded to the consideration of the President's annual message of 1867.

CIVIL SERVICE BILL.

Mr. WOODWARD. Mr. Chairman, when I observed with what favor the civil service bill of the honorable gentleman from Rhode Island [Mr. JENCKES] was received by the public, how it was commended by leading newspapers, reviews, and magazines, and what numerous and emphatic endorsements he had obtained for it by interrogatories addressed to the whole

corps of officials, I supposed its passage in this House was a matter of course. I confess, too, I feared the Republican party would adopt it as a policy, for it was quite apparent that it could be so worked as to exclude everybody from the civil service except the devotees of that party. Besides, the occasion seemed to demand legislation, and the honorable gentleman had spared no pains or labor to adapt his bill to the demands of the occasion. In view of all these circumstances, I feared the passage of the bill was a foregone conclusion, and hence the manly and heavy blows directed against it by the honorable gentleman from Illinois [Mr. LOGAN] surprised and gratified me. It was impossible that it was to become a party measure, else so strict a partisan as the gentleman from Illinois would not oppose it; and though he was the only man who made a full speech against it when it was last up, yet enough transpired to show that very many Republicans sympathized in his opposition. Indeed, from all indications it is almost certain that the bill cannot command a considerable vote in the House, and perhaps all that ought to be done further in respect of it would be to give it decent burial. Still, the powerful influences which the gentleman from Rhode Island has shown he can wield in behalf of his bill may reanimate it, and, at any rate, the occasion invites, as naturally as any one that is likely to occur, an expression of opinion upon several topics suggested by the bill.

In expressing myself freely in opposition to the bill I wish to do full justice to the honorable mover. The industry and zeal he has manifested in its behalf are worthy of all commendation. It would be well for the people if all great measures were as carefully scrutinized and considered before they are rushed through the forms of legislation. If the vulnerable points of his measure are easily discerned, it is because of the flood of light the honorable gentleman has himself poured over the whole subject.

The bill assumes that great abuses exist in the civil service by appointing incompetent and dishonest men to office and retaining them in place, and that these abuses are to be remedied by subjecting every applicant for office to a competitive examination to be conducted by a board of five officers, of whom the Vice President is to be the chairman. The country is to be divided into districts by this board, and either by themselves or by such assistants as they have power to appoint, without limit, each applicant is to be examined, lists are to be made out, probations are to be prescribed, the order of merit is to be fixed, and all appointments to civil offices, excepting only postmasters and such officers as are by law required to be appointed with the advice and consent of the Senate, "shall be made from those who have passed the required examinations and probations" in a certain prescribed order. (See section four of the bill.)

The board are to establish rules for examinations and rules for the advancement, one or more points, of any persons exhibiting particular merit in any branch of the civil service, and one fourth of promotions may be made on account of merit irrespective of seniority in service. The board shall also prescribe by general rules what misconduct or inefficiency shall be sufficient for the removal or suspension of all officers who come within the act, and they are to hear and determine any case of alleged misconduct or inefficiency, and the head of the Department is to suspend or dismiss according to the finding of the board.

Any officer in the civil service at the date of this act other than those in the excepted classes may be required by the head of his Department to appear before the board, and if found not qualified shall be reported for dismissal and be dismissed. Finally, the President and Senate may require any person applying for office which requires confirmation by the Senate to appear before said board and be examined as to his qualifications before or after being commissioned, and the result of

such examination shall be reported to the President and Senate. This twelfth section will draw all the excepted classes of the second section within the jurisdiction of the board, and thus practically the board will become the appointing power throughout the civil service.

The board of commissioners is made a department of the Government, the head of which shall be the Vice President of the United States, or, in case of a vacancy in said office, the President of the Senate for the time being. I share the doubts intimated by the honorable gentleman from Ohio [Mr. SHELLABARGER] as to the constitutionality of this "department." The Constitution manifestly contemplated governmental Departments, which the acts of the First Congress under the Constitution in 1789 and subsequent statutes have supplied as the business of the Government demanded. To the State Department the foreign relations of the country have been committed; financial affairs to the Treasury Department; everything pertaining to the Army to the War Department; naval affairs to the Navy; postal affairs to the Post Office Department; lands, Indians, pensions, patents and the like to the Department of the Interior, and law to the Attorney General, who is made the legal adviser of the President and of all the heads of Departments.

These are all Executive Departments, designed to assist the President in execution of his constitutional duty to see that the laws are faithfully executed. Subordinates and clerks were necessary incidents of these Departments, as clerks of courts were necessarily incident to the judiciary department; and hence the Constitution, while vesting the whole executive power in the President, provided that Congress may vest the appointment of "inferior officers" in the President alone, in the courts, or in the heads of Departments. These inferior officers evidently include the numerous clerks which the Departments were certain to require, and who constitute a very large part of the civil service intended to be regulated by this bill.

Now, sir, to raise up another department, not to do any of the business of the Government, but to control executive appointments, strikes me as plainly in conflict with the plan of the Constitution. Appointments to office are executive duties. The Constitution vests the whole executive power in the President, and though the selection of inferior officers may be given to the Departments or the courts they are given as incidents of each separate Department. The Constitution never meant that the Department of State, for instance, was to select officers for the Treasury Department, nor, *vice versa*. Courts were to select officers incidental to them but not for other Departments. A department to select officers for another department, is a scheme that has no root in the Constitution. But it is said the board provided for by this bill is not to make appointments. True, but it is to designate from whom appointments are to be made. It is to run a line through the mass of citizens and set off the favored classes from whom alone the executive power may select Governmental agents. Is this according to the theory of the Constitution? I think not. The Constitution established popular government, and in vesting the executive power in the President it expected him to represent the whole people, to look with a paternal eye upon all his fellow-citizens as equally entitled to share in the honors and emoluments of office. It never meant that he should be shut up to choose from a select few whom a board of politicians had segregated from the mass of citizens and anointed for succession to place and power. If selection of officeholders be a separate function it belongs to the President as the immediate representative of the whole people, and therefore your civil service department is a palpable violation of the Constitution.

Again, the Constitution makes the Vice President part of the Senate. (Section three, article one.) And section six declares that no person holding any office under the United States shall be a member of either House

during his continuance in office. The Constitution says the Vice President shall preside over the Senate and may vote on a tie. A member of the Senate, acting in the absence of the Vice President as President *pro tempore*, is in every sense a member of the Senate; yet this bill makes both the Vice President, or in his absence the President *pro tempore*, the president of this board. How can this be reconciled to the inhibition of the sixth section of article one? Until I hear a satisfactory reply I shall consider this an insuperable objection to the bill.

I next invite the attention of the House to the expensiveness of this scheme. The bill comes from a committee on retrenchment—a select committee on retrenchment. And to do the work which the people now pay the President and heads of Departments for doing they are to be taxed for annual salaries to the—

Five commissioners, \$5,000 each.....	\$25,000
For clerk hire.....	2,500
For messenger.....	900
	<hr/> \$28,400

This is the cost of constituting the board. Then there is to be stationery, traveling expenses, and payments to assistants, who are to be men of "learning and high character," and who must therefore be well paid. The whole duty of competitive examinations may be and probably will be turned over to these assistants, whose charges and allowances cannot be estimated. It is not unreasonable to anticipate that they will cost more than the board itself, and \$60,000 may fairly be estimated as the annual charge which this bill will impose upon the Treasury. That is the interest on \$1,000,000. This select retrenchment committee propose, therefore, to add \$1,000,000 to our public debt in order to exclude the great mass of their fellow-citizens and tax-payers from all possible participation in the honors and emoluments of public office.

This is worse than the ship-canal around Niagara, or the Sutro tunnel, or the Rocky mountain railroads. These objects have the good of the whole people in view; but this bill is to tax the many for the benefit of the few, to establish a bureaucracy in a constitutional republic. Where is the warning voice of the honorable member from Illinois [Mr. WASHBURN] against such misuse of the public money? I call his attention to this specimen of retrenchment.

The magic power of the bill, which is to reform all abuses in the civil service, is the "competitive examination." Competition is the act of seeking the same object that another is seeking, and the competitive examination is, I suppose, to try the metal and bottom of the several racers for office. Emulous young men from New England colleges will no doubt present themselves to the board in great numbers, but on what shall they be examined? What shall be the point of competition? Congress does not decide by this bill, but leaves it to the board to prescribe subjects, rules, &c. If they are to be put through the intricacies of Greek verbs or the higher mathematics, this board of politicians, with the amiable Vice President at its head, will have been so long from school and will be so steeped in party politics that they will be likely to need assistants who are men of "learning and character." And when A has won precedence over B what does it prove—that he is fit to be a book-keeper in the Treasury or a detective for the Commissioner of Internal Revenue? Many a young man who never saw a college would perform these duties better than he who wins in your competitive examination. But if the examination is not to relate to academic learning, but to the practical duties of the Departments, what does the board know of them? Who has examined the examiners, and tested their fitness for the work in hand? If parliamentary law were the subject, the Vice President-elect, who is our accomplished Speaker, would be a very competent examiner; but I would doubt his skill in passing upon several competitors for whisky gaug-

ers and tobacco inspectors. Perhaps he would be more at a loss here than he would be in conic sections and Greek verbs.

Now, hear a little common sense on this subject of competitive examinations from some of the witnesses whom the honorable gentleman [Mr. JENCKES] has summoned to the stand. Mr. Hartley, the accomplished Assistant Secretary of the Treasury says, (see page 19 of the report of committee:)

"In my judgment no preliminary examination will afford the requisite assurance of qualifications for the special duties to which clerks are to be assigned. It is doubtless true that general intelligence and scholarship may be satisfactorily ascertained in that way. The more important duties in this office are however, in the main, so purely arbitrary and technical, depending so much on specific statutes, judicial decisions, and departmental regulations, that no previous training can materially aid in their performance. Nothing, in my judgment, but an actual trial will exhibit or develop the fitness of candidates for offices in this branch of the Treasury Department. Upon satisfactory evidence of character, capacity and general acquisitions will be best ascertained by such trial under temporary appointment. This procedure is the more important if the tenure of office is to be permanent and the incumbent displaced only on the establishment of charges of neglect of duty or other misbehavior in office. Under such a system not only could a 'higher grade of talent and a better quality of persons be induced to enter the Government service,' as suggested in the thirty-fifth interrogatory now before me, but the suggestion made by the thirty-fourth question would also apply, namely, 'that an equal amount of work could probably be accomplished by a less number of persons than are now employed.'"

Mr. Hartley, though a well educated man, has been so long from school that he probably could not pass a competitive examination with any stripling fresh from academic shades, yet he can comprehend and guide the financial operations of a great country, and it would be the ecstasy of folly to displace him for one whom the competitive examination had approved. As a specimen of an examination, I read from the report, page 30, Mr. Clark's statement.

S. M. Clark, chief of printing division National Currency Bureau:

"No. 3. Chief clerk of the office of construction in the Treasury Department nearly four years; subsequently engineer in charge of that office for about two years; and for the past five years have been the disbursing agent of the Treasury extension."

"6. I was referred for examination in August, 1856, in this Department, to a board of examiners appointed by the Secretary of the Treasury, consisting of Mr. Rodman, then chief clerk, and Major Barker, and Mr. McKean, two prominent fourth-class clerks. The 'particulars of such examination' were as follows: I was instructed by the then Secretary to appear before this board at a given time and place to be examined. I put in my appearance at the time and place stated in my instructions. Major Barker commenced the 'examination' by saying: 'You are from New York, I believe, Mr. Clark?' I replied that I was. He then commenced a detailed narrative of his first visit to New York, and gave me an interesting and graphic account of the disturbance created in his mind by the 'noise and confusion' of the great city. The delivery of this narrative occupied, as nearly as I remember, about half an hour. I listened to it attentively, endeavoring to discover some point in his discourse which had reference to my (then present) 'examination.' I failed to discover any relevancy, and therefore made no reply. At the close of his narrative, without any further question, he said to his associate examiners, 'Well, gentlemen, I presume there is no doubt but that Mr. Clark is qualified.' Whereupon they all signed the certificate, and my 'examination' closed."

And, on page 75, Mr. J. M. Connel, of the twelfth congressional district, Ohio, utters some truths which I wish to quote at length:

"If it be desirable that those who execute the laws should be prepared for that service by a course of study and experimental labors required by law, it is also essential that those who make the laws should 'pass rigid test examinations' to give evidence of their fitness for their duties before being allowed to discharge them. The imperfections of the internal revenue system and errors in its workings are mainly attributable to defects in the law and the cumbersome and unwieldy machinery prescribed by law for its execution. I have no hesitation in saying that so far as I have knowledge or information in regard to the character, experience, and ability of the officers of the internal revenue service they not only compare favorably with the lawgivers of the nation, but have merit and ability above the average standard required for the making of a respectable Congressman."

As you have called for my 'comments on the condition of the civil service and the best method of making it more effectual,' I will very frankly state that, in my judgment, nothing could be more disastrous than an attempt to create a civil service system in analogy to military service in the regular Army, and borrowed from the Governments of Europe least popular and most antagonistic to republicanism.

"The theory is totally opposed to our system of responsibility to the people, is exceedingly unpopular, and its adoption would be temporary. It would only tend to derange our executive system for a time, and could not last two years before it would be made a political test question, and it would be buried with the party which advocated it by a popular majority that would be overwhelming. A permanent army of civil-service men, nearly as large as our armed forces during the war, fastened upon our Government, irresponsible to the people, and creating a distinct caste separated from and independent of the people, would become so offensive in this free Government as not only to arouse a great political storm, but to cover with popular odium all connected with it."

"The tendency of the popular will and judgment is toward making all offices elective; even the judiciary in, perhaps, all of the States has been made elective through this tendency; and so jealous are the people that it has long been difficult to maintain a small regular army, and a military establishment as large as the proposed civil establishment would never be permitted. Our people learned to appreciate the great efficiency of the volunteer service during the war, and were taught that from the farm, the office, and the workshop could be furnished soldiers and officers superior often to the hot-bed growths of a permanent military service establishment."

Even, therefore, if the proposed civil-service system would be more efficient for the execution of our laws than the present, its unpopularity would be an insuperable objection to its adoption. It would be too ephemeral to be of any benefit, and the derangement of the public business by its brief use should prevent its adoption.

I cannot, however, believe that the system proposed would secure more competent officers or better and more prompt and faithful discharge of public duties. It is the people's business that is to be done, their interests to be cared for, and any removal of the people's agents from direct responsibility to their principals would be unwise and improper."

While in the Comptroller's office at Washington I had good opportunities for testing your proposed system, for up to that time it was acted upon in the Departments. A majority of the clerical force of the Treasury Department were old clerks with assured positions, trained for years in the Department, and rising in grade by promotion for seniority and merit. In the bureau of which I was at the head of the clerical force were some clerks who had been in the service for from twenty to fifty years. I found it true that few died, none resigned, and removals seldom occurred. The old clerks, the 'civil-service men,' were numerous enough to control and shape the business of the Department. I saw daily the effects of such a system in the creation of a 'circumlocution office,' such as was satirized by Dickens; 'red tape' circumscribed everything; dreary routine wore out all energy and life in performance of duty; the civil-service men walked the treadmill of daily duty as patiently and lifelessly as blind old horses, 'assured of their positions.' They put in so many hours of each day in feeble, slow efforts 'how not to do it.' Arrangements accumulated, ancient precedents clogged all rapid action and served as pretexts for needless delays, unjust settlements, and unintelligent rulings. I can imagine no worse fate for a young, vigorous, energetic man of brains than the stifling life of a Department clerk under this circumlocutory system of service, and no more inefficient way of doing the public business."

"In the Comptroller's office I had the assistance of three or four clerks newly appointed and fresh from active life, with hopes of return to the outer world of life and action, who looked upon rotation in office as safety to themselves, and as beneficial to the service in frequently infusing new blood and vigor into the executive offices. I can remember well one John Bedel, a young lawyer from New Hampshire, fresh, active, and hopeful, whose official duties were performed with zeal and intelligence, who was not satisfied merely to sit six hours a day at his desk, but who averaged ten or twelve hours a day of hard, exciting, official labor, who almost terrified the dreary, sleepy old clerks by his energy, and who in a day would get through more actual work than any two of the old civil-service men could do in a week. I noticed many such cases, and all satisfied me that the civil-service in the Department needed reform by adopting a system of frequent changes, and bringing the employees of the Government more directly under the control of the people."

"In all popular governments short prescribed terms of service in civil office is an unvarying rule. Experience, justice, and sound judgment all justify it. Life tenures of office are odious in all Republics; they are corrupting and paralyzing, and no State constitution now exists which recognizes them. In no constitutional convention in the last thirty years have there been found politicians or statesmen who had the hardihood to defend the life tenure-of-office theory. Experience, therefore, certainly shows that the innovation proposed in the civil-service bill is unpopular, dangerous, and without precedent."

You will excuse the freedom and extent of my comments. I understood them to be invited, and I felt glad of the opportunity of stating freely and at length my views. I now give them without personal or political bias. Politically I am without party affiliation, and personally I cannot in any way suffer by the adoption or rejection of the proposed civil-service system."

"I have only to add, in response to the thirty-seventh question and last, that my experience and observation have led me to believe that in the execution and administration of the internal revenue laws it would be well to abolish the offices of district assessors and collectors, and substitute a deputy commissioner of internal revenue for each State, with his office at the capital of the State, and with the same

powers within his jurisdiction that are conferred upon the chief Commissioner at Washington, though subordinate to him. The clerical force of his office would not be more costly than the allowance for clerk hire to the district assessors now is. There should be one inspector or police agent for each State, subordinate to the deputy commissioner, and one United States assistant treasurer under his control and orders. With this system adopted there would need to be but one collector in each county in the State paid by salary, (or the county treasurer might be authorized to receive United States taxes,) and but one assessor for each county where the total internal revenue taxes would not exceed \$100,000 per year, (the number proportionally increased in counties where larger assessments would be made,) to be paid by commissions not to exceed \$2,000 each per year."

But the most remarkable witness the committee has found is the North American Review, reprinted, I suppose, at Government expense expressly for the benefit of this bill.

Mr. WELKER. I would be glad to know what the gentleman alludes to when he speaks of that pamphlet as being published at the expense of the Government.

Mr. WOODWARD. I say I found this in one of the committee-rooms of the Capitol, where there was a quantity of them. It is an extract from the North American Review. I suppose it was reprinted for the use of the House.

Mr. WELKER. I make the inquiry because I have the honor of being a member of the Committee on Retrenchment, and so far as I have any knowledge of the action of that committee they have not, as a committee, taken any means by which any such document as that shall be circulated in the country in favor of this bill or any other articles that may have appeared in the newspapers of the country.

Mr. WOODWARD. I allege nothing in regard to it. I am not informed about it. I simply stated the inference I drew from finding it among other public documents designed for the use of members.

Mr. JENCKES. The gentleman is aware that his insinuation may have some weight; I wish, therefore, to state to the House that there is no evidence whatever to warrant the insinuation.

Mr. WOODWARD. I found this pamphlet in the room of the Committee on Patents, of which I believe the gentleman is chairman, among public documents printed apparently for the use of the House, one copy of which I took because I wanted to refer to it. I supposed, from that circumstance, it had been reprinted from the North American Review for the use of the House; and now I would thank the gentleman to say if that was not the fact?

Mr. JENCKES. Not at all.

Mr. WOODWARD. At whose expense was it reprinted?

Mr. JENCKES. It was purchased at the expense of the gentleman who now addresses the House, and if the copy which the gentleman holds in his hand was received under my frank it was sent to him as a free gift.

Mr. WOODWARD. I accept the gentleman's statement, but the copy I hold in my hand was not received under the gentleman's frank, but was obtained in the room of the Committee on Patents. I read from the article as follows:

"The very air of New England and New York and the West is big with tacit rebukes against sluggishness; but there are no such admonishing voices in Washington. A lazy listlessness pervades the very aspect of the thinly populated streets. Hence, the Departments have become in many respects mental dormitories, and, in order to make up at least by the routine and force of discipline for what they lack in intellectual vitality, it has become necessary to establish semi-schoolhouse, semi-penitentiary regulations relative to the discipline of the various offices."

Now, if I understand this writer, men bred in the invigorating air of New England are alone fit for the civil service. New York or the West are thrown in as mere make-weights. It cannot be possible that the reviewer would take anybody from such an infected district as the city of New York, and as to the old Keystone State, she has no air like that of New England which "is big with tacit rebukes against sluggishness"—no mountains or valleys to breed men who can stand the "competitive

examination." When the war bugle awoke the echo of her hills and summoned her sons to arms they were foremost in the fray, and proved themselves quite equal to the competitions of the battle-field, but before the "civil-service examination board" they will have to give place to the literary quacks whom the wonderful air of New England has invigorated. Considering how bad a place Washington is, according to this reviewer, it is strange he should wish to cramp the genius of New England by the "semi-schoolhouse, semi-penitentiary regulations" of the Departments. "Receiving its tone from the South," says the reviewer, "society at Washington possessed no intellectual activity, and afforded no stimulus to exertion. It held out no encouragement to cultivated minds, and its moral standard was as low as its intellectual. Only the most vigorous natures escaped from its baneful influence."

Abuse of the South is the staple of almost all New England literature, and all the sins or vices of this city, past and present, are of course of southern origin. But the New England reformers have infused "intellectual activity" and afforded stimuli to exertion and encouragement to cultivated minds, and improved the "tone" of society at Washington by delivering it over to ignorant and lazy negroes, while they have set up a "moral standard" by their legislation that has become so abominable as to make the honorable gentleman from Rhode Island cry out for reform. The more vigorous natures and the cultivated minds of New England will find plenty of congenial elements in the modern régime, and as to moral standards the king of Dahomey will supply them.

The great argument which this reviewer urges in favor of the bill, the clincher which is to silence all gainsayers, is on page 6:

"In the early days of the Republic, public officers were generally selected from well-known families. This was not only the case with the President and the Cabinet, but also to a great extent with subordinate officers. At the present day all this is changed, owing to various circumstances, and chiefly to the vast extent of country from which public officers are recruited. Indeed it may be safely asserted that the ignorance of the community regarding the moral and mental qualifications of the highest officers of the State finds only a parallel in the ignorance of these officers in regard to their subordinates. With the adoption of the principle of competitive examination as a test of qualification, the community will not be any longer ignorant in regard to the competency of public officers; and though Mr. JENCKES's bill regards as specially only the officers appointed without advice or consent of the Senate, it empowers that body to refer any appointee whose nomination requires confirmation, to the examination commissioners previous to the vote on his nomination. Few will deny that if such a principle had been in force for several years past, the country might have been saved from the consequences of the nomination of Mr. Andrew Johnson to the Vice Presidency of the United States; for such is the comprehensive character of Mr. JENCKES's bill, that although it deals primarily with subordinate officers only, its moral effect will be to give to the principle of qualification an all-pervading popular prestige and sanction, so that the character of candidates will be submitted to the most stringent scrutiny. If such a scrutiny had been applied to Mr. Johnson's case it would not have required a profound psychological knowledge to arrive at the conclusion that a man may rise from the tailor-shop to the alderman's gown, and from thence to the senatorial ermine and the gubernatorial chair, and yet be morally and intellectually incapable of presiding with dignity, justice, and ability over the destinies of a great nation."

If an intellect not bred in New England air can comprehend the meaning of these driveling puerilities, it is that the moral effect of Mr. JENCKES's bill in its "all-pervading popular prestige" would have saved the Republican party from the great mistake of putting Mr. Hamlin off and Mr. Johnson on for Vice President. But the reviewer should remember that while the bill might have averted that catastrophe, the effect of not putting Johnson in place of Hamlin would have been the election of McClellan and Pendleton; and this would have been more deplorable still. Does he not know that the Republican doctors took Johnson to save Lincoln? There was a very serious competitive examination at Baltimore which resulted in throwing the New England Jonah overboard, and with all deference to the review-

er's better judgment, I think it was a shrewd and cunning swap—one that New England ought to be proud of and grateful for, because it has brought her large profits.

I wonder whether General Grant could have stood a competitive examination any better than President Johnson? If Johnson was a tailor, Grant was a tanner; and when this bill shall become a law and the psychological knowledge of the people everywhere shall be what it is in New England, let no tailor or tanner presume to rise, provided always he be a white man. Then the board of competitive examiners will see to it that the "tone" of Washington society be not corrupted by the South, that intellectual activity be stimulated, that cultivated minds be encouraged, and that moral standards be set up that the lowest negroes can reach; for then officers will be selected, as the reviewer tells us they were in the early days of the Republic, "from well-known families." I have no doubt that under the operation of this bill, if it ever becomes a law, the families that furnish the officeholders will be "well known." Like grocers' packages, they will be carefully selected and assorted.

This is a specimen, sir, of most of the literary supports which the gentleman's bill has attracted. I have heard that something else than the merits of the bill was the magnet that operated on the sensitive natures of the journals and magazines; but having no certain knowledge on the subject, I am bound to presume that they have been brought to piping on a common key by the force of reason and evidence, and this is what makes their arguments worth weighing. Placed in the opposite scale to the common-sense utterances of Mr. Connel and some of the other witnesses, these literary commendations of the bill kick the beam. Indeed, they are lighter than the small dust of the balance.

So with the examples which the honorable gentleman has drawn from despotic and monarchical governments, they never can or ought to become a rule for our free Republic. A landed aristocracy founded on primogeniture can afford to leave the Church, the Army, and the civil service open to younger sons, and the competitive examination may be well enough in selecting among them. But all such systems of government are founded on privileged classes and aristocratic ranks. There is no sympathy with the common masses in them. The Church, the Army, and the civil service become as aristocratic as the landed nobility, while with us government is founded on a basis that is truly popular. Every native-born citizen has an equal right to rise to the highest office in the Government, and as to all other offices our Constitution rejects even this distinction between native and foreign-born citizens. It starts all the people even in the race of life, and recognizes no distinctions except such as they create themselves. It is one of the great vices of this bill that it is not built upon the American ideas of government, but upon those of the Old World.

While I freely acknowledge the indebtedness of the House to the honorable gentleman for much of the matter in his report, I must express my regret that he should have thought it worth while to introduce such copious extracts from the ill-natured libels on General Jackson in Parton's life of that great and good man. The purpose of the honorable gentleman was to discredit the maxim for which, according to my recollection, Senator Marcy, and not General Jackson, was responsible, that "to the victors belong the spoils." But why should the honorable gentleman wish to discredit that maxim? Has not his party acted upon it with an idolatrous devotion? Do they not boast, *ad nauseam*, that they are victors, and have they not appropriated the spoils with all a miser's greed? I am told by those who know more than I do that about ninety-five per cent. of the officeholders now are Republicans. There never was a time under Democratic administrations, not even during Gen-

eral Jackson's, when much more than five per cent. of opponents were not in office.

Judge Marcy's maxim was never so ruthlessly applied as by the Lincoln administration. Not only were men turned out of office, but Union Leagues and other conspiracies were formed to blast their reputations as enemies of the Government, disloyal copperheads, and sympathizers with rebellion, and every opprobrious epithet which a hireling press could invent was profusely bestowed. If General Jackson removed men from office he left their business and reputations to them and their families; but since the party of great moral ideas has been at the helm, it has become fashionable to strip character and business as well as office from men as true to their country as the needle to the pole, and whose only offense consisted in believing in the Constitution instead of Lincoln.

Why, then, at this late day should the Republican party repudiate Judge Marcy's maxim? From what I have heard I do not believe the party is inclined to repudiate it now on the eve of an incoming administration, when the five per cent. of copperheads are expected to be cleaned out. But why should the honorable gentleman from Rhode Island, who is a bright and shining light of that party, repudiate a maxim that is so favorite a policy of his party? Why should he go out of his way to defame General Jackson? Let me tell him that we have never had a more pure or able administration than that of the old hero. He came in after a long, violent, and bitter struggle, and the money power, entrenched then in only one bank, instead of seventeen hundred as now, warred on him from the start, but the people sustained him in his removals and appointments as in all his policy, and he went down to his grave amid the plaudits of his united and prosperous countrymen.

But the honorable gentleman from Rhode Island, shocked by the unparalleled corruption that has crept into our civil service in the last eight years, exclaims, "What is to be done?" Like an honest man and true patriot he looks at the ghastly condition of public affairs, and cries out in agony of soul, "Who shall deliver us from the body of this death?" He has told us on this floor, what he said in his New York lecture, that one hundred millions of the people's revenues are annually diverted into the pockets of fraudulent officers and their confederates. Think of it, one hundred millions a year! If this were collected it would pay the national debt within the time in which it is payable. And the people who are thus robbed pay over thirty millions a year to support sixty thousand officeholders, among whom the robbers are to be looked for. What proportion of the thirty millions goes to the robbers and how much of it to honest and faithful officers I have no means of determining, and the honorable gentleman has not found out. But the case is bad enough as presented. As the gentleman has said, the payments to the civil service are not niggardly. They are larger than those paid in France or Germany, or, except in the higher offices, in England.

The case made out, then, is that the people who pay their civil service agents reasonably well are robbed by them of three times the amount the whole civil service costs. Disgraceful, alarming, and humiliating as the fact is, I believe it is truly stated. Nay, I fear the whole truth would make it still worse. But let us never forget that justice is discriminating. It was a notion of the heathen mythology that Justice is a blind deity. It belongs not to our Christian civilization. With us the maxim is, "Let justice be done though the heavens fall."

Now, sir, I believe it is simple justice to say that the heads of Departments and of the bureaus are faithful, honest, and competent men. Considering how rapidly our country has grown, and how multifarious the duties thrown upon the Departments and the bureaus, it is wonderful with what order and precision the public business is transacted. Defalcations, peculations, and frauds are rare, and I

see no great occasion, so far as this class of civil officers are concerned, for any change in the mode of selecting and appointing them.

Then, as to the clerical force employed in the respective Departments and throughout the country I have heard but little complaint. No great blunders or frauds have been perpetrated by the clerks. There may be too many employed, and none of them are perhaps fully worked, but speaking of them in the general I believe they are honest servants of the public, and for the most part attentive, obliging, and competent. In my judgment their numbers ought to be reduced and their salaries increased. If one third were discharged and the aggregate of salaries were divided among the remaining two thirds the public service would be benefited, individual suffering alleviated, and the cost to the Government not increased a dollar.

These heads of Departments and clerks have been selected for their respective places with that power of discrimination which the Constitution and laws have vested in the President and heads of Departments, and if we are to judge the tree by its fruits this system requires no legislative tinkering. We can afford to let well enough alone, remembering always that perfection is not to be looked for in human affairs, and trusting to time and experience to correct the errors and abuses of the past.

Where, then, do the great abuses exist? Undoubtedly in the collection of the revenues of the Government. These revenues are derived principally from duties upon foreign imports and from excise duties upon domestic production and labor. Now the question is, whether the competitive examination is likely to furnish us with more honest officers for the collection of these revenues?

Observe, the gentleman from Rhode Island cannot complain of a want of skill in these officials, but only of a lack of honesty. While there are many conscientious men among them, there are dexterous rogues, generally excessively loyal, who could pass any competitive examination you will be likely to institute, but who are destitute of that common honesty which it is no credit to possess but a great disgrace to lack. Will your competitive examination keep such fellows out of the civil service? Will your board descend into the hearts of the competitors and so try the reins of men as to decide who can and who cannot resist the fascinations of the whisky ring? What the gentleman from Rhode Island is after is an honest man. This was the search of old Diogenes when he went about the streets of Athens at mid-day with a lantern, but though I think he chose his means of discovery more wisely than the gentleman from Rhode Island—that is, the lantern is better than the competitive examination—yet he miserably failed, for he declared he had found children in Sparta and women in Athens but men nowhere. To be honest, as this world goes, is to be one man picked out of ten thousand, says Hamlet.

Sir, if I believed the gentleman's bill would take out of the civil service the Joseph Surfaces, the sleek hypocrites whose mouths are ever full of glozing speeches and moral sentiments and frothy professions of loyalty, and in their stead would introduce men of the hardy, homely honesty of the olden time, I would support it with all my might. Ay, I would go with him who would go the furthest to effect such a reform. For, questionless, the great want of our time is honest men. Merchants and bankers, manufacturers and corporations, can find plenty of competent clerks without an expensive board of examiners. So can the Government. But honest men, men who are in the secret recesses of the official closet just what they appear to be in public, men who unconsciously exalt their manhood by cultivating reverence and humility, who habitually render unto Cæsar the things that are Cæsar's and unto God the things that are God's—men who would feel a stain more keenly than a wound—men of this stamp and

type—alas, alas, how rare they are! If we had an Aristides "the just" in our revenue service I fear we should imitate the Athenians and banish him. The noble Theban, Epaminondas, lived a life of purity in the midst of temptations, and it is said never told a lie even in jest. All down the track of time such occasional instances of inflexible honesty are to be seen, like light-houses along a barren and dreary coast, and our own history is resplendent with names that were not born to die. But in the times upon which we are fallen virtuous examples command no respect. We are a fast people. We boast of progress. Nothing but steam and lightning can serve us. The almighty dollar is the god of our idolatry, and though we set up as many lesser deities as were ever found in the Pantheon, the supremest devotion of too many officeholders is to that wonder-working deity who can make a moderate official salary issue in a few years into a princely fortune. And as a token of our extreme degradation it is worth noticing that we no longer fashion our idol out of gold and silver, but form him out of nasty rags; and whoever heard lately the gentleman from Massachusetts [Mr. BUTLER] and the gentleman from Ohio [Mr. CARY] will bear me witness there are not wanting priests on this floor to raise the shameful cry, "These be our gods."

Now, sir, fully admitting the deplorable state of official morals alleged by the honorable gentleman from Rhode Island, I beg him to notice that he has not adapted his remedy to the disease. His diagnosis is better than his therapeutics. Instead of a board of examiners who can do no more than find out mental acquirements and capacities for political chicanery, I would suggest that the evils complained of spring from a huge public debt and a depreciated paper currency, and the true remedy will consist in reducing that debt and improving that currency.

Why, sir, in Democratic times, when the Government collected and disbursed only from sixty to ninety millions of revenue, we had no such scandalous exhibitions of official corruption as the honorable gentleman has now pressed upon our attention. Occasional delinquencies undoubtedly occurred, and are always to be looked for in widely extended operations where great numbers of agents are necessarily employed, but they were not so frequent or gross as materially to affect the revenues or our general character. But with the accession of the Republican party came disunion and war and debt and a redundant paper currency, and with these "all our woes."

The war is ended—passed and gone, I hope, forever. The Union would have been restored heartily and prosperously had it not been for the evil genius of reconstruction. The debt is unprovided for. No comprehensive system of finance is suggested from controlling quarters; no reduction of military expenses, no systematic retrenchment, no lightening of taxes. On the contrary, the debt increases, the lobby clamors for subsidies, and the people must bow their patient backs while we pile on more taxes. The Special Commissioner of the Revenue, who is set to watch the operation of causes and effects, tells us that the immediate cause of our present anomalous condition of affairs is the increased cost of nearly all forms of labor and commodities as compared with the price of the same that prevailed in the decade immediately preceding the war, and this increased cost has resulted from three agencies, which he specifies as "irredeemable paper currency, unequal and heavy taxation, and a limited supply of skilled labor."

Here is the fountain of our bitter waters, the poisoned spring into which I would that the gentleman from Rhode Island could fling a sweet bough from the tree whose leaves are for the healing of the nations. Let us begin by repealing that most odious statute that made a lying promise to pay, a legal tender. One year ago, on this floor, I proposed a gradual repeal of that enactment, and others have suggested various schemes for a resumption of specie

payments; but so far from progressing in that direction, the tendency is to perpetuate the reign of paper money. Unless the Supreme Court gives back to the people their constitutional currency this stupendous fraud of the money power will continue to verify the conclusion of Commissioner Wells, that the rich are to become richer and the poor poorer.

To be more specific—when the Government issues promises to pay money which it does not mean to pay, how can it expect its citizens to be any more honest and sincere than itself? When the Government wastes in railroad subsidies, Army supplies, and Freedmen's Bureaus millions of the people's money, how natural that dishonest officers should say, "This money which is to be wasted if it reach the Treasury may as well be kept by us as to be given to jobbers and favorites." And when the manufacturers of whisky and tobacco see the Government singling out their occupations for excessive taxation, thereby charging an undue share of the public debt upon them, what is more natural than that they should buy up your inspectors and cheat your detectives if they can? Protective duties tempt to smuggling, false invoices, and all manner of frauds. Excessive taxes unequally imposed provoke retaliation. Prodigal squandering of our revenue upon pet schemes of legislation instead of a faithful application of them to our national debt invite and encourage malversation and speculation.

And thus it comes to pass that our own legislation makes rogues to cheat us out of \$1,000,000 a year. Let not honorable gentlemen lay the flattering unction to their souls that the competitive examination of applicants for office will remedy this evil. It is two deep-seated for any such nostrum to reach. It has struck down to the roots of our social life. In destroying the standard of values we have unsettled the foundations of public morals.

If we would reform abuses let us reform our legislation. Let us get back to the one only standard of values the world knows. Let us make our paper promises mean what they say. Let us impose taxes by some rule of uniformity, instead of punishing fellow-citizens who choose one branch of industry instead of another. Let us have a revenue tariff with incidental protection, instead of a tariff for the protection of select classes at the expense of all consumers. Let us stop subsidies, retrench expenses, and begin to pay our debts. Let us do these things, sir, and you shall see the tone of public morals instantly improved. You shall see that honest men can then be found, even with our present modes of selection, to collect our revenues and execute our laws.

Mr. ELA obtained the floor, but yielded to Mr. McKEE, who moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. WILSON, of Iowa, reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the bill (H. R. No. 1738) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending 30th June, 1870, and had come to no conclusion thereon; also, that the committee had had under consideration the President's annual message for 1867, and had come to no conclusion thereon.

PRINTING OF AN AMENDMENT.

The SPEAKER. The gentleman from Ohio [Mr. GARFIELD] wishes to have printed an amendment which he proposes to offer in Committee of the Whole on the state of the Union to the Indian appropriation bill. If there is no objection it will be ordered to be printed.

There was no objection; and the order to print was made.

S. M. STOCKSLAGER.

Mr. KERR, by unanimous consent, introduced a bill (H. R. No. 1814) for the relief

of S. M. Stockslager; which was read a first and second time, and referred to the Committee on Military Affairs.

LAND TITLES IN NEBRASKA.

Mr. TAFTE. I ask the unanimous consent of the House to take from the Speaker's table the bill (S. No. 730) supplementary to an act entitled "An act to confirm the title to certain lands in the State of Nebraska." The bill is purely local in its application, and there can be no objection to it.

The bill was read for information. It proposes to extend the provisions and benefits under the act entitled "An act to confirm the title to certain lands in Nebraska," approved July 25, 1868, to the east half of the northwest quarter of the southeast quarter of section nine, township fifteen, range thirteen east, sixth principal meridian, in Douglas county, Nebraska, and to confirm the title to the same to the parties holding by deed from the patentee.

There being no objection, the bill was taken from the Speaker's table, received its several readings, and was passed.

Mr. TAFTE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JONATHAN NUTT.

Mr. WOODWARD, by unanimous consent, introduced a bill (H. R. No. 1815) granting a pension to Jonathan Nutt, a soldier of the war of 1812; which was read a first and second time, and referred to the Committee on Revolutionary Pensions and of the War of 1812.

CLAIM OF OWEN THORN, ET ALS.

Mr. MUGEN, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of State be, and he is hereby, requested to transmit to this House copies of the papers filed in the Department of State October 9, 1866, relative to the claim of Owen Thorn and others, for indemnity for losses sustained by the destruction of the steamer Congress by the Canadian authorities.

Mr. McKEE moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

UNION PACIFIC RAILROAD.

Mr. PRICE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to.

Resolved, That the Secretary of the Interior be directed to furnish to this House a copy of the report of the president of the Union Pacific railroad, of December, 1868, relative to the report of the special commission, of which General G. K. Warren was president.

HEALD AND WRIGHT.

Mr. MUGEN. I desire to make a brief explanation in regard to an amendment offered in Committee of the Whole to-day by the gentleman from Kansas [Mr. CLARKE] to the Indian appropriation bill, in relation to paying the claim of Mr. Heald and Mr. Wright out of the funds of the Choctaw nation. I know the gentleman was instructed by four members of the Committee on Indian Affairs—a majority of those present—to report a bill for their relief. But I never saw the bill, and was not prepared to consider the matter when it was brought forward so unexpectedly to-day. I hold in my hand a minority report on that claim, signed by three members of the Committee on Indian Affairs, which I ask may now be received and ordered to be printed for the use of the House.

No objection was made; and the report was accordingly received, and ordered to be printed.

BLANTON DUNCAN.

Mr. WILSON, of Iowa. I ask unanimous consent of the House that leave be granted to Blanton Duncan, a bill for whose relief was laid on the table yesterday, to withdraw from the files of the House the papers in his case.

Mr. SCOFIELD. Leaving copies on file. Mr. WILSON, of Iowa. Very well. No objection was made; and leave was granted accordingly.

NATURALIZATION LAWS.

Mr. ROSS. I ask unanimous consent to submit the following resolution for consideration at this time:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of so amending the naturalization laws as to enable foreigners coming to this country with the intention of making a permanent residence therein to become naturalized and enjoy all the rights and privileges of citizens of the United States in one year after arriving in the United States; and that said committee report by bill or otherwise.

Mr. WILSON, of Iowa. I would inform the gentleman from Illinois [Mr. Ross] that that subject has been referred to the Committee on Revision of Laws of the United States, and is not now before the Committee on the Judiciary.

The SPEAKER. If there be no objection the resolution will be referred to the Committee on Revision of Laws of the United States.

No objection was made; and the resolution was referred accordingly.

Mr. ROBINSON. I ask to have entered upon the Journal a motion-I now make to reconsider the vote by which the resolution of the gentleman from Illinois, [Mr. Ross,] in relation to naturalization, was referred to the Committee on Revision of Laws of the United States.

Mr. SCOFIELD. I move that the motion to reconsider be laid on the table.

Mr. ROBINSON. On that motion I call for the yeas and nays.

Mr. McKEE. I move that the House now adjourn.

The motion was agreed to; and accordingly (at four o'clock and thirty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. EGGLESTON: A resolution of the Chamber of Commerce of Cincinnati, protesting against the extension of the provisions of the bankrupt law.

By Mr. HALSEY: The petition of Jacob L. Briggs and Nabor B. Ford, asking Congress to remove their disabilities.

By Mr. HUNTER: The petition of M. R. Edmonds, sixty-seventh Indiana volunteers, for pay as second lieutenant while acting as such but not mustered.

By Mr. JUDD: The petition of Arnold Damer, asking that an organ built for the Church of the Holy Name be admitted free of duty.

By Mr. KOONTZ: The petition of Mrs. A. M. Criswell and 71 others, of Franklin county, Pennsylvania, asking for an amendment of the Constitution of the United States so as to acknowledge Almighty God as the source of all authority and power in civil government, &c.

By Mr. LAWRENCE, of Pennsylvania: The petition of Mrs. Matilda Carney, of Beaver county, Pennsylvania, for a pension.

By Mr. MOORE: The petition of William H. Howard, of Accomack county, Virginia, praying the intervention of Congress for protection from illegal oyster tonnage tax by the authorities of Virginia.

Also, the petition of B. H. Newcomb, of Willflet, Cape Cod, Massachusetts, praying protection by Congress from illegal taxes on the oyster trade by the authorities of Virginia.

By Mr. MORRELL: The petition of Hon. George Taylor and 40 others, citizens of the seventeenth congressional district of Pennsylvania, praying that an appropriation be made in aid of the national homestead at Gettysburg for the orphans of soldiers and sailors of the United States.

By Mr. PAINE: The petition of Harold Thoreson and others, citizens of Northfield,

Minnesota, for a modification of the tobacco tax.

Also, the petition of A. B. Hawley and others, of Red Wing, Minnesota, for a modification of the tobacco tax.

Also, the petition of Hermann Reinold & Co., citizens of Kenosha, Wisconsin, for a modification of the tobacco tax.

Also, the petition of Clark & Rich and others, citizens of McGregor, Iowa, for a modification of the law imposing tax on tobacco.

Also, the petition of Amos Kendall & Co., of Black River Falls, Wisconsin, for a modification of the tobacco tax.

Also, the petition of C. L. La Grove & Co., citizens of Faribault, Minnesota, for a modification of the income tax.

Also, the petition of Charles Nebel and others, citizens of Sauk City, Wisconsin, for a modification of the income tax law relating to tobacco.

Also, the petition of E. Wagner and others, citizens of Manitowoc, Wisconsin, relating to the tax on tobacco.

Also, the petition of J. Cardeza and others, of Sparta, Wisconsin, for a modification of the tobacco tax.

Also, the petition of L. H. Buck and others, citizens of Lake City, Minnesota, for a modification of the tobacco tax.

Also, the petition of F. Klanmann and others, citizens of St. Peter, Minnesota, for a modification of the tobacco tax.

Also, the petition of S. J. Hobart and others, citizens of Milwaukee, Wisconsin, for the modification of the law imposing tobacco tax.

Also, the petition of Spofford H. Compton and others, citizens of Grand Rapids, Wisconsin, for the modification of the law taxing tobacco.

Also, the petition of A. Gray and others, citizens of Green Bay and Fort Howard, Wisconsin, for a modification of the tobacco tax.

By Mr. POLAND: A letter from J. C. C. Winch, of Texas, an applicant for relief from disabilities, indorsed by Mr. POLAND.

By Mr. ROBERTSON: The petition of J. L. Gifford, and others citizens of southern New York, for an appropriation for the removal of obstructions at Hell Gate.

By Mr. VAN HORN, of New York: The petition of William Taylor, of Richmond, Virginia, asking to be relieved from disabilities imposed by the fourteenth article of the Constitution.

By Mr. WHITEMORE: The petition of John M. Norris, a citizen of Edgefield county, South Carolina, praying to be relieved of political disabilities.

By Mr. WINDOM: The petition of Major M. A. Daily and 90 others, citizens of Owatonna, Minnesota, asking Congress to aid in the construction of the Northern Pacific railroad.

Also, a memorial of the Legislature of Minnesota, asking for aid in the construction of the Northern Pacific railroad.

IN SENATE.

MONDAY, February 1, 1869.

On motion of Mr. MORTON, and by unanimous consent, the reading of the Journal of Saturday last was dispensed with.

CORRECTION OF THE JOURNAL.

Mr. HOWE. On Saturday last I presented a memorial from the Legislature of Wisconsin in reference to the improvement of the Wisconsin river, which was ordered, as I understood it, to be printed together with the memorial of a convention recently held at Prairie du Chien to consider the same subject. I move that both memorials be printed.

The PRESIDENT *pro tempore*. That was the order.

Mr. HOWE. That was the order; but the Journal does not so state it.

The PRESIDENT *pro tempore*. The Journal will be corrected in that particular.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a

petition of citizens of the United States, praying that suffrage be granted to women in the District of Columbia and in the Territories; which was referred to the Committee on the Judiciary.

He also presented resolutions of the Legislature of Kansas, in favor of the passage of laws for the protection of *bona fide* settlers on the Cherokee neutral lands; which were referred to the Committee on Indian Affairs.

Mr. MORTON. I desire to present some resolutions passed by the Legislature of Indiana. The first reads as follows:

"Resolved by the General Assembly of the State of Indiana, That the Congress of the United States is hereby respectfully requested to make such an appropriation as may be necessary to complete the harbor of Michigan City, in this State."

I move that these resolutions be referred to the Committee on Commerce, and printed.

The motion was agreed to.

Mr. POMEROY. I desire to present joint resolutions of the Legislature of the State of Kansas, relating to and asking for an appropriation to pay the expenses of that State incurred in repelling the invasion of the rebel General Price; but as a bill on that subject has been reported by the Committee on Military Affairs, and has passed the Senate twice, and is still in the House of Representatives unacted upon, I move that these resolutions lie on the table.

The motion was agreed to.

Mr. POMEROY also presented resolutions of the Legislature of Kansas, against the ratification of the treaty with the Osage Indians; which were ordered to lie on the table, and be printed.

He also presented resolutions of the Legislature of Kansas, in favor of the passage of laws for the protection of *bona fide* settlers on the Cherokee neutral lands; which were ordered to lie on the table, and be printed.

He also presented resolutions of the Legislature of Kansas, in favor of the passage of a law authorizing and permitting all persons who have taken less than one hundred and sixty acre homesteads under provisions of the laws of the United States to extend their privileges so as to permit them to claim, take, prove up, and hold enough more to make their homesteads one hundred and sixty acres; which were referred to the Committee on Public Lands, and ordered to be printed.

He also presented a resolution of the Legislature of Kansas, in favor of the payment of claims for depredations committed by the Indians in that State; which was referred to the Committee on Indian Affairs.

He also presented petitions of citizens of Massachusetts, Ohio, and New York, praying that women be granted the right of suffrage; which were ordered to lie on the table.

Mr. TRUMBULL presented the petition of John A. Stephens, of Mississippi, praying the removal of political disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

He also presented the petition of A. W. Smith, of Russell county, Virginia, praying the removal of the political disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

Mr. WARNER presented a memorial of the Legislature of Alabama, in favor of a grant of land to aid in the construction of the New Orleans and Selma railroad; which was referred to the Committee on Public Lands.

He also presented resolutions of the Legislature of Alabama, in favor of an appropriation for the improvement of the Tennessee river; which were referred to the Committee on Commerce.

He also presented a memorial of the Legislature of Alabama, in favor of a grant of land to the Eureka Mining and Transportation Company of Alabama, for the purpose of opening and improving the navigation of the Cahawba river and its tributaries; which was referred to the Committee on Commerce.

Mr. FOWLER presented the memorial of

the Chamber of Commerce of Memphis, Tennessee, praying aid for the rebuilding of the levees of the Mississippi river; which was referred to the Committee on Commerce.

Mr. PATTERSON, of New Hampshire, presented a petition of citizens of New Hampshire, praying that women be granted the right of suffrage; which was referred to the Committee on the Judiciary.

He also presented a petition of citizens of Connecticut, praying that women be granted the right of suffrage; which was referred to the Committee on the Judiciary.

Mr. RAMSEY presented a memorial of the Legislative Assembly of the Territory of Dakota, praying the extension of the Sioux City and Pacific railroad to Yanoton, Dakota Territory; which was referred to the Committee on Public Lands.

He also presented the petition of A. Wood, John Smith, and W. D. Pasdouch, soldiers of the war of 1812, praying for pensions; which was referred to the Committee on Pensions.

He also presented a memorial of the Legislature of the State of Minnesota, praying an appropriation of \$100,000 to preserve the falls of St. Anthony, and thus protect the navigation of the Mississippi river above the falls; which was referred to the Committee on Commerce.

He also presented a memorial of the Legislature of the State of Minnesota, in favor of an appropriation to aid in the construction of the Northern Pacific railroad; which was referred to the Committee on the Pacific Railroad.

Mr. CONKLING. I present the petition of one hundred and nine merchants and citizens of New York, in behalf of the Commercial Navigation Company. They set forth the objections to the state of things in which the mails of the United States are carried by foreigners and under contracts with foreigners, and pray that a contract may be made with this company for that service. I move its reference to the Committee on Post Offices and Post Roads.

The motion was agreed to.

Mr. HARLAN presented the petition of George L. Neville, of Portsmouth, Virginia, praying to be relieved from political disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

Mr. SUMNER presented the petition of Thomas Niles, of Gloucester, Massachusetts, praying payment for losses sustained on account of the action of the Government in taking his property during the war; which was referred to the Committee on Claims.

Mr. SUMNER. I also present the petition of a large number of citizens of Georgia, in which they set forth their grievous condition, and what they call the organic outrage upon their legal rights as citizens of the United States, and they ask a remedy from Congress. I move its reference to the Committee on the Judiciary.

The motion was agreed to.

Mr. MORTON presented additional papers in support of the claim of O. P. Cobb, Christy & Co., for relief; which were referred to the Committee on Claims.

Mr. MORRILL, of Vermont, presented the petition of R. Cruikshank, praying compensation for property taken from him by troops of the United States during the late rebellion; which was referred to the Committee on Claims.

KENTUCKY UNIVERSITY.

Mr. COLE. I am instructed by the Committee on Claims, to whom was referred the memorial of the regents and curators of the Kentucky University, to report a joint resolution on the subject, which I ask to have considered at this time. I think there can be no objection to it.

By unanimous consent, the joint resolution (S. R. No. 218) to refer the claim of the regents and curators of the Kentucky University to the Court of Claims was read twice, and considered as in Committee of the Whole. It directs that the claim of the regents and curators of the Kentucky University for damages to their